

By the Committee on Community Affairs; and Senator Evers

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1                   A bill to be entitled  
2           An act relating to public-private partnerships;  
3           transferring, renumbering, and amending s. 287.05712,  
4           F.S.; revising definitions; deleting provisions  
5           creating the Public-Private Partnership Guidelines  
6           Task Force; requiring a private entity that submits an  
7           unsolicited proposal to pay an initial application fee  
8           and additional amounts if the fee does not cover  
9           certain costs; specifying payment methods; authorizing  
10          a responsible public entity to alter the statutory  
11          timeframe for accepting proposals for a qualifying  
12          project under certain circumstances; deleting a  
13          provision that requires approval of the local  
14          governing body before a school board enters into a  
15          comprehensive agreement; requiring a responsible  
16          public entity to include a design criteria package in  
17          a solicitation; specifying requirements for the design  
18          criteria package; revising the conditions necessary  
19          for a responsible public entity to approve a  
20          comprehensive agreement; deleting provisions relating  
21          to notice to affected local jurisdictions; providing  
22          that fees imposed by a private entity must be applied  
23          as set forth in the comprehensive agreement;  
24          restricting provisions in financing agreements that  
25          could result in a responsible public entity's losing  
26          ownership of real or tangible personal property;  
27          deleting a provision that required a responsible  
28          public entity to comply with specific financial  
29          obligations; providing duties of the Department of

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30 Management Services; revising provisions relating to  
31 construction of the act; providing an effective date.  
32

33 Be It Enacted by the Legislature of the State of Florida:  
34

35 Section 1. Section 287.05712, Florida Statutes, is  
36 transferred, renumbered as section 255.065, Florida Statutes,  
37 and amended to read:

38 255.065 ~~287.05712~~ Public-private partnerships.—

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

40 (a) "Affected local jurisdiction" means a county,  
41 municipality, or special district in which all or a portion of a  
42 qualifying project is located.

43 (b) "Develop" means to plan, design, finance, lease,  
44 acquire, install, construct, or expand.

45 (c) "Fees" means charges imposed by the private entity of a  
46 qualifying project for use of all or a portion of such  
47 qualifying project pursuant to a comprehensive agreement.

48 (d) "Lease payment" means any form of payment, including a  
49 land lease, by a public entity to the private entity of a  
50 qualifying project for the use of the project.

51 (e) "Material default" means a nonperformance of its duties  
52 by the private entity of a qualifying project which jeopardizes  
53 adequate service to the public from the project.

54 (f) "Operate" means to finance, maintain, improve, equip,  
55 modify, or repair.

56 (g) "Private entity" means any natural person, corporation,  
57 general partnership, limited liability company, limited  
58 partnership, joint venture, business trust, public benefit

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59 corporation, nonprofit entity, or other private business entity.

60 (h) "Proposal" means a plan for a qualifying project with  
61 detail beyond a conceptual level for which terms such as fixing  
62 costs, payment schedules, financing, deliverables, and project  
63 schedule are defined.

64 (i) "Qualifying project" means:

65 1. A facility or project that serves a public purpose,  
66 including, but not limited to, any ferry or mass transit  
67 facility, vehicle parking facility, airport or seaport facility,  
68 rail facility or project, fuel supply facility, oil or gas  
69 pipeline, medical or nursing care facility, recreational  
70 facility, sporting or cultural facility, or educational facility  
71 or other building or facility that is used or will be used by a  
72 public educational institution, or any other public facility or  
73 infrastructure that is used or will be used by the public at  
74 large or in support of an accepted public purpose or activity;

75 2. An improvement, including equipment, of a building that  
76 will be principally used by a public entity or the public at  
77 large or that supports a service delivery system in the public  
78 sector;

79 3. A water, wastewater, or surface water management  
80 facility or other related infrastructure; or

81 4. Notwithstanding any provision of this section, for  
82 projects that involve a facility owned or operated by the  
83 governing board of a county, district, or municipal hospital or  
84 health care system, or projects that involve a facility owned or  
85 operated by a municipal electric utility, only those projects  
86 that the governing board designates as qualifying projects  
87 pursuant to this section.

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88 (j) "Responsible public entity" means a county,  
89 municipality, school district, special district, Florida College  
90 System institution, or state university ~~board~~, or any other  
91 political subdivision of the state; a public body corporate and  
92 politic; or a regional entity that serves a public purpose and  
93 is authorized to develop or operate a qualifying project.

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

100 (l) "Service contract" means a contract between a  
101 responsible public entity and the private entity which defines  
102 the terms of the services to be provided with respect to a  
103 qualifying project.

