



## 99TH GENERAL ASSEMBLY

### State of Illinois

### 2015 and 2016

### SB2140

Introduced 5/26/2015, by Sen. John M. Sullivan

#### SYNOPSIS AS INTRODUCED:

New Act

20 ILCS 2705/2705-233 new

20 ILCS 3501/825-108 new

30 ILCS 500/1-10.5 new

30 ILCS 535/85 new

30 ILCS 570/2.8 new

30 ILCS 575/2.8 new

735 ILCS 30/15-5-48 new

820 ILCS 130/2

from Ch. 48, par. 39s-2

Creates the Innovations for Transportation Infrastructure Act. Provides that the Department of Transportation may evaluate and use alternative technical concepts proposed by bidders and proposers, and to use design-build and construction manager-general contractor project delivery methods. Contains provisions concerning the procurement process and terms of design-build and construction manager-general contractor contracts. Provides that the Department has eminent domain and quick take powers under the Act. Repeals the Act 5 years after the effective date of the Act, provided that any design-build contracts and construction manager-general contractor contracts entered into before that date, or any procurement of a transportation facility under the Act, commenced before that date and the contracts resulting from those procurements remain effective. Makes conforming changes. Effective immediately.

LRB099 12537 RJF 35993 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the  
5 Innovations for Transportation Infrastructure Act.

6 Section 5. Legislative policy.

7 (a) It is the public policy of the State of Illinois to  
8 promote the development of infrastructure projects that serve  
9 the needs of the public.

10 (b) The design-build and construction manager-general  
11 contractor project delivery methods and use of alternative  
12 technical contracts have the potential to capture private  
13 sector innovation and safely deliver infrastructure projects  
14 on more predictable schedules and budgets. Earlier completion  
15 and lower cost for projects are possible with the ability to  
16 shift or share risks with the private sector that are generally  
17 retained by the public in the conventional design-bid-build  
18 project delivery method.

19 (c) It is the intent of the General Assembly that the  
20 Department of Transportation may evaluate and use alternative  
21 technical concepts proposed by bidders and proposers and to use  
22 the DB and CMGC project delivery methods.

23 (d) It is the intent of this Act to use design

1 professionals, construction companies, and workers from this  
2 State to the greatest extent possible.

3 (e) The powers granted in this Act are in addition to any  
4 other powers authorized under applicable law.

5 Section 10. Definitions. As used in this Act:

6 "ATC" means alternative technical concepts.

7 "Best value" means any selection process in which proposals  
8 contain both price and qualitative components and award is  
9 based upon a combination of price and other factors.

10 "Chief procurement officer" means the chief procurement  
11 officer for construction or construction-related activities as  
12 defined under paragraph (2) of Section 1-15.15 of the Illinois  
13 Procurement Code.

14 "CMGC contract" means the two-phase contract between the  
15 Department and a construction manager-general contractor,  
16 which includes a first phase addressing preconstruction  
17 services and a second phase addressing the construction of the  
18 transportation facility.

19 "Construction manager-general contractor" or "CMGC" means  
20 a proposer that has entered into a construction manager-general  
21 contractor contract under this Act.

22 "Construction manager-general contractor project delivery  
23 method" or "CMGC project delivery method" means a method of  
24 procurement and contracting that makes a CMGC who enters into a  
25 contract with the Department responsible for certain

1 preconstruction services and then, if the parties reach  
2 agreement on key terms, responsible for construction of the  
3 transportation facility.

4 "DB" means design-build.

5 "Department" means the Illinois Department of  
6 Transportation.

7 "Design-bid-build project delivery method" means the  
8 traditional method of procuring and contracting for design and  
9 construction services used in this State, which incorporates  
10 the Architectural, Engineering, and Land Surveying  
11 Qualifications Based Selection Act and the principles of  
12 competitive bidding under the Illinois Procurement Code.

13 "Design-build contract" or "DB contract" means a contract  
14 between the Department and a design-builder under which the  
15 design-builder agrees to furnish architectural, surveying,  
16 engineering, construction, and related services for a  
17 transportation facility.

18 "Design-build project delivery method" or "DB project  
19 delivery method" means a method of procurement and contracting  
20 that provides responsibility within a single contract between  
21 the Department and a design-builder for the furnishing of  
22 architectural, surveying, engineering, construction, and  
23 related services for a transportation facility.

24 "Design-builder" means a proposer that has entered into a  
25 design-build contract with the Department under this Act.

26 "Evaluation Committee" means the committee assembled to

1 evaluate and score statements of qualifications and proposals.

