

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 473**

Citations Affected: IC 8-15; IC 8-15.5; IC 8-15.7; IC 8-23-7; IC 9-18-2-17; IC 9-21-3.5.

Synopsis: Various transportation matters. CONFERENCE COMMITTEE REPORT TO ESB 473. 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. Provides that, beginning July 1, 2011, and ending June 30, 2021, legislative approval is not required to impose tolls on certain projects. 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. Requires the budget committee to meet within 90 days and conduct a review of any project that includes tolls. Provides that the common construction wage applies to projects that are subjects of public-private agreements entered into after April 30, 2011. 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. Establishes procedures for the collections of unpaid fines for these moving violations. **(This conference committee report does the following: (1) Deletes provisions allowing tolls to be imposed without general assembly recognition on I-69 between I-64 and Martinsville. (2) Amends language concerning new projects for purposes of allowing tolling without general assembly recognition. (3) Provides that general assembly recognition is required to impose tolls on: (A) nontolled highways in existence or under construction on July 1, 2011, including interstate highways, U.S. routes, and state routes; and (B) I-69. (4) Makes a technical correction in provisions concerning methodologies to be used when calculating increases or decreases in user fees.)**

Effective: Upon passage; July 1, 2011.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 473 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 8-15-2-1, AS AMENDED BY P.L.1-2007,
- 3 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2011]: Sec. 1. (a) In order to remove the handicaps and
- 5 hazards on the congested highways in Indiana, to facilitate vehicular
- 6 traffic throughout the state, to promote the agricultural and industrial
- 7 development of the state, and to provide for the general welfare by the
- 8 construction of modern express highways embodying safety devices,
- 9 including center division, ample shoulder widths, long sight distances,
- 10 multiple lanes in each direction, and grade separations at intersections
- 11 with other highways and railroads, the authority may:
- 12 (1) subject to subsection (d), construct, reconstruct, maintain,
- 13 repair, and operate toll road projects at such locations as shall be
- 14 approved by the governor;
- 15 (2) in accordance with such alignment and design standards as
- 16 shall be approved by the authority and subject to IC 8-9.5-8-10,
- 17 issue toll road revenue bonds of the state payable solely from
- 18 funds pledged for their payment, as authorized by this chapter, to
- 19 pay the cost of such projects;
- 20 (3) finance, develop, construct, reconstruct, improve, or maintain
- 21 improvements for manufacturing, commercial, or public
- 22 transportation activities within a county through which a toll road

- 1 passes;
- 2 (4) in cooperation with the Indiana department of transportation
- 3 or a political subdivision, construct, reconstruct, or finance the
- 4 construction or reconstruction of an arterial highway or an arterial
- 5 street that is located within a county through which a toll road
- 6 passes and that:
- 7 (A) interchanges with a toll road project; or
- 8 (B) intersects with a road or a street that interchanges with a
- 9 toll road project;
- 10 (5) finance improvements necessary for developing transportation
- 11 corridors in northwestern Indiana; and
- 12 (6) exercise these powers in participation with any governmental
- 13 entity or with any individual, partnership, limited liability
- 14 company, or corporation.
- 15 (b) Notwithstanding subsection (a), the authority shall not construct,
- 16 maintain, operate, nor contract for the construction, maintenance, or
- 17 operation of transient lodging facilities on, or adjacent to, such toll road
- 18 projects.
- 19 (c) This chapter:
- 20 (1) applies to the authority only when acting for the purposes set
- 21 forth in this chapter; and
- 22 (2) does not apply to the authority when acting under any other
- 23 statute for any other purpose.
- 24 (d) ~~Notwithstanding any other law, neither Before~~ the authority ~~nor~~
- 25 ~~or~~ an operator selected under IC 8-15.5 may carry out any of the
- 26 following activities under this chapter, ~~unless~~ the general assembly
- 27 ~~enacts must enact~~ a statute authorizing that activity:
- 28 (1) Carrying out construction for Interstate Highway 69 in a
- 29 township having a population of more than seventy-five thousand
- 30 (75,000) and less than ninety-three thousand five hundred
- 31 (93,500).
- 32 (2) Imposing tolls on motor vehicles for use of ~~the part of an~~
- 33 ~~interstate highway that connects a consolidated city and a city~~
- 34 ~~having a population of more than eleven thousand five hundred~~
- 35 ~~(11,500) but less than eleven thousand seven hundred forty~~
- 36 ~~(11,740). Interstate Highway 69.~~
- 37 **(3) Imposing tolls on motor vehicles for use of a nontolled**
- 38 **highway, roadway, or other facility in existence or under**
- 39 **construction on July 1, 2011, including nontolled interstate**
- 40 **highways, U.S. routes, and state routes.**
- 41 SECTION 2. IC 8-15-3-7, AS AMENDED BY P.L.85-2010,
- 42 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 43 JULY 1, 2011]: Sec. 7. As used in this chapter, "tollway" includes: ~~any~~
- 44 ~~combination or part of:~~
- 45 (1) an express highway, limited access facility, superhighway,
- 46 bridge, tunnel, or motor way, including express lanes and
- 47 managed lanes, constructed under this chapter or IC 8-15.7 or,
- 48 subject to section 10 of this chapter, converted to a tollway under
- 49 IC 8-23-7-22;
- 50 (2) any bridge, tunnel, overpass, underpass, interchange,
- 51 structure, ramp, access road, service road, entrance plaza,

1 approach, tollhouse, utility corridor, toll gantry, rest stop, service
 2 station, or administration, storage, or other buildings or facilities,
 3 including temporary facilities and buildings, facilities, and
 4 structures that will not be tolled, that the department considers
 5 appurtenant to or necessary or desirable for the financing,
 6 construction, operation, or maintenance of one (1) or more of the
 7 items described in subdivision (1);

8 (3) any subsequent improvement, betterment, enlargement,
 9 extension, or reconstruction of one (1) or more items described in
 10 this section, including any nontolled part, that are separately
 11 designated by name or number; ~~and~~

12 (4) a project connecting the state of Indiana with an adjacent
 13 state; **or**

14 **(5) any combination of items or projects described in**
 15 **subdivisions (1) through (4).**

16 SECTION 3. IC 8-15-3-9, AS AMENDED BY P.L.85-2010,
 17 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2011]: Sec. 9. (a) Subject to subsection (e), the governor must
 19 approve the location of any tollway.

20 (b) The department may, in any combination, plan, design, develop,
 21 construct, reconstruct, maintain, repair, police, finance, and operate
 22 tollways, public improvements, and arterial streets and roads at those
 23 locations that the governor approves.