104 (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
105 that there is a public need for the construction or upgrade of  
106 facilities that are used predominantly for public purposes and  
107 that it is in the public's interest to provide for the  
108 construction or upgrade of such facilities.

109 (a) The Legislature also finds that:

110 1. There is a public need for timely and cost-effective  
111 acquisition, design, construction, improvement, renovation,  
112 expansion, equipping, maintenance, operation, implementation, or  
113 installation of projects serving a public purpose, including  
114 educational facilities, transportation facilities, water or  
115 wastewater management facilities and infrastructure, technology  
116 infrastructure, roads, highways, bridges, and other public

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117 infrastructure and government facilities within the state which  
118 serve a public need and purpose, and that such public need may  
119 not be wholly satisfied by existing procurement methods.

120 2. There are inadequate resources to develop new  
121 educational facilities, transportation facilities, water or  
122 wastewater management facilities and infrastructure, technology  
123 infrastructure, roads, highways, bridges, and other public  
124 infrastructure and government facilities for the benefit of  
125 residents of this state, and that a public-private partnership  
126 has demonstrated that it can meet the needs by improving the  
127 schedule for delivery, lowering the cost, and providing other  
128 benefits to the public.

129 3. There may be state and federal tax incentives that  
130 promote partnerships between public and private entities to  
131 develop and operate qualifying projects.

132 4. A procurement under this section serves the public  
133 purpose of this section if such procurement facilitates the  
134 timely development or operation of a qualifying project.

135 (b) It is the intent of the Legislature to encourage  
136 investment in the state by private entities; to facilitate  
137 various bond financing mechanisms, private capital, and other  
138 funding sources for the development and operation of qualifying  
139 projects, including expansion and acceleration of such financing  
140 to meet the public need; and to provide the greatest possible  
141 flexibility to public and private entities contracting for the  
142 provision of public services.

143 ~~(3) PUBLIC-PRIVATE PARTNERSHIP GUIDELINES TASK FORCE.~~

144 ~~(a) There is created the Partnership for Public Facilities~~  
145 ~~and Infrastructure Act Guidelines Task Force for the purpose of~~

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146 ~~recommending guidelines for the Legislature to consider for~~  
147 ~~purposes of creating a uniform process for establishing public-~~  
148 ~~private partnerships, including the types of factors responsible~~  
149 ~~public entities should review and consider when processing~~  
150 ~~requests for public private partnership projects pursuant to~~  
151 ~~this section.~~

152 ~~(b) The task force shall be composed of seven members, as~~  
153 ~~follows:~~

154 ~~1. The Secretary of Management Services or his or her~~  
155 ~~designee, who shall serve as chair of the task force.~~

156 ~~2. Six members appointed by the Governor, as follows:~~

157 ~~a. One county government official.~~

158 ~~b. One municipal government official.~~

159 ~~c. One district school board member.~~

160 ~~d. Three representatives of the business community.~~

161 ~~(c) Task force members must be appointed by July 31, 2013.~~  
162 ~~By August 31, 2013, the task force shall meet to establish~~  
163 ~~procedures for the conduct of its business and to elect a vice~~  
164 ~~chair. The task force shall meet at the call of the chair. A~~  
165 ~~majority of the members of the task force constitutes a quorum,~~  
166 ~~and a quorum is necessary for the purpose of voting on any~~  
167 ~~action or recommendation of the task force. All meetings shall~~  
168 ~~be held in Tallahassee, unless otherwise decided by the task~~  
169 ~~force, and then no more than two such meetings may be held in~~  
170 ~~other locations for the purpose of taking public testimony.~~  
171 ~~Administrative and technical support shall be provided by the~~  
172 ~~department. Task force members shall serve without compensation~~  
173 ~~and are not entitled to reimbursement for per diem or travel~~  
174 ~~expenses.~~

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175 ~~(d) In reviewing public-private partnerships and developing~~  
176 ~~recommendations, the task force must consider:~~

177 ~~1. Opportunities for competition through public notice and~~  
178 ~~the availability of representatives of the responsible public~~  
179 ~~entity to meet with private entities considering a proposal.~~

180 ~~2. Reasonable criteria for choosing among competing~~  
181 ~~proposals.~~

182 ~~3. Suggested timelines for selecting proposals and~~  
183 ~~negotiating an interim or comprehensive agreement.~~

184 ~~4. If an accelerated selection and review and documentation~~  
185 ~~timelines should be considered for proposals involving a~~  
186 ~~qualifying project that the responsible public entity deems a~~  
187 ~~priority.~~

