

# **TITLE 135 INDIANA FINANCE AUTHORITY**

## **Notice of First Public Comment Period**

LSA Document #25-325

### **PUBLIC-PRIVATE AGREEMENTS FOR INDIANA EAST-WEST TOLL ROAD**

#### **PURPOSE OF NOTICE**

The Indiana Finance Authority (IFA) is soliciting public comment on adding rules at [135 IAC 2.5](#) concerning collecting tolls on vehicles using the Indiana East-West Toll Road (toll road). IFA seeks comment on the affected citations listed and any other provisions of Title 135 that may be affected by this rulemaking.

#### **ADDITIONAL DOCUMENTS**

Regulatory Analysis: [20250709-IR-135250325RAA](#)

Notice of Public Hearing: [20250709-IR-135250325PHA](#)

**CITATIONS AFFECTED:** [135 IAC 2.5-1-2](#); [135 IAC 2.5-2-2](#); [135 IAC 2.5-4-2](#)

**AUTHORITY:** [IC 8-15-2](#); [IC 8-15.5-7-8](#)

#### **OVERVIEW**

##### **Basic Purpose and Background**

The toll road opened in 1956 and was initially governed by the Indiana toll road commission. In 2006, IFA entered into a seventy-five (75) year lease with a concessionaire. Under the lease, the concessionaire operates and maintains the toll road in exchange for the right to collect tolls from motorists using the toll road. The proposed rule authorizes collecting tolls and also sets forth the formula for determining annual increases in the toll rates.

For purposes of [IC 4-22-2-28.1](#), small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Andrew P. Seiwert, General Counsel  
Indiana Finance Authority  
One North Capitol Avenue, Suite 900  
Indianapolis, IN 46204  
(317) 234-4780

aseiwert@ifa.in.gov

For purposes of [IC 4-22-2-28.1](#), the Small Business Ombudsman designated by [IC 5-28-17-6](#) is:

David Watkins  
Small Business Ombudsman  
Indiana Economic Development Corporation  
One North Capitol, Suite 700  
Indianapolis, IN 46204  
(317) 607-9176  
DWatkins@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in [IC 5-28-17-6](#), specifically [IC 5-28-17-6\(9\)](#), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

#### **REQUEST FOR PUBLIC COMMENT**

IFA is soliciting public comment on the proposed rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #25-325 Public-Private Agreements for Indiana East-West Toll Road  
Attn: Andrew Seiwert, General Counsel  
Indiana Finance Authority  
One North Capitol Avenue, Suite 900  
Indianapolis, IN 46204

(2) By email to [ifa@ifa.in.gov](mailto:ifa@ifa.in.gov). PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.

(3) Attend scheduled public hearing.

#### **COMMENT PERIOD DEADLINE**

All comments must be postmarked or time stamped not later than August 8, 2025.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (if applicable) are on file at the Indiana Finance Authority, One North Capitol Avenue, Suite 900, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the Indiana Finance Authority office.

If IFA does not receive substantive comments during the public comment period or public hearing, the rule may be adopted with text that is the same as or does not substantially differ from the text of the proposed rule published in

this notice.

## **PROPOSED RULE**

SECTION 1. 135 IAC 2.5-1-2 IS ADDED TO READ AS FOLLOWS:

### **135 IAC 2.5-1-2 Definitions**

Authority: IC 4-22-2; IC 5-1.2; IC 8-15-2; IC 8-15.5-4; IC 8-15.5-7-8

Affected: IC 5-1.2-3; IC 8-15-2; IC 8-15.5-4-11

Sec. 2. (a) The definitions in this section apply throughout this article.

(b) "Authority" means the Indiana finance authority established under IC 8-15-2 and IC 5-1.2-3, and exercising powers granted to it under IC 8-15.5, both as amended and effective as of the date hereof, and any successor entity of the authority.

(c) "Class 2 user" means any vehicle with two (2) axles, including motorcycles, as described in 135 IAC 2.5-2-2(d).

(d) "Closing date" means the date the concession agreement is closed between the authority and the concessionaire.

(e) "Concession agreement" means the Indiana Toll Road Concession and Lease Agreement dated April 12, 2006, as amended and restated by the Amended and Restated Indiana Toll Road Concession and Lease Agreement dated July 1, 2017, and as amended by the First Amendment dated September 21, 2018, between the authority and the concessionaire, providing for, among other things, the lease of the toll road to the concessionaire, and toll road services provided by the concessionaire, for the term of the concession agreement, together with any amendments to the concession agreement.

(f) "Concessionaire" means ITR Concession Company LLC, the operator of the toll road designated by the governor beginning March 29, 2006, under IC 8-15.5-4-11(b).

(g) "Department" means the Indiana department of transportation and any successor entity of the department.

