

By the Committee on Governmental Oversight and Accountability;
and Senator Boyd

585-02355-24

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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 holds a subsequent
13 public meeting at which it makes a certain
14 determination; requiring the responsible public entity
15 to consider certain factors; requiring the responsible
16 public entity to publish a certain report in the
17 Florida Administrative Register for a certain period
18 of time in certain circumstances; revising certain
19 determinations that a responsible public entity must
20 make before approving a comprehensive agreement;
21 conforming provisions to changes made by the act;
22 providing an effective date.

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

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

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30 paragraph (d) of that subsection and paragraph (c) of subsection
31 (5) of that section are amended, to read:

32 255.065 Public-private partnerships.—

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

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

49 2. The timeframe within which the responsible public entity
50 may accept other proposals shall be determined by the
51 responsible public entity on a project-by-project basis based
52 upon the complexity of the qualifying project and the public
53 benefit to be gained by allowing a longer or shorter period of
54 time within which other proposals may be received; however, the
55 timeframe for allowing other proposals must be at least 21 days,
56 but no more than 120 days, after the initial date of
57 publication. If approved by a majority vote of the responsible
58 public entity's governing body, the responsible public entity

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59 may alter the timeframe for accepting proposals to more
60 adequately suit the needs of the qualifying project. A copy of
61 the notice must be mailed to each local government in the
62 affected area.

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

73 1. The benefits to the public.

74 2. The financial structure of and the economic efficiencies
75 achieved by the proposal.

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

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

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

84 (d) If the responsible public entity decides to proceed
85 with an unsolicited proposal without engaging in a public
86 bidding process, the responsible public entity must publish in
87 the Florida Administrative Register for at least 7 days a report

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88 that includes all of the following:

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

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

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

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

98 1. Is in the public's best interest, if the proposal was
99 solicited. If the proposal was unsolicited, the responsible
100 public entity must determine that the proposed project has been
101 determined to be in the public's interest in accordance with
102 paragraph (c).

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

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

116 4. Has adequate safeguards in place to ensure that the

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117 responsible public entity or private entity has the opportunity
118 to add capacity to the proposed project or other facilities
119 serving similar predominantly public purposes.

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

124 (5) PROJECT QUALIFICATION AND PROCESS.—

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

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146 executed.

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