188 ~~5. Procedures for financial review and analysis which, at a~~  
189 ~~minimum, include a cost-benefit analysis, an assessment of~~  
190 ~~opportunity cost, and consideration of the results of all~~  
191 ~~studies and analyses related to the proposed qualifying project.~~

192 ~~6. The adequacy of the information released when seeking~~  
193 ~~competing proposals and providing for the enhancement of that~~  
194 ~~information, if deemed necessary, to encourage competition.~~

195 ~~7. Current exemptions from public records and public~~  
196 ~~meetings requirements, if any changes to those exemptions are~~  
197 ~~necessary, or if any new exemptions should be created in order~~  
198 ~~to maintain the confidentiality of financial and proprietary~~  
199 ~~information received as part of an unsolicited proposal.~~

200 ~~8. Recommendations regarding the authority of the~~  
201 ~~responsible public entity to engage the services of qualified~~  
202 ~~professionals, which may include a Florida-registered~~  
203 ~~professional or a certified public accountant, not otherwise~~

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204 ~~employed by the responsible public entity, to provide an~~  
205 ~~independent analysis regarding the specifics, advantages,~~  
206 ~~disadvantages, and long-term and short-term costs of a request~~  
207 ~~by a private entity for approval of a qualifying project, unless~~  
208 ~~the governing body of the public entity determines that such~~  
209 ~~analysis should be performed by employees of the public entity.~~

210 ~~(c) The task force must submit a final report of its~~  
211 ~~recommendations to the Governor, the President of the Senate,~~  
212 ~~and the Speaker of the House of Representatives by July 1, 2014.~~

213 ~~(f) The task force is terminated December 31, 2014. The~~  
214 ~~establishment of guidelines pursuant to this section or the~~  
215 ~~adoption of such guidelines by a responsible public entity is~~  
216 ~~not required for such entity to request or receive proposals for~~  
217 ~~a qualifying project or to enter into a comprehensive agreement~~  
218 ~~for a qualifying project. A responsible public entity may adopt~~  
219 ~~guidelines so long as such guidelines are not inconsistent with~~  
220 ~~this section.~~

221 ~~(3)~~(4) PROCUREMENT PROCEDURES.—A responsible public entity  
222 may receive unsolicited proposals or may solicit proposals for  
223 qualifying projects and may thereafter enter into a  
224 comprehensive ~~an~~ agreement with a private entity, or a  
225 consortium of private entities, for the building, upgrading,  
226 operating, ownership, or financing of facilities.

227 (a)1. The responsible public entity may establish a  
228 reasonable application fee for the submission of an unsolicited  
229 proposal under this section.

230 2. A private entity that submits an unsolicited proposal to  
231 a responsible public entity must concurrently pay an initial  
232 application fee, as determined by the responsible public entity.



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233 Payment must be made by cash, cashier's check, or other  
234 noncancelable instrument. Personal checks may not be accepted.

235 3. If the initial application fee does not cover the  
236 responsible public entity's costs to evaluate the unsolicited  
237 proposal, the responsible public entity must request in writing  
238 the additional amounts required. The private entity must pay the  
239 requested additional amounts within 30 days after receipt of the  
240 notice. The responsible public entity may stop its review of the  
241 unsolicited proposal if the private entity fails to pay the  
242 additional fee.

243 4. If the responsible public entity does not evaluate the  
244 unsolicited proposal, the responsible public entity must return  
245 the application fee ~~The fee must be sufficient to pay the costs~~  
246 ~~of evaluating the proposal. The responsible public entity may~~  
247 ~~engage the services of a private consultant to assist in the~~  
248 ~~evaluation.~~

249 (b) The responsible public entity may request a proposal  
250 from private entities for a qualifying public-private project  
251 or, if the responsible public entity receives an unsolicited  
252 proposal for a qualifying public-private project and the  
253 responsible public entity intends to enter into a comprehensive  
254 agreement for the project described in the ~~such~~ unsolicited  
255 proposal, the responsible public entity shall publish notice in  
256 the Florida Administrative Register and a newspaper of general  
257 circulation at least once a week for 2 weeks stating that the  
258 responsible public entity has received a proposal and will  
259 accept other proposals for the same project. The timeframe  
260 within which the responsible public entity may accept other  
261 proposals shall be determined by the responsible public entity

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262 on a project-by-project basis based upon the complexity of the  
263 qualifying project and the public benefit to be gained by  
264 allowing a longer or shorter period of time within which other  
265 proposals may be received; however, the timeframe for allowing  
266 other proposals must be at least 21 days, but no more than 120  
267 days, after the initial date of publication. If approved by a  
268 majority vote of the responsible public entity's governing body,  
269 the responsible public entity may alter the timeframe for  
270 accepting proposals to more adequately suit the needs of the  
271 qualifying project. A copy of the notice must be mailed to each  
272 local government in the affected area.

