

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Government Operations
2 Subcommittee

3 Representative Steube offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 287.05712, Florida Statutes, is created
8 to read:

9 287.05712 Public-private partnerships.-

10 (1) DEFINITIONS.-As used in this section, the term:

11 (a) "Affected local jurisdiction" means a county,
12 municipality, or special district in which all or a portion of a
13 qualifying project is located.

14 (b) "Develop" means to plan, design, finance, lease,
15 acquire, install, construct, or expand.

16 (c) "Fees" means charges imposed by the private entity of
17 a qualifying project for use of all or a portion of such
18 qualifying project pursuant to a comprehensive agreement.

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19 (d) "Lease payment" means any form of payment, including a
20 land lease, by a public entity to the private entity of a
21 qualifying project for the use of the project.

22 (e) "Material default" means a nonperformance of its
23 duties by the private entity of a qualifying project which
24 jeopardizes adequate service to the public from the project.

25 (f) "Operate" means to finance, maintain, improve, equip,
26 modify, or repair.

27 (g) "Private entity" means any natural person,
28 corporation, general partnership, limited liability company,
29 limited partnership, joint venture, business trust, public-
30 benefit corporation, nonprofit entity, or other private business
31 entity.

32 (h) "Proposal" means a plan for a qualifying project with
33 detail beyond a conceptual level for which terms such as fixing
34 costs, payment schedules, financing, deliverables, and project
35 schedule are defined.

36 (i) "Qualifying project" means:

37 1. A facility or project that serves a public purpose,
38 including, but not limited to, any ferry or mass transit
39 facility, vehicle parking facility, airport or seaport facility,
40 power-generating facility, rail facility or project, fuel supply
41 facility, oil or gas pipeline, medical or nursing care facility,
42 recreational facility, sporting or cultural facility, or
43 educational facility or other building or facility that is used
44 or will be used by a public educational institution, or any
45 other public facility or infrastructure that is used or will be

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46 used by the public at large or in support of an accepted public
47 purpose or activity;

48 2. An improvement, including equipment, of a building that
49 will be principally used by a public entity or the public at
50 large or that supports a service delivery system in the public
51 sector; or

52 3. A water, wastewater, or surface water management
53 facility or other related infrastructure.

54 (j) "Responsible public entity" means a county,
55 municipality, school board, or university, or any other
56 political subdivision of the state; a public body politic and
57 corporate; or a regional entity that serves a public purpose and
58 is authorized to develop or operate a qualifying project.

59 (k) "Revenues" means the income, earnings, user fees,
60 lease payments, or other service payments relating to the
61 development or operation of a qualifying project, including, but
62 not limited to, money received as grants or otherwise from the
63 Federal Government, a public entity, or an agency or
64 instrumentality thereof in aid of the qualifying project.

65 (l) "Service contract" means a contract between a public
66 entity and the private entity which defines the terms of the
67 services to be provided with respect to a qualifying project.

68 (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
69 that there is a public need for the construction or upgrade of
70 facilities that are used predominantly for public purposes and
71 that it is in the public's interest to provide for the
72 construction or upgrade of the facilities.

73 (a) The Legislature also finds that:

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74 1. There is a public need for timely and cost-effective
75 acquisition, design, construction, improvement, renovation,
76 expansion, equipping, maintenance, operation, implementation, or
77 installation of projects serving a public purpose, including
78 educational facilities, transportation facilities, water or
79 wastewater management facilities and infrastructure, technology
80 infrastructure, roads, highways, bridges, and other public
81 infrastructure and government facilities within the state which
82 serve a public need and purpose, and that such public need may
83 not be wholly satisfied by existing procurement methods.

84 2. There are inadequate resources to develop new
85 educational facilities, transportation facilities, water or
86 wastewater management facilities and infrastructure, technology
87 infrastructure, roads, highways, bridges, and other public
88 infrastructure and government facilities for the benefit of
89 residents of this state, and that a public-private partnership
90 has demonstrated that it can meet the needs by improving the
91 schedule for delivery, lowering the cost, and providing other
92 benefits to the public.

93 3. There may be state and federal tax incentives that
94 promote partnerships between public and private entities to
95 develop and operate qualifying projects.

96 4. A procurement under this section serves the public
97 purpose of this section if such procurement facilitates the
98 timely development or operation of a qualifying project.

