
SENATE BILL No. 305

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-23.

Synopsis: Purchase options for state highway projects. Authorizes the department of transportation to acquire purchase options for property needed for state highway projects. Provides that real property to which the department has acquired only a purchase option remains subject to property taxes.

Effective: July 1, 2011.

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January 10, 2011, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

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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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SENATE BILL No. 305



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 8-23-2-6, AS AMENDED BY P.L.235-2005,
2 SECTION 123, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: Sec. 6. (a) The department, through the
4 commissioner or the commissioner's designee, may do the following:
5 (1) Acquire by purchase, gift, or condemnation, sell, abandon,
6 own in fee or a lesser interest, **including a purchase option**, hold,
7 or lease property in the name of the state, or otherwise dispose of
8 or encumber property to carry out its responsibilities.
9 (2) Contract with persons outside the department to do those
10 things that in the commissioner's opinion cannot be adequately or
11 efficiently performed by the department.
12 (3) Enter into:
13 (A) a contract with the Indiana finance authority under
14 IC 8-9.5-8-7; or
15 (B) a lease with the Indiana finance authority under
16 IC 8-9.5-8-8;
17 for the construction, reconstruction, improvement, maintenance,



- 1 repair, or operation of toll road projects under IC 8-15-2 and toll
- 2 bridges under IC 8-16-1.
- 3 (4) Sue and be sued, including, with the approval of the attorney
- 4 general, the compromise of any claims of the department.
- 5 (5) Hire attorneys.
- 6 (6) Perform all functions pertaining to the acquisition of property
- 7 for transportation purposes, including the compromise of any
- 8 claims for compensation.
- 9 (7) Hold investigations and hearings concerning matters covered
- 10 by orders and rules of the department.
- 11 (8) Execute all documents and instruments necessary to carry out
- 12 its responsibilities.
- 13 (9) Make contracts and expenditures, perform acts, enter into
- 14 agreements, and make rules, orders, and findings that are
- 15 necessary to comply with all laws, rules, orders, findings,
- 16 interpretations, and regulations promulgated by the federal
- 17 government in order to:
- 18 (A) qualify the department for; and
- 19 (B) receive;
- 20 federal government funding on a full or participating basis.
- 21 (10) Adopt rules under IC 4-22-2 to carry out its responsibilities.
- 22 (11) Establish regional offices.
- 23 (12) Adopt a seal.
- 24 (13) Perform all actions necessary to carry out the department's
- 25 responsibilities.
- 26 (14) Order a utility to relocate the utility's facilities and coordinate
- 27 the relocation of customer service facilities if:
- 28 (A) the facilities are located in a highway, street, or road; and
- 29 (B) the department determines that the facilities will interfere
- 30 with a planned highway or bridge construction or
- 31 improvement project funded by the department.
- 32 (15) Reimburse a utility:
- 33 (A) in whole or in part for extraordinary costs of relocation of
- 34 facilities;
- 35 (B) in whole for unnecessary relocations;
- 36 (C) in accordance with IC 8-23-26-12 and IC 8-23-26-13;
- 37 (D) in whole for relocations covered by IC 8-1-9; and
- 38 (E) to the extent that a relocation is a taking of property
- 39 without just compensation.
- 40 (16) Provide state matching funds and undertake any surface
- 41 transportation project eligible for funding under federal law.
- 42 However, money from the state highway fund and the state

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1 highway road construction and improvement fund may not be
2 used to provide operating subsidies to support a public
3 transportation system or a commuter transportation system.

4 (b) In the performance of contracts and leases with the Indiana
5 finance authority, the department has authority under IC 8-15-2, in the
6 case of toll road projects, and IC 8-16-1, in the case of toll bridges,
7 necessary to carry out the terms and conditions of those contracts and
8 leases.

9 (c) The department shall:

10 (1) classify as confidential any estimate of cost prepared in
11 conjunction with analyzing competitive bids for projects until a
12 bid below the estimate of cost is read at the bid opening;

13 (2) classify as confidential that part of the parcel files that contain
14 appraisal and relocation documents prepared by the department's
15 land acquisition division; and

16 (3) classify as confidential records that are the product of systems
17 designed to detect collusion in state procurement and contracting
18 that, if made public, could impede detection of collusive behavior
19 in securing state contracts.

20 This subsection does not apply to parcel files of public agencies or
21 affect IC 8-23-7-10.

22 SECTION 2. IC 8-23-3-10 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) Investigations
24 conducted by the department to determine the reasonably anticipated
25 future need for federal aid highways and state highways may include
26 the following:

27 (1) Traffic surveys.

28 (2) The study of transportation facilities.

29 (3) Research concerning the development of the regions of
30 Indiana and contiguous territory, including the effects of growth
31 and changes in population and economic activity.

32 (4) The collection and review of data relating to factors that affect
33 the judicious planning of the construction, improvement, and
34 maintenance of highways, **including the feasibility of**
35 **purchasing and exercising options under IC 8-23-28.**

36 (b) An investigation conducted under subsection (a) may interrupt
37 and stop traffic if necessary.

38 (c) An investigation conducted under subsection (a) may be
39 conducted in cooperation with counties, municipalities, metropolitan
40 planning organizations, the United States, other states, government
41 agencies, or other persons.

42 (d) The department may enter into an agreement with an entity

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1 described in subsection (c) to conduct an investigation under
2 subsection (a).

