



Reprinted  
February 7, 2007

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## SENATE BILL No. 14

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DIGEST OF SB 14 (Updated February 6, 2007 3:21 pm - DI 110)

**Citations Affected:** IC 8-14; IC 8-15.7; noncode.

**Synopsis:** Public-private agreements for railroads. Adds passenger and freight railroad systems to the definition of "project" for purposes of public-private agreements by the department of transportation (INDOT). Provides that INDOT may issue a request for proposals and enter into a public-private agreement for a railroad project without legislative approval. Provides that "project", for purposes of public-private agreements by INDOT, does not include a passenger railroad system that is operated by the Northern Indiana Commuter Transportation District. Provides that passenger and freight railroad systems projects may not receive funds from the major moves construction fund. Establishes the alternative transportation construction fund for funding passenger and freight railroad system projects under public-private agreements by the INDOT. Requires INDOT to submit an annual report to legislative council on efforts concerning the development, financing, or operation of freight railroad systems through public-private agreements.

**Effective:** July 1, 2007.

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### Jackman, Landske

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January 8, 2007, read first time and referred to Committee on Commerce, Public Policy & Interstate Cooperation.  
February 1, 2007, amended, reported favorably — Do Pass.  
February 6, 2007, read second time, amended, ordered engrossed.

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SB 14—LS 6073/DI 44+



Reprinted  
February 7, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

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## SENATE BILL No. 14

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A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 8-14-14-5, AS ADDED BY P.L.47-2006,  
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2007]: Sec. 5. (a) The major moves construction fund is  
4 established for the purpose of:
- 5 (1) funding projects, **other than passenger or freight railroad**  
6 **systems as described in IC 8-15.7-2-14(4)**, under IC 8-15.7 or  
7 IC 8-15-3.
  - 8 (2) funding other projects in the department's transportation plan;  
9 and
  - 10 (3) funding distributions under sections 6 and 7 of this chapter.
- 11 (b) The fund shall be administered by the department.
- 12 (c) Notwithstanding IC 5-13, the treasurer of state shall invest the  
13 money in the fund not currently needed to meet the obligations of the  
14 fund in the same manner as money is invested by the public employees'  
15 retirement fund under IC 5-10.3-5. However, the treasurer of state may  
16 not invest the money in the fund in equity securities. The treasurer of  
17 state may contract with investment management professionals,

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1 investment advisors, and legal counsel to assist in the investment of the  
2 fund and may pay the state expenses incurred under those contracts  
3 from the fund. Interest that accrues from these investments shall be  
4 deposited in the fund.

5 (d) The fund consists of the following:

6 (1) Distributions to the fund from the toll road fund under  
7 IC 8-15.5-11.

8 (2) Distributions to the fund from the next generation trust fund  
9 under IC 8-14-15.

10 (3) Appropriations to the fund.

11 (4) Gifts, grants, loans, bond proceeds, and other money received  
12 for deposit in the fund.

13 (5) Revenues arising from:

14 (A) a tollway under IC 8-15-3 or IC 8-23-7-22; or

15 (B) a toll road under IC 8-15-2 or IC 8-23-7-23;

16 that the department designates as part of, and deposits in, the  
17 fund.

18 (6) Payments, **other than payments for passenger or freight**  
19 **railroad systems as described in IC 8-15.7-2-14(4)**, made to the  
20 authority or the department from operators under IC 8-15.7.

21 (7) Interest, premiums, or other earnings on the fund.

22 (e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7.  
23 Money may not be transferred, assigned, or otherwise removed from  
24 the fund by the state board of finance, the budget agency, or any other  
25 state agency.

26 (f) Money in the fund at the end of a state fiscal year does not revert  
27 to the state general fund.

28 (g) Money in the fund must be appropriated by the general assembly  
29 to be available for expenditure.

30 SECTION 2. IC 8-14-14-7, AS ADDED BY P.L.47-2006,  
31 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2007]: Sec. 7. (a) In addition to any distributions required by  
33 section 6 of this chapter, money in the fund may be used for any of the  
34 following purposes:

35 (1) **Except as provided in subsection (b)**, the payment of any  
36 obligation incurred or amounts owed by the authority, the  
37 department, or an operator under IC 8-15-2, IC 8-15-3, IC 8-15.5,  
38 or IC 8-15.7 in connection with the execution and performance of  
39 a public-private agreement under IC 8-15.5 or IC 8-15.7,  
40 including establishing reserves.

