

IC 8-15.5-7

Chapter 7. User Fees

IC 8-15.5-7-1

Power of authority to fix user fees

Sec. 1. (a) Notwithstanding IC 8-9.5-8 and IC 8-15-2-14(j), the authority may fix and revise the amounts of user fees that an operator may charge and collect for the use of any part of a toll road project in accordance with the public-private agreement.

(b) In fixing the amounts referred to in subsection (a), the authority may:

- (1) establish maximum amounts for the user fees; and
- (2) subject to subsection (c), provide for increases or decreases of the user fees or the maximum amounts established based upon the indices, methodologies, or other factors that the authority considers appropriate.

(c) For a public-private agreement entered into after June 30, 2011, the department may not use a methodology based on:

- (1) toll collection success rates; or
- (2) other factors internal to the operator;

that could result in increases of the maximum amounts due to actual toll collection rates that are below estimated or anticipated toll collection rates.

As added by P.L.47-2006, SEC.39. Amended by P.L.163-2011, SEC.7.

IC 8-15.5-7-2

Schedule of user fees

Sec. 2. A schedule of the current user fees shall be made available by the operator to any member of the public on request.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-7-3

User fees not subject to other regulation

Sec. 3. User fees established by the authority under this article are not subject to supervision or regulation by any other commission, board, bureau, or agency of the state, or by any political subdivision.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-7-4

Criteria for establishment of user fees

Sec. 4. User fees established by the authority under section 1 of this chapter for the use of a toll road project must be nondiscriminatory and may:

- (1) include different user fees based on categories such as vehicle class, vehicle size, vehicle axles, vehicle weight, volume, location, or traffic congestion or such other means or classification as the authority determines to be appropriate;
- (2) vary by time of day or year; or
- (3) be based on one (1) or more factors considered relevant by

the authority, which may include any combination of:

- (A) the costs of:
 - (i) operation;
 - (ii) maintenance; and
 - (iii) repair and rehabilitation;
- (B) debt service payments on bonds or other obligations;
- (C) adequacy of working capital;
- (D) depreciation;
- (E) payment of user fees, any state, federal, or local taxes, or payments in lieu of taxes; and
- (F) the sufficiency of income to:
 - (i) maintain the toll road project in a sound physical and financial condition to render adequate and efficient service; and
 - (ii) induce an operator to enter into a public-private agreement.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-7-5

Collection of user fees by operator

Sec. 5. A public-private agreement may:

- (1) grant an operator a license or franchise to charge and collect tolls for the use of the toll road project;
- (2) authorize the operator to adjust the user fees charged and collected for the use of the toll road project, so long as the amounts charged and collected by the operator do not exceed the maximum amounts established by the authority under section 1 of this chapter;
- (3) provide that any adjustment by the operator permitted under subdivision (2) may be based on such indices, methodologies, or other factors as described in the public-private agreement or section 1 of this chapter or as approved by the authority, as applicable;
- (4) authorize the operator to charge and collect user fees through manual and nonmanual methods, including, but not limited to, automatic vehicle identification systems, electronic toll collection systems, and, to the extent permitted by law, including rules adopted by the authority under IC 8-15-2-17.2(a)(10), global positioning systems and photo or video based toll collection or toll collection enforcement systems; and
- (5) authorize the collection of user fees charges by a third party.

As added by P.L.47-2006, SEC.39. Amended by P.L.163-2011, SEC.8.

IC 8-15.5-7-6

Agreement concerning electronic toll collections on Indiana Toll Road

Sec. 6. (a) As used in this section, "Class 2 vehicle" means any vehicle with two (2) axles, including motorcycles.

(b) If the authority enters into a public-private agreement concerning the operation of the Indiana Toll Road, the authority shall enter into a written agreement with the operator concerning the implementation of electronic or nonmanual means of collecting user fees imposed on Class 2 vehicles.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-7-7

Collection of user fees after expiration of public-private agreement

Sec. 7. (a) After expiration of a public-private agreement, the authority may:

- (1) continue to charge user fees for the use of the toll road project; or
- (2) delegate to a third party the authority to continue to collect the user fees.

(b) Revenues collected under this section must first be used for operations and maintenance of the toll road project. Any revenues determined by the authority to be excess must be paid to the authority for deposit in the toll road fund established by IC 8-15.5-11.

As added by P.L.47-2006, SEC.39.

IC 8-15.5-7-8

Actions to contest validity of user fees

Sec. 8. Any action to contest the validity of user fees fixed under this chapter may not be brought after the fifteenth day following the effective date of a rule fixing the user fees adopted under IC 4-22-2-37.1(a)(30).

As added by P.L.47-2006, SEC.39.