

By Senator Boyd

20-00701B-24

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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       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 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:

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

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30 (5) of that section are amended, to read:

31 255.065 Public-private partnerships.—

32 (3) PROCUREMENT PROCEDURES.—A responsible public entity may  
33 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 entity  
49 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

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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 efficiencies  
73 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 infrastructure  
78 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

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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 servicing 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.

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117 (5) PROJECT QUALIFICATION AND PROCESS.—

118 (c) After the public notification period has expired in the  
119 case of an unsolicited proposal that is submitted and noticed  
120 for public bidding, the responsible public entity shall rank the  
121 proposals received in order of preference. In ranking the  
122 proposals, the responsible public entity may consider factors  
123 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  
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.