April 8, 2011

ENGROSSED
SENATE BILL No. 473

DIGEST OF SB 473 (Updated April 6, 2011 5:05 pm - DI 96)

Citations Affected: IC 8-15; IC 8-15.5; IC 8-15.7; IC 8-23; IC 9-18; IC 9-21.

Synopsis: Various transportation issues. Permits, without legislative recognition, the location of certain tollways, converting part of I-69 to a tollway, issuing requests for proposals, and entering into a public-private agreement for certain highway projects. Requires the budget committee to meet within 90 days and conduct a review of any project that includes tolls. Retains provisions requiring legislative recognition for certain projects concerning the construction of Interstate Highway 69 and the designation of a toll road on a part of an interstate highway south of Indianapolis. Provides that the owner of a motor vehicle that

(Continued next page)

Effective: July 1, 2011.

Wyss, Rogers, Charbonneau, Banks
(HOUSE SPONSORS — SOLIDAY, DOBIS)

January 13, 2011, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.
January 31, 2011, pursuant to Senate Rule 68(b), reassigned to Committee on Appropriations.
February 17, 2011, amended, reported favorably — Do Pass.
February 21, 2011, read second time, ordered engrossed. Engrossed.
February 22, 2011, read third time, passed. Yeas 37, nays 12.

HOUSE ACTION

March 28, 2011, read first time and referred to Committee on Roads and Transportation.
April 8, 2011, amended, reported — Do Pass.

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Digest Continued

passes through a toll collection facility without payment of the proper toll commits a moving violation, a Class C infraction. Requires the Indiana department of transportation to establish a procedure to notify the BMV of unpaid fines for these moving violations. Requires the BMV to remit the amount of any moving violation fines paid to the BMV to the entity that imposed the fines. Authorizes the bureau of motor vehicles (BMV) to withhold the registration of a vehicle used in the commission of a violation related to a tollway until the owner pays any applicable fines and fees. Requires the Indiana department of transportation or Indiana finance authority to adopt rules to establish deadlines to issue citations for, and payment of fines imposed for, violations related to a tollway. Provides that the common construction wage applies to projects that are subjects of public-private agreements entered into after June 30, 2011.

C o p y

April 8, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 473

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

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

SECTION 1. IC 8-15-3-7, AS AMENDED BY P.L.85-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. As used in this chapter, "tollway" includes: ~~any combination or part of:~~

(1) an express highway, limited access facility, superhighway, bridge, tunnel, or motor way, including express lanes and managed lanes, constructed under this chapter or IC 8-15.7 or, subject to section 10 of this chapter, converted to a tollway under IC 8-23-7-22;

(2) any bridge, tunnel, overpass, underpass, interchange, structure, ramp, access road, service road, entrance plaza, approach, tollhouse, utility corridor, toll gantry, rest stop, service station, or administration, storage, or other buildings or facilities, including temporary facilities and buildings, facilities, and structures that will not be tolled, that the department considers appurtenant to or necessary or desirable for the financing, construction, operation, or maintenance of one (1) or more of the

items described in subdivision (1);

(3) any subsequent improvement, betterment, enlargement, extension, or reconstruction of one (1) or more items described in this section, including any nontolled part, that are separately designated by name or number; ~~and~~

(4) a project connecting the state of Indiana with an adjacent state; **or**

(5) any combination of items or projects described in subdivisions (1) through (4).

SECTION 2. IC 8-15-3-9, AS AMENDED BY P.L.85-2010, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) Subject to subsection (e), the governor must approve the location of any tollway.

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

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

(1) adjacent or appurtenant to a tollway; or

(2) necessary or desirable for the financing, construction, operation, or maintenance of a tollway.

(d) The department may, in any combination, plan, design, develop, construct, reconstruct, improve, maintain, repair, operate, or finance the construction or reconstruction of an arterial highway or an arterial street that:

(1) is adjacent to, appurtenant to, or interchanges with a tollway; or

(2) intersects with a road or street that interchanges with a tollway.

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

~~(1) Approve the location of a tollway, other than:~~

~~(A) Interstate Highway 69 between Interstate Highway 64 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);~~

~~(B) the Illiana Expressway, a limited access facility connecting~~

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~~Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois; or~~

~~(C) a project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.~~

~~(2)~~ **(1)** Carry 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)~~ **(2)** Impose tolls 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).

SECTION 3. IC 8-15.5-1-2, AS AMENDED BY P.L.85-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) This article contains full and complete authority for public-private agreements between the authority and a private entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a toll road project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

~~(b) This subsection does not apply to a project for the construction of the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois, or a project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky. Notwithstanding any other law, after August 1, 2006, neither the authority nor the department may:~~

~~(1) issue a request for proposals for; or~~

~~(2) enter into;~~

~~a public-private agreement under this article that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a project, unless the general assembly adopts a statute authorizing the imposition of tolls.~~

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

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(1) 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).

(2) Imposing tolls 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).

SECTION 4. IC 8-15.5-4-11, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) After the procedures required in this chapter have been completed, the authority shall make a determination as to whether the offeror that submitted the selected offer should be designated as the operator for the related toll road project and shall submit the authority's determination to the governor and the budget committee.