99 (b) It is the intent of the Legislature to encourage
100 investment in the state by private entities; to facilitate
101 various bond financing mechanisms, private capital, and other

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102 funding sources for the development and operation of qualifying
103 projects, including expansion and acceleration of such financing
104 to meet the public need; and to provide the greatest possible
105 flexibility to public and private entities contracting for the
106 provision of public services.

107 (3) PUBLIC-PRIVATE PARTNERSHIP GUIDELINES TASK FORCE.-

108 (a) The Partnership for Public Facilities and
109 Infrastructure Act Guidelines Task Force is created to establish
110 guidelines for public entities on the types of factors public
111 entities should review and consider when processing requests for
112 public-private partnership projects pursuant to this section,
113 including consistent requirements for private entities seeking
114 to participate in the construction or development of a
115 qualifying project throughout the state.

116 (b) The task force shall consist of nine members, as
117 follows:

118 1. One member of the Senate, appointed by the President of
119 the Senate.

120 2. One member of the House of Representatives, appointed
121 by the Speaker of the House of Representatives.

122 3. The Secretary of Management Services or his or her
123 designee.

124 4. Six members appointed by the Governor, as follows:

125 a. One county government official.

126 b. One municipal government official.

127 c. One district school board member.

128 d. Three representatives of the business community.

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129 (c) Task force members shall serve for a term of 2 years
130 each and shall elect a chair and a vice chair. The task force
131 shall meet as necessary. Administrative and technical support
132 shall be provided by the department. Task force members shall
133 serve without compensation, but are entitled to reimbursement
134 for per diem and travel expenses pursuant to s. 112.061. The
135 task force shall terminate on July 1, 2015.

136 (d) The task force shall provide guidelines to public
137 entities no later than July 1, 2014. The guidelines shall
138 include:

139 1. Opportunities for competition through public notice and
140 the availability of representatives of the responsible public
141 entity to meet with private entities considering a proposal.

142 2. Reasonable criteria for choosing among competing
143 proposals.

144 3. Suggested timelines for selecting proposals and
145 negotiating an interim or comprehensive agreement.

146 4. Authorization for accelerated selection and review and
147 documentation timelines for proposals involving a qualifying
148 project that the responsible public entity deems a priority.

149 5. Procedures for financial review and analysis which, at
150 a minimum, include a cost-benefit analysis, an assessment of
151 opportunity cost, and consideration of the results of all
152 studies and analyses related to the proposed qualifying project.

153 6. Consideration of the nonfinancial benefits of a
154 proposed qualifying project.

155 7. A mechanism for the appropriating body to review a
156 proposed comprehensive agreement before execution.

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157 8. Analysis of the adequacy of the information released
158 when seeking competing proposals and providing for the
159 enhancement of that information, if deemed necessary, to
160 encourage competition, as well as establishing standards to
161 maintain the confidentiality of financial and proprietary terms
162 of an unsolicited proposal, which shall be disclosed only in
163 accordance with the bidding procedures of competing proposals.

164 9. Authority for the responsible public entity to engage
165 the services of qualified professionals, which may include a
166 Florida-registered professional or a certified public
167 accountant, not otherwise employed by the responsible public
168 entity, to provide an independent analysis regarding the
169 specifics, advantages, disadvantages, and long-term and short-
170 term costs of a request by a private entity for approval of a
171 qualifying project, unless the governing body of the public
172 entity determines that such analysis should be performed by
173 employees of the public entity. Professional services as defined
174 in s. 287.055 must be engaged pursuant to s. 287.055.

175 (e) The establishment of guidelines pursuant to this
176 section by the task force or the adoption of such guidelines by
177 a public entity is not required for the public entity to request
178 or receive proposals for a qualifying project or to enter into a
179 comprehensive agreement for a qualifying project. A public
180 entity may adopt guidelines before the establishment of
181 guidelines by the task force, which may remain in effect as long
182 as such guidelines are not inconsistent with the guidelines
183 established by the task force. A guideline that is inconsistent
184 with the guidelines of the task force must be amended as

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185 necessary to maintain consistency with the task force
186 guidelines.

187 (4) PROCUREMENT PROCEDURES.—A responsible public entity
188 may receive unsolicited proposals or may solicit proposals for
189 qualifying projects and may thereafter enter into an agreement
190 with a private entity, or a consortium of private entities, for
191 the building, upgrading, operating, ownership, or financing of
192 facilities.

