

SENATE BILL No. 166

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-23.

Synopsis: Tax exemption for P3 property. Adds definitions for "transportation facility" and "transportation project". Provides that a governmental body may enter into a public-private agreement with respect to a transportation project. Provides that any public-private agreement with respect to a transportation project may use tolling or availability payments to finance all or a portion of the project. Provides that a governmental body may also enter into a development agreement with a private party for the development, construction, and financing of a privately owned and operated transportation or infrastructure project if the development agreement meets certain conditions. Provides for a property tax exemption and a sales tax exemption.

Effective: July 1, 2022.

Walker K

January 4, 2022, read first time and referred to Committee on Tax and Fiscal Policy.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 166

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

1 SECTION 1. IC 5-23-2-17 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2022]: **Sec. 17. "Transportation facility" means any new or**
4 **existing road, highway, toll highway, bridge, tunnel, intermodal**
5 **facility, intercity or high speed passenger or commercial rail, or**
6 **other transportation facility or infrastructure, under the**
7 **jurisdiction of a governmental body.**

8 SECTION 2. IC 5-23-2-18 IS ADDED TO THE INDIANA CODE
9 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2022]: **Sec. 18. "Transportation project" means any combination**
11 **of the development, financing, or operation with respect to all or**
12 **a portion of any transportation facility under the jurisdiction of a**
13 **governmental body.**

14 SECTION 3. IC 5-23-8 IS ADDED TO THE INDIANA CODE AS
15 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2022]:

17 **Chapter 8. Transportation and Infrastructure Projects**



1 **Sec. 1. (a) A governmental body may enter into a public-private**
 2 **agreement with respect to a transportation project, if the**
 3 **governmental body complies with the statutory requirements**
 4 **under this article. Any public-private agreement with respect to a**
 5 **transportation project may use tolling or availability payments to**
 6 **finance all or a portion of the project.**

7 **(b) A governmental body may also enter into a development**
 8 **agreement with a private party for the development, construction,**
 9 **and financing of a privately owned and operated transportation or**
 10 **infrastructure project if the development agreement:**

11 **(1) does not obligate the governmental body to spend any**
 12 **public funds for the privately owned and operated**
 13 **transportation or infrastructure project;**

14 **(2) obligates the private party to operate the transportation or**
 15 **infrastructure project without limitation on the persons, class**
 16 **of persons, or vehicles using the project, except as may be**
 17 **dictated by safety, security, design, and load capacities of the**
 18 **project; or**

19 **(3) obligates the private party to permit local, state, and**
 20 **federal emergency vehicles, including vehicles operated by**
 21 **police, fire, emergency medical services, and sheriff**
 22 **personnel, to use the transportation project without tolls or**
 23 **fees.**

24 **SECTION 4. IC 5-23-9 IS ADDED TO THE INDIANA CODE AS**
 25 **A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY**
 26 **1, 2022]:**

27 **Chapter 9. Tax Exemption**

28 **Sec. 1. (a) Any real property or tangible personal property used**
 29 **exclusively for a public-private agreement executed in accordance**
 30 **with this article or a development agreement that complies with the**
 31 **requirements under IC 5-23-8 is exempt from all ad valorem**
 32 **property taxes and special assessments that may be levied on the**
 33 **property by the state or any political subdivision of the state.**

34 **(b) The sale of building and construction materials that are**
 35 **incorporated into a transportation facility under a public-private**
 36 **agreement or development agreement that complies with the**
 37 **requirements under IC 5-23-8 are exempt from state gross retail**
 38 **and use taxes under IC 6-2.5.**

39 **SECTION 5. [EFFECTIVE JULY 1, 2022] (a) IC 5-23-9-1(a), as**
 40 **added by this act, applies to taxable years beginning after**
 41 **December 31, 2022.**

42 **(b) This SECTION expires July 1, 2025.**



1 SECTION 6. [EFFECTIVE JULY 1, 2022] (a) IC 5-23-9-1(b), as
2 added by this act, applies only to retail transactions occurring after
3 December 31, 2022.

4 (b) Except as provided in subsection (c), a retail transaction is
5 considered to have occurred after December 31, 2022, if the
6 property whose transfer constitutes selling at retail is delivered to
7 the purchaser or to the place of delivery designated by the
8 purchaser after December 31, 2022.

9 (c) Notwithstanding the delivery of the property constituting
10 selling at retail after December 31, 2022, a transaction is
11 considered to have occurred before January 1, 2023, to the extent
12 that:

13 (1) the agreement of the parties to the transaction is entered
14 into before January 1, 2023; and

15 (2) payment for the property furnished in the transaction is
16 made before January 1, 2023.

17 (d) This SECTION expires January 1, 2025.

