

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; requiring a  
13          design criteria package to be submitted to a  
14          responsible public entity if such entity solicits  
15          specific proposals; deleting a provision that requires  
16          approval of the local governing body before a school  
17          board enters into a comprehensive agreement; revising  
18          the conditions necessary for a responsible public  
19          entity to approve a comprehensive agreement; deleting  
20          provisions relating to notice to affected local  
21          jurisdictions; providing that fees imposed by a  
22          private entity must be applied as set forth in the  
23          comprehensive agreement; authorizing a negotiated  
24          portion of revenues from fee-generating uses to be  
25          returned to the responsible public entity; restricting  
26          provisions in financing agreements that could result

27 | in a responsible public entity's losing ownership of  
 28 | real or tangible personal property; deleting a  
 29 | provision that required a responsible public entity to  
 30 | comply with specific financial obligations; providing  
 31 | duties of the Department of Management Services  
 32 | relating to comprehensive agreements; revising  
 33 | provisions relating to construction of the act;  
 34 | providing an effective date.

35 |

36 | Be It Enacted by the Legislature of the State of Florida:

37 |

38 | Section 1. Section 287.05712, Florida Statutes, is  
 39 | transferred, renumbered as section 255.065, Florida Statutes,  
 40 | and amended to read:

41 | 255.065 ~~287.05712~~ Public-private partnerships.-

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

43 | (a) "Affected local jurisdiction" means a county,  
 44 | municipality, or special district in which all or a portion of a  
 45 | qualifying project is located.

46 | (b) "Develop" means to plan, design, finance, lease,  
 47 | acquire, install, construct, or expand.

48 | (c) "Fees" means charges imposed by the private entity of  
 49 | a qualifying project for use of all or a portion of such  
 50 | qualifying project pursuant to a comprehensive agreement.

51 | (d) "Lease payment" means any form of payment, including a  
 52 | land lease, by a public entity to the private entity of a

53 | qualifying project for the use of the project.

54 |       (e) "Material default" means a nonperformance of its  
55 | duties by the private entity of a qualifying project which  
56 | jeopardizes adequate service to the public from the project.

57 |       (f) "Operate" means to finance, maintain, improve, equip,  
58 | modify, or repair.

59 |       (g) "Private entity" means any natural person,  
60 | corporation, general partnership, limited liability company,  
61 | limited partnership, joint venture, business trust, public  
62 | benefit corporation, nonprofit entity, or other private business  
63 | entity.

64 |       (h) "Proposal" means a plan for a qualifying project with  
65 | detail beyond a conceptual level for which terms such as fixing  
66 | costs, payment schedules, financing, deliverables, and project  
67 | schedule are defined.

68 |       (i) "Qualifying project" means:

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

79           2. An improvement, including equipment, of a building that  
 80 will be principally used by a public entity or the public at  
 81 large or that supports a service delivery system in the public  
 82 sector;

83           3. A water, wastewater, or surface water management  
 84 facility or other related infrastructure; or

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

92           (j) "Responsible public entity" means a county,  
 93 municipality, school district, special district ~~board~~, or any  
 94 other political subdivision of the state; a public body  
 95 corporate and politic; or a regional entity that serves a public  
 96 purpose and is authorized to develop or operate a qualifying  
 97 project.

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

104           (l) "Service contract" means a contract between a

105 responsible public entity and the private entity which defines  
106 the terms of the services to be provided with respect to a  
107 qualifying project.

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

113 (a) The Legislature also finds that:

114 1. There is a public need for timely and cost-effective  
115 acquisition, design, construction, improvement, renovation,  
116 expansion, equipping, maintenance, operation, implementation, or  
117 installation of projects serving a public purpose, including  
118 educational facilities, transportation facilities, water or  
119 wastewater management facilities and infrastructure, technology  
120 infrastructure, roads, highways, bridges, and other public  
121 infrastructure and government facilities within the state which  
122 serve a public need and purpose, and that such public need may  
123 not be wholly satisfied by existing procurement methods.