193 (a) The responsible public entity may establish a
194 reasonable application fee for the submission of an unsolicited
195 proposal under this section. The fee must be sufficient to pay
196 the costs of evaluating the proposal. The responsible public
197 entity may engage the services of a private consultant to assist
198 in the evaluation.

199 (b) The responsible public entity may request a proposal
200 from private entities for a public-private project or, if the
201 public entity receives an unsolicited proposal, the public
202 entity shall publish notice in the Florida Administrative
203 Register and a newspaper of general circulation at least once a
204 week for 2 weeks stating that the public entity has received a
205 proposal and will accept other proposals for the same project.
206 The timeframe within which the public entity may accept other
207 proposals shall be determined by the public entity on a project-
208 by-project basis based upon the complexity of the project and the
209 public benefit to be gained by allowing a longer or shorter period of
210 time within which other proposals may be received; however, the
211 timeframe for allowing other proposals must be at least 21 days, but
212 no more than 120 days, after the initial date of publication. A

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213 copy of the notice must be mailed to each local government in
214 the affected area. The scope of the proposal may be publicized
215 for the purpose of soliciting competing proposals; however, the
216 financial terms of the proposal may not be disclosed until the
217 terms of all competing bids are simultaneously disclosed in
218 accordance with the applicable law governing procurement
219 procedures for the qualifying project.

220 (c) A responsible public entity that is a school board may
221 enter into a comprehensive agreement only with the approval of
222 the local governing body.

223 (d) Before approval, the responsible public entity must
224 determine that the proposed project:

225 1. Is in the public's best interest.

226 2. Is for a facility that is owned by the responsible
227 public entity or for a facility for which ownership will be
228 conveyed to the responsible public entity.

229 3. Has adequate safeguards in place to ensure that
230 additional costs or service disruptions are not imposed on the
231 public in the event of material default or cancellation of the
232 agreement by the responsible public entity.

233 4. Has adequate safeguards in place to ensure that the
234 responsible public entity or the private entity has the
235 opportunity to add capacity to the proposed project or other
236 facilities serving similar predominantly public purposes.

237 5. Will be owned by the responsible public entity upon
238 completion or termination of the agreement and upon payment of
239 the amounts financed.

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240 (e) Before signing a comprehensive agreement, the
241 responsible public entity must consider a reasonable finance
242 plan that is consistent with subsection (11), the project cost,
243 revenues by source, available financing, major assumptions,
244 internal rate of return on private investments, if governmental
245 funds are assumed in order to deliver a cost-feasible project,
246 and a total cash-flow analysis beginning with the implementation
247 of the project and extending for the term of the agreement.

248 (f) In considering an unsolicited proposal, the
249 responsible public entity may require from the private entity a
250 technical study prepared by a nationally recognized expert with
251 experience in preparing analysis for bond rating agencies. In
252 evaluating the technical study, the responsible public entity
253 may rely upon internal staff reports prepared by personnel
254 familiar with the operation of similar facilities or the advice
255 of external advisors or consultants having relevant experience.

256 (5) PROJECT APPROVAL REQUIREMENTS.—An unsolicited proposal
257 from a private entity for approval of a qualifying project must
258 be accompanied by the following material and information, unless
259 waived by the responsible public entity:

260 (a) A description of the qualifying project, including the
261 conceptual design of the facilities or a conceptual plan for the
262 provision of services, and a schedule for the initiation and
263 completion of the qualifying project.

264 (b) A description of the method by which the private
265 entity proposes to secure the necessary property interests that
266 are required for the qualifying project.

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267 (c) A description of the private entity's general plans
268 for financing the qualifying project, including the sources of
269 the private entity's funds and identification of any dedicated
270 revenue source or proposed debt or equity investment on behalf
271 of the private entity.

272 (d) The name and address of a person who may be contacted
273 for additional information concerning the proposal.

274 (e) The proposed user fees, lease payments, or other
275 service payments over the term of a comprehensive agreement, and
276 the methodology and circumstances for changes to the user fees,
277 lease payments, and other service payments over time.

278 (f) Additional material or information that the
279 responsible public entity reasonably requests.

