

1                   A bill to be entitled  
2     An act relating to public-private partnerships;  
3     creating s. 287.05712, F.S.; establishing the Florida  
4     Public-Private Partnership Act; providing definitions;  
5     providing legislative findings and intent; providing  
6     for private entities to develop and operate public-  
7     purpose projects; requiring public entities to adopt  
8     and make publicly available specified guidelines for  
9     public-private agreements; providing requirements and  
10    procedures for procurement, consideration, and  
11    approval of projects; providing an exemption from the  
12    Consultant's Competitive Negotiation Act and any  
13    interpretations, regulations, or guidelines of the  
14    Department of Management Services; providing  
15    requirements and procedures for interim and  
16    comprehensive agreements between private and public  
17    entities; providing for affected local governments to  
18    comment on proposed projects; providing powers and  
19    duties for private entities; providing for material  
20    default and remedies with respect to projects and  
21    agreements; providing for federal, state, and local  
22    financing; providing sovereign immunity for public  
23    entities with respect to specified project activities;  
24    providing for construction and effect of the act;  
25    establishing the Public-Private Partnership Advisory  
26    Commission; providing commission duties; providing for  
27    appointment and reimbursement of commission members;  
28    requiring the commission to submit annual reports to

29 the Governor and the Legislature; providing an  
 30 effective date.

31  
 32 Be It Enacted by the Legislature of the State of Florida:

33  
 34 Section 1. Section 287.05712, Florida Statutes, is created  
 35 to read:

36 287.05712 Florida Public-Private Partnership Act.-

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

38 (a) "Affected local jurisdiction" means any county, city,  
 39 or town in which all or a portion of a qualifying project is  
 40 located.

41 (b) "Appropriating body" means the body responsible for  
 42 appropriating or authorizing funding to pay for a qualifying  
 43 project.

44 (c) "Comprehensive agreement" means the comprehensive  
 45 agreement between the private entity and the responsible public  
 46 entity.

47 (d) "Develop" or "development" means to plan, design,  
 48 develop, finance, lease, acquire, install, construct, or expand.

49 (e) "Interim agreement" means an agreement between a  
 50 private entity and a responsible public entity that provides for  
 51 phasing of the development or operation of a qualifying project.  
 52 Such phases may include, but are not limited to, design,  
 53 planning, engineering, environmental analysis and mitigation,  
 54 financial and revenue analysis, or any other phase of the  
 55 project that constitutes activity on any part of the qualifying  
 56 project.

57 (f) "Lease payment" means any form of payment, including a  
 58 land lease, by a public entity to the private entity for the use  
 59 of a qualifying project.

60 (g) "Material default" means any default by the private  
 61 entity in the performance of its duties that jeopardizes  
 62 adequate service to the public from a qualifying project.

63 (h) "Operate" means to finance, maintain, improve, equip,  
 64 modify, repair, or operate.

65 (i) "Private entity" means any natural person,  
 66 corporation, general partnership, limited liability company,  
 67 limited partnership, joint venture, business trust, public  
 68 benefit corporation, nonprofit entity, or other private business  
 69 entity.

70 (j) "Proposal" means a detailed proposal accepted by a  
 71 responsible public entity beyond a conceptual level of review  
 72 and at which time issues such as fixing costs, payment  
 73 schedules, financing, deliverables, and project schedule are  
 74 defined.

75 (k) "Public entity" means the state and any agency or  
 76 authority thereof; any county, city, or town and any other  
 77 political subdivision of the state; any public body politic and  
 78 corporate; or any regional entity that serves a public purpose.

79 (l) "Qualifying project" means any:  
 80 1. Public-purpose facility or project, including, but not  
 81 limited to, a public school building and any functionally  
 82 related and subordinate facility, including any stadium or other  
 83 facility primarily used for school events.

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

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

88 4. Water or wastewater management facility and other  
 89 related infrastructure.

90 (m) "Responsible public entity" means an agency or  
 91 institution of the state that has the authority to develop or  
 92 operate a qualifying project.

93 (n) "Revenues" means all revenues, income, earnings, user  
 94 fees, lease payments, or other service payments relating to the  
 95 development or operation of a qualifying project, including, but  
 96 not limited to, money received as grants or otherwise from the  
 97 Federal Government, from any public entity, or from any agency  
 98 or instrumentality of the foregoing in aid of a qualifying  
 99 project.