(h) "Electronic tolling system" means the electronic tolling system carried out by the concessionaire under the concession agreement and includes a barrier-controlled electronic tolling system.

(i) "Eligible electronic transponder users" means Class 2 users that use electronic toll collection transponders authorized for use on the toll road.

(j) "Heavy vehicle" means any vehicle other than a Class 2 vehicle.

(k) "Implementation date" means the date on which the concessionaire begins to charge the tolls described in 135 IAC 2.5-2-2 under the concession agreement, as hereafter amended, after October 3,

2018.

(l) "Index" means the "Consumer Price Index - U.S. City Averages for all Urban Consumers, All Items" (not seasonally adjusted) as published by the U.S. Department of Labor, Bureau of Labor Statistics, provided, however, if the index is changed so that the base year of the index changes, the index will be converted in accordance with the conversion factor published by the U.S. Department of Labor, Bureau of Labor Statistics; provided, further, if the index is discontinued or revised during the term, the other index or computation that replaces it is used to obtain substantially the same result as if the index had not been discontinued or revised.

(m) "Maximum toll levels" means the maximum toll levels for each class of users established under [135 IAC 2.5-2-2](#).

(n) "Per capita nominal GDP" means the U.S. annual per capita gross domestic product in current dollars (not seasonally adjusted) as published by the U.S. Department of Commerce's Bureau of Economic Analysis (BEA), it being understood that for purposes of using that indicator at a specific time, the U.S. annual per capita gross domestic product in current dollars (not seasonally adjusted) published by the U.S. Department of Commerce's BEA for the calendar year immediately preceding that specific time is to be used, provided, however, if the measurement of per capita nominal GDP is discontinued or revised during the term, the other indicator or computation that replaces it is used to obtain substantially the same result as if the per capita nominal GDP had not been discontinued or revised.

(o) "Term" means the entire term of the concession agreement, beginning on the closing date and expiring on the seventy-fifth anniversary of the closing date, or at a later date required under the terms of the concession agreement.

(p) "Through trip" means a trip of the entire length of the toll road in either direction.

(q) "Toll" or "tolls" means the fees collected by the concessionaire for using the toll road and includes the revenues charged by or on behalf of the concessionaire concerning vehicles using the toll road during the term of any public-private agreement entered into in accordance with [IC 8-15.5-4](#), including revenues collected through an electronic tolling system.

(r) "Tolling measurement date" means June 30 of each year.

(s) "Tolling regulation" means the toll schedules set forth in this article, which incorporate schedule 7.1, attached to and incorporated within the concession agreement.

(u) "Toll revenues" means the revenues charged by or on behalf of the concessionaire concerning vehicles using the toll road during the term, including revenues collected through an electronic tolling system.

(u) "Toll road" means the Indiana East-West Toll Road.

SECTION 2. [135 IAC 2.5-2-2](#) IS ADDED TO READ AS FOLLOWS:

**[135 IAC 2.5-2-2](#) Maximum toll levels**

Authority: [IC 8-15-2](#); [IC 8-15.5-7-8](#)

Affected: [IC 8-15-2](#); [IC 8-15.5-7](#)

Sec. 2. (a) The maximum toll levels are listed from time to time at <https://www.in.gov/ifa/2974.htm>.

(b) On each tolling measurement date beginning June 30, 2026, toll levels may be increased by the subsequent applicable percentage toll increase without further action by the authority. For purposes of this determination, "subsequent applicable percentage toll increase" means the greater of:

- (1) two percent (2%); or
- (2) the percentage increase of the index or per capita nominal GDP;

measured from January 1 to December 31 for the calendar year immediately preceding the tolling measurement date. An adjustment under this subsection is made to the toll levels calculated without applying any of the rounding described in subsection (d)(3) that may have occurred before the relevant date of the adjustment.

(c) For purposes of this rule, the following classifications apply:

- (1) Class 2. A vehicle with two (2) axles, including motorcycles.
- (2) Class 3. A vehicle or combination with three (3) axles.
- (3) Class 4. A vehicle or combination with four (4) axles.
- (4) Class 5. A vehicle or combination with five (5) axles.
- (5) Class 6. A vehicle or combination with six (6) axles.
- (6) Class 7. A vehicle or combination with at least seven (7) axles.

(d) The maximum toll levels are applied as follows:

(1) The toll levels determined under this section represent the maximum toll levels the concessionaire is authorized to charge. The concessionaire is authorized to charge toll levels that are less than the applicable maximum toll levels at its discretion, including providing for lower toll levels at determined times during the day, or for commuters, trucking companies, or other frequent users of the toll road.