(b) After review of the authority's determination by the budget committee, the governor may accept or reject the determination of the authority. If the governor accepts the determination of the authority, the governor shall designate the offeror who submitted the selected offer as the operator for the related toll road project. The authority shall publish notice of the designation of the operator for the related toll road project one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the operator for the related toll road project, the authority may execute the public-private agreement with that operator.

(d) The budget committee shall hold a meeting and conduct a review of the determination not later than ninety (90) days after the date the authority's determination is submitted for review.

SECTION 5. IC 8-15.5-6-2, AS AMENDED BY P.L.85-2010, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Unless otherwise provided by federal law or this section, the operator or any contractor or subcontractor of the operator engaged in the construction of a toll road project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

(b) IC 5-16-7 concerning the common construction wage applies to the **following:**

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(1) The operator or any contractor or subcontractor of the operator engaged in a project for the construction of the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

(2) The operator or any contractor or subcontractor of the operator engaged in the construction of a project that is the subject of a public-private agreement entered into after June 30, 2011.

SECTION 6. IC 8-15.5-10-3, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The authority may pay any amounts owed by the authority under a public-private agreement entered into under this article from any funds available to the authority under this article or any other statute.

(b) Subject to review by the budget committee established by IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3, a public-private agreement entered into under this article may:

(1) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay any amounts owed by the authority under a public-private agreement; or

(2) otherwise create a moral obligation of the state to pay any amounts owed by the authority under the public-private agreement.

(c) The authority may issue bonds under IC 4-4-11 or IC 8-15-2 to provide funds for any amounts identified under this section without complying with IC 8-9.5-8-10.

(d) If the agreement that is submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the agreement not later than ninety (90) days after the date the agreement is submitted for review.

SECTION 7. IC 8-15.7-1-5, AS AMENDED BY P.L.85-2010, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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

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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:~~

~~(A) Interstate Highway 69 between Interstate Highway 465 and Interstate Highway 64;~~

~~(B) the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois; or~~

~~(C) a project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.~~

~~(2)~~ **(1)** 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)~~ **(2)** 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 8. IC 8-15.7-4-1, AS AMENDED BY P.L.85-2010, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The department may request proposals from private entities for all or part of the development, financing, and operation of one (1) or more projects.

(b) If all or part of the project will consist of a tollway, the department shall take the following steps before the commencement of the procurement process under this chapter:

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(1) Except as provided by subsection (c), the department shall cause to be prepared a preliminary feasibility study and an economic impact study on that part of the project consisting of a tollway by a firm or firms internationally recognized in the preparation of studies or reports on the financial feasibility and economic impact of proposed toll road projects. Before the preparation of the preliminary feasibility study and the economic impact study, the department must conduct a public hearing on the proposed studies in the county seat of the county in which the proposed project would be located. At least ten (10) days before each public hearing, the authority shall:

(A) post notice of the public hearing on the department's Internet web site;

(B) publish notice of the public hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in the county in which the proposed project would be located; and

(C) include in the notices under clauses (A) and (B):

(i) the date, time, and place of the hearing;

(ii) the subject matter of the hearing;

(iii) a description of the purpose of the proposed preliminary feasibility study and economic impact study; and

(iv) a description of the proposed project and its location.

At the hearing, the department shall allow the public to be heard on the proposed studies and the proposed project.

(2) The preliminary feasibility study must be based upon a public-private financial and project delivery structure. The economic impact study must, at a minimum, include an analysis of the following matters with respect to the proposed project:

(A) Economic impacts on existing commercial and industrial development.

(B) Potential impacts on employment.

(C) Potential for future development near the project area, including consideration of locations for interchanges that will maximize opportunities for development.

(D) Fiscal impacts on revenues to local units of government.

(E) Demands on government services, such as public safety, public works, education, zoning and building, and local airports.

The department shall post copies of the preliminary feasibility study and the economic impact study on the department's Internet web site and shall also provide copies of the studies to the

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governor and to the legislative council (in an electronic format under IC 5-14-6).

(3) After the completion of the preliminary feasibility study and the economic impact statement, the department shall schedule a public hearing on the proposed project and the studies in the county seat of the county that would be an affected jurisdiction for purposes of the proposed project. At least ten (10) days before the public hearing, the department shall:

(A) post notice of the public hearing on the department's Internet web site;

(B) publish notice of the hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in the county; and

(C) include the following in the notices under clauses (A) and (B):

(i) The date, time, and place of the hearing.

(ii) The subject matter of the hearing.

(iii) A description of the proposed project, its location, the part of the project consisting of a tollway, and, consistent with the assessments reached in the preliminary feasibility study, the estimated total cost of the acquisition, construction, installation, equipping, and improving of the proposed project, as well as the part of the project consisting of a tollway.

(iv) The address and telephone number of the department.

(v) A statement concerning the availability of the preliminary feasibility study and the economic impact study on the department's Internet web site.

(4) At the hearing, the department shall allow the public to be heard on the proposed project, the preliminary feasibility study, and the economic impact study.

(5) After the completion of the public hearings described in subdivision (3), the department shall submit the preliminary feasibility study and the economic impact study to the budget committee for its review before the commencement of the procurement process under this chapter. **If the preliminary feasibility study or the economic impact study submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the preliminary feasibility study and the economic impact study not later than ninety (90) days after the date the preliminary feasibility study and the economic impact study are submitted for review.**

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(c) The following provisions apply if the department determines that a feasibility study for the Illiana Expressway that was prepared before March 15, 2010, meets the requirements of subsection (b) concerning the preparation of a preliminary feasibility study:

(1) The department is not required to prepare an additional preliminary feasibility study.

