

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED        (Y/N)  
ADOPTED AS AMENDED        (Y/N)  
ADOPTED W/O OBJECTION        (Y/N)  
FAILED TO ADOPT        (Y/N)  
WITHDRAWN        (Y/N)  
OTHER       

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1 Committee/Subcommittee hearing bill: Government Operations  
2 Appropriations Subcommittee  
3 Representative Williams, T. offered the following:  
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 287.05712, Florida Statutes, is created  
8 to read:

9 287.05712 Public-private partnerships.-

10 (1) DEFINITIONS.-As used in this section, the term:

11 (a) "Affected local jurisdiction" means any county or  
12 municipality in which all or a portion of a qualifying project  
13 is located.

14 (b) "Appropriating body" means the body responsible for  
15 appropriating or authorizing funding to pay for a qualifying  
16 project.

17 (c) "Develop" or "development" means to plan, design,  
18 develop, finance, lease, acquire, install, construct, or expand.

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19 (d) "Fees" means fees or other charges imposed by the  
20 private entity of a qualifying project for use of all or a  
21 portion of such qualifying project pursuant to a comprehensive  
22 agreement.

23 (e) "Lease payment" means any form of payment, including a  
24 land lease, by a public entity to the private entity for the use  
25 of a qualifying project.

26 (f) "Material default" means any default by the private  
27 entity in the performance of its duties which jeopardizes  
28 adequate service to the public from a qualifying project.

29 (g) "Operate" means to finance, maintain, improve, equip,  
30 modify, repair, or operate.

31 (h) "Private entity" means any natural person,  
32 corporation, general partnership, limited liability company,  
33 limited partnership, joint venture, business trust, public  
34 benefit corporation, nonprofit entity, or other private business  
35 entity.

36 (i) "Proposal" means a detailed proposal accepted by a  
37 responsible public entity beyond a conceptual level of review at  
38 which issues such as fixing costs, payment schedules, financing,  
39 deliverables, and project schedule are defined.

40 (j) "Qualifying project" means any:

41 1. Public-purpose facility or project, including, but not  
42 limited to, a public school building and any functionally  
43 related and subordinate facility, including any stadium or other  
44 facility primarily used for school events.

45 2. Building or facility that meets a public purpose and is  
46 developed or operated by or for any public entity.

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47 3. Improvements, including equipment, of buildings to be  
48 principally used by a public entity.

49 4. Water, wastewater, or surface water management facility  
50 and other related infrastructure.

51 (k) "Responsible public entity" means any county,  
52 municipality, or other political subdivision of the state; any  
53 public body politic and corporate; or any regional entity that  
54 serves a public purpose and has authority to develop or operate  
55 a qualifying project.

56 (l) "Revenues" means all revenues, income, earnings, user  
57 fees, lease payments, or other service payments relating to the  
58 development or operation of a qualifying project, including, but  
59 not limited to, money received as grants or otherwise from the  
60 Federal Government, from any public entity, or from any agency  
61 or instrumentality of the foregoing in aid of a qualifying  
62 project.

63 (m) "Service contract" means a contract entered into  
64 between a public entity and the private entity.

65 (n) "Service payments" means payments to the private  
66 entity of a qualifying project pursuant to a service contract.

67 (o) "Water or wastewater management facility" means a  
68 project for the treatment, storage, disposal, or distribution of  
69 water or wastewater.

70 (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
71 that there is a public need for the construction or upgrade of  
72 facilities that are used predominantly for public purposes and  
73 that it is in the public's interest to provide for the  
74 construction or upgrade of such facilities.

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75 (a) The Legislature also finds that:

76 1. There is a public need for timely and cost-effective  
77 acquisition, design, construction, improvement, renovation,  
78 expansion, equipping, maintenance, operation, implementation, or  
79 installation of public projects, including educational  
80 facilities, water or wastewater management facilities and  
81 infrastructure, technology infrastructure, and any other public  
82 infrastructure and government facilities within the state which  
83 serve a public need and purpose, and that such public need may  
84 not be wholly satisfied by existing procurement methods.

85 2. There are inadequate resources to develop new  
86 educational facilities, water or wastewater management  
87 facilities and infrastructure, technology infrastructure, and  
88 other public infrastructure and government facilities for the  
89 benefit of residents of this state, and that it has been  
90 demonstrated that public-private partnerships can meet these  
91 needs by improving the schedule for delivery, lowering the cost,  
92 and providing other benefits to the public.

