

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, Florida College
94 System institution, or state university ~~board~~, or any other
95 political subdivision of the state; a public body corporate and
96 politic; or a regional entity that serves a public purpose and
97 is authorized to develop or operate a qualifying 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.