2 "Evaluation criteria" means the standards and requirements  
3 established by the Department against which the qualifications  
4 and proposals of a proposer will be assessed during the  
5 procurement of a design-build contract or construction  
6 manager-general contractor contract, as applicable.

7 "Metropolitan planning organization" means a metropolitan  
8 planning organization as defined under 23 U.S.C. 134 whose  
9 metropolitan planning area boundaries are partially or  
10 completely within this State.

11 "Preconstruction services" means all  
12 non-construction-related services that a construction  
13 manager-general contractor is allowed to perform during the  
14 first phase of a construction manager-general contractor  
15 contract, which includes giving advice to the Department  
16 regarding scheduling, work sequencing, cost engineering,  
17 constructability, cost estimating, and risk identification.

18 "Proposal" means a proposer's response to a request for  
19 proposals.

20 "Proposer" means any individual, sole proprietorship,  
21 firm, partnership, joint venture, corporation, professional  
22 corporation, or other entity legally established to conduct  
23 business in this State that proposes to be the design-build or  
24 construction manager-general contractor for any transportation  
25 facility under this Act. A proposer and its members shall  
26 conduct themselves in accordance with the laws of this State

1 and the related provisions of the Illinois Administrative Code,  
2 as referenced by the design professionals licensing Acts of  
3 this State.

4 "Qualifications" means a statement of qualifications  
5 submitted by a proposer in response to a request for  
6 qualifications.

7 "Request for proposals" means the document issued by the  
8 Department to solicit proposals and describe the procurement  
9 process for a design-build contract or construction  
10 manager-general contractor contract in accordance with the  
11 design-build project delivery method or the construction  
12 manager-general contractor project delivery method, as  
13 applicable.

14 "Request for qualifications" means the document issued by  
15 the Department in the first phase of a two-phase procurement to  
16 solicit qualifications from proposers in accordance with the  
17 design-build project delivery method or the construction  
18 manager-general contractor project delivery method, as  
19 applicable.

20 "Scope and performance requirements" means the constructed  
21 elements, activities, and standards of performance required by  
22 the Department to be complied with in the development of the  
23 transportation facility, which may include, but not be limited  
24 to, the intended usage, capacity, size, scope, quality and  
25 performance standards, life-cycle costs, preliminary  
26 engineering, design, and other requirements as developed and

1 determined by the Department.

2 "Secretary" means the Secretary of Transportation of the  
3 Illinois Department of Transportation.

4 "Transportation facility" means any new or existing  
5 facility or group of facilities that are the subject of a  
6 design-build contract or a construction manager-general  
7 contractor contract, and which may include highways, roads,  
8 bridges, tunnels, overpasses, ferries, airports or other  
9 aviation facilities, public transportation facilities, vehicle  
10 parking facilities, seaport facilities, rail facilities,  
11 intermodal facilities, transit facilities, or similar  
12 facilities used for the transportation of persons or goods.

13 Section 15. Authorization of project delivery methods.

14 (a) Notwithstanding any other law, and as authority  
15 supplemental to its existing powers, the Department, in  
16 accordance with this Act, may use the design-build project  
17 delivery method or the CMGC project delivery method for  
18 transportation facilities; provided that, prior to commencing  
19 a procurement under this Act for either a design-build contract  
20 or a CMGC contract, the Department has first undertaken an  
21 analysis and made a written determination that it is in the  
22 best interests of this State to utilize the selected delivery  
23 method for that transportation facility. The analysis and  
24 determination shall discuss the design-build or CMGC project  
25 delivery method's impact on the anticipated schedule,

1 completion date, and project costs. The best interests of the  
2 State analysis shall be made available to the public.

3 (b) The Department shall report to the General Assembly  
4 annually for the first 5 years after the effective date of this  
5 Act on the progress of procurements and transportation  
6 facilities procured under this Act. The Department's  
7 obligation to submit a progress report for a particular  
8 transportation facility shall, as applicable, end 2 years  
9 after:

- 10 (1) the Department's termination of the procurement;
- 11 (2) early termination of the design-build contract or  
12 CMGC contract; or
- 13 (3) completion of the transportation facility.

14 Section 20. Preconditions to commencement of procurement.

15 (a) If the Department determines to use the design-build  
16 project delivery method or the CMGC project delivery method for  
17 a particular transportation facility, the Department may not  
18 commence a procurement for the transportation facility until  
19 the following requirements are satisfied:

- 20 (1) the transportation facility is included in the  
21 Department's Multi-Year Highway Improvement Program;
- 22 (2) the Department has issued a notice of intent to  
23 receive qualifications at least 14 days prior to the  
24 issuance of the request for qualifications; or
- 25 (3) for a single phase procurement under subsection (a)



1 of Section 25 of this Act, the Department has issued a  
2 notice of intent to receive proposals at least 14 days  
3 prior to the issuance of the request for proposals. If the  
4 Department issued one of the notices of intent described in  
5 this subsection (a), the Department shall publish the  
6 notice of intent in the State's procurement bulletin. The  
7 Department shall include a description of the proposed  
8 procurement and transportation facility in any notice of  
9 intent.