93 3. There are state and federal tax incentives that promote  
94 partnerships between public and private entities to develop and  
95 operate qualifying projects.

96 4. A procurement under this section serves the public  
97 purpose of this section if such action facilitates the timely  
98 development or operation of qualifying projects.

99 (b) The Legislature declares that it is the intent of this  
100 section to encourage investment in the state by private  
101 entities, to facilitate various bond financing mechanisms,  
102 private capital, and other funding sources for the development

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103 and operation of qualifying projects, including expansion and  
104 acceleration of such financing to meet the public need, and to  
105 provide the greatest possible flexibility to public and private  
106 entities contracting for the provision of public services.

107 (3) ADOPTION OF GUIDELINES.—

108 (a) Before requesting or considering a proposal for a  
109 qualifying project, a responsible public entity shall adopt and  
110 make publicly available guidelines that enable the public entity  
111 to comply with this section. Such guidelines must be reasonable,  
112 encourage competition, and guide the selection of projects under  
113 the purview of the public entity.

114 (b) The guidelines must include:

115 1. Opportunities for competition through public notice and  
116 the availability of representatives of the responsible public  
117 entity to meet with private entities considering a proposal.

118 2. Reasonable criteria for choosing among competing  
119 proposals.

120 3. Suggested timelines for selecting proposals and  
121 negotiating an interim or comprehensive agreement.

122 4. Authorization for accelerated selection and review and  
123 documentation timelines for proposals involving a qualifying  
124 project that the responsible public entity deems a priority.

125 5. Procedures for financial review and analysis which, at  
126 a minimum, include a cost-benefit analysis, an assessment of  
127 opportunity cost, and consideration of the results of all  
128 studies and analyses related to the proposed qualifying project.  
129 The procedures must also include requirements for disclosing

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130 such analysis to the appropriating body for review before the  
131 execution of an interim or comprehensive agreement.

132 6. Consideration of the nonfinancial benefits of a  
133 proposed qualifying project.

134 7. A mechanism for the appropriating body to review a  
135 proposed interim or comprehensive agreement before execution.

136 8. Establishment of criteria for the creation and  
137 responsibilities of a public-private partnership oversight  
138 committee that includes members representing the responsible  
139 public entity and the appropriating body. Such criteria must  
140 include the scope, costs, and duration of the qualifying  
141 project, as well as whether the project involves or affects  
142 multiple public entities. If formed, the oversight committee  
143 shall be an advisory committee that reviews the terms of a  
144 proposed interim or comprehensive agreement.

145 9. Analysis of the adequacy of the information released  
146 when seeking competing proposals and providing for the  
147 enhancement of that information, if deemed necessary, to  
148 encourage competition.

149 10. Establishment of criteria, key decision points, and  
150 approvals required to ensure that the responsible public entity  
151 considers the extent of competition before selecting proposals  
152 and negotiating an interim or comprehensive agreement.

153 11. The publishing and posting of public notice of a  
154 private entity's request for approval of a qualifying project,  
155 including:

156 a. Specific information and documentation to be released  
157 regarding the nature, timing, and scope of the project.

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158 b. A reasonable time period, as determined by the  
159 responsible public entity, of at least 45 days, which encourages  
160 competition and public-private partnerships in accordance with  
161 the goals of this section, during which time the responsible  
162 public entity is to receive competing proposals.

163 c. A requirement for advertising the public notice and  
164 posting the notice on the Internet.

165 12. A requirement that the responsible public entity  
166 engage the services of qualified professionals, which may  
167 include an architect, professional engineer, or certified public  
168 accountant, not otherwise employed by the responsible public  
169 entity, to provide an independent analysis regarding the  
170 specifics, advantages, disadvantages, and long-term and short-  
171 term costs of a request by a private entity for approval of a  
172 qualifying project, unless the governing body of the public  
173 entity determines that such analysis should be performed by  
174 employees of the public entity.

175 (4) PROCUREMENT PROCEDURES.—The responsible public entity  
176 may receive or solicit proposals with the approval of the  
177 appropriating body as evidenced by approval of the project in  
178 the public entity's work program, enter into agreements with  
179 private entities, or consortia thereof, for the building,  
180 upgrade, operation, ownership, or financing of facilities.

