



1                                   A bill to be entitled  
2           An act relating to public-private partnerships;  
3           amending s. 255.60, F.S.; authorizing certain public  
4           entities to contract for public service works with  
5           not-for-profit organizations; revising eligibility and  
6           contract requirements for not-for-profit organizations  
7           contracting with certain public entities; creating s.  
8           287.05712, F.S.; providing definitions; providing  
9           legislative findings and intent relating to the  
10          construction or improvement by private entities of  
11          facilities used predominantly for a public purpose;  
12          creating a task force to establish specified  
13          guidelines; providing procurement procedures;  
14          providing requirements for project approval; providing  
15          project qualifications and process; providing for  
16          notice to affected local jurisdictions; providing for  
17          interim and comprehensive agreements between a public  
18          and a private entity; providing for use fees;  
19          providing for financing sources for certain projects  
20          by a private entity; providing powers and duties of  
21          private entities; providing for expiration or  
22          termination of agreements; providing for the  
23          applicability of sovereign immunity for public  
24          entities with respect to qualified projects; providing  
25          for construction of the act; creating s. 336.71, F.S.;  
26          authorizing counties to enter into public-private  
27          partnership agreements to construct, extend, or  
28          improve county roads; providing requirements and



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29 limitations for such agreements; providing procurement  
30 procedures; requiring a fee for certain proposals;  
31 amending s. 348.754, F.S.; revising the limit on terms  
32 for leases that the Orlando-Orange County Expressway  
33 Authority may enter; amending s. 1010.62, F.S.; adding  
34 public-private partnership agreements to the  
35 definition of the term university "debt"; revising  
36 sources that may be used to secure or pay revenue  
37 bonds; authorizing revenues from royalties and  
38 licensing and auxiliary enterprise revenues to be used  
39 to secure debt for academic, educational, and research  
40 facilities that are part of a multipurpose project;  
41 authorizing academic and educational activities to be  
42 bonded without legislative approval of the specific  
43 project; providing an effective date.

44

45 Be It Enacted by the Legislature of the State of Florida:

46

47 Section 1. Section 255.60, Florida Statutes, is amended to  
48 read:

49 255.60 Special contracts with charitable not-for-profit  
50 youth organizations.—The state, or the governing body of any  
51 political subdivision of the state, or a public-private  
52 partnership is authorized, but not required, to contract for  
53 public service work with a not-for-profit organization ~~such as~~  
54 ~~highway and park maintenance~~, notwithstanding competitive sealed  
55 bid procedures required under this chapter, or chapter 287, or  
56 any municipal or county charter, upon compliance with this



57 section.

58 (1) The contractor or supplier must meet the following  
59 conditions:

60 (a) The contractor or supplier must be a not-for-profit  
61 corporation incorporated under chapter 617 and in good standing.

62 (b) The contractor or supplier must hold exempt status  
63 under s. 501(a) of the Internal Revenue Code, as an organization  
64 described in s. 501(c)(3) of the Internal Revenue Code.

65 (c) For youth organizations, the corporate charter of the  
66 contractor or supplier must state that the corporation is  
67 organized as a charitable youth organization exclusively for at-  
68 risk youths enrolled in a work-study program.

69 (d) Administrative salaries and benefits for any such  
70 corporation shall not exceed 15 percent of gross revenues. Field  
71 supervisors shall not be considered administrative overhead.

72 (2) The contract, if approved by authorized agency  
73 personnel of the state, or the governing body of a political  
74 subdivision, or the public-private partnership, as appropriate,  
75 must provide at a minimum that:

76 (a) For youth organizations, labor shall be performed  
77 exclusively by at-risk youth and their direct supervisors; and  
78 shall not be subject to subcontracting.

79 (b) For the preservation, maintenance, and improvement of  
80 park land, the property must be at least 20 acres with  
81 contiguous public facilities that are capable of seating at  
82 least 5,000 people in a permanent structure.

83 (c) For public education buildings, the building must be  
84 at least 90,000 square feet.



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85        ~~(d)-(b)~~ Payment must be production-based.

86        ~~(e)-(e)~~ The contract will terminate should the contractor  
87 or supplier no longer qualify under subsection (1).

88        ~~(f)-(d)~~ The supplier or contractor has instituted a drug-  
89 free workplace program substantially in compliance with the  
90 provisions of s. 287.087.

91        ~~(g)-(e)~~ The contractor or supplier agrees to be subject to  
92 review and audit at the discretion of the Auditor General in  
93 order to ensure that the contractor or supplier has complied  
94 with this section.

95        (3) A ~~No~~ contract under this section may not exceed the  
96 annual sum of \$250,000.

97        (4) Should a court find that a contract purporting to have  
98 been entered into pursuant to this section does not so qualify,  
99 the court may order that the contract be terminated on  
100 reasonable notice to the parties. The court shall not require  
101 disgorgement of any moneys earned for goods or services actually  
102 delivered or supplied.

103        (5) Nothing in this section shall excuse any person from  
104 compliance with ss. 287.132-287.134.

105        Section 2. Section 287.05712, Florida Statutes, is created  
106 to read:

107        287.05712 Public-private partnerships.-

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

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



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

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

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

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

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

125        (g) "Private entity" means any natural person,  
126 corporation, general partnership, limited liability company,  
127 limited partnership, joint venture, business trust, public-  
128 benefit corporation, nonprofit entity, or other private business  
129 entity.

