

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6985

BILL NUMBER: SB 473

NOTE PREPARED: May 2, 2011

BILL AMENDED: Apr 29, 2011

SUBJECT: Various Transportation Issues.

FIRST AUTHOR: Sen. Wyss

FIRST SPONSOR: Rep. Soliday

BILL STATUS: Enrolled

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Public-Private Agreements:* The bill requires the General Assembly to enact a statute to authorize: (1) imposing tolls as part of a public-private agreement, on an existing highway, or on I-69; or (2) constructing part of I-69.

It provides that, beginning July 1, 2011, and ending June 30, 2021, legislative approval is not required to impose tolls on certain projects.

Tolling: It also provides that a public-private agreement entered into after June 30, 2011, must contain certain provisions concerning methodologies used to fix user fees or tolls. The bill requires the Budget Committee to meet within 90 days and conduct a review of any project that includes tolls.

Common Construction Wage: The bill provides that the common construction wage applies to projects that are subjects of public-private agreements entered into after April 30, 2011.

Moving Violation: The bill provides that the owner of a motor vehicle that passes through a toll collection facility without paying the proper toll commits a moving violation, a Class C infraction. It establishes procedures for the collections of unpaid fines for these moving violations.

Effective Date: Upon Passage; July 1, 2011.

Explanation of State Expenditures: *Moving Violations:* The Indiana Department of Transportation (INDOT) and Indiana Finance Authority (IFA) would incur minimal additional costs to adopt rules concerning moving violations and to create a system to notify the Bureau of Motor Vehicles (BMV) of

vehicle owners who have failed to pay fines, charges, or other assessments. Under the changes in the bill, INDOT and IFA would be able to operate open tolling systems which could reduce the expense of tolling and could offset the additional costs. The amount of these costs and cost savings will vary by project.

Withholding Registrations for Toll Violators: This bill requires the BMV to withhold the registration of toll violators until the applicant pays the fine, charge, or assessment (plus any applicable fees). The BMV reports notices will be provided to individuals regarding (1) the withholding of their registrations and (2) the reinstatement of their registration. These notices cost \$0.55 per request.

Depending on when notices are distributed to toll violators (either monthly through a failure-to-pay notification or in real time), costs will vary. The maximum cost for providing real-time notifications to toll violators is estimated to be \$50,000 annually. However, if BMV elects to utilize monthly failure-to-pay notifications, the estimated cost is expected to be less than \$5,000 per year. [Under the bill, INDOT or IFA would adopt rules concerning notification, collections, and enforcement of unpaid amounts.]

Public-Private Agreements: Under current law, in most cases, the Governor, INDOT, the IFA, or an operator may not approve the location of a tollway or a toll road, issue a request for proposal or enter into a public-private agreement, or determine that a highway should become a tollway without the approval of the General Assembly. The bill would allow almost all projects to proceed without General Assembly approval until June 30, 2021. These provisions will have indeterminate fiscal impact. To the extent that these provisions facilitate the formation of public-private agreements or establish tollways to undertake projects that would not have otherwise been undertaken, the bill could provide for additional road construction.

Tolling: If a study provides for tolling, the Budget Committee would conduct a review of the study within 90 days of the report becoming available. [There are five members of the Budget Committee and four alternate members. The Budget Committee meets at various times throughout the year and held seven meetings in 2010. If the Budget Committee can review a proposal within the time limits of the bill during a regularly scheduled meeting, there would be no additional cost. If not, a separate one-day meeting in Indianapolis is estimated to cost \$2,300.]

Common Construction Wage: The requirement that all public-private partnerships entered into after April 30, 2011, pay the common construction wage is expected to have minimal fiscal impact. [Under current state law, any project over \$150,000 must pay the common construction wage, and under the federal Davis-Bacon Act, any project over \$2,000 must pay the prevailing wage. Since most road projects are larger than these project amounts and many include federal funding, the wage would be required in most circumstances.]

Toll Increases: Under current law, the IFA and INDOT may fix and revise the amounts of user fees that an operator may charge. For public-private partnerships entered into after June 30, 2011, the bill prohibits INDOT and IFA from using a methodology to fix or revise the user fees that are based on the toll collection success rate or other factors internal to the operator.

Background and Additional Information-

Open Tolling: The bill would facilitate open tolling by providing a mechanism to enforce toll collection. Open tolling is a method of collecting toll revenue through either transponder accounts or direct billing of toll road or tollway users. A gantry over the highway registers the electronic signal of a transponder or collects pictures of license plates of vehicles using the roadway. If a driver does not have a transponder, the

toll road operator will receive billing information from the BMV and send the bill to the user. This method of tolling increases costs for notification both of the user and of BMV when users fail to pay. However, the costs of open tolling are offset in several ways, including fewer staff, a collection point when a noncompliant user registers a vehicle, and smaller right-of-way usage without toll booths.

Example of Open Tolling Savings: INDOT estimates annual savings of \$500,000 for operation of the Wabash Bridge. The bridge has average annual daily traffic of 5,000 a day. Two employees will request billing information from Illinois and Indiana motor vehicle agencies. Currently, there are eight toll takers required for the bridge.

Public-Private Agreements: Through June 30, 2021, the bill allows INDOT, IFA, or an operator, without the General Assembly enacting a statute, to issue a request for proposal and enter into a public-private agreement for:

- (1) A project constructed after June 30, 2011, not including any part of Interstate 69;
- (2) Adding toll lanes to an existing facility if the number of nontolled lanes does not decrease;
- (3) For the Illiana Expressway; and
- (4) A project connecting Indiana and Kentucky.

Additionally, for these projects, the bill also allows the Governor, INDOT, or an operator to approve the location of a tollway or to determine that all or part of the project should be a tollway without a statute being enacted by the General Assembly until June 30, 2021.

Explanation of State Revenues: *Moving Violation:* If additional court cases occur and infraction judgments and court fees are collected, revenue to the state General Fund may increase. The maximum judgment for a Class C infraction is \$500, which is deposited in the state General Fund.

If court actions are filed and a judgment is entered, a court fee of \$70 would be assessed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), the public defense administration fee (\$3), the court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Moving Violation:* If additional court actions are filed and a judgment is entered, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$70 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected: Budget Committee.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: State Budget Agency; Indiana Department of Labor, *Guide to Establishing Indiana's*

Common Construction Wage; www.dol.gov/compliance/laws/comp-dbra.htm.

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