273 (c) If the responsible public entity solicits proposals  
274 under this section, the solicitation must include a design  
275 criteria package prepared by an architect or engineer licensed  
276 in this state which is sufficient to allow private entities to  
277 prepare a bid or a response. The design criteria package must  
278 specify performance-based criteria for the project, including  
279 the legal description of the site, with survey information;  
280 interior space requirements; material quality standards;  
281 schematic layouts and conceptual design criteria for the  
282 project, with budget estimates; design and construction  
283 schedules; and site and utility requirements ~~A responsible~~  
284 ~~public entity that is a school board may enter into a~~  
285 ~~comprehensive agreement only with the approval of the local~~  
286 ~~governing body.~~

287 (d) Before approving a comprehensive agreement ~~approval,~~  
288 the responsible public entity must determine that the proposed  
289 project:

290 1. Is in the public's best interest.

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291           2. Is for a facility that is owned by the responsible  
292 public entity or for a facility for which ownership will be  
293 conveyed to the responsible public entity.

294           3. Has adequate safeguards in place to ensure that  
295 additional costs or service disruptions are not imposed on the  
296 public in the event of material default or cancellation of the  
297 comprehensive agreement by the responsible public entity.

298           4. Has adequate safeguards in place to ensure that the  
299 responsible public entity or private entity has the opportunity  
300 to add capacity to the proposed project or other facilities  
301 serving similar predominantly public purposes.

302           5. Will be owned by the responsible public entity upon  
303 completion, expiration, or termination of the comprehensive  
304 agreement and upon payment of the amounts financed.

305           (e) Before signing a comprehensive agreement, the  
306 responsible public entity must consider a reasonable finance  
307 plan that is consistent with subsection (9) ~~(11)~~; the qualifying  
308 project cost; revenues by source; available financing; major  
309 assumptions; internal rate of return on private investments, if  
310 governmental funds are assumed in order to deliver a cost-  
311 feasible project; and a total cash-flow analysis beginning with  
312 the implementation of the project and extending for the term of  
313 the comprehensive agreement.

314           (f) In considering an unsolicited proposal, the responsible  
315 public entity may require from the private entity a technical  
316 study prepared by a nationally recognized expert with experience  
317 in preparing analysis for bond rating agencies. In evaluating  
318 the technical study, the responsible public entity may rely upon  
319 internal staff reports prepared by personnel familiar with the

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320 operation of similar facilities or the advice of external  
321 advisors or consultants who have relevant experience.

322 (4)~~(5)~~ PROJECT APPROVAL REQUIREMENTS.—An unsolicited  
323 proposal from a private entity for approval of a qualifying  
324 project must be accompanied by the following material and  
325 information, unless waived by the responsible public entity:

326 (a) A description of the qualifying project, including the  
327 conceptual design of the facilities or a conceptual plan for the  
328 provision of services, and a schedule for the initiation and  
329 completion of the qualifying project.

330 (b) A description of the method by which the private entity  
331 proposes to secure the necessary property interests that are  
332 required for the qualifying project.

333 (c) A description of the private entity's general plans for  
334 financing the qualifying project, including the sources of the  
335 private entity's funds and the identity of any dedicated revenue  
336 source or proposed debt or equity investment on behalf of the  
337 private entity.

338 (d) The name and address of a person who may be contacted  
339 for additional information concerning the proposal.

340 (e) The proposed user fees, lease payments, or other  
341 service payments over the term of a comprehensive agreement, and  
342 the methodology for and circumstances that would allow changes  
343 to the user fees, lease payments, and other service payments  
344 over time.

345 (f) Additional material or information that the responsible  
346 public entity reasonably requests.

347  
348 Any pricing or financial terms included in an unsolicited

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349 proposal must be specific as to when the pricing or terms  
350 expire.

351 (5)~~(6)~~ PROJECT QUALIFICATION AND PROCESS.—

352 (a) The private entity, or the applicable party or parties  
353 of the private entity's team, must meet the minimum standards  
354 contained in the responsible public entity's guidelines for  
355 qualifying professional services and contracts for traditional  
356 procurement projects.