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

134        (i) "Qualifying project" means:

135        1. A facility or project that serves a public purpose,  
136 including, but not limited to, any ferry or mass transit  
137 facility, vehicle parking facility, airport or seaport facility,  
138 rail facility or project, fuel supply facility, oil or gas  
139 pipeline, medical or nursing care facility, recreational



140 facility, sporting or cultural facility, or educational facility  
141 or other building or facility that is used or will be used by a  
142 public educational institution, or any other public facility or  
143 infrastructure that is used or will be used by the public at  
144 large or in support of an accepted public purpose or activity;

145 2. An improvement, including equipment, of a building that  
146 will be principally used by a public entity or the public at  
147 large or that supports a service delivery system in the public  
148 sector;

149 3. A water, wastewater, or surface water management  
150 facility or other related infrastructure; or

151 4. Notwithstanding any provision of this section, for  
152 projects that involve a facility owned or operated by the  
153 governing board of a county, district, or municipal hospital or  
154 health care system, only those projects that the governing board  
155 designates as qualifying projects pursuant to this section.

156 (j) "Responsible public entity" means a county,  
157 municipality, school board, or any other political subdivision  
158 of the state; a public body corporate and politic; or a regional  
159 entity that serves a public purpose and is authorized to develop  
160 or operate a qualifying project.

161 (k) "Revenues" means the income, earnings, user fees,  
162 lease payments, or other service payments relating to the  
163 development or operation of a qualifying project, including, but  
164 not limited to, money received as grants or otherwise from the  
165 Federal Government, a public entity, or an agency or  
166 instrumentality thereof in aid of the qualifying project.



167       (1) "Service contract" means a contract between a public  
168 entity and the private entity which defines the terms of the  
169 services to be provided with respect to a qualifying project.

170       (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds  
171 that there is a public need for the construction or upgrade of  
172 facilities that are used predominantly for public purposes and  
173 that it is in the public's interest to provide for the  
174 construction or upgrade of such facilities.

175       (a) The Legislature also finds that:

176       1. There is a public need for timely and cost-effective  
177 acquisition, design, construction, improvement, renovation,  
178 expansion, equipping, maintenance, operation, implementation, or  
179 installation of projects serving a public purpose, including  
180 educational facilities, transportation facilities, water or  
181 wastewater management facilities and infrastructure, technology  
182 infrastructure, roads, highways, bridges, and other public  
183 infrastructure and government facilities within the state which  
184 serve a public need and purpose, and that such public need may  
185 not be wholly satisfied by existing procurement methods.

186       2. There are inadequate resources to develop new  
187 educational facilities, transportation facilities, water or  
188 wastewater management facilities and infrastructure, technology  
189 infrastructure, roads, highways, bridges, and other public  
190 infrastructure and government facilities for the benefit of  
191 residents of this state, and that a public-private partnership  
192 has demonstrated that it can meet the needs by improving the  
193 schedule for delivery, lowering the cost, and providing other  
194 benefits to the public.



195 3. There may be state and federal tax incentives that  
196 promote partnerships between public and private entities to  
197 develop and operate qualifying projects.

198 4. A procurement under this section serves the public  
199 purpose of this section if such procurement facilitates the  
200 timely development or operation of a qualifying project.

201 (b) It is the intent of the Legislature to encourage  
202 investment in the state by private entities; to facilitate  
203 various bond financing mechanisms, private capital, and other  
204 funding sources for the development and operation of qualifying  
205 projects, including expansion and acceleration of such financing  
206 to meet the public need; and to provide the greatest possible  
207 flexibility to public and private entities contracting for the  
208 provision of public services.

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

210 (a) There is created the Partnership for Public Facilities  
211 and Infrastructure Act Guidelines Task Force for the purpose of  
212 recommending guidelines for the Legislature to consider for  
213 purposes of creating a uniform process for establishing public-  
214 private partnerships, including the types of factors responsible  
215 public entities should review and consider when processing  
216 requests for public-private partnership projects pursuant to  
217 this section.

218 (b) The task force shall be composed of seven members, as  
219 follows:

220 1. The Secretary of Management Services or his or her  
221 designee, who shall serve as chair of the task force.

222 2. Six members appointed by the Governor, as follows:



223 a. One county government official.

224 b. One municipal government official.

225 c. One district school board member.

226 d. Three representatives of the business community.

227 (c) Task force members must be appointed by July 31, 2013.

228 By August 31, 2013, the task force shall meet to establish  
229 procedures for the conduct of its business and to elect a vice  
230 chair. The task force shall meet at the call of the chair. A  
231 majority of the members of the task force constitutes a quorum,  
232 and a quorum is necessary for the purpose of voting on any  
233 action or recommendation of the task force. All meetings shall  
234 be held in Tallahassee, unless otherwise decided by the task  
235 force, and then no more than two such meetings may be held in  
236 other locations for the purpose of taking public testimony.  
237 Administrative and technical support shall be provided by the  
238 department. Task force members shall serve without compensation  
239 and are not entitled to reimbursement for per diem or travel  
240 expenses.

241 (d) In reviewing public-private partnerships and  
242 developing recommendations, the task force must consider:

243 1. Opportunities for competition through public notice and  
244 the availability of representatives of the responsible public  
245 entity to meet with private entities considering a proposal.

