



Rep. Jay Hoffman

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1 AMENDMENT TO HOUSE BILL 3927

2 AMENDMENT NO. _____. Amend House Bill 3927 by replacing
3 everything after the enacting clause with the following:

4 "Article 1. Purpose; Authority

5 Section 1-1. Short title. This Act may be cited as the
6 Public-Private Partnerships Act.

7 Section 1-5. Legislative findings and declaration.

8 (a) It is hereby found and declared that it is the public
9 policy and the public purpose of the State to promote the
10 development, financing, providing of services, and operation
11 of facilities that serve the needs of the public.

12 (b) It is hereby found and declared that there are
13 inadequate public resources to develop, modernize, refurbish,
14 and maintain public infrastructure and services in a timely
15 and cost certain manner, and that such need is impeded by

1 existing methods of procurement and funding.

2 (c) It is hereby found and declared that authorizing
3 private entities to do all or part of the development,
4 planning, design, construction, maintenance, repair,
5 rehabilitation, expansion, financing, and operation of one or
6 more facilities, and the providing of services, can result in
7 the availability of facilities and services to the public in a
8 more timely, more efficient, or less costly fashion, thereby
9 serving the public safety and welfare. Properly planned and
10 structured public-private partnerships and unsolicited
11 proposals can help meet such needs by improving the schedule
12 for delivery, lowering the cost, and providing additional
13 funding. Obtaining private sector financing using a P3 model
14 leverages resources to meet the demand for new infrastructure
15 and services in the State. Pension funds, private investors,
16 developers, contractors, and other private entities through a
17 public-private partnership can use long-term financing to
18 invest in public infrastructure and services and further use
19 their private expertise in construction, design-build,
20 management and oversight, project life-cycle planning, and
21 other areas of expertise not employed by public entities.
22 Private capital invested in infrastructure and service
23 investments have the potential to generate stable long-term
24 returns while ensuring public infrastructure and services are
25 progressively maintained to benefit State residents. Pension
26 funds and insurance companies seek investments to match their

1 long-term liabilities.

2 (d) It is hereby found and declared that citizens have a
3 right to transparency and public accountability, including
4 dissemination of information about the public benefits of P3
5 projects, open, equitable, transparent, proactive, and
6 effective communications with the public achieved through
7 consistent communication activities that recognize the
8 respective contributions of the responsible public entity and
9 the partnering private entity.

10 (e) It is hereby found and declared that public-private
11 agreements entered into by private entities and responsible
12 public entities under this Act shall allow for:

13 (1) transparency, oversight, and public information
14 sharing;

15 (2) compliance with all State and federal
16 environmental laws;

17 (3) fairness for local jurisdictions when negotiating
18 the public-private agreements;

19 (4) the public sector to gain access to new revenue
20 sources;

21 (5) new service delivery capacity;

22 (6) the optimal sharing of risk based upon P3 best
23 practice, industry feedback, relevant project precedents,
24 and prevailing market conditions;

25 (7) cost and schedule certainty; and

26 (8) predicted service quality, performance,

1 innovation, and whole-of-life asset management.

2 Section 1-10. Actions serving a public purpose. Actions
3 pursuant to this Act serve the public purposes of this Act if
4 such actions facilitate the timely development, planning,
5 design, construction, maintenance, repair, rehabilitation,
6 expansion, financing, or operation of a qualifying project.

7 Section 1-15. Intent. It is the intent of this Act to:

8 (1) Authorize responsible public entities to develop
9 and enter into public-private partnership agreements for
10 qualifying projects which result in the availability of
11 such projects to the public in a more timely and less
12 costly fashion, thereby serving the public safety,
13 benefit, and welfare.

14 (2) Permit responsible public entities to receive and
15 consider unsolicited proposals from private sector parties
16 in a manner that eliminates the perception of bias,
17 ensures transparency, fairness, and best value for the
18 responsible public entity and which bring innovative
19 concepts and ideas to benefit responsible public entities.

20 (3) Grant public and private entities the greatest
21 possible flexibility in contracting with each other for
22 the provision of infrastructure and public services.

23 (4) Encourage investment in the State by private
24 entities that facilitates services, development, planning,

1 design, construction, maintenance, repair,
2 rehabilitation, expansion, financing, and operation of
3 facilities.

4 (5) Establish an Infrastructure Investment Commission
5 that focuses on supporting and promoting P3 procurement
6 models and unsolicited proposals that result in the
7 construction, renewal, or material enhancement of public
8 services and infrastructure.

9 (6) Provide responsible public entities:

10 (A) the best-in-class project tools, expertise,
11 and resources to develop predictable procedures for
12 developing P3 projects and unsolicited proposals; and

13 (B) a process to submit unsolicited proposals to
14 responsible public entities that protects their
15 proprietary trade information.

16 (7) Provide responsible public entities and private
17 entities with:

18 (A) clarity on the intake process, evaluation, and
19 procedural aspects of unsolicited proposals; and

20 (B) a process that is short and stable resulting
21 in a competitive market and lower costs.

22 (8) Develop a steady flow of P3 projects to benefit
23 both private entities and responsible public entities.

24 (9) Establish transparency and accountability
25 guidelines for P3 projects and unsolicited proposals.

26 (10) Support the use of State design professionals,

1 construction companies, and workers to the greatest extent
2 possible by offering them the right to compete for this
3 work.

4 (11) Ensure open, equitable, transparent, proactive,
5 and effective communication with the public.

6 (12) Improve upon project development due diligence
7 practices.

8 (13) Support the use of local, minority-owned, and
9 women-owned business enterprises and economically
10 disadvantaged firms to the greatest extent possible.

11 (14) Create jobs and provide training for those jobs
12 for minorities, women, and veterans to the greatest extent
13 possible.

14 (15) Facilitate and encourage the use of pension funds
15 to develop qualifying projects.

16 (16) Leverage private sector expertise and capital in
17 support of efficient, innovative, and timely P3
18 investments.

19 (17) Serve as a catalyst for the development of
20 public-private partnerships and unsolicited proposals in
21 the State.

22 (18) Authorize public-private agreements that
23 distribute the risk optimally between both the private and
24 public-sector partners.

25 (19) Support economic growth, clean air and water, a
26 healthy environment, and stronger communities.

1 Section 1-20. Construction; authority.

2 (a) The powers conferred by this Act shall be liberally
3 construed in order to accomplish their purposes and are in
4 addition and supplemental to the powers conferred by any other
5 law. If any other law or rule is inconsistent with this Act,
6 this Act is controlling as to any public-private agreement and
7 financing of any project subject to a public-private agreement
8 entered into under this Act.

9 (b) This Act contains full and complete authority for
10 responsible public entities to enter into agreements,
11 financing, and leases with private entities to carry out the
12 activities described in this Act. Except as provided in this
13 Act, no procedure, proceeding, publication, notice, consent,
14 approval, order, or act by a responsible public entity or any
15 other State or local government or official is required to
16 enter into an agreement or lease, and no law to the contrary
17 affects, limits, or diminishes the authority for agreements
18 and leases with private entities.

19 (c) To the extent that this Act permits or requires a
20 responsible public entity or a private entity to carry out or
21 comply with any law other than this Act under a public-private
22 agreement, the action shall be carried out in conformity with
23 this Act.

24 (d) Each responsible public entity may exercise any powers
25 provided under this Act in participation or cooperation with

1 any governmental entity and enter into any contracts to
2 facilitate that participation or cooperation without
3 compliance with any other statute. Each responsible public
4 entity shall cooperate with each other and with other
5 governmental entities in carrying out qualifying projects
6 under this Act.

7 (e) A unit of local government may not take any action that
8 would have the effect of impairing a public-private agreement
9 under this Act, except that this Section shall not diminish
10 any existing police power or other power provided by law to a
11 unit of local government.

12 (f) Notwithstanding any provision of law to the contrary,
13 any public-private agreement entered into under a
14 public-private partnership shall include a provision requiring
15 any employer on the project to enter into a labor peace
16 agreement with any bona fide labor organization representing,
17 or attempting to represent, its employees, including employees
18 employed in classifications within the craft jurisdiction, or
19 in classifications called by different names when performing
20 similar duties.

21 Section 1-25. Definitions. As used in this Act:

22 "Affected jurisdiction" means the following:

23 (1) The State and any or all of its departments,
24 divisions, agencies, authorities, or other subdivisions or
25 parts of the State.

1 (2) Any county, municipality, township, special
2 district, or unit designated as a unit of local government
3 by law in which all or a part of a qualifying project is
4 located.

5 (3) Any other public entity directly affected by the
6 qualifying project.

7 "Authority" means the Illinois State Toll Highway
8 Authority.

9 "Bona fide labor organization" means a labor organization
10 recognized under the National Labor Relations Act as a bona
11 fide labor organization or a labor organization with an
12 accredited training program that is recognized by the Illinois
13 Community College Board and the Higher Learning Commission.

14 "Commercially confidential meetings" means bilateral
15 meetings prior to the execution of a project agreement between
16 the responsible public entity and private sector entities
17 (along with their respective advisors) to discuss matters such
18 as the project agreement and proponent's suggested amendments
19 to the project agreement, project design matters, and
20 innovation submissions.

21 "Contractor" means a private entity that has entered into
22 a public-private agreement with the responsible public entity
23 to provide services to or on behalf of the responsible public
24 entity.

25 "Department" means the Department of Transportation.

26 "Design-build agreement" means the agreement between the

1 selected private entity and the responsible public entity
2 under which the selected private entity agrees to furnish
3 design, construction, and related services for a facility
4 under this Act.

5 "Develop" or "development" means to do one or more of the
6 following: plan, design, develop, lease, acquire, install,
7 construct, reconstruct, rehabilitate, extend, or expand, or
8 provide any other service.

9 "Employees employed in classifications within the craft
10 jurisdiction" means all maintenance employees, including, but
11 not limited to, stationary engineers, building engineers,
12 maintenance engineers, maintenance technicians, maintenance
13 mechanics, mechanics, operating engineers, operators, domestic
14 water operators, wastewater operators, water treatment
15 technicians, and other related jobs.

16 "Facility" means:

17 (1) A facility or project that serves a public
18 purpose, including, but not limited to, any new or
19 existing local, county, or state or interstate road,
20 highway, toll highway, bridge, tunnel, or intermodal
21 facility; intercity or high-speed passenger rail; rail
22 project or facility; ferry or mass transit facility;
23 vehicle parking facility; regional or local airport;
24 seaport or waterway facility; intelligent-transport system
25 infrastructure or other transportation technology project
26 such as, but not limited to, transit priority signaling or

1 fare collection; other transportation facility or
2 infrastructure; any administrative facility
3 broadband-related project or facility; correctional
4 institution or facility; disaster mitigation facility;
5 green-energy-related project or facility; energy-related
6 project or facility; fuel supply facility or oil or gas
7 pipeline; medical or nursing care facility; recreational
8 facility; tourism facility; solid waste management
9 facility or energy-from-waste facility; sporting or
10 cultural facility; educational facility or other building
11 or facility that is used or will be used by a public
12 educational institution; or any other public facility or
13 infrastructure or service that is used or will be used by
14 the public at large or in support of an accepted public
15 purpose or activity.

16 (2) An improvement, including equipment, of a
17 structure that will be principally used by a public entity
18 or the public at large or that supports a service delivery
19 system in the public sector.

20 (3) A sanitation, water, potable water, underground
21 water, wastewater, or surface water facility or other
22 related infrastructure; or in support of an accepted
23 public purpose or activity.

24 "Labor peace agreement" means an agreement between the
25 vendor and any bona fide labor organization, that, at a
26 minimum, protects the State's proprietary interests by

1 prohibiting labor organizations and members from engaging in
2 picketing, work stoppages, boycotts, and any other economic
3 interference with the applicant's business. This agreement
4 means that the vendor has agreed not to disrupt efforts by the
5 bona fide labor organization to communicate with and attempt
6 to organize and represent the private entity's employees. The
7 agreement shall provide a bona fide labor organization access
8 at reasonable times to areas in which the private entity's
9 employees work, for the purpose of meeting with employees to
10 discuss their right to representation, employment rights under
11 State and federal laws, and terms and conditions of
12 employment.