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

131 schedule for delivery, lowering the cost, and providing other  
 132 benefits to the public.

133 3. There may be state and federal tax incentives that  
 134 promote partnerships between public and private entities to  
 135 develop and operate qualifying projects.

136 4. A procurement under this section serves the public  
 137 purpose of this section if such procurement facilitates the  
 138 timely development or operation of a qualifying project.

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

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

148 ~~(a) There is created the Partnership for Public Facilities~~  
 149 ~~and Infrastructure Act Guidelines Task Force for the purpose of~~  
 150 ~~recommending guidelines for the Legislature to consider for~~  
 151 ~~purposes of creating a uniform process for establishing public-~~  
 152 ~~private partnerships, including the types of factors responsible~~  
 153 ~~public entities should review and consider when processing~~  
 154 ~~requests for public-private partnership projects pursuant to~~  
 155 ~~this section.~~

156 ~~(b) The task force shall be composed of seven members, as~~

157 ~~follows:~~

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

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

161 ~~a. One county government official.~~

162 ~~b. One municipal government official.~~

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

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

165 ~~(c) Task force members must be appointed by July 31, 2013.~~

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

179 ~~(d) In reviewing public private partnerships and~~  
180 ~~developing recommendations, the task force must consider:~~

181 ~~1. Opportunities for competition through public notice and~~  
182 ~~the availability of representatives of the responsible public~~

183 ~~entity to meet with private entities considering a proposal.~~

184 ~~2. Reasonable criteria for choosing among competing~~  
185 ~~proposals.~~

186 ~~3. Suggested timelines for selecting proposals and~~  
187 ~~negotiating an interim or comprehensive agreement.~~

188 ~~4. If an accelerated selection and review and~~  
189 ~~documentation timelines should be considered for proposals~~  
190 ~~involving a qualifying project that the responsible public~~  
191 ~~entity deems a priority.~~

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

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

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

204 ~~8. Recommendations regarding the authority of the~~  
205 ~~responsible public entity to engage the services of qualified~~  
206 ~~professionals, which may include a Florida-registered~~  
207 ~~professional or a certified public accountant, not otherwise~~  
208 ~~employed by the responsible public entity, to provide an~~



209 ~~independent analysis regarding the specifics, advantages,~~  
 210 ~~disadvantages, and long-term and short-term costs of a request~~  
 211 ~~by a private entity for approval of a qualifying project, unless~~  
 212 ~~the governing body of the public entity determines that such~~  
 213 ~~analysis should be performed by employees of the public entity.~~

214 ~~(e) The task force must submit a final report of its~~  
 215 ~~recommendations to the Governor, the President of the Senate,~~  
 216 ~~and the Speaker of the House of Representatives by July 1, 2014.~~

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

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

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

234 2. A private entity that submits an unsolicited proposal

235 to a responsible public entity must concurrently pay an initial  
236 application fee, as determined by the responsible public entity.  
237 Payment must be made by cash, cashier's check, or other  
238 noncancelable instrument. Personal checks may not be accepted.

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

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

253 (b) The responsible public entity may request a proposal  
254 from private entities for a qualifying ~~public-private~~ project  
255 or, if the responsible public entity receives an unsolicited  
256 proposal for a qualifying ~~public-private~~ project and the  
257 responsible public entity intends to enter into a comprehensive  
258 agreement for the project described in the ~~such~~ unsolicited  
259 proposal, the responsible public entity shall publish notice in  
260 the Florida Administrative Register and a newspaper of general

261 circulation at least once a week for 2 weeks stating that the  
262 responsible public entity has received a proposal and will  
263 accept other proposals for the same project. The timeframe  
264 within which the responsible public entity may accept other  
265 proposals shall be determined by the responsible public entity  
266 on a project-by-project basis based upon the complexity of the  
267 qualifying project and the public benefit to be gained by  
268 allowing a longer or shorter period of time within which other  
269 proposals may be received; however, the timeframe for allowing  
270 other proposals must be at least 21 days, but no more than 120  
271 days, after the initial date of publication. If approved by a  
272 majority vote of the responsible public entity's governing body,  
273 the responsible public entity may alter the timeframe for  
274 accepting proposals to more adequately suit the needs of the  
275 qualifying project. A copy of the notice must be mailed to each  
276 local government in the affected area.