246 2. Reasonable criteria for choosing among competing  
247 proposals.

248 3. Suggested timelines for selecting proposals and  
249 negotiating an interim or comprehensive agreement.



250        4. If an accelerated selection and review and  
251 documentation timelines should be considered for proposals  
252 involving a qualifying project that the responsible public  
253 entity deems a priority.

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

258        6. The adequacy of the information released when seeking  
259 competing proposals and providing for the enhancement of that  
260 information, if deemed necessary, to encourage competition.

261        7. Current exemptions from public records and public  
262 meetings requirements, if any changes to those exemptions are  
263 necessary, or if any new exemptions should be created in order  
264 to maintain the confidentiality of financial and proprietary  
265 information received as part of an unsolicited proposal.

266        8. Recommendations regarding the authority of the  
267 responsible public entity to engage the services of qualified  
268 professionals, which may include a Florida-registered  
269 professional or a certified public accountant, not otherwise  
270 employed by the responsible public entity, to provide an  
271 independent analysis regarding the specifics, advantages,  
272 disadvantages, and long-term and short-term costs of a request  
273 by a private entity for approval of a qualifying project, unless  
274 the governing body of the public entity determines that such  
275 analysis should be performed by employees of the public entity.

276        (e) The task force must submit a final report of its  
277 recommendations to the Governor, the President of the Senate,



278 and the Speaker of the House of Representatives by July 1, 2014.

279 (f) The task force is terminated December 31, 2014. The  
280 establishment of guidelines pursuant to this section by the task  
281 force or the adoption of such guidelines by a public entity is  
282 not required for the public entity to request or receive  
283 proposals for a qualifying project or to enter into a  
284 comprehensive agreement for a qualifying project. A public  
285 entity may adopt guidelines before or after the establishment of  
286 guidelines by the task force, which may remain in effect as long  
287 as such guidelines are not inconsistent with the guidelines  
288 established by the task force. A guideline that is inconsistent  
289 with the guidelines of the task force must be amended as  
290 necessary to maintain consistency with the task force  
291 guidelines.

292 (4) PROCUREMENT PROCEDURES.—A responsible public entity  
293 may receive unsolicited proposals or may solicit proposals for  
294 qualifying projects and may thereafter enter into an agreement  
295 with a private entity, or a consortium of private entities, for  
296 the building, upgrading, operating, ownership, or financing of  
297 facilities.

298 (a) The responsible public entity may establish a  
299 reasonable application fee for the submission of an unsolicited  
300 proposal under this section. The fee must be sufficient to pay  
301 the costs of evaluating the proposal. The responsible public  
302 entity may engage the services of a private consultant to assist  
303 in the evaluation.

304 (b) The responsible public entity may request a proposal  
305 from private entities for a public-private project or, if the



306 public entity receives an unsolicited proposal for a public-  
307 private project and the public entity intends to enter into a  
308 comprehensive agreement for the project described in such  
309 unsolicited proposal, the public entity shall publish notice in  
310 the Florida Administrative Register and a newspaper of general  
311 circulation at least once a week for 2 weeks stating that the  
312 public entity has received a proposal and will accept other  
313 proposals for the same project. The timeframe within which the  
314 public entity may accept other proposals shall be determined by  
315 the public entity on a project-by-project basis based upon the  
316 complexity of the project and the public benefit to be gained by  
317 allowing a longer or shorter period of time within which other proposals  
318 may be received; however, the timeframe for allowing other proposals  
319 must be at least 21 days, but no more than 120 days, after the  
320 initial date of publication. A copy of the notice must be mailed  
321 to each local government in the affected area.

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

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

327 1. Is in the public's best interest.  
328 2. Is for a facility that is owned by the responsible  
329 public entity or for a facility for which ownership will be  
330 conveyed to the responsible public entity.

331 3. Has adequate safeguards in place to ensure that  
332 additional costs or service disruptions are not imposed on the



333 public in the event of material default or cancellation of the  
334 agreement by the responsible public entity.

335 4. Has adequate safeguards in place to ensure that the  
336 responsible public entity or private entity has the opportunity  
337 to add capacity to the proposed project or other facilities  
338 serving similar predominantly public purposes.

339 5. Will be owned by the responsible public entity upon  
340 completion or termination of the agreement and upon payment of  
341 the amounts financed.

342 (e) Before signing a comprehensive agreement, the  
343 responsible public entity must consider a reasonable finance  
344 plan that is consistent with subsection (11); the project cost;  
345 revenues by source; available financing; major assumptions;  
346 internal rate of return on private investments, if governmental  
347 funds are assumed in order to deliver a cost-feasible project;  
348 and a total cash-flow analysis beginning with the implementation  
349 of the project and extending for the term of the agreement.

350 (f) In considering an unsolicited proposal, the  
351 responsible public entity may require from the private entity a  
352 technical study prepared by a nationally recognized expert with  
353 experience in preparing analysis for bond rating agencies. In  
354 evaluating the technical study, the responsible public entity  
355 may rely upon internal staff reports prepared by personnel  
356 familiar with the operation of similar facilities or the advice  
357 of external advisors or consultants who have relevant  
358 experience.

