

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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**BILL:** CS/CS/CS/SB 824

**INTRODUCER:** Fiscal Policy Committee; Governmental Oversight and Accountability Committee;  
Community Affairs Committee; and Senator Evers

**SUBJECT:** Public-private Partnerships

**DATE:** April 22, 2015

**REVISED:** \_\_\_\_\_

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Peacock</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
3.	<u>McVaney/Stearns</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Fav/CS</u>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/CS/SB 824 implements many of the recommendations of the statutorily-created Partnership for Public Facilities and Infrastructure Act Guidelines Task Force to create a uniform, improved process for engaging in public-private partnerships (P3s) across the state. The bill repeals the provisions creating the task force.

The bill clarifies that the P3 process must be construed as cumulative and supplemental to any other authority or power vested in the governing body of a county, municipality, special district, or municipal hospital or health care system. It also provides that the P3 process is an alternative method that may be used and does not limit a county, municipality, special district, or other political subdivision of the state pursuant to other statutory or constitutional authority.

The bill also:

- Expands the list of entities authorized to conduct P3s, by amending the term “responsible public entity” to include special districts, school districts rather than school boards, and Florida College System institutions.
- Provides increased flexibility to the responsible public entity by permitting a responsible public entity to deviate from the provided procurement timeframes if approved by majority vote of the entity’s governing body.
- Provides that an unsolicited proposal must be submitted concurrently with an initial application fee, which may be established by the responsible public entity.

- Requires a solicitation to include a specified design criteria package.
- Repeals the requirement that a responsible public entity provide each affected local jurisdiction with a copy of the unsolicited proposal.
- Authorizes the Department of Management Services to accept and maintain copies of comprehensive agreements received from responsible public entities.
- Prohibits a governmental entity from refusing a surety bond issued by certain companies for projects worth up to \$5 million (rather than \$500,000).

The bill is expected to have a minimal fiscal impact on the Department of Management Services.

## II. Present Situation:

### Background

Public-private partnerships (P3s) are contractual agreements formed between public entities and private sector entities that allow for greater private sector participation in the delivery and financing of public building and infrastructure projects.<sup>1</sup> Through these agreements, the skills and assets of each sector, public and private, are shared in delivering a service or facility for use by the general public. In addition to the sharing of resources, each party shares in the risks and rewards potential in the delivery of the service or facility.<sup>2</sup>

Section 287.05712, F.S., governs the procurement process for P3s for public purpose projects. It authorizes a responsible public entity to enter into a P3 for a specified qualifying project if the responsible public entity determines the project is in the public's best interest.<sup>3</sup>

Section 287.05712(1)(j), F.S., defines "responsible public entity" as a county, municipality, school board, or any other political subdivision of the state; a public body corporate and politic; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.

Section 287.05712(1)(i), F.S., defines "qualifying project" as:

- A facility or project that serves a public purpose, including, but not limited to, any recreational, cultural, ferry or mass transit, vehicle parking, fuel supply, airport, seaport, or medical or nursing care facility; rail facility or project; oil or gas pipeline; or educational facility or other building or facility that is used or will be used by a public educational institution; or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity;
- An improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector;
- A water, wastewater, or surface water management facility or other related infrastructure; or
- For projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned

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<sup>1</sup> See, the Federal Highway Administration, United State Department of Transportation, Innovative Program Delivery website, available at: <http://www.fhwa.dot.gov/ipd/p3/defined/index.htm> (last visited on April 15, 2015).

<sup>2</sup> *Id.*

<sup>3</sup> Section 287.05712(4)(d)1., F.S.

or operated by a municipal electric utility, only those projects that the governing board designates.

### **Procurement Procedures**

Responsible public entities may receive unsolicited proposals or solicit proposals for qualifying projects and, thereafter, may enter into a comprehensive agreement with a private entity for the building, upgrading, operation, ownership, or financing of facilities.<sup>4</sup> Responsible public entities may establish a reasonable fee to accompany unsolicited proposals that is sufficient to pay the costs of evaluating the proposals.<sup>5</sup>

Unsolicited proposals from private entities must be accompanied by certain material and information, unless waived by the responsible public entity, including:<sup>6</sup>

- A description of the qualifying project, including the conceptual design and schedule for initiation and completion of the qualifying project.
- A description of the private entity's general plans for financing the qualifying project, including the sources of the funds and identification of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity.
- The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology and circumstances for changes to the user fees, lease payments, and other service payments over time.

