

By the Committee on Infrastructure and Security; and Senator Albritton

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1                   A bill to be entitled  
2           An act relating to the Department of Transportation;  
3           amending s. 20.23, F.S.; deleting the requirement that  
4           the Governor appoint the Secretary of Transportation  
5           from among three persons nominated by the Florida  
6           Transportation Commission; providing additional  
7           qualifications for the secretary; creating s. 334.179,  
8           F.S.; prohibiting local governments from adopting  
9           standards or specifications that are contrary to the  
10          department standards or specifications for permissible  
11          use of aggregates that have been certified for use;  
12          defining the term "certified for use"; amending s.  
13          337.025, F.S.; authorizing the department to establish  
14          a program for transportation projects that demonstrate  
15          certain innovative techniques for measuring resiliency  
16          and structural integrity and controlling time and cost  
17          increases; amending s. 337.14, F.S.; requiring that  
18          any contractor, instead of any person, desiring to bid  
19          for the performance of certain construction contracts  
20          first be certified by the department as qualified;  
21          conforming provisions to changes made by the act;  
22          requiring a contractor desiring to bid on certain  
23          contracts to have satisfactorily completed certain  
24          projects; amending s. 337.185, F.S.; increasing the  
25          maximum amounts per contract of certain contractual  
26          claims that must be arbitrated by the State  
27          Arbitration Board under certain circumstances;  
28          providing an effective date.  
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Subsection (1) of section 20.23, Florida  
33 Statutes, is amended to read:

34 20.23 Department of Transportation.—There is created a  
35 Department of Transportation which shall be a decentralized  
36 agency.

37 (1) (a) The head of the Department of Transportation is the  
38 Secretary of Transportation. The secretary is ~~shall be~~ appointed  
39 by the Governor, ~~from among three persons nominated by the~~  
40 ~~Florida Transportation Commission and shall be~~ subject to  
41 confirmation by the Senate. The secretary shall serve at the  
42 pleasure of the Governor.

43 (b) The secretary must ~~shall~~ be a proven, effective  
44 administrator who, by a combination of education and experience,  
45 clearly possesses ~~shall clearly possess~~ a broad knowledge of the  
46 administrative, financial, and technical aspects of the  
47 development, operation, and regulation of transportation systems  
48 and facilities or comparable systems and facilities. The  
49 secretary must be a registered professional engineer in  
50 accordance with chapter 471 or the laws of another state, or, in  
51 lieu of professional engineer registration, must hold an  
52 advanced degree in an appropriate related discipline, such as a  
53 Master of Business Administration, and have 5 years of relevant  
54 transportation experience or must have 10 years of relevant  
55 transportation experience.

56 (c) The secretary shall provide to the Florida  
57 Transportation Commission or its staff, such assistance,  
58 information, and documents as are requested by the commission or

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59 its staff to enable the commission to fulfill its duties and  
60 responsibilities.

61 (d) The secretary may appoint up to three assistant  
62 secretaries ~~who shall be~~ directly responsible to the secretary  
63 ~~and~~ who shall perform ~~such~~ duties ~~as are~~ assigned by the  
64 secretary. The secretary shall designate to an assistant  
65 secretary the duties related to enhancing economic prosperity,  
66 including, but not limited to, the responsibility of liaising  
67 ~~liaison~~ with the head of economic development in the Executive  
68 Office of the Governor. This ~~Such~~ assistant secretary is ~~shall~~  
69 ~~be~~ directly responsible for providing the Executive Office of  
70 the Governor with investment opportunities and transportation  
71 projects that expand the state's role as a global hub for trade  
72 and investment and enhance the supply chain system in the state  
73 to process, assemble, and ship goods to markets throughout the  
74 eastern United States, Canada, the Caribbean, and Latin America.  
75 The secretary may delegate to any assistant secretary the  
76 authority to act in the absence of the secretary.

77 (e) Any secretary appointed after July 5, 1989, and the  
78 assistant secretaries are ~~shall be~~ exempt from ~~the provisions of~~  
79 part III of chapter 110 and must ~~shall~~ receive compensation that  
80 is commensurate with their qualifications and competitive with  
81 compensation for comparable responsibility in the private  
82 sector.

83 Section 2. Section 334.179, Florida Statutes, is created to  
84 read:

85 334.179 Departmental standards or specifications for  
86 permissible use of aggregates.—Notwithstanding any law, rule, or  
87 ordinance to the contrary, a local government may not adopt

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88 standards or specifications that are contrary to the  
89 departmental standards or specifications for permissible use of  
90 aggregates that have been certified for use. For purposes of  
91 this section, the term "certified for use" means that the  
92 aggregates have been certified by the producer in accordance  
93 with departmental rule.