359 (5) PROJECT APPROVAL REQUIREMENTS.—An unsolicited proposal  
360 from a private entity for approval of a qualifying project must



361 be accompanied by the following material and information, unless  
362 waived by the responsible public entity:

363 (a) A description of the qualifying project, including the  
364 conceptual design of the facilities or a conceptual plan for the  
365 provision of services, and a schedule for the initiation and  
366 completion of the qualifying project.

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

370 (c) A description of the private entity's general plans  
371 for financing the qualifying project, including the sources of  
372 the private entity's funds and the identity of any dedicated  
373 revenue source or proposed debt or equity investment on behalf  
374 of the private entity.

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

377 (e) The proposed user fees, lease payments, or other  
378 service payments over the term of a comprehensive agreement, and  
379 the methodology for and circumstances that would allow changes  
380 to the user fees, lease payments, and other service payments  
381 over time.

382 (f) Additional material or information that the  
383 responsible public entity reasonably requests.

384 (6) PROJECT QUALIFICATION AND PROCESS.—

385 (a) The private entity must meet the minimum standards  
386 contained in the responsible public entity's guidelines for  
387 qualifying professional services and contracts for traditional  
388 procurement projects.



389 (b) The responsible public entity must:

390 1. Ensure that provision is made for the private entity's  
391 performance and payment of subcontractors, including, but not  
392 limited to, surety bonds, letters of credit, parent company  
393 guarantees, and lender and equity partner guarantees. For the  
394 components of the qualifying project which involve construction  
395 performance and payment, bonds are required and are subject to  
396 the recordation, notice, suit limitation, and other requirements  
397 of s. 255.05.

398 2. Ensure the most efficient pricing of the security  
399 package that provides for the performance and payment of  
400 subcontractors.

401 3. Ensure that provision is made for the transfer of the  
402 private entity's obligations if the comprehensive agreement is  
403 terminated or a material default occurs.

404 (c) After the public notification period has expired in  
405 the case of an unsolicited proposal, the responsible public  
406 entity shall rank the proposals received in order of preference.  
407 In ranking the proposals, the responsible public entity may  
408 consider factors that include, but are not limited to,  
409 professional qualifications, general business terms, innovative  
410 design techniques or cost-reduction terms, and finance plans.  
411 The responsible public entity may then begin negotiations for a  
412 comprehensive agreement with the highest-ranked firm. If the  
413 responsible public entity is not satisfied with the results of  
414 the negotiations, the responsible public entity may terminate  
415 negotiations with the proposer and negotiate with the second-  
416 ranked or subsequent-ranked firms, in the order consistent with



417 this procedure. If only one proposal is received, the  
418 responsible public entity may negotiate in good faith, and if  
419 the public entity is not satisfied with the results of the  
420 negotiations, the public entity may terminate negotiations with  
421 the proposer. Notwithstanding this paragraph, the responsible  
422 public entity may reject all proposals at any point in the  
423 process until a contract with the proposer is executed.

424 (d) The responsible public entity shall perform an  
425 independent analysis of the proposed public-private partnership  
426 which demonstrates the cost-effectiveness and overall public  
427 benefit before the procurement process is initiated or before  
428 the contract is awarded.

429 (e) The responsible public entity may approve the  
430 development or operation of an educational facility, a  
431 transportation facility, a water or wastewater management  
432 facility or related infrastructure, a technology infrastructure  
433 or other public infrastructure, or a government facility needed  
434 by the responsible public entity as a qualifying project, or the  
435 design or equipping of a qualifying project that is developed or  
436 operated, if:

437 1. There is a public need for or benefit derived from a  
438 project of the type that the private entity proposes as the  
439 qualifying project.

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

442 3. The private entity's plans will result in the timely  
443 acquisition, design, construction, improvement, renovation,



444 expansion, equipping, maintenance, or operation of the  
445 qualifying project.

446 (f) The responsible public entity may charge a reasonable  
447 fee to cover the costs of processing, reviewing, and evaluating  
448 the request, including, but not limited to, reasonable attorney  
449 fees and fees for financial and technical advisors or  
450 consultants and for other necessary advisors or consultants.

451 (g) Upon approval of a qualifying project, the responsible  
452 public entity shall establish a date for the commencement of  
453 activities related to the qualifying project. The responsible  
454 public entity may extend the commencement date.

455 (h) Approval of a qualifying project by the responsible  
456 public entity is subject to entering into a comprehensive  
457 agreement with the private entity.

458 (7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.—

459 (a) The responsible public entity must notify each  
460 affected local jurisdiction by furnishing a copy of the proposal  
461 to each affected local jurisdiction when considering a proposal  
462 for a qualifying project.

463 (b) Each affected local jurisdiction that is not a  
464 responsible public entity for the respective qualifying project  
465 may, within 60 days after receiving the notice, submit in  
466 writing any comments to the responsible public entity and  
467 indicate whether the facility is incompatible with the local  
468 comprehensive plan, the local infrastructure development plan,  
469 the capital improvements budget, any development of regional  
470 impact processes or timelines, or other governmental spending  
471 plan. The responsible public entity shall consider the comments



472 of the affected local jurisdiction before entering into a  
473 comprehensive agreement with a private entity. If an affected  
474 local jurisdiction fails to respond to the responsible public  
475 entity within the time provided in this paragraph, the  
476 nonresponse is deemed an acknowledgement by the affected local  
477 jurisdiction that the qualifying project is compatible with the  
478 local comprehensive plan, the local infrastructure development  
479 plan, the capital improvements budget, or other governmental  
480 spending plan.