277 (c) If the responsible public entity solicits proposals  
278 under this section, the solicitation must include a design  
279 criteria package prepared by an architect, engineer, or  
280 landscape architect licensed in this state which is sufficient  
281 to allow private entities to prepare a bid or a response. The  
282 design criteria package must specify performance-based criteria  
283 for the project, including the legal description of the site,  
284 with survey information; interior space requirements; material  
285 quality standards; schematic layouts and conceptual design  
286 criteria for the project, with budget estimates; design and

287 construction schedules; and site and utility requirements A  
 288 ~~responsible public entity that is a school board may enter into~~  
 289 ~~a comprehensive agreement only with the approval of the local~~  
 290 ~~governing body.~~

291 (d) Before approving a comprehensive agreement ~~approval~~,  
 292 the responsible public entity must determine that the proposed  
 293 project:

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

295 2. Is for a facility that is owned by the responsible  
 296 public entity or for a facility for which ownership will be  
 297 conveyed to the responsible public entity.

298 3. Has adequate safeguards in place to ensure that  
 299 additional costs or service disruptions are not imposed on the  
 300 public in the event of material default or cancellation of the  
 301 comprehensive agreement by the responsible public entity.

302 4. Has adequate safeguards in place to ensure that the  
 303 responsible public entity or private entity has the opportunity  
 304 to add capacity to the proposed project or other facilities  
 305 serving similar predominantly public purposes.

306 5. Will be owned by the responsible public entity upon  
 307 completion, expiration, or termination of the comprehensive  
 308 agreement and upon payment of the amounts financed.

309 (e) Before signing a comprehensive agreement, the  
 310 responsible public entity must consider a reasonable finance  
 311 plan that is consistent with subsection (9) ~~(11)~~; the qualifying  
 312 project cost; revenues by source; available financing; major

313 assumptions; internal rate of return on private investments, if  
314 governmental funds are assumed in order to deliver a cost-  
315 feasible project; and a total cash-flow analysis beginning with  
316 the implementation of the project and extending for the term of  
317 the comprehensive agreement.

318 (f) In considering an unsolicited proposal, the  
319 responsible public entity may require from the private entity a  
320 technical study prepared by a nationally recognized expert with  
321 experience in preparing analysis for bond rating agencies. In  
322 evaluating the technical study, the responsible public entity  
323 may rely upon internal staff reports prepared by personnel  
324 familiar with the operation of similar facilities or the advice  
325 of external advisors or consultants who have relevant  
326 experience.

327 (4)~~(5)~~ PROJECT APPROVAL REQUIREMENTS.—An unsolicited  
328 proposal from a private entity for approval of a qualifying  
329 project must be accompanied by the following material and  
330 information, unless waived by the responsible public entity:

331 (a) A description of the qualifying project, including the  
332 conceptual design of the facilities or a conceptual plan for the  
333 provision of services, and a schedule for the initiation and  
334 completion of the qualifying project.

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

338 (c) A description of the private entity's general plans

339 for financing the qualifying project, including the sources of  
 340 the private entity's funds and the identity of any dedicated  
 341 revenue source or proposed debt or equity investment on behalf  
 342 of the private entity.

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

345 (e) The proposed user fees, lease payments, or other  
 346 service payments over the term of a comprehensive agreement, and  
 347 the methodology for and circumstances that would allow changes  
 348 to the user fees, lease payments, and other service payments  
 349 over time.

350 (f) Additional material or information that the  
 351 responsible public entity reasonably requests.