100 (o) "Service contract" means a contract entered into  
 101 between a public entity and the private entity.

102 (p) "Service payments" means payments to the private  
 103 entity of a qualifying project pursuant to a service contract.

104 (q) "User fees" means the rates, tolls, fees, or other  
 105 charges imposed by the private entity of a qualifying project  
 106 for use of all or a portion of such qualifying project pursuant  
 107 to a comprehensive agreement.

108 (r) "Water or wastewater management facility" means a  
 109 project for treatment, storage, disposal, or distribution of  
 110 water or wastewater.

111 (2) LEGISLATIVE FINDINGS AND INTENT.-

112       (a) The Legislature finds that:  
 113       1. There is a public need for timely and cost-effective  
 114 acquisition, design, construction, improvement, renovation,  
 115 expansion, equipping, maintenance, operation, implementation, or  
 116 installation of public projects, including educational  
 117 facilities, water or wastewater management facilities and  
 118 infrastructure, technology infrastructure, and any other public  
 119 infrastructure and government facilities within the state that  
 120 serve a public need and purpose, and that such public need may  
 121 not be wholly satisfied by existing methods of procurement.  
 122       2. There are inadequate resources to develop new  
 123 educational facilities, water or wastewater management  
 124 facilities and infrastructure, technology infrastructure and  
 125 other public infrastructure and government facilities for the  
 126 benefit of citizens of the state, and it has been demonstrated  
 127 that public-private partnerships can meet these needs by  
 128 improving the schedule for delivery, lowering the cost, and  
 129 providing other benefits to the public.  
 130       3. There are state and federal tax incentives that promote  
 131 partnerships between public and private entities to operate and  
 132 develop qualifying projects.  
 133       4. An action under subsection (4) serves the public  
 134 purpose of this section if such action facilitates the timely  
 135 development or operation of qualifying projects.  
 136       (b) The Legislature declares it is the intent of this  
 137 section to encourage investment in the state by private  
 138 entities, to facilitate various bond financing mechanisms,  
 139 private capital, and other funding sources for the development

140 and operation of qualifying projects, including expansion and  
 141 acceleration of such financing to meet the public need, and to  
 142 provide the greatest possible flexibility to public and private  
 143 entities to contract for the provision of public services.

144 (3) ADOPTION OF GUIDELINES BY RESPONSIBLE PUBLIC  
 145 ENTITIES.—

146 (a) A responsible public entity shall, before requesting  
 147 or considering a proposal for a qualifying project, adopt and  
 148 make publicly available guidelines that are sufficient to enable  
 149 the responsible public entity to comply with this section. Such  
 150 guidelines shall be reasonable, encourage competition, and guide  
 151 the selection of projects under the purview of the responsible  
 152 public entity.

153 (b) For a responsible public entity that is an agency or  
 154 institution of the state, the guidelines shall include, but are  
 155 not limited to:

156 1. Opportunities for competition through public notice and  
 157 availability of representatives of the responsible public entity  
 158 to meet with private entities considering a proposal.

159 2. Reasonable criteria for choosing among competing  
 160 proposals.

161 3. Suggested timelines for selecting proposals and  
 162 negotiating an interim or comprehensive agreement.

163 4. Authorization for accelerated selection and review and  
 164 documentation timelines for proposals involving a qualifying  
 165 project that the responsible public entity deems a priority.

166 5. Financial review and analysis procedures that shall  
 167 include, at a minimum, a cost-benefit analysis, an assessment of

168 opportunity cost, and consideration of the results of all  
169 studies and analyses related to the proposed qualifying project.  
170 These procedures shall also include requirements for the  
171 disclosure of such analysis to the appropriating body for review  
172 prior to execution of an interim or comprehensive agreement.

173 6. Consideration of the nonfinancial benefits of a  
174 proposed qualifying project.

175 7. A mechanism for the appropriating body to review a  
176 proposed interim or comprehensive agreement prior to execution.

177 8. Establishment of criteria for the creation of and the  
178 responsibilities of a public-private partnership oversight  
179 committee with members representing the responsible public  
180 entity and the appropriating body. Such criteria shall include  
181 the scope, costs, and duration of the qualifying project, as  
182 well as whether the project involves or impacts multiple public  
183 entities. The oversight committee, if formed, shall be an  
184 advisory committee to review the terms of any proposed interim  
185 or comprehensive agreement.