13 "Maintain" or "maintenance" includes ordinary maintenance,
14 repair, rehabilitation, capital maintenance, maintenance
15 replacement, and any other categories of maintenance that may
16 be designated by the responsible public entity.

17 "Operate" or "operation" means to do one or more of the
18 following: maintain, improve, equip, modify, or otherwise
19 operate.

20 "Private entity" means any combination of one or more
21 individuals, sole proprietorships, private corporations,
22 general partnerships, limited liability companies, limited
23 partnerships, joint ventures, business trusts, nonprofit
24 entities, or other business entities that are nongovernmental
25 parties to a proposal for a qualifying project or an agreement
26 related to a qualifying project. A public agency may provide

1 services to a contractor as a subcontractor or subconsultant
2 without affecting the private status of the private entity and
3 the ability to enter into a public-private agreement.

4 "Project development fund" means a fund to assist
5 responsible public entities with public-private partnership
6 projects and unsolicited proposals. Approval for any
7 expenditure from this fund shall be approved by the
8 Infrastructure Investment Commission.

9 "Project labor agreement" means a prehire collective
10 bargaining agreement with one or more labor organizations that
11 establishes the terms and conditions of employment for a
12 specific project.

13 "Proposal" means all materials and documents prepared by
14 or on behalf of a private entity relating to the proposed
15 development, financing, or operation of a facility as a
16 qualifying project.

17 "Proposer" means a private entity that has submitted an
18 unsolicited proposal for a public-private agreement to a
19 responsible public entity under this Act or submitted a
20 proposal or statement of qualifications for a public-private
21 agreement in response to a request for proposals or a request
22 for qualifications for a project or services issued by a
23 responsible public entity under this Act.

24 "Public-private agreement" means the public-private
25 agreement between the private entity vendor and the
26 responsible public entity relating to one or more of the

1 proposed development, financing, or operation of a qualifying
2 project that is entered into under this Act.

3 "Public-private partnership" or "P3" means
4 performance-based contractual relationships between one or
5 more private entities and one or more responsible public
6 entities related to one or more qualifying projects.

7 "Qualifying project" or "project" means one or more
8 services or projects serving a public purpose, that is owned,
9 financed, controlled, or operated by a private entity in whole
10 or in part under this Act.

11 "Request for information" means all materials and
12 documents prepared by or on behalf of a responsible public
13 entity to solicit information from private entities with
14 respect to qualifying projects.

15 "Request for proposals" means all materials and documents
16 prepared by or on behalf of a responsible public entity to
17 solicit proposals from private entities to enter into a
18 public-private agreement.

19 "Request for qualifications" means all materials and
20 documents prepared by or on behalf of a responsible public
21 entity to solicit statements of qualification from private
22 entities to enter into a public-private agreement.

23 "Responsible public entity" means the State and any or all
24 of its departments, divisions, agencies, authorities, or other
25 subdivisions or parts of the State, any county, municipality,
26 school district, or special district, any other political

1 subdivision of the State, or any unit of local government; a
2 public body corporate and politic; or a regional entity that
3 serves a public purpose and is authorized to develop or
4 operate a qualifying project. "Responsible public entity" does
5 not include economic development or tourism partnerships,
6 councils, commissions, or entities.

7 "Revenues" means all revenues, including any combination
8 of: income; earnings and interest; user fees; lease payments;
9 allocations; federal, State, and local appropriations, grants,
10 loans, lines of credit, and credit guarantees; bond proceeds;
11 equity investments; service payments; or other receipts,
12 arising out of or in connection with a qualifying project,
13 including the development, financing, and operation of a
14 qualifying project. "Revenues" includes money received as
15 grants, loans, lines of credit, credit guarantees, rebate or
16 otherwise in aid of a qualifying project from the federal
17 government, State, unit of local government, or any agency or
18 instrumentality of the federal government, State, or unit of
19 local government.

20 "Services" means operations, such as, but not limited to,
21 parking, cable, broadband, accounting, human resources, health
22 care, data management, and technology.

23 "Shortlist" means the process by which a responsible
24 public entity will review, evaluate, and rank statements of
25 qualifications submitted in response to a request for
26 qualifications and then identify the proposers who are

1 eligible to submit a detailed proposal in response to a
2 request for proposals. The identified proposers constitute the
3 shortlist for the qualifying project to which the request for
4 proposals relates.

5 "Vendor" means a person that has been selected to enter or
6 has entered into a public-private partnership agreement with
7 the Department on behalf of the State for the financing,
8 management, or operation of the public-private partnership
9 agreement under this Act.

10 "Unit of local government" has the meaning ascribed to
11 that term in Article VII, Section 1 of the Illinois
12 Constitution, and also means any unit designated as a
13 municipal corporation or school district.

14 "Unsolicited proposal" means a written proposal that is
15 submitted to one or more responsible public entities on the
16 initiative of the private sector entity or entities for the
17 purpose of developing a partnership, and that is not in
18 response to a formal or informal request issued by the
19 responsible public entity.

20 "User fees" or "tolls" means the rates, tolls, fees, or
21 other charges imposed by the contractor for use of all or a
22 portion of a qualifying project under a public-private
23 agreement.

24 Article 2. Infrastructure Investment Commission

1 Section 2-5. Establishment. Pursuant to this Act, the
2 Governor shall establish an Infrastructure Investment
3 Commission. The Infrastructure Investment Commission shall
4 report to and be funded by the Illinois Finance Authority, and
5 shall be independent of other agencies and departments of the
6 State.

7 Section 2-10. Duties of the Commission. The Commission
8 shall:

9 (1) Assist responsible public entities with
10 identifying projects, including opportunities for project
11 aggregation, for which a public-private partnership may be
12 appropriate.

13 (2) Provide technical assistance and expertise to
14 responsible public entities on using public-private
15 partnerships to develop or operate qualifying projects,
16 including analyzing their benefits and costs and the
17 innovative financing options available to support them.

18 (3) Supply template contracts.

19 (4) Track proposed, ongoing, and completed
20 private-public partnerships.

21 (5) Provide technical assistance in applying for
22 federal funding grants or financing (for example, the
23 Transportation Infrastructure Finance and Innovative Act
24 program, the Transportation Infrastructure Finance and
25 Innovative Act program Lite, the Transportation

1 Infrastructure Finance and Innovative Act program Rural
2 Project Initiative, the Regional Infrastructure
3 Accelerators Program, and the Capital Investment Grants
4 Program).

5 (6) Identify methods of encouraging competition for
6 the development or operation of qualifying projects.

7 (7) Serve as a liaison to State or federal government
8 officials charged with promoting public-private
9 infrastructure partnerships, other State executive
10 directors of infrastructure investment commissions, and
11 regional or metropolitan public-private partnership
12 offices.

13 (8) Conduct public and stakeholder engagement and
14 outreach, including efforts to encourage transparency and
15 information sharing regarding public-private
16 partnerships.

17 (9) Issue regular updates on the future pipeline of P3
18 projects.

19 (10) Promote best practices, including standardized
20 methodologies and processes.

21 (11) Attract private investment to the State.

22 (12) Develop a project development fund to:

23 (A) assist responsible public entities to assess
24 the usefulness of the P3 model and unsolicited
25 proposals for their capital procurement and service
26 needs for specific projects;

1 (B) assist responsible public entities to manage a
2 P3 procurement project or unsolicited proposal;

3 (C) assist responsible public entities, that are
4 not experienced with P3 procurement or unsolicited
5 proposals;

6 (D) assist responsible public entities that are
7 undertaking new approaches or documenting P3 and
8 unsolicited proposal practices in a way that will
9 assist the Infrastructure Investment Commission and
10 other responsible public entities in future projects;

11 (E) assist with training costs for key staff of a
12 responsible public entity who are integral to the
13 successful development and implementation of a
14 project;

15 (F) assist a public entity with P3 procurement or
16 an unsolicited proposal that may include, but may not
17 be limited to, a market analysis, qualitative
18 assessment report, procurement options analysis,
19 quantitative analysis, risk analysis, implementation
20 strategy, and procurement documents; and

21 (G) assist with the engagement of external and
22 accredited P3 advisors and analysts.

23 Section 2-15. Governance of the Commission.

24 (a) The Commission shall be headed by a Chairperson and a
25 6-member Board of Directors.

1 (b) The Board is responsible for the overall governance of
2 the Commission and shall adopt a 5-year corporate plan and
3 annual report. The Board shall meet at least quarterly to
4 review the Commission's overall operation, receive committee
5 reports, discuss the Investment Infrastructure Commission's
6 performance, and approve expenditures. The Board shall review
7 the performance of the Executive Director annually.

8 (c) The Board shall establish committees to support the
9 Board as needed, including:

10 (1) an Audit Committee to oversee the Commission's
11 standards of integrity and behavior, oversee the
12 Commission's reporting of financial information and
13 expenditures of the project development fund, oversee the
14 Commission's internal control systems, including the
15 Commission's compliance with all applicable legal and
16 regulatory requirements, review the qualifications,
17 independence and performance of the Commission's external
18 auditors, and oversee the Commission's enterprise risk
19 management plan; and

20 (2) a Budget Committee that shall develop an annual
21 revenue and expenditure plan, submit said plan to the
22 Illinois Finance Authority for approval and funding, and
23 monitor said revenues and expenditures during the course
24 of the budget cycle.

25 Section 2-20. Board appointments.

1 (a) The Commission established pursuant to this Article
2 shall be composed of 7 members, appointed by the Governor,
3 with the advice and consent of the Senate, having expertise,
4 knowledge, or experience in infrastructure development or
5 operation, capital market and finance, public-sector planning,
6 or P3 procurement. No more than 4 members of any one political
7 party may serve as members of the Commission at the same time.

8 Members of the Commission shall, to a reasonable extent,
9 represent geographically diverse regions of the State as well
10 as diversity in race, ethnicity, and gender.

11 Vacancies shall be filled for the unexpired term in the
12 same manner as original appointments. All appointments shall
13 be in writing and filed with the Secretary of State as a public
14 record.

15 (b) Of the members appointed by the Governor, one such
16 member shall be appointed by the Governor as chairperson and
17 shall hold office for 4 years from the date of appointment, and
18 until a successor shall be duly appointed and qualified, but
19 shall be subject to removal by the Executive Director of the
20 Illinois Finance Authority for incompetency, neglect of duty,
21 or malfeasance.

22 (c) Of the original members, other than the chairperson, 3
23 shall hold office for 2 years and 3 shall hold office for 4
24 years, from the date of appointment and until respective
25 successors are duly appointed and qualified, but shall be
26 subject to removal by the Executive Director of the Illinois

1 Finance Authority for incompetency, neglect of duty, or
2 malfeasance. In case of vacancies in such offices during the
3 recess of the Senate, the Governor shall make a temporary
4 appointment until the next meeting of the Senate when the
5 Governor shall nominate a person to fill such office and any
6 person so nominated, who is confirmed by the Senate, shall
7 hold office during the remainder of the term and until a
8 successor is appointed and qualified. The respective term of
9 the first members appointed shall be designated by the
10 Governor at the time of appointment, but successors shall each
11 be appointed for a term of 4 years, except that any person
12 appointed to fill a vacancy shall serve only for the unexpired
13 term. Members shall be eligible for reappointment. Members
14 shall serve until the respective successors are duly appointed
15 and qualified.

16 (d) Each such member shall receive an annual salary of
17 \$10,000, or as set by the Compensation Review Board, whichever
18 is greater, payable in monthly installments, and shall be
19 reimbursed for necessary expenses incurred in the performance
20 of duties under this Act.