352  
 353 Any pricing or financial terms included in an unsolicited  
 354 proposal must be specific as to when the pricing or terms  
 355 expire.

356 (5)~~(6)~~ PROJECT QUALIFICATION AND PROCESS.—

357 (a) The private entity, or the applicable party or parties  
 358 of the private entity's team, must meet the minimum standards  
 359 contained in the responsible public entity's guidelines for  
 360 qualifying professional services and contracts for traditional  
 361 procurement projects.

362 (b) The responsible public entity must:

363 1. Ensure that provision is made for the private entity's  
 364 performance and payment of subcontractors, including, but not

365 limited to, surety bonds, letters of credit, parent company  
366 guarantees, and lender and equity partner guarantees. For the  
367 components of the qualifying project which involve construction  
368 performance and payment, bonds are required and are subject to  
369 the recordation, notice, suit limitation, and other requirements  
370 of s. 255.05.

371 2. Ensure the most efficient pricing of the security  
372 package that provides for the performance and payment of  
373 subcontractors.

374 3. Ensure that ~~provision is made for the transfer of the~~  
375 ~~private entity's obligations if the comprehensive agreement~~  
376 addresses termination upon is terminated or a material default  
377 of the comprehensive agreement occurs.

378 (c) After the public notification period has expired in  
379 the case of an unsolicited proposal, the responsible public  
380 entity shall rank the proposals received in order of preference.  
381 In ranking the proposals, the responsible public entity may  
382 consider factors that include, but are not limited to,  
383 professional qualifications, general business terms, innovative  
384 design techniques or cost-reduction terms, and finance plans.  
385 The responsible public entity may then begin negotiations for a  
386 comprehensive agreement with the highest-ranked firm. If the  
387 responsible public entity is not satisfied with the results of  
388 the negotiations, the responsible public entity may terminate  
389 negotiations with the proposer and negotiate with the second-  
390 ranked or subsequent-ranked firms, in the order consistent with

391 | this procedure. If only one proposal is received, the  
392 | responsible public entity may negotiate in good faith, and if  
393 | the responsible public entity is not satisfied with the results  
394 | of the negotiations, the responsible public entity may terminate  
395 | negotiations with the proposer. Notwithstanding this paragraph,  
396 | the responsible public entity may reject all proposals at any  
397 | point in the process until a contract with the proposer is  
398 | executed.

399 |         (d) The responsible public entity shall perform an  
400 | independent analysis of the proposed public-private partnership  
401 | which demonstrates the cost-effectiveness and overall public  
402 | benefit before the procurement process is initiated or before  
403 | the contract is awarded.

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

412 |             1. There is a public need for or benefit derived from a  
413 | project of the type that the private entity proposes as the  
414 | qualifying project.

415 |             2. The estimated cost of the qualifying project is  
416 | reasonable in relation to similar facilities.



417           3. The private entity's plans will result in the timely  
418 acquisition, design, construction, improvement, renovation,  
419 expansion, equipping, maintenance, or operation of the  
420 qualifying project.

421           (f) The responsible public entity may charge a reasonable  
422 fee to cover the costs of processing, reviewing, and evaluating  
423 the request, including, but not limited to, reasonable attorney  
424 fees and fees for financial and technical advisors or  
425 consultants and for other necessary advisors or consultants.

426           (g) Upon approval of a qualifying project, the responsible  
427 public entity shall establish a date for the commencement of  
428 activities related to the qualifying project. The responsible  
429 public entity may extend the commencement date.

430           (h) Approval of a qualifying project by the responsible  
431 public entity is subject to entering into a comprehensive  
432 agreement with the private entity.