186 9. Analysis of the adequacy of the information released  
187 when seeking competing proposals and providing for the  
188 enhancement of that information, if deemed necessary, to  
189 encourage competition.

190 10. Establishment of criteria, key decision points, and  
191 approvals required to ensure that the responsible public entity  
192 considers the extent of competition before selecting proposals  
193 and negotiating an interim or comprehensive agreement.

194 11. The posting and publishing of public notice of a  
195 private entity's request for approval of a qualifying project,  
196 including:

197 a. Specific information and documentation to be released  
198 regarding the nature, timing, and scope of the qualifying  
199 project.

200 b. A reasonable time period as determined by the  
201 responsible public entity to encourage competition and public-  
202 private partnerships in accordance with the goals of this  
203 section, such reasonable period to be at least 45 days, during  
204 which time the responsible public entity shall receive competing  
205 proposals.

206 c. A requirement for advertising the public notice and  
207 posting a notice on the Internet.

208 (c) For a responsible public entity that is not an agency  
209 or institution of the state, the guidelines may include the  
210 provisions set forth in this subsection at the discretion of the  
211 public entity. However, the guidelines shall include:

212 1. A requirement that the responsible public entity engage  
213 the services of qualified professionals, which may include an  
214 architect, professional engineer, or certified public  
215 accountant, not otherwise employed by the responsible public  
216 entity, to provide an independent analysis regarding the  
217 specifics, advantages, disadvantages, and the long and short-  
218 term costs of any request by a private entity for approval of a  
219 qualifying project unless the governing body of the responsible  
220 public entity determines that such analysis shall be performed  
221 by employees of the responsible public entity.

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222 2. A mechanism for the appropriating body to review a  
223 proposed interim or comprehensive agreement prior to execution.

224 (4) PROCUREMENT PROCEDURES FOR RESPONSIBLE PUBLIC  
225 ENTITIES.—The Consultant's Competitive Negotiation Act under s.  
226 287.055 and any interpretations, regulations, or guidelines of  
227 the Department of Management Services do not apply to this  
228 section. However, a responsible public entity may enter into an  
229 interim or comprehensive agreement as follows:

230 (a) A responsible public entity shall not be required to  
231 select the proposal with the lowest bid offer, but may consider  
232 price as one factor in evaluating the proposals received. Other  
233 factors that may be considered include:

234 1. The proposed costs of the qualifying facility.

235 2. The general reputation, industry experience, and  
236 financial capacity of the private entity.

237 3. The proposed design of the qualifying project.

238 4. The eligibility of the facility for accelerated  
239 selection, review, and documentation timelines under the  
240 responsible public entity's compliance with a minority business  
241 enterprise participation plan or good faith effort to comply  
242 with the goals of such plan.

243 5. The private entity's plans to employ local contractors  
244 and residents.

245 6. Other criteria that the responsible public entity deems  
246 appropriate.

247 (b) A responsible public entity shall proceed in  
248 accordance with the guidelines adopted under subsection (3)  
249 unless it determines that proceeding in accordance with the

250 guidelines is likely to be advantageous to the responsible  
 251 public entity and the public, based on:

252 1. The probable scope, complexity, or priority of the  
 253 project.

254 2. Risk sharing, including guaranteed cost or completion  
 255 guarantees, added value or debt, or equity investments proposed  
 256 by the private entity.

257 3. An increase in funding, dedicated revenue source, or  
 258 other economic benefit that would not otherwise be available.

259  
 260 When the responsible public entity determines to proceed  
 261 according to the guidelines adopted by it pursuant to subsection  
 262 (3), it shall state the reasons for its determination in  
 263 writing.

264 (c) A responsible public entity shall not proceed to  
 265 consider any request by a private entity for approval of a  
 266 qualifying project until the responsible public entity has  
 267 adopted and made publicly available guidelines that are  
 268 sufficient to enable the responsible public entity to comply  
 269 with this section.

270 (d) A responsible public entity that is a school board or  
 271 a county, city, or town may enter into an interim or  
 272 comprehensive agreement under this section only with the  
 273 approval of the local governing body.

274 (5) CONSIDERATION AND APPROVAL OF QUALIFYING PROJECTS.—

275 (a) A responsible public entity may request proposals or  
 276 invite bids from private entities for the development or  
 277 operation of qualifying projects pursuant to the public notice

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278 and procurement provisions of this section. A private entity may  
279 request the approval of the responsible public entity for a  
280 qualifying project.