10 (b) The Department must determine that the transportation  
11 facility is consistent with the regional plan, in existence at  
12 the time, of any metropolitan planning organization in whose  
13 boundaries the transportation facility is located.

14 Section 25. Procurement process.

15 (a) The Department may solicit a proposer with which to  
16 enter into a design-build contract or CMGC contract, as  
17 applicable, by using, without limitation, one or more requests  
18 for qualifications, short-listing of the most highly qualified  
19 proposers, or requests for proposals and negotiations. The  
20 Department shall use a two-phase procurement to select the  
21 successful proposer; provided that the Department may use a  
22 single phase procurement if the transportation facility is  
23 estimated to cost less than \$10,000,000 or the Secretary of  
24 Transportation makes a written determination that the  
25 Department may use a single phase procurement for a particular

1 transportation facility. In a two-phase procurement, the  
2 Department shall use the first phase to evaluate and short-list  
3 the most highly qualified proposers based on qualifications,  
4 and then use the second phase to evaluate and select a proposer  
5 based on proposals submitted by the short-listed proposers. In  
6 a single phase procurement, the Department shall solicit  
7 proposers with a request for proposals, and shall evaluate and  
8 select a proposer based on those proposals.

9 (b) The request for qualifications may contain any  
10 information deemed appropriate by the Department including,  
11 without limitation, the following information:

12 (1) the anticipated scope of work for the  
13 transportation facility;

14 (2) a requirement that the proposer identify certain  
15 key personnel, and for DB contracts certain key firms, the  
16 experience of the personnel and firms, and the conditions  
17 on which identified personnel and firms can be replaced;

18 (3) the evaluation criteria for the qualifications and  
19 the relative importance of those criteria; these  
20 evaluation criteria may address, without limitation, the  
21 proposer's technical and financial qualifications, such as  
22 specialized experience, technical competence, capability  
23 to perform, financial capacity, past performance,  
24 including the proposer's safety record, and any other  
25 qualifications based factors;

26 (4) the Department's established prequalification,

1       licensing, and registration requirements, including any  
2       requirements from the Professional Engineering Practice  
3       Act of 1989, the Illinois Architecture Practice Act of  
4       1989, the Structural Engineering Practice Act of 1989, and  
5       the Illinois Professional Land Surveyor Act of 1989,  
6       provided that nothing contained herein precludes the  
7       Department's use of different or additional  
8       prequalification criteria or pass/fail evaluation factors  
9       addressing minimum levels of technical experience or  
10      financial capabilities;

11           (5) the maximum number of proposers the Department will  
12      short-list to submit proposals; and

13           (6) any other relevant information.

14      (c) Upon completion of the qualifications evaluation, the  
15      Department shall, based on the evaluation criteria set forth in  
16      the request for qualifications, create a short-list of the most  
17      highly qualified proposers. The Department shall short-list no  
18      more than 5 and no fewer than 2 of the most highly qualified  
19      proposers. Notwithstanding other provisions of this subsection  
20      (c), the Department may short-list fewer than 2 proposers if  
21      the Secretary of Transportation makes a finding that an  
22      emergency situation justifies the limited short-listing and  
23      fewer than 2 proposers meet any applicable prequalification and  
24      pass/fail requirements set forth in the request for  
25      qualifications.

26      (d) The request for proposals may contain any information

1 deemed appropriate by the Department including, without  
2 limitation, the following information:

3 (1) the form and amount of required bid security;

4 (2) the terms of the DB or CMGC contract including, but  
5 not limited to, scope and performance requirements,  
6 schedule or completion date requirements, subcontractor  
7 requirements, payment and performance security  
8 requirements, and insurance requirements;

9 (3) a requirement for the proposer to submit plans  
10 regarding how it will:

11 (A) comply the utilization requirements for  
12 business enterprises established in the Business  
13 Enterprise for Minorities, Females, and Persons with  
14 Disabilities Act, or federal law or regulations that  
15 establish standards and procedures for the utilization  
16 of minority, disadvantaged, and female-owned  
17 businesses; and

18 (B) comply with Section 2-105 of the Illinois Human  
19 Rights Act;

20 (4) the requirements for the technical component of the  
21 proposal, including a description of the level of design,  
22 scope and type of renderings, drawings, and specifications  
23 to be provided in the proposals;