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

434           ~~(a) The responsible public entity must notify each~~  
435 ~~affected local jurisdiction by furnishing a copy of the proposal~~  
436 ~~to each affected local jurisdiction when considering a proposal~~  
437 ~~for a qualifying project.~~

438           ~~(b) Each affected local jurisdiction that is not a~~  
439 ~~responsible public entity for the respective qualifying project~~  
440 ~~may, within 60 days after receiving the notice, submit in~~  
441 ~~writing any comments to the responsible public entity and~~  
442 ~~indicate whether the facility is incompatible with the local~~

443 ~~comprehensive plan, the local infrastructure development plan,~~  
444 ~~the capital improvements budget, any development of regional~~  
445 ~~impact processes or timelines, or other governmental spending~~  
446 ~~plan. The responsible public entity shall consider the comments~~  
447 ~~of the affected local jurisdiction before entering into a~~  
448 ~~comprehensive agreement with a private entity. If an affected~~  
449 ~~local jurisdiction fails to respond to the responsible public~~  
450 ~~entity within the time provided in this paragraph, the~~  
451 ~~nonresponse is deemed an acknowledgment by the affected local~~  
452 ~~jurisdiction that the qualifying project is compatible with the~~  
453 ~~local comprehensive plan, the local infrastructure development~~  
454 ~~plan, the capital improvements budget, or other governmental~~  
455 ~~spending plan.~~

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

467 (a) Authorize the private entity to commence activities  
468 for which it may be compensated related to the proposed

469 | qualifying project, including, but not limited to, project  
 470 | planning and development, design, environmental analysis and  
 471 | mitigation, survey, other activities concerning any part of the  
 472 | proposed qualifying project, and ascertaining the availability  
 473 | of financing for the proposed facility or facilities.

474 |       (b) Establish the process and timing of the negotiation of  
 475 | the comprehensive agreement.

476 |       (c) Contain such other provisions related to an aspect of  
 477 | the development or operation of a qualifying project that the  
 478 | responsible public entity and the private entity deem  
 479 | appropriate.

480 |       (7)~~(9)~~ COMPREHENSIVE AGREEMENT.—

481 |       (a) Before developing or operating the qualifying project,  
 482 | the private entity must enter into a comprehensive agreement  
 483 | with the responsible public entity. The comprehensive agreement  
 484 | must provide for:

485 |           1. Delivery of performance and payment bonds, letters of  
 486 | credit, or other security acceptable to the responsible public  
 487 | entity in connection with the development or operation of the  
 488 | qualifying project in the form and amount satisfactory to the  
 489 | responsible public entity. For the components of the qualifying  
 490 | project which involve construction, the form and amount of the  
 491 | bonds must comply with s. 255.05.

492 |           2. Review of the design for the qualifying project by the  
 493 | responsible public entity and, if the design conforms to  
 494 | standards acceptable to the responsible public entity, the

495 approval of the responsible public entity. This subparagraph  
496 does not require the private entity to complete the design of  
497 the qualifying project before the execution of the comprehensive  
498 agreement.

499 3. Inspection of the qualifying project by the responsible  
500 public entity to ensure that the private entity's activities are  
501 acceptable to the responsible public entity in accordance with  
502 the comprehensive agreement.

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

510 5. Monitoring by the responsible public entity of the  
511 maintenance practices to be performed by the private entity to  
512 ensure that the qualifying project is properly maintained.

513 6. Periodic filing by the private entity of the  
514 appropriate financial statements that pertain to the qualifying  
515 project.

516 7. Procedures that govern the rights and responsibilities  
517 of the responsible public entity and the private entity in the  
518 course of the construction and operation of the qualifying  
519 project and in the event of the termination of the comprehensive  
520 agreement or a material default by the private entity. The

521 procedures must include conditions that govern the assumption of  
522 the duties and responsibilities of the private entity by an  
523 entity that funded, in whole or part, the qualifying project or  
524 by the responsible public entity, and must provide for the  
525 transfer or purchase of property or other interests of the  
526 private entity by the responsible public entity.

527 8. Fees, lease payments, or service payments. In  
528 negotiating user fees, the fees must be the same for persons  
529 using the facility under like conditions and must not materially  
530 discourage use of the qualifying project. The execution of the  
531 comprehensive agreement or a subsequent amendment is conclusive  
532 evidence that the fees, lease payments, or service payments  
533 provided for in the comprehensive agreement comply with this  
534 section. Fees or lease payments established in the comprehensive  
535 agreement as a source of revenue may be in addition to, or in  
536 lieu of, service payments.

