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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/19/2019	.	
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The Committee on Appropriations (Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 334.179, Florida Statutes, is created to
read:

334.179 Departmental standards or specifications for
permissible use of aggregates.—Notwithstanding any law, rule, or
ordinance to the contrary, a local government may not adopt
standards or specifications that are contrary to the



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11 departmental standards or specifications for permissible use of
12 aggregates that have been certified for use. For purposes of
13 this section, the term "certified for use" means that the
14 aggregates have been certified by the producer in accordance
15 with departmental rule. This section does not apply to a
16 multicounty independent special district created by a special
17 act of the Legislature.

18 Section 2. Present subsection (5) of section 336.044,
19 Florida Statutes, is redesignated as subsection (6), and a new
20 subsection (5) is added to that section, to read:

21 336.044 Use of recyclable materials in construction.—

22 (5) Notwithstanding any law, rule, or ordinance to the
23 contrary, local governmental entities may not adopt standards or
24 specifications that are contrary to the departmental standards
25 or specifications for permissible use of reclaimed asphalt
26 pavement material in construction. For purposes of this section,
27 such material may not be considered solid waste.

28 Section 3. Subsection (1) of section 337.025, Florida
29 Statutes, is amended to read:

30 337.025 Innovative transportation ~~highway~~ projects;
31 department to establish program.—

32 (1) The department may ~~is authorized to~~ establish a program
33 for transportation ~~highway~~ projects demonstrating innovative
34 techniques of highway and bridge design, construction,
35 maintenance, and finance which have the intended effect of
36 measuring resiliency and structural integrity and controlling
37 time and cost increases on construction projects. Such
38 techniques may include, but are not limited to, state-of-the-art
39 technology for pavement, safety, and other aspects of highway



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40 and bridge design, construction, and maintenance; innovative
41 bidding and financing techniques; accelerated construction
42 procedures; and those techniques that have the potential to
43 reduce project life cycle costs. To the maximum extent
44 practical, the department must use the existing process to award
45 and administer construction and maintenance contracts. When
46 specific innovative techniques are to be used, the department is
47 not required to adhere to those provisions of law that would
48 prevent, preclude, or in any way prohibit the department from
49 using the innovative technique. However, before ~~prior to~~ using
50 an innovative technique that is inconsistent with another
51 provision of law, the department must document in writing the
52 need for the exception and identify what benefits the traveling
53 public and the affected community are anticipated to receive.
54 The department may enter into no more than \$120 million in
55 contracts annually for the purposes authorized by this section.

56 Section 4. Subsections (1) and (7) of section 337.14,
57 Florida Statutes, are amended to read:

58 337.14 Application for qualification; certificate of
59 qualification; restrictions; request for hearing.—

60 (1) Any contractor ~~person~~ desiring to bid for the
61 performance of any construction contract in excess of \$250,000
62 which the department proposes to let must first be certified by
63 the department as qualified pursuant to this section and rules
64 of the department. The rules of the department must ~~shall~~
65 address the qualification of contractors ~~persons~~ to bid on
66 construction contracts in excess of \$250,000 and must ~~shall~~
67 include requirements with respect to the equipment, past record,
68 experience, financial resources, and organizational personnel of



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69 the applying contractor which are applicant necessary to perform
70 the specific class of work for which the contractor person seeks
71 certification. Any contractor who is not qualified and is in
72 good standing with the department as of January 1, 2019, and who
73 desires to bid on contracts in excess of \$50 million must have
74 satisfactorily completed two projects, each in excess of \$15
75 million, for the department or for any other state department of
76 transportation. The department may limit the dollar amount of
77 any contract upon which a contractor person is qualified to bid
78 or the aggregate total dollar volume of contracts such
79 contractor person is allowed to have under contract at any one
80 time. Each applying contractor applicant seeking qualification
81 to bid on construction contracts in excess of \$250,000 shall
82 furnish the department a statement under oath, on such forms as
83 the department may prescribe, setting forth detailed information
84 as required on the application. Each application for
85 certification must shall be accompanied by an audited, certified
86 financial statement prepared in accordance with generally
87 accepted accounting principles and generally accepted auditing
88 standards by a certified public accountant licensed under state
89 law or licensed by another state. Each audited, certified
90 financial statement must be for the applying contractor and must
91 have been prepared within the immediately preceding 12-month
92 period. The department may not consider any financial
93 information of the parent entity of the applying contractor, if
94 any. The department may not certify as qualified any applying
95 contractor that fails to submit the audited, certified financial
96 statement as required under this subsection ~~the latest annual~~
97 ~~financial statement of the applicant completed within the last~~



