

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1036

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-15-2-1, AS AMENDED BY P.L.119-2012, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) In order to remove the handicaps and hazards on the congested highways in Indiana, to facilitate vehicular traffic throughout the state, to promote the agricultural and industrial development of the state, and to provide for the general welfare by the construction of modern express highways embodying safety devices, including center division, ample shoulder widths, long sight distances, multiple lanes in each direction, and grade separations at intersections with other highways and railroads, the authority may:

- (1) subject to subsection (d), construct, reconstruct, maintain, repair, and operate toll road projects at such locations as shall be approved by the governor;
- (2) in accordance with such alignment and design standards as shall be approved by the authority and subject to IC 8-9.5-8-10, issue toll road revenue bonds of the state payable solely from funds pledged for their payment, as authorized by this chapter, to pay the cost of such projects;
- (3) finance, develop, construct, reconstruct, improve, or maintain improvements for manufacturing, commercial, or public transportation activities within a county through which a toll road

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passes;

(4) in cooperation with the Indiana department of transportation or a political subdivision, construct, reconstruct, or finance the construction or reconstruction of an arterial highway or an arterial street that is located within a county through which a toll road passes and that:

(A) interchanges with a toll road project; or

(B) intersects with a road or a street that interchanges with a toll road project;

(5) finance improvements necessary for developing transportation corridors in northwestern Indiana; and

(6) exercise these powers in participation with any governmental entity or with any individual, partnership, limited liability company, or corporation.

(b) Notwithstanding subsection (a), the authority shall not construct, maintain, operate, nor contract for the construction, maintenance, or operation of transient lodging facilities on, or adjacent to, such toll road projects.

(c) This chapter:

(1) applies to the authority only when acting for the purposes set forth in this chapter; and

(2) does not apply to the authority when acting under any other statute for any other purpose.

(d) Before the authority or an operator selected under IC 8-15.5 may carry out any of the following activities under this chapter, the general assembly must enact a statute authorizing that activity:

~~(1) Carrying out construction for Interstate Highway 69 in a township having a population of more than one hundred thousand (100,000) and less than one hundred ten thousand (110,000) located in a county having a consolidated city.~~

~~(2) (1) Imposing tolls on motor vehicles for use of Interstate Highway 69.~~

~~(3) (2) Imposing tolls on motor vehicles for use of a nontolled highway, roadway, or other facility in existence or under construction on July 1, 2011, including nontolled interstate highways, U.S. routes, and state routes.~~

SECTION 2. IC 8-15-3-9, AS AMENDED BY P.L.119-2012, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 9. (a) Subject to subsection (e), the governor must approve the location of any tollway.

(b) The department may, in any combination, plan, design, develop, construct, reconstruct, maintain, repair, police, finance, and operate

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tollways, public improvements, and arterial streets and roads at those locations that the governor approves.

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

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

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

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

(e) Before the governor, the department, or an operator may carry out any of the following activities under this chapter, the general assembly must enact a statute authorizing that activity:

- (1) Approve the location of a tollway other than a tollway that is approved before July 1, 2011.
- ~~(2) Carry out construction for Interstate Highway 69 in a township having a population of more than one hundred thousand (100,000) and less than one hundred ten thousand (110,000) located in a county having a consolidated city.~~
- ~~(2)~~ (2) Impose tolls on motor vehicles for use of Interstate Highway 69.

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

- (1) A project on which construction begins after June 30, 2011, not including any part of Interstate Highway 69 other than a part described in subdivision (4).
- (2) The addition of toll lanes, including high occupancy toll lanes, to a highway, roadway, or other facility in existence on July 1, 2011, if the number of nontolled lanes on the highway, roadway, or facility as of July 1, 2011, does not decrease due to the addition of the toll lanes.
- (3) The Illiana Expressway, a limited access facility connecting

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Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

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

SECTION 3. IC 8-15.5-1-2, AS AMENDED BY P.L.91-2014, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) This article contains full and complete authority for public-private agreements between the authority, a private entity, and, where applicable, a governmental entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

(b) Before the authority or the department may issue a request for proposals for or enter into a public-private agreement under this article that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a toll road project, the general assembly must adopt a statute authorizing the imposition of tolls. However, during the period beginning July 1, 2011, and ending June 30, 2021, and notwithstanding subsection (c), the general assembly is not required to enact a statute authorizing the authority or the department to issue a request for proposals or enter into a public-private agreement to authorize an operator to impose tolls for the operation of motor vehicles on all or part of the following projects:

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

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

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

(4) A project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of



Indiana with the commonwealth of Kentucky.