481 (8) INTERIM AGREEMENT.—Before or in connection with the  
482 negotiation of a comprehensive agreement, the public entity may  
483 enter into an interim agreement with the private entity  
484 proposing the development or operation of the qualifying  
485 project. An interim agreement does not obligate the responsible  
486 public entity to enter into a comprehensive agreement. The  
487 interim agreement is discretionary with the parties and is not  
488 required on a qualifying project for which the parties may  
489 proceed directly to a comprehensive agreement without the need  
490 for an interim agreement. An interim agreement must be limited  
491 to provisions that:

492 (a) Authorize the private entity to commence activities  
493 for which it may be compensated related to the proposed  
494 qualifying project, including, but not limited to, project  
495 planning and development, design, environmental analysis and  
496 mitigation, survey, other activities concerning any part of the  
497 proposed qualifying project, and ascertaining the availability  
498 of financing for the proposed facility or facilities.

499 (b) Establish the process and timing of the negotiation of



500 the comprehensive agreement.

501 (c) Contain such other provisions related to an aspect of  
502 the development or operation of a qualifying project that the  
503 responsible public entity and the private entity deem  
504 appropriate.

505 (9) COMPREHENSIVE AGREEMENT.—

506 (a) Before developing or operating the qualifying project,  
507 the private entity must enter into a comprehensive agreement  
508 with the responsible public entity. The comprehensive agreement  
509 must provide for:

510 1. Delivery of performance and payment bonds, letters of  
511 credit, or other security acceptable to the responsible public  
512 entity in connection with the development or operation of the  
513 qualifying project in the form and amount satisfactory to the  
514 responsible public entity. For the components of the qualifying  
515 project which involve construction, the form and amount of the  
516 bonds must comply with s. 255.05.

517 2. Review of the design for the qualifying project by the  
518 responsible public entity and, if the design conforms to  
519 standards acceptable to the responsible public entity, the  
520 approval of the responsible public entity. This subparagraph  
521 does not require the private entity to complete the design of  
522 the qualifying project before the execution of the comprehensive  
523 agreement.

524 3. Inspection of the qualifying project by the responsible  
525 public entity to ensure that the private entity's activities are  
526 acceptable to the public entity in accordance with the  
527 comprehensive agreement.



528       4. Maintenance of a policy of public liability insurance,  
529 a copy of which must be filed with the responsible public entity  
530 and accompanied by proofs of coverage, or self-insurance, each  
531 in the form and amount satisfactory to the responsible public  
532 entity and reasonably sufficient to ensure coverage of tort  
533 liability to the public and employees and to enable the  
534 continued operation of the qualifying project.

535       5. Monitoring by the responsible public entity of the  
536 maintenance practices to be performed by the private entity to  
537 ensure that the qualifying project is properly maintained.

538       6. Periodic filing by the private entity of the  
539 appropriate financial statements that pertain to the qualifying  
540 project.

541       7. Procedures that govern the rights and responsibilities  
542 of the responsible public entity and the private entity in the  
543 course of the construction and operation of the qualifying  
544 project and in the event of the termination of the comprehensive  
545 agreement or a material default by the private entity. The  
546 procedures must include conditions that govern the assumption of  
547 the duties and responsibilities of the private entity by an  
548 entity that funded, in whole or part, the qualifying project or  
549 by the responsible public entity, and must provide for the  
550 transfer or purchase of property or other interests of the  
551 private entity by the responsible public entity.

552       8. Fees, lease payments, or service payments. In  
553 negotiating user fees, the fees must be the same for persons  
554 using the facility under like conditions and must not materially  
555 discourage use of the qualifying project. The execution of the



556 comprehensive agreement or a subsequent amendment is conclusive  
557 evidence that the fees, lease payments, or service payments  
558 provided for in the comprehensive agreement comply with this  
559 section. Fees or lease payments established in the comprehensive  
560 agreement as a source of revenue may be in addition to, or in  
561 lieu of, service payments.

562 9. Duties of the private entity, including the terms and  
563 conditions that the responsible public entity determines serve  
564 the public purpose of this section.

565 (b) The comprehensive agreement may include:

566 1. An agreement by the responsible public entity to make  
567 grants or loans to the private entity from amounts received from  
568 the federal, state, or local government or an agency or  
569 instrumentality thereof.

570 2. A provision under which each entity agrees to provide  
571 notice of default and cure rights for the benefit of the other  
572 entity, including, but not limited to, a provision regarding  
573 unavoidable delays.

574 3. A provision that terminates the authority and duties of  
575 the private entity under this section and dedicates the  
576 qualifying project to the responsible public entity or, if the  
577 qualifying project was initially dedicated by an affected local  
578 jurisdiction, to the affected local jurisdiction for public use.

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



583        (a) The responsible public entity may develop new  
584 facilities or increase capacity in existing facilities through  
585 agreements with public-private partnerships.

586        (b) The public-private partnership agreement must ensure  
587 that the facility is properly operated, maintained, or improved  
588 in accordance with standards set forth in the comprehensive  
589 agreement.