181 (a) A responsible public entity may not consider any  
182 request by a private entity for approval of a qualifying project  
183 until the responsible public entity has adopted, or incorporated  
184 and made publicly available, in accordance with subsection (3),

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185 guidelines that enable the responsible public entity to comply  
186 with this section.

187 (b) By rule, ordinance, or guideline as applicable, the  
188 responsible public entity shall establish an application fee for  
189 the submission of unsolicited proposals under this section. The  
190 fee must be sufficient to pay the costs of evaluating the  
191 proposal. The responsible public entity may engage the services  
192 of private consultants to assist in the evaluation.

193 (c) The responsible public entity may request proposals  
194 from private entities for public-private projects or, if the  
195 public entity receives an unsolicited proposal, the public  
196 entity shall publish a notice in the Florida Administrative  
197 Weekly and a newspaper of general circulation at least once a  
198 week for 2 weeks stating that the public entity has received the  
199 proposal and will accept other proposals for the same project  
200 for 60 days after the initial date of publication. A copy of the  
201 notice must be mailed to each local government in the affected  
202 area.

203 (d) A responsible public entity that is a school board or  
204 a county or municipality may enter into an interim or  
205 comprehensive agreement only with the approval of the local  
206 governing body.

207 (e) Before approval, the responsible public entity must  
208 determine that the proposed project:

- 209 1. Is in the public's best interest;  
210 2. Is for a facility that is owned by the responsible  
211 public entity or for a facility for which ownership will be  
212 conveyed to the responsible public entity;



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213 3. Has adequate safeguards in place to ensure that  
214 additional costs or service disruptions would not be imposed on  
215 the public and residents of the state in the event of default or  
216 cancellation of the agreement by the public entity;

217 4. Has adequate safeguards in place to ensure that the  
218 responsible public entity or the private entity has the  
219 opportunity to add capacity to the proposed project and other  
220 facilities serving similar predominantly public purposes; and

221 5. Would be owned by the responsible public entity upon  
222 completion or termination of the agreement and upon payment of  
223 all amounts financed.

224 (f) Technical studies and independent analyses must comply  
225 with the following:

226 1. Any interim or comprehensive agreement must include a  
227 reasonable finance plan, consistent with subsection (11), which  
228 identifies the project cost, revenues by source, financing,  
229 major assumptions, internal rate of return on private  
230 investments, and whether any government funds are assumed to  
231 deliver a cost-feasible project, and a total cash flow analysis  
232 beginning with implementation of the project and extending for  
233 the term of the agreement.

234 2. Any comprehensive agreement must be consistent with an  
235 investment-grade technical study prepared by a nationally  
236 recognized expert who is accepted by the national bond rating  
237 agencies. In evaluating the technical study, the responsible  
238 public entity may rely upon internal staff reports prepared by  
239 personnel familiar with the operation of similar facilities or

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240 the advice of external advisors or consultants having relevant  
241 experience.

242 (5) PROJECT APPROVAL REQUIREMENTS.—A request by a private  
243 entity for approval of a qualifying project must be accompanied  
244 by the following material and information, unless waived by the  
245 responsible public entity:

246 (a) A topographic map with a scale of 1:2,000 or other  
247 appropriate scale indicating the location of the qualifying  
248 project.

249 (b) A description of the qualifying project, including the  
250 conceptual design of such facilities or a conceptual plan for  
251 the provision of services, and a schedule for the initiation of  
252 and completion of the qualifying project which includes the  
253 proposed major responsibilities and a timeline for activities to  
254 be performed by both the public and private entity.

255 (c) A statement setting forth the method by which the  
256 private entity proposes to secure any necessary property  
257 interests required for the qualifying project.

258 (d) Information relating to current plans for the  
259 development of facilities or technology infrastructure to be  
260 used by a public entity which is similar to the qualifying  
261 project being proposed by the private entity, if any, of each  
262 affected local jurisdiction.

263 (e) A list of all permits and approvals required for the  
264 qualifying project from local, state, or federal agencies and a  
265 projected schedule for obtaining such permits and approvals.

266 (f) A list of public water or wastewater management  
267 facilities, if any, which will be crossed by the qualifying

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268 project and a statement of the plans of the private entity to  
269 accommodate such crossings.