If the responsible public entity receives an unsolicited proposal and intends to enter into a P3 agreement for the qualifying project, the responsible public entity must publish a notice in the Florida Administrative Register (FAR) and a newspaper of general circulation at least once a week for two weeks stating the entity has received a proposal and will accept other proposals.<sup>7</sup> The responsible public entity must establish a timeframe in which to accept other proposals; however, the timeframe for allowing other proposals must be at least 21 days, but not more than 120 days after the initial date of publication.<sup>8</sup>

After the notification period has expired, the responsible public entity must rank the proposals received in order of preference.<sup>9</sup> If negotiations with the first ranked firm are unsuccessful, the responsible public entity may begin negotiations with the second ranked firm. The responsible public entity may reject all proposals at any point in the process.<sup>10</sup>

The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the requests, including, but not limited to, reasonable attorney fees and fees for financial and technical advisors or consultants and for other necessary advisors and consultants.<sup>11</sup>

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<sup>4</sup> Section 287.05712(4), F.S.

<sup>5</sup> Section 287.05712(4)(a), F.S.

<sup>6</sup> Section 287.05712(5), F.S.

<sup>7</sup> Section 287.05712(4)(b), F.S.

<sup>8</sup> *Id.*

<sup>9</sup> Section 287.05712(6)(c), F.S.

<sup>10</sup> *Id.*

<sup>11</sup> Section 287.05712(6)(f), F.S.

The responsible public entity may approve a qualifying project if:<sup>12</sup>

- There is a public need for or benefit derived from the project that the private entity proposes.
- The estimated cost of the qualifying project is reasonable in relation to similar facilities.
- The private entity's plans will result in the timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project.

### **Notice to Affected Local Jurisdictions**

A responsible public entity must notify each affected local jurisdiction when considering a qualifying project by furnishing a copy of the proposal to each affected local jurisdiction.<sup>13</sup> The affected local jurisdictions may, within 60 days, submit written comments to the responsible public entity. The responsible public entity is required to consider the comments submitted by the affected local jurisdiction. In addition, a responsible public entity must mail a copy of the notice that is published in the FAR to each local government in the affected area.<sup>14</sup>

### **Agreements**

The responsible public entity and private entity must enter into a comprehensive agreement prior to developing or operating a qualifying project.<sup>15</sup> The comprehensive agreement is required to contain certain provisions, including:<sup>16</sup>

- Delivery of performance and payment bonds, letters of credit, and other security in connection with the development or operation of the qualifying project.
- Review of the design for the qualifying project by the public entity. This does not require the private entity to complete the design of the project prior to executing the comprehensive agreement.
- Maintenance of a policy or policies of public liability insurance and the filing of financial statements by the private entity on a periodic basis.
- Policies and procedures governing the rights and responsibilities of the public and private entity in the event of a termination of the comprehensive agreement or a material default.
- User fees, lease payments, or service payments as may be established.

The comprehensive agreement may provisions that address grants (federal, state, or local) from the responsible public entity to the private entity; notice of default and cure rights; and terminating the duties of the private entity and dedicating the project to the responsible public entity.<sup>17</sup>

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<sup>12</sup> Section 287.05712(6)(e), F.S.

<sup>13</sup> Section 287.05712(7), F.S.

<sup>14</sup> Section 287.05712(4)(b), F.S.

<sup>15</sup> Before entering into a comprehensive agreement, the responsible public entity may enter into an interim agreement with the private entity, which does not obligate the responsible public entity to enter into a comprehensive agreement. s. 287.05712(8), F.S.

<sup>16</sup> Section 287.05712(9)(a), F.S.

<sup>17</sup> Section 287.05712(9)(b), F.S.

## **Fees**

The comprehensive agreement may authorize the private entity to impose fees to the public for use of the facility.<sup>18</sup>

## **Financing**

Section 287.05712(11), F.S., authorizes the use of multiple financing options for P3s. The options include the private entity obtaining private-source financing, the responsible public entity lending funds to the private entity, or the use of other innovative finance techniques associated with P3s.