21 Section 2-25. Duties of the Chairperson of the Commission.
22 The Chairperson shall preside at all meetings of the
23 Commission, exercise general supervision over all powers,
24 duties, obligations, and functions of the Commission, and
25 shall approve or disapprove all resolutions, bylaws, rules,

1 and rates made and established by the Commission, and if the
2 Chairperson approves, the Chairperson shall sign the same, and
3 such as the Chairperson shall not approve, the Chairperson
4 shall return to the Commission with objections thereto in
5 writing at the next regular meeting of the Commission
6 occurring after the passage thereof. Such veto may extend to
7 any one or more items contained in such resolution, bylaw,
8 rule, or rate, or to its entirety; in case the veto extends to
9 a part of such resolution, bylaw, rule, or rate, the residue
10 thereof shall take effect and be in force, but in case the
11 Chairperson shall fail to return any resolution, bylaw, rule,
12 or rate with objections thereto by the time aforesaid, the
13 Chairperson shall be deemed to have approved the same, and the
14 same shall take effect accordingly. Upon the return of any
15 resolution, bylaw, rule, or rate by the Chairperson, the vote
16 by which the same was passed shall be reconsidered by the
17 Commission, and if upon such reconsideration two-thirds of all
18 the members agree to pass the same, it shall go into effect
19 notwithstanding the Chairperson's refusal to approve thereof.
20 The process of approving or disapproving all resolutions,
21 bylaws, rules, or rates, as well as the ability of the members
22 to override the disapproval of the Chairperson, under this
23 Section shall be set forth in the Commission's bylaws. Nothing
24 in the Commission's bylaws or rules may be contrary to this
25 Section.

1 Section 2-30. Duties of the Executive Director of the
2 Commission.

3 (a) The Executive Director shall be appointed by a
4 majority vote of the Commission.

5 (b) The Executive Director shall have demonstrated
6 knowledge, training, or experience in 2 or more of the
7 following areas:

8 (1) infrastructure development or operation;

9 (2) capital markets and finance, including municipal
10 finance;

11 (3) public-sector planning; or

12 (4) P3 procurement.

13 (c) The Executive Director shall provide to the standing
14 committees of the House and Senate having jurisdiction over
15 services, transportation, or infrastructure and post online a
16 report annually within 6 weeks of the end of each fiscal year
17 that:

18 (1) lists those public-private partnerships that are
19 expected to be soliciting bids within the next fiscal
20 year, are in progress, were completed during the prior
21 fiscal year, or were removed from consideration during the
22 prior fiscal year; and

23 (2) summarizes actions taken by the Commission to
24 fulfill its duties under Section 2-10.

25 (d) The Executive Director shall be responsible to the
26 Commission for the proper administration of the affairs of the

1 Commission and policies adopted by the Chairperson and members
2 of the Commission.

3 (e) All employees, as are necessary to the proper
4 functioning of the Commission, shall be appointed by and
5 report to the Executive Director with the consent of the
6 Commission.

7 (f) The Executive Director shall hold office for 4 years
8 from the date of appointment, but shall be subject to removal
9 by the Commission for incompetency, neglect of duty, or
10 malfeasance.

11 (g) The Executive Director shall receive a salary of
12 \$15,000 per annum, or as set by a Compensation Review Board,
13 whichever is greater, payable in monthly installments,
14 together with reimbursement for necessary expenses incurred in
15 the performance of the duties of the Executive Director. The
16 Executive Director shall be eligible for reappointment.

17 Section 2-35. Report on compliance with legislative
18 requirements. The Commission shall adhere to the Freedom of
19 Information Act and the State Records Act.

20 Article 3. Qualification and Process

21 Section 3-5. Unsolicited proposals.

22 (a) A responsible public entity may receive unsolicited
23 proposals for a project and may thereafter enter into a

1 public-private agreement with a private entity, or a
2 consortium of private entities, for the building, upgrading,
3 providing of services, operating, ownership, or financing of
4 facilities.

5 (b) A responsible public entity may consider, evaluate,
6 and accept an unsolicited proposal for a public-private
7 partnership project from a private entity if the proposal:

8 (1) is independently developed and drafted by the
9 proposer without responsible public entity supervision;

10 (2) shows that the proposed project could benefit the
11 people served by the responsible public entity;

12 (3) includes a financing plan to allow the project to
13 move forward pursuant to the applicable responsible public
14 entity's budget and finance requirements; and

15 (4) includes sufficient detail and information for the
16 responsible entity to evaluate the proposal in an
17 objective and timely manner and permit a determination
18 that the project would be worthwhile.

19 (c) The unsolicited proposal shall include the following:

20 (1) an executive summary covering the major elements
21 of the proposal;

22 (2) qualifications concerning the experience,
23 expertise, technical competence, and qualifications of the
24 private entity and of each member of its management team
25 and of other key employees, consultants, and
26 subcontractors, including the name, address, and

1 professional designation;

2 (3) a facilities project description, including, when
3 applicable:

4 (A) the limits, scope, and location of the
5 proposed project;

6 (B) right-of-way requirements;

7 (C) connections with other facilities and
8 improvements to those facilities necessary if the
9 project is developed;

10 (D) a conceptual project design; and

11 (E) a statement of the project's relationship and
12 impact upon relevant existing plans of the responsible
13 public entity;

14 (4) a facilities project schedule, including when
15 applicable, estimates of:

16 (A) dates of contract award;

17 (B) start of construction;

18 (C) completion of construction;

19 (D) start of operations; and

20 (E) major maintenance or reconstruction activities
21 during the life of the proposed project agreement;

22 (5) an operating plan describing the operation of the
23 completed facility if operation of a facility is part of
24 the proposal, describing the management structure and
25 approach, proposed period of operations, enforcement,
26 emergency response, and other relevant information;

1 (6) a finance plan describing the proposed financing
2 of the project identifying the source of funds to, where
3 applicable, design, construct, maintain, and manage the
4 project during the term of the proposed contract; and

5 (7) the legal basis for the project and licenses and
6 certifications; the private entity must demonstrate it has
7 licenses and certificates necessary to complete the
8 project.

9 (d) Within 120 days after receiving an unsolicited
10 proposal, the responsible public entity shall complete a
11 preliminary evaluation of the unsolicited proposal and shall
12 either:

13 (1) if the preliminary evaluation is unfavorable,
14 return the proposal without further action;

15 (2) if the preliminary evaluation is favorable, notify
16 the proposer that the responsible public entity will
17 further evaluate the proposal; or

18 (3) request amendments clarification or modification
19 of the unsolicited proposal.

20 (e) The procurement process for unsolicited proposals
21 shall be as follows:

22 (1) If the responsible public entity chooses to
23 further evaluate an unsolicited proposal with the intent
24 to enter into a public-private agreement for the proposed
25 project the responsible public entity shall publish notice
26 in a newspaper of general circulation covering the

1 location of the project at least once a week for 2 weeks
2 stating that the responsible public entity has received a
3 proposal and will accept other proposals for the same
4 project. The timeframe within which the responsible public
5 entity may accept other proposals shall be determined by
6 the responsible public entity on a project-by-project
7 basis based upon the complexity of the qualifying project
8 and the public benefit to be gained by allowing a longer or
9 shorter period of time within which other proposals may be
10 received; however, the timeframe for allowing other
11 proposals must be at least 21 days, but no more than 120
12 days, after the initial date of publication.

13 (2) A copy of the notice must be mailed to each local
14 government in the affected jurisdiction. The responsible
15 public entity shall provide reasonably sufficient
16 information and the identity of its contact person to
17 enable other private entities to make proposals.

18 (3) If after no less than 120 days, no counterproposal
19 is received, or if the counterproposals are evaluated and
20 found to be equal to or inferior to the original
21 unsolicited proposal, the responsible public entity may
22 proceed to negotiate a contract with the original
23 proposer.

24 (4) If after no less than 120 days one or more
25 counterproposals meeting unsolicited proposal standards
26 are received, and if, in the opinion of the responsible

1 public entity, the counterproposals are evaluated and
2 found to be superior to the original unsolicited proposal,
3 the responsible public entity shall proceed to determine
4 the successful participant through a final procurement
5 phase known as "Best and Final Offer" (BAFO). The BAFO is a
6 process whereby the responsible public entity shall invite
7 the original private sector party and the proponent
8 submitting the superior counterproposal to engage in a
9 BAFO phase. The invitation to participate in the BAFO
10 phase will provide to each participating proposer:

11 (A) the general concepts that were considered
12 superior to the original proposal, while keeping
13 proprietary information contained in the proposals
14 confidential to the extent possible; and

15 (B) the preestablished evaluation criteria or the
16 "basis of award" to be used to determine the
17 successful proponent.

18 (5) Offers received in response to the BAFO invitation
19 will be reviewed by the responsible public entity and
20 scored in accordance with a preestablished criterion, or
21 alternatively, in accordance with the "basis of award"
22 provision identified through the BAFO process. The
23 successful proponent will be the proponent offering "best
24 value" to the responsible public entity.

25 (6) In all cases, the "basis of award" will be "best
26 value" to the responsible public entity, as determined by

1 the responsible public entity.

2 (f) After a comprehensive evaluation and acceptance of an
3 unsolicited proposal and any alternatives, the responsible
4 public entity may commence negotiations with a proposer,
5 considering:

6 (1) the proposal has received a favorable
7 comprehensive evaluation;

8 (2) the proposal is not duplicative of existing
9 infrastructure project or services;

10 (3) the alternative proposal does not closely resemble
11 a pending competitive proposal for a public-private
12 partnership or other procurement;

13 (4) the proposal demonstrates a unique method,
14 approach, or concept;

15 (5) facts and circumstances that preclude or warrant
16 additional competition;

17 (6) the availability of any funds, debts, or assets
18 that the State will contribute to the project;

19 (7) facts and circumstances demonstrating that the
20 project will likely have a significant adverse impact on
21 State bond ratings; and

22 (8) indemnifications included in the proposal.

23 Section 3-10. Competitive procurements; public-private
24 partnership.

25 (a) A responsible public entity may solicit proposals for

1 a qualifying project from private entities.

2 (b) After the public notification period has expired the
3 responsible public entity shall rank the proposals received in
4 terms of "best value". In ranking the proposals, the
5 responsible public entity may consider factors that include,
6 but are not limited to, public benefit, minority, women and
7 veteran participation, professional qualifications, general
8 business terms, innovative design techniques or cost-reduction
9 terms, and finance plans. The responsible public entity may
10 then begin negotiations for a public-private agreement with
11 the highest-ranked firm. If the responsible public entity is
12 not satisfied with the results of the negotiations, the
13 responsible public entity may terminate negotiations with the
14 proposer and negotiate with the second-ranked or
15 subsequent-ranked firms, in the order consistent with this
16 procedure. If only one proposal is received, the responsible
17 public entity may negotiate in good faith, and if the
18 responsible public entity is not satisfied with the results of
19 the negotiations, the responsible public entity may terminate
20 negotiations with the proposer.

21 Section 3-15. Additional rights of responsible public
22 entity. In addition to any other rights under this Act, in
23 connection with any procurement under this Article, the
24 responsible public entity may:

25 (1) terminate or modify by:

1 (A) withdrawing a request for information, request for
2 qualifications, or a request for proposals at any time
3 and, in its discretion, publishing a new request for
4 qualifications or request for proposals;

5 (B) declining to approve a proposal;

6 (C) declining to award a public-private agreement;

7 (D) requesting clarifications to any statement of
8 information, qualifications, or proposal received, to seek
9 one or more revised proposals or one or more best and final
10 offers, or to conduct negotiations with one or more
11 private entities that have submitted proposals; or

12 (E) modifying the terms, provisions, and conditions of
13 a request for qualification, request for proposals,
14 technical specifications, or form of public-private
15 agreement during the pendency of a procurement.

16 (2) Interview proposers.

17 (3) Exercise any other rights available to the responsible
18 public entity under this Act, applicable law, and
19 administrative rule.

20 Section 3-20. Confidentiality of P3 proposals; disclosure.

21 (a) Except as provided in paragraph (2) of subsection (e)
22 of Section 3-5, the responsible public entity may not disclose
23 the contents of proposals during discussions or negotiations
24 with potential proposers.

25 (b) The responsible public entity may, in its discretion

1 in accordance with the Freedom of Information Act, treat as
2 confidential all or some information relating to an
3 unsolicited proposal, including, but not limited to,
4 discussions or negotiations between the responsible public
5 entity and potential proposers.

6 (c) Notwithstanding subsections (a) and (b), and with the
7 exception of portions that are confidential under the Freedom
8 of Information Act, the terms of the selected offer negotiated
9 under this Act shall be available for inspection and copying
10 under the Freedom of Information Act after negotiations with
11 the proposers have been completed.

12 (d) When disclosing the terms of the selected offer under
13 subsection (c), the responsible public entity shall certify
14 that the information being disclosed accurately and completely
15 represents the terms of the selected offer.

