

HB781

2024

1 A bill to be entitled

2 An act relating to unsolicited proposals for public-
3 private partnerships; amending s. 255.065, F.S.;
4 revising provisions to authorize, rather than require,
5 a responsible public entity to publish notice of an
6 unsolicited proposal for a qualifying project in a
7 specified manner and accept other proposals for the
8 same project; authorizing a responsible public entity
9 to proceed with an unsolicited proposal for a
10 qualifying project without a public bidding process if
11 the responsible public entity holds a public meeting
12 that meets certain requirements and makes a certain
13 determination; requiring the responsible public entity
14 to consider certain factors; requiring the responsible
15 public entity to publish a certain report in the
16 Florida Administrative Register for a certain period
17 of time in certain circumstances; revising certain
18 determinations that a responsible public entity must
19 make before approving a comprehensive agreement;
20 conforming provisions to changes made by the act;
21 providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:
24

25 Section 1. Paragraphs (c) through (f) of subsection (3) of

26 | section 255.065, Florida Statutes, are redesignated as
27 | paragraphs (e) through (h), respectively, paragraph (b) and
28 | present paragraph (d) of subsection (3) and paragraph (c) of
29 | subsection (5) are amended, and new paragraphs (c) and (d) are
30 | added to subsection (3) of that section, to read:

31 | 255.065 Public-private partnerships.—

32 | (3) PROCUREMENT PROCEDURES.—A responsible public entity
33 | may receive unsolicited proposals or may solicit proposals for a
34 | qualifying project and may thereafter enter into a comprehensive
35 | agreement with a private entity, or a consortium of private
36 | entities, for the building, upgrading, operating, ownership, or
37 | financing of facilities.

38 | (b)1. The responsible public entity may request a proposal
39 | from private entities for a qualifying project or, if the
40 | responsible public entity receives an unsolicited proposal for a
41 | qualifying project and the responsible public entity intends to
42 | enter into a comprehensive agreement for the project described
43 | in the unsolicited proposal, the responsible public entity may
44 | ~~shall~~ publish notice in the Florida Administrative Register and
45 | a newspaper of general circulation at least once a week for 2
46 | weeks stating that the responsible public entity has received a
47 | proposal and will accept other proposals for the same project.

48 | 2. The timeframe within which the responsible public
49 | entity may accept other proposals shall be determined by the
50 | responsible public entity on a project-by-project basis based

51 upon the complexity of the qualifying project and the public
52 benefit to be gained by allowing a longer or shorter period of
53 time within which other proposals may be received; however, the
54 timeframe for allowing other proposals must be at least 21 days,
55 but no more than 120 days, after the initial date of
56 publication. If approved by a majority vote of the responsible
57 public entity's governing body, the responsible public entity
58 may alter the timeframe for accepting proposals to more
59 adequately suit the needs of the qualifying project. A copy of
60 the notice must be mailed to each local government in the
61 affected area.

62 (c) The responsible public entity may proceed with an
63 unsolicited proposal for a qualifying project without engaging
64 in a public bidding process if the responsible public entity
65 holds a duly noticed public meeting at which the proposal is
66 presented, affected public entities and members of the public
67 are able to provide comment, and the responsible public entity
68 determines that the proposal is in the public's interest. In
69 making the public interest determination, the responsible public
70 entity must consider all of the following factors:

71 1. The benefits to the public.

72 2. The financial structure of and the economic
73 efficiencies achieved by the proposal.

74 3. The qualifications and experience of the private entity
75 that submitted the proposal and such entity's ability to perform

76 the project.

77 4. The project's compatibility with regional
78 infrastructure plans.

79 5. Public comments submitted at the meeting. The
80 responsible public entity must provide a statement that explains
81 why the proposal should proceed and addresses such comments.

82 (d) If the responsible public entity decides to proceed
83 with an unsolicited proposal without engaging in a public
84 bidding process, the responsible public entity must publish in
85 the Florida Administrative Register for at least 7 days a report
86 that provides the public interest determination required under
87 paragraph (c) and includes the factors considered in making such
88 public interest determination.

89 (f)~~(d)~~ Before approving a comprehensive agreement, the
90 responsible public entity must determine that the proposed
91 project:

92 1. Is in the public's best interest, if the proposal was
93 solicited. If the proposal was unsolicited, the responsible
94 public entity must determine that the proposed project has been
95 determined to be in the public's interest in accordance with
96 paragraph (c).

97 2. Is for a facility that is owned by the responsible
98 public entity or for a facility for which ownership will be
99 conveyed to the responsible public entity. For a proposed
100 project that was unsolicited, if ownership will not be conveyed

101 to the responsible public entity within 10 years after initial
102 public operation begins, the public benefits apart from
103 ownership must be identified and stated by the responsible
104 public entity.

105 3. Has adequate safeguards in place to ensure that
106 additional costs or service disruptions are not imposed on the
107 public in the event of material default or cancellation of the
108 comprehensive agreement by the responsible public entity.

109 4. Has adequate safeguards in place to ensure that the
110 responsible public entity or private entity has the opportunity
111 to add capacity to the proposed project or other facilities
112 serving similar predominantly public purposes.

113 5. If the proposal was solicited, will be owned by the
114 responsible public entity upon completion, expiration, or
115 termination of the comprehensive agreement and upon payment of
116 the amounts financed.

117 (5) PROJECT QUALIFICATION AND PROCESS.—

118 (c) After the public notification period has expired in
119 the case of an unsolicited proposal that is submitted and
120 noticed for public bidding, the responsible public entity shall
121 rank the proposals received in order of preference. In ranking
122 the proposals, the responsible public entity may consider
123 factors that include, but are not limited to, professional
124 qualifications, general business terms, innovative design
125 techniques or cost-reduction terms, and finance plans. The

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126 responsible public entity may then begin negotiations for a
127 comprehensive agreement with the highest-ranked firm. If the
128 responsible public entity is not satisfied with the results of
129 the negotiations, the responsible public entity may terminate
130 negotiations with the proposer and negotiate with the second-
131 ranked or subsequent-ranked firms, in the order consistent with
132 this procedure. If only one proposal is received, the
133 responsible public entity may negotiate in good faith, and if
134 the responsible public entity is not satisfied with the results
135 of the negotiations, the responsible public entity may terminate
136 negotiations with the proposer. Notwithstanding this paragraph,
137 the responsible public entity may reject all proposals at any
138 point in the process until a contract with the proposer is
139 executed.

140 Section 2. This act shall take effect July 1, 2024.