(2) The requirement under subsection (b)(1) for a public hearing before preparation of a preliminary feasibility study does not apply. However, the requirement under subsection (b)(1) for a public hearing on the economic impact study does apply.

(3) The feasibility study prepared before March 15, 2010, is considered to be the preliminary feasibility study for purposes of subsection (b)(3) through (b)(5).

SECTION 9. IC 8-15.7-4-2, AS AMENDED BY P.L.85-2010, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) This section establishes the competitive proposal procedure that the department shall use to enter into a public-private agreement with an operator under this article.

(b) The department may pursue a competitive proposal procedure using a request for qualifications and a request for proposals process or proceed directly to a request for proposals.

(c) If the department elects to use a request for qualifications phase, it must provide a public notice of the request for qualifications, for the period considered appropriate by the department, before the date set for receipt of submittals in response to the solicitation. The department shall provide the notice by posting in a designated public area and publication in a newspaper of general circulation, in the manner provided by IC 5-3-1. In addition, submittals in response to the solicitation may be solicited directly from potential offerors.

(d) The department shall evaluate qualification submittals based on the requirements and evaluation criteria set forth in the request for qualifications.

(e) If the department has undertaken a request for qualifications phase resulting in one (1) or more prequalified or shortlisted offerors, the request for proposals shall be limited to those offerors that have been prequalified or shortlisted.

(f) If the department has not issued a request for qualifications and intends to use only a one (1) phase request for proposals procurement, the department must provide a public notice of the request for proposals for the period considered appropriate by the department, before the date set for receipt of proposals. The department shall provide the notice by posting in a designated public area and

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publication in a newspaper of general circulation, in the manner provided by IC 5-3-1. In addition, proposals may be solicited directly from potential offerors.

(g) The department shall submit a draft of the request for proposals to the budget committee for its review before the issuance by the department of the request for proposals to potential offerors. The request for proposals must:

(1) indicate in general terms the scope of work, goods, and services sought to be procured;

(2) contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement and the qualifying project;

(3) specify the factors, criteria, and other information that will be used in evaluating the proposals;

(4) specify any requirements or goals for use of:

(A) minority business enterprises and women's business enterprises certified under IC 4-13-16.5;

(B) disadvantaged business enterprises under federal or state law;

(C) businesses defined under IC 5-22-15-20.5 as Indiana businesses, to the extent permitted by applicable federal and state law and regulations; and

(D) businesses that qualify for a small business set-aside under IC 4-13.6-2-11;

(5) if all or part of the project will consist of a tollway, require any offeror to submit a proposal based upon that part of the project that will consist of a tollway, as set forth in the request for proposals, and permit any offeror to submit one (1) or more alternative proposals based upon the assumption that a different part or none of the project will consist of a tollway;

(6) contain or incorporate by reference the other applicable contractual terms and conditions; and

(7) contain or incorporate by reference any other provisions, materials, or documents that the department considers appropriate.

If the draft of the request for proposals submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the draft of the request for proposals not later than ninety (90) days after the date the draft request for proposals is submitted for review.

(h) The department shall determine the evaluation criteria that are appropriate for each project and shall set those criteria forth in the

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request for proposals. The department may use a selection process that results in selection of the proposal offering the best value to the public, a selection process that results in selection of the proposal offering the lowest price or cost or the highest payment to, or revenue sharing with, the department, or any other selection process that the department determines is in the best interests of the state and the public.

(i) The department shall evaluate proposals based on the requirements and evaluation criteria set forth in the request for proposals.

(j) The department may select one (1) or more offerors for negotiations based on the evaluation criteria set forth in the request for proposals. If the department believes that negotiations with the selected offeror or offerors are not likely to result in a public-private agreement, or, in the case of a best value selection process, no longer reflect the best value to the state and the public, the department may commence negotiations with other responsive offerors, if any, and may suspend, terminate, or continue negotiations with the original offeror or offerors. If negotiations are unsuccessful, the department shall terminate the procurement, may not award the public-private agreement, and may commence a new procurement for a public-private agreement. If the department determines that negotiations with an offeror have been successfully completed, the department shall, subject to the other requirements of this article, award the public-private agreement to the offeror.

(k) Before awarding a public-private agreement to an operator, the department shall schedule a public hearing on the preliminary selection of the operator and the terms of the proposed public-private agreement. The hearing shall be conducted in the county seat of the county that would be an affected jurisdiction for purposes of the proposed project. The department shall do the following:

(1) At least ten (10) days before the public hearing, post on the department's Internet web site:

(A) the proposal submitted by the offeror that has been preliminarily selected as the operator for the project, except for those parts of the proposal that are confidential under this article; and

(B) the proposed public-private agreement for the project.

(2) At least ten (10) days before the public hearing:

(A) post notice of the public hearing on the department's Internet web site; and

(B) publish notice of the hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in

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the county that would be an affected jurisdiction for purposes of the proposed project.

(3) Include the following in the notices required by subdivision (2):

(A) The date, time, and place of the hearing.

(B) The subject matter of the hearing.

(C) A description of the agreement to be awarded.

(D) The recommendation that has been made to award the agreement to an identified offeror or offerors.