24 (c) The department may, in any combination, plan, design, develop,
 25 construct, reconstruct, improve, finance, operate, repair, or maintain
 26 public improvements such as roads and streets, sewer lines, water lines,
 27 and other utilities if these improvements are:

- 28 (1) adjacent or appurtenant to a tollway; or
- 29 (2) necessary or desirable for the financing, construction,
 30 operation, or maintenance of a tollway.

31 (d) The department may, in any combination, plan, design, develop,
 32 construct, reconstruct, improve, maintain, repair, operate, or finance
 33 the construction or reconstruction of an arterial highway or an arterial
 34 street that:

- 35 (1) is adjacent to, appurtenant to, or interchanges with a tollway;
 36 or
- 37 (2) intersects with a road or street that interchanges with a
 38 tollway.

39 (e) ~~Notwithstanding any other law; Before~~ the governor, the
 40 department, or an operator may ~~not~~ carry out any of the following
 41 activities under this chapter, ~~unless~~ the general assembly ~~enacts must~~
 42 **enact** a statute authorizing that activity:

- 43 (1) Approve the location of a tollway other than
 - 44 (A) Interstate Highway 69 between Interstate Highway 64 and
 45 a city having a population of more than eleven thousand five
 46 hundred (11,500) but less than eleven thousand seven hundred
 47 forty (11,740);
 - 48 (B) the Iliana Expressway, a limited access facility connecting
 49 Interstate Highway 65 in northwestern Indiana with an
 50 interstate highway in Illinois; or
 - 51 (C) a project that is located within a metropolitan planning

1 area (as defined by 23 U.S.C. 134) and that connects the state
 2 of Indiana with the commonwealth of Kentucky: a tollway
 3 that is approved before July 1, 2011.

4 (2) Carry out construction for Interstate Highway 69 in a township
 5 having a population of more than seventy-five thousand (75,000)
 6 and less than ninety-three thousand five hundred (93,500).

7 (3) Impose tolls on motor vehicles for use of the part of an
 8 interstate highway that connects a consolidated city and a city
 9 having a population of more than eleven thousand five hundred
 10 (~~11,500~~) but less than eleven thousand seven hundred forty
 11 (~~11,740~~): Interstate Highway 69.

12 (f) Notwithstanding subsection (e), during the period beginning
 13 July 1, 2011, and ending June 30, 2021, the general assembly is not
 14 required to enact a statute authorizing the governor, the
 15 department, or an operator to approve the location of a tollway
 16 with respect to the following projects:

17 (1) A project on which construction begins after June 30,
 18 2011, not including any part of Interstate Highway 69 other
 19 than a part described in subdivision (4).

20 (2) The addition of toll lanes, including high occupancy toll
 21 lanes, to a highway, roadway, or other facility in existence on
 22 July 1, 2011, if the number of nontolled lanes on the highway,
 23 roadway, or facility as of July 1, 2011, does not decrease due
 24 to the addition of the toll lanes.

25 (3) The Illiana Expressway, a limited access facility
 26 connecting Interstate Highway 65 in northwestern Indiana
 27 with an interstate highway in Illinois.

28 (4) A project that is located within a metropolitan planning
 29 area (as defined by 23 U.S.C. 134) and that connects the state
 30 of Indiana with the commonwealth of Kentucky.

31 SECTION 4. IC 8-15.5-1-2, AS AMENDED BY P.L.85-2010,
 32 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2011]: Sec. 2. (a) This article contains full and complete
 34 authority for public-private agreements between the authority and a
 35 private entity. Except as provided in this article, no law, procedure,
 36 proceeding, publication, notice, consent, approval, order, or act by the
 37 authority or any other officer, department, agency, or instrumentality
 38 of the state or any political subdivision is required for the authority to
 39 enter into a public-private agreement with a private entity under this
 40 article, or for a toll road project that is the subject of a public-private
 41 agreement to be constructed, acquired, maintained, repaired, operated,
 42 financed, transferred, or conveyed.

43 (b) This subsection does not apply to a project for the construction
 44 of the Illiana Expressway, a limited access facility connecting Interstate
 45 Highway 65 in northwestern Indiana with an interstate highway in
 46 Illinois or a project that is located within a metropolitan planning area
 47 (as defined by 23 U.S.C. 134) and that connects the state of Indiana
 48 with the commonwealth of Kentucky. Notwithstanding any other law,
 49 after August 1, 2006, neither **Before** the authority nor or the
 50 department may (~~1~~) issue a request for proposals for or (~~2~~) enter into
 51 a public-private agreement under this article that would authorize an

1 operator to impose tolls for the operation of motor vehicles on all or
 2 part of a project, ~~unless~~ the general assembly ~~adopts~~ **must adopt** a
 3 statute authorizing the imposition of tolls. **However, during the**
 4 **period beginning July 1, 2011, and ending June 30, 2021, and**
 5 **notwithstanding subsection (c), the general assembly is not**
 6 **required to enact a statute authorizing the authority or the**
 7 **department to issue a request for proposals or enter into a**
 8 **public-private agreement to authorize an operator to impose tolls**
 9 **for the operation of motor vehicles on all or part of the following**
 10 **projects:**

11 (1) **A project on which construction begins after June 30,**
 12 **2011, not including any part of Interstate Highway 69 other**
 13 **than a part described in subdivision (4).**

14 (2) **The addition of toll lanes, including high occupancy toll**
 15 **lanes, to a highway, roadway, or other facility in existence on**
 16 **July 1, 2011, if the number of nontolled lanes on the highway,**
 17 **roadway, or facility as of July 1, 2011, does not decrease due**
 18 **to the addition of the toll lanes.**

19 (3) **The Illiana Expressway, a limited access facility**
 20 **connecting Interstate Highway 65 in northwestern Indiana**
 21 **with an interstate highway in Illinois.**

22 (4) **A project that is located within a metropolitan planning**
 23 **area (as defined by 23 U.S.C. 134) and that connects the state**
 24 **of Indiana with the commonwealth of Kentucky.**

25 (c) ~~Notwithstanding any other law, neither~~ **Before** the authority ~~nor~~
 26 **or** an operator may carry out any of the following activities under this
 27 article, ~~unless~~ the general assembly ~~enacts~~ **must enact** a statute
 28 authorizing that activity:

29 (1) Carrying out construction for Interstate Highway 69 in a
 30 township having a population of more than seventy-five thousand
 31 (75,000) and less than ninety-three thousand five hundred
 32 (93,500).