280 (6) PROJECT QUALIFICATION AND PROCESS.-

281 (a) The private entity must meet the minimum standards
282 contained in the responsible public entity's guidelines for
283 qualifying professional services and contracts for traditional
284 procurement projects.

285 (b) The responsible public entity must:

286 1. Ensure that provisions are made for the private
287 entity's performance and payment of subcontractors, including,
288 but not limited to, surety bonds, letters of credit, parent
289 company guarantees, and lender and equity partner guarantees.
290 For the components of the qualifying project which involve
291 construction performance and payment, bonds are required and are
292 subject to the recordation, notice, suit limitation, and other
293 requirements of s. 255.05.

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294 2. Ensure the most efficient pricing of the security
295 package that provides for the performance and payment of
296 subcontractors.

297 3. Ensure that provisions are made for the transfer of the
298 private entity's obligations if the comprehensive agreement is
299 terminated or a material default occurs.

300 (c) After the public notification period has expired in
301 the case of an unsolicited proposal, the responsible public
302 entity shall rank the proposals received in order of preference.
303 In ranking the proposals, the responsible public entity may
304 consider factors that include, but are not limited to,
305 professional qualifications, general business terms, innovative
306 design techniques or cost-reduction terms, and finance plans. If
307 the responsible public entity is not satisfied with the results
308 of the negotiations, the responsible public entity may terminate
309 negotiations with the proposer and negotiate with the second-
310 ranked or subsequent-ranked firms, in the order consistent with
311 this procedure. If only one proposal is received, the
312 responsible public entity may negotiate in good faith, and if
313 the public entity is not satisfied with the results of the
314 negotiations, the public entity may terminate negotiations with
315 the proposer. Notwithstanding this paragraph, the responsible
316 public entity may reject all proposals at any point in the
317 process until a contract with the proposer is executed.

318 (d) The responsible public entity shall perform an
319 independent analysis of the proposed public-private partnership
320 which demonstrates the cost-effectiveness and overall public

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321 benefit before the procurement process is initiated or before
322 the contract is awarded.

323 (e) The responsible public entity may approve the
324 development or operation of an educational facility, a
325 transportation facility, a water or wastewater management
326 facility or related infrastructure, a technology infrastructure
327 or other public infrastructure, or a government facility needed
328 by the responsible public entity as a qualifying project, or the
329 design or equipping of a qualifying project that is developed or
330 operated, if:

331 1. There is a public need for or benefit derived from a
332 project of the type that the private entity proposes as the
333 qualifying project.

334 2. The estimated cost of the qualifying project is
335 reasonable in relation to similar facilities.

336 3. The private entity's plans will result in the timely
337 acquisition, design, construction, improvement, renovation,
338 expansion, equipping, maintenance, or operation of the
339 qualifying project.

340 (f) The responsible public entity may charge a reasonable
341 fee to cover the costs of processing, reviewing, and evaluating
342 the request, including, but not limited to, reasonable attorney
343 fees and fees for financial and technical advisors or
344 consultants and for other necessary advisors or consultants.

345 (g) Upon approval of a qualifying project, the responsible
346 public entity shall establish a date for the commencement of
347 activities related to the qualifying project. The responsible
348 public entity may extend the commencement date.

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349 (h) Approval of a qualifying project by the responsible
350 public entity is subject to entering into a comprehensive
351 agreement with the private entity.

352 (7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.—

353 (a) The responsible public entity must notify each
354 affected local jurisdiction by furnishing a copy of the proposal
355 to each affected local jurisdiction when considering a proposal
356 for a qualifying project.

357 (b) Each affected local jurisdiction that is not a
358 responsible public entity for the respective qualifying project
359 may, within 60 days after receiving the notice, submit in
360 writing any comments to the responsible public entity and
361 indicate whether the facility is incompatible with the local
362 comprehensive plan, the local infrastructure development plan,
363 the capital improvements budget, or other governmental spending
364 plan. The responsible public entity shall consider the comments
365 of the affected local jurisdiction before entering into a
366 comprehensive agreement with a private entity. If an affected
367 local jurisdiction fails to respond to the responsible public
368 entity within the time provided in this paragraph, the
369 nonresponse is deemed an acknowledgement by the affected local
370 jurisdiction that the qualifying project is compatible with the
371 local comprehensive plan, the local infrastructure development
372 plan, the capital improvements budget, or other governmental
373 spending plan.