(E) The address and telephone number of the department.

(F) A statement indicating that, subject to section 6 of this chapter, and except for those portions that are confidential under IC 5-14-3, the following are available on the department's Internet web site and are also available for public inspection and copying at the principal office of the department during regular business hours:

(i) The selected offer.

(ii) An explanation of the basis upon which the preliminary selection was made.

(iii) The proposed public-private agreement for the project.

(l) At the hearing, the department shall allow the public to be heard on the preliminary selection of the operator and the terms of the proposed public-private agreement.

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

SECTION 10. IC 8-15.7-4-3, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) After the procedures required in this chapter have been completed, the department shall make a determination as to whether the successful offeror should be designated as the operator for the project and shall submit its decision to the governor and the budget committee.

(b) After review of the department's determination by the budget committee, the governor may accept or reject the determination of the department. If the governor accepts the determination of the department, the governor shall designate the successful offeror as the operator for the project. The department shall publish notice of the designation of the operator one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the successful offeror as the operator for the project, the department may execute the public-private agreement.

(d) An action to contest the validity of a public-private agreement

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entered into under this chapter may not be brought after the fifteenth day following the publication of the notice of the designation of the operator under the public-private agreement under subsection (b).

(e) If the department's determination submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the determination not later than ninety (90) days after the date the determination is submitted for review.

SECTION 11. IC 8-15.7-6-2, AS AMENDED BY P.L.85-2010, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Unless otherwise provided by federal law or this section, the operator or any contractor or subcontractor of the operator engaged in the construction of a project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

(b) IC 5-16-7 concerning the common construction wage applies to the **following:**

(1) The operator or any contractor or subcontractor of the operator engaged in a project for the construction of the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

(2) The operator or any contractor or subcontractor of the operator engaged in the construction of a project that is the subject of a public-private agreement entered into after June 30, 2011.

SECTION 12. IC 8-15.7-8-6, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) For the purpose of financing a qualifying project, the authority may enter into agreements, leases, or subleases with the department or an operator, or both, and do the following:

(1) Issue bonds, debt, or other obligations under IC 4-4-11, IC 8-15-2, or IC 8-15.7-9.

(2) Enter into loan agreements or other credit facilities.

(3) Secure any financing with a pledge of, security interest in, or lien on all or part of a property subject to the agreement, including all of the party's property interests in the qualifying project.

(4) Subject to review by the budget committee established in IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3:

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(A) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay costs incurred under a public-private agreement; or

(B) otherwise create a moral obligation of the state to pay all or part of any costs incurred by the authority under a public-private agreement.

(b) The department and an operator may transfer any interest in property that the department or operator has to the authority to secure the financing.

(c) If items submitted for review under subsection (a)(4) provide for any tolls, the budget committee shall hold a meeting and conduct a review of the items not later than ninety (90) days after the date the items are submitted for review.

SECTION 13. IC 8-23-7-22, AS AMENDED BY P.L.85-2010, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 22. (a) Subject to subsection (b), the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a tollway. After the order becomes effective, the department shall maintain and operate the tollway and levy and collect tolls as provided in IC 8-15-3 or enter into a public-private agreement with an operator with respect to the tollway under IC 8-15.7. Before issuing an order under this section, the department shall submit to the governor a plan to bring the tollway to the current design standards of the department for new state highways within a specified period. The specified period may not exceed five (5) years.

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

~~(1) Determine that a highway, other than~~

~~(A) Interstate Highway 69 between Interstate Highway 64 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),~~

~~(B) the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois; or~~

~~(C) a project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.~~

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~~should become a tollway.~~

~~(2)~~ **(1)** Carry 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)~~ **(2)** Impose tolls 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).

SECTION 14. IC 9-18-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. **(a) Upon receiving an application under section 16 of this chapter,** the bureau shall:

~~(1) file each application received; and~~

~~(2) when satisfied:~~

(1) determine:

(A) ~~of~~ the genuineness and regularity of the application; and

(B) that the person applying for registration is entitled to register the vehicle;

(2) file the application;

(3) subject to subsection (b), register the vehicle described in the application; and

(4) keep a record of the application on suitable index cards under a distinctive registration number assigned to the vehicle and in any other manner the bureau considers desirable for the convenience of the bureau.

(b) Upon receiving notice, as described in IC 9-21-3.5-10(c), of the failure of an owner of a vehicle to pay a fine, charge, or other assessment for a toll violation documented under IC 9-21-3.5-12, the bureau shall withhold the annual registration of the vehicle that was used in the commission of the toll violation until the owner pays the fine, charge, or other assessment, plus any applicable fees, to:

(1) the bureau; or

(2) the appropriate authority under IC 9-21-3.5 that is responsible for the collection of fines, charges, or other assessments for toll violations under IC 9-21-3.5.

If the owner pays the fine, charge, or assessment, plus any applicable fees, to the bureau as described in subdivision (1), the bureau shall remit the appropriate amount to the appropriate authority under IC 9-21-3.5 that is responsible for the collection of fines, charges, assessments, or fees for toll violations under

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IC 9-21-3.5.

SECTION 15. IC 9-21-3.5-9, AS ADDED BY P.L.47-2006, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. **(a)** The owner of a motor vehicle, other than an authorized emergency vehicle, that is driven or towed through a toll collection facility on a toll road, tollway, or qualifying project shall pay the proper toll **or user fee.**

(b) A person who violates subsection (a) commits a moving violation, a Class C infraction.