33 (2) Imposing tolls on motor vehicles for use of ~~the part of an~~
 34 ~~interstate highway that connects a consolidated city and a city~~
 35 ~~having a population of more than eleven thousand five hundred~~
 36 ~~(11,500) but less than eleven thousand seven hundred forty~~
 37 ~~(11,740).~~ **Interstate Highway 69.**

38 (3) **Imposing tolls on motor vehicles for use of a nontolled**
 39 **highway, roadway, or other facility in existence or under**
 40 **construction on July 1, 2011, including nontolled interstate**
 41 **highways, U.S. routes, and state routes.**

42 SECTION 5. IC 8-15.5-4-11, AS ADDED BY P.L.47-2006,
 43 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 44 JULY 1, 2011]: Sec. 11. (a) After the procedures required in this
 45 chapter have been completed, the authority shall make a determination
 46 as to whether the offeror that submitted the selected offer should be
 47 designated as the operator for the related toll road project and shall
 48 submit the authority's determination to the governor and the budget
 49 committee.

50 (b) After review of the authority's determination by the budget
 51 committee, the governor may accept or reject the determination of the

1 authority. If the governor accepts the determination of the authority, the
 2 governor shall designate the offeror who submitted the selected offer
 3 as the operator for the related toll road project. The authority shall
 4 publish notice of the designation of the operator for the related toll road
 5 project one (1) time, in accordance with IC 5-3-1.

6 (c) After the designation of the operator for the related toll road
 7 project, the authority may execute the public-private agreement with
 8 that operator.

9 **(d) The budget committee shall hold a meeting and conduct a**
 10 **review of the determination not later than ninety (90) days after**
 11 **the date the authority's determination is submitted for review.**

12 SECTION 6. IC 8-15.5-6-2, AS AMENDED BY P.L.85-2010,
 13 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: Sec. 2. (a) Unless otherwise provided by federal
 15 law or this section, the operator or any contractor or subcontractor of
 16 the operator engaged in the construction of a toll road project is not
 17 required to comply with IC 4-13.6 or IC 5-16 concerning state public
 18 works, IC 5-17 concerning purchases of materials and supplies, or
 19 other statutes concerning procedures for procurement of public works
 20 or personal property as a condition of being awarded and performing
 21 work on the project.

22 (b) IC 5-16-7 concerning the common construction wage applies to
 23 the **following:**

24 **(1) The operator or any contractor or subcontractor of the**
 25 **operator engaged in a project for the construction of the Illiana**
 26 **Expressway, a limited access facility connecting Interstate**
 27 **Highway 65 in northwestern Indiana with an interstate highway**
 28 **in Illinois.**

29 **(2) The operator or any contractor or subcontractor of the**
 30 **operator engaged in the construction of a project that is the**
 31 **subject of a public-private agreement entered into after April**
 32 **30, 2011.**

33 SECTION 7. IC 8-15.5-7-1, AS ADDED BY P.L.47-2006,
 34 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2011]: Sec. 1. (a) Notwithstanding IC 8-9.5-8 and
 36 IC 8-15-2-14(j), the authority may fix and revise the amounts of user
 37 fees that an operator may charge and collect for the use of any part of
 38 a toll road project in accordance with the public-private agreement.

39 (b) In fixing the amounts referred to in subsection (a), the authority
 40 may:

41 (1) establish maximum amounts for the user fees; and

42 (2) **subject to subsection (c)**, provide for increases or decreases
 43 of the user fees or the maximum amounts established based upon
 44 the indices, methodologies, or other factors that the authority
 45 considers appropriate.

46 **(c) For a public-private agreement entered into after June 30,**
 47 **2011, the department may not use a methodology based on:**

48 **(1) toll collection success rates; or**

49 **(2) other factors internal to the operator;**

50 **that could result in increases of the maximum amounts due to**
 51 **actual toll collection rates that are below estimated or anticipated**

1 **toll collection rates.**

2 SECTION 8. IC 8-15.5-7-5, AS ADDED BY P.L.47-2006,
3 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2011]: Sec. 5. A public-private agreement may:

- 5 (1) grant an operator a license or franchise to charge and collect
6 tolls for the use of the toll road project;
7 (2) authorize the operator to adjust the user fees charged and
8 collected for the use of the toll road project, so long as the
9 amounts charged and collected by the operator do not exceed the
10 maximum amounts established by the authority under section 1 of
11 this chapter;
12 (3) provide that any adjustment by the operator permitted under
13 subdivision (2) may be based on such indices, methodologies, or
14 other factors as described in the public-private agreement **or**
15 **section 1 of this chapter** or as approved by the authority, **as**
16 **applicable**;
17 (4) authorize the operator to charge and collect user fees through
18 manual and nonmanual methods, including, but not limited to,
19 automatic vehicle identification systems, electronic toll collection
20 systems, and, to the extent permitted by law, including rules
21 adopted by the authority under IC 8-15-2-17.2(a)(10), global
22 positioning systems and photo or video based toll collection or
23 toll collection enforcement systems; and
24 (5) authorize the collection of user fees charges by a third party.

25 SECTION 9. IC 8-15.5-10-3, AS ADDED BY P.L.47-2006,
26 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2011]: Sec. 3. (a) The authority may pay any amounts owed
28 by the authority under a public-private agreement entered into under
29 this article from any funds available to the authority under this article
30 or any other statute.

31 (b) Subject to review by the budget committee established by
32 IC 4-12-1-3 and approval by the budget director appointed under
33 IC 4-12-1-3, a public-private agreement entered into under this article
34 may:

- 35 (1) establish a procedure for the authority or a person acting on
36 behalf of the authority to certify to the general assembly the
37 amount needed to pay any amounts owed by the authority under
38 a public-private agreement; or
39 (2) otherwise create a moral obligation of the state to pay any
40 amounts owed by the authority under the public-private
41 agreement.

42 (c) The authority may issue bonds under IC 4-4-11 or IC 8-15-2 to
43 provide funds for any amounts identified under this section without
44 complying with IC 8-9.5-8-10.

45 **(d) If the agreement that is submitted for review provides for**
46 **any tolls, the budget committee shall hold a meeting and conduct**
47 **a review of the agreement not later than ninety (90) days after the**
48 **date the agreement is submitted for review.**

49 SECTION 10. IC 8-15.7-1-5, AS AMENDED BY P.L.85-2010,
50 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
51 JULY 1, 2011]: Sec. 5. (a) This article contains full and complete

1 authority for agreements and leases with private entities to carry out the
 2 activities described in this article. Except as provided in this article, no
 3 procedure, proceeding, publication, notice, consent, approval, order, or
 4 act by the authority, the department, or any other state or local agency
 5 or official is required to enter into an agreement or lease, and no law to
 6 the contrary affects, limits, or diminishes the authority for agreements
 7 and leases with private entities, except as provided by this article.