270 (g) A statement setting forth the private entity's general  
271 plans for financing the qualifying project, including the  
272 sources of the private entity's funds and identification of any  
273 dedicated revenue source or proposed debt or equity investment  
274 on the behalf of the private entity.

275 (h) The names and addresses of persons who may be  
276 contacted for further information concerning the request.

277 (i) User fees, lease payments, and other service payments  
278 over the term of an interim or comprehensive agreement, and the  
279 methodology and circumstances for changes to such user fees,  
280 lease payments, and other service payments over time.

281 (j) Any additional material and information that the  
282 responsible public entity may reasonably request.

283 (6) PROJECT QUALIFICATION AND PROCESS.-

284 (a) Public-private partnerships shall be qualified by the  
285 responsible public entity as part of the procurement process  
286 outlined in the procurement documents if such process ensures  
287 that the private entity meets at least the minimum standards  
288 contained in the responsible public entity's guidelines for  
289 qualifying professional architectural, engineering, and  
290 contracting services before submitting a proposal under the  
291 procurement.

292 (b) The responsible public entity must ensure that  
293 procurement documents include provisions for the private  
294 entity's performance and payment of subcontractors, including,  
295 but not limited to, surety bonds, letters of credit, parent

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296 company guarantees, and lender and equity partner guarantees.  
297 For those components of the qualifying project which involve  
298 construction, performance and payment bonds are required and are  
299 subject to the recordation, notice, suit limitation, and other  
300 requirements of s. 255.05. The responsible public entity shall  
301 balance the structure of the security package for the public-  
302 private partnership which ensures performance and payment of  
303 subcontractors with the cost of the security to ensure the most  
304 efficient pricing. The procurement documents must contain  
305 contract provisions addressing termination, default, and exit  
306 transition obligations of the private entity.

307 (c) After the public notification period has expired, the  
308 responsible public entity shall rank the proposals in order of  
309 preference. In ranking the proposals, the responsible public  
310 entity may consider factors that include, but need not be  
311 limited to, professional qualifications, general business terms,  
312 innovative engineering or cost-reduction terms, and finance  
313 plans. If the public entity is not satisfied with the results of  
314 the negotiations, the public entity may terminate negotiations  
315 with the proposer. If these negotiations are unsuccessful, the  
316 responsible public entity may go to the second-ranked and lower-  
317 ranked firms, in order, using this same procedure. If only one  
318 proposal is received, the responsible public entity may  
319 negotiate in good faith and, if the public entity is not  
320 satisfied with the results of the negotiations, the public  
321 entity may terminate negotiations with the proposer.  
322 Notwithstanding this subsection, the responsible public entity

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323 may reject all proposals at any point in the process up to  
324 execution of a contract with the proposer.

325 (d) The responsible public entity shall perform an  
326 independent analysis, or other analysis in accordance with  
327 paragraph (4) (f), of the proposed public-private partnership  
328 which demonstrates the cost-effectiveness and overall public  
329 benefit at the following times:

330 1. Before the procurement process; and

331 2. Before awarding the contract.

332 (e) The responsible public entity may approve the  
333 development or operation of an educational facility, a water or  
334 wastewater management facility and related infrastructure,  
335 technology infrastructure or other public infrastructure, or a  
336 governmental facility needed by the public entity as a  
337 qualifying project, or the design or equipping of a qualifying  
338 project so developed or operated, if:

339 1. There is a public need for or benefit derived from a  
340 project of the type the private entity proposes as a qualifying  
341 project.

342 2. The estimated cost of the qualifying project is  
343 reasonable in relation to similar facilities.

344 3. The private entity's plans will result in the timely  
345 acquisition, design, construction, improvement, renovation,  
346 expansion, equipping, maintenance, or operation of the  
347 qualifying project.

348 (f) The responsible public entity may charge a reasonable  
349 fee to cover the costs of processing, reviewing, and evaluating  
350 the request, including, but not limited to, reasonable attorney

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351 fees and fees for financial, technical, and other necessary  
352 advisors or consultants.

353 (g) Upon approval of a qualifying project, the responsible  
354 public entity shall establish a date for the commencement of  
355 activities related to the qualifying project. The responsible  
356 public entity may extend such date.

357 (h) Approval of a qualifying project by the responsible  
358 public entity is subject to entering into a comprehensive  
359 agreement with the private entity.