SECTION 16. IC 9-21-3.5-10, AS ADDED BY P.L.47-2006, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. **(a)** The department or the authority may adopt and enforce rules concerning:

(1) the placement and use of automated traffic law enforcement systems to enforce collection of user fees;

(2) required notification **in the form of a citation** to ~~owners of toll violations;~~ **the owner of a vehicle used in the commission of a moving violation under section 9 of this chapter;**

(3) the process for collection and enforcement of unpaid amounts;

(4) the amount of fines, charges, and assessments for toll violations; and

(5) other matters relating to automated traffic law enforcement systems that the department or the authority considers appropriate.

(b) A rule adopted under subsection (a)(2) must establish:

(1) a deadline for the department, authority, or operator, as applicable, to issue a citation to an owner of a vehicle used in the commission of a moving violation under section 9 of this chapter; and

(2) a deadline, not to exceed thirty (30) days following receipt of the citation as determined under section 12(b)(1) of this chapter, for the owner to pay a fine, charge, or other assessment for the toll violation.

(c) The department shall establish a process by which the department, authority, or operator, as applicable, shall notify the bureau of an owner's failure to pay a fine, charge, or other assessment for a toll violation following the expiration of the deadline described in subsection (b)(2).

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Report of the President
Pro Tempore

Madam President: Pursuant to Senate Rule 68(b), I hereby report that Senate Bill 473, currently assigned to the Committee on Homeland Security, Transportation and Veterans Affairs, be reassigned to the Committee on Appropriations.

LONG

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred Senate Bill No. 473, 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, reset in roman lines 37 through 42.

Page 2, line 37, after "(1)" insert "**This subdivision does not apply before July 1, 2015.**".

Page 3, reset in roman lines 1 through 5.

Page 3, line 6, reset in roman "(2)".

Page 3, line 6, delete "(1)".

Page 3, line 10, reset in roman "(3)".

Page 3, line 10, delete "(2)".

Page 3, reset in roman lines 27 through 32.

Page 3, line 33, reset in roman "after".

Page 3, line 33, after "August 1, 2006," insert "**June 30, 2015,**".

Page 3, line 33, reset in roman "neither the authority nor the department may:".

Page 3, reset in roman lines 34 through 39.

Page 3, line 40, reset in roman "(c)".

Page 3, line 40, delete "(b)".

Page 4, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 4. IC 8-15.5-4-11, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) After the procedures required in this chapter have been completed, the authority shall make a determination as to whether the offeror that submitted the selected offer should be designated as the operator for the related toll road project and shall submit the authority's determination to the governor and the budget committee.

(b) After review of the authority's determination by the budget

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committee, the governor may accept or reject the determination of the authority. If the governor accepts the determination of the authority, the governor shall designate the offeror who submitted the selected offer as the operator for the related toll road project. The authority shall publish notice of the designation of the operator for the related toll road project one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the operator for the related toll road project, the authority may execute the public-private agreement with that operator.

(d) The budget committee shall hold a meeting and conduct a review of the determination not later than ninety (90) days after the date the authority's determination is submitted for review.

SECTION 5. IC 8-15.5-10-3, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The authority may pay any amounts owed by the authority under a public-private agreement entered into under this article from any funds available to the authority under this article or any other statute.

(b) Subject to review by the budget committee established by IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3, a public-private agreement entered into under this article may:

(1) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay any amounts owed by the authority under a public-private agreement; or

(2) otherwise create a moral obligation of the state to pay any amounts owed by the authority under the public-private agreement.

(c) The authority may issue bonds under IC 4-4-11 or IC 8-15-2 to provide funds for any amounts identified under this section without complying with IC 8-9.5-8-10.

(d) If the agreement that is submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the agreement not later than ninety (90) days after the date the agreement is submitted for review.".

Page 4, reset in roman lines 24 through 33.

Page 4, line 24, after "(1)" insert "**This subdivision does not apply before July 1, 2015.**".

Page 4, line 34, reset in roman "(2)".

Page 4, line 34, delete "(1)".

Page 4, line 38, reset in roman "(3)".

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Page 4, line 38, delete "(2)".

Page 5, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 7. IC 8-15.7-4-1, AS AMENDED BY P.L.85-2010, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The department may request proposals from private entities for all or part of the development, financing, and operation of one (1) or more projects.

(b) If all or part of the project will consist of a tollway, the department shall take the following steps before the commencement of the procurement process under this chapter:

(1) Except as provided by subsection (c), the department shall cause to be prepared a preliminary feasibility study and an economic impact study on that part of the project consisting of a tollway by a firm or firms internationally recognized in the preparation of studies or reports on the financial feasibility and economic impact of proposed toll road projects. Before the preparation of the preliminary feasibility study and the economic impact study, the department must conduct a public hearing on the proposed studies in the county seat of the county in which the proposed project would be located. At least ten (10) days before each public hearing, the authority shall:

(A) post notice of the public hearing on the department's Internet web site;

(B) publish notice of the public hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in the county in which the proposed project would be located; and

(C) include in the notices under clauses (A) and (B):

(i) the date, time, and place of the hearing;

(ii) the subject matter of the hearing;

(iii) a description of the purpose of the proposed preliminary feasibility study and economic impact study; and

(iv) a description of the proposed project and its location.