281 (b) A request by a private entity for approval of a  
282 qualifying project shall be accompanied by the following  
283 material and information unless waived by the responsible public  
284 entity:

285 1. A topographic map with a scale of 1:2,000 or other  
286 appropriate scale indicating the location of the qualifying  
287 project.

288 2. A description of the qualifying project, including the  
289 conceptual design of such facility or facilities or a conceptual  
290 plan for the provision of services, and a schedule for the  
291 initiation of and completion of the qualifying project to  
292 include the proposed major responsibilities and timeline for  
293 activities to be performed by both the public and private  
294 entity.

295 3. A statement setting forth the method by which the  
296 private entity proposes to secure any necessary property  
297 interests required for the qualifying project.

298 4. Information relating to the current plans for  
299 development of facilities or technology infrastructure to be  
300 used by a public entity that is similar to the qualifying  
301 project being proposed by the private entity, if any, of each  
302 affected local jurisdiction.

303 5. A list of all permits and approvals required for the  
304 qualifying project from local, state, or federal agencies and a  
305 projected schedule for obtaining such permits and approvals.

306 6. A list of public water or wastewater management  
307 facilities, if any, that will be crossed by the qualifying  
308 project and a statement of the plans of the private entity to  
309 accommodate such crossings.

310 7. A statement setting forth the private entity's general  
311 plans for financing the qualifying project, including the  
312 sources of the private entity's funds and identification of any  
313 dedicated revenue source or proposed debt or equity investment  
314 on the behalf of the private entity.

315 8. The names and addresses of the persons who may be  
316 contacted for further information concerning the request.

317 9. User fees, lease payments, and other service payment  
318 over the term of an interim or comprehensive agreement and the  
319 methodology and circumstances for changes to such user fees,  
320 lease payments, and other service payments over time.

321 10. Additional material and information as the responsible  
322 public entity may reasonably request.

323 (c) Upon receipt of a proposal to develop or operate a  
324 qualifying project, the responsible public entity shall  
325 determine whether to accept the proposal for consideration. The  
326 responsible public entity may reject any proposal initiated by a  
327 private entity at any time. If the responsible public entity  
328 determines not to accept the proposal for consideration, the  
329 responsible public entity shall return the proposal to the  
330 private entity, including all fees and accompanying  
331 documentation.

332 (d) The responsible public entity may approve the  
333 development or operation of an education facility, a water or

334 wastewater management facility and related infrastructure,  
335 technology infrastructure or other public infrastructure, or a  
336 government facility needed by a public entity as a qualifying  
337 project, or the design or equipping of a qualifying project so  
338 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 (e) In evaluating any request, the responsible public  
349 entity may rely upon internal staff reports prepared by  
350 personnel familiar with the operation of similar facilities or  
351 the advice of external advisors or consultants having relevant  
352 experience.

353 (f) The responsible public entity may charge a reasonable  
354 fee to cover the costs of processing, reviewing, and evaluating  
355 the request, including, but not limited to, reasonable attorney  
356 fees and fees for financial, technical, and other necessary  
357 advisors or consultants.

358 (g) Upon approval of a qualifying project, the responsible  
359 public entity shall establish a date for the commencement of  
360 activities related to the qualifying project. The responsible  
361 public entity may extend such date.

362        (h) Approval of a qualifying project by the responsible  
 363 public entity is subject to entering into a comprehensive  
 364 agreement with the private entity.

365        (6) INTERIM AGREEMENT.—Before or in connection with the  
 366 negotiation of a comprehensive agreement, the responsible public  
 367 entity may enter into an interim agreement with the private  
 368 entity proposing the development or operation of the qualifying  
 369 project. The interim agreement may:

370            (a) Permit the private entity to commence activities for  
 371 which it may be compensated related to the proposed qualifying  
 372 project, including, but not limited to, project planning and  
 373 development, design and engineering, environmental analysis and  
 374 mitigation, survey, and ascertaining the availability of  
 375 financing for the proposed facility or facilities.

376            (b) Establish the process and timing of the negotiation of  
 377 the comprehensive agreement.

378            (c) Contain any other provisions related to any aspect of  
 379 the development or operation of a qualifying project that the  
 380 responsible public entity and the private entity deem  
 381 appropriate.