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

12 (1) **Subject to subsection (d), and after June 30, 2011**, issuing
 13 a request for proposals for, or entering into, a public-private
 14 agreement concerning a project. **other than:**

15 (A) ~~Interstate Highway 69 between Interstate Highway 465~~
 16 ~~and Interstate Highway 64;~~

17 (B) ~~the Hliana Expressway, a limited access facility connecting~~
 18 ~~Interstate Highway 65 in northwestern Indiana with an~~
 19 ~~interstate highway in Illinois; or~~

20 (C) ~~a project that is located within a metropolitan planning~~
 21 ~~area (as defined by 23 U.S.C. 134) and that connects the state~~
 22 ~~of Indiana with the commonwealth of Kentucky.~~

23 (2) Carrying out construction for Interstate Highway 69 in a
 24 township having a population of more than seventy-five thousand
 25 (75,000) and less than ninety-three thousand five hundred
 26 (93,500).

27 (3) Imposing user fees on motor vehicles for use of ~~the part of an~~
 28 ~~interstate highway that connects a consolidated city and a city~~
 29 ~~having a population of more than eleven thousand five hundred~~
 30 ~~(11,500) but less than eleven thousand seven hundred forty~~
 31 ~~(11,740): Interstate Highway 69.~~

32 (c) Notwithstanding subsection (b) or any other law, the department
 33 or the authority may enter into a public-private agreement concerning
 34 a project consisting of a passenger or freight railroad system described
 35 in IC 8-15.7-2-14(a)(4). Such an agreement is subject to review and
 36 appropriation by the general assembly. However, this subsection does
 37 not prohibit the department from:

38 (1) conducting preliminary studies that the department considers
 39 necessary to determine the feasibility of such a project; or

40 (2) issuing a request for qualifications or a request for proposals,
 41 or both, under IC 8-15.7-4 for such a project.

42 (d) **Notwithstanding subsection (b), during the period beginning**
 43 **July 1, 2011, and ending June 30, 2021, the general assembly is not**
 44 **required to enact a statute authorizing the department, the**
 45 **authority, or an operator to issue a request for proposals for, or**
 46 **enter into, a public-private agreement for the following projects:**

47 (1) **A project on which construction begins after June 30,**
 48 **2011, not including any part of Interstate Highway 69 other**
 49 **than a part described in subdivision (4).**

50 (2) **The addition of toll lanes, including high occupancy toll**
 51 **lanes, to a highway, roadway, or other facility in existence on**

1 **July 1, 2011, if the number of nontolled lanes on the highway,**
 2 **roadway, or facility as of July 1, 2011, does not decrease due**
 3 **to the addition of the toll lanes.**

4 **(3) The Illiana Expressway, a limited access facility**
 5 **connecting Interstate Highway 65 in northwestern Indiana**
 6 **with an interstate highway in Illinois.**

7 **(4) A project that is located within a metropolitan planning**
 8 **area (as defined by 23 U.S.C. 134) and that connects the state**
 9 **of Indiana with the commonwealth of Kentucky.**

10 SECTION 11. IC 8-15.7-4-1, AS AMENDED BY P.L.85-2010,
 11 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2011]: Sec. 1. (a) The department may request proposals from
 13 private entities for all or part of the development, financing, and
 14 operation of one (1) or more projects.

15 (b) If all or part of the project will consist of a tollway, the
 16 department shall take the following steps before the commencement of
 17 the procurement process under this chapter:

18 (1) Except as provided by subsection (c), the department shall
 19 cause to be prepared a preliminary feasibility study and an
 20 economic impact study on that part of the project consisting of a
 21 tollway by a firm or firms internationally recognized in the
 22 preparation of studies or reports on the financial feasibility and
 23 economic impact of proposed toll road projects. Before the
 24 preparation of the preliminary feasibility study and the economic
 25 impact study, the department must conduct a public hearing on
 26 the proposed studies in the county seat of the county in which the
 27 proposed project would be located. At least ten (10) days before
 28 each public hearing, the authority shall:

29 (A) post notice of the public hearing on the department's
 30 Internet web site;

31 (B) publish notice of the public hearing one (1) time in
 32 accordance with IC 5-3-1 in two (2) newspapers of general
 33 circulation in the county in which the proposed project would
 34 be located; and

35 (C) include in the notices under clauses (A) and (B):

36 (i) the date, time, and place of the hearing;

37 (ii) the subject matter of the hearing;

38 (iii) a description of the purpose of the proposed preliminary
 39 feasibility study and economic impact study; and

40 (iv) a description of the proposed project and its location.

41 At the hearing, the department shall allow the public to be heard
 42 on the proposed studies and the proposed project.

43 (2) The preliminary feasibility study must be based upon a
 44 public-private financial and project delivery structure. The
 45 economic impact study must, at a minimum, include an analysis
 46 of the following matters with respect to the proposed project:

47 (A) Economic impacts on existing commercial and industrial
 48 development.

49 (B) Potential impacts on employment.

50 (C) Potential for future development near the project area,
 51 including consideration of locations for interchanges that will