16 (e) The responsible public entity shall disclose the
17 contents of all proposals, except the parts of the proposals
18 that may be treated as exempt in accordance with the Freedom of
19 Information Act, when either:

20 (1) the request for proposal process is withdrawn
21 under Section 3-5; or

22 (2) the public-private agreement has been executed and
23 the closing for each financing transaction required to
24 provide funding to carry out the agreement has been
25 conducted.

1 Section 3-25. Interim agreement. Before or in connection
2 with the negotiation of a public-private agreement, the
3 responsible public entity may enter into an interim agreement
4 with the private entity proposing the development or operation
5 of the qualifying project. An interim agreement is
6 discretionary with the parties. An interim agreement may:

7 (1) Authorize the private entity to commence
8 activities for which it may be compensated related to the
9 proposed qualifying project, including, but not limited
10 to, project planning and development, design,
11 environmental analysis and mitigation, survey, other
12 activities concerning any part of the proposed qualifying
13 project, and ascertaining the availability of financing
14 for the proposed facility or facilities.

15 (2) Establish the process and timing of the
16 negotiation of the public-private agreement.

17 (3) Contain such other provisions related to an aspect
18 of the development or operation of a qualifying project
19 that the responsible public entity and the private entity
20 deem appropriate.

21 Section 3-30. Payment of stipulated amount for work
22 product of unsuccessful proposer; rights; liability. The
23 responsible public entity may pay a stipulated amount to an
24 unsuccessful proposer that submits a responsive proposal in
25 response to a proposal under this Article, in exchange for the

1 work product contained in that proposal. Upon payment of the
2 stipulated amount, and unless agreed otherwise by the parties:

3 (1) the responsible public entity and the unsuccessful
4 proposer jointly own the rights to, and may make use of any
5 work product contained in the proposal, including the
6 technologies, techniques, methods, processes, ideas, and
7 information contained in the proposal, project design, and
8 project financial plan; and

9 (2) the use by an unsuccessful proposer of any part of
10 the work product contained in the proposal is at the sole
11 risk of the unsuccessful proposer and does not confer
12 liability on the responsible public entity.

13 Section 3-35. Project awards.

14 (a) The responsible public entity may perform an
15 independent analysis of the proposed public-private
16 partnership that demonstrates the cost-effectiveness and
17 overall public benefit before the procurement process is
18 initiated or before the contract is awarded.

19 (b) The responsible public entity may approve the
20 development or operation of a qualifying project, or the
21 design or equipping of a qualifying project that is developed
22 or operated, if:

23 (1) there is a public need for, or benefit derived
24 from a project of the type that the private entity
25 proposes as the qualifying project;

1 (2) the estimated cost of the qualifying project is
2 reasonable in relation to similar facilities;

3 (3) the private entity's plans will result in the
4 timely acquisition, design, construction, improvement,
5 renovation, expansion, equipping, maintenance, or
6 operation of the qualifying project; and

7 (4) the proposed project or service is in the public's
8 best interest.

9 (c) The responsible public entity may charge a reasonable
10 fee to cover the costs of processing, reviewing, and
11 evaluating the request, including, but not limited to,
12 reasonable attorney or other professional fees and fees for
13 financial and technical advisors or consultants and for other
14 necessary advisors or consultants.

15 (d) Upon approval of a qualifying project, the responsible
16 public entity shall establish a date for the commencement of
17 activities related to the qualifying project. The responsible
18 public entity may extend the commencement date.

19 (e) Approval of a qualifying project by the responsible
20 public entity is subject to entering into a public-private
21 agreement with the private entity.

22 (f) The responsible public entity shall provide
23 notification to the public of its intent to commence
24 negotiations with a proposer.

25 (g) Before signing a public-private agreement, the
26 responsible public entity must consider a reasonable funding,

1 financing and affordability plan considering the project cost,
2 revenues by source, available financing, major assumptions,
3 internal rate of return on private investments, if
4 governmental funds are assumed in order to deliver a
5 cost-feasible project, and a total cash-flow analysis
6 beginning with the implementation of the project and extending
7 for the term of the public-private agreement except no longer
8 than the life of the project or 75 years, whichever is earlier.

9 (h) If the responsible public entity chooses to evaluate a
10 detailed proposal involving architecture, engineering, or
11 landscape architecture, it may require a professional review
12 and evaluation of the design and construction proposed to
13 ensure material quality standards, interior space use, budget
14 estimates, design and construction schedules, and sustainable
15 design and construction standards.

16 (i) Each facility project awarded by a responsible public
17 entity shall:

18 (1) ensure that provision is made for the private
19 entity's performance and payment of subcontractors,
20 including, but not limited to, surety bonds, letters of
21 credit, parent company guarantees, and lender and equity
22 partner guarantees. Components of the qualifying project
23 that involve construction performance and payment bonds
24 are subject to the recordation, notice, suit limitation,
25 and other requirements of the Public Construction Bond
26 Act;

1 (2) ensure the performance and payment of
2 subcontractors;

3 (3) ensure that the public-private agreement addresses
4 termination upon a material default of the public-private
5 agreement; and

6 (4) be performed pursuant to the requirements of the
7 Illinois Prevailing Wage Act.

8 Article 4. Formation of an Agreement

9 Section 4-5. Exercise of powers.

10 (a) A responsible public entity may exercise the powers
11 granted by this Act to undertake qualifying projects through
12 public-private agreements with one or more private entities.

13 (b) The Authority may enter into a public-private
14 partnership for qualifying projects on the toll highway system
15 such as commuter rail or high-speed rail lines, and
16 intelligent transportation infrastructure that will enhance
17 the safety, efficiency, and environmental quality of the State
18 highway system. The Authority may operate or provide
19 operational services such as toll collection on highways that
20 are developed or financed, or both, through a public-private
21 agreement entered into by another public entity, under an
22 agreement with the public entity or contractor responsible for
23 the transportation project.

1 Section 4-10. Powers of contractor; user fees. A
2 contractor has:

3 (1) all powers allowed by law generally to a private
4 entity having the same form of organization as the
5 contractor; and

6 (2) the power to develop, own, control, finance, and
7 operate the qualifying project, and to impose and collect
8 user fees, subject to the terms of the public-private
9 agreement. No tolls or user fees may be imposed by the
10 contractor except as set forth in a public-private
11 agreement.

12 Section 4-15. Powers of contractor; property interests.
13 The contractor may own, lease, or acquire any property
14 interest or other right to develop, finance, or operate the
15 qualifying project, as long as the qualifying project retains
16 a public purpose.

17 Section 4-20. Powers of contractor; user classifications
18 and enforcement of rules. In operating the qualifying project,
19 the contractor may do the following:

20 (1) Make user classifications as permitted in the
21 public-private agreement.

22 (2) As permitted in the public-private agreement or
23 otherwise with the consent of the responsible public
24 entity, make and enforce reasonable rules to the same

1 extent that the responsible public entity may make and
2 enforce rules with respect to a similar project.

3 Article 5. Public-Private Agreements

4 Section 5-5. Provisions of agreement.

5 (a) Before beginning the development, financing,
6 operation, or any combination of the development, financing,
7 or operation of a qualifying project under this Act, the
8 contractor must enter into a public-private agreement with the
9 responsible public entity. Subject to the other provisions of
10 this Act, the responsible public entity and a private entity
11 may enter into a public-private agreement with respect to a
12 qualifying project. Subject to the requirements of this Act, a
13 public-private agreement may provide that the private entity,
14 acting on behalf of the responsible public entity, is
15 partially or entirely responsible for any combination of
16 developing, financing, or operating the qualifying project.

17 (b) The public-private agreement must be in writing and
18 may, as determined appropriate by the responsible public
19 entity for the particular qualifying project, provide for some
20 or all of the following:

21 (1) Development, planning, design, construction,
22 maintenance, repair, rehabilitation, expansion, providing
23 or services, financing, and operation of the qualifying
24 project under terms set forth in the public-private

1 agreement, in any form as deemed appropriate by the
2 responsible public entity, including, but not limited to,
3 a long-term concession or lease, or an agent to build,
4 finance, own, operate or maintain or any one or
5 combination of the same, as applicable and serving a
6 public purpose, a design-bid-build agreement, design-build
7 agreement, design-build-maintain agreement,
8 design-build-finance agreement,
9 design-build-operate-maintain agreement, and
10 design-build-finance-operate-maintain agreement.

11 (2) Delivery of performance and payment bonds or other
12 performance security determined suitable by the
13 responsible public entity, including letters of credit,
14 United States bonds and notes, parent guaranties, and cash
15 collateral, in connection with the development, financing,
16 or operation of the qualifying project, in the forms and
17 amounts set forth in the public-private agreement or
18 otherwise determined as satisfactory by the responsible
19 public entity to protect the responsible public entity and
20 payment bond beneficiaries who have a direct contractual
21 relationship with the contractor or a subcontractor of the
22 contractor to supply labor or material. The payment or
23 performance bond or alternative form of performance
24 security is not required for the portion of a
25 public-private agreement that includes only design,
26 planning, or financing services, the performance of

1 preliminary studies, or the acquisition of real property.

2 (3) Review of plans for any development or operation,
3 or both, of the qualifying project by the responsible
4 public entity.

5 (4) Inspection of any construction of or improvements
6 to the qualifying project by the responsible public entity
7 or another entity designated by the responsible public
8 entity or under the public-private agreement to ensure
9 that the construction or improvements conform to the
10 standards set forth in the public-private agreement or are
11 otherwise acceptable to the responsible public entity.

12 (5) Maintenance of:

13 (A) one or more policies of public liability
14 insurance (copies of which shall be filed with the
15 responsible public entity accompanied by proofs of
16 coverage); or

17 (B) self-insurance each in the form and amount as
18 set forth by the public-private agreement or otherwise
19 satisfactory to the responsible public entity as
20 reasonably sufficient to insure coverage of tort
21 liability to the public and employees and to enable
22 the continued operation of the qualifying project.

23 (6) Where operations are included within the
24 contractor's obligations under the public-private
25 agreement, monitoring of the maintenance practices of the
26 contractor by the responsible public entity or another

1 entity designated by the responsible public entity or
2 under the public-private agreement and the taking of the
3 actions the responsible public entity finds appropriate to
4 ensure that the qualifying project is properly maintained.

5 (7) Reimbursement to be paid to the responsible public
6 entity as set forth in the public-private agreement for
7 services provided by the responsible public entity.

8 (8) Filing of appropriate financial statements and
9 reports as set forth in the public-private agreement or as
10 otherwise in a form acceptable to the responsible public
11 entity on a periodic basis.

12 (9) Compensation or payments to the contractor.
13 Compensation or payments may include any or a combination
14 of the following:

15 (A) A base fee and additional fee for project
16 savings as the design-builder of a construction
17 project.

18 (B) A development fee, payable on a lump sum
19 basis, progress payment basis, project milestone
20 basis, time and materials basis, or any other basis
21 considered appropriate by the responsible public
22 entity.

23 (C) An operations fee, payable on a lump sum
24 basis, time and material basis, periodic basis, or any
25 other basis considered appropriate by the responsible
26 public entity.

1 (D) Some or all of the revenues, if any, arising
2 out of operation of the qualifying project.

3 (E) A maximum rate of return on investment or
4 return on equity or a combination of the 2.

5 (F) In-kind services, materials, property,
6 equipment, or other items.

7 (G) Compensation in the event of any termination.

8 (H) Availability payments or similar arrangements
9 whereby payments are made to the contractor pursuant
10 to the terms set forth in the public-private
11 agreements or related agreements.

12 (I) Other compensation set forth in the
13 public-private agreement or otherwise considered
14 appropriate by the responsible public entity.

15 (10) Compensation or payments to the responsible
16 public entity, if any. Compensation or payments to the
17 responsible public entity may include any one or
18 combination of the following:

19 (A) A concession or lease payment or other fee,
20 which may be payable upfront or on a periodic basis or
21 on another basis deemed appropriate by the responsible
22 public entity.

23 (B) Sharing of revenues, if any, from the
24 operation of the qualifying project.

25 (C) Sharing of project savings from the
26 construction or services of the qualifying project.

1 (D) Payment for any services, materials,
2 equipment, personnel, or other items provided by the
3 responsible public entity to the contractor under the
4 public-private agreement or in connection with the
5 qualifying project.