374 (8) INTERIM AGREEMENT.—Before or in connection with the
375 negotiation of a comprehensive agreement, the public entity may
376 enter into an interim agreement with the private entity

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377 proposing the development or operation of the qualifying
378 project. An interim agreement does not obligate the responsible
379 public entity to enter into a comprehensive agreement. The
380 interim agreement is discretionary with the parties and is not
381 required on a qualifying project for which the parties may
382 proceed directly to a comprehensive agreement without the need
383 for an interim agreement. An interim agreement must be limited
384 to provisions that:

385 (a) Authorize the private entity to commence activities
386 for which it may be compensated related to the proposed
387 qualifying project, including, but not limited to, project
388 planning and development, design and engineering, environmental
389 analysis and mitigation, survey, other activities concerning any
390 part of the proposed qualifying project, and ascertaining the
391 availability of financing for the proposed facility or
392 facilities.

393 (b) Establish the process and timing of the negotiation of
394 the comprehensive agreement.

395 (c) Contain such other provisions related to an aspect of
396 the development or operation of a qualifying project that the
397 responsible public entity and the private entity deem
398 appropriate.

399 (9) COMPREHENSIVE AGREEMENT.—

400 (a) Before developing or operating the qualifying project,
401 the private entity must enter into a comprehensive agreement
402 with the responsible public entity. The comprehensive agreement
403 must provide for:

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404 1. The delivery of performance and payment bonds, letters
405 of credit, or other security acceptable to the responsible
406 public entity in connection with the development or operation of
407 the qualifying project in the form and amount satisfactory to
408 the responsible public entity. For the components of the
409 qualifying project which involve construction, the form and
410 amount of the bonds must comply with s. 255.05.

411 2. The review of the plans and specifications for the
412 qualifying project by the responsible public entity and, if the
413 plans and specifications conform to standards acceptable to the
414 responsible public entity, the approval of the responsible
415 public entity. This subparagraph does not require the private
416 entity to complete the design of the qualifying project before
417 the execution of the comprehensive agreement.

418 3. The inspection of the qualifying project by the
419 responsible public entity to ensure that the private entity's
420 activities are acceptable to the public entity in accordance
421 with the comprehensive agreement.

422 4. The maintenance of a policy of public liability
423 insurance, a copy of which must be filed with the responsible
424 public entity and accompanied by proofs of coverage, or self-
425 insurance, each in the form and amount satisfactory to the
426 responsible public entity and reasonably sufficient to ensure
427 coverage of tort liability to the public and employees and to
428 enable the continued operation of the qualifying project.

429 5. The monitoring by the responsible public entity of the
430 maintenance practices to be performed by the private entity to
431 ensure that the qualifying project is properly maintained.

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432 6. The periodic filing by the private entity of the
433 appropriate financial statements that pertain to the qualifying
434 project.

435 7. The procedures that govern the rights and
436 responsibilities of the responsible public entity and the
437 private entity in the course of the construction and operation
438 of the qualifying project and in the event of the termination of
439 the comprehensive agreement or a material default by the private
440 entity. The procedures must include conditions that govern the
441 assumption of the duties and responsibilities of the private
442 entity by an entity that funded, in whole or part, the
443 qualifying project or by the responsible public entity, and must
444 provide for the transfer or purchase of property or other
445 interests of the private entity by the responsible public
446 entity.

447 8. The fees, lease payments, or service payments. In
448 negotiating user fees, the fees must be the same for persons
449 using the facility under like conditions and must not materially
450 discourage use of the qualifying project. The execution of the
451 comprehensive agreement or a subsequent amendment is conclusive
452 evidence that the fees, lease payments, or service payments
453 provided for in the comprehensive agreement comply with this
454 section. Fees or lease payments established in the comprehensive
455 agreement as a source of revenue may be in addition to, or in
456 lieu of, service payments.

457 9. The duties of the private entity, including the terms
458 and conditions that the responsible public entity determines
459 serve the public purpose of this section.

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460 (b) The comprehensive agreement may include:

461 1. An agreement by the responsible public entity to make
462 grants or loans to the private entity from amounts received from
463 the federal, state, or local government or an agency or
464 instrumentality thereof.

465 2. A provision under which each entity agrees to provide
466 notice of default and cure rights for the benefit of the other
467 entity, including, but not limited to, a provision regarding
468 unavoidable delays.

