

ENROLLED

CS/HB 781

2024 Legislature

1  
 2 An act relating to unsolicited proposals for public-  
 3 private partnerships; amending s. 255.065, F.S.;  
 4 authorizing, rather than requiring, a responsible  
 5 public entity to publish notice of an unsolicited  
 6 proposal for a qualifying project in a specified  
 7 manner and that other proposals for the same project  
 8 will be accepted; authorizing a responsible public  
 9 entity 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 holds a subsequent  
 13 public meeting at which the responsible public entity  
 14 makes a certain determination; requiring the  
 15 responsible public entity to consider certain factors;  
 16 requiring the responsible public entity to publish a  
 17 certain report in the Florida Administrative Register  
 18 for a certain period of time in certain circumstances;  
 19 revising certain determinations that a responsible  
 20 public entity must make before approving a  
 21 comprehensive agreement; conforming provisions to  
 22 changes made by the act; providing an effective date.

23  
 24 Be It Enacted by the Legislature of the State of Florida:  
 25

ENROLLED

CS/HB 781

2024 Legislature

26 Section 1. Present paragraphs (c) through (f) of  
 27 subsection (3) of section 255.065, Florida Statutes, are  
 28 redesignated as paragraphs (e) through (h), respectively, new  
 29 paragraphs (c) and (d) are added to that subsection, and  
 30 paragraph (b) and present paragraph (d) of that subsection and  
 31 paragraph (c) of subsection (5) of that section are amended, to  
 32 read:

33 255.065 Public-private partnerships.—

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

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

50 2. The timeframe within which the responsible public

ENROLLED

CS/HB 781

2024 Legislature

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

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

- 74 |           1. The benefits to the public.  
75 |           2. The financial structure of and the economic

ENROLLED

CS/HB 781

2024 Legislature

76 | efficiencies achieved by the proposal.

77 |       3. The qualifications and experience of the private entity  
 78 | that submitted the proposal and such entity's ability to perform  
 79 | the project.

80 |       4. The project's compatibility with regional  
 81 | infrastructure plans.

82 |       5. Public comments submitted at the meeting. The  
 83 | responsible public entity must provide a statement that explains  
 84 | why the proposal should proceed and addresses such comments.

85 |       (d) If the responsible public entity decides to proceed  
 86 | with an unsolicited proposal without engaging in a public  
 87 | bidding process, the responsible public entity must publish in  
 88 | the Florida Administrative Register for at least 7 days a report  
 89 | that includes all of the following:

90 |           1. The public interest determination required under  
 91 | paragraph (c).

92 |           2. The factors considered in making such public interest  
 93 | determination.

94 |           3. The responsible public entity's findings based on each  
 95 | considered factor.

96 |       ~~(f)~~ ~~(d)~~ Before approving a comprehensive agreement, the  
 97 | responsible public entity must determine that the proposed  
 98 | project:

99 |           1. Is in the public's best interest, if the proposal was  
 100 | solicited. If the proposal was unsolicited, the responsible

ENROLLED

CS/HB 781

2024 Legislature

101 public entity must determine that the proposed project has been  
 102 determined to be in the public's interest in accordance with  
 103 paragraph (c).

104 2. Is for a facility that is owned by the responsible  
 105 public entity or for a facility for which ownership will be  
 106 conveyed to the responsible public entity. For a proposed  
 107 project that was unsolicited, if ownership will not be conveyed  
 108 to the responsible public entity within 10 years after initial  
 109 public operation begins, the public benefits apart from  
 110 ownership must be identified and stated by the responsible  
 111 public entity in the public interest determination required  
 112 under paragraph (c).

113 3. Has adequate safeguards in place to ensure that  
 114 additional costs or service disruptions are not imposed on the  
 115 public in the event of material default or cancellation of the  
 116 comprehensive agreement by the responsible public entity.

117 4. Has adequate safeguards in place to ensure that the  
 118 responsible public entity or private entity has the opportunity  
 119 to add capacity to the proposed project or other facilities  
 120 serving similar predominantly public purposes.

121 5. If the proposal was solicited, will be owned by the  
 122 responsible public entity upon completion, expiration, or  
 123 termination of the comprehensive agreement and upon payment of  
 124 the amounts financed.

125 (5) PROJECT QUALIFICATION AND PROCESS.—

ENROLLED

CS/HB 781

2024 Legislature

126 (c) After the public notification period has expired in  
127 the case of an unsolicited proposal that is submitted and  
128 noticed for public bidding, the responsible public entity shall  
129 rank the proposals received in order of preference. In ranking  
130 the proposals, the responsible public entity may consider  
131 factors that include, but are not limited to, professional  
132 qualifications, general business terms, innovative design  
133 techniques or cost-reduction terms, and finance plans. The  
134 responsible public entity may then begin negotiations for a  
135 comprehensive agreement with the highest-ranked firm. If the  
136 responsible public entity is not satisfied with the results of  
137 the negotiations, the responsible public entity may terminate  
138 negotiations with the proposer and negotiate with the second-  
139 ranked or subsequent-ranked firms, in the order consistent with  
140 this procedure. If only one proposal is received, the  
141 responsible public entity may negotiate in good faith, and if  
142 the responsible public entity is not satisfied with the results  
143 of the negotiations, the responsible public entity may terminate  
144 negotiations with the proposer. Notwithstanding this paragraph,  
145 the responsible public entity may reject all proposals at any  
146 point in the process until a contract with the proposer is  
147 executed.

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