24 (5) the requirements for the price component of the  
25 proposal, which for CMGC contracts may include a  
26 requirement for the proposer to submit a lump sum price for

1 the direct costs to perform the required preconstruction  
2 services and percentage mark-up on those direct costs;

3 (6) the evaluation criteria for the proposals and the  
4 relative importance of those criteria, including any  
5 formulas to be employed by the Department, as the  
6 Department deems appropriate, and the technical proposal  
7 evaluation criteria may, without limitation, include  
8 compliance with the Department's stated objectives for the  
9 project, the proposal's compliance with the request for  
10 proposal requirements, the level of quality of proposed  
11 products or materials, and the quality of the proposed  
12 design;

13 (7) a process for the Department to review and accept  
14 alternate technical concepts;

15 (8) in the case of a single phase procurement,  
16 requirements regarding the proposer's qualifications; and

17 (9) any other relevant information.

18 (e) Prior to the proposers' submittal of proposals, the  
19 Department may conduct confidential meetings and exchange  
20 confidential information with proposers to promote  
21 understanding of the request for proposals, review alternative  
22 technical concepts, or discuss other issues related to the  
23 procurement.

24 (f) The date proposals are due must be at least 28 calendar  
25 days after the date the Department first issues the request for  
26 proposals.

1           (g) The Department may offer to pay a stipend in an amount  
2 and on the terms and conditions determined by the Department  
3 and as set forth in the request for proposals to (1) all  
4 short-listed proposers if the Department cancels the  
5 procurement before the due date for proposals; or (2) each  
6 unsuccessful proposer that submits a responsive proposal. The  
7 Department may pay a stipend only to those proposers who grant  
8 to the Department the right to use any work product contained  
9 in the unsuccessful proposer's proposal and other  
10 proposal-related submissions or, if the Department cancels the  
11 procurement before the due date for proposals, any work product  
12 developed prior to cancellation, including technologies,  
13 techniques, methods, processes, and information contained in  
14 the recipient's design for the transportation facility.

15           (h) The Department shall, as appropriate depending on  
16 whether the transportation facility includes building  
17 facilities, directly employ or retain a professional engineer  
18 or engineers licensed in the State or a licensed architect or  
19 architects, or both engineers licensed in this State and  
20 licensed architects, to prepare the scope and assist in the  
21 evaluation of the proposals' technical submissions under a  
22 design-build project delivery method. The professional  
23 engineers and licensed architects performing these services  
24 are generally precluded from participating in the procurement  
25 of the transportation facility at issue as a member of a  
26 proposer team.

1 (i) The Department shall have the right to reject any and  
2 all qualifications or proposals, including, but not limited to,  
3 the right to reject any qualifications or proposals as  
4 non-responsive if, in the Department's sole discretion, the  
5 qualifications or proposals do not meet all material  
6 requirements of the request for qualifications or request for  
7 proposals, as appropriate. The Department shall not consider a  
8 proposal that does not include:

9 (1) the proposer's plan to comply with requirements  
10 established by the Department regarding utilization of  
11 business enterprises, including disadvantaged business  
12 enterprises; or

13 (2) bid security in the form and amount designated in  
14 the request for proposals.

15 (j) The Department shall consult with the chief procurement  
16 officer on the DB and the CMGC procurement processes, and the  
17 Secretary, in consultation with the chief procurement officer,  
18 shall determine which procedures to adopt and apply to the  
19 design-build and CMGC procurement processes in order to ensure  
20 an open, transparent, and efficient process that accomplishes  
21 the purposes of this Act.

22 Section 30. Evaluation committee.

23 (a) The Department shall establish one or more evaluation  
24 committees to assist in selecting a DB and a CMGC. The  
25 Department shall, in its sole discretion, determine the

1 appropriate size and composition of the evaluation committee,  
2 including how many members of the committee must be licensed  
3 design professionals.

4 (b) The Department may establish an evaluation committee  
5 for a set term or for the procurement of a particular  
6 transportation facility.

7 (c) Each member of an evaluation committee must certify for  
8 each request for proposals that no conflict of interest exists  
9 between the member and the proposer. If the Department, after  
10 consultation with the chief procurement officer, determines  
11 that an actual conflict exists, the member shall not  
12 participate on the evaluation committee for that procurement  
13 and the Department shall appoint a replacement member on either  
14 a permanent or temporary basis.

