

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.