469 3. A provision that terminates the authority and duties of
470 the private entity under this section and dedicates the
471 qualifying project to the responsible public entity or, if the
472 qualifying project was initially dedicated by an affected local
473 jurisdiction, to the affected local jurisdiction for public use.

474 (10) FEES.—An agreement entered into pursuant to this
475 section may authorize the private entity to impose fees to
476 members of the public for the use of the facility. The following
477 provisions apply to the agreement:

478 (a) The responsible public entity may develop new
479 facilities or increase capacity in existing facilities through
480 agreements with public-private partnerships.

481 (b) The public-private partnership agreement must ensure
482 that the facility is properly operated, maintained, or improved
483 in accordance with standards set forth in the comprehensive
484 agreement.

485 (c) The responsible public entity may lease existing fee-
486 for-use facilities through a public-private partnership
487 agreement.

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488 (d) Any revenues must be regulated by the responsible
489 public entity pursuant to the comprehensive agreement.

490 (e) A negotiated portion of revenues from fee-generating
491 uses must be returned to the public entity over the life of the
492 agreement.

493 (11) FINANCING.—

494 (a) A private entity may enter into a private-source
495 financing agreement between financing sources and the private
496 entity. A financing agreement and any liens on the property or
497 facility must be paid in full at the applicable closing that
498 transfers ownership or operation of the facility to the
499 responsible public entity at the conclusion of the term of the
500 comprehensive agreement.

501 (b) The responsible public entity may lend funds to
502 private entities that construct projects containing facilities
503 that are approved under this section.

504 (c) The responsible public entity may use innovative
505 finance techniques associated with a public-private partnership
506 under this section, including, but not limited to, federal loans
507 as provided in Titles 23 and 49 C.F.R., commercial bank loans,
508 and hedges against inflation from commercial banks or other
509 private sources. In addition, the responsible public entity may
510 provide its own capital or operating budget to support a
511 qualifying project. The budget may be from any legally
512 permissible funding sources of the responsible public entity,
513 including the proceeds of debt issuances. A responsible public
514 entity may use the model financing agreement provided in s.
515 489.145(6) for its financing of a facility owned by a

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516 responsible public entity. A financing agreement may not require
517 the responsible public entity to indemnify the financing source,
518 subject the responsible public entity's facility to liens in
519 violation of s. 11.066(5), or secure financing by the
520 responsible public entity with a pledge of security interest,
521 and any such provisions are void.

522 (d) A responsible public entity shall appropriate on a
523 priority basis as required by the comprehensive agreement a
524 contractual payment obligation, annual or otherwise, from the
525 enterprise or other government fund from which the qualifying
526 projects will be funded. This required payment obligation must
527 be appropriated before other noncontractual obligations payable
528 from the same enterprise or other government fund.

529 (12) POWERS AND DUTIES OF THE PRIVATE ENTITY.-

530 (a) The private entity shall:

531 1. Develop or operate the qualifying project in a manner
532 that is acceptable to the responsible public entity in
533 accordance with the provisions of the comprehensive agreement.

534 2. Maintain, or provide by contract for the maintenance or
535 improvement of, the qualifying project if required by the
536 comprehensive agreement.

537 3. Cooperate with the responsible public entity in making
538 best efforts to establish interconnection between the qualifying
539 project and any other facility or infrastructure as requested by
540 the responsible public entity in accordance with the provisions
541 of the comprehensive agreement.

542 4. Comply with the comprehensive agreement and any lease
543 or service contract.

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544 (b) Each private facility that is constructed pursuant to
545 this section must comply with the requirements of federal,
546 state, and local laws; state, regional, and local comprehensive
547 plans; the responsible public entity's rules, procedures, and
548 standards for facilities; and such other conditions that the
549 responsible public entity determines to be in the public's best
550 interest and that are included in the comprehensive agreement.

551 (c) The responsible public entity may provide services to
552 the private entity. An agreement for maintenance and other
553 services entered into pursuant to this section must provide for
554 full reimbursement for services rendered for qualifying
555 projects.

556 (d) A private entity of a qualifying project may provide
557 additional services for the qualifying project to the public or
558 to other private entities if the provision of additional
559 services does not impair the private entity's ability to meet
560 its commitments to the responsible public entity pursuant to the
561 comprehensive agreement.