537 9. Duties of the private entity, including the terms and  
538 conditions that the responsible public entity determines serve  
539 the public purpose of this section.

540 (b) The comprehensive agreement may include:

541 1. An agreement by the responsible public entity to make  
542 grants or loans to the private entity from amounts received from  
543 the federal, state, or local government or an agency or  
544 instrumentality thereof.

545 2. A provision under which each entity agrees to provide  
546 notice of default and cure rights for the benefit of the other

547 entity, including, but not limited to, a provision regarding  
548 unavoidable delays.

549 3. A provision that terminates the authority and duties of  
550 the private entity under this section and dedicates the  
551 qualifying project to the responsible public entity or, if the  
552 qualifying project was initially dedicated by an affected local  
553 jurisdiction, to the affected local jurisdiction for public use.

554 (8) ~~(10)~~ FEES.—A comprehensive ~~An~~ agreement entered into  
555 pursuant to this section may authorize the private entity to  
556 impose fees to members of the public for the use of the  
557 facility. The following provisions apply to the comprehensive  
558 agreement:

559 (a) The responsible public entity may develop new  
560 facilities or increase capacity in existing facilities through a  
561 comprehensive agreement with a private entity ~~agreements with~~  
562 ~~public-private partnerships~~.

563 (b) The comprehensive ~~public-private partnership~~ agreement  
564 must ensure that the facility is properly operated, maintained,  
565 or improved in accordance with standards set forth in the  
566 comprehensive agreement.

567 (c) The responsible public entity may lease existing fee-  
568 for-use facilities through a comprehensive ~~public-private~~  
569 ~~partnership~~ agreement.

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

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

576 (9) ~~(11)~~ FINANCING.—

577 (a) A private entity may enter into a private-source  
578 financing agreement between financing sources and the private  
579 entity. A financing agreement and any liens on the property or  
580 facility must be paid in full at the applicable closing that  
581 transfers ownership or operation of the facility to the  
582 responsible public entity at the conclusion of the term of the  
583 comprehensive agreement.

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

587 (c) The responsible public entity may use innovative  
588 finance techniques associated with a public-private partnership  
589 under this section, including, but not limited to, federal loans  
590 as provided in Titles 23 and 49 C.F.R., commercial bank loans,  
591 and hedges against inflation from commercial banks or other  
592 private sources. In addition, the responsible public entity may  
593 provide its own capital or operating budget to support a  
594 qualifying project. The budget may be from any legally  
595 permissible funding sources of the responsible public entity,  
596 including the proceeds of debt issuances. A responsible public  
597 entity may use the model financing agreement provided in s.  
598 489.145(6) for its financing of a facility owned by a

599 responsible public entity. A financing agreement may not require  
 600 the responsible public entity to indemnify the financing source,  
 601 subject the responsible public entity's facility to liens in  
 602 violation of s. 11.066(5), or secure financing of ~~by~~ the  
 603 responsible public entity by a mortgage on, or security interest  
 604 in, the real or tangible personal property of the responsible  
 605 public entity in a manner that could result in the loss of the  
 606 fee ownership of the property by the responsible public entity  
 607 ~~with a pledge of security interest~~, and any such provision is  
 608 void.

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

616 (10) ~~(12)~~ POWERS AND DUTIES OF THE PRIVATE ENTITY.—

617 (a) The private entity shall:

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

621 2. Maintain, or provide by contract for the maintenance or  
 622 improvement of, the qualifying project if required by the  
 623 comprehensive agreement.

624 3. Cooperate with the responsible public entity in making



625 best efforts to establish interconnection between the qualifying  
 626 project and any other facility or infrastructure as requested by  
 627 the responsible public entity in accordance with the provisions  
 628 of the comprehensive agreement.