6 (E) Other compensation set forth in the
7 public-private agreement or otherwise considered
8 appropriate by the parties.

9 (11) The date and terms of termination of the
10 contractor's authority and duties under the public-private
11 agreement and the circumstances under which the
12 contractor's authority and duties may be terminated before
13 that date.

14 (12) The term of a public-private agreement, including
15 all extensions, may not exceed 75 years.

16 (13) Upon termination of the public-private agreement,
17 the authority of the contractor under this Act ceases,
18 except for those duties and obligations that extend beyond
19 the termination, as set forth in the public-private
20 agreement, and all interests in the qualifying project
21 shall revert to the responsible public entity.

22 (14) Rights and remedies of the responsible public
23 entity if the contractor defaults or otherwise fails to
24 comply with the terms of the public-private agreement.

25 (15) Procedures for the selection of professional
26 design firms and subcontractors, which shall include

1 procedures consistent with the Architectural, Engineering,
2 and Land Surveying Qualifications Based Selection Act for
3 the selection of professional design firms and may
4 include, in the discretion of the responsible public
5 entity, procedures consistent with the low bid procurement
6 procedures outlined in the Illinois Procurement Code for
7 the selection of construction companies.

8 (16) Other terms, conditions, and provisions that the
9 responsible public entity finds are in the public's
10 interest.

11 (c) Any public-private agreement entered into under a
12 public-private partnership between a vendor and a responsible
13 public entity pertaining to the building, altering, repairing,
14 maintaining, improving, or demolishing of a facility shall
15 require any contractor and all subcontractors to comply with
16 the requirements of Section 30-22 of the Illinois Procurement
17 Code as they apply to the responsible bidders and to present
18 satisfactory evidence of that compliance to the responsible
19 public agency, unless the project is federally funded and the
20 application of those requirements would jeopardize the receipt
21 or use of federal funds in support of the project.

22 (d) A public-private agreement project shall require the
23 contractor and all subcontractors to enter into a project
24 labor agreement utilized by the Department of Labor and
25 evidence that the contractor or subcontractor has entered into
26 a fully executed project labor agreement with the applicable

1 local building trades council. The responsible public agency
2 shall not approve any pending agreement or proposal until the
3 contractor or subcontractor has submitted this information.

4 (e) Notwithstanding any provision of law to the contrary,
5 any public-private agreement entered into under a
6 public-private partnership between a vendor and a responsible
7 public entity shall include a provision requiring the selected
8 vendor to enter into a labor peace agreement with any bona fide
9 labor organization, including any bona fide labor organization
10 that represents or is attempting to represent any of its
11 employees necessary for the ongoing maintenance and operation
12 of such agreement. The labor peace agreement shall be an
13 ongoing material condition of authorization to maintain and
14 operate such public-private agreements.

15 Section 5-10. Additional requirements.

16 (a) The responsible public entity may fix the amounts of
17 user fees that a contractor may charge and collect for the use
18 of any part of a qualifying project in accordance with the
19 public-private agreement. In fixing the amounts, the
20 responsible public entity may establish amounts for the user
21 fees and may provide that any increases or decreases of those
22 fees shall be based upon the indices, methodologies, or other
23 factors the responsible public entity considers appropriate.

24 (b) A public-private agreement may:

25 (1) authorize the imposition of tolls;

1 (2) authorize the contractor to adjust the user fees
2 for the use of the qualifying project, so long as the
3 amounts charged and collected by the contractor do not
4 exceed amounts established by the responsible public
5 entity under the public-private agreement;

6 (3) provide that any adjustment by the contractor
7 permitted under paragraph (2) may be based on the indices,
8 methodologies, or other factors described in the
9 public-private agreement;

10 (4) authorize the contractor to charge and collect
11 user fees through methods, including, but not limited to,
12 automatic vehicle identification systems, electronic toll
13 collection systems, and, to the extent permitted by law,
14 global positioning system-based, photo-based, or
15 video-based toll collection enforcement, if, to the
16 maximum extent feasible, the contractor will (i) use open
17 road tolling methods that allow payment of tolls at
18 highway speeds and (ii) comply with United States
19 Department of Transportation requirements and best
20 practices with respect to tolling methods; and

21 (5) authorize the collection of user fees by a third
22 party.

23 Section 5-15. Loans for qualifying project. In the
24 public-private agreement, the responsible public entity may
25 agree to make loans for the development or operation, or both,

1 of the qualifying project from time to time from amounts
2 received from the federal government or any agency or
3 instrumentality of the federal government or from any State or
4 local agency. No loan shall extend beyond the life of the
5 qualifying project as the parties determine.

6 Section 5-20. Terms and conditions in agreement. The
7 public-private agreement must incorporate the duties of the
8 contractor under this Act and may contain the other terms and
9 conditions that the responsible public entity determines serve
10 the public purpose of this Act. The public-private agreement
11 may contain provisions under which the responsible public
12 entity agrees to provide notice of default and cure rights for
13 the benefit of the contractor and the persons or entities
14 described in the public-private agreement that are providing
15 financing for the qualifying project. The public-private
16 agreement may contain any other lawful term or condition to
17 which the contractor and the responsible public entity
18 mutually agree, including provisions regarding change orders,
19 dispute resolution, required upgrades to the qualifying
20 project, tolling policies, changes and modifications to the
21 qualifying project, unavoidable delays, or provisions for a
22 loan or grant of public funds for the development or
23 operation, or both, of one or more qualifying projects.

24 Section 5-25. Responsible public entity takeover of

1 qualifying project after termination or expiration.

2 (a) Upon the termination or expiration of the
3 public-private agreement, including a termination for default,
4 the responsible public entity shall have the right to take
5 over the qualifying project and to succeed to all of the right,
6 title, and interest in the qualifying project and all real
7 property acquired as a part of the project shall be held in the
8 name of the responsible public entity.

9 (b) If a responsible public entity elects to take over a
10 qualifying project as provided in subsection (a), the
11 responsible public entity may do the following:

12 (1) develop, finance, or operate the project,
13 including through a public-private agreement entered in
14 accordance with this Act; and

15 (2) impose, collect, retain, and use user fees, if
16 any, for the project.

17 (c) If a responsible public entity elects to take over a
18 qualifying project as provided in subsection (a), the
19 responsible public entity may use the revenues, if any, for
20 any lawful purpose, including to:

21 (1) make payments to individuals or entities in
22 connection with any financing of the qualifying project,
23 including through a public-private agreement entered into
24 in accordance with this Act;

25 (2) permit a contractor to receive some or all of the
26 revenues under a public-private agreement entered into

1 under this Act;

2 (3) pay development costs of the project;

3 (4) pay current operation costs of the project or
4 facilities;

5 (5) pay the contractor for any compensation or payment
6 owed upon termination; and

7 (6) pay for the development, financing, or operation
8 of any other project or projects the responsible public
9 entity deems appropriate.

10 (d) The full faith and credit of the State or any political
11 subdivision of the State or the responsible public entity is
12 not pledged to secure any financing of the contractor by the
13 election to take over the qualifying project. Assumption of
14 development or operation, or both, of the qualifying project
15 does not obligate the State or any political subdivision of
16 the State or the responsible public entity to pay any
17 obligation of the contractor.

18 Section 5-30. Changes added by written amendment. Any
19 changes in the terms of the public-private agreement agreed to
20 by the parties shall be added to the public-private agreement
21 by written amendment.

22 Section 5-35. Agreements with multiple private entities.
23 Notwithstanding any other provision of this Act, the
24 responsible public entity may enter into a public-private

1 agreement with multiple private entities if the responsible
2 public entity determines in writing that it is in the public
3 interest to do so.

4 Section 5-40. Agreement provisions for qualifying project.
5 The public-private agreement may provide for all or part of
6 the development, financing, or operation of phases or segments
7 of the qualifying project.

8 Article 6. Development and Operations Standards for Projects

9 Section 6-5. Standards of compliance for plans and
10 specifications. The plans and specifications, if any, for each
11 project developed under this Act must comply with:

12 (1) the responsible public entity's standards for
13 other projects of a similar nature or as otherwise
14 provided in the public-private agreement;

15 (2) the Professional Engineering Practice Act of 1989,
16 the Structural Engineering Practice Act of 1989, the
17 Illinois Architecture Practice Act of 1989, Section 30-22
18 of the Illinois Procurement Code as applicable as it
19 applies to responsible bidders, and the Illinois
20 Professional Land Surveyor Act of 1989; and

21 (3) any other applicable State or federal standards.

22 Section 6-10. Highway projects under Act considered part

1 of State highway system. Each highway project constructed or
2 operated under this Act is considered to be part of:

3 (1) the State highway system for purposes of
4 identification, maintenance standards, and enforcement of
5 traffic laws if the highway project is under the
6 jurisdiction of the Department;

7 (2) the toll highway system for purposes of
8 identification, maintenance standards, and enforcement of
9 traffic laws if the highway project is under the
10 jurisdiction of the Authority; or

11 (3) a county or municipal road system for purposes of
12 identification, maintenance standards, and enforcement of
13 traffic laws if the highway or road project is under the
14 jurisdiction of a county or municipality.

15 Section 6-15. Service agreements. Any unit of local
16 government or State agency may enter into agreements with the
17 contractor for maintenance or other services under this Act.

18 Section 6-20. Cooperation with federal and local agencies.
19 The responsible public entity shall seek the cooperation of
20 federal and local agencies to expedite all necessary federal
21 and local permits, licenses, and approvals necessary for
22 projects under this Act.

1 Section 7-5. Exemptions from property taxes. A project
2 under this Act and tangible personal property used exclusively
3 in connection with a project that are:

4 (1) owned by the responsible public entity and leased,
5 licensed, financed, or otherwise conveyed to a contractor;
6 or

7 (2) acquired, constructed, or otherwise provided by a
8 contractor on behalf of the responsible public entity.

9 Under the terms of a public-private agreement are
10 considered to be public property devoted to an essential
11 public and governmental function and purpose. The property,
12 and a contractor's leasehold estate or interests in the
13 property, are exempt from all ad valorem property taxes and
14 special assessments levied against property by the State or
15 any political subdivision of the State.

16 Section 7-10. Exemptions from retail and use taxes. A
17 contractor or any other person purchasing tangible personal
18 property for incorporation into or improvement of a structure
19 or facility constituting or becoming part of the land included
20 in a project is entitled to the exemption from retail tax and
21 use tax provided under the Retailers' Occupation Tax Act and
22 Use Tax Act, respectively, with respect to that tangible
23 personal property.

1 Section 7-15. Taxation of income. Income received by a
2 contractor under the terms of a public-private agreement is
3 subject to taxation in the same manner as income received by
4 other private entities.

5 Article 8. Financial Arrangements

6 Section 8-5. Actions to obtain credit assistance. The
7 responsible public entity may do any combination of applying
8 for, executing, or endorsing applications submitted by private
9 entities to obtain federal, State, or local credit assistance
10 for qualifying projects developed, financed, or operated under
11 this Act, including loans, lines of credit, and guarantees.

12 Section 8-10. Actions to obtain assistance. The
13 responsible public entity may take any action to obtain
14 federal, State, or local assistance for a qualifying project
15 that serves the public purpose of this Act and may enter into
16 any contracts required to receive the federal assistance. The
17 responsible public entity may determine that it serves the
18 public purpose of this Act for all or any portion of the costs
19 of a qualifying project to be paid, directly or indirectly,
20 from the proceeds of a grant or loan, line of credit, or loan
21 guarantee made by a local, State, or federal government or any
22 agency or instrumentality of a local, State, or federal
23 government. Such assistance may include, but not be limited

1 to, federal credit assistance pursuant to the Transportation
2 Infrastructure Finance and Innovation Act and the Water
3 Infrastructure and Finance and Innovation Act.

4 Section 8-15. Grants or loans from amounts received from
5 governments. The responsible public entity may agree to make
6 grants or loans for the development, financing, or operation
7 of a qualifying project from time to time, from amounts
8 received from the federal, State, or local government or any
9 agency or instrumentality of the federal, State, or local
10 government.

11 Section 8-20. Terms and conditions of financing. Any
12 financing of a qualifying project may be in the amounts for the
13 term, and upon other terms and conditions that are determined
14 by the parties to the public-private agreement and the
15 financing shall not exceed the life of the qualifying project,
16 not to exceed 75 years.