15 Section 35. Procedures for selection. The Department shall  
16 review, evaluate, and score proposals and determine which  
17 proposal offers the best value to the public based on the  
18 evaluation criteria set forth in the request for proposals. The  
19 Department shall submit its best value proposal recommendation  
20 to the evaluation committee. Based on the evaluation criteria  
21 set forth in the request for proposals, the evaluation  
22 committee shall decide whether to adopt the Department's  
23 recommendation. If the evaluation committee adopts the  
24 recommendation, the Department may award the DB contract or  
25 CMGC contract, as applicable, to the selected proposer.



1 Notwithstanding other provisions of this Section, if for any  
2 reason the selected proposer is unable or unwilling to execute  
3 the contract, including the failure of the proposer and the  
4 Department to successfully complete negotiations, if any, of  
5 the contract, the Department may award the contract to the  
6 proposer whose proposal the Department determines offers the  
7 public the next best value.

8 Section 40. Project records; confidentiality; public  
9 disclosure.

10 (a) The Department shall maintain all written decisions,  
11 qualification and proposal evaluations, scoring documents,  
12 selection evaluations, proposals, and procurement documents in  
13 a procurement file maintained by the Department.

14 (b) A proposer may identify those portions of a proposal or  
15 other submission that the proposer considers to be trade  
16 secrets or confidential, commercial, financial, or proprietary  
17 information. To consider confidential and proprietary  
18 information, including trade secrets, to be exempt from  
19 disclosure, the proposer shall do all of the following:

20 (1) request exclusion from disclosure upon submission  
21 of the information or other materials for which protection  
22 is sought;

23 (2) identify the data or other materials for which  
24 protection is sought;

25 (3) state the statutory or regulatory basis for the

1 protection;

2 (4) fully comply with the federal Freedom of  
3 Information Act and any other applicable provisions of  
4 State law, including, but not limited to, the Freedom of  
5 Information Act, with respect to information the proposer  
6 contends should be exempt from disclosure; and

7 (5) certify if the information is in accordance with  
8 the protection of the Illinois Trade Secrets Act.

9 (c) Notwithstanding any other provision of law, in order to  
10 properly balance the need to maximize competition under this  
11 Act with the need to create a transparent procurement process,  
12 the qualifications, proposals, and other information and  
13 documents submitted by proposers and the Department's  
14 evaluation records shall not be subject to release or  
15 disclosure by the Department until execution of the DB contract  
16 or CMGC contract, as applicable. If the Department terminates  
17 the procurement for a transportation facility, the exemption  
18 from release or disclosure under this Section shall remain in  
19 place until the Department re-procures the transportation  
20 facility and has entered into a DB contract or CMGC contract,  
21 as applicable. However, this exemption shall lapse if the  
22 Department does not commence the re-procurement of the  
23 transportation facility within 2 years of the termination.

24 Section 45. Design-build contract. A DB contract may  
25 include any provisions the Department determines are necessary

1 or appropriate, including, but not limited to, provisions  
2 regarding the following:

3 (1) compensation or payments to the DB;

4 (2) grounds for termination of the DB contract,  
5 including the Department's right to terminate for  
6 convenience;

7 (3) liability for damages and nonperformance;

8 (4) events of default and the rights and remedies  
9 available to the design-builder and the Department in the  
10 event of a default or delay;

11 (5) terms for the DB's compliance with requirements  
12 pertaining to business enterprises, including  
13 disadvantaged business enterprises, and with Section 2-105  
14 of the Illinois Human Rights Act;

15 (6) the identification of any technical specifications  
16 that the DB must comply with when developing plans or  
17 performing construction work;

18 (7) the procedures for review and approval of the DB's  
19 plans;

20 (8) required performance and payment security;

21 (9) the terms and conditions of indemnification and  
22 minimum insurance requirements; and

23 (10) any other terms and conditions deemed necessary.

24 Section 50. Construction manager-general contractor  
25 contract.

1           (a) The CMGC contract shall divide the CMGC services into 2  
2 phases. The first phase shall address preconstruction services  
3 and the procedures the parties shall follow to finalize the  
4 contract terms for the second phase. The second phase shall  
5 address the CMGC's construction of the transportation facility  
6 for a lump sum or a guaranteed maximum price.

7           (b) A CMGC contract shall include provisions regarding the  
8 following:

9           (1) the CMGC's provision of preconstruction services  
10 during the first phase of the contract, including the  
11 CMGC's compensation for those services;

12           (2) a requirement that, during the first phase of the  
13 contract, the CMGC shall use a competitive bidding process  
14 to procure subcontracts for at least 70% of the  
15 construction work, provided that:

16           (A) compliance with this requirement shall be  
17 based on an estimated cost for the construction work  
18 approved by the Department prior to the start of the  
19 competitive bidding process; and

20           (B) the CMGC may not use subcontracts with its  
21 wholly or partially owned subsidiaries, parent  
22 companies, or affiliates to satisfy this obligation;

23           (3) the process the Department and the CMGC will use to  
24 determine a lump sum or guaranteed maximum price for the  
25 construction work, which shall include a requirement that  
26 the Department conduct an independent cost estimate for the

1 construction work; and

2 (4) grounds for termination of the CMGC contract,  
3 including the Department's right to terminate the contract  
4 and not proceed with the construction phase of the project  
5 if the Department and the CMGC are unable to negotiate a  
6 lump sum or guaranteed maximum price for the construction  
7 work.