357 (b) The responsible public entity must:

358 1. Ensure that provision is made for the private entity's  
359 performance and payment of subcontractors, including, but not  
360 limited to, surety bonds, letters of credit, parent company  
361 guarantees, and lender and equity partner guarantees. For the  
362 components of the qualifying project which involve construction  
363 performance and payment, bonds are required and are subject to  
364 the recordation, notice, suit limitation, and other requirements  
365 of s. 255.05.

366 2. Ensure the most efficient pricing of the security  
367 package that provides for the performance and payment of  
368 subcontractors.

369 3. Ensure that ~~provision is made for the transfer of the~~  
370 ~~private entity's obligations if the comprehensive agreement~~  
371 addresses termination upon is terminated or a material default  
372 of the comprehensive agreement occurs.

373 (c) After the public notification period has expired in the  
374 case of an unsolicited proposal, the responsible public entity  
375 shall rank the proposals received in order of preference. In  
376 ranking the proposals, the responsible public entity may  
377 consider factors that include, but are not limited to,

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378 professional qualifications, general business terms, innovative  
379 design techniques or cost-reduction terms, and finance plans.  
380 The responsible public entity may then begin negotiations for a  
381 comprehensive agreement with the highest-ranked firm. If the  
382 responsible public entity is not satisfied with the results of  
383 the negotiations, the responsible public entity may terminate  
384 negotiations with the proposer and negotiate with the second-  
385 ranked or subsequent-ranked firms, in the order consistent with  
386 this procedure. If only one proposal is received, the  
387 responsible public entity may negotiate in good faith, and if  
388 the responsible public entity is not satisfied with the results  
389 of the negotiations, the responsible public entity may terminate  
390 negotiations with the proposer. Notwithstanding this paragraph,  
391 the responsible public entity may reject all proposals at any  
392 point in the process until a contract with the proposer is  
393 executed.

394 (d) The responsible public entity shall perform an  
395 independent analysis of the proposed public-private partnership  
396 which demonstrates the cost-effectiveness and overall public  
397 benefit before the procurement process is initiated or before  
398 the contract is awarded.

399 (e) The responsible public entity may approve the  
400 development or operation of an educational facility, a  
401 transportation facility, a water or wastewater management  
402 facility or related infrastructure, a technology infrastructure  
403 or other public infrastructure, or a government facility needed  
404 by the responsible public entity as a qualifying project, or the  
405 design or equipping of a qualifying project that is developed or  
406 operated, if:

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407 1. There is a public need for or benefit derived from a  
408 project of the type that the private entity proposes as the  
409 qualifying project.

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

412 3. The private entity's plans will result in the timely  
413 acquisition, design, construction, improvement, renovation,  
414 expansion, equipping, maintenance, or operation of the  
415 qualifying project.

416 (f) The responsible public entity may charge a reasonable  
417 fee to cover the costs of processing, reviewing, and evaluating  
418 the request, including, but not limited to, reasonable attorney  
419 fees and fees for financial and technical advisors or  
420 consultants and for other necessary advisors or consultants.

421 (g) Upon approval of a qualifying project, the responsible  
422 public entity shall establish a date for the commencement of  
423 activities related to the qualifying project. The responsible  
424 public entity may extend the commencement date.

425 (h) Approval of a qualifying project by the responsible  
426 public entity is subject to entering into a comprehensive  
427 agreement with the private entity.

428 ~~(7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.—~~

429 ~~(a) The responsible public entity must notify each affected~~  
430 ~~local jurisdiction by furnishing a copy of the proposal to each~~  
431 ~~affected local jurisdiction when considering a proposal for a~~  
432 ~~qualifying project.~~

433 ~~(b) Each affected local jurisdiction that is not a~~  
434 ~~responsible public entity for the respective qualifying project~~  
435 ~~may, within 60 days after receiving the notice, submit in~~

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436 ~~writing any comments to the responsible public entity and~~  
437 ~~indicate whether the facility is incompatible with the local~~  
438 ~~comprehensive plan, the local infrastructure development plan,~~  
439 ~~the capital improvements budget, any development of regional~~  
440 ~~impact processes or timelines, or other governmental spending~~  
441 ~~plan. The responsible public entity shall consider the comments~~  
442 ~~of the affected local jurisdiction before entering into a~~  
443 ~~comprehensive agreement with a private entity. If an affected~~  
444 ~~local jurisdiction fails to respond to the responsible public~~  
445 ~~entity within the time provided in this paragraph, the~~  
446 ~~nonresponse is deemed an acknowledgment by the affected local~~  
447 ~~jurisdiction that the qualifying project is compatible with the~~  
448 ~~local comprehensive plan, the local infrastructure development~~  
449 ~~plan, the capital improvements budget, or other governmental~~  
450 ~~spending plan.~~