590        (c) The responsible public entity may lease existing fee-  
591 for-use facilities through a public-private partnership  
592 agreement.

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

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

598        (11) FINANCING.—

599        (a) A private entity may enter into a private-source  
600 financing agreement between financing sources and the private  
601 entity. A financing agreement and any liens on the property or  
602 facility must be paid in full at the applicable closing that  
603 transfers ownership or operation of the facility to the  
604 responsible public entity at the conclusion of the term of the  
605 comprehensive agreement.

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

609        (c) The responsible public entity may use innovative  
610 finance techniques associated with a public-private partnership



611 under this section, including, but not limited to, federal loans  
612 as provided in Titles 23 and 49 C.F.R., commercial bank loans,  
613 and hedges against inflation from commercial banks or other  
614 private sources. In addition, the responsible public entity may  
615 provide its own capital or operating budget to support a  
616 qualifying project. The budget may be from any legally  
617 permissible funding sources of the responsible public entity,  
618 including the proceeds of debt issuances. A responsible public  
619 entity may use the model financing agreement provided in s.  
620 489.145(6) for its financing of a facility owned by a  
621 responsible public entity. A financing agreement may not require  
622 the responsible public entity to indemnify the financing source,  
623 subject the responsible public entity's facility to liens in  
624 violation of s. 11.066(5), or secure financing by the  
625 responsible public entity with a pledge of security interest,  
626 and any such provision is void.

627 (d) A responsible public entity shall appropriate on a  
628 priority basis as required by the comprehensive agreement a  
629 contractual payment obligation, annual or otherwise, from the  
630 enterprise or other government fund from which the qualifying  
631 projects will be funded. This required payment obligation must  
632 be appropriated before other noncontractual obligations payable  
633 from the same enterprise or other government fund.

634 (12) POWERS AND DUTIES OF THE PRIVATE ENTITY.—

635 (a) The private entity shall:

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



639        2. Maintain, or provide by contract for the maintenance or  
640 improvement of, the qualifying project if required by the  
641 comprehensive agreement.

642        3. Cooperate with the responsible public entity in making  
643 best efforts to establish interconnection between the qualifying  
644 project and any other facility or infrastructure as requested by  
645 the responsible public entity in accordance with the provisions  
646 of the comprehensive agreement.

647        4. Comply with the comprehensive agreement and any lease  
648 or service contract.

649        (b) Each private facility that is constructed pursuant to  
650 this section must comply with the requirements of federal,  
651 state, and local laws; state, regional, and local comprehensive  
652 plans; the responsible public entity's rules, procedures, and  
653 standards for facilities; and such other conditions that the  
654 responsible public entity determines to be in the public's best  
655 interest and that are included in the comprehensive agreement.

656        (c) The responsible public entity may provide services to  
657 the private entity. An agreement for maintenance and other  
658 services entered into pursuant to this section must provide for  
659 full reimbursement for services rendered for qualifying  
660 projects.

661        (d) A private entity of a qualifying project may provide  
662 additional services for the qualifying project to the public or  
663 to other private entities if the provision of additional  
664 services does not impair the private entity's ability to meet  
665 its commitments to the responsible public entity pursuant to the  
666 comprehensive agreement.



667       (13) EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon the  
668 expiration or termination of a comprehensive agreement, the  
669 responsible public entity may use revenues from the qualifying  
670 project to pay current operation and maintenance costs of the  
671 qualifying project. If the private entity materially defaults  
672 under the comprehensive agreement, the compensation that is  
673 otherwise due to the private entity is payable to satisfy all  
674 financial obligations to investors and lenders on the qualifying  
675 project in the same way that is provided in the comprehensive  
676 agreement or any other agreement involving the qualifying  
677 project, if the costs of operating and maintaining the  
678 qualifying project are paid in the normal course. Revenues in  
679 excess of the costs for operation and maintenance costs may be  
680 paid to the investors and lenders to satisfy payment obligations  
681 under their respective agreements. A responsible public entity  
682 may terminate with cause and without prejudice a comprehensive  
683 agreement and may exercise any other rights or remedies that may  
684 be available to it in accordance with the provisions of the  
685 comprehensive agreement. The full faith and credit of the  
686 responsible public entity may not be pledged to secure the  
687 financing of the private entity. The assumption of the  
688 development or operation of the qualifying project does not  
689 obligate the responsible public entity to pay any obligation of  
690 the private entity from sources other than revenues from the  
691 qualifying project unless stated otherwise in the comprehensive  
692 agreement.

693       (14) SOVEREIGN IMMUNITY.—This section does not waive the  
694 sovereign immunity of a responsible public entity, an affected



695 local jurisdiction, or an officer or employee thereof with  
696 respect to participation in, or approval of, any part of a  
697 qualifying project or its operation, including, but not limited  
698 to, interconnection of the qualifying project with any other  
699 infrastructure or project. A county or municipality in which a  
700 qualifying project is located possesses sovereign immunity with  
701 respect to the project, including, but not limited to, its  
702 design, construction, and operation.

703 (15) CONSTRUCTION.—This section shall be liberally  
704 construed to effectuate the purposes of this section. This  
705 section shall be construed as cumulative and supplemental to any  
706 other authority or power vested in or exercised by the governing  
707 board of a county, district, or municipal hospital or health  
708 care system including those contained in acts of the Legislature  
709 establishing such public hospital boards or s. 155.40. This  
710 section does not affect any agreement or existing relationship  
711 with a supporting organization involving such governing board or  
712 system in effect as of January 1, 2013.

