

**IC 8-15.7**

**ARTICLE 15.7. PUBLIC-PRIVATE PARTNERSHIPS**

**IC 8-15.7-1**

Chapter 1. General Provisions

**IC 8-15.7-1-1**

**Findings by general assembly**

Sec. 1. The general assembly finds the following:

- (1) There is a public need for timely development and operation of transportation facilities in Indiana that address the needs identified by the department, through the department's transportation plan and otherwise, by accelerating project delivery, improving safety, reducing congestion, increasing mobility, improving connectivity, increasing capacity, enhancing economic efficiency, promoting economic development, or any combination of those methods.
- (2) This public need may not be wholly satisfied by existing methods of procurement and project delivery in which transportation facilities are developed, financed, or operated.
- (3) Authorizing private entities to do all or part of the development, planning, design, construction, maintenance, repair, rehabilitation, expansion, financing, and operation of one (1) or more transportation facilities may result in the availability of the transportation facilities to the public in a more timely, more efficient, or less costly fashion, thereby serving the public safety and welfare.
- (4) Public-private agreements entered into by private entities and the department under this article should allow for:
  - (A) transparency, oversight, and public information sharing;
  - (B) compliance with all state and federal environmental laws; and
  - (C) fairness for local jurisdictions when negotiating the public-private agreements.

*As added by P.L.47-2006, SEC.40. Amended by P.L.85-2010, SEC.13.*

**IC 8-15.7-1-2**

**Public purpose served by certain actions**

Sec. 2. An action, other than an approval by the authority or the department under IC 8-15.7-4, serves the public purpose of this article if the action facilitates the timely development, planning, design, construction, maintenance, repair, rehabilitation, expansion, financing, or operation of a qualifying project.

*As added by P.L.47-2006, SEC.40.*

**IC 8-15.7-1-3**

**Intent to encourage investment and grant flexibility**

Sec. 3. It is the intent of this article to:

- (1) encourage investment in Indiana by private entities that

facilitates the development, planning, design, construction, maintenance, repair, rehabilitation, expansion, financing, and operation of transportation facilities; and

(2) grant public and private entities the greatest possible flexibility in contracting with each other for the provision of the public services that are the subject of this article.

*As added by P.L.47-2006, SEC.40.*

#### **IC 8-15.7-1-4**

##### **Liberal construction; control over inconsistent laws**

Sec. 4. The powers conferred by this article shall be liberally construed in order to accomplish their purposes and are in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this article, this article is controlling as to any public-private agreement entered into under this article.

*As added by P.L.47-2006, SEC.40.*

#### **IC 8-15.7-1-5**

##### **Complete authority for public-private agreements; limitations**

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, before the department, the authority, or an operator may carry out any of the following activities under this article, the general assembly must enact a statute authorizing that activity:

(1) Subject to subsection (d), and after June 30, 2011, issuing a request for proposals for, or entering into, a public-private agreement concerning a project.

(2) 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) Imposing user fees on motor vehicles for use of Interstate Highway 69.

(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.

(d) Notwithstanding subsection (b), during the period beginning July 1, 2011, and ending June 30, 2021, the general assembly is not required to enact a statute authorizing the department, the authority, or an operator to issue a request for proposals for, or enter into, a public-private agreement for the following projects:

(1) A project on which construction begins after June 30, 2011, not including any part of Interstate Highway 69 other than a part described in subdivision (4).

(2) The addition of toll lanes, including high occupancy toll lanes, to a highway, roadway, or other facility in existence on July 1, 2011, if the number of nontolled lanes on the highway, roadway, or facility as of July 1, 2011, does not decrease due to the addition of the toll lanes.

(3) The Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

(4) 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.

*As added by P.L.47-2006, SEC.40. Amended by P.L.203-2007, SEC.5; P.L.85-2010, SEC.14; P.L.163-2011, SEC.10.*

#### **IC 8-15.7-1-6**

##### **Conformity with this article**

Sec. 6. To the extent that this article permits or requires the authority, the department, or a private entity to carry out any law other than this article under a public-private agreement, the action shall be carried out in conformity with this article.

*As added by P.L.47-2006, SEC.40.*