451 (6)~~(8)~~ INTERIM AGREEMENT.—Before or in connection with the  
452 negotiation of a comprehensive agreement, the responsible public  
453 entity may enter into an interim agreement with the private  
454 entity proposing the development or operation of the qualifying  
455 project. An interim agreement does not obligate the responsible  
456 public entity to enter into a comprehensive agreement. The  
457 interim agreement is discretionary with the parties and is not  
458 required on a qualifying project for which the parties may  
459 proceed directly to a comprehensive agreement without the need  
460 for an interim agreement. An interim agreement must be limited  
461 to provisions that:

462 (a) Authorize the private entity to commence activities for  
463 which it may be compensated related to the proposed qualifying  
464 project, including, but not limited to, project planning and



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465 development, design, environmental analysis and mitigation,  
466 survey, other activities concerning any part of the proposed  
467 qualifying project, and ascertaining the availability of  
468 financing for the proposed facility or facilities.

469 (b) Establish the process and timing of the negotiation of  
470 the comprehensive agreement.

471 (c) Contain such other provisions related to an aspect of  
472 the development or operation of a qualifying project that the  
473 responsible public entity and the private entity deem  
474 appropriate.

475 (7)~~(9)~~ COMPREHENSIVE AGREEMENT.-

476 (a) Before developing or operating the qualifying project,  
477 the private entity must enter into a comprehensive agreement  
478 with the responsible public entity. The comprehensive agreement  
479 must provide for:

480 1. Delivery of performance and payment bonds, letters of  
481 credit, or other security acceptable to the responsible public  
482 entity in connection with the development or operation of the  
483 qualifying project in the form and amount satisfactory to the  
484 responsible public entity. For the components of the qualifying  
485 project which involve construction, the form and amount of the  
486 bonds must comply with s. 255.05.

487 2. Review of the design for the qualifying project by the  
488 responsible public entity and, if the design conforms to  
489 standards acceptable to the responsible public entity, the  
490 approval of the responsible public entity. This subparagraph  
491 does not require the private entity to complete the design of  
492 the qualifying project before the execution of the comprehensive  
493 agreement.

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494           3. Inspection of the qualifying project by the responsible  
495 public entity to ensure that the private entity's activities are  
496 acceptable to the responsible public entity in accordance with  
497 the comprehensive agreement.

498           4. Maintenance of a policy of public liability insurance, a  
499 copy of which must be filed with the responsible public entity  
500 and accompanied by proofs of coverage, or self-insurance, each  
501 in the form and amount satisfactory to the responsible public  
502 entity and reasonably sufficient to ensure coverage of tort  
503 liability to the public and employees and to enable the  
504 continued operation of the qualifying project.

505           5. Monitoring by the responsible public entity of the  
506 maintenance practices to be performed by the private entity to  
507 ensure that the qualifying project is properly maintained.

508           6. Periodic filing by the private entity of the appropriate  
509 financial statements that pertain to the qualifying project.

510           7. Procedures that govern the rights and responsibilities  
511 of the responsible public entity and the private entity in the  
512 course of the construction and operation of the qualifying  
513 project and in the event of the termination of the comprehensive  
514 agreement or a material default by the private entity. The  
515 procedures must include conditions that govern the assumption of  
516 the duties and responsibilities of the private entity by an  
517 entity that funded, in whole or part, the qualifying project or  
518 by the responsible public entity, and must provide for the  
519 transfer or purchase of property or other interests of the  
520 private entity by the responsible public entity.

521           8. Fees, lease payments, or service payments. In  
522 negotiating user fees, the fees must be the same for persons

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523 using the facility under like conditions and must not materially  
524 discourage use of the qualifying project. The execution of the  
525 comprehensive agreement or a subsequent amendment is conclusive  
526 evidence that the fees, lease payments, or service payments  
527 provided for in the comprehensive agreement comply with this  
528 section. Fees or lease payments established in the comprehensive  
529 agreement as a source of revenue may be in addition to, or in  
530 lieu of, service payments.

531 9. Duties of the private entity, including the terms and  
532 conditions that the responsible public entity determines serve  
533 the public purpose of this section.

534 (b) The comprehensive agreement may include:

535 1. An agreement by the responsible public entity to make  
536 grants or loans to the private entity from amounts received from  
537 the federal, state, or local government or an agency or  
538 instrumentality thereof.

539 2. A provision under which each entity agrees to provide  
540 notice of default and cure rights for the benefit of the other  
541 entity, including, but not limited to, a provision regarding  
542 unavoidable delays.