17 Section 8-25. General powers for the purpose of financing.
18 For the purpose of financing a qualifying project, the
19 contractor and the responsible public entity may do the
20 following:

21 (1) Propose to use any and all of the revenues
22 generated by a qualifying project to pay principal,
23 interest, costs of operation and maintenance of a

1 qualifying project.

2 (2) Enter into grant agreements.

3 (3) Access any other funds for design, construction,
4 operation or maintenance of a qualifying project available
5 to the responsible public entity or private entity,
6 including public or private pension funds.

7 (4) Accept grants from the responsible public entity
8 or other public or private agency or entity.

9 (5) Enter into a lease with a private entity for a
10 qualifying project and may lease a qualifying project to a
11 contractor under a public-private agreement.

12 (6) Pay lease rentals for leases that the responsible
13 public entity has entered into under this Act that secure
14 bonds or debts issued or approved under this Article from
15 any legally available revenues, including:

16 (A) payments received from a contractor;

17 (B) federal highway revenues;

18 (C) distributions from the State highway fund; and

19 (D) other funds available to the responsible
20 public entity for such purpose.

21 Section 8-30. Debt.

22 (a) For the purpose of financing a qualifying project, the
23 responsible public entity may by resolution borrow money and
24 enter into agreements, leases, contracts or subleases with a
25 private entity, and do the following:

1 (1) Issue, sell, and refund bonds, notes of the
2 responsible public entity, debt, or other debt
3 obligations.

4 (2) Enter into loan agreements or other credit
5 facilities.

6 (3) Secure any financing with a pledge of revenues,
7 security interest in, or lien on all or part of a property
8 subject to the agreement, including all of the party's
9 property interests in the qualifying project.

10 (b) Any term of such debt shall not exceed the earlier of
11 the term of the public-private agreement, the life of the
12 qualifying project or 75 years.

13 (c) The bonds, notes, and other forms of debt issued under
14 this Article:

15 (1) constitute the corporate obligations of the
16 responsible public entity;

17 (2) do not constitute an indebtedness of the State
18 within the meaning or application of any constitutional
19 provision or limitation; and

20 (3) are payable solely as to both principal and
21 interest and other associated fees from:

22 (A) the revenues from a lease to the responsible
23 public entity, if any;

24 (B) proceeds of bonds or notes, if any;

25 (C) investment earnings on proceeds of bonds or
26 notes; or

1 (D) other funds available to the responsible
2 public entity for such purpose.

3 Section 8-35. Use of public funds for financing. For the
4 purpose of financing a qualifying project, public funds,
5 including public or private pension funds, may be used and
6 aggregated with funds provided by or on behalf of the
7 contractor or other private entities. The use of public funds
8 to finance all or a portion of qualifying projects authorized
9 under this Article 8 constitutes authorized investments as
10 provided in Section 2 of the Public Funds Investment Act.

11 Section 8-40. Private activity bonds for purpose of
12 financing. For the purpose of financing a qualifying project,
13 a responsible public entity is authorized to do any
14 combination of applying for, executing, or endorsing
15 applications for an allocation of tax-exempt bond financing
16 authorization provided by the United States Internal Revenue
17 Code, as well as financing available under any other federal
18 law or program.

19 Section 8-45. Debt limitations. Any bonds, debt, or other
20 securities or other financing issued by or on behalf of a
21 contractor for the purposes of a project undertaken under this
22 Act shall not be deemed to constitute a debt of the responsible
23 public entity, the State, or any political subdivision of the

1 State or a pledge of the faith and credit of the responsible
2 public entity, the State, or any political subdivision of the
3 State, for purposes of debt limitation.

4 Article 9. Acquisition of Property

5 Section 9-5. General. The responsible public entity may
6 exercise any power of condemnation or eminent domain,
7 including quick-take powers, that it has under law, for the
8 purpose of acquiring any lands or estates or interests in land
9 for a qualifying project to the extent provided in the
10 public-private agreement or otherwise to the extent that the
11 responsible public entity finds that the action serves the
12 public purpose of this Act and deems it appropriate in the
13 exercise of its powers under this Act.

14 Section 9-10. Entering into grants of property interests.
15 The responsible public entity and a private entity may enter
16 into the leases, licenses, easements, and other grants of
17 property that the responsible public entity determines
18 necessary to carry out this Act.

19 Article 10. Law Enforcement

20 Section 10-5. Powers and jurisdiction within limits of
21 qualifying project.

1 (a) All law enforcement officers of the State and of each
2 affected jurisdiction have the same powers and jurisdiction
3 within the limits of the qualifying project as they have in
4 their respective areas of jurisdiction.

5 (b) Law enforcement officers shall have access to the
6 qualifying project at any time for the purpose of exercising
7 the law enforcement officers' powers and jurisdiction.

8 Section 10-10. Application of traffic and motor vehicle
9 laws; punishment for infractions.

10 (a) The traffic and motor vehicle laws of the State or, if
11 applicable, any local jurisdiction shall be the same as those
12 applying to conduct on similar projects in the State or the
13 local jurisdiction.

14 (b) Punishment for infractions and offenses shall be as
15 prescribed by law for conduct occurring on similar projects in
16 the State or the local jurisdiction.

17 Section 10-15. Law enforcement assistance.

18 (a) Each responsible public entity may enter into an
19 agreement between and among the private entity, the
20 responsible public entity, and the Illinois State Police or
21 other appropriate policing authority where the project is
22 located concerning the provision of law enforcement assistance
23 with respect to a qualifying project that is the subject of a
24 public-private agreement under this Act.

1 (b) Each responsible public entity is authorized to enter
2 into arrangements with the appropriate policing unit related
3 to costs incurred in providing law enforcement assistance
4 under this Act.

5 Article 11. Additional Powers of Responsible Public Entity
6 with Respect to Qualifying Projects

7 Section 11-5. Contracts and agreements necessary to
8 performance of duties and execution of powers. Each
9 responsible public entity may make and enter into all
10 contracts and agreements necessary or incidental to the
11 performance of the responsible public entity's duties and the
12 execution of the responsible public entity's powers under this
13 Act. Except as otherwise required by law, these contracts or
14 agreements are not subject to any appropriation or approvals
15 other than the approval of the responsible public entity and
16 may be for any term of years and contain any terms that are
17 considered reasonable by the responsible public entity.

18 Section 11-10. Payment of costs. A responsible public
19 entity may pay the costs incurred under a public-private
20 agreement entered into under this Act from any funds available
21 to the responsible public entity under this Act or any other
22 statute.

1 Section 11-15. Action that would impair agreement
2 prohibited. A responsible public entity or other State or
3 local government may not take any action that would impair a
4 public-private agreement entered into under this Act.

5 Article 12. Amendatory Provisions

6 Section 12-5. The Freedom of Information Act is amended by
7 changing Section 7.5 as follows:

8 (5 ILCS 140/7.5)

9 Sec. 7.5. Statutory exemptions. To the extent provided for
10 by the statutes referenced below, the following shall be
11 exempt from inspection and copying:

12 (a) All information determined to be confidential
13 under Section 4002 of the Technology Advancement and
14 Development Act.

15 (b) Library circulation and order records identifying
16 library users with specific materials under the Library
17 Records Confidentiality Act.

18 (c) Applications, related documents, and medical
19 records received by the Experimental Organ Transplantation
20 Procedures Board and any and all documents or other
21 records prepared by the Experimental Organ Transplantation
22 Procedures Board or its staff relating to applications it
23 has received.

1 (d) Information and records held by the Department of
2 Public Health and its authorized representatives relating
3 to known or suspected cases of sexually transmissible
4 disease or any information the disclosure of which is
5 restricted under the Illinois Sexually Transmissible
6 Disease Control Act.

7 (e) Information the disclosure of which is exempted
8 under Section 30 of the Radon Industry Licensing Act.

9 (f) Firm performance evaluations under Section 55 of
10 the Architectural, Engineering, and Land Surveying
11 Qualifications Based Selection Act.

12 (g) Information the disclosure of which is restricted
13 and exempted under Section 50 of the Illinois Prepaid
14 Tuition Act.

15 (h) Information the disclosure of which is exempted
16 under the State Officials and Employees Ethics Act, and
17 records of any lawfully created State or local inspector
18 general's office that would be exempt if created or
19 obtained by an Executive Inspector General's office under
20 that Act.

21 (i) Information contained in a local emergency energy
22 plan submitted to a municipality in accordance with a
23 local emergency energy plan ordinance that is adopted
24 under Section 11-21.5-5 of the Illinois Municipal Code.

25 (j) Information and data concerning the distribution
26 of surcharge moneys collected and remitted by carriers

1 under the Emergency Telephone System Act.

2 (k) Law enforcement officer identification information
3 or driver identification information compiled by a law
4 enforcement agency or the Department of Transportation
5 under Section 11-212 of the Illinois Vehicle Code.

6 (l) Records and information provided to a residential
7 health care facility resident sexual assault and death
8 review team or the Executive Council under the Abuse
9 Prevention Review Team Act.

10 (m) Information provided to the predatory lending
11 database created pursuant to Article 3 of the Residential
12 Real Property Disclosure Act, except to the extent
13 authorized under that Article.

14 (n) Defense budgets and petitions for certification of
15 compensation and expenses for court appointed trial
16 counsel as provided under Sections 10 and 15 of the
17 Capital Crimes Litigation Act. This subsection (n) shall
18 apply until the conclusion of the trial of the case, even
19 if the prosecution chooses not to pursue the death penalty
20 prior to trial or sentencing.

21 (o) Information that is prohibited from being
22 disclosed under Section 4 of the Illinois Health and
23 Hazardous Substances Registry Act.

24 (p) Security portions of system safety program plans,
25 investigation reports, surveys, schedules, lists, data, or
26 information compiled, collected, or prepared by or for the

1 Department of Transportation under Sections 2705-300 and
2 2705-616 of the Department of Transportation Law of the
3 Civil Administrative Code of Illinois, the Regional
4 Transportation Authority under Section 2.11 of the
5 Regional Transportation Authority Act, or the St. Clair
6 County Transit District under the Bi-State Transit Safety
7 Act.

8 (q) Information prohibited from being disclosed by the
9 Personnel Record Review Act.

10 (r) Information prohibited from being disclosed by the
11 Illinois School Student Records Act.

12 (s) Information the disclosure of which is restricted
13 under Section 5-108 of the Public Utilities Act.

14 (t) All identified or deidentified health information
15 in the form of health data or medical records contained
16 in, stored in, submitted to, transferred by, or released
17 from the Illinois Health Information Exchange, and
18 identified or deidentified health information in the form
19 of health data and medical records of the Illinois Health
20 Information Exchange in the possession of the Illinois
21 Health Information Exchange Office due to its
22 administration of the Illinois Health Information
23 Exchange. The terms "identified" and "deidentified" shall
24 be given the same meaning as in the Health Insurance
25 Portability and Accountability Act of 1996, Public Law
26 104-191, or any subsequent amendments thereto, and any

1 regulations promulgated thereunder.

2 (u) Records and information provided to an independent
3 team of experts under the Developmental Disability and
4 Mental Health Safety Act (also known as Brian's Law).

5 (v) Names and information of people who have applied
6 for or received Firearm Owner's Identification Cards under
7 the Firearm Owners Identification Card Act or applied for
8 or received a concealed carry license under the Firearm
9 Concealed Carry Act, unless otherwise authorized by the
10 Firearm Concealed Carry Act; and databases under the
11 Firearm Concealed Carry Act, records of the Concealed
12 Carry Licensing Review Board under the Firearm Concealed
13 Carry Act, and law enforcement agency objections under the
14 Firearm Concealed Carry Act.

15 (v-5) Records of the Firearm Owner's Identification
16 Card Review Board that are exempted from disclosure under
17 Section 10 of the Firearm Owners Identification Card Act.

18 (w) Personally identifiable information which is
19 exempted from disclosure under subsection (g) of Section
20 19.1 of the Toll Highway Act.

21 (x) Information which is exempted from disclosure
22 under Section 5-1014.3 of the Counties Code or Section
23 8-11-21 of the Illinois Municipal Code.