562 (13) EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon the
563 expiration or termination of a comprehensive agreement, the
564 responsible public entity may use revenues from the qualifying
565 project to pay current operation and maintenance costs of the
566 qualifying project. If the private entity materially defaults
567 under the comprehensive agreement, the compensation that is
568 otherwise due to the private entity is payable to satisfy all
569 financial obligations to investors and lenders on the qualifying
570 project in the same way that is provided in the comprehensive
571 agreement or any other agreement involving the qualifying

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572 project, if the costs of operating and maintaining the
573 qualifying project are paid in the normal course. Revenues in
574 excess of the costs for operation and maintenance costs may be
575 paid to the investors and lenders to satisfy payment obligations
576 under their respective agreements. A responsible public entity
577 may terminate with cause and without prejudice a comprehensive
578 agreement and may exercise any other rights or remedies that may
579 be available to it in accordance with the provisions of the
580 comprehensive agreement. The full faith and credit of the
581 responsible public entity may not be pledged to secure the
582 financing of the private entity. The assumption of the
583 development or operation of the qualifying project does not
584 obligate the responsible public entity to pay any obligation of
585 the private entity from sources other than revenues from the
586 qualifying project unless stated otherwise in the comprehensive
587 agreement.

588 (14) SOVEREIGN IMMUNITY.—This section does not waive the
589 sovereign immunity of a responsible public entity, an affected
590 local jurisdiction, or an officer or employee thereof with
591 respect to participation in, or approval of, any part of a
592 qualifying project or its operation, including, but not limited
593 to, interconnection of the qualifying project with any other
594 infrastructure or project. A county or municipality in which a
595 qualifying project is located possesses sovereign immunity with
596 respect to the project, including, but not limited to, its
597 design, construction, and operation.

598 (15) CONSTRUCTION.—This section shall be liberally
599 construed to effectuate the purposes of this section.

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600 (a) This section does not limit a state agency or
601 political subdivision of the state in the acquisition, design,
602 or construction of a public project pursuant to other statutory
603 authority.

604 (b) Except as otherwise provided in this section, this
605 section does not amend existing laws by granting additional
606 powers to, or further restricting, a local governmental entity
607 from regulating and entering into cooperative arrangements with
608 the private sector for the planning, construction, or operation
609 of a facility.

610 (c) This section does not waive any requirement of s.
611 287.055.

612 Section 2. Section 336.70, Florida Statutes, is created to
613 read:

614 336.70 Public-private transportation facilities.-

615 (1) A county may receive or solicit proposals and enter
616 into agreements with private entities or consortia thereof to
617 build, operate, own, or finance highways, bridges, multimodal
618 transportation systems, transit-oriented development nodes,
619 transit stations, and related transportation facilities located
620 solely within the county, including municipalities therein.

621 Before approval, the county must determine that a proposed
622 project:

623 (a) Is in the best interest of the public.

624 (b) Would not require county funds to be used unless the
625 project is on the county road system or would provide increased
626 mobility on the county road system.

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627 (c) Would have adequate safeguards to ensure that
628 additional costs or unreasonable service disruptions are not
629 realized by the traveling public and citizens of the state in
630 the event of default or cancellation of the agreement by the
631 county.

632 (d) Would be owned by the county upon completion or
633 termination of the agreement.

634 (2) The county shall ensure that all reasonable costs to
635 the county related to transportation facilities that are not
636 part of the county road system are borne by the private entity
637 that develops or operates the facilities. The county shall also
638 ensure that all reasonable costs to the county and substantially
639 affected local governments and utilities related to the private
640 transportation facility are borne by the private entity for
641 transportation facilities that are owned by private entities.
642 For projects on the county road system or that provide increased
643 mobility on the county road system, the county may use county
644 resources to participate in funding and financing the project
645 pursuant to the county's financial policies and ordinances.