3 SECTION 3. IC 8-23-7-2, AS AMENDED BY P.L.35-2005,
4 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2011]: Sec. 2. The department may acquire real property,
6 **including by acquiring a purchase option under IC 8-23-28**, for any
7 purpose necessary to carry out this article, including the following:

8 (1) To locate, relocate, construct, reconstruct, repair, or maintain
9 a state highway, including area for:

10 (A) the placement of a utility facility within the right-of-way
11 of the state highway system; or

12 (B) the relocation of a utility facility within the right-of-way of
13 the state highway system due to interference with a highway
14 improvement project.

15 (2) To widen or straighten a highway.

16 (3) To clear and remove obstructions to vision at crossings and
17 curves.

18 (4) To construct weigh stations and rest areas.

19 (5) To provide scenic easements and other areas necessary to
20 cooperate with the federal government or carry out a federal law.

21 (6) To facilitate long-range transportation planning.

22 SECTION 4. IC 8-23-7-31 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 31. (a) Whenever the
24 department acquires real property, rights, or easements for the
25 construction, repair, and maintenance of a state highway, a legal
26 description of all rights-of-way and easements, including the area of the
27 land acquired, shall be filed by the department in the office of the
28 recorder in the county in which the real property is located. The
29 description shall be recorded in the deed records of the county. No fee
30 may be charged for filing and recording the description. The
31 department shall also file the description with the county auditor.

32 (b) Real property and interests in real property, **other than a**
33 **purchase option under IC 8-23-28**, acquired for permanent highway
34 purposes are exempt from taxation from the date of acquisition,
35 provided that all taxes, interest, and penalties recorded on the property
36 tax duplicates have been paid. Where real property or interests in real
37 property are acquired after the assessment date of any year but before
38 December 31, the taxes on the property in the ensuing year are not a
39 lien on the property and shall be removed from the tax duplicates by
40 the county auditor. A property owner who on or after March 1, 1965,
41 conveyed real property or rights in real property to the department and
42 who after July 8, 1965, is assessed taxes upon the property or rights

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1 conveyed and who pays the taxes by reason of the failure of the
2 department to properly record the interest in the real property conveyed
3 with the county auditor and recorder for tax purposes may recover the
4 amount of the taxes from the department.

5 SECTION 5. IC 8-23-8-3 IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The department or a highway
7 authority may acquire private or public property and property rights for
8 limited access facilities and service roads, including **purchase options**
9 **and** rights of access, air, view, and light, by gift, devise, purchase, or
10 condemnation for the laying out, widening, or improvement of
11 highways and streets within their respective jurisdictions.

12 (b) In the acquisition of property or property rights for a limited
13 access facility or a service road connected with a facility, the state,
14 county, or municipality may acquire an entire lot, block, or tract of
15 land, if the interests of the public will be best served, even though the
16 entire lot, block, or tract is not immediately needed for the
17 right-of-way.

18 (c) Court proceedings necessary to acquire property or property
19 rights under this section take precedence over all other causes not
20 involving the public interest in all courts.

21 SECTION 6. IC 8-23-18-1 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. The authority given
23 to the department to acquire the fee simple title to public or private real
24 property, rights, **including purchase options**, or easements needed or
25 reasonably necessary for a state highway includes the right to acquire
26 real property or a right in, to, or over real property owned, held, or
27 claimed by a city, town, township, county, school corporation or other
28 municipal corporation, or political subdivision of the state, public
29 corporation, instrumentality, or agency supported in whole or in part by
30 taxation.

31 SECTION 7. IC 8-23-28 IS ADDED TO THE INDIANA CODE AS
32 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
33 1, 2011]:

34 **Chapter 28. Purchase Options**

35 **Sec. 1. As used in this chapter, "purchase option" means a**
36 **transaction in which the department pays a landowner a specified**
37 **amount of money for the right to purchase the landowner's real**
38 **property for a state highway project within a set time for a**
39 **specified price but is not obligated to purchase the property.**

40 **Sec. 2. As used in this chapter, "state highway project" means**
41 **the construction or reconstruction of a state highway (as defined**
42 **in IC 8-14-10-4). The term does not include maintenance of or**

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repairs to a state highway.

Sec. 3. (a) The department may acquire purchase options for property needed, or proposed to be needed, for all or part of a state highway project.

(b) The department may use any money appropriated to the department for highway construction or reconstruction to acquire a purchase option under this section.

Sec. 4. A purchase option may include an option for the department to renew the purchase option at a specified time. The renewal option must specify the manner in which the price of the renewal option is calculated.

Sec. 5. The purchase of an option under this chapter does not relieve the department of any responsibility to comply with federal laws, regulations, or guidelines concerning the evaluation of alternatives to the state highway project for which the option is purchased.

Sec. 6. The department shall structure the acquisition of a purchase option under this chapter to maximize the part of the purchase price that may qualify as state matching funds under federal law if the department exercises the purchase option on a state highway project that is otherwise eligible for matching federal aid highway funds.

Sec. 7. A purchase option acquired by the department under this chapter does not affect the status of the real property that is the subject of the purchase option for purposes of taxation under IC 6-1.1.

Sec. 8. The department shall establish guidelines to ensure that the department or an agent or employee of the department does not engage in land speculation when acquiring purchase options.

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