At the hearing, the department shall allow the public to be heard on the proposed studies and the proposed project.

(2) The preliminary feasibility study must be based upon a public-private financial and project delivery structure. The economic impact study must, at a minimum, include an analysis of the following matters with respect to the proposed project:

(A) Economic impacts on existing commercial and industrial development.

(B) Potential impacts on employment.

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(C) Potential for future development near the project area, including consideration of locations for interchanges that will maximize opportunities for development.

(D) Fiscal impacts on revenues to local units of government.

(E) Demands on government services, such as public safety, public works, education, zoning and building, and local airports.

The department shall post copies of the preliminary feasibility study and the economic impact study on the department's Internet web site and shall also provide copies of the studies to the governor and to the legislative council (in an electronic format under IC 5-14-6).

(3) After the completion of the preliminary feasibility study and the economic impact statement, the department shall schedule a public hearing on the proposed project and the studies in the county seat of the county that would be an affected jurisdiction for purposes of the proposed project. At least ten (10) days before the public hearing, the department shall:

(A) post notice of the public hearing on the department's Internet web site;

(B) publish notice of the hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in the county; and

(C) include the following in the notices under clauses (A) and (B):

(i) The date, time, and place of the hearing.

(ii) The subject matter of the hearing.

(iii) A description of the proposed project, its location, the part of the project consisting of a tollway, and, consistent with the assessments reached in the preliminary feasibility study, the estimated total cost of the acquisition, construction, installation, equipping, and improving of the proposed project, as well as the part of the project consisting of a tollway.

(iv) The address and telephone number of the department.

(v) A statement concerning the availability of the preliminary feasibility study and the economic impact study on the department's Internet web site.

(4) At the hearing, the department shall allow the public to be heard on the proposed project, the preliminary feasibility study, and the economic impact study.

(5) After the completion of the public hearings described in

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subdivision (3), the department shall submit the preliminary feasibility study and the economic impact study to the budget committee for its review before the commencement of the procurement process under this chapter. **If the preliminary feasibility study or the economic impact study submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the preliminary feasibility study and the economic impact study not later than ninety (90) days after the date the preliminary feasibility study and the economic impact study are submitted for review.**

(c) The following provisions apply if the department determines that a feasibility study for the Illiana Expressway that was prepared before March 15, 2010, meets the requirements of subsection (b) concerning the preparation of a preliminary feasibility study:

(1) The department is not required to prepare an additional preliminary feasibility study.

(2) The requirement under subsection (b)(1) for a public hearing before preparation of a preliminary feasibility study does not apply. However, the requirement under subsection (b)(1) for a public hearing on the economic impact study does apply.

(3) The feasibility study prepared before March 15, 2010, is considered to be the preliminary feasibility study for purposes of subsection (b)(3) through (b)(5).

SECTION 8. IC 8-15.7-4-2, AS AMENDED BY P.L.85-2010, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) This section establishes the competitive proposal procedure that the department shall use to enter into a public-private agreement with an operator under this article.

(b) The department may pursue a competitive proposal procedure using a request for qualifications and a request for proposals process or proceed directly to a request for proposals.

(c) If the department elects to use a request for qualifications phase, it must provide a public notice of the request for qualifications, for the period considered appropriate by the department, before the date set for receipt of submittals in response to the solicitation. The department shall provide the notice by posting in a designated public area and publication in a newspaper of general circulation, in the manner provided by IC 5-3-1. In addition, submittals in response to the solicitation may be solicited directly from potential offerors.

(d) The department shall evaluate qualification submittals based on the requirements and evaluation criteria set forth in the request for qualifications.

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(e) If the department has undertaken a request for qualifications phase resulting in one (1) or more prequalified or shortlisted offerors, the request for proposals shall be limited to those offerors that have been prequalified or shortlisted.

(f) If the department has not issued a request for qualifications and intends to use only a one (1) phase request for proposals procurement, the department must provide a public notice of the request for proposals for the period considered appropriate by the department, before the date set for receipt of proposals. The department shall provide the notice by posting in a designated public area and publication in a newspaper of general circulation, in the manner provided by IC 5-3-1. In addition, proposals may be solicited directly from potential offerors.

(g) The department shall submit a draft of the request for proposals to the budget committee for its review before the issuance by the department of the request for proposals to potential offerors. The request for proposals must:

(1) indicate in general terms the scope of work, goods, and services sought to be procured;

(2) contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement and the qualifying project;

(3) specify the factors, criteria, and other information that will be used in evaluating the proposals;

(4) specify any requirements or goals for use of:

(A) minority business enterprises and women's business enterprises certified under IC 4-13-16.5;

(B) disadvantaged business enterprises under federal or state law;

(C) businesses defined under IC 5-22-15-20.5 as Indiana businesses, to the extent permitted by applicable federal and state law and regulations; and

(D) businesses that qualify for a small business set-aside under IC 4-13.6-2-11;

(5) if all or part of the project will consist of a tollway, require any offeror to submit a proposal based upon that part of the project that will consist of a tollway, as set forth in the request for proposals, and permit any offeror to submit one (1) or more alternative proposals based upon the assumption that a different part or none of the project will consist of a tollway;

(6) contain or incorporate by reference the other applicable contractual terms and conditions; and

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(7) contain or incorporate by reference any other provisions, materials, or documents that the department considers appropriate.

