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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



832768

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.



832768

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



832768

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



832768

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.



832768

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



832768

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



832768

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



832768

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



832768

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



832768

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



832768

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



832768

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.



832768

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-



832768

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



832768

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



832768

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



832768

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.



832768

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



832768

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.;