360 (7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.—

361 (a) Any private entity requesting approval from, or  
362 submitting a proposal to, a responsible public entity must  
363 notify each affected local jurisdiction by furnishing a copy of  
364 its request or proposal to each affected local jurisdiction.

365 (b) Each affected local jurisdiction that is not a  
366 responsible public entity for the respective qualifying project  
367 shall, within 60 days after receiving such notice, submit any  
368 comments it may have in writing to the responsible public entity  
369 and indicate whether the facility is compatible with the local  
370 comprehensive plan, the local infrastructure development plans,  
371 the capital improvements budget, or other governmental spending  
372 plan. Such comments shall be given consideration by the  
373 responsible public entity before entering a comprehensive  
374 agreement with a private entity.

375 (8) INTERIM AGREEMENT.—Before, or in connection with, the  
376 negotiation of a comprehensive agreement, the responsible public  
377 entity may enter into an interim agreement with the private  
378 entity proposing the development or operation of the qualifying

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379 project. An interim agreement does not obligate the responsible  
380 public entity to enter into a comprehensive agreement. An  
381 interim agreement must be limited to provisions that:

382 (a) Authorize the private entity to commence activities  
383 for which it may be compensated related to the proposed  
384 qualifying project, including, but not limited to, project  
385 planning and development, design and engineering, environmental  
386 analysis and mitigation, surveys, or other activities concerning  
387 any part of the proposed qualifying project, and ascertaining  
388 the availability of financing for the proposed facility or  
389 facilities.

390 (b) Establish the process and timing of the negotiation of  
391 the comprehensive agreement.

392 (c) Contain any other provisions related to any aspect of  
393 the development or operation of a qualifying project which the  
394 responsible public entity and the private entity deem  
395 appropriate.

396 (9) COMPREHENSIVE AGREEMENT.—

397 (a) Before developing or operating the qualifying project,  
398 the private entity shall enter into a comprehensive agreement  
399 with the responsible public entity. The comprehensive agreement  
400 shall provide for:

401 1. Delivery of maintenance, performance, and payment bonds  
402 and letters of credit in connection with the development or  
403 operation of the qualifying project in the forms and amounts  
404 satisfactory to the responsible public entity. For those  
405 components of the qualifying project which involve construction,  
406 the form and amount of the bonds must comply with s. 255.05.

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407       2. Review of plans and specifications for the qualifying  
408 project by the responsible public entity and approval by the  
409 responsible public entity if the plans and specifications  
410 conform to standards acceptable to the responsible public  
411 entity. This subparagraph does not require the private entity to  
412 complete the design of a qualifying project before the execution  
413 of a comprehensive agreement.

414       3. Inspection of the qualifying project by the responsible  
415 public entity to ensure that the operator's activities are  
416 acceptable to the public entity in accordance with the  
417 comprehensive agreement.

418       4. Maintenance of a policy or policies of public liability  
419 insurance, copies of which shall be filed with the responsible  
420 public entity accompanied by proofs of coverage, or self-  
421 insurance, each in the form and amount satisfactory to the  
422 responsible public entity and reasonably sufficient to ensure  
423 coverage of tort liability to the public and employees and to  
424 enable the continued operation of the qualifying project.

425       5. Monitoring the practices of the private entity by the  
426 responsible public entity to ensure that the qualifying project  
427 is properly maintained.

428       6. Reimbursement to be paid to the responsible public  
429 entity for services provided by the responsible public entity.

430       7. Filing of appropriate financial statements on a  
431 periodic basis.

432       8. Procedures governing the rights and responsibilities of  
433 the responsible public entity and the private entity in the  
434 event the comprehensive agreement is terminated or there is a



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435 material default by the private entity. Such procedures must  
436 include conditions governing assumption of the duties and  
437 responsibilities of the private entity by the responsible public  
438 entity and the transfer or purchase of property or other  
439 interests of the private entity by the responsible public  
440 entity.

441 9. Fees, lease payments, or service payments as may be  
442 established by agreement of the parties. A copy of any service  
443 contract shall be filed with the responsible public entity. In  
444 negotiating user fees, the parties shall establish fees that are  
445 the same for persons using the facility under like conditions  
446 and that will not materially discourage use of the qualifying  
447 project. The execution of the comprehensive agreement or any  
448 amendment thereto constitutes conclusive evidence that the fees,  
449 lease payments, or service payments provided for comply with  
450 this section. Fees or lease payments established in the  
451 comprehensive agreement as a source of revenues may be in  
452 addition to, or in lieu of, service payments.