382        (7) COMPREHENSIVE AGREEMENT.—

383            (a) Before developing or operating the qualifying project,  
 384 the private entity shall enter into a comprehensive agreement  
 385 with the responsible public entity. The comprehensive agreement  
 386 shall provide for:

387            1. Delivery of maintenance, performance, and payment bonds  
 388 and letters of credit in connection with the development or  
 389 operation of the qualifying project, in the forms and amounts

390 satisfactory to the responsible public entity for those  
391 components of the qualifying project that involve construction.

392 2. Review of plans and specifications for the qualifying  
393 project by the responsible public entity and approval by the  
394 responsible public entity if the plans and specifications  
395 conform to standards acceptable to the responsible public  
396 entity. This subparagraph does not require the private entity to  
397 complete the design of a qualifying project prior to the  
398 execution of a comprehensive agreement.

399 3. Inspection of the qualifying project by the responsible  
400 public entity to ensure that the operator's activities are  
401 acceptable to the responsible public entity in accordance with  
402 the provisions of the comprehensive agreement.

403 4. Maintenance of a policy or policies of public liability  
404 insurance, copies of which shall be filed with the responsible  
405 public entity accompanied by proofs of coverage, and self-  
406 insurance, each in the form and amount satisfactory to the  
407 responsible public entity and reasonably sufficient to insure  
408 coverage of tort liability to the public and employees and to  
409 enable the continued operation of the qualifying project.

410 5. Monitoring the practices of the private entity by the  
411 responsible public entity to ensure that the qualifying project  
412 is properly maintained.

413 6. Reimbursement to be paid to the responsible public  
414 entity for services provided by the responsible public entity.

415 7. Filing of appropriate financial statements on a  
416 periodic basis.

417 8. Policies and procedures governing the rights and  
418 responsibilities of the responsible public entity and the  
419 private entity in the event the comprehensive agreement is  
420 terminated or there is a material default by the private entity.  
421 Such policies and guidelines shall include conditions governing  
422 assumption of the duties and responsibilities of the private  
423 entity by the responsible public entity and the transfer or  
424 purchase of property or other interests of the private entity by  
425 the responsible public entity.

426 9. User fees, lease payments, or service payments as may  
427 be established by agreement of the parties. A copy of any  
428 service contract shall be filed with the responsible public  
429 entity. In negotiating user fees under this subsection, the  
430 parties shall establish payments or fees that are the same for  
431 persons using the facility under like conditions and that will  
432 not materially discourage use of the qualifying project. The  
433 execution of the comprehensive agreement or any amendment  
434 thereto shall constitute conclusive evidence that the user fees,  
435 lease payments, or service payments provided for comply with  
436 this section. User fees or lease payments established in the  
437 comprehensive agreement as a source of revenues may be in  
438 addition to, or in lieu of, service payments.

439 10. Duties of the private entity, including terms and  
440 conditions that the responsible public entity determines serve  
441 the public purpose of this section.

442 (b) The comprehensive agreement may include:

443 1. An agreement by the responsible public entity to make  
444 grants or loans to the private entity from amounts received from

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445 the federal, state, or local government or any agency or  
446 instrumentality thereof.

447 2. Provisions under which the responsible public entity  
448 agrees to provide notice of default and cure rights for the  
449 benefit of the private entity and the persons specified therein  
450 as providing financing for the qualifying project, including  
451 terms and conditions to which the private entity and the  
452 responsible public entity mutually agree, including but limited  
453 to, provisions regarding unavoidable delays or a loan of public  
454 funds to the private entity to develop or operate one or more  
455 qualifying projects.

456 3. Provisions where the authority and duties of the  
457 private entity under this section shall cease, and the  
458 qualifying project is dedicated to the responsible public entity  
459 or, if the qualifying project was initially dedicated by an  
460 affected local jurisdiction, to such affected local jurisdiction  
461 for public use.

462 (c) Any changes in the terms of the comprehensive  
463 agreement, as agreed upon by the responsible public entity and  
464 the private entity, shall be added to the comprehensive  
465 agreement by written amendment.

466 (d) The comprehensive agreement may provide for the  
467 development or operation of phases or segments of the qualifying  
468 project.

469 (8) AFFECTED LOCAL JURISDICTIONS.—

470 (a) Any private entity requesting approval from, or  
471 submitting a proposal to, a responsible public entity shall  
472 notify each affected local jurisdiction by furnishing a copy of

473 its request or proposal to each affected local jurisdiction.