In addition, any time after June 30, 2010, if:

- (A) the aggregate charge for a through trip does not exceed the applicable maximum level;
- (B) the charge for a non-through trip is not less than the maximum toll levels set forth in subdivision (2) beginning June 29, 2010; and
- (C) an increase in the toll level charged by the concessionaire on the toll road is allocated to each segment of the toll road so that the highest per mile increase does not exceed three (3) times the







(A) the nearest cent (\$0.01) if the toll is collected using an electronic tolling system; and

(B) the nearest ten cents (\$0.10) if the toll is not collected using an electronic tolling system.

(4) The maximum toll for any journey will be calculated as the sum of the tolls for each segment of the toll road included in the journey, subject to the following:

(A) Tolls at Westpoint (MP 1) and at ramp plazas to and from the east at Calumet Avenue (MP 5) and Cline Avenue (MP 10) will be computed assuming the trips were to and from Portage (MP 24).

(B) Tolls at ramp plazas to and from the west at I-65 Gary East (MP 17), I-94/Lake Station (MP 21), and Willow Creek (MP 23) will be computed assuming the trips were to and from Buchanan Street (MP 13).

(e) The following table shows the mileage that is used when determining maximum or minimum toll levels for any segment of the toll road, but if the location of any of the toll plazas is changed or a new toll plaza is added, the segment lengths will be adjusted to reflect the change in a way consistent with the methodology used in preparing the table:

Mileage Used

Toll Plaza	From	To	Segment Length
Westpoint	0.0	3.0	3.0
S.R. 912	3.0	5.0	2.0
Calumet Ave.	5.0	10.0	5.0
Cline Ave.	10.0	13.0	3.0
Buchanan St.	13.0	15.0	2.0
Broadway	15.0	17.0	2.0
I-65 Gary East	17.0	21.0	4.0
Burns Harbor/I-94	21.0	23.0	2.0
Willowcreek Rd.	23.0	24.0	1.0
Portage	24.0	31.0	7.0
S.R. 49/Valparaiso	31.0	39.0	8.0
U.S. 421/Michigan City	39.0	49.0	10.0
S.R. 39/LaPorte	49.0	72.0	23.0
U.S. 31 Bypass	72.0	77.0	5.0
U.S. 31-33/South Bend	77.0	83.0	6.0
Mishawaka/Fir Rd.	83.0	92.0	9.0
S.R. 19/Elkhart	92.0	96.0	4.0
Elkhart East	96.0	101.0	5.0
S.R. 15/Bristol/Goshen	101.0	107.0	6.0

S.R. 13/U.S. 31/Middlebury	107.0	121.0	14.0
S.R. 9 Howe/LaGrange	121.0	144.0	23.0
I-69 Angola	144.0	157.0	13.0
Eastpoint (Although located at milepost 153, for tolling purposes, the toll plaza is assumed to end at milepost 157.)	157.0	NA	NA

(f) The only charges the concessionaire may impose on toll road users are the tolls authorized under this section. For avoidance of doubt and in confirmation and furtherance of the foregoing, beginning on the closing date, the concessionaire may not charge administration fees related to using the toll road nor impose interest rates on unpaid tolls or fees related to using the toll road.

(Indiana Finance Authority; [135 IAC 2.5-2-2](#))

SECTION 3. [135 IAC 2.5-4-2](#) IS ADDED TO READ AS FOLLOWS:

### **[135 IAC 2.5-4-2](#) Fees, charges, and fines related to electronic tolling system**

Authority: [IC 8-15-2](#); [IC 8-15.5-7-8](#)

Affected: [IC 8-15-2](#); [IC 8-15.5-7](#)

Sec. 2. (a) After carrying out the electronic tolling system, the authority may:

- (1) establish, collect, and enforce reasonable administration fees and reasonable fees to begin or appeal any dispute proceedings;
- (2) establish reasonable interest rates to be charged on unpaid tolls and fees, and collect interest charged as those rates;
- (3) establish reasonable terms and conditions, including reasonable fees, for the registration and distribution of toll devices; and
- (4) require reasonable security for providing toll devices.

The revenues to be derived from the items in subdivisions (1) through (4) are considered to be toll revenues. The sole purpose of any fees or charges carried out under this section is to enable the concessionaire to recover its reasonable, out-of-pocket, and documented costs and expenses directly incurred for the items listed in subdivisions (1) through (4). The amount of those fees or charges may not exceed the amount reasonably necessary for the concessionaire to recover its reasonable, out-of-pocket, and documented costs and expenses directly incurred for the items listed in subdivisions (1) through (4).

(b) After carrying out the electronic tolling system, the state shall assess fines against persons who run toll gates, and the concessionaire is entitled to fifty percent (50%) of those fines.

(Indiana Finance Authority; [135 IAC 2.5-4-2](#))

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