453 10. Duties of the private entity, including terms and  
454 conditions that the responsible public entity determine serve  
455 the public purpose of this section.

456 (b) The comprehensive agreement may include:

457 1. An agreement by the responsible public entity to make  
458 grants or loans to the private entity from amounts received from  
459 the federal, state, or local government or any agency or  
460 instrumentality thereof.

461 2. Provisions under which each entity agrees to provide  
462 notice of default and cure rights for the benefit of the other

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463 entity, including, but not limited to, provisions regarding  
464 unavoidable delays.

465 3. Provisions whereby the authority and duties of the  
466 private entity under this section will cease and the qualifying  
467 project be dedicated to the responsible public entity or, if the  
468 qualifying project was initially dedicated by an affected local  
469 jurisdiction, to such affected local jurisdiction for public  
470 use.

471 (10) FEES.-

472 (a) Agreements entered into pursuant to this section may  
473 authorize the private entity to impose fees for the use of the  
474 facility. The following provisions apply to such agreements:

475 1. The public-private partnership agreement must ensure  
476 that the facility is properly operated, maintained, and renewed  
477 in accordance with the responsible public entity's standards.

478 2. The responsible public entity may develop new  
479 facilities or increase capacity in existing facilities through  
480 public-private partnerships.

481 3. The responsible public entity may lease existing fee-  
482 for-use facilities through public-private partnerships.

483 4. Any revenues must be regulated by the responsible  
484 public entity pursuant to guidelines or rules established  
485 pursuant to subsection (3). The regulations governing the future  
486 increase of fees must be included in the public-private  
487 partnership agreement.

488 (b) The responsible public entity shall include provisions  
489 in the public-private partnership agreement which ensure that a  
490 negotiated portion of revenues from fee-generating projects are

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491 returned to the public entity over the life of the agreement. In  
492 the case of a lease of an existing facility, the responsible  
493 public entity shall receive a portion of funds upon closing on  
494 the agreements and also a portion of excess revenues over the  
495 life of the public-private partnership.

496 (11) FINANCING.-

497 (a) A private entity may enter into private-source  
498 financing agreements between financing sources and the private  
499 entity. All financing agreements and any liens on the property  
500 or facility must be paid in full at the applicable closing that  
501 transfers ownership of a facility to a responsible public  
502 entity.

503 (b) The responsible public entity may lend funds from its  
504 trust fund to private entities that construct projects  
505 containing facilities that are approved under this section. To  
506 be eligible, a private entity must comply with s. 215.97 and  
507 must provide an indication from a nationally recognized rating  
508 agency that the senior bonds for the project will be investment  
509 grade, or must provide credit support, such as a letter of  
510 credit or other means acceptable to the responsible public  
511 entity, to ensure that the loans will be fully repaid.

512 (c) The responsible public entity may use innovative  
513 finance techniques associated with a public-private partnership  
514 under this section, including, but not limited to, federal loans  
515 as provided in Titles 23 and 49 C.F.R., commercial bank loans,  
516 and hedges against inflation from commercial banks or other  
517 private sources. A responsible public entity may use the model  
518 financing agreement as provided in s. 489.145(6)

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519 for its financing of a facility owned by a responsible public  
520 entity. A financing agreement may not require the responsible  
521 public entity to indemnify the financing source, subject the  
522 responsible public entity's facility to liens in violation of s.  
523 11.066(5), or secure financing by a responsible public entity  
524 with a pledge of security interest, and any such provisions are  
525 void.

526 (12) POWERS AND DUTIES OF THE PRIVATE ENTITY.-

527 (a) The private entity shall:

528 1. Develop or operate the qualifying project in a manner  
529 that is acceptable to the responsible public entity in  
530 accordance with the provisions of an interim or comprehensive  
531 agreement.

532 2. Maintain, or provide by contract for the maintenance or  
533 upgrade of, the qualifying project if required by an interim or  
534 comprehensive agreement.

535 3. Cooperate with the responsible public entity in making  
536 best efforts to establish any interconnection with the  
537 qualifying project requested by the responsible public entity.