## **Powers and Duties of the Private Entity**

The private entity must develop, operate, and maintain the qualifying project in accordance with the comprehensive agreement.<sup>19</sup> The private entity must cooperate with the responsible public entity in making best efforts to establish interconnection between the qualifying project and other facilities and infrastructure. The private entity must comply with the terms of the comprehensive agreement and any other lease or contract.

## **Partnership for Public Facilities and Infrastructure Act Guidelines Task Force**

Section 287.05712(3), F.S., creates the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force (Task Force). The Task Force was created to recommend guidelines for the Legislature to consider for purposes of creating a uniform P3 process across the state. The seven-member Task Force was comprised of the Secretary of the Department of Management Services (DMS) or designee and six members appointed by the Governor comprised of one county government official, one municipal government official, one district school board member, and three representatives from the business community. The DMS provided administrative and technical support to the Task Force.

In July 2014, the Task Force completed its duties and submitted a final report of its recommendations.<sup>20</sup> The Task Force was disbanded on December 31, 2014.<sup>21</sup>

## **Performance Bond Requirements and Limitations**

A governmental entity contracting for services with a private sector contractor may require the contractor to post a surety or performance bond. This type of bond is intended to protect the buyer by ensuring that the contractor will perform the work as specified by the contract. The level of the bond is intended to allow the governmental entity to guard against the risk of

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<sup>18</sup> Section 287.05712(10), F.S.

<sup>19</sup> Section 287.05712(12), F.S.

<sup>20</sup> Partnership for Public Facilities and Infrastructure Act Guidelines Task Force, *Final Report and Recommendations* (July 2014), available at: [http://www.dms.myflorida.com/agency\\_administration/communications/partnership\\_for\\_public\\_facilities\\_infrastructure\\_act](http://www.dms.myflorida.com/agency_administration/communications/partnership_for_public_facilities_infrastructure_act) (last visited April 15, 2015).

<sup>21</sup> Section 287.05712(3)(f), F.S.

nonperformance by the contractor and provide funds necessary to hold the governmental entity (and taxpayers) harmless to the greatest extent possible.

### ***Requirements***

Section 255.05, F.S., requires any person entering into a formal contract with the state or any county, city, or other political subdivision, for the construction of a public building, for the completion of a public work, or for repairs upon a public building or public work, before commencing the work or before recommencing the work after a default or abandonment, to execute, deliver, and record in the public records of the county where the improvement is located, a payment and performance bond with a surety insurer authorized to do business in this state as surety. The statute specifies some exceptions and the form for the bond.

Section 24.111(2)(i), F.S., specifies that the Department of the Lottery must require performance bonds for the duration of contracts with its vendors.

Section 153.10(4), F.S., specifies that counties must require a performance bond of 2.5 percent of the amount of bids for the construction of water system improvements or sewer improvements. Sewer system improvement contracts bid pursuant to s. 153.79, F.S., also require a performance bond.

Section 337.18, F.S., requires surety bonds from successful bidders for certain Department of Transportation contracts, though the department may waive the requirement for contracts under \$250,000, if certain conditions are met.

### ***Limitations***

Section 287.0935, F.S., limits the authority of a state agency or political subdivision of the state to refuse a surety issued by a surety company that meets certain criteria if the contract amount does not exceed \$500,000 and public funds are used for the project. The criteria that the surety company must meet include:

- Licensed to do business in Florida;
- Holds a certificate of authority to issue surety bonds in Florida;
- Complies with the provisions of the Florida Insurance Code;
- Holds a valid certificate of authority issued by the United State Department of the Treasury under 31 U.S.C. ss. 9304-9308 (federal regulation of corporations providing sureties for persons required or permitted to provide a surety bond with the federal government);
- Has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.

Under the Florida Insurance Code, differing levels of surplus are required based upon the type of insurance the insurer writes in Florida. Specifically, s. 624.408, F.S., requires, in pertinent part, an insurer to maintain surplus as to policyholders at least the greater of:<sup>22</sup>

- \$1.5 million;
- \$4 million for property and casualty insurers, except for property and casualty insurers authorized to underwrite any line of residential property insurance;

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<sup>22</sup> Section 624.408(3), F.S., does not require an insurer to have surplus as to policyholders greater than \$100 million.