646 (3) The county may request proposals and receive
647 unsolicited proposals for public-private transportation
648 facilities. Upon a determination by the governing body of the
649 county to issue a request for proposals, the governing body of
650 the county must publish a notice of the request for proposals in
651 a newspaper of general circulation in the county at least once a
652 week for 2 weeks. Upon receipt of an unsolicited proposal, the
653 governing body of the county must publish a notice in a
654 newspaper of general circulation in the county at least once a

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655 week for 2 weeks stating that it has received the proposal and
656 will accept, for 60 days after the initial date of publication,
657 other proposals for the same project purpose. A copy of the
658 notice must be mailed to each local government in the affected
659 area. After the public notification period has expired, the
660 governing body of the county shall rank the proposals in order
661 of preference. In ranking the proposals, the governing body of
662 the county shall consider professional qualifications, general
663 business terms, innovative engineering or cost-reduction terms,
664 finance plans, and the need for county funds to complete the
665 project. If the governing body of the county is not satisfied
666 with the results of the negotiations, it may terminate
667 negotiations with the proposer. If negotiations are
668 unsuccessful, the governing body of the county may negotiate
669 with the entity having the next highest ranked proposal, using
670 the same procedure. If only one proposal is received, the
671 governing body of the county may negotiate in good faith and
672 may, if not satisfied with the results, terminate negotiations
673 with the proposer. The governing body of the county may, at its
674 discretion, reject all proposals at any point in the process up
675 to completion of a contract with the proposer. Any person
676 submitting an unsolicited proposal shall submit with the
677 proposal the sum of \$25,000 to the county to be applied by the
678 governing body of the county to its costs of review and analysis
679 of the proposal, and such person shall remain liable for any
680 additional costs and expenses of the county incurred for the
681 review and analysis.

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682 (4) Agreements entered into pursuant to this section may
683 authorize the county or the private project owner, lessee, or
684 operator to impose, collect, and enforce tolls or fares for the
685 use of the transportation facility. However, the amount and use
686 of toll or fare revenue shall be regulated by the county to
687 avoid unreasonable costs to users of the facility.

688 (5) Each public-private transportation facility
689 constructed pursuant to this section shall comply with all
690 requirements of federal, state, and local laws; state, regional,
691 and local comprehensive plans; the county's rules, policies,
692 procedures, and standards for transportation facilities; and any
693 other conditions that the county determines to be in the best
694 interest of the public.

695 (6) The governing body of the county may exercise any of
696 its powers, including eminent domain, to facilitate the
697 development and construction of transportation projects pursuant
698 to this section. The governing body of the county may pay all or
699 part of the cost of operating and maintaining the facility and
700 may provide services to the private entity, for which services
701 it shall receive full or partial reimbursement.

702 (7) Except as otherwise provided in this section, this
703 section is not intended to amend existing law by granting
704 additional powers to or imposing further restrictions on local
705 governmental entities with regard to regulating and entering
706 into cooperative arrangements with the private sector for the
707 planning, construction, and operation of transportation
708 facilities.

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709 (8) Public-private partnership agreements under this
710 section shall be limited to a term not exceeding 75 years.

711 (9) This section does not authorize any county or counties
712 to enter into agreements with private entities or consortia
713 thereof to build, operate, own, or finance any transportation
714 facility that would extend beyond the geographical boundaries of
715 a single county.

716 Section 3. This act shall take effect July 1, 2013.

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719 **T I T L E A M E N D M E N T**

720 Remove everything before the enacting clause and insert:

721 A bill to be entitled

722 An act relating to public-private partnerships;
723 creating s. 287.05712, F.S.; providing definitions;
724 providing legislative findings and intent relating to
725 the construction or improvement by private entities of
726 facilities used predominantly for a public purpose;
727 creating a task force to establish specified
728 guidelines; providing procurement procedures;
729 providing requirements for project approval; providing
730 project qualifications and process; providing for
731 notice to affected local jurisdictions; providing for
732 interim and comprehensive agreements between a public
733 and a private entity; providing for use fees;
734 providing for financing sources for certain projects
735 by a private entity; providing powers and duties of
736 private entities; providing for expiration or

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737 termination of agreements; providing for the
738 applicability of sovereign immunity for public
739 entities with respect to qualified projects; providing
740 for construction of the act; creating s. 336.70, F.S.;
741 authorizing counties to enter specified public-private
742 agreements; providing financial requirements;
743 providing procurement procedures; providing notice
744 requirements; providing requirements for project
745 selection and approval; providing for fees for the
746 review and analysis of proposals; requiring compliance
747 with all other applicable laws; limiting specified
748 public-private partnerships to specified terms;
749 limiting geographical scope of specified agreements;
750 providing an effective date.