41 (2) Lease payments to the authority, if money for those payments  
42 is specifically appropriated by the general assembly.

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1 (3) Distributions to the treasurer of state for deposit in the state  
2 highway fund, for the funding of any project in the department's  
3 transportation plan.

4 (b) Money in the fund may not be used for the payment of an  
5 obligation incurred or amounts owed by the authority, the  
6 department, or an operator under IC 8-15.7 in connection with a  
7 public-private agreement under IC 8-15.7 concerning a passenger  
8 or freight railroad system as described in IC 8-15.7-2-14(4).

9 SECTION 3. IC 8-14-17 IS ADDED TO THE INDIANA CODE AS  
10 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
11 1, 2007]:

12 Chapter 17. Alternative Transportation Construction Fund

13 Sec. 1. As used in this chapter, "authority" refers to the Indiana  
14 finance authority established by IC 4-4-11-4.

15 Sec. 2. As used in this chapter, "department" refers to the  
16 Indiana department of transportation.

17 Sec. 3. As used in this chapter, "fund" refers to the alternative  
18 transportation construction fund established by section 4 of this  
19 chapter.

20 Sec. 4. (a) The alternative transportation construction fund is  
21 established for the purpose of:

- 22 (1) funding projects under IC 8-15.7 for passenger and freight
- 23 railroad systems as described in IC 8-15.7-2-14(4); and
- 24 (2) funding distributions under section 5 of this chapter.

25 (b) The fund shall be administered by the department.

26 (c) Notwithstanding IC 5-13, the treasurer of state shall invest  
27 the money in the fund not currently needed to meet the obligations  
28 of the fund in the same manner as money is invested by the public  
29 employees' retirement fund under IC 5-10.3-5. However, the  
30 treasurer of state may not invest the money in the fund in equity  
31 securities. The treasurer of state may contract with investment  
32 management professionals, investment advisers, and legal counsel  
33 to assist in the investment of the fund and may pay the state  
34 expenses incurred under those contracts from the fund. Interest  
35 that accrues from these investments shall be deposited in the fund.

36 (d) The fund consists of the following:

- 37 (1) Appropriations to the fund.
- 38 (2) Gifts, grants, loans, bond proceeds, and other money
- 39 received for deposit in the fund.
- 40 (3) Payments made to the authority or the department from
- 41 operators under IC 8-15.7 concerning passenger and freight
- 42 railroad systems as described in IC 8-15.7-2-14(4).

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(4) Interest, premiums, or other earnings on the fund.  
(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

Sec. 5. Money in the fund may be used for any of the following purposes:

(1) The payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.7 for a passenger or freight railroad system as described in IC 8-15.7-2-14(4).

(2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.

SECTION 4. IC 8-15.7-1-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) This article contains full and complete authority for agreements and leases with private entities to carry out the activities described in this article. Except as provided in this article, no procedure, proceeding, publication, notice, consent, approval, order, or act by the authority, the department, or any other state or local agency or official is required to enter into an agreement or lease, and no law to the contrary affects, limits, or diminishes the authority for agreements and leases with private entities, except as provided by this article.

(b) Notwithstanding any other law, the department, the authority, or an operator may not carry out any of the following activities under this article unless the general assembly enacts a statute authorizing that activity:

(1) Issuing a request for proposals for, or entering into, a public-private agreement concerning a project other than:

(A) Interstate Highway 69 between Interstate Highway 465 and Interstate Highway 64; or

(B) a passenger or freight railroad system described in IC 8-15.7-2-14.

(2) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred

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1 (93,500).  
 2 (3) Imposing user fees on motor vehicles for use of the part of an  
 3 interstate highway that connects a consolidated city and a city  
 4 having a population of more than eleven thousand five hundred  
 5 (11,500) but less than eleven thousand seven hundred forty  
 6 (11,740).