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98 ~~12 months~~. If the application or the annual financial statement
99 shows the financial condition of the applying contractor
100 ~~applicant~~ more than 4 months prior to the date on which the
101 application is received by the department, then the applying
102 contractor must also submit an interim, audited financial
103 statement prepared in accordance with generally accepted
104 accounting principles and generally accepted auditing standards
105 by a certified public accountant licensed under state law or
106 licensed by another state ~~an interim financial statement must be~~
107 ~~submitted and be accompanied by an updated application~~. The
108 interim financial statement must cover the period from the end
109 date of the annual statement and must show the financial
110 condition of the applying contractor ~~applicant~~ no more than 4
111 months prior to the date that the interim financial statement is
112 received by the department. However, upon the request of ~~by~~ the
113 applying contractor ~~applicant~~, an application and accompanying
114 annual or interim financial statement received by the department
115 within 15 days after either 4-month period under this subsection
116 shall be considered timely. ~~Each required annual or interim~~
117 ~~financial statement must be audited and accompanied by the~~
118 ~~opinion of a certified public accountant~~. An applying contractor
119 ~~applicant~~ desiring to bid exclusively for the performance of
120 construction contracts with proposed budget estimates of less
121 than \$1 million may submit reviewed annual or reviewed interim
122 financial statements prepared by a certified public accountant.
123 The information required by this subsection is confidential and
124 exempt from ~~the provisions of~~ s. 119.07(1). The department shall
125 act upon the application for qualification within 30 days after
126 the department determines that the application is complete. The



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127 department may waive the requirements of this subsection for
128 projects having a contract price of \$500,000 or less if the
129 department determines that the project is of a noncritical
130 nature and the waiver will not endanger public health, safety,
131 or property.

132 (7) A "contractor" as defined in s. 337.165(1)(d) or his or
133 her "affiliate" as defined in s. 337.165(1)(a) qualified with
134 the department under this section may not also qualify under s.
135 287.055 or s. 337.105 to provide testing services, construction,
136 engineering, and inspection services to the department. This
137 limitation does not apply to any design-build prequalification
138 under s. 337.11(7) and does not apply when the department
139 otherwise determines by written order entered at least 30 days
140 before advertisement that the limitation is not in the best
141 interests of the public with respect to a particular contract
142 for testing services, construction, engineering, and inspection
143 services. This subsection does not authorize a contractor to
144 provide testing services, or provide construction, engineering,
145 and inspection services, to the department in connection with a
146 construction contract under which the contractor is performing
147 any work. Notwithstanding any other provision of law to the
148 contrary, for a project that is wholly or partially funded by
149 the department and administered by a local governmental entity,
150 except for a seaport listed in s. 311.09, the entity performing
151 design and construction engineering and inspection services may
152 not be the same entity.

153 Section 5. Subsection (1) of section 337.185, Florida
154 Statutes, is amended to read:

155 337.185 State Arbitration Board.—



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156 (1) To facilitate the prompt settlement of claims for
157 additional compensation arising out of construction and
158 maintenance contracts between the department and the various
159 contractors with whom it transacts business, the Legislature
160 does hereby establish the State Arbitration Board, referred to
161 in this section as the "board." For the purpose of this section,
162 the term "claim" means the aggregate of all outstanding claims
163 by a party arising out of a construction or maintenance
164 contract. Every contractual claim in an amount up to \$250,000
165 per contract or, at the claimant's option, up to \$1 million
166 ~~\$500,000~~ per contract or, upon agreement of the parties, up to
167 \$2 million ~~\$1 million~~ per contract which ~~that~~ cannot be resolved
168 by negotiation between the department and the contractor must
169 ~~shall~~ be arbitrated by the board after acceptance of the project
170 by the department. As an exception, either party to the dispute
171 may request that the claim be submitted to binding private
172 arbitration. A court of law may not consider the settlement of
173 such a claim until the process established by this section has
174 been exhausted.