543 3. A provision that terminates the authority and duties of  
544 the private entity under this section and dedicates the  
545 qualifying project to the responsible public entity or, if the  
546 qualifying project was initially dedicated by an affected local  
547 jurisdiction, to the affected local jurisdiction for public use.

548 (8) ~~(10)~~ FEES.—A comprehensive ~~An~~ agreement entered into  
549 pursuant to this section may authorize the private entity to  
550 impose fees to members of the public for the use of the  
551 facility. The following provisions apply to the comprehensive

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552 agreement:

553 (a) The responsible public entity may develop new  
554 facilities or increase capacity in existing facilities through a  
555 comprehensive agreement with a private entity ~~agreements with~~  
556 ~~public-private partnerships~~.

557 (b) The comprehensive ~~public-private partnership~~ agreement  
558 must ensure that the facility is properly operated, maintained,  
559 or improved in accordance with standards set forth in the  
560 comprehensive agreement.

561 (c) The responsible public entity may lease existing fee-  
562 for-use facilities through a comprehensive ~~public-private~~  
563 ~~partnership~~ agreement.

564 (d) Any revenues must be authorized by and applied in the  
565 manner set forth in ~~regulated by the responsible public entity~~  
566 ~~pursuant to~~ the comprehensive agreement.

567 (e) A negotiated portion of revenues from fee-generating  
568 uses may ~~must~~ be returned to the responsible public entity over  
569 the life of the comprehensive agreement.

570 (9) ~~(11)~~ FINANCING.—

571 (a) A private entity may enter into a private-source  
572 financing agreement between financing sources and the private  
573 entity. A financing agreement and any liens on the property or  
574 facility must be paid in full at the applicable closing that  
575 transfers ownership or operation of the facility to the  
576 responsible public entity at the conclusion of the term of the  
577 comprehensive agreement.

578 (b) The responsible public entity may lend funds to private  
579 entities that construct projects containing facilities that are  
580 approved under this section.

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581 (c) The responsible public entity may use innovative  
582 finance techniques associated with a public-private partnership  
583 under this section, including, but not limited to, federal loans  
584 as provided in Titles 23 and 49 C.F.R., commercial bank loans,  
585 and hedges against inflation from commercial banks or other  
586 private sources. In addition, the responsible public entity may  
587 provide its own capital or operating budget to support a  
588 qualifying project. The budget may be from any legally  
589 permissible funding sources of the responsible public entity,  
590 including the proceeds of debt issuances. A responsible public  
591 entity may use the model financing agreement provided in s.  
592 489.145(6) for its financing of a facility owned by a  
593 responsible public entity. A financing agreement may not require  
594 the responsible public entity to indemnify the financing source,  
595 subject the responsible public entity's facility to liens in  
596 violation of s. 11.066(5), or secure financing of by the  
597 responsible public entity by a mortgage on, or security interest  
598 in, the real or tangible personal property of the responsible  
599 public entity in a manner that could result in the loss of the  
600 fee ownership of the property by the responsible public entity  
601 ~~with a pledge of security interest, and any such provision is~~  
602 void.

603 ~~(d) A responsible public entity shall appropriate on a~~  
604 ~~priority basis as required by the comprehensive agreement a~~  
605 ~~contractual payment obligation, annual or otherwise, from the~~  
606 ~~enterprise or other government fund from which the qualifying~~  
607 ~~projects will be funded. This required payment obligation must~~  
608 ~~be appropriated before other noncontractual obligations payable~~  
609 ~~from the same enterprise or other government fund.~~

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610        (10)~~(12)~~ POWERS AND DUTIES OF THE PRIVATE ENTITY.—

611        (a) The private entity shall:

612            1. Develop or operate the qualifying project in a manner  
613 that is acceptable to the responsible public entity in  
614 accordance with the provisions of the comprehensive agreement.

615            2. Maintain, or provide by contract for the maintenance or  
616 improvement of, the qualifying project if required by the  
617 comprehensive agreement.

618            3. Cooperate with the responsible public entity in making  
619 best efforts to establish interconnection between the qualifying  
620 project and any other facility or infrastructure as requested by  
621 the responsible public entity in accordance with the provisions  
622 of the comprehensive agreement.

623            4. Comply with the comprehensive agreement and any lease or  
624 service contract.

625        (b) Each private facility that is constructed pursuant to  
626 this section must comply with the requirements of federal,  
627 state, and local laws; state, regional, and local comprehensive  
628 plans; the responsible public entity's rules, procedures, and  
629 standards for facilities; and such other conditions that the  
630 responsible public entity determines to be in the public's best  
631 interest and that are included in the comprehensive agreement.