8 (c) In addition to the provisions under subsection (b) of  
9 this Section, a CMGC contract may include any other provisions  
10 the Department determines are necessary or appropriate,  
11 including, but not limited to, provisions regarding the  
12 following:

13 (1) liability for damages and nonperformance;

14 (2) events of default and the rights and remedies  
15 available to the CMGC and the Department in the event of a  
16 default or delay;

17 (3) terms for the CMGC's compliance with requirements  
18 pertaining to business enterprises, including  
19 disadvantaged business enterprises, and with Section 2-105  
20 of the Illinois Human Rights Act for any construction work  
21 performed under the CMGC contract;

22 (4) the identification of any technical specifications  
23 that the CMGC must comply with when aiding the Department  
24 with developing plans or performing construction work;

25 (5) required performance and payment security for the  
26 construction phase of the contract;

1 (6) the terms and conditions of indemnification and  
2 minimum insurance requirements; and

3 (7) any other terms and conditions deemed necessary.

4 (d) If the CMGC contract is terminated for any reason, the  
5 Department may, in its sole discretion, re-advertise the CMGC  
6 contract under this Act or use any other authorized procurement  
7 method to complete the transportation facility or any portion  
8 of the transportation facility. Once the contract is  
9 terminated, the Department may use any work product developed  
10 by the CMGC to complete the transportation facility.

11 Section 55. Funding; financing.

12 (a) The Department may utilize any lawful source of funding  
13 and financing to compensate a DB and CMGC for work and services  
14 performed under a DB contract or CMGC contract, as applicable,  
15 and the Department may combine federal, State, local, and  
16 private funds to finance a transportation facility.

17 (b) Subject to appropriation by the General Assembly of the  
18 required amounts, the Department may obligate and make  
19 expenditures of funds as and when needed to satisfy its payment  
20 obligations under a DB contract or CMGC contract.

21 Section 60. Acquisition of property; related agreements.  
22 The Department may exercise any and all powers of condemnation  
23 or eminent domain, including quick-take powers, to acquire  
24 lands or estates or interests in land for a transportation

1 facility under this Act or to the extent the Department finds  
2 that the action serves the public purpose of this Act and deems  
3 the action appropriate in the exercise of its powers under this  
4 Act. In addition, the Department and a DB or CMGC may enter  
5 into leases, licenses, easements, and other grants of property  
6 interests that the Department determines are necessary to  
7 deliver a transportation facility under this Act.

8 Section 65. Federal requirements. In the procurement of DB  
9 contracts and CMGC contracts, the Department shall, to the  
10 extent necessary, comply with federal law and regulations and  
11 take all necessary steps to adapt its rules, policies, and  
12 procedures to remain eligible for federal aid.

13 Section 70. Powers. The powers granted to the Department  
14 under this Act shall be liberally construed to accomplish its  
15 purpose, are in addition to any existing powers of the  
16 Department, and shall not affect or impair any other powers  
17 authorized under applicable law. This includes powers to  
18 procure and enter into DB contracts and CMGC contracts under  
19 this Act.

20 Section 75. Rulemaking.

21 (a) The Illinois Administrative Procedure Act applies to  
22 all administrative rules and procedures of the Department under  
23 this Act, except that nothing in this Act shall be construed to

1 render any prequalification or other responsibility criteria  
2 as a "license" or "licensing" under that Act.

3 (b) The Department may adopt rules to carry out the  
4 provisions of this Act.

5 Section 80. Repealer. This Act is repealed 5 years after  
6 the effective date of this Act, provided that any DB contracts  
7 and CMGC contracts entered into before that date, or any  
8 procurement of a transportation facility under this Act,  
9 commenced before that date and the contracts resulting from  
10 those procurements shall remain in effect.

11 Section 905. The Department of Transportation Law of the  
12 Civil Administrative Code of Illinois is amended by adding  
13 Section 2705-233 as follows:

14 (20 ILCS 2705/2705-233 new)

15 Sec. 2705-233. Design-build and construction  
16 manager-general contractor for the transportation  
17 infrastructure. The Department may exercise all powers granted  
18 to it under the Innovations for Transportation Infrastructure  
19 Act, including, but not limited to, the power to enter into all  
20 contracts or agreements necessary or incidental to the  
21 performance of its powers under that Act, and powers related to  
22 any transportation facility implemented under that Act.



