

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 473 be amended to read as follows:

- 1 Page 4, between lines 9 and 10, begin a new paragraph and insert:
- 2 "SECTION 4. IC 8-15.5-4-7, AS ADDED BY P.L.47-2006,
- 3 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2011]: Sec. 7. (a) The authority shall negotiate with one (1) or
- 5 more responsible offerors who submit proposals that are determined to
- 6 be reasonably capable of being selected for a public-private agreement
- 7 and may seek to obtain a final offer from one (1) or more responsible
- 8 offerors.
- 9 (b) In determining whether one (1) or more responsible offerors are
- 10 reasonably capable of being selected for a public-private agreement,
- 11 the authority must consider all the following:
- 12 (1) The responsible offeror's expertise, qualifications,
- 13 competence, skills, and know-how to perform its obligations
- 14 under the proposed public-private agreement in accordance with
- 15 the public-private agreement.
- 16 (2) The financial strength of the responsible offeror, including its
- 17 capitalization.
- 18 (3) The experience of the responsible offeror in operating toll
- 19 roads and highways and other similar projects and the quality of
- 20 the responsible offeror's past or present performance on other
- 21 similar or equivalent projects.
- 22 (4) The integrity, background, and reputation of the responsible
- 23 offeror, including the absence of criminal, civil, or regulatory
- 24 claims or actions against the responsible offeror.

1 (c) The requirements set forth in subsection (b) also apply to the
 2 approval by the authority of any successor or replacement operator
 3 under the public-private agreement after the execution of the
 4 public-private agreement under section 11 of this chapter.

5 (d) In making its determination under subsection (b) or (c), the
 6 authority shall consider the offeror or operator as well as any private
 7 entity that controls the actions of the offeror or operator.

8 **(e) A private entity may not be considered a responsible offeror**
 9 **if the private entity is delinquent in the payment of any of the**
 10 **following:**

11 (1) A listed tax (as defined in IC 6-8.1-1-1).

12 (2) Insurance premiums tax (IC 27-1-18-2).

13 (3) Property taxes.

14 (4) A special assessment (as defined in IC 6-1.1-1-17)."

15 Page 4, between lines 30 and 31, begin a new paragraph and insert:
 16 "SECTION 6. IC 8-15.5-4-11.5 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2011]: **Sec. 11.5. An offeror is not eligible to**
 19 **be designated as an operator and enter into a public-private**
 20 **agreement with the authority if the offeror is delinquent in the**
 21 **payment of any of the following:**

22 (1) A listed tax (as defined in IC 6-8.1-1-1).

23 (2) Insurance premiums tax (IC 27-1-18-2).

24 (3) Property taxes.

25 (4) A special assessment (as defined in IC 6-1.1-1-17).

26 **Before entering into a public-private agreement with an offeror,**
 27 **the authority shall certify to the governor that the authority has**
 28 **conducted a due diligence review and determined that the offeror**
 29 **is not delinquent in the payment of any tax described in**
 30 **subdivisions (1) through (4)."**

31 Page 11, line 9, after "proposals." insert "A private entity may not
 32 be considered a responsible offeror if the private entity is
 33 delinquent in the payment of any of the following:

34 (1) A listed tax (as defined in IC 6-8.1-1-1).

35 (2) Insurance premiums tax (IC 27-1-18-2).

36 (3) Property taxes.

37 (4) A special assessment (as defined in IC 6-1.1-1-17)."

38 Page 13, between lines 7 and 8, begin a new paragraph and insert:
 39 "SECTION 13. IC 8-15.7-4-3.5 IS ADDED TO THE INDIANA
 40 CODE AS A NEW SECTION TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2011]: **Sec. 3.5. An offeror is not eligible to**
 42 **be designated as an operator and enter into a public-private**
 43 **agreement with the department if the offeror is delinquent in the**
 44 **payment of any of the following:**

45 (1) A listed tax (as defined in IC 6-8.1-1-1).

46 (2) Insurance premiums tax (IC 27-1-18-2).

47 (3) Property taxes.

1 **(4) A special assessment (as defined in IC 6-1.1-1-17).**
2 **Before entering into a public-private agreement with an offeror,**
3 **the department shall certify to the governor that the authority has**
4 **conducted a due diligence review and determined that the offeror**
5 **is not delinquent in the payment of any tax described in**
6 **subdivisions (1) through (4)."**

7 Renumber all SECTIONS consecutively.
 (Reference is to ESB 473 as printed April 8, 2011.)

Representative Austin