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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/07/2012	.	
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The Committee on Budget (Bennett) recommended the following:

Senate Amendment (with title amendment)

Between lines 444 and 445
insert:

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

287.05712 Public-private partnerships.-

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

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

(b) "Appropriating body" means the body responsible for
appropriating or authorizing funding to pay for a qualifying



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14 project.

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

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

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

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

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

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

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

37 (j) "Qualifying project" means any:

38 1. Public-purpose facility or project, including, but not
39 limited to, any ferry, mass transit facility, vehicle parking
40 facility, port facility, power generation facility, fuel supply
41 facility, oil or gas pipeline, medical or nursing care facility,
42 or recreational facility used primarily for events.



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

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

47 4. Water, wastewater, or surface water management facility
48 and other related infrastructure.

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

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

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

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

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

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



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72 construction or upgrade of such facilities.

73 (a) The Legislature also finds that:

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

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

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

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

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



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

105 (3) ADOPTION OF GUIDELINES.-

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

112 (b) The guidelines must include:

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

116 2. Reasonable criteria for choosing among competing
117 proposals.

118 3. Suggested timelines for selecting proposals and
119 negotiating an interim or comprehensive agreement.

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

123 5. Procedures for financial review and analysis which, at a
124 minimum, include a cost-benefit analysis, an assessment of
125 opportunity cost, and consideration of the results of all
126 studies and analyses related to the proposed qualifying project.

127 The procedures must also include requirements for disclosing
128 such analysis to the appropriating body for review before the
129 execution of an interim or comprehensive agreement.



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130 6. Consideration of the nonfinancial benefits of a proposed
131 qualifying project.

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

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

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

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

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

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

156 b. A reasonable time period, as determined by the
157 responsible public entity, of at least 45 days, which encourages
158 competition and public-private partnerships in accordance with



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159 the goals of this section, during which time the responsible
160 public entity is to receive competing proposals.

161 c. A requirement for advertising the public notice and
162 posting the notice on the Internet.

163 12. A requirement that the responsible public entity engage
164 the services of qualified professionals, which may include a
165 Florida-registered professional or a certified public
166 accountant, not otherwise employed by the responsible public
167 entity, to provide an independent analysis regarding the
168 specifics, advantages, disadvantages, and long-term and short-
169 term costs of a request by a private entity for approval of a
170 qualifying project, unless the governing body of the public
171 entity determines that such analysis should be performed by
172 employees of the public entity. Professional services as defined
173 in s. 287.055(2)(a) shall be engaged pursuant to s. 287.055.

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

180 (a) A responsible public entity may not consider any
181 request by a private entity for approval of a qualifying project
182 until the responsible public entity has adopted, or incorporated
183 and made publicly available, in accordance with subsection (3),
184 guidelines that enable the responsible public entity to comply
185 with this section.

186 (b) By rule, ordinance, or guideline as applicable, the
187 responsible public entity shall establish an application fee for



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188 the submission of unsolicited proposals under this section. The
189 fee must be sufficient to pay the costs of evaluating the
190 proposal. The responsible public entity may engage the services
191 of private consultants to assist in the evaluation.

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

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

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

- 208 1. Is in the public's best interest;
- 209 2. Is for a facility that is owned by the responsible
210 public entity or for a facility for which ownership will be
211 conveyed to the responsible public entity;
- 212 3. Has adequate safeguards in place to ensure that
213 additional costs or service disruptions would not be imposed on
214 the public and residents of the state in the event of default or
215 cancellation of the agreement by the public entity;
- 216 4. Has adequate safeguards in place to ensure that the



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217 responsible public entity or the private entity has the
218 opportunity to add capacity to the proposed project and other
219 facilities serving similar predominantly public purposes; and

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

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

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

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

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

245 (a) A topographic map with a scale of 1:2,000 or other



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246 appropriate scale indicating the location of the qualifying
247 project.

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

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

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

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

265 (f) A list of public water or wastewater management
266 facilities, if any, which will be crossed by the qualifying
267 project and a statement of the plans of the private entity to
268 accommodate such crossings.

