

Amendment No. 1 (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11 The Committee on Transportation & Economic Development
12 Appropriations offered the following:

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14 **Amendment (with title amendment)**

15 On page 1, line 24,

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17 insert:

18 Section 1. Subsection (16) of section 337.11, Florida
19 Statutes, is amended to read:

20 337.11 Contracting authority of department; bids;
21 emergency repairs, supplemental agreements, and change orders;
22 combined design and construction contracts; progress payments;
23 records; requirements of vehicle registration.--

24 ~~(16) The department is authorized to undertake and~~
25 ~~contract to provide an owner controlled insurance plan (OCIP)~~
26 ~~on any construction project or group of related construction~~
27 ~~projects if the head of the department determines that an OCIP~~
28 ~~will be both cost-effective for the department and otherwise~~
29 ~~in its best interests. Such OCIP may provide insurance~~
30 ~~coverage for the department and for worker's compensation and~~
31 ~~employers liability and general liability and builders risk~~

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1 ~~for contractors and subcontractors, for and in conjunction~~
2 ~~with any or all work performed on such projects. The~~
3 ~~department may directly purchase such coverage in the manner~~
4 ~~provided for the purchase of commodities pursuant to s.~~
5 ~~287.057, or self-insure, or use a combination thereof, any~~
6 ~~other statutory provisions or limitations on self-insurance or~~
7 ~~purchase of insurance notwithstanding. The department's~~
8 ~~authority hereunder includes the purchase of risk management,~~
9 ~~risk and loss control, safety management, investigative and~~
10 ~~claims adjustment services, advancement of funds for payment~~
11 ~~of claims, and other services reasonably necessary to process~~
12 ~~and pay claims under and administer the OCIP. In addition to~~
13 ~~any prequalification required under s. 337.14, no contractor~~
14 ~~shall be prequalified to bid on an OCIP project unless the~~
15 ~~contractor's casualty and loss experience and safety record~~
16 ~~meets the minimum requirements for OCIP coverage issuance on~~
17 ~~the project, were the contractor to be awarded the project.~~
18 ~~Exercise of the department's authority under this subsection~~
19 ~~shall not be deemed a waiver of sovereign immunity.~~

20 Section 2. Subsections (1), (2), (3), (7), and (8) of
21 section 337.185, Florida Statutes, are amended to read:

22 337.185 State Arbitration Board.--

23 (1) To facilitate the prompt settlement of claims for
24 additional compensation arising out of construction contracts
25 between the department and the various contractors with whom
26 it transacts business, the Legislature does hereby establish
27 the State Arbitration Board, referred to in this section as
28 the "board." For the purpose of this section, "claim" shall
29 mean the aggregate of all outstanding claims by a party
30 arising out of a construction contract. Every contractual
31 claim in an amount up to \$250,000~~\$100,000~~ per contract or, at

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1 the claimant's option, up to ~~\$500,000~~~~\$250,000~~ per contract
2 or, upon agreement of the parties, up to \$1,000,000 per
3 contract that cannot be resolved by negotiation between the
4 department and the contractor shall be arbitrated by the board
5 after acceptance of the project by the department. As an
6 exception, either party to the dispute may request that the
7 claim be submitted to binding private arbitration. A court of
8 law may not consider the settlement of such a claim until the
9 process established by this section has been exhausted.

10 (2) The board shall be composed of three members. One
11 member shall be appointed by the head of the department, and
12 one member shall be elected by those construction companies
13 who are under contract with the department. The third member
14 shall be chosen by agreement of the other two members.
15 Whenever the third member has a conflict of interest regarding
16 affiliation with one of the parties, the other two members
17 shall select an alternate member for that hearing. The head of
18 the department may select an alternative or substitute to
19 serve as the department member for any hearing or term. Each
20 member shall serve a 2-year term. The board shall elect a
21 chair, each term, who shall be the administrator of the board
22 and custodian of its records.

23 (3) A hearing may be requested by the department or by
24 a contractor who has a dispute with the department which,
25 under the rules of the board, may be the subject of
26 arbitration. The board shall conduct the hearing within 45
27 days of the request. The party requesting the board's
28 consideration shall give notice of the hearing to each member.
29 If the board finds that a third party is necessary to resolve
30 the dispute, the board may vote to dismiss the claim, which
31 may thereafter be pursued in accordance with the laws of the

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1 State of Florida ~~a court of law.~~

2 (7) The members ~~member~~ of the board ~~elected by~~
3 ~~construction companies and the third member of the board~~ may
4 receive compensation for the performance of their duties
5 hereunder, from administrative fees received by the board,
6 except that no employee of the department may receive
7 compensation from the board. The compensation amount shall be
8 determined by the board, but shall not exceed \$125 per hour,
9 up to a maximum of \$1,000~~\$750~~ per day for each member
10 authorized to receive compensation. Nothing in this section
11 shall prevent the member elected by construction companies
12 from being an employee of an association affiliated with the
13 industry, even if the sole responsibility of that member is
14 service on the board. Travel expenses for the industry member
15 may be paid by an industry association, if necessary. The
16 board may allocate funds annually for clerical and other
17 administrative services.

18 (8) The party requesting arbitration shall pay a fee
19 to the board in accordance with a schedule established by it,
20 not to exceed \$500 per claim which is \$25,000 or less, not to
21 exceed \$1,000 per claim which is in excess of \$25,000 but not
22 exceeding \$50,000, not to exceed \$1,500 per claim which is in
23 excess of \$50,000 but not exceeding \$100,000, not to exceed
24 \$2,000 per claim which is in excess of \$100,000 but not
25 exceeding \$200,000, ~~and~~ not to exceed \$3,000~~\$2,500~~ per claim
26 which is in excess of \$200,000 but not exceeding \$300,000
27 ~~\$250,000~~, not to exceed \$4,000 per claim which is in excess of
28 \$300,000 but not exceeding \$400,000, and not to exceed \$5,000
29 per claim which is in excess of \$400,000, to cover the cost of
30 administration and compensation of the board.

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

2 And the title is amended as follows:

3 On page 1, line 4, after "authorities;"

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5 insert:

6 amending s. 337.11, F.S.; repealing authority

7 for owner controlled insurance plans in the

8 Department of Transportation; amending s.

9 337.185, F.S.; increasing claim limits with

10 respect to certain contractual claims governed

11 by the State Arbitration Board; revising

12 language with respect to hearings on certain

13 disputes; increasing certain fees;

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