- \$15 million for residential property insurers not holding a certificate of authority before July 1, 2011;
- For residential property insurers holding a certificate of authority before July 1, 2011, and until June 30, 2016, \$5 million; on or after July 1, 2016, and until June 30, 2021, \$10 million; on or after July 1, 2021, \$15 million.<sup>23</sup>

**A.M. Best’s Financial Strength Rating**

A.M. Best’s Financial Strength Rating is an independent opinion of an insurer’s strength and ability to meet its ongoing insurance policy and contract obligations.<sup>24</sup> The rating is based on a comprehensive quantitative and qualitative evaluation of a company’s balance sheet strength, operating performance and business profile. The rating system uses certain methodologies to review Property/Casualty (Non-life), Life/Annuity, and Health/HMO industry segments all over the world. The table below shows the highest tier (“Secure”) of financial ratings.

<b>Best’s Financial Strength Ratings<sup>25</sup></b>			
	Rating	Descriptor	Definition
Secure	A++, A+	Superior	Assigned to companies that have, in our opinion, a superior ability to meet their ongoing insurance obligations
	A, A-	Excellent	Assigned to companies that have, in our opinion, an excellent ability to meet their ongoing insurance obligations
	B++, B+	Good	Assigned to companies that have, in our opinion, a good ability to meet their ongoing insurance obligations

**Administrative Commission’s Uniform Rules of Procedure**

The Administrative Commission<sup>26</sup> has adopted Uniform Rules of Procedures. These procedures include rules governing bid protests under specified Florida Laws. Chapter 28-110, F.A.C., supplements the laws on bid protests that arise from the contract procurement process under chapters 24, 255, 287, 334 through 349, sections 282.303 through 282.313, F.S., and other statutes applicable to agencies as defined in section 120,52(1), F.S.<sup>27</sup>

Rule 28.110.005, F.A.C., governs bond requirements for certain bid protests, such as procurement of commodities, contractual services, professional services and insurance, and for procurement of leases of space in privately-owned buildings.

<sup>23</sup> Section 624.408(g), F.S., also provides that the Office of Insurance Regulation may reduce the surplus requirements in paragraphs (f) and (g) if the insurer is not writing new business, has premiums in force of less than \$1 million per year in residential property insurance, or is a mutual insurance company.

<sup>24</sup> See A.M. Best Ratings and Criteria Center website, available at: <http://www.ambest.com/ratings/guide.asp> (last visited April 21, 2015).

<sup>25</sup> Id.

<sup>26</sup> Section 14.202, F.S. The Administrative Commission consists of the Governor and members of the Cabinet.

<sup>27</sup> See Rule 28-110.001, F.A.C.

### III. Effect of Proposed Changes:

**Section 1** transfers s. 287.05712, F.S., and renumbers it as s. 255.065, F.S., to incorporate many of the recommendations contained in the Task Force report, which include best practice recommendations as well as recommendations relating to needed clarification of s. 287.05712, F.S., which may facilitate the implementation of P3s.

#### Definitions

The bill clarifies that the definition of “responsible public entity” includes special districts, school districts rather than school boards, and Florida College System institutions.<sup>28</sup>

#### Public Facilities and Infrastructure Act Guidelines Task Force

The bill repeals the Public Facilities and Infrastructure Act Guidelines Task Force provisions, as the Task Force was disbanded on December 31, 2014.

#### Application Fees

The bill provides that when a private entity submits an unsolicited proposal, the private entity must concurrently submit the initial application fee.<sup>29</sup> The bill provides that if the initial fee, as determined by the responsible public entity, is not sufficient to cover the costs associated with evaluating the unsolicited proposal, the responsible public entity must request in writing the additional amount required. If the private entity fails to pay the additional amount requested within 30 days of the notice, the responsible public entity may stop reviewing the proposal. The bill requires the responsible public entity to return the application fee if the responsible public entity does not evaluate the unsolicited proposal.