538 4. Comply with an interim or comprehensive agreement and  
539 any lease or service contract.

540 (b) Each private facility constructed pursuant to this  
541 section must comply with all requirements of federal, state, and  
542 local laws; state, regional, and local comprehensive plans;  
543 responsible public entity rules, procedures, and standards for  
544 facilities; and any other conditions that the responsible public  
545 entity determine to be in the public's best interest.

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546 (c) The responsible public entity may exercise any power  
547 possessed by it, including eminent domain, to facilitate the  
548 development and construction of projects pursuant to this  
549 section. The responsible public entity may provide services to  
550 the private entity. Agreements for maintenance and other  
551 services entered into pursuant to this section must provide for  
552 full reimbursement for services rendered for projects.

553 (d) A private entity of a qualifying project may provide  
554 additional services for the qualifying project to public or  
555 private entities other than the responsible public entity if the  
556 provision of additional service does not impair the private  
557 entity's ability to meet its commitments to the public entity  
558 pursuant to an interim or comprehensive agreement.

559 (13) EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon  
560 expiration or termination of an interim or comprehensive  
561 agreement, the responsible public entity may use revenues to pay  
562 current operation and maintenance costs of the qualifying  
563 project, as well as compensation to the responsible public  
564 entity for its services in developing and operating the  
565 qualifying project. Except as provided otherwise in the interim  
566 or comprehensive agreement, the right to receive such payment,  
567 if any, is considered just compensation for the qualifying  
568 project in the event termination is due to the default of the  
569 private entity; however, this right does not affect the right of  
570 the responsible public entity to terminate, with cause, an  
571 interim or comprehensive agreement and to exercise any other  
572 rights and remedies that may be available to it at law or in  
573 equity. The full faith and credit of the responsible public

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574 entity may not be pledged to secure any financing of the private  
575 entity by the election to take over the qualifying project.  
576 Assumption of the development or operation of the qualifying  
577 project does not obligate the responsible public entity to pay  
578 any obligation of the private entity from sources other than  
579 revenues.

580 (14) SOVEREIGN IMMUNITY.—This section does not waive the  
581 sovereign immunity of the state, any responsible public entity,  
582 any affected local jurisdiction, or any officer or employee  
583 thereof with respect to participation in, or approval of, all or  
584 any part of the qualifying project or its operation, including,  
585 but not limited to, interconnection of the qualifying project  
586 with any other infrastructure or project. Counties and  
587 municipalities in which a qualifying project is located possess  
588 sovereign immunity with respect to the project's design,  
589 construction, and operation.

590 (15) CONSTRUCTION.—This section shall be liberally  
591 construed to effectuate the purposes thereof.

592 (a) This section does not affect the authority of the  
593 responsible public entity to take action that would impact the  
594 debt capacity of the state.

595 (b) This section does not limit the state or its agencies  
596 in the acquisition, design, or construction of public projects  
597 pursuant to other statutory authority.

598 (c) Except as otherwise provided in this section, this  
599 section does not amend existing laws by granting additional  
600 powers to, or further restricting, local governmental entities  
601 from regulating and entering into cooperative arrangements with

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602 the private sector for the planning, construction, and operation  
603 of facilities.

604 Section 2. This act shall take effect July 1, 2012.

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**T I T L E A M E N D M E N T**

609

Remove the entire title and insert:

610

A bill to be entitled

611

An act relating to public-private partnerships;

612

creating s. 287.05712, F.S.; providing definitions;

613

providing legislative findings and intent relating to

614

the construction or upgrade of facilities by private

615

entities which are used predominately for a public

616

purpose; requiring public entities to develop and

617

adopt guidelines governing procedures and criteria for

618

the selection of projects and public-private

619

agreements; providing procurement procedures;

620

providing project-approval requirements; providing

621

project qualifications and process; providing for

622

notice to affected local jurisdictions; providing for

623

interim and comprehensive agreements between the

624

public and private entities; providing for use fees;

625

providing for private financing requirements;

626

providing powers and duties for private entities;

627

providing for expiration or termination of agreements;

628

providing for the applicability of sovereign immunity

629

for public entities with respect to qualified

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 337 (2012)

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630 | projects; providing for construction of the act;  
631 | providing an effective date.