If the draft of the request for proposals submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the draft of the request for proposals not later than ninety (90) days after the date the draft request for proposals is submitted for review.

(h) The department shall determine the evaluation criteria that are appropriate for each project and shall set those criteria forth in the request for proposals. The department may use a selection process that results in selection of the proposal offering the best value to the public, a selection process that results in selection of the proposal offering the lowest price or cost or the highest payment to, or revenue sharing with, the department, or any other selection process that the department determines is in the best interests of the state and the public.

(i) The department shall evaluate proposals based on the requirements and evaluation criteria set forth in the request for proposals.

(j) The department may select one (1) or more offerors for negotiations based on the evaluation criteria set forth in the request for proposals. If the department believes that negotiations with the selected offeror or offerors are not likely to result in a public-private agreement, or, in the case of a best value selection process, no longer reflect the best value to the state and the public, the department may commence negotiations with other responsive offerors, if any, and may suspend, terminate, or continue negotiations with the original offeror or offerors. If negotiations are unsuccessful, the department shall terminate the procurement, may not award the public-private agreement, and may commence a new procurement for a public-private agreement. If the department determines that negotiations with an offeror have been successfully completed, the department shall, subject to the other requirements of this article, award the public-private agreement to the offeror.

(k) Before awarding a public-private agreement to an operator, the department shall schedule a public hearing on the preliminary selection of the operator and the terms of the proposed public-private agreement. The hearing shall be conducted in the county seat of the county that would be an affected jurisdiction for purposes of the proposed project. The department shall do the following:

(1) At least ten (10) days before the public hearing, post on the department's Internet web site:

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(A) the proposal submitted by the offeror that has been preliminarily selected as the operator for the project, except for those parts of the proposal that are confidential under this article; and

(B) the proposed public-private agreement for the project.

(2) At least ten (10) days before the public hearing:

(A) post notice of the public hearing on the department's Internet web site; and

(B) publish notice of the hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in the county that would be an affected jurisdiction for purposes of the proposed project.

(3) Include the following in the notices required by subdivision (2):

(A) The date, time, and place of the hearing.

(B) The subject matter of the hearing.

(C) A description of the agreement to be awarded.

(D) The recommendation that has been made to award the agreement to an identified offeror or offerors.

(E) The address and telephone number of the department.

(F) A statement indicating that, subject to section 6 of this chapter, and except for those portions that are confidential under IC 5-14-3, the following are available on the department's Internet web site and are also available for public inspection and copying at the principal office of the department during regular business hours:

(i) The selected offer.

(ii) An explanation of the basis upon which the preliminary selection was made.

(iii) The proposed public-private agreement for the project.

(l) At the hearing, the department shall allow the public to be heard on the preliminary selection of the operator and the terms of the proposed public-private agreement.

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

SECTION 9. IC 8-15.7-4-3, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) After the procedures required in this chapter have been completed, the department shall make a determination as to whether the successful offeror should be designated as the operator for the project and shall submit its decision to the governor and the budget

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committee.

(b) After review of the department's determination by the budget committee, the governor may accept or reject the determination of the department. If the governor accepts the determination of the department, the governor shall designate the successful offeror as the operator for the project. The department shall publish notice of the designation of the operator one (1) time, in accordance with IC 5-3-1.

(c) After the designation of the successful offeror as the operator for the project, the department may execute the public-private agreement.

(d) An action to contest the validity of a public-private agreement entered into under this chapter may not be brought after the fifteenth day following the publication of the notice of the designation of the operator under the public-private agreement under subsection (b).

(e) If the department's determination submitted for review provides for any tolls, the budget committee shall hold a meeting and conduct a review of the determination not later than ninety (90) days after the date the determination is submitted for review.

SECTION 10. IC 8-15.7-8-6, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) For the purpose of financing a qualifying project, the authority may enter into agreements, leases, or subleases with the department or an operator, or both, and do the following:

(1) Issue bonds, debt, or other obligations under IC 4-4-11, IC 8-15-2, or IC 8-15.7-9.

(2) Enter into loan agreements or other credit facilities.

(3) Secure any financing with a pledge of, security interest in, or lien on all or part of a property subject to the agreement, including all of the party's property interests in the qualifying project.

(4) Subject to review by the budget committee established in IC 4-12-1-3 and approval by the budget director appointed under IC 4-12-1-3:

(A) establish a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to pay costs incurred under a public-private agreement; or

(B) otherwise create a moral obligation of the state to pay all or part of any costs incurred by the authority under a public-private agreement.

(b) The department and an operator may transfer any interest in property that the department or operator has to the authority to secure the financing.

(c) If items submitted for review under subsection (a)(4) provide

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for any tolls, the budget committee shall hold a meeting and conduct a review of the items not later than ninety (90) days after the date the items are submitted for review.".

Page 5, reset in roman lines 28 through 39.

Page 5, line 28, after "(1)" insert "**This subdivision does not apply before July 1, 2015.**".

Page 5, line 40, reset in roman "(2)".

Page 5, line 40, delete "(1)".

Page 6, line 2, reset in roman "(3)".

Page 6, line 2, delete "(2)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 473 as introduced.)