7 SECTION 5. IC 8-15.7-2-14, AS ADDED BY P.L.47-2006,  
 8 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2007]: Sec. 14. (a) Subject to IC 8-15.7-1-5, "project" means  
 10 all or part of the following:

- 11 (1) A limited access facility (as defined in IC 8-23-1-28).
- 12 (2) A tollway.
- 13 (3) Roads and bridges.
- 14 **(4) Passenger and freight railroad systems, including:**
  - 15 **(A) the costs of environmental impact studies;**
  - 16 **(B) property, equipment, and appurtenances necessary to**  
 17 **operate a railroad, including lines, routes, roads,**  
 18 **rights-of-way, easements, licenses, permits, track**  
 19 **upgrades, rail grade crossings, locomotives, passenger**  
 20 **cars, freight cars, and other railroad cars of any type or**  
 21 **class; and**
  - 22 **(C) other costs the department determines are necessary to**  
 23 **develop a passenger or freight railroad system in Indiana.**
- 24 ~~(4)~~ **(5) All or part of a bridge, tunnel, overpass, underpass,**  
 25 **interchange, structure, ramp, access road, service road, entrance**  
 26 **plaza, approach, tollhouse, utility corridor, toll gantry, rest stop,**  
 27 **service area, or administration, storage, or other building or**  
 28 **facility, including temporary facilities and buildings or facilities**  
 29 **and structures that will not be tolled, that the department**  
 30 **determines is appurtenant, necessary, or desirable for the**  
 31 **development, financing, or operation of the facilities described in**  
 32 **subdivisions (1) ~~(2)~~, and ~~(3)~~: through (4).**
- 33 ~~(5)~~ **(6) An improvement, betterment, enlargement, extension, or**  
 34 **reconstruction of all or part of any of the facilities described in**  
 35 **this section, including a nontolled part, that is separately**  
 36 **designated by name or number.**

37 **(b) The term does not include a passenger railroad system that**  
 38 **is operated by a commuter transportation district established**  
 39 **under IC 8-5-15.**

40 SECTION 6. IC 8-15.7-5-5, AS ADDED BY P.L.47-2006,  
 41 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2007]: Sec. 5. To the extent that the department receives any

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1 payment or compensation under the public-private agreement other  
2 than repayment of a loan or grant or reimbursement for services  
3 provided by the department to the operator, the payment or  
4 compensation shall be distributed at the direction of the department to  
5 the:

- 6 (1) major moves construction fund established under IC 8-14-14;
- 7 (2) department for deposit in the state highway fund established  
8 by IC 8-23-9-54; or
- 9 **(3) alternative transportation construction fund established**  
10 **under IC 8-14-17; or**
- 11 ~~(3)~~ (4) operator or the authority for debt reduction.

12 SECTION 7. [EFFECTIVE JULY 1, 2007] (a) **The definitions in**  
13 **IC 8-15.7-2, as amended by this act, apply throughout this**  
14 **SECTION.**

15 (b) **The department shall submit an annual report to the**  
16 **legislative council in an electronic format under IC 5-14-6. The**  
17 **report under this subsection must include detailed information on**  
18 **the department's efforts concerning:**

- 19 (1) **the development;**
- 20 (2) **the financing;**
- 21 (3) **the operation; or**
- 22 (4) **any combination of the development, financing, and**  
23 **operation;**

24 **of passenger or freight railroad systems as described in**  
25 **IC 8-15.7-2-14(4), as amended by this act, through public-private**  
26 **agreements.**

27 (c) **This SECTION expires July 1, 2012.**

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## SENATE MOTION

Madam President: I move that Senator Landske be added as second author of Senate Bill 14.

JACKMAN

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 COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Senate Bill No. 14, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-14-14-5, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) The major moves construction fund is established for the purpose of:

- (1) funding projects, **other than passenger or freight railroad systems as described in IC 8-15.7-2-14(4)**, under IC 8-15.7 or IC 8-15-3.
- (2) funding other projects in the department's transportation plan; and
- (3) funding distributions under sections 6 and 7 of this chapter.

(b) The fund shall be administered by the department.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisors, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.

(d) The fund consists of the following:

- (1) Distributions to the fund from the toll road fund under IC 8-15.5-11.
- (2) Distributions to the fund from the next generation trust fund under IC 8-14-15.

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- (3) Appropriations to the fund.
- (4) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.
- (5) Revenues arising from:
  - (A) a tollway under IC 8-15-3 or IC 8-23-7-22; or
  - (B) a toll road under IC 8-15-2 or IC 8-23-7-23;
 that the department designates as part of, and deposits in, the fund.
- (6) Payments, **other than payments for passenger or freight railroad systems as described in IC 8-15.7-2-14(4)**, made to the authority or the department from operators under IC 8-15.7.
- (7) Interest, premiums, or other earnings on the fund.

(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.