- 1 maximize opportunities for development.
- 2 (D) Fiscal impacts on revenues to local units of government.
- 3 (E) Demands on government services, such as public safety,
- 4 public works, education, zoning and building, and local
- 5 airports.
- 6 The department shall post copies of the preliminary feasibility
- 7 study and the economic impact study on the department's Internet
- 8 web site and shall also provide copies of the studies to the
- 9 governor and to the legislative council (in an electronic format
- 10 under IC 5-14-6).
- 11 (3) After the completion of the preliminary feasibility study and
- 12 the economic impact statement, the department shall schedule a
- 13 public hearing on the proposed project and the studies in the
- 14 county seat of the county that would be an affected jurisdiction for
- 15 purposes of the proposed project. At least ten (10) days before the
- 16 public hearing, the department shall:
- 17 (A) post notice of the public hearing on the department's
- 18 Internet web site;
- 19 (B) publish notice of the hearing one (1) time in accordance
- 20 with IC 5-3-1 in two (2) newspapers of general circulation in
- 21 the county; and
- 22 (C) include the following in the notices under clauses (A) and
- 23 (B):
- 24 (i) The date, time, and place of the hearing.
- 25 (ii) The subject matter of the hearing.
- 26 (iii) A description of the proposed project, its location, the
- 27 part of the project consisting of a tollway, and, consistent
- 28 with the assessments reached in the preliminary feasibility
- 29 study, the estimated total cost of the acquisition,
- 30 construction, installation, equipping, and improving of the
- 31 proposed project, as well as the part of the project consisting
- 32 of a tollway.
- 33 (iv) The address and telephone number of the department.
- 34 (v) A statement concerning the availability of the
- 35 preliminary feasibility study and the economic impact study
- 36 on the department's Internet web site.
- 37 (4) At the hearing, the department shall allow the public to be
- 38 heard on the proposed project, the preliminary feasibility study,
- 39 and the economic impact study.
- 40 (5) After the completion of the public hearings described in
- 41 subdivision (3), the department shall submit the preliminary
- 42 feasibility study and the economic impact study to the budget
- 43 committee for its review before the commencement of the
- 44 procurement process under this chapter. **If the preliminary**
- 45 **feasibility study or the economic impact study submitted for**
- 46 **review provides for any tolls, the budget committee shall hold**
- 47 **a meeting and conduct a review of the preliminary feasibility**
- 48 **study and the economic impact study not later than ninety**
- 49 **(90) days after the date the preliminary feasibility study and**
- 50 **the economic impact study are submitted for review.**
- 51 (c) The following provisions apply if the department determines that

1 a feasibility study for the Illiana Expressway that was prepared before
2 March 15, 2010, meets the requirements of subsection (b) concerning
3 the preparation of a preliminary feasibility study:

4 (1) The department is not required to prepare an additional
5 preliminary feasibility study.

6 (2) The requirement under subsection (b)(1) for a public hearing
7 before preparation of a preliminary feasibility study does not
8 apply. However, the requirement under subsection (b)(1) for a
9 public hearing on the economic impact study does apply.

10 (3) The feasibility study prepared before March 15, 2010, is
11 considered to be the preliminary feasibility study for purposes of
12 subsection (b)(3) through (b)(5).

13 SECTION 12. IC 8-15.7-4-2, AS AMENDED BY P.L.85-2010,
14 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2011]: Sec. 2. (a) This section establishes the competitive
16 proposal procedure that the department shall use to enter into a
17 public-private agreement with an operator under this article.

18 (b) The department may pursue a competitive proposal procedure
19 using a request for qualifications and a request for proposals process or
20 proceed directly to a request for proposals.

21 (c) If the department elects to use a request for qualifications phase,
22 it must provide a public notice of the request for qualifications, for the
23 period considered appropriate by the department, before the date set for
24 receipt of submittals in response to the solicitation. The department
25 shall provide the notice by posting in a designated public area and
26 publication in a newspaper of general circulation, in the manner
27 provided by IC 5-3-1. In addition, submittals in response to the
28 solicitation may be solicited directly from potential offerors.

29 (d) The department shall evaluate qualification submittals based on
30 the requirements and evaluation criteria set forth in the request for
31 qualifications.

32 (e) If the department has undertaken a request for qualifications
33 phase resulting in one (1) or more prequalified or shortlisted offerors,
34 the request for proposals shall be limited to those offerors that have
35 been prequalified or shortlisted.

36 (f) If the department has not issued a request for qualifications and
37 intends to use only a one (1) phase request for proposals procurement,
38 the department must provide a public notice of the request for
39 proposals for the period considered appropriate by the department,
40 before the date set for receipt of proposals. The department shall
41 provide the notice by posting in a designated public area and
42 publication in a newspaper of general circulation, in the manner
43 provided by IC 5-3-1. In addition, proposals may be solicited directly
44 from potential offerors.

45 (g) The department shall submit a draft of the request for proposals
46 to the budget committee for its review before the issuance by the
47 department of the request for proposals to potential offerors. The
48 request for proposals must:

49 (1) indicate in general terms the scope of work, goods, and
50 services sought to be procured;

51 (2) contain or incorporate by reference the specifications and

- 1 contractual terms and conditions applicable to the procurement
 2 and the qualifying project;
 3 (3) specify the factors, criteria, and other information that will be
 4 used in evaluating the proposals;
 5 (4) specify any requirements or goals for use of:
 6 (A) minority business enterprises and women's business
 7 enterprises certified under IC 4-13-16.5;
 8 (B) disadvantaged business enterprises under federal or state
 9 law;
 10 (C) businesses defined under IC 5-22-15-20.5 as Indiana
 11 businesses, to the extent permitted by applicable federal and
 12 state law and regulations; and
 13 (D) businesses that qualify for a small business set-aside under
 14 IC 4-13.6-2-11;
 15 (5) if all or part of the project will consist of a tollway, require any
 16 offeror to submit a proposal based upon that part of the project
 17 that will consist of a tollway, as set forth in the request for
 18 proposals, and permit any offeror to submit one (1) or more
 19 alternative proposals based upon the assumption that a different
 20 part or none of the project will consist of a tollway;
 21 (6) contain or incorporate by reference the other applicable
 22 contractual terms and conditions; and
 23 (7) contain or incorporate by reference any other provisions,
 24 materials, or documents that the department considers
 25 appropriate.

26 **If the draft of the request for proposals submitted for review**
 27 **provides for any tolls, the budget committee shall hold a meeting**
 28 **and conduct a review of the draft of the request for proposals not**
 29 **later than ninety (90) days after the date the draft request for**
 30 **proposals is submitted for review.**

31 (h) The department shall determine the evaluation criteria that are
 32 appropriate for each project and shall set those criteria forth in the
 33 request for proposals. The department may use a selection process that
 34 results in selection of the proposal offering the best value to the public,
 35 a selection process that results in selection of the proposal offering the
 36 lowest price or cost or the highest payment to, or revenue sharing with,
 37 the department, or any other selection process that the department
 38 determines is in the best interests of the state and the public.

39 (i) The department shall evaluate proposals based on the
 40 requirements and evaluation criteria set forth in the request for
 41 proposals.

42 (j) The department may select one (1) or more offerors for
 43 negotiations based on the evaluation criteria set forth in the request for
 44 proposals. If the department believes that negotiations with the selected
 45 offeror or offerors are not likely to result in a public-private agreement,
 46 or, in the case of a best value selection process, no longer reflect the
 47 best value to the state and the public, the department may commence
 48 negotiations with other responsive offerors, if any, and may suspend,
 49 terminate, or continue negotiations with the original offeror or offerors.
 50 If negotiations are unsuccessful, the department shall terminate the
 51 procurement, may not award the public-private agreement, and may

1 commence a new procurement for a public-private agreement. If the
 2 department determines that negotiations with an offeror have been
 3 successfully completed, the department shall, subject to the other
 4 requirements of this article, award the public-private agreement to the
 5 offeror.