632        (c) The responsible public entity may provide services to  
633 the private entity. An agreement for maintenance and other  
634 services entered into pursuant to this section must provide for  
635 full reimbursement for services rendered for qualifying  
636 projects.

637        (d) A private entity of a qualifying project may provide  
638 additional services for the qualifying project to the public or

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639 to other private entities if the provision of additional  
640 services does not impair the private entity's ability to meet  
641 its commitments to the responsible public entity pursuant to the  
642 comprehensive agreement.

643 (11) ~~(13)~~ EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon the  
644 expiration or termination of a comprehensive agreement, the  
645 responsible public entity may use revenues from the qualifying  
646 project to pay current operation and maintenance costs of the  
647 qualifying project. If the private entity materially defaults  
648 under the comprehensive agreement, the compensation that is  
649 otherwise due to the private entity is payable to satisfy all  
650 financial obligations to investors and lenders on the qualifying  
651 project in the same way that is provided in the comprehensive  
652 agreement or any other agreement involving the qualifying  
653 project, if the costs of operating and maintaining the  
654 qualifying project are paid in the normal course. Revenues in  
655 excess of the costs for operation and maintenance costs may be  
656 paid to the investors and lenders to satisfy payment obligations  
657 under their respective agreements. A responsible public entity  
658 may terminate with cause and without prejudice a comprehensive  
659 agreement and may exercise any other rights or remedies that may  
660 be available to it in accordance with the provisions of the  
661 comprehensive agreement. The full faith and credit of the  
662 responsible public entity may not be pledged to secure the  
663 financing of the private entity. The assumption of the  
664 development or operation of the qualifying project does not  
665 obligate the responsible public entity to pay any obligation of  
666 the private entity from sources other than revenues from the  
667 qualifying project unless stated otherwise in the comprehensive

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668 agreement.

669 (12)~~(14)~~ SOVEREIGN IMMUNITY.—This section does not waive  
670 the sovereign immunity of a responsible public entity, an  
671 affected local jurisdiction, or an officer or employee thereof  
672 with respect to participation in, or approval of, any part of a  
673 qualifying project or its operation, including, but not limited  
674 to, interconnection of the qualifying project with any other  
675 infrastructure or project. A county or municipality in which a  
676 qualifying project is located possesses sovereign immunity with  
677 respect to the project, including, but not limited to, its  
678 design, construction, and operation.

679 (13) DEPARTMENT OF MANAGEMENT SERVICES.—

680 (a) A responsible public entity may provide a copy of its  
681 comprehensive agreement to the Department of Management  
682 Services. A responsible public entity must redact any  
683 confidential or exempt information from the copy of the  
684 comprehensive agreement before providing it to the Department of  
685 Management Services.

686 (b) The Department of Management Services may accept and  
687 maintain copies of comprehensive agreements received from  
688 responsible public entities for the purpose of sharing  
689 comprehensive agreements with other responsible public entities.

690 (c) This subsection does not require a responsible public  
691 entity to provide a copy of its comprehensive agreement to the  
692 Department of Management Services.

693 (14)~~(15)~~ CONSTRUCTION.—

694 (a) This section shall be liberally construed to effectuate  
695 the purposes of this section.

696 (b) This section shall be construed as cumulative and



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697 supplemental to any other authority or power vested in or  
698 exercised by the governing body ~~board~~ of a county, municipality,  
699 special district, or municipal hospital or health care system  
700 including those contained in acts of the Legislature  
701 ~~establishing such public hospital boards or s. 155.40.~~

702 (c) This section does not affect any agreement or existing  
703 relationship with a supporting organization involving such  
704 governing body ~~board~~ or system in effect as of January 1, 2013.

705 (d) ~~(a)~~ This section provides an alternative method and does  
706 not limit a county, municipality, special district, or other  
707 political subdivision of the state in the procurement or  
708 operation of a qualifying project ~~acquisition, design, or~~  
709 ~~construction of a public project~~ pursuant to other statutory or  
710 constitutional authority.

711 (e) ~~(b)~~ Except as otherwise provided in this section, this  
712 section does not amend existing laws by granting additional  
713 powers to, or further restricting, a local governmental entity  
714 from regulating and entering into cooperative arrangements with  
715 the private sector for the planning, construction, or operation  
716 of a facility.

717 (f) ~~(e)~~ This section does not waive any requirement of s.  
718 287.055.

719 Section 2. This act shall take effect July 1, 2015.