24 (y) Confidential information under the Adult
25 Protective Services Act and its predecessor enabling
26 statute, the Elder Abuse and Neglect Act, including

1 information about the identity and administrative finding
2 against any caregiver of a verified and substantiated
3 decision of abuse, neglect, or financial exploitation of
4 an eligible adult maintained in the Registry established
5 under Section 7.5 of the Adult Protective Services Act.

6 (z) Records and information provided to a fatality
7 review team or the Illinois Fatality Review Team Advisory
8 Council under Section 15 of the Adult Protective Services
9 Act.

10 (aa) Information which is exempted from disclosure
11 under Section 2.37 of the Wildlife Code.

12 (bb) Information which is or was prohibited from
13 disclosure by the Juvenile Court Act of 1987.

14 (cc) Recordings made under the Law Enforcement
15 Officer-Worn Body Camera Act, except to the extent
16 authorized under that Act.

17 (dd) Information that is prohibited from being
18 disclosed under Section 45 of the Condominium and Common
19 Interest Community Ombudsperson Act.

20 (ee) Information that is exempted from disclosure
21 under Section 30.1 of the Pharmacy Practice Act.

22 (ff) Information that is exempted from disclosure
23 under the Revised Uniform Unclaimed Property Act.

24 (gg) Information that is prohibited from being
25 disclosed under Section 7-603.5 of the Illinois Vehicle
26 Code.

1 (hh) Records that are exempt from disclosure under
2 Section 1A-16.7 of the Election Code.

3 (ii) Information which is exempted from disclosure
4 under Section 2505-800 of the Department of Revenue Law of
5 the Civil Administrative Code of Illinois.

6 (jj) Information and reports that are required to be
7 submitted to the Department of Labor by registering day
8 and temporary labor service agencies but are exempt from
9 disclosure under subsection (a-1) of Section 45 of the Day
10 and Temporary Labor Services Act.

11 (kk) Information prohibited from disclosure under the
12 Seizure and Forfeiture Reporting Act.

13 (ll) Information the disclosure of which is restricted
14 and exempted under Section 5-30.8 of the Illinois Public
15 Aid Code.

16 (mm) Records that are exempt from disclosure under
17 Section 4.2 of the Crime Victims Compensation Act.

18 (nn) Information that is exempt from disclosure under
19 Section 70 of the Higher Education Student Assistance Act.

20 (oo) Communications, notes, records, and reports
21 arising out of a peer support counseling session
22 prohibited from disclosure under the First Responders
23 Suicide Prevention Act.

24 (pp) Names and all identifying information relating to
25 an employee of an emergency services provider or law
26 enforcement agency under the First Responders Suicide

1 Prevention Act.

2 (qq) Information and records held by the Department of
3 Public Health and its authorized representatives collected
4 under the Reproductive Health Act.

5 (rr) Information that is exempt from disclosure under
6 the Cannabis Regulation and Tax Act.

7 (ss) Data reported by an employer to the Department of
8 Human Rights pursuant to Section 2-108 of the Illinois
9 Human Rights Act.

10 (tt) Recordings made under the Children's Advocacy
11 Center Act, except to the extent authorized under that
12 Act.

13 (uu) Information that is exempt from disclosure under
14 Section 50 of the Sexual Assault Evidence Submission Act.

15 (vv) Information that is exempt from disclosure under
16 subsections (f) and (j) of Section 5-36 of the Illinois
17 Public Aid Code.

18 (ww) Information that is exempt from disclosure under
19 Section 16.8 of the State Treasurer Act.

20 (xx) Information that is exempt from disclosure or
21 information that shall not be made public under the
22 Illinois Insurance Code.

23 (yy) Information prohibited from being disclosed under
24 the Illinois Educational Labor Relations Act.

25 (zz) Information prohibited from being disclosed under
26 the Illinois Public Labor Relations Act.

1 (aaa) Information prohibited from being disclosed
2 under Section 1-167 of the Illinois Pension Code.

3 (bbb) Information that is prohibited from disclosure
4 by the Illinois Police Training Act and the Illinois State
5 Police Act.

6 (ccc) Records exempt from disclosure under Section
7 2605-304 of the Illinois State Police Law of the Civil
8 Administrative Code of Illinois.

9 (ddd) Information prohibited from being disclosed
10 under Section 35 of the Address Confidentiality for
11 Victims of Domestic Violence, Sexual Assault, Human
12 Trafficking, or Stalking Act.

13 (eee) Information prohibited from being disclosed
14 under subsection (b) of Section 75 of the Domestic
15 Violence Fatality Review Act.

16 (fff) Images from cameras under the Expressway Camera
17 Act. This subsection (fff) is inoperative on and after
18 July 1, 2023.

19 (ggg) Information prohibited from disclosure under
20 paragraph (3) of subsection (a) of Section 14 of the Nurse
21 Agency Licensing Act.

22 (hhh) Information submitted to the Illinois Department
23 ~~of~~ State Police in an affidavit or application for an
24 assault weapon endorsement, assault weapon attachment
25 endorsement, .50 caliber rifle endorsement, or .50 caliber
26 cartridge endorsement under the Firearm Owners

1 Identification Card Act.

2 (iii) Information that is exempt from disclosure under
3 Section 3-20 of the Public-Private Partnership Act.

4 (Source: P.A. 101-13, eff. 6-12-19; 101-27, eff. 6-25-19;
5 101-81, eff. 7-12-19; 101-221, eff. 1-1-20; 101-236, eff.
6 1-1-20; 101-375, eff. 8-16-19; 101-377, eff. 8-16-19; 101-452,
7 eff. 1-1-20; 101-466, eff. 1-1-20; 101-600, eff. 12-6-19;
8 101-620, eff. 12-20-19; 101-649, eff. 7-7-20; 101-652, eff.
9 1-1-22; 101-656, eff. 3-23-21; 102-36, eff. 6-25-21; 102-237,
10 eff. 1-1-22; 102-292, eff. 1-1-22; 102-520, eff. 8-20-21;
11 102-559, eff. 8-20-21; 102-813, eff. 5-13-22; 102-946, eff.
12 7-1-22; 102-1042, eff. 6-3-22; 102-1116, eff. 1-10-23; revised
13 2-13-23.)

14 Section 12-10. The Public Funds Investment Act is amended
15 by changing Section 2 as follows:

16 (30 ILCS 235/2) (from Ch. 85, par. 902)

17 Sec. 2. Authorized investments.

18 (a) Any public agency may invest any public funds as
19 follows:

20 (1) in bonds, notes, certificates of indebtedness,
21 treasury bills or other securities now or hereafter
22 issued, which are guaranteed by the full faith and credit
23 of the United States of America as to principal and
24 interest;

1 (2) in bonds, notes, debentures, or other similar
2 obligations of the United States of America, its agencies,
3 and its instrumentalities;

4 (3) in interest-bearing savings accounts,
5 interest-bearing certificates of deposit or
6 interest-bearing time deposits or any other investments
7 constituting direct obligations of any bank as defined by
8 the Illinois Banking Act;

9 (4) in short-term obligations of corporations
10 organized in the United States with assets exceeding
11 \$500,000,000 if (i) such obligations are rated at the time
12 of purchase at one of the 3 highest classifications
13 established by at least 2 standard rating services and
14 which mature not later than 270 days from the date of
15 purchase, (ii) such purchases do not exceed 10% of the
16 corporation's outstanding obligations, and (iii) no more
17 than one-third of the public agency's funds may be
18 invested in short-term obligations of corporations under
19 this paragraph (4);

20 (4.5) in obligations of corporations organized in the
21 United States with assets exceeding \$500,000,000 if (i)
22 such obligations are rated at the time of purchase at one
23 of the 3 highest classifications established by at least 2
24 standard rating services and which mature more than 270
25 days but less than 3 years from the date of purchase, (ii)
26 such purchases do not exceed 10% of the corporation's

1 outstanding obligations, and (iii) no more than one-third
2 of the public agency's funds may be invested in
3 obligations of corporations under this paragraph (4.5); or

4 (5) in money market mutual funds registered under the
5 Investment Company Act of 1940, provided that the
6 portfolio of any such money market mutual fund is limited
7 to obligations described in paragraph (1) or (2) of this
8 subsection and to agreements to repurchase such
9 obligations.

10 (a-1) In addition to any other investments authorized
11 under this Act, a municipality, park district, forest preserve
12 district, conservation district, county, or other governmental
13 unit may invest its public funds in interest bearing bonds of
14 any county, township, city, village, incorporated town,
15 municipal corporation, or school district, of the State of
16 Illinois, of any other state, or of any political subdivision
17 or agency of the State ~~of Illinois~~ or of any other state,
18 whether the interest earned thereon is taxable or tax-exempt
19 under federal law. The bonds shall be registered in the name of
20 the municipality, park district, forest preserve district,
21 conservation district, county, or other governmental unit, or
22 held under a custodial agreement at a bank. The bonds shall be
23 rated at the time of purchase within the 4 highest general
24 classifications established by a rating service of nationally
25 recognized expertise in rating bonds of states and their
26 political subdivisions.

1 (b) Investments may be made only in banks which are
2 insured by the Federal Deposit Insurance Corporation. Any
3 public agency may invest any public funds in short term
4 discount obligations of the Federal National Mortgage
5 Association or in shares or other forms of securities legally
6 issuable by savings banks or savings and loan associations
7 incorporated under the laws of this State or any other state or
8 under the laws of the United States. Investments may be made
9 only in those savings banks or savings and loan associations
10 the shares, or investment certificates of which are insured by
11 the Federal Deposit Insurance Corporation. Any such securities
12 may be purchased at the offering or market price thereof at the
13 time of such purchase. All such securities so purchased shall
14 mature or be redeemable on a date or dates prior to the time
15 when, in the judgment of such governing authority, the public
16 funds so invested will be required for expenditure by such
17 public agency or its governing authority. The expressed
18 judgment of any such governing authority as to the time when
19 any public funds will be required for expenditure or be
20 redeemable is final and conclusive. Any public agency may
21 invest any public funds in dividend-bearing share accounts,
22 share certificate accounts or class of share accounts of a
23 credit union chartered under the laws of this State or the laws
24 of the United States; provided, however, the principal office
25 of any such credit union must be located within the State of
26 Illinois. Investments may be made only in those credit unions

1 the accounts of which are insured by applicable law.

2 (c) For purposes of this Section, the term "agencies of
3 the United States of America" includes: (i) the federal land
4 banks, federal intermediate credit banks, banks for
5 cooperative, federal farm credit banks, or any other entity
6 authorized to issue debt obligations under the Farm Credit Act
7 of 1971 (12 U.S.C. 2001 et seq.) and Acts amendatory thereto;
8 (ii) the federal home loan banks and the federal home loan
9 mortgage corporation; and (iii) any other agency created by
10 Act of Congress.

11 (d) Except for pecuniary interests permitted under
12 subsection (f) of Section 3-14-4 of the Illinois Municipal
13 Code or under Section 3.2 of the Public Officer Prohibited
14 Practices Act, no person acting as treasurer or financial
15 officer or who is employed in any similar capacity by or for a
16 public agency may do any of the following:

17 (1) have any interest, directly or indirectly, in any
18 investments in which the agency is authorized to invest.

19 (2) have any interest, directly or indirectly, in the
20 sellers, sponsors, or managers of those investments.

21 (3) receive, in any manner, compensation of any kind
22 from any investments in which the agency is authorized to
23 invest.

24 (e) Any public agency may also invest any public funds in a
25 Public Treasurers' Investment Pool created under Section 17 of
26 the State Treasurer Act. Any public agency may also invest any

1 public funds in a fund managed, operated, and administered by
2 a bank, subsidiary of a bank, or subsidiary of a bank holding
3 company or use the services of such an entity to hold and
4 invest or advise regarding the investment of any public funds.

5 (f) To the extent a public agency has custody of funds not
6 owned by it or another public agency and does not otherwise
7 have authority to invest such funds, the public agency may
8 invest such funds as if they were its own. Such funds must be
9 released to the appropriate person at the earliest reasonable
10 time, but in no case exceeding 31 days, after the private
11 person becomes entitled to the receipt of them. All earnings
12 accruing on any investments or deposits made pursuant to the
13 provisions of this Act shall be credited to the public agency
14 by or for which such investments or deposits were made, except
15 as provided otherwise in Section 4.1 of the State Finance Act
16 or the Local Governmental Tax Collection Act, and except where
17 by specific statutory provisions such earnings are directed to
18 be credited to and paid to a particular fund.