6 (k) Before awarding a public-private agreement to an operator, the
 7 department shall schedule a public hearing on the preliminary selection
 8 of the operator and the terms of the proposed public-private agreement.
 9 The hearing shall be conducted in the county seat of the county that
 10 would be an affected jurisdiction for purposes of the proposed project.
 11 The department shall do the following:

12 (1) At least ten (10) days before the public hearing, post on the
 13 department's Internet web site:

14 (A) the proposal submitted by the offeror that has been
 15 preliminarily selected as the operator for the project, except for
 16 those parts of the proposal that are confidential under this
 17 article; and

18 (B) the proposed public-private agreement for the project.

19 (2) At least ten (10) days before the public hearing:

20 (A) post notice of the public hearing on the department's
 21 Internet web site; and

22 (B) publish notice of the hearing one (1) time in accordance
 23 with IC 5-3-1 in two (2) newspapers of general circulation in
 24 the county that would be an affected jurisdiction for purposes
 25 of the proposed project.

26 (3) Include the following in the notices required by subdivision
 27 (2):

28 (A) The date, time, and place of the hearing.

29 (B) The subject matter of the hearing.

30 (C) A description of the agreement to be awarded.

31 (D) The recommendation that has been made to award the
 32 agreement to an identified offeror or offerors.

33 (E) The address and telephone number of the department.

34 (F) A statement indicating that, subject to section 6 of this
 35 chapter, and except for those portions that are confidential
 36 under IC 5-14-3, the following are available on the
 37 department's Internet web site and are also available for public
 38 inspection and copying at the principal office of the
 39 department during regular business hours:

40 (i) The selected offer.

41 (ii) An explanation of the basis upon which the preliminary
 42 selection was made.

43 (iii) The proposed public-private agreement for the project.

44 (l) At the hearing, the department shall allow the public to be heard
 45 on the preliminary selection of the operator and the terms of the
 46 proposed public-private agreement.

47 (m) When the terms and conditions of multiple awards are specified
 48 in the request for proposals, awards may be made to more than one (1)
 49 offeror.

50 SECTION 13. IC 8-15.7-4-3, AS ADDED BY P.L.47-2006,
 51 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2011]: Sec. 3. (a) After the procedures required in this chapter
 2 have been completed, the department shall make a determination as to
 3 whether the successful offeror should be designated as the operator for
 4 the project and shall submit its decision to the governor and the budget
 5 committee.

6 (b) After review of the department's determination by the budget
 7 committee, the governor may accept or reject the determination of the
 8 department. If the governor accepts the determination of the
 9 department, the governor shall designate the successful offeror as the
 10 operator for the project. The department shall publish notice of the
 11 designation of the operator one (1) time, in accordance with IC 5-3-1.

12 (c) After the designation of the successful offeror as the operator for
 13 the project, the department may execute the public-private agreement.

14 (d) An action to contest the validity of a public-private agreement
 15 entered into under this chapter may not be brought after the fifteenth
 16 day following the publication of the notice of the designation of the
 17 operator under the public-private agreement under subsection (b).

18 **(e) If the department's determination submitted for review**
 19 **provides for any tolls, the budget committee shall hold a meeting**
 20 **and conduct a review of the determination not later than ninety**
 21 **(90) days after the date the determination is submitted for review.**

22 SECTION 14. IC 8-15.7-5-2, AS ADDED BY P.L.47-2006,
 23 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2011]: Sec. 2. (a) The department may fix and revise the
 25 amounts of user fees that an operator may charge and collect for the use
 26 of any part of a qualifying project in accordance with the public-private
 27 agreement. In fixing these amounts, the department may:

- 28 (1) establish maximum amounts for the user fees; and
- 29 (2) **subject to subsection (b)**, provide for increases or decreases
 30 of the maximum amounts based upon the indices, methodologies,
 31 or other factors that the department considers appropriate.

32 **(b) For a public-private agreement entered into after June 30,**
 33 **2011, the department may not use a methodology based on:**

- 34 **(1) toll collection success rates; or**
- 35 **(2) other factors internal to the operator;**

36 **that could result in increases of the maximum amounts due to**
 37 **actual toll collection rates that are below estimated or anticipated**
 38 **toll collection rates.**

39 ~~(b)~~ **(c)** User fees established by the department for the use of a
 40 qualifying project must be nondiscriminatory and may:

- 41 (1) include different user fees based on categories such as vehicle
 42 class, vehicle size, vehicle axles, vehicle weight, volume,
 43 location, traffic congestion, or other means or classification that
 44 the department determines to be appropriate;
- 45 (2) vary by time of day or year; and
- 46 (3) be based on one (1) or more factors considered relevant by the
 47 department, which may include any combination of:
 - 48 (A) lease payments;
 - 49 (B) financing costs and charges;
 - 50 (C) debt repayment, including principal and interest;
 - 51 (D) costs of development;

- 1 (E) costs of operation;
 2 (F) working capital;
 3 (G) reserves;
 4 (H) depreciation;
 5 (I) compensation to the operator;
 6 (J) compensation to the department; and
 7 (K) other costs, expenses, and factors set forth in the
 8 public-private agreement or otherwise considered appropriate
 9 by the department.

10 ~~(c)~~ (d) A public-private agreement may:

- 11 (1) authorize the operator to adjust the user fees for the use of the
 12 qualifying project, so long as the amounts charged and collected
 13 by the operator do not exceed the maximum amounts established
 14 by the department under this chapter;
 15 (2) provide that any adjustment by the operator permitted under
 16 subdivision (1) may be based on indices, methodologies, or other
 17 factors described in ~~the public-private agreement or approved by~~
 18 ~~the department;~~ **subsection (a) or (b), as applicable;**
 19 (3) authorize the operator to charge and collect user fees through
 20 manual and nonmanual methods, including, but not limited to,
 21 automatic vehicle identification systems, electronic toll collection
 22 systems, and, to the extent permitted by law, including rules
 23 adopted by the department, global positioning systems and photo
 24 or video based toll collection enforcement systems; and
 25 (4) authorize the collection of user fees by a third party.