KENLEY, Chairperson

Committee Vote: Yeas 9, Nays 3.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Senate Bill 473, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 10 through 42, begin a new paragraph and insert:

"SECTION 2. IC 8-15-3-9, AS AMENDED BY P.L.85-2010, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. (a) Subject to subsection (e), the governor must approve the location of any tollway.

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

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

(1) adjacent or appurtenant to a tollway; or

(2) necessary or desirable for the financing, construction, operation, or maintenance of a tollway.

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(d) The department may, in any combination, plan, design, develop, construct, reconstruct, improve, maintain, repair, operate, or finance the construction or reconstruction of an arterial highway or an arterial street that:

(1) is adjacent to, appurtenant to, or interchanges with a tollway; or

(2) intersects with a road or street that interchanges with a tollway.

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

~~(1) Approve the location of a tollway, other than:~~

~~(A) Interstate Highway 69 between Interstate Highway 64 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);~~

~~(B) the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois; or~~

~~(C) a project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.~~

~~(2)~~ **(1)** Carry 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)~~ **(2)** Impose tolls 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).

SECTION 3. IC 8-15.5-1-2, AS AMENDED BY P.L.85-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) This article contains full and complete authority for public-private agreements between the authority and a private entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a toll road project that is the subject of a public-private

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agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

~~(b) This subsection does not apply to a project for the construction of the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois, or a project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky. Notwithstanding any other law, after August 1, 2006, neither the authority nor the department may:~~

~~(1) issue a request for proposals for; or~~

~~(2) enter into;~~

~~a public-private agreement under this article that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a project, unless the general assembly adopts a statute authorizing the imposition of tolls.~~

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

(1) 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).

(2) Imposing tolls 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).".

Delete page 3.

Page 4, delete lines 1 through 10.

Page 4, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 5. IC 8-15.5-6-2, AS AMENDED BY P.L.85-2010, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Unless otherwise provided by federal law or this section, the operator or any contractor or subcontractor of the operator engaged in the construction of a toll road project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

(b) IC 5-16-7 concerning the common construction wage applies to the **following:**

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(1) The operator or any contractor or subcontractor of the operator engaged in a project for the construction of the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

(2) The operator or any contractor or subcontractor of the operator engaged in the construction of a project that is the subject of a public-private agreement entered into after June 30, 2011.".

Page 5, delete lines 14 through 42, begin a new paragraph and insert:

"SECTION 7. IC 8-15.7-1-5, AS AMENDED BY P.L.85-2010, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: 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:~~

~~(A) Interstate Highway 69 between Interstate Highway 465 and Interstate Highway 64;~~

~~(B) the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois; or~~

~~(C) a project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.~~

~~(2)~~ **(1)** 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)~~ **(2)** 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

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(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.".

Page 6, delete lines 1 through 15.

Page 12, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 11. IC 8-15.7-6-2, AS AMENDED BY P.L.85-2010, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) Unless otherwise provided by federal law or this section, the operator or any contractor or subcontractor of the operator engaged in the construction of a project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

(b) IC 5-16-7 concerning the common construction wage applies to the **following:**

(1) The operator or any contractor or subcontractor of the operator engaged in a project for the construction of the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

(2) The operator or any contractor or subcontractor of the operator engaged in the construction of a project that is the subject of a public-private agreement entered into after June 30, 2011.".

Page 13, delete lines 17 through 42, begin a new paragraph and insert:

"SECTION 13. IC 8-23-7-22, AS AMENDED BY P.L.85-2010, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 22. (a) Subject to subsection (b), the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a tollway. After the

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order becomes effective, the department shall maintain and operate the tollway and levy and collect tolls as provided in IC 8-15-3 or enter into a public-private agreement with an operator with respect to the tollway under IC 8-15.7. Before issuing an order under this section, the department shall submit to the governor a plan to bring the tollway to the current design standards of the department for new state highways within a specified period. The specified period may not exceed five (5) years.

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

~~(1) Determine that a highway, other than~~

~~(A) Interstate Highway 69 between Interstate Highway 64 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),~~

~~(B) the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois, or~~

~~(C) a project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.~~

~~should become a tollway.~~

~~(2)~~ **(1)** Carry 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)~~ **(2)** Impose tolls 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).".

Page 14, delete lines 1 through 12.

Page 14, delete lines 29 through 42, begin a new paragraph and insert:

"**(b) Upon receiving notice, as described in IC 9-21-3.5-10(c), of the failure of an owner of a vehicle to pay a fine, charge, or other assessment for a toll violation documented under IC 9-21-3.5-12, the bureau shall withhold the annual registration of the vehicle that was used in the commission of the toll violation until the owner pays the fine, charge, or other assessment, plus any applicable fees,**

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to:

(1) the bureau; or

(2) the appropriate authority under IC 9-21-3.5 that is responsible for the collection of fines, charges, or other assessments for toll violations under IC 9-21-3.5.

If the owner pays the fine, charge, or assessment, plus any applicable fees, to the bureau as described in subdivision (1), the bureau shall remit the appropriate amount to the appropriate authority under IC 9-21-3.5 that is responsible for the collection of fines, charges, assessments, or fees for toll violations under IC 9-21-3.5.".

Page 15, delete lines 1 through 3.

Page 15, line 9, delete "." and insert "**or user fee.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 473 as printed February 18, 2011.)

SOLIDAY, Chair

Committee Vote: yeas 7, nays 5.

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