19 (g) A public agency may purchase or invest in repurchase
20 agreements of government securities having the meaning set out
21 in the Government Securities Act of 1986, as now or hereafter
22 amended or succeeded, subject to the provisions of said Act
23 and the regulations issued thereunder. The government
24 securities, unless registered or inscribed in the name of the
25 public agency, shall be purchased through banks or trust
26 companies authorized to do business in the State of Illinois.

1 (h) Except for repurchase agreements of government
2 securities which are subject to the Government Securities Act
3 of 1986, as now or hereafter amended or succeeded, no public
4 agency may purchase or invest in instruments which constitute
5 repurchase agreements, and no financial institution may enter
6 into such an agreement with or on behalf of any public agency
7 unless the instrument and the transaction meet the following
8 requirements:

9 (1) The securities, unless registered or inscribed in
10 the name of the public agency, are purchased through banks
11 or trust companies authorized to do business in the State
12 ~~of Illinois.~~

13 (2) An authorized public officer after ascertaining
14 which firm will give the most favorable rate of interest,
15 directs the custodial bank to "purchase" specified
16 securities from a designated institution. The "custodial
17 bank" is the bank or trust company, or agency of
18 government, which acts for the public agency in connection
19 with repurchase agreements involving the investment of
20 funds by the public agency. The State Treasurer may act as
21 custodial bank for public agencies executing repurchase
22 agreements. To the extent the Treasurer acts in this
23 capacity, he is hereby authorized to pass through to such
24 public agencies any charges assessed by the Federal
25 Reserve Bank.

26 (3) A custodial bank must be a member bank of the

1 Federal Reserve System or maintain accounts with member
2 banks. All transfers of book-entry securities must be
3 accomplished on a Reserve Bank's computer records through
4 a member bank of the Federal Reserve System. These
5 securities must be credited to the public agency on the
6 records of the custodial bank and the transaction must be
7 confirmed in writing to the public agency by the custodial
8 bank.

9 (4) Trading partners shall be limited to banks or
10 trust companies authorized to do business in the State ~~of~~
11 ~~Illinois~~ or to registered primary reporting dealers.

12 (5) The security interest must be perfected.

13 (6) The public agency enters into a written master
14 repurchase agreement which outlines the basic
15 responsibilities and liabilities of both buyer and seller.

16 (7) Agreements shall be for periods of 330 days or
17 less.

18 (8) The authorized public officer of the public agency
19 informs the custodial bank in writing of the maturity
20 details of the repurchase agreement.

21 (9) The custodial bank must take delivery of and
22 maintain the securities in its custody for the account of
23 the public agency and confirm the transaction in writing
24 to the public agency. The Custodial Undertaking shall
25 provide that the custodian takes possession of the
26 securities exclusively for the public agency; that the

1 securities are free of any claims against the trading
2 partner; and any claims by the custodian are subordinate
3 to the public agency's claims to rights to those
4 securities.

5 (10) The obligations purchased by a public agency may
6 only be sold or presented for redemption or payment by the
7 fiscal agent bank or trust company holding the obligations
8 upon the written instruction of the public agency or
9 officer authorized to make such investments.

10 (11) The custodial bank shall be liable to the public
11 agency for any monetary loss suffered by the public agency
12 due to the failure of the custodial bank to take and
13 maintain possession of such securities.

14 (i) Notwithstanding the foregoing restrictions on
15 investment in instruments constituting repurchase agreements
16 the Illinois Housing Development Authority may invest in, and
17 any financial institution with capital of at least
18 \$250,000,000 may act as custodian for, instruments that
19 constitute repurchase agreements, provided that the Illinois
20 Housing Development Authority, in making each such investment,
21 complies with the safety and soundness guidelines for engaging
22 in repurchase transactions applicable to federally insured
23 banks, savings banks, savings and loan associations or other
24 depository institutions as set forth in the Federal Financial
25 Institutions Examination Council Policy Statement Regarding
26 Repurchase Agreements and any regulations issued, or which may

1 be issued by the supervisory federal authority pertaining
2 thereto and any amendments thereto; provided further that the
3 securities shall be either (i) direct general obligations of,
4 or obligations the payment of the principal of and/or interest
5 on which are unconditionally guaranteed by, the United States
6 of America or (ii) any obligations of any agency, corporation
7 or subsidiary thereof controlled or supervised by and acting
8 as an instrumentality of the United States Government pursuant
9 to authority granted by the Congress of the United States and
10 provided further that the security interest must be perfected
11 by either the Illinois Housing Development Authority, its
12 custodian or its agent receiving possession of the securities
13 either physically or transferred through a nationally
14 recognized book entry system.

15 (j) In addition to all other investments authorized under
16 this Section, a community college district may invest public
17 funds in any mutual funds that invest primarily in corporate
18 investment grade or global government short term bonds.
19 Purchases of mutual funds that invest primarily in global
20 government short term bonds shall be limited to funds with
21 assets of at least \$100 million and that are rated at the time
22 of purchase as one of the 10 highest classifications
23 established by a recognized rating service. The investments
24 shall be subject to approval by the local community college
25 board of trustees. Each community college board of trustees
26 shall develop a policy regarding the percentage of the

1 college's investment portfolio that can be invested in such
2 funds.

3 (k) In addition to all other investments authorized under
4 this Section, a public agency may invest in a financial
5 arrangement that finances a qualifying project authorized
6 under Article 8 of the Public-Private Partnership Act.

7 Nothing in this Section shall be construed to authorize an
8 intergovernmental risk management entity to accept the deposit
9 of public funds except for risk management purposes.

10 (Source: P.A. 102-285, eff. 8-6-21.)

11 Section 12-15. The Prevailing Wage Act is amended by
12 changing Section 2 as follows:

13 (820 ILCS 130/2) (from Ch. 48, par. 39s-2)

14 Sec. 2. This Act applies to the wages of laborers,
15 mechanics and other workers employed in any public works, as
16 hereinafter defined, by any public body and to anyone under
17 contracts for public works. This includes any maintenance,
18 repair, assembly, or disassembly work performed on equipment
19 whether owned, leased, or rented.

20 As used in this Act, unless the context indicates
21 otherwise:

22 "Public works" means all fixed works constructed or
23 demolished by any public body, or paid for wholly or in part
24 out of public funds. "Public works" as defined herein includes

1 all projects financed in whole or in part with bonds, grants,
2 loans, or other funds made available by or through the State or
3 any of its political subdivisions, including but not limited
4 to: bonds issued under the Industrial Project Revenue Bond Act
5 (Article 11, Division 74 of the Illinois Municipal Code), the
6 Industrial Building Revenue Bond Act, the Illinois Finance
7 Authority Act, the Illinois Sports Facilities Authority Act,
8 or the Build Illinois Bond Act; loans or other funds made
9 available pursuant to the Build Illinois Act; loans or other
10 funds made available pursuant to the Riverfront Development
11 Fund under Section 10-15 of the River Edge Redevelopment Zone
12 Act; or funds from the Fund for Illinois' Future under Section
13 6z-47 of the State Finance Act, funds for school construction
14 under Section 5 of the General Obligation Bond Act, funds
15 authorized under Section 3 of the School Construction Bond
16 Act, funds for school infrastructure under Section 6z-45 of
17 the State Finance Act, and funds for transportation purposes
18 under Section 4 of the General Obligation Bond Act. "Public
19 works" also includes (i) all projects financed in whole or in
20 part with funds from the Environmental Protection Agency under
21 the Illinois Renewable Fuels Development Program Act for which
22 there is no project labor agreement; (ii) all work performed
23 pursuant to a public private agreement under the Public
24 Private Agreements for the Illiana Expressway Act or the
25 Public-Private Agreements for the South Suburban Airport Act;
26 (iii) all projects undertaken under a public-private agreement

1 under the Public-Private Partnerships for Transportation Act;
2 ~~and~~ (iv) all transportation facilities undertaken under a
3 design-build contract or a Construction Manager/General
4 Contractor contract under the Innovations for Transportation
5 Infrastructure Act; and (v) all work performed pursuant to a
6 public-private agreement under the Public-Private Partnerships
7 Act. "Public works" also includes all projects at leased
8 facility property used for airport purposes under Section 35
9 of the Local Government Facility Lease Act. "Public works"
10 also includes the construction of a new wind power facility by
11 a business designated as a High Impact Business under Section
12 5.5(a)(3)(E) and the construction of a new utility-scale solar
13 power facility by a business designated as a High Impact
14 Business under Section 5.5(a)(3)(E-5) of the Illinois
15 Enterprise Zone Act. "Public works" also includes electric
16 vehicle charging station projects financed pursuant to the
17 Electric Vehicle Act and renewable energy projects required to
18 pay the prevailing wage pursuant to the Illinois Power Agency
19 Act. "Public works" does not include work done directly by any
20 public utility company, whether or not done under public
21 supervision or direction, or paid for wholly or in part out of
22 public funds. "Public works" also includes construction
23 projects performed by a third party contracted by any public
24 utility, as described in subsection (a) of Section 2.1, in
25 public rights-of-way, as defined in Section 21-201 of the
26 Public Utilities Act, whether or not done under public

1 supervision or direction, or paid for wholly or in part out of
2 public funds. "Public works" also includes construction
3 projects that exceed 15 aggregate miles of new fiber optic
4 cable, performed by a third party contracted by any public
5 utility, as described in subsection (b) of Section 2.1, in
6 public rights-of-way, as defined in Section 21-201 of the
7 Public Utilities Act, whether or not done under public
8 supervision or direction, or paid for wholly or in part out of
9 public funds. "Public works" also includes any corrective
10 action performed pursuant to Title XVI of the Environmental
11 Protection Act for which payment from the Underground Storage
12 Tank Fund is requested. "Public works" does not include
13 projects undertaken by the owner at an owner-occupied
14 single-family residence or at an owner-occupied unit of a
15 multi-family residence. "Public works" does not include work
16 performed for soil and water conservation purposes on
17 agricultural lands, whether or not done under public
18 supervision or paid for wholly or in part out of public funds,
19 done directly by an owner or person who has legal control of
20 those lands.

21 "Construction" means all work on public works involving
22 laborers, workers or mechanics. This includes any maintenance,
23 repair, assembly, or disassembly work performed on equipment
24 whether owned, leased, or rented.

25 "Locality" means the county where the physical work upon
26 public works is performed, except (1) that if there is not

1 available in the county a sufficient number of competent
2 skilled laborers, workers and mechanics to construct the
3 public works efficiently and properly, "locality" includes any
4 other county nearest the one in which the work or construction
5 is to be performed and from which such persons may be obtained
6 in sufficient numbers to perform the work and (2) that, with
7 respect to contracts for highway work with the Department of
8 Transportation of this State, "locality" may at the discretion
9 of the Secretary of the Department of Transportation be
10 construed to include two or more adjacent counties from which
11 workers may be accessible for work on such construction.

12 "Public body" means the State or any officer, board or
13 commission of the State or any political subdivision or
14 department thereof, or any institution supported in whole or
15 in part by public funds, and includes every county, city,
16 town, village, township, school district, irrigation, utility,
17 reclamation improvement or other district and every other
18 political subdivision, district or municipality of the state
19 whether such political subdivision, municipality or district
20 operates under a special charter or not.

21 "Labor organization" means an organization that is the
22 exclusive representative of an employer's employees recognized
23 or certified pursuant to the National Labor Relations Act.

24 The terms "general prevailing rate of hourly wages",
25 "general prevailing rate of wages" or "prevailing rate of
26 wages" when used in this Act mean the hourly cash wages plus

1 annualized fringe benefits for training and apprenticeship
2 programs approved by the U.S. Department of Labor, Bureau of
3 Apprenticeship and Training, health and welfare, insurance,
4 vacations and pensions paid generally, in the locality in
5 which the work is being performed, to employees engaged in
6 work of a similar character on public works.

7 (Source: P.A. 102-9, eff. 1-1-22; 102-444, eff. 8-20-21;
8 102-673, eff. 11-30-21; 102-813, eff. 5-13-22; 102-1094, eff.
9 6-15-22.)".