SECTION 2. IC 8-14-14-7, AS ADDED BY P.L.47-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. **(a)** In addition to any distributions required by section 6 of this chapter, money in the fund may be used for any of the following purposes:

- (1) **Except as provided in subsection (b)**, the payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15-2, IC 8-15-3, IC 8-15.5, or IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.5 or IC 8-15.7, including establishing reserves.
- (2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly.
- (3) Distributions to the treasurer of state for deposit in the state highway fund, for the funding of any project in the department's transportation plan.

**(b) Money in the fund may not be used for the payment of an obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with a public-private agreement under IC 8-15.7 concerning a passenger or freight railroad system as described in IC 8-15.7-2-14(4).**

SECTION 3. IC 8-14-17 IS ADDED TO THE INDIANA CODE AS

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A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

**Chapter 17. Alternative Transportation Construction Fund**

**Sec. 1. As used in this chapter, "authority" refers to the Indiana finance authority established by IC 4-4-11-4.**

**Sec. 2. As used in this chapter, "department" refers to the Indiana department of transportation.**

**Sec. 3. As used in this chapter, "fund" refers to the alternative transportation construction fund established by section 4 of this chapter.**

**Sec. 4. (a) The alternative transportation construction fund is established for the purpose of:**

- (1) funding projects under IC 8-15.7 for passenger and freight railroad systems as described in IC 8-15.7-2-14(4); and**
- (2) funding distributions under section 5 of this chapter.**

**(b) The fund shall be administered by the department.**

**(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees' retirement fund under IC 5-10.3-5. However, the treasurer of state may not invest the money in the fund in equity securities. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the investment of the fund and may pay the state expenses incurred under those contracts from the fund. Interest that accrues from these investments shall be deposited in the fund.**

**(d) The fund consists of the following:**

- (1) Appropriations to the fund.**
- (2) Gifts, grants, loans, bond proceeds, and other money received for deposit in the fund.**
- (3) Payments made to the authority or the department from operators under IC 8-15.7 concerning passenger and freight railroad systems as described in IC 8-15.7-2-14(4).**
- (4) Interest, premiums, or other earnings on the fund.**

**(e) The fund is considered a trust fund for purposes of IC 4-9.1-1-7. Money may not be transferred, assigned, or otherwise removed from the fund by the state board of finance, the budget agency, or any other state agency.**

**(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.**

**(g) Money in the fund must be appropriated by the general assembly to be available for expenditure.**

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**Sec. 5. Money in the fund may be used for any of the following purposes:**

- (1) The payment of any obligation incurred or amounts owed by the authority, the department, or an operator under IC 8-15.7 in connection with the execution and performance of a public-private agreement under IC 8-15.7 for a passenger or freight railroad system as described in IC 8-15.7-2-14(4).**
- (2) Lease payments to the authority, if money for those payments is specifically appropriated by the general assembly."**

Page 2, line 15, after "14." insert "(a)".

Page 2, after line 42, begin a new paragraph and insert:

**"(b) The term does not include a passenger railroad system that is operated by a commuter transportation district established under IC 8-5-15.**

SECTION 6. IC 8-15.7-5-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. To the extent that the department receives any payment or compensation under the public-private agreement other than repayment of a loan or grant or reimbursement for services provided by the department to the operator, the payment or compensation shall be distributed at the direction of the department to the:

- (1) major moves construction fund established under IC 8-14-14;
- (2) department for deposit in the state highway fund established by IC 8-23-9-54; or
- (3) alternative transportation construction fund established under IC 8-14-17; or**
- (4) operator or the authority for debt reduction."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 14 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Madam President: I move that Senate Bill 14 be amended to read as follows:

Page 6, after line 11, begin a new paragraph and insert:

"SECTION 7. [EFFECTIVE JULY 1, 2007] **(a) The definitions in IC 8-15.7-2, as amended by this act, apply throughout this SECTION.**

**(b) The department shall submit an annual report to the legislative council in an electronic format under IC 5-14-6. The report under this subsection must include detailed information on the department's efforts concerning:**

- (1) the development;**
- (2) the financing;**
- (3) the operation; or**
- (4) any combination of the development, financing, and operation;**

**of passenger or freight railroad systems as described in IC 8-15.7-2-14(4), as amended by this act, through public-private agreements.**

**(c) This SECTION expires July 1, 2012."**

(Reference is to SB 14 as printed February 2, 2007.)

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