175 Section 6. Paragraph (a) of subsection (3) of section
176 338.26, Florida Statutes, is amended to read:

177 338.26 Alligator Alley toll road.-

178 (3) (a) Fees generated from tolls shall be deposited in the
179 State Transportation Trust Fund and shall be used:

- 180 1. To reimburse outstanding contractual obligations;
- 181 2. To operate and maintain the highway and toll facilities,
182 including reconstruction and restoration;
- 183 3. To pay for those projects that are funded with Alligator
184 Alley toll revenues and that are contained in the 1993-1994



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185 adopted work program or the 1994-1995 tentative work program
186 submitted to the Legislature on February 22, 1994; and
187 4. By interlocal agreement effective July 1, 2019 ~~2014~~,
188 through no later than June 30, 2027 ~~2019~~, to reimburse a ~~county~~
189 ~~or another~~ local governmental entity for the direct actual costs
190 of operating the fire station at mile marker 63 on Alligator
191 Alley, which shall ~~may~~ be used by the ~~a county or another~~ local
192 governmental entity to provide fire, rescue, and emergency
193 management services exclusively to the public on Alligator
194 Alley. The local governmental entity must contribute 10 percent
195 of the direct actual operating costs. The amount of
196 reimbursement to the local governmental entity may not exceed
197 \$1.4 million in any state fiscal year. At the end of the term of
198 the interlocal agreement, the ownership and title of all fire,
199 rescue, and emergency equipment used at the fire station during
200 the term of the interlocal agreement transfers to the state.

201 Section 7. Subsection (2) of section 339.2818, Florida
202 Statutes, is amended to read:

203 339.2818 Small County Outreach Program.—

204 (2) For the purposes of this section, the term "small
205 county" means any county that has a population of 200,000
206 ~~170,000~~ or less as determined by the most recent official
207 estimate pursuant to s. 186.901.

208 Section 8. This act shall take effect July 1, 2019.

209
210 ===== T I T L E A M E N D M E N T =====

211 And the title is amended as follows:

212 Delete everything before the enacting clause
213 and insert:



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214 A bill to be entitled
215 An act relating to the Department of Transportation;
216 creating s. 334.179, F.S.; prohibiting local
217 governments from adopting standards or specifications
218 that are contrary to the department standards or
219 specifications for permissible use of aggregates that
220 have been certified for use; defining the term
221 "certified for use"; providing applicability; amending
222 s. 336.044, F.S.; prohibiting local governmental
223 entities from adopting standards or specifications
224 that are contrary to the department standards or
225 specifications for permissible use of reclaimed
226 asphalt pavement material in construction; providing
227 that, for certain purposes, such material may not be
228 considered solid waste; amending s. 337.025, F.S.;
229 authorizing the department to establish a program for
230 transportation projects that demonstrate certain
231 innovative techniques for measuring resiliency and
232 structural integrity and controlling time and cost
233 increases; amending s. 337.14, F.S.; requiring that
234 any contractor, instead of any person, desiring to bid
235 for the performance of certain construction contracts
236 first be certified by the department as qualified;
237 conforming provisions to changes made by the act;
238 requiring a contractor who is not qualified and is in
239 good standing with the department as of a specified
240 date and who desires to bid on certain contracts to
241 have satisfactorily completed certain projects;
242 revising requirements related to certain financial



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243 statements; prohibiting the entity performing design
244 and construction engineering and inspection services
245 from being the same entity for certain projects;
246 amending s. 337.185, F.S.; increasing the maximum
247 amounts per contract of certain contractual claims
248 that must be arbitrated by the State Arbitration Board
249 under certain circumstances; amending s. 338.26, F.S.;
250 revising provisions of an interlocal agreement for use
251 of specified fees to reimburse a local governmental
252 entity for the direct actual costs of operating a
253 specified fire station; requiring a contribution by
254 the local governmental entity; providing for the
255 transfer of specified equipment; amending s. 339.2818,
256 F.S.; redefining the term "county"; providing an
257 effective date.