#### Solicitation Timeframes

The bill provides flexibility to the responsible public entity for accepting proposals if an alternative timeframe is approved by majority vote of the entity’s governing body.<sup>30</sup> It also removes the provision that required a school board to obtain the approval of the local governing body.<sup>31</sup>

#### Contents of Solicitation – Design Criteria Package

The bill requires a solicitation to include a design criteria package prepared by an architect, engineer, or landscape architect licensed in Florida that is sufficient to allow private entities to

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<sup>28</sup> *Id.* at 18. The Task Force recommended amending the definition of “responsible public entity” to reference school district, rather than board, as the district is the unit that provides public primary education. It also recommended clarifying that the definition includes both special districts and the Florida College System.

<sup>29</sup> *Id.* at 9. The Task Force recommended amending the fee provisions to ensure that the fees were related to actual, reasonable costs associated with reviewing an unsolicited proposal and not revenue generation.

<sup>30</sup> *Id.* at 7. The Task Force discussed that increased flexibility may be necessary when dealing with complex proposals to ensure sufficient time is allowed for the receipt of competing proposals.

<sup>31</sup> *Id.* at 18. The Task Force recommended striking this provision because school boards are not subject to governance by a local governing body.



prepare a bid or a response to the solicitation. The design criteria package must specify performance-based criteria for the project, including:

- The legal description of the site, with survey information;
- Interior space requirements;
- Material quality standards;
- Schematic layouts and conceptual design criteria for the project, with budget estimates;
- Design and construction schedules; and
- Site and utility requirements.

### **Ownership by the Responsible Public Entity**

The bill clarifies that the project must be owned by the responsible public entity upon expiration of the comprehensive agreement, rather than solely upon completion or termination of the agreement.<sup>32</sup>

### **Material and Information Required for Unsolicited Proposal**

The bill clarifies that any pricing or financial terms included in an unsolicited proposal must be specific as to when the pricing or terms expire.<sup>33</sup>

### **Project Qualification**

The bill alters the parties that must meet the minimum standards contained in the responsible public entity's guidelines for qualifying professional services and contracts for traditional procurement projects to allow the applicable party (or parties) of the private entity's team to be a qualifying entity, rather than just the private entity itself.<sup>34</sup>

The bill repeals a requirement that a responsible public entity ensure that provision is made for the transfer of a private entity's obligations if the comprehensive agreement is terminated and replaces it with a requirement that the responsible public entity ensure that the comprehensive agreement addresses termination upon a material default.<sup>35</sup>

### **Notice to Affected Local Jurisdictions**

The bill repeals the requirement that a responsible public entity notify each affected local jurisdiction of an unsolicited proposal by furnishing a copy of the proposal to each affected local jurisdiction when considering it.<sup>36</sup> The responsible public entity must still provide each affected local jurisdiction a copy of the notice published in the FAR concerning solicitations for a qualifying project in accordance with s. 287.05712(4)(b), F.S.

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<sup>32</sup> *Id.* at 14.

<sup>33</sup> *Id.* at 7.

<sup>34</sup> *Id.* at 21.

<sup>35</sup> *Id.* at 14.

<sup>36</sup> *Id.* at 12-13. The report provided a discussion on the notice that is already provided to affected local jurisdictions through the permitting process and stated a mandatory P3 notice process could delay project timelines.

## **Fees**

The bill clarifies that fees imposed by a private entity must be applied as set forth in the comprehensive agreement.<sup>37</sup>

## **Financing**

The bill clarifies that a financing agreement may not require the responsible public entity to secure financing by a mortgage on, or security interest in, the real or tangible personal property of the responsible public entity in a manner that could result in the loss of the fee ownership of the property by the responsible public entity.<sup>38</sup>

The bill also repeals a provision that provides for the responsible public entity to appropriate on a priority basis a contractual payment obligation from the government fund from which the qualifying project will be funded.<sup>39</sup> Current law raised concerns regarding infringement upon a responsible public entity's appropriation powers. Additionally, had the provision remained in current law, it is unclear how this provision would apply to state universities or Florida College System institutions.

## **Department of Management Services**

The bill provides that DMS may accept and maintain copies of comprehensive agreements received from responsible public entities for the purpose of sharing the comprehensive agreements with other responsible public entities.<sup>40</sup> Responsible public entities are not required to provide copies to DMS; however, if a responsible public entity provides a copy, the responsible public entity must first redact any confidential or exempt information from the comprehensive agreement.