26 ~~(d)~~ (e) A schedule of the current user fees shall be made available
 27 by the operator to any member of the public on request. User fees and
 28 the setting of user fee rates are not subject to supervision or regulation
 29 by any other commission, board, bureau, or agency of the state or any
 30 municipality, except to the extent set forth in the public-private
 31 agreement.

32 ~~(e)~~ (f) Any action to contest the validity of user fees fixed under this
 33 chapter may not be brought after the fifteenth day following the
 34 effective date of a rule fixing the user fees.

35 SECTION 15. IC 8-15.7-6-2, AS AMENDED BY P.L.85-2010,
 36 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: Sec. 2. (a) Unless otherwise provided by federal
 38 law or this section, the operator or any contractor or subcontractor of
 39 the operator engaged in the construction of a project is not required to
 40 comply with IC 4-13.6 or IC 5-16 concerning state public works,
 41 IC 5-17 concerning purchases of materials and supplies, or other
 42 statutes concerning procedures for procurement of public works or
 43 personal property as a condition of being awarded and performing work
 44 on the project.

45 (b) IC 5-16-7 concerning the common construction wage applies to
 46 the **following:**

- 47 (1) **The** operator or any contractor or subcontractor of the
 48 operator engaged in a project for the construction of the Illiana
 49 Expressway, a limited access facility connecting Interstate
 50 Highway 65 in northwestern Indiana with an interstate highway
 51 in Illinois.

1 **(2) The operator or any contractor or subcontractor of the**
 2 **operator engaged in the construction of a project that is the**
 3 **subject of a public-private agreement entered into after April**
 4 **30, 2011.**

5 SECTION 16. IC 8-15.7-8-6, AS ADDED BY P.L.47-2006,
 6 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2011]: Sec. 6. (a) For the purpose of financing a qualifying
 8 project, the authority may enter into agreements, leases, or subleases
 9 with the department or an operator, or both, and do the following:

10 (1) Issue bonds, debt, or other obligations under IC 4-4-11,
 11 IC 8-15-2, or IC 8-15.7-9.

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

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

16 (4) Subject to review by the budget committee established in
 17 IC 4-12-1-3 and approval by the budget director appointed under
 18 IC 4-12-1-3:

19 (A) establish a procedure for the authority or a person acting
 20 on behalf of the authority to certify to the general assembly the
 21 amount needed to pay costs incurred under a public-private
 22 agreement; or

23 (B) otherwise create a moral obligation of the state to pay all
 24 or part of any costs incurred by the authority under a
 25 public-private agreement.

26 (b) The department and an operator may transfer any interest in
 27 property that the department or operator has to the authority to secure
 28 the financing.

29 **(c) If items submitted for review under subsection (a)(4) provide**
 30 **for any tolls, the budget committee shall hold a meeting and**
 31 **conduct a review of the items not later than ninety (90) days after**
 32 **the date the items are submitted for review.**

33 SECTION 17. IC 8-23-7-22, AS AMENDED BY P.L.85-2010,
 34 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2011]: Sec. 22. (a) Subject to subsection (b), the department
 36 may, after issuing an order and receiving the governor's approval,
 37 determine that a state highway should become a tollway. After the
 38 order becomes effective, the department shall maintain and operate the
 39 tollway and levy and collect tolls as provided in IC 8-15-3 or enter into
 40 a public-private agreement with an operator with respect to the tollway
 41 under IC 8-15.7. Before issuing an order under this section, the
 42 department shall submit to the governor a plan to bring the tollway to
 43 the current design standards of the department for new state highways
 44 within a specified period. The specified period may not exceed five (5)
 45 years.

46 (b) ~~Notwithstanding any other law, Before~~ the governor, the
 47 department, or an operator may ~~not~~ carry out any of the following
 48 activities under this section, ~~unless~~ the general assembly ~~enacts~~ **must**
 49 **enact** a statute authorizing that activity:

50 (1) Determine that a highway ~~other than:~~

51 (A) ~~Interstate Highway 69 between Interstate Highway 64 and~~

- 1 a city having a population of more than eleven thousand five
- 2 hundred (11,500) but less than eleven thousand seven hundred
- 3 forty (11,740);
- 4 (B) the Illiana Expressway, a limited access facility connecting
- 5 Interstate Highway 65 in northwestern Indiana with an
- 6 interstate highway in Illinois; or
- 7 (C) a project that is located within a metropolitan planning
- 8 area (as defined by 23 U.S.C. 134) and that connects the state
- 9 of Indiana with the commonwealth of Kentucky; **that is in**
- 10 **existence or under construction on July 1, 2011,**

11 should become a tollway.

12 (2) Carry out construction for Interstate Highway 69 in a township
13 having a population of more than seventy-five thousand (75,000)
14 and less than ninety-three thousand five hundred (93,500).

15 (3) Impose tolls on motor vehicles for use of the part of an
16 interstate highway that connects a consolidated city and a city
17 having a population of more than eleven thousand five hundred
18 (11,500) but less than eleven thousand seven hundred forty
19 (11,740). **Interstate Highway 69.**

20 **(c) Notwithstanding subsection (b), during the period beginning**
21 **July 1, 2011, and ending June 30, 2021, the general assembly is not**
22 **required to enact a statute authorizing the governor, the**
23 **department, or an operator to determine that all or part of the**
24 **following projects should become a tollway:**

25 (1) **A project on which construction begins after June 30,**
26 **2011, not including any part of Interstate Highway 69 other**
27 **than a part described in subdivision (4).**

28 (2) **The addition of toll lanes, including high occupancy toll**
29 **lanes, to a highway, roadway, or other facility in existence on**
30 **July 1, 2011, if the number of nontolled lanes on the highway,**
31 **roadway, or facility as of July 1, 2011, does not decrease due**
32 **to the addition of the toll lanes.**

33 (3) **The Illiana Expressway, a limited access facility**
34 **connecting Interstate Highway 65 in northwestern Indiana**
35 **with an interstate highway in Illinois.**

36 (4) **A project that is located within a metropolitan planning**
37 **area (as defined by 23 U.S.C. 134) and that connects the state**
38 **of Indiana with the commonwealth of Kentucky.**

39 SECTION 18. IC 8-23-7-23, AS AMENDED BY P.L.47-2006,
40 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2011]: Sec. 23. (a) Subject to subsection (c), the department
42 may, after issuing an order and receiving the governor's approval,
43 determine that a state highway should become a toll road. An order
44 under this section does not become effective unless the authority adopts
45 a resolution to accept the designated state highway, or part of the
46 highway, as a toll road project under the conditions contained in the
47 order. An order issued by the department under this section must set
48 forth the conditions upon which the transfer of the state highway, or
49 part of the highway, to the authority must occur, including the
50 following:

