

By Senator Hargrett

21-845-98

1                                   A bill to be entitled  
2           An act relating to the Department of  
3           Transportation; amending s. 334.044, F.S.;  
4           authorizing the department to regulate the  
5           transfer of storm water to the right-of-way as  
6           a result of changes to adjacent property;  
7           amending s. 337.105, F.S.; authorizing the  
8           department to suspend a consultant from awards  
9           of department contracts for specified good  
10          cause; amending s. 339.0805, F.S.; authorizing  
11          the department to suspend or revoke the  
12          certification of a disadvantaged business  
13          enterprise for specified good cause; providing  
14          an effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Present subsections (15) through (30) of  
19          section 334.044, Florida Statutes, are renumbered as  
20          subsection (16) through (31), respectively, and a new  
21          subsection (15) is added to that section to read:

22                   334.044 Department; powers and duties.--The department  
23          shall have the following general powers and duties:

24                   (15) To regulate and prescribe conditions for the  
25          transfer of storm water to the state right-of-way as a result  
26          of man-made changes to adjacent properties.

27           Section 2. Subsection (1) of section 337.105, Florida  
28          Statutes, is amended to read:

29                   337.105 Qualifications of professional consultants and  
30          other providers of contractual services; performance bonds;  
31          and audits of indirect costs.--

1           (1) Before the employment of a professional consultant  
2 or other provider of service, the department shall make a  
3 finding that the person to be employed is fully qualified to  
4 render the desired service. Among the factors to be  
5 considered in making this finding are the professional  
6 reputation, past performance record, and experience of the  
7 candidate and the adequacy of the personnel making up his or  
8 her organization. The department may, for good cause, deny or  
9 suspend for a specified period of time a person or firm from  
10 consideration for award of a professional service contract for  
11 a particular type of work because of unsatisfactory  
12 performance of a previously awarded professional service  
13 contract. The department shall adopt rules to administer  
14 implement this section. As used in this subsection, the term  
15 "good cause," includes, but is not limited to, circumstances  
16 in which a consultant or other provider of service or its  
17 official representative:  
18           (a) Makes or submits false, deceptive, or fraudulent  
19 statements in any bid or proposal to the department, any  
20 application for certification of qualification, or in any  
21 administrative or judicial proceeding;  
22           (b) Becomes insolvent or is the subject of a  
23 bankruptcy petition;  
24           (c) Has been qualified by the department based on a  
25 license or registration issued by the state which has  
26 subsequently been revoked or suspended or has been denied;  
27           (d) Has been qualified by the department based on the  
28 employment of personnel no longer employed by the consultant  
29 or other provider of service;  
30           (e) Fails to maintain adequate professional liability  
31 insurance for the certified areas of work;

1           (f) Fails to satisfactorily perform contract  
2 requirements;

3           (g) Wrongfully employs or otherwise provides  
4 compensation to any employee or officer of the department, or  
5 willfully offers an employee or officer of the department any  
6 pecuniary or other benefit, with the intent to influence the  
7 employee or officer's official action or judgment;

8           (h) Is an affiliate of a consultant or other provider  
9 of service whose qualification to render professional services  
10 has been denied or suspended by the department which affiliate  
11 is dependent upon such consultant or other provider of service  
12 for personnel, equipment, or finances; or

13           (i) Has been barred or suspended from consideration  
14 for work with any other governmental entity.

15           Section 3. Subsection (2) of section 339.0805, Florida  
16 Statutes, is amended to read:

17           339.0805 Funds to be expended with certified  
18 disadvantaged business enterprises; specified percentage to be  
19 expended; construction management development program; bond  
20 guarantee program.--It is the policy of the state to  
21 meaningfully assist socially and economically disadvantaged  
22 business enterprises through a program that will provide for  
23 the development of skills through construction and business  
24 management training, as well as by providing contracting  
25 opportunities and financial assistance in the form of bond  
26 guarantees, to primarily remedy the effects of past economic  
27 disparity.

28           (2) The department shall revoke the certification of a  
29 disadvantaged business enterprise upon receipt of notification  
30 of any change in ownership which results in the disadvantaged  
31 individual or individuals used to qualify the business as a

1 disadvantaged business enterprise, no longer owning at least  
2 51 percent of the business enterprise. Such notification shall  
3 be made to the department by certified mail within 10 days  
4 after the change in ownership, and such business shall be  
5 removed from the certified disadvantaged business list until a  
6 new application is submitted and approved by the department.  
7 Failure to notify the department of the change in the  
8 ownership which qualifies the business as a disadvantaged  
9 business enterprise will result in revocation of certification  
10 and subject the business to the provisions of s. 337.135. In  
11 addition, the department may, for good cause, deny or suspend  
12 the certification of a disadvantaged business enterprise. As  
13 used in this subsection, the term "good cause," includes, but  
14 is not limited to, the disadvantaged business enterprise:  
15       (a) No longer meeting the certification standards set  
16 forth in department rules;  
17       (b) Making a false, deceptive, or fraudulent statement  
18 it its application for certification or in any other  
19 information submitted to the department;  
20       (c) Failing to maintain the records required by  
21 department rules;  
22       (d) Failing to perform a commercially useful function  
23 on projects for which the enterprise was utilized to satisfy  
24 contract goals;  
25       (e) Failing to fulfill its contractual obligations with  
26 contractors;  
27       (f) Failing to respond with a statement of interest to  
28 requests for bid quotations from contractors for three  
29 consecutive lettings;  
30  
31

- 1       (g) Subcontracting to others more than 49 percent of  
2 the amount of any single subcontract that was used by the  
3 prime contractor to meet a contract goal;
- 4       (h) Failing to provide notarized certification of  
5 payments received on specific projects to the prime contractor  
6 when required by contract specifications;
- 7       (i) Failing to schedule an on-site review upon request  
8 by the department; or
- 9       (j) Becoming insolvent or the subject of a bankruptcy  
10 proceeding.

11           Section 4. This act shall take effect upon becoming a  
12 law.

13  
14   \*\*\*\*\*  
15   SENATE SUMMARY  
16           Authorizes the Department of Transportation to regulate  
17 the transfer of storm water to state rights-of-way as a  
18 result of man-made changes to adjacent property; to  
19 suspend a consultant from awards of contracts for  
20 specified good cause; and to suspend or revoke the  
21 certification of a disadvantaged business enterprise for  
22 specified good cause.  
23  
24  
25  
26  
27  
28  
29  
30  
31

**CODING:**Words ~~stricken~~ are deletions; words underlined are additions.