629 4. Comply with the comprehensive agreement and any lease  
 630 or service contract.

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

638 (c) The responsible public entity may provide services to  
 639 the private entity. An agreement for maintenance and other  
 640 services entered into pursuant to this section must provide for  
 641 full reimbursement for services rendered for qualifying  
 642 projects.

643 (d) A private entity of a qualifying project may provide  
 644 additional services for the qualifying project to the public or  
 645 to other private entities if the provision of additional  
 646 services does not impair the private entity's ability to meet  
 647 its commitments to the responsible public entity pursuant to the  
 648 comprehensive agreement.

649 (11) ~~(13)~~ EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon the  
 650 expiration or termination of a comprehensive agreement, the

651 responsible public entity may use revenues from the qualifying  
652 project to pay current operation and maintenance costs of the  
653 qualifying project. If the private entity materially defaults  
654 under the comprehensive agreement, the compensation that is  
655 otherwise due to the private entity is payable to satisfy all  
656 financial obligations to investors and lenders on the qualifying  
657 project in the same way that is provided in the comprehensive  
658 agreement or any other agreement involving the qualifying  
659 project, if the costs of operating and maintaining the  
660 qualifying project are paid in the normal course. Revenues in  
661 excess of the costs for operation and maintenance costs may be  
662 paid to the investors and lenders to satisfy payment obligations  
663 under their respective agreements. A responsible public entity  
664 may terminate with cause and without prejudice a comprehensive  
665 agreement and may exercise any other rights or remedies that may  
666 be available to it in accordance with the provisions of the  
667 comprehensive agreement. The full faith and credit of the  
668 responsible public entity may not be pledged to secure the  
669 financing of the private entity. The assumption of the  
670 development or operation of the qualifying project does not  
671 obligate the responsible public entity to pay any obligation of  
672 the private entity from sources other than revenues from the  
673 qualifying project unless stated otherwise in the comprehensive  
674 agreement.

675 (12) ~~(14)~~ SOVEREIGN IMMUNITY.—This section does not waive  
676 the sovereign immunity of a responsible public entity, an

677 affected local jurisdiction, or an officer or employee thereof  
 678 with respect to participation in, or approval of, any part of a  
 679 qualifying project or its operation, including, but not limited  
 680 to, interconnection of the qualifying project with any other  
 681 infrastructure or project. A county or municipality in which a  
 682 qualifying project is located possesses sovereign immunity with  
 683 respect to the project, including, but not limited to, its  
 684 design, construction, and operation.

685 (13) DEPARTMENT OF MANAGEMENT SERVICES.—

686 (a) A responsible public entity may provide a copy of its  
 687 comprehensive agreement to the Department of Management  
 688 Services. A responsible public entity must redact any  
 689 confidential or exempt information from the copy of the  
 690 comprehensive agreement before providing it to the Department of  
 691 Management Services.

692 (b) The Department of Management Services may accept and  
 693 maintain copies of comprehensive agreements received from  
 694 responsible public entities for the purpose of sharing  
 695 comprehensive agreements with other responsible public entities.

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

699 (14) ~~(15)~~ CONSTRUCTION.—

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

702        (b) This section shall be construed as cumulative and  
703 supplemental to any other authority or power vested in or  
704 exercised by the governing body ~~board~~ of a county, municipality,  
705 special district, or municipal hospital or health care system  
706 including those contained in acts of the Legislature  
707 ~~establishing such public hospital boards or s. 155.40.~~

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

711        (d) ~~(a)~~ This section provides an alternative method and  
712 does not limit a county, municipality, special district, or  
713 other political subdivision of the state in the procurement or  
714 operation of a qualifying project ~~acquisition, design, or~~  
715 ~~construction of a public project~~ pursuant to other statutory or  
716 constitutional authority.

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

723        (f) ~~(e)~~ This section does not waive any requirement of s.  
724 287.055.

725        Section 2. This act shall take effect July 1, 2016.