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

274 (h) The names and addresses of persons who may be contacted



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275 for further information concerning the request.

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

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

282 (6) PROJECT QUALIFICATION AND PROCESS.—

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

291 (b) The responsible public entity must ensure that
292 procurement documents include provisions for the private
293 entity's performance and payment of subcontractors, including,
294 but not limited to, surety bonds, letters of credit, parent
295 company guarantees, and lender and equity partner guarantees.
296 For those components of the qualifying project which involve
297 construction, performance and payment bonds are required and are
298 subject to the recordation, notice, suit limitation, and other
299 requirements of s. 255.05. The responsible public entity shall
300 balance the structure of the security package for the public-
301 private partnership which ensures performance and payment of
302 subcontractors with the cost of the security to ensure the most
303 efficient pricing. The procurement documents must contain



304 contract provisions addressing termination, default, and exit
305 transition obligations of the private entity.

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

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

- 329 1. Before the procurement process; and
330 2. Before awarding the contract.

331 (e) The responsible public entity may approve the
332 development or operation of an educational facility, a water or



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333 wastewater management facility and related infrastructure,
334 technology infrastructure or other public infrastructure, or a
335 governmental facility needed by the public entity as a
336 qualifying project, or the design or equipping of a qualifying
337 project so developed or operated, if:

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

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

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

347 (f) The responsible public entity may charge a reasonable
348 fee to cover the costs of processing, reviewing, and evaluating
349 the request, including, but not limited to, reasonable attorney
350 fees and fees for financial, technical, and other necessary
351 advisors or consultants.

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

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

359 (7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.—

360 (a) Any private entity requesting approval from, or
361 submitting a proposal to, a responsible public entity must



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362 notify each affected local jurisdiction by furnishing a copy of
363 its request or proposal to each affected local jurisdiction.

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

374 (8) INTERIM AGREEMENT.—Before, or in connection with, the
375 negotiation of a comprehensive agreement, the responsible public
376 entity may enter into an interim agreement with the private
377 entity proposing the development or operation of the qualifying
378 project. An interim agreement does not obligate the responsible
379 public entity to enter into a comprehensive agreement. An
380 interim agreement must be limited to provisions that:

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

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



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

395 (9) COMPREHENSIVE AGREEMENT.—

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

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

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

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

417 4. Maintenance of a policy or policies of public liability
418 insurance, copies of which shall be filed with the responsible
419 public entity accompanied by proofs of coverage, or self-



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420 insurance, each in the form and amount satisfactory to the
421 responsible public entity and reasonably sufficient to ensure
422 coverage of tort liability to the public and employees and to
423 enable the continued operation of the qualifying project.

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

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

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

431 8. Procedures governing the rights and responsibilities of
432 the responsible public entity and the private entity in the
433 event the comprehensive agreement is terminated or there is a
434 material default by the private entity. Such procedures must
435 include conditions governing assumption of the duties and
436 responsibilities of the private entity by the responsible public
437 entity and the transfer or purchase of property or other
438 interests of the private entity by the responsible public
439 entity.

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



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449 this section. Fees or lease payments established in the
450 comprehensive agreement as a source of revenues may be in
451 addition to, or in lieu of, service payments.

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

455 (b) The comprehensive agreement may include:

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

460 2. Provisions under which each entity agrees to provide
461 notice of default and cure rights for the benefit of the other
462 entity, including, but not limited to, provisions regarding
463 unavoidable delays.

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

470 (10) FEES.—

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

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

477 2. The responsible public entity may develop new facilities



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478 or increase capacity in existing facilities through public-
479 private partnerships.

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

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

487 (b) The responsible public entity shall include provisions
488 in the public-private partnership agreement which ensure that a
489 negotiated portion of revenues from fee-generating projects are
490 returned to the public entity over the life of the agreement. In
491 the case of a lease of an existing facility, the responsible
492 public entity shall receive a portion of funds upon closing on
493 the agreements and also a portion of excess revenues over the
494 life of the public-private partnership.

