



298502

LEGISLATIVE ACTION

Senate

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House

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The Committee on Appropriations (Lee) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 82 and 83

insert:

Section 4. Section 337.1101, Florida Statutes, is created  
to read:

337.1101 Contracting and procurement authority of the  
department; settlements; notification required.-

(1) When the department, or any entity or enterprise within  
the department, determines that it is in the best interest of  
the public to resolve a protest filed in accordance with s.



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12 120.57(3) of the award of a contract being procured pursuant to  
13 s. 337.11 or related to the purchase of personal property or  
14 contractual services being procured pursuant to s. 287.057,  
15 through a settlement that requires the department to pay a  
16 nonselected responsive bidder a total sum of \$1 million or more,  
17 including any amount paid pursuant to s. 334.049, s. 337.11(8),  
18 or any other law, the department must:

19 (a) Document in a written memorandum by the secretary,  
20 which shall be finalized not later than the date of notification  
21 of such settlement required pursuant to paragraph (b), the  
22 specific reasons that such settlement and payment to a  
23 nonselected responsive bidder is in the best interest of the  
24 state in lieu of resoliciting competitive sealed bids,  
25 proposals, or replies. The written memorandum must be included  
26 and maintained in the department's permanent files concerning  
27 the procurement and must include:

28 1. A detailed description of the property rights, patent  
29 rights, copyrights, or trademarks that the department will  
30 acquire as a result of such settlement;

31 2. A detailed description of the analysis undertaken by the  
32 department of the proposal development costs and the anticipated  
33 degree of engineering design or other design work undertaken by  
34 the responsive bidder to which the department will obtain and  
35 retain the right to use from the nonselected responsive bidder  
36 or design-build firm;

37 3. The department's cost-benefit analysis demonstrating  
38 that the payment provides value to the department and is in the  
39 best interests of the state;

40 4. The specific appropriation in the existing General



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41 Appropriations Act which the department intends to use to  
42 provide such payment; and

43 5. The specific detailed reasons why the selected  
44 responsive bidder should not be responsible for the entire  
45 payment to the nonselected nonresponsive bidder or design-build  
46 firm.

47 (b) Provide prior written notification to the President of  
48 the Senate, the Speaker of the House of Representatives, the  
49 Senate and House of Representatives minority leaders, the chair  
50 and vice-chair of the Legislative Budget Commission, and the  
51 Attorney General at least 5 business days, or as soon thereafter  
52 as practicable, before the department makes the settlement  
53 agreement final. Such written notification must include the  
54 written memorandum required pursuant to paragraph (a).

55 (c) Provide, at the time settlement discussions regarding  
56 any such payment have begun in earnest, written notification of  
57 such discussions to the President of the Senate, the Speaker of  
58 the House of Representatives, the Senate and House of  
59 Representatives minority leaders, the chair and vice-chair of  
60 the Legislative Budget Commission, and the Attorney General. The  
61 written notification required pursuant to this paragraph must  
62 describe the procurement to which the proposed settlement  
63 payment relates, the range of the proposed payments involved,  
64 the specific appropriation in the General Appropriations Act  
65 which will be used to make the proposed payment, and a summary  
66 of the specific reasons the department has for considering such  
67 payment.

68 (2) The department may not pledge any current or future  
69 action by another branch of state government as a condition of



70 any procurement action. Any settlement that commits the state to  
71 spending any amount in excess of current appropriations, to the  
72 appropriation of funds in a subsequent fiscal year, or to policy  
73 changes inconsistent with current state law must be contingent  
74 upon and subject to legislative appropriation or statutory  
75 amendment. The department may agree to use its efforts to  
76 procure legislative funding or statutory amendments.  
77

78 ===== T I T L E A M E N D M E N T =====

79 And the title is amended as follows:

80 Delete line 19

81 and insert:

82 increases; amending s. 337.1101, F.S.; specifying  
83 requirements for the department when the department or  
84 any entity or enterprise within the department  
85 determines that it is in the best interest of the  
86 public to resolve a certain protest of the award of a  
87 certain contract; providing requirements for a certain  
88 memorandum; providing requirements for certain  
89 notifications; prohibiting the department from  
90 pledging any current or future action by another  
91 branch of state government as a condition of any  
92 procurement action; requiring certain settlements to  
93 be contingent upon and subject to legislative  
94 appropriation or statutory amendment; authorizing the  
95 department to agree to use its efforts to procure  
96 legislative funding or statutory amendments; amending  
97 s. 337.14, F.S.; requiring that