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

96 337.025 Innovative transportation ~~highway~~ projects;  
97 department to establish program.-

98 (1) The department may ~~is authorized to~~ establish a program  
99 for transportation ~~highway~~ projects demonstrating innovative  
100 techniques of highway and bridge design, construction,  
101 maintenance, and finance which have the intended effect of  
102 measuring resiliency and structural integrity and controlling  
103 time and cost increases on construction projects. Such  
104 techniques may include, but are not limited to, state-of-the-art  
105 technology for pavement, safety, and other aspects of highway  
106 and bridge design, construction, and maintenance; innovative  
107 bidding and financing techniques; accelerated construction  
108 procedures; and those techniques that have the potential to  
109 reduce project life cycle costs. To the maximum extent  
110 practical, the department must use the existing process to award  
111 and administer construction and maintenance contracts. When  
112 specific innovative techniques are to be used, the department is  
113 not required to adhere to those provisions of law that would  
114 prevent, preclude, or in any way prohibit the department from  
115 using the innovative technique. However, before ~~prior to~~ using  
116 an innovative technique that is inconsistent with another

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117 provision of law, the department must document in writing the  
118 need for the exception and identify what benefits the traveling  
119 public and the affected community are anticipated to receive.  
120 The department may enter into no more than \$120 million in  
121 contracts annually for the purposes authorized by this section.

122 Section 4. Subsection (1) of section 337.14, Florida  
123 Statutes, is amended to read:

124 337.14 Application for qualification; certificate of  
125 qualification; restrictions; request for hearing.—

126 (1) Any contractor ~~person~~ desiring to bid for the  
127 performance of any construction contract in excess of \$250,000  
128 which the department proposes to let must first be certified by  
129 the department as qualified pursuant to this section and rules  
130 of the department. The rules of the department must ~~shall~~  
131 address the qualification of contractors ~~persons~~ to bid on  
132 construction contracts in excess of \$250,000 and must ~~shall~~  
133 include requirements with respect to the equipment, past record,  
134 experience, financial resources, and organizational personnel of  
135 the applying contractor which are ~~applicant~~ necessary to perform  
136 the specific class of work for which the contractor ~~person~~ seeks  
137 certification. Any contractor desiring to bid on contracts in  
138 excess of \$50 million must have satisfactorily completed two  
139 projects, each in excess of \$25 million, for the department or  
140 for any other state department of transportation. The department  
141 may limit the dollar amount of any contract upon which a  
142 contractor ~~person~~ is qualified to bid or the aggregate total  
143 dollar volume of contracts such contractor ~~person~~ is allowed to  
144 have under contract at any one time. Each applying contractor  
145 ~~applicant~~ seeking qualification to bid on construction contracts

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146 in excess of \$250,000 shall furnish the department a statement  
147 under oath, on such forms as the department may prescribe,  
148 setting forth detailed information as required on the  
149 application. Each application for certification must ~~shall~~ be  
150 accompanied by the latest annual financial statement of the  
151 applying contractor applicant completed within the last 12  
152 months. If the application or the annual financial statement  
153 shows the financial condition of the applying contractor  
154 ~~applicant~~ more than 4 months prior to the date on which the  
155 application is received by the department, ~~then~~ an interim  
156 financial statement and an updated application must be submitted  
157 ~~and be accompanied by an updated application~~. The interim  
158 financial statement must cover the period from the end date of  
159 the annual statement and must show the financial condition of  
160 the applying contractor applicant no more than 4 months prior to  
161 the date that the interim financial statement is received by the  
162 department. However, upon the request of ~~by~~ the applying  
163 contractor applicant, an application and accompanying annual or  
164 interim financial statement received by the department within 15  
165 days after either 4-month period under this subsection shall be  
166 considered timely. Each required annual or interim financial  
167 statement must be audited and accompanied by the opinion of a  
168 certified public accountant. An applying contractor applicant  
169 desiring to bid exclusively for the performance of construction  
170 contracts with proposed budget estimates of less than \$1 million  
171 may submit reviewed annual or reviewed interim financial  
172 statements prepared by a certified public accountant. The  
173 information required by this subsection is confidential and  
174 exempt from ~~the provisions of~~ s. 119.07(1). The department shall

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175 act upon the application for qualification within 30 days after  
176 the department determines that the application is complete. The  
177 department may waive the requirements of this subsection for  
178 projects having a contract price of \$500,000 or less if the  
179 department determines that the project is of a noncritical  
180 nature and the waiver will not endanger public health, safety,  
181 or property.

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

184 337.185 State Arbitration Board.—

185 (1) To facilitate the prompt settlement of claims for  
186 additional compensation arising out of construction and  
187 maintenance contracts between the department and the various  
188 contractors with whom it transacts business, the Legislature  
189 does hereby establish the State Arbitration Board, referred to  
190 in this section as the "board." For the purpose of this section,  
191 the term "claim" means the aggregate of all outstanding claims  
192 by a party arising out of a construction or maintenance  
193 contract. Every contractual claim in an amount up to \$250,000  
194 per contract or, at the claimant's option, up to \$1 million  
195 ~~\$500,000~~ per contract or, upon agreement of the parties, up to  
196 \$2 million ~~\$1 million~~ per contract which that cannot be resolved  
197 by negotiation between the department and the contractor must  
198 ~~shall~~ be arbitrated by the board after acceptance of the project  
199 by the department. As an exception, either party to the dispute  
200 may request that the claim be submitted to binding private  
201 arbitration. A court of law may not consider the settlement of  
202 such a claim until the process established by this section has  
203 been exhausted.

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Section 6. This act shall take effect July 1, 2019.