474 (b) Each affected local jurisdiction that is not a  
475 responsible public entity for the respective qualifying project  
476 shall, within 60 days after receiving such notice, submit any  
477 comments it may have in writing on the proposed qualifying  
478 project to the responsible public entity and indicate whether  
479 the facility is compatible with the local comprehensive plan,  
480 local infrastructure development plans, the capital improvements  
481 budget, or other government spending plan. Such comments shall  
482 be given consideration by the responsible public entity before  
483 entering a comprehensive agreement with a private entity.

484 (9) POWERS AND DUTIES OF THE PRIVATE ENTITY.—

485 (a) The private entity has all power allowed by law  
486 generally to a private entity having the same form of  
487 organization as the private entity and shall have the power to  
488 develop or operate the qualifying project and collect lease  
489 payments, impose user fees, or enter into service contracts in  
490 connection with use thereof.

491 (b) The private entity may own, lease, or acquire any  
492 other right to use or operate the qualifying project.

493 (c) Any financing of the qualifying project may be in such  
494 amounts and upon such terms and conditions as may be determined  
495 by the private entity. Without limiting the generality of the  
496 foregoing, the private entity may issue debt, equity, or other  
497 securities or obligations; enter into sale and leaseback  
498 transactions; and secure any financing with a pledge of,  
499 security interest in, or lien on any or all of its property,

500 including all of its property interests in the qualifying  
501 project.

502 (d) In operating the qualifying project, the private  
503 entity may make classifications according to reasonable  
504 categories for assessment of user fees and, with the consent of  
505 the responsible public entity, make and enforce reasonable rules  
506 to the same extent that the responsible public entity may make  
507 and enforce rules with respect to similar facilities.

508 (e) The private entity shall:

509 1. Develop or operate the qualifying project in a manner  
510 that is acceptable to the responsible public entity, all in  
511 accordance with the provisions of an interim or comprehensive  
512 agreement.

513 2. Maintain, or provide by contract for the maintenance or  
514 upgrade of the qualifying project, if required by an interim or  
515 comprehensive agreement.

516 3. Cooperate with the responsible public entity in making  
517 best efforts to establish any interconnection with the  
518 qualifying project requested by the responsible public entity.

519 4. Comply with the provisions of an interim or  
520 comprehensive agreement and any lease or service contract.

521 (f) A private entity of a qualifying project is not  
522 prohibited from providing additional services for the qualifying  
523 project to public or private entities other than the responsible  
524 public entity so long as the provision of additional service  
525 does not impair the private entity's ability to meet its  
526 commitments to the responsible public entity pursuant to an  
527 interim or comprehensive agreement.

528 (10) MATERIAL DEFAULT; REMEDIES.—

529 (a) In the event of a material default by the private  
530 entity, the responsible public entity may elect to assume the  
531 responsibilities and duties of the private entity of the  
532 qualifying project, and in such case, it shall succeed to all of  
533 the right, title, and interest in such qualifying project,  
534 subject to any liens on revenues previously granted by the  
535 private entity to any person providing financing thereof.

536 (b) Any responsible public entity having the power of  
537 condemnation under state law may exercise such power of  
538 condemnation to acquire the qualifying project in the event of a  
539 material default by the private entity. Any person who has  
540 provided financing for the qualifying project, and the private  
541 entity, to the extent of its capital investment, may participate  
542 in the condemnation proceedings with the standing of a property  
543 owner.

544 (c) The responsible public entity may terminate, with  
545 cause, an interim or comprehensive agreement and exercise any  
546 other rights and remedies that may be available to it at law or  
547 in equity.

548 (d) The responsible public entity may make or cause to be  
549 made any appropriate claims under the maintenance, performance,  
550 or payment bonds, or lines of credit.

551 (e) In the event the responsible public entity elects to  
552 take over a qualifying project, the responsible public entity  
553 may develop or operate the qualifying project, impose user fees,  
554 impose and collect lease payments for the use thereof and comply  
555 with any service contracts as if it were the private entity. Any

556 revenues that are subject to a lien shall be collected for the  
557 benefit of and paid to secured parties, as their interests may  
558 appear, to the extent necessary to satisfy the private entity's  
559 obligations to secured parties, including the maintenance of  
560 reserves. Such liens shall be correspondingly reduced and, when  
561 paid off, released. Before any payments to, or for the benefit  
562 of, secured parties, the responsible public entity may use  
563 revenues to pay current operation and maintenance costs of the  
564 qualifying project, including compensation to the responsible  
565 public entity for its services in developing and operating the  
566 qualifying project. The right to receive such payment, if any,  
567 shall be considered just compensation for the qualifying  
568 project. The full faith and credit of the responsible public  
569 entity shall not be pledged to secure any financing of the  
570 private entity by the election to take over the qualifying  
571 project. Assumption of the development or operation of the  
572 qualifying project shall not obligate the responsible public  
573 entity to pay any obligation of the private entity from sources  
574 other than revenues.