(c) Before the authority or an operator may carry out any of the following activities under this article, the general assembly must enact a statute authorizing that activity:

(1) ~~Carrying out construction for Interstate Highway 69 in a township having a population of more than one hundred thousand (100,000) and less than one hundred ten thousand (110,000) located in a county having a consolidated city.~~

~~(2) Imposing tolls on motor vehicles for use of Interstate Highway 69.~~

~~(3) (2) Imposing tolls on motor vehicles for use of a nontolled highway, roadway, or other facility in existence or under construction on July 1, 2011, including nontolled interstate highways, U.S. routes, and state routes.~~

(d) Except as provided in subsection (c)(1), the general assembly is not required to enact a statute authorizing the authority or the department to issue a request for proposals or enter into a public-private agreement for a freeway project.

SECTION 4. IC 8-15.7-1-5, AS AMENDED BY P.L.205-2013, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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. However, this article may not be construed to:

(1) limit the power of the authority, the department, or a private entity to enter an agreement; or

(2) impose any procedural or substantive requirements on the authority, the department, or a private entity;

concerning a project (as defined by IC 8-15.5-2-7) carried out under IC 8-15.5.

(b) Notwithstanding any other law, before the department, the authority, or an operator may carry out any of the following activities under this article, the general assembly must enact a statute authorizing that activity:

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

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(2) Carrying out construction for Interstate Highway 69 in a township having a population of more than one hundred thousand (100,000) and less than one hundred ten thousand (110,000) located in a county having a consolidated city.

(3) Imposing user fees on motor vehicles for use of Interstate Highway 69.

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

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

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

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

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

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

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

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

SECTION 5. IC 8-23-7-22, AS AMENDED BY P.L.13-2013, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) Subject to subsection (b), the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a tollway. After the order becomes effective, the department shall maintain and operate the tollway and levy and collect tolls as provided in IC 8-15-3 or enter into

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a public-private agreement with an operator with respect to the tollway under IC 8-15.7. Before issuing an order under this section, the department shall submit to the governor a plan to bring the tollway to the current design standards of the department for new state highways within a specified period. The specified period may not exceed five (5) years.

(b) Before the governor, the department, or an operator may carry out any of the following activities under this section, the general assembly must enact a statute authorizing that activity:

(1) Determine that a highway that is in existence or under construction on July 1, 2011, should become a tollway.

~~(2) Carry out construction for Interstate Highway 69 in a township having a population of more than one hundred thousand (100,000) and less than one hundred ten thousand (110,000) located in a county having a consolidated city:~~

~~(3) (2) Impose tolls on motor vehicles for use of Interstate Highway 69.~~

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

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

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

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

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

SECTION 6. IC 8-23-7-23, AS AMENDED BY P.L.13-2013, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 23. (a) Subject to subsection (c), the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a toll road. An order under this section does not become effective unless the authority adopts

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a resolution to accept the designated state highway, or part of the highway, as a toll road project under the conditions contained in the order. An order issued by the department under this section must set forth the conditions upon which the transfer of the state highway, or part of the highway, to the authority must occur, including the following:

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

(2) A requirement that the authority:

(A) enter into a contract or lease with the department with respect to the toll road project under IC 8-9.5-8-7 or IC 8-9.5-8-8; or

(B) enter into a public-private agreement with an operator with respect to the toll road under IC 8-15.5.

(b) To complete a transfer under this section, the department must, with the governor's approval, execute a certificate describing the real and personal property constituting or to be transferred with the state highway that is to become a toll road project. Upon delivery of the certificate to the authority, the real and personal property described in the certificate is under the jurisdiction and control of the authority.

(c) Before the authority or an operator may carry out any of the following activities under this section, the general assembly must enact a statute authorizing that activity:

~~(1) Carrying out construction for Interstate Highway 69 in a township having a population of more than one hundred thousand (100,000) and less than one hundred ten thousand (110,000) located in a county having a consolidated city.~~

~~(2) (1) Imposing tolls on motor vehicles for use of Interstate Highway 69.~~

~~(3) (2) Imposing tolls on motor vehicles for use of a nontolled highway, roadway, or other facility in existence or under construction on July 1, 2011, including nontolled interstate highways, U.S. routes, and state routes.~~



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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