## **Construction**

The bill clarifies that the P3 process must be construed as cumulative and supplemental to any other authority or power vested in the governing *body* of a county, municipality, special district, or municipal hospital or health care system. The bill provides that the P3 process is an alternative method that may be used, but that it does not limit a county, municipality, special district, or other political subdivision of the state in the procurement or operation of a qualifying project pursuant to other statutory or constitutional authority.<sup>41</sup>

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<sup>37</sup> *Id.* at 17.

<sup>38</sup> *Id.* at 20.

<sup>39</sup> *Id.* at 15.

<sup>40</sup> *Id.* at 11. The report recommended authorizing a state agency to provide assistance to responsible public entities concerning P3s.

<sup>41</sup> *Id.* at 19. The report discussed the need for flexibility in the creation of P3s and noted that clarification is needed to ensure that the process is considered supplemental and alternative to any other applicable statutory authority.

**Miscellaneous**

The bill transfers and renumbers s. 287.05712, F.S., as s. 255.065, F.S., because ch. 255, F.S., relates to procurement of construction services and P3s are primarily construction related projects.

The bill also makes other editorial changes to provide for the consistent use of terminology and to provide clarity.

**Section 2** amends s. 287.0935, F.S., to expand the limitation on state agencies and local governments to refuse surety bonds issued by surety companies that meet specific criteria. Specifically, the statute is amended to expand the limitation to include projects worth up to \$5 million (rather than \$500,000) and to prohibit a governmental entity from refusing a surety bond issued by a company that has at least an A- rating of performance in the latest publication of the Best's Key Rating Guide. Any surety company that does not maintain at least two times the minimum surplus and capital required under the Florida Insurance Code may rely on its A.M. Best rating, if at least an A-, to preclude a governmental entity from refusing its surety bonds for particular projects.

In practical application, this modification may reduce the level of surplus and capital available in Florida of a surety company writing performance bonds on publicly-funded projects. This may reduce the ability of governmental entities to ensure the timely completion of public projects if a contractor fails to comply with a contract.

**Section 3** provides an effective date of July 1, 2015.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

This bill may provide more opportunities for the private sector to enter into contracts for construction services with state universities and local governments.

**C. Government Sector Impact:**

The bill will have an insignificant negative fiscal impact on DMS for the purpose of receiving comprehensive agreements and acting as a depository for such comprehensive agreements. According to the DMS, the costs may be absorbed within current resources.

**VI. Technical Deficiencies:**

The bill refers to a minimum rating of performance in the latest publication of the Best's Key Rating Guide. However, it appears that the reference should be to a minimum rating of "financial strength" rather than "performance."

In addition, the Guide appears to be published on an annual basis. However, A.M. Best can review the ratings of a company at any time and adjust such ratings consistent with the actual financial situation of the company at the time. This means that a governmental entity will not be permitted to refuse the surety issued by a company that had a minimum rating of A- at the time of the last Guide publication but had been downgraded during the interim before the next publication.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 287.05712 and 287.0935 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS/CS by Fiscal Policy on April 20, 2015:**

The committee substitute removes state universities from the definition of responsible public entity.

The CS also prohibits a governmental entity from refusing a surety bond issued by certain companies for projects worth up to \$5 million (rather than \$500,000). The CS provides that any surety company that does not maintain at least two times the minimum surplus and capital required under the Florida Insurance Code may rely on its A.M. Best rating of an A- or better to preclude a governmental entity from refusing its surety bonds for particular projects.

**CS/CS by Governmental Oversight and Accountability on March 31, 2015:**

A landscape architect licensed in Florida is added to the list of professionals who can prepare the design criteria package that is required for inclusion with the solicitation to the responsible public entity.

**CS by Community Affairs on March 17, 2015:**

Requires a solicitation to include a design criteria package prepared by an architect or engineer licensed in Florida that is sufficient to allow private entities to prepare a bid or a response to the solicitation. The bill provides a number of performance-based criteria that must be included in the design criteria package.

**B. Amendments:**

None.