713 (a) This section does not limit a political subdivision of  
714 the state in the acquisition, design, or construction of a  
715 public project pursuant to other statutory authority.

716 (b) Except as otherwise provided in this section, this  
717 section does not amend existing laws by granting additional  
718 powers to, or further restricting, a local governmental entity  
719 from regulating and entering into cooperative arrangements with  
720 the private sector for the planning, construction, or operation  
721 of a facility.

722 (c) This section does not waive any requirement of s.



723 287.055.

724 Section 3. Section 336.71, Florida Statutes, is created to  
725 read:

726 336.71 Public-private cooperation in construction of  
727 county roads.-

728 (1) If a county receives a proposal, solicited or  
729 unsolicited, from a private entity seeking to construct, extend,  
730 or improve a county road or portion thereof, the county may  
731 enter into an agreement with the private entity for completion  
732 of the road construction project, which agreement may provide  
733 for payment to the private entity, from public funds, if the  
734 county conducts a noticed public hearing and finds that the  
735 proposed county road construction project:

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

737 (b) Would only use county funds for portions of the  
738 project that will be part of the county road system.

739 (c) Would have adequate safeguards to ensure that  
740 additional costs or unreasonable service disruptions are not  
741 realized by the traveling public and citizens of the state.

742 (d) Upon completion, would be a part of the county road  
743 system owned by the county.

744 (e) Would result in a financial benefit to the public by  
745 completing the subject project at a cost to the public  
746 significantly lower than if the project were constructed by the  
747 county using the normal procurement process.

748 (2) The notice for the public hearing provided for in  
749 subsection (1) must be published at least 14 days before the  
750 date of the public meeting at which the governing board takes



751 final action. The notice must identify the project, the  
752 estimated cost of the project, and specify that the purpose for  
753 the public meeting is to consider whether it is in the public's  
754 best interest to accept the proposal and enter into an agreement  
755 pursuant thereto. The determination of cost savings pursuant to  
756 paragraph (1) (e) must be supported by a professional engineer's  
757 cost estimate made available to the public at least 14 days  
758 before the public meeting and placed in the record for that  
759 meeting.

760 (3) If the process in subsection (1) is followed, the  
761 project and agreement are exempt from s. 255.20 pursuant to s.  
762 255.20(1)(c)11.

763 (4) Except as otherwise expressly provided in this  
764 section, this section does not affect existing law by granting  
765 additional powers to or imposing further restrictions on local  
766 government entities.

767 Section 4. Paragraph (d) of subsection (2) of section  
768 348.754, Florida Statutes, is amended to read:

769 348.754 Purposes and powers.—

770 (2) The authority is hereby granted, and shall have and  
771 may exercise all powers necessary, appurtenant, convenient or  
772 incidental to the carrying out of the aforesaid purposes,  
773 including, but without being limited to, the following rights  
774 and powers:

775 (d) To enter into and make leases for terms not exceeding  
776 99 ~~40~~ years, as either lessee or lessor, in order to carry out  
777 the right to lease as set forth in this part.

778 Section 5. Paragraph (c) of subsection (1), paragraph (a)



779 of subsection (2), paragraph (a) of subsection (3), and  
780 paragraph (a) of subsection (7) of section 1010.62, Florida  
781 Statutes, are amended to read:

782 1010.62 Revenue bonds and debt.—

783 (1) As used in this section, the term:

784 (c) "Debt" means bonds, except revenue bonds as defined in  
785 paragraph (e), loans, promissory notes, lease-purchase  
786 agreements, certificates of participation, installment sales,  
787 leases, public-private partnership agreements, or any other  
788 financing mechanism or financial arrangement, whether or not a  
789 debt for legal purposes, for financing or refinancing for or on  
790 behalf of a state university or a direct-support organization or  
791 for the acquisition, construction, improvement, or purchase of  
792 capital outlay projects.

793 (2) (a) The Board of Governors may request the issuance of  
794 revenue bonds pursuant to the State Bond Act and s. 11(d), Art.  
795 VII of the State Constitution to finance or refinance capital  
796 outlay projects permitted by law. Revenue bonds may be secured  
797 by or payable only from those revenues authorized for such  
798 purpose, including the Capital Improvement Trust Fund fee, ~~the~~  
799 ~~building fee~~, the health fee, the transportation access fee,  
800 hospital revenues, or those revenues derived from or received in  
801 relation to sales and services of auxiliary enterprises or  
802 component units of the university, including, but not limited  
803 to, housing, transportation, health care, research or research-  
804 related activities, food service, retail sales, athletic  
805 activities, or other similar services, other revenues  
806 attributable to the projects to be financed or refinanced, any