575 (11) FEDERAL, STATE, AND LOCAL FINANCING.—

576 (a) Any financing of a qualifying project may be in such  
577 amounts and upon such terms and conditions as determined by an  
578 interim or comprehensive agreement between the responsible  
579 public entity and the private entity. Without limiting the  
580 generality of the terms and conditions of the financing, the  
581 private entity and the responsible public entity may propose to  
582 use any and all funding resources that may be available and may,  
583 to the fullest extent permitted by applicable law, issue debt,

584 equity, or other securities or obligations; enter into leases;  
585 access any designed trust funds; borrow or accept grants from  
586 any state infrastructure bank; and secure any financing with a  
587 pledge of, security interest in, or lien on, any or all of its  
588 property, including all of its property interests in the  
589 qualifying facility.

590 (b) The responsible public entity may take any action to  
591 obtain federal, state, or local assistance for a qualifying  
592 project that serves the public purpose of this section and may  
593 enter into any contracts required to receive such assistance. If  
594 the responsible public entity is a state agency, any funds  
595 received from the state or federal government or any agency or  
596 instrumentality thereof shall be subject to appropriation by the  
597 Legislature. The responsible public entity may determine that it  
598 serves the public purpose of this section for all or any portion  
599 of the costs of a qualifying project to be paid, directly or  
600 indirectly, from the proceeds of a grant or loan made by the  
601 local, state, or federal government or any agency or  
602 instrumentality thereof.

603 (12) SOVEREIGN IMMUNITY.—This section does not waive the  
604 sovereign immunity of the state, any responsible public entity,  
605 any affected local jurisdiction, or any officer or employee  
606 thereof with respect to the participation in, or approval of all  
607 or any part of the qualifying project or its operation,  
608 including, but not limited to, interconnection of the qualifying  
609 project with any other infrastructure or project. Counties,  
610 cities, and towns in which a qualifying project is located

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611 possess sovereign immunity with respect to the project's design,  
612 construction, and operation.

613 (13) CONSTRUCTION AND EFFECT.-This section shall be  
614 liberally construed to effectuate the purposes thereof. This  
615 section does not affect the authority of the responsible public  
616 entity to take action that would impact the debt capacity of the  
617 state.

618 (14) PUBLIC-PRIVATE PARTNERSHIP ADVISORY COMMISSION.-

619 (a) The Public-Private Partnership Advisory Commission is  
620 established to review the implementation of this section and to  
621 provide recommendations for any revisions necessary to further  
622 support public-private partnership opportunities in the state.

623 (b) The commission shall consist of 12 members, as  
624 follows:

625 1. Two members of the House of Representatives, appointed  
626 by the Speaker of the House of Representatives.

627 2. Two members of the Senate, appointed by the President  
628 of the Senate.

629 3. Eight members appointed by the Governor, as follows:

630 a. Four local government officials.

631 b. Two state agency representatives.

632 c. Two representatives of the private sector.

633  
634 All terms are for 4 years, except those members of the House of  
635 Representatives and Senate, who shall serve on the commission  
636 until the expiration of their terms of office or until their  
637 successors qualify.

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638 (c) The members of the commission shall elect a  
639 chairperson and a vice-chairperson. The commission shall hold  
640 public meetings at least quarterly or upon the call of the  
641 chairperson. A majority of the commission constitutes a quorum.

642 (d) Members of the commission are entitled to receive per  
643 diem and travel expenses as provided in s. 112.061.

644 (e) Administrative staff support shall be provided by the  
645 Executive Office of the Governor, as appropriate.

646 (f) A copy of the minutes from each commission meeting  
647 shall be provided to and maintained by the Governor, the  
648 President of Senate, and the Speaker of the House of  
649 Representatives.

650 (g) Beginning on December 13, 2013, and each year  
651 thereafter, the commission shall submit a report providing  
652 comments on the implementation of this section and  
653 recommendations for future revisions to the Governor, the  
654 President of the Senate, and the Speaker of the House of  
655 Representatives.

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