51 (1) The consideration, if any, to be paid by the authority to the

- 1 department.
- 2 (2) A requirement that the authority:
- 3 (A) enter into a contract or lease with the department with
- 4 respect to the toll road project under IC 8-9.5-8-7 or
- 5 IC 8-9.5-8-8; or
- 6 (B) enter into a public-private agreement with an operator with
- 7 respect to the toll road under IC 8-15.5.
- 8 (b) To complete a transfer under this section, the department must,
- 9 with the governor's approval, execute a certificate describing the real
- 10 and personal property constituting or to be transferred with the state
- 11 highway that is to become a toll road project. Upon delivery of the
- 12 certificate to the authority, the real and personal property described in
- 13 the certificate is under the jurisdiction and control of the authority.
- 14 (c) ~~Notwithstanding any other law, neither Before~~ the authority ~~nor~~
- 15 ~~or~~ an operator may carry out any of the following activities under this
- 16 section, ~~unless~~ the general assembly ~~enacts~~ **must enact** a statute
- 17 authorizing that activity:
- 18 (1) Carrying out construction for Interstate Highway 69 in a
- 19 township having a population of more than seventy-five thousand
- 20 (75,000) and less than ninety-three thousand five hundred
- 21 (93,500).
- 22 (2) Imposing tolls on motor vehicles for use of ~~the part of an~~
- 23 ~~interstate highway that connects a consolidated city and a city~~
- 24 ~~having a population of more than eleven thousand five hundred~~
- 25 ~~(11,500) but less than eleven thousand seven hundred forty~~
- 26 ~~(11,740). Interstate Highway 69.~~
- 27 **(3) Imposing tolls on motor vehicles for use of a nontolled**
- 28 **highway, roadway, or other facility in existence or under**
- 29 **construction on July 1, 2011, including nontolled interstate**
- 30 **highways, U.S. routes, and state routes.**
- 31 SECTION 19. IC 9-18-2-17 IS AMENDED TO READ AS
- 32 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 17. **(a) Upon receiving**
- 33 **an application under section 16 of this chapter,** the bureau shall:
- 34 ~~(1) file each application received; and~~
- 35 ~~(2) when satisfied:~~
- 36 **(1) determine:**
- 37 (A) ~~of~~ the genuineness and regularity of the application; and
- 38 (B) that the person applying for registration is entitled to
- 39 register the vehicle;
- 40 **(2) file the application;**
- 41 **(3) subject to subsection (b),** register the vehicle described in the
- 42 application; and
- 43 **(4)** keep a record of the application on suitable index cards under
- 44 a distinctive registration number assigned to the vehicle and in
- 45 any other manner the bureau considers desirable for the
- 46 convenience of the bureau.
- 47 **(b) Upon receiving notice, as described in IC 9-21-3.5-10(c), of**
- 48 **the failure of an owner of a vehicle to pay a fine, charge, or other**
- 49 **assessment for a toll violation documented under IC 9-21-3.5-12,**
- 50 **the bureau shall withhold the annual registration of the vehicle**
- 51 **that was used in the commission of the toll violation until the owner**

1 **pays the fine, charge, or other assessment, plus any applicable fees,**
 2 **to:**

3 **(1) the bureau; or**

4 **(2) the appropriate authority under IC 9-21-3.5 that is**
 5 **responsible for the collection of fines, charges, or other**
 6 **assessments for toll violations under IC 9-21-3.5.**

7 **If the owner pays the fine, charge, or assessment, plus any**
 8 **applicable fees, to the bureau as described in subdivision (1), the**
 9 **bureau shall remit the appropriate amount to the appropriate**
 10 **authority under IC 9-21-3.5 that is responsible for the collection of**
 11 **fines, charges, assessments, or fees for toll violations under**
 12 **IC 9-21-3.5.**

13 SECTION 20. IC 9-21-3.5-9, AS ADDED BY P.L.47-2006,
 14 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2011]: Sec. 9. **(a)** The owner of a motor vehicle, other than an
 16 authorized emergency vehicle, that is driven or towed through a toll
 17 collection facility on a toll road, tollway, or qualifying project shall pay
 18 the proper toll or user fee.

19 **(b) A person who violates subsection (a) commits a moving**
 20 **violation, a Class C infraction.**

21 SECTION 21. IC 9-21-3.5-10, AS ADDED BY P.L.47-2006,
 22 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2011]: Sec. 10. **(a)** The department or the authority may adopt
 24 and enforce rules concerning:

25 (1) the placement and use of automated traffic law enforcement
 26 systems to enforce collection of user fees;

27 (2) required notification **in the form of a citation to owners of**
 28 **toll violations; the owner of a vehicle used in the commission**
 29 **of a moving violation under section 9 of this chapter;**

30 (3) the process for **notification**, collection, and enforcement of
 31 unpaid amounts;

32 (4) the amount of fines, charges, and assessments for toll
 33 violations, **including, with respect to amounts unpaid by**
 34 **violators who are not subject to IC 9-18-2-17(b):**

35 **(A) contracting with a collection agency; and**

36 **(B) authorizing the collection agency in the contract for**
 37 **collection services to impose on and collect from the**
 38 **violator an additional collection fee; and**

39 (5) other matters relating to automated traffic law enforcement
 40 systems that the department or the authority considers
 41 appropriate.

42 **(b) A rule adopted under subsection (a)(2) must establish:**

43 **(1) a deadline for the department, authority, or operator, as**
 44 **applicable, to issue a citation to an owner of a vehicle used in**
 45 **the commission of a moving violation under section 9 of this**
 46 **chapter; and**

47 **(2) a deadline, not to exceed thirty (30) days following receipt**
 48 **of the citation as determined under section 12(b)(1) of this**
 49 **chapter, for the owner to pay a fine, charge, or other**
 50 **assessment for the toll violation.**

51 **(c) The department shall establish a process by which the**

1 **department, authority, or operator, as applicable, shall notify the**
2 **bureau of an owner's failure to pay a fine, charge, or other**
3 **assessment for a toll violation following the expiration of the**
4 **deadline described in subsection (b)(2).**

5 SECTION 22. **An emergency is declared for this act.**

(Reference is to ESB 473 as printed April 18, 2011.)

Conference Committee Report
on
Engrossed Senate Bill 473

Signed by:

Senator Wyss
Chairperson

Representative Soliday

Senator Rogers

Representative Dobis

Senate Conferees

House Conferees