1 Section 910. The Illinois Finance Authority Act is amended  
2 by adding Section 825-108 as follows:

3 (20 ILCS 3501/825-108 new)

4 Sec. 825-108. Transportation project financing. For the  
5 purpose of financing a transportation facility undertaken  
6 under the Innovations for Transportation Infrastructure Act,  
7 the Authority may apply for an allocation of tax-exempt bond  
8 financing authorization provided by subsection (m) of Section  
9 142 of the United States Internal Revenue Code, as well as  
10 financing available under any other federal law or program.

11 Section 915. The Illinois Procurement Code is amended by  
12 adding Section 1-10.5 as follows:

13 (30 ILCS 500/1-10.5 new)

14 Sec. 1-10.5. Alternative technical concepts.  
15 Notwithstanding subsection (b) of Section 1-10 of this Code,  
16 the Department of Transportation may allow bidders and  
17 proposers to submit alternative technical concepts in their  
18 bids and proposals, provided the Department determines that the  
19 alternative technical concepts provide an equal or better  
20 solution than the underlying technical requirements applicable  
21 to the work. If the Department of Transportation allows bidders  
22 or proposers for a particular contract to submit alternative  
23 technical concepts, the Department shall describe the process

1 for alternative technical concept submission and evaluation in  
2 the procurement documents for that contract, including the  
3 potential use of confidential meetings and the exchange of  
4 confidential information with bidders and proposers to review  
5 and discuss potential or proposed alternative technical  
6 concepts.

7 Section 920. The Architectural, Engineering, and Land  
8 Surveying Qualifications Based Selection Act is amended by  
9 adding Section 85 as follows:

10 (30 ILCS 535/85 new)

11 Sec. 85. Design-build and construction manager-general  
12 contractor contracts. This Act shall not apply to the  
13 procurement of or contracting for transportation facilities  
14 under design-build contracts and construction manager-general  
15 contractor contracts under the Innovations for Transportation  
16 Infrastructure Act.

17 Section 925. The Employment of Illinois Workers on Public  
18 Works Act is amended by adding Section 2.8 as follows:

19 (30 ILCS 570/2.8 new)

20 Sec. 2.8. Design build and construction manager-general  
21 contractor contracts. This Act applies to any construction work  
22 undertaken under design build contracts and construction

1 manager-general contractor contracts entered into under the  
2 Innovations for Transportation Infrastructure Act.

3 Section 930. The Business Enterprise for Minorities,  
4 Females, and Persons with Disabilities Act is amended by adding  
5 Section 2.8 as follows:

6 (30 ILCS 575/2.8 new)

7 Sec. 2.8. Design build and construction manager-general  
8 contractor contracts. This Act applies to any construction work  
9 undertaken under design build contracts and construction  
10 manager-general contractor contracts entered into under the  
11 Innovations for Transportation Infrastructure Act.

12 Section 935. The Eminent Domain Act is amended by adding  
13 Section 15-5-48 as follows:

14 (735 ILCS 30/15-5-48 new)

15 Sec. 15-5-48. Eminent domain powers in new Acts. The  
16 following provisions of law may include express grants of the  
17 power to acquire property by condemnation or eminent domain:

18 The Innovations for Transportation Infrastructure Act; for  
19 the purposes of constructing a transportation facility under  
20 the Act.

21 Section 940. The Prevailing Wage Act is amended by changing

1 Section 2 as follows:

2 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

3 Sec. 2. This Act applies to the wages of laborers,  
4 mechanics and other workers employed in any public works, as  
5 hereinafter defined, by any public body and to anyone under  
6 contracts for public works. This includes any maintenance,  
7 repair, assembly, or disassembly work performed on equipment  
8 whether owned, leased, or rented.