495 (11) FINANCING.—

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

502 (b) The responsible public entity may lend funds from its
503 trust fund to private entities that construct projects
504 containing facilities that are approved under this section. To
505 be eligible, a private entity must comply with s. 215.97 and
506 must provide an indication from a nationally recognized rating



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507 agency that the senior bonds for the project will be investment
508 grade, or must provide credit support, such as a letter of
509 credit or other means acceptable to the responsible public
510 entity, to ensure that the loans will be fully repaid.

511 (c) The responsible public entity may use innovative
512 finance techniques associated with a public-private partnership
513 under this section, including, but not limited to, federal loans
514 as provided in 23 and 49 C.F.R., commercial bank loans, and
515 hedges against inflation from commercial banks or other private
516 sources. A responsible public entity may use the model financing
517 agreement as provided in s. 489.145(6) for its financing of a
518 facility owned by a responsible public entity. A financing
519 agreement may not require the responsible public entity to
520 indemnify the financing source, subject the responsible public
521 entity's facility to liens in violation of s. 11.066(5), or
522 secure financing by a responsible public entity with a pledge of
523 security interest, and any such provisions are void.

524 (12) POWERS AND DUTIES OF THE PRIVATE ENTITY.—

525 (a) The private entity shall:

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

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

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



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536 4. Comply with an interim or comprehensive agreement and
537 any lease or service contract.

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

544 (c) The responsible public entity may provide services to
545 the private entity. Agreements for maintenance and other
546 services entered into pursuant to this section must provide for
547 full reimbursement for services rendered for projects.

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

554 (13) EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon
555 expiration or termination of an interim or comprehensive
556 agreement, the responsible public entity may use revenues to pay
557 current operation and maintenance costs of the qualifying
558 project, as well as compensation to the responsible public
559 entity for its services in developing and operating the
560 qualifying project. Except as provided otherwise in the interim
561 or comprehensive agreement, the right to receive such payment,
562 if any, is considered just compensation for the qualifying
563 project in the event termination is due to the default of the
564 private entity; however, this right does not affect the right of



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565 the responsible public entity to terminate, with cause, an
566 interim or comprehensive agreement and to exercise any other
567 rights and remedies that may be available to it at law or in
568 equity. The full faith and credit of the responsible public
569 entity may not be pledged to secure any financing of the private
570 entity by the election to take over the qualifying project.
571 Assumption of the development or operation of the qualifying
572 project does not obligate the responsible public entity to pay
573 any obligation of the private entity from sources other than
574 revenues.

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

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

587 (a) This section does not limit the state or its agencies
588 in the acquisition, design, or construction of public projects
589 pursuant to other statutory authority.

590 (b) Except as otherwise provided in this section, this
591 section does not amend existing laws by granting additional
592 powers to, or further restricting, local governmental entities
593 from regulating and entering into cooperative arrangements with



594 the private sector for the planning, construction, and operation
595 of facilities.

596 (c) This section does not waive the requirements of s.
597 287.055.

598
599 ===== T I T L E A M E N D M E N T =====

600 And the title is amended as follows:

601 Delete line 32

602 and insert:

603 certain circumstances; creating s. 287.05712, F.S.;

604 providing definitions; providing legislative findings

605 and intent relating to the construction or upgrade of

606 facilities by private entities which are used

607 predominately for a public purpose; requiring public

608 entities to develop and adopt guidelines governing

609 procedures and criteria for the selection of projects

610 and public-private agreements; providing procurement

611 procedures; providing project-approval requirements;

612 providing project qualifications and process;

613 providing for notice to affected local jurisdictions;

614 providing for interim and comprehensive agreements

615 between the public and private entities; providing for

616 use fees; providing for private financing

617 requirements; providing powers and duties for private

618 entities; providing for expiration or termination of

619 agreements; providing for the applicability of

620 sovereign immunity for public entities with respect to

621 qualified projects; providing for construction of the

622 act; amending s. 288.1254, F.S.;