807 other revenue approved by the Legislature for facilities  
808 construction or for securing revenue bonds issued pursuant to s.  
809 11(d), Art. VII of the State Constitution, or any other revenues  
810 permitted by law. Revenues from the activity and service fee and  
811 the athletic fee may be used to pay and secure revenue bonds  
812 except that the annual debt service may ~~shall~~ not exceed an  
813 amount equal to 5 percent of the fees collected during the most  
814 recent 12 consecutive months for which collection information is  
815 available before ~~prior to~~ the sale of the bonds. The assets of a  
816 university foundation and the earnings thereon may also be used  
817 to pay and secure revenue bonds of the university or its direct-  
818 support organizations. Revenues from royalties and licensing  
819 fees may also be used to pay and secure revenue bonds so long as  
820 either the facilities being financed are functionally related to  
821 the university operation or direct-support organization  
822 reporting such royalties and licensing fees, or such revenues  
823 are used to secure revenue bonds issued to finance academic,  
824 educational, or research facilities that are part of a  
825 multipurpose capital outlay project. Revenue bonds may not be  
826 secured by or be payable from, directly or indirectly, tuition,  
827 the financial aid fee, ~~sales and services of educational~~  
828 ~~departments,~~ revenues from grants and contracts, except for  
829 money received for overhead and indirect costs and other moneys  
830 not required for the payment of direct costs, or any other  
831 operating revenues of a state university. Revenues from one  
832 auxiliary enterprise may ~~not~~ be used to secure revenue bonds of  
833 another only if ~~unless~~ the Board of Governors, after review and  
834 analysis, determines that either the facilities being financed



835 are functionally related to the auxiliary enterprise revenues  
836 being used to secure such revenue bonds or such revenues are  
837 used to secure revenue bonds issued to finance academic,  
838 educational, or research facilities that are part of a  
839 multipurpose capital outlay project.

840 (3) (a) A state university or direct-support organization  
841 may not issue debt without the approval of the Board of  
842 Governors. The Board of Governors may approve the issuance of  
843 debt by a state university or a direct-support organization only  
844 when such debt is used to finance or refinance capital outlay  
845 projects. The debt may be secured by or payable only from those  
846 revenues authorized for such purpose, including the health fee,  
847 the transportation access fee, hospital revenues, or those  
848 revenues derived from or received in relation to sales and  
849 services of auxiliary enterprises or component units of the  
850 university, including, but not limited to, housing,  
851 transportation, health care, research or research-related  
852 activities, food service, retail sales, athletic activities, or  
853 other similar services. Revenues derived from the activity and  
854 service fee and the athletic fee may be used to pay and secure  
855 debt except that the annual debt service may ~~shall~~ not exceed an  
856 amount equal to 5 percent of the fees collected during the most  
857 recent 12 consecutive months for which collection information is  
858 available before ~~prior to~~ incurring the debt. The assets of  
859 university foundations and the earnings thereon may be used to  
860 pay and secure debt of the university or its direct-support  
861 organizations. Gifts and donations or pledges of gifts may also  
862 be used to secure debt so long as the maturity of the debt,



863 including extensions, renewals, and refundings, does not exceed  
864 5 years. Revenues from royalties and licensing fees may also be  
865 used to secure debt so long as either the facilities being  
866 financed are functionally related to the university operation or  
867 direct-support organization reporting such royalties and  
868 licensing fees or such revenues are used to secure debt issued  
869 to finance academic, educational, or research facilities that  
870 are part of a multipurpose capital outlay project. The debt may  
871 not be secured by or be payable from, directly or indirectly,  
872 tuition, the financial aid fee, ~~sales and services of~~  
873 ~~educational departments,~~ revenues from grants and contracts,  
874 except for money received for overhead and indirect costs and  
875 other moneys not required for the payment of direct costs of  
876 grants, or any other operating revenues of a state university.  
877 The debt of direct-support organizations may not be secured by  
878 or be payable under an agreement or contract with a state  
879 university unless the source of payments under such agreement or  
880 contract is limited to revenues that universities are authorized  
881 to use for payment of debt service. Revenues from one auxiliary  
882 enterprise may ~~not~~ be used to secure debt of another only if  
883 ~~unless~~ the Board of Governors, after review and analysis,  
884 determines that either the facilities being financed are  
885 functionally related to the auxiliary enterprise revenues being  
886 used to secure such debt or such revenues are used to secure  
887 debt issued to finance academic, educational, or research  
888 facilities that are part of a multipurpose capital outlay  
889 project. Debt may not be approved to finance or refinance  
890 operating expenses of a state university or a direct-support



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891 organization. The maturity of debt used to finance or refinance  
892 the acquisition of equipment or software, including any  
893 extensions, renewals, or refundings thereof, shall be limited to  
894 5 years or the estimated useful life of the equipment or  
895 software, whichever is shorter. The Board of Governors may  
896 establish conditions and limitations on such debt as it  
897 determines to be advisable.

898 (7) (a) As required pursuant to s. 11(d), Art. VII of the  
899 State Constitution and subsection (6), the Legislature approves  
900 capital outlay projects meeting the following requirements:

901 1. The project is located on a campus of a state  
902 university or on land leased to the university or is used for  
903 activities relating to the state university;

904 2. The project is included in the master plan of the state  
905 university or is for facilities that are not required to be in a  
906 university's master plan;

907 3. The project is approved by the Board of Governors as  
908 being consistent with the strategic plan of the state university  
909 and the programs offered by the state university; and

910 4. The project is for purposes relating to the housing,  
911 transportation, health care, research or research-related  
912 activities, food service, retail sales, ~~or~~ student activities,  
913 or academic or educational activities that are part of a  
914 multipurpose capital outlay project of the state university.

915 Section 6. This act shall take effect July 1, 2013.