9 As used in this Act, unless the context indicates  
10 otherwise:

11 "Public works" means all fixed works constructed or  
12 demolished by any public body, or paid for wholly or in part  
13 out of public funds. "Public works" as defined herein includes  
14 all projects financed in whole or in part with bonds, grants,  
15 loans, or other funds made available by or through the State or  
16 any of its political subdivisions, including but not limited  
17 to: bonds issued under the Industrial Project Revenue Bond Act  
18 (Article 11, Division 74 of the Illinois Municipal Code), the  
19 Industrial Building Revenue Bond Act, the Illinois Finance  
20 Authority Act, the Illinois Sports Facilities Authority Act, or  
21 the Build Illinois Bond Act; loans or other funds made  
22 available pursuant to the Build Illinois Act; loans or other  
23 funds made available pursuant to the Riverfront Development  
24 Fund under Section 10-15 of the River Edge Redevelopment Zone  
25 Act; or funds from the Fund for Illinois' Future under Section

1 6z-47 of the State Finance Act, funds for school construction  
2 under Section 5 of the General Obligation Bond Act, funds  
3 authorized under Section 3 of the School Construction Bond Act,  
4 funds for school infrastructure under Section 6z-45 of the  
5 State Finance Act, and funds for transportation purposes under  
6 Section 4 of the General Obligation Bond Act. "Public works"  
7 also includes (i) all projects financed in whole or in part  
8 with funds from the Department of Commerce and Economic  
9 Opportunity under the Illinois Renewable Fuels Development  
10 Program Act for which there is no project labor agreement; (ii)  
11 all work performed pursuant to a public private agreement under  
12 the Public Private Agreements for the Illiana Expressway Act or  
13 the Public-Private Agreements for the South Suburban Airport  
14 Act; ~~and~~ (iii) all projects undertaken under a public-private  
15 agreement under the Public-Private Partnerships for  
16 Transportation Act; and (iv) all transportation facilities  
17 undertaken under a design-build contract or a construction  
18 manager-general contractor contract under the Innovations for  
19 Transportation Infrastructure Act. "Public works" also  
20 includes all projects at leased facility property used for  
21 airport purposes under Section 35 of the Local Government  
22 Facility Lease Act. "Public works" also includes the  
23 construction of a new wind power facility by a business  
24 designated as a High Impact Business under Section 5.5(a)(3)(E)  
25 of the Illinois Enterprise Zone Act. "Public works" does not  
26 include work done directly by any public utility company,

1 whether or not done under public supervision or direction, or  
2 paid for wholly or in part out of public funds. "Public works"  
3 also includes any corrective action performed pursuant to Title  
4 XVI of the Environmental Protection Act for which payment from  
5 the Underground Storage Tank Fund is requested. "Public works"  
6 does not include projects undertaken by the owner at an  
7 owner-occupied single-family residence or at an owner-occupied  
8 unit of a multi-family residence. "Public works" does not  
9 include work performed for soil and water conservation purposes  
10 on agricultural lands, whether or not done under public  
11 supervision or paid for wholly or in part out of public funds,  
12 done directly by an owner or person who has legal control of  
13 those lands.

14 "Construction" means all work on public works involving  
15 laborers, workers or mechanics. This includes any maintenance,  
16 repair, assembly, or disassembly work performed on equipment  
17 whether owned, leased, or rented.

18 "Locality" means the county where the physical work upon  
19 public works is performed, except (1) that if there is not  
20 available in the county a sufficient number of competent  
21 skilled laborers, workers and mechanics to construct the public  
22 works efficiently and properly, "locality" includes any other  
23 county nearest the one in which the work or construction is to  
24 be performed and from which such persons may be obtained in  
25 sufficient numbers to perform the work and (2) that, with  
26 respect to contracts for highway work with the Department of

1 Transportation of this State, "locality" may at the discretion  
2 of the Secretary of the Department of Transportation be  
3 construed to include two or more adjacent counties from which  
4 workers may be accessible for work on such construction.

5 "Public body" means the State or any officer, board or  
6 commission of the State or any political subdivision or  
7 department thereof, or any institution supported in whole or in  
8 part by public funds, and includes every county, city, town,  
9 village, township, school district, irrigation, utility,  
10 reclamation improvement or other district and every other  
11 political subdivision, district or municipality of the state  
12 whether such political subdivision, municipality or district  
13 operates under a special charter or not.

14 The terms "general prevailing rate of hourly wages",  
15 "general prevailing rate of wages" or "prevailing rate of  
16 wages" when used in this Act mean the hourly cash wages plus  
17 annualized fringe benefits for training and apprenticeship  
18 programs approved by the U.S. Department of Labor, Bureau of  
19 Apprenticeship and Training, health and welfare, insurance,  
20 vacations and pensions paid generally, in the locality in which  
21 the work is being performed, to employees engaged in work of a  
22 similar character on public works.

23 (Source: P.A. 97-502, eff. 8-23-11; 98-109, eff. 7-25-13;  
24 98-482, eff. 1-1-14; 98-740, eff. 7-16-14; 98-756, eff.  
25 7-16-14.)

1           Section 997. Severability. The provisions of this Act are  
2           severable under Section 1.31 of the Statute on Statutes.

3           Section 999. Effective date. This Act takes effect upon  
4           becoming law.