

By the Committees on Appropriations; and 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 creating s. 334.179, F.S.; prohibiting local
4 governments from adopting standards or specifications
5 that are contrary to the department standards or
6 specifications for permissible use of aggregates that
7 have been certified for use; defining the term
8 "certified for use"; amending s. 336.044, F.S.;
9 prohibiting local governmental entities from adopting
10 standards or specifications that are contrary to the
11 department standards or specifications for permissible
12 use of reclaimed asphalt pavement material in
13 construction; providing that such material may not be
14 considered solid waste; amending s. 337.025, F.S.;
15 authorizing the department to establish a program for
16 transportation projects that demonstrate certain
17 innovative techniques for measuring resiliency and
18 structural integrity and controlling time and cost
19 increases; amending s. 337.14, F.S.; requiring that
20 any contractor, instead of any person, desiring to bid
21 for the performance of certain construction contracts
22 first be certified by the department as qualified;
23 conforming provisions to changes made by the act;
24 requiring a contractor desiring to bid on certain
25 contracts to have satisfactorily completed certain
26 projects; amending s. 337.185, F.S.; increasing the
27 maximum amounts per contract of certain contractual
28 claims that must be arbitrated by the State
29 Arbitration Board under certain circumstances;

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30 providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

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

36 334.179 Departmental standards or specifications for
37 permissible use of aggregates.—Notwithstanding any law, rule, or
38 ordinance to the contrary, a local government may not adopt
39 standards or specifications that are contrary to the
40 departmental standards or specifications for permissible use of
41 aggregates that have been certified for use. For purposes of
42 this section, the term “certified for use” means that the
43 aggregates have been certified by the producer in accordance
44 with departmental rule.

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

48 336.044 Use of recyclable materials in construction.—
49 (5) Notwithstanding any law, rule, or ordinance to the
50 contrary, local governmental entities may not adopt standards or
51 specifications that are contrary to the departmental standards
52 or specifications for permissible use of reclaimed asphalt
53 pavement material in construction. Such material may not be
54 considered solid waste.

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

57 337.025 Innovative transportation ~~highway~~ projects;
58 department to establish program.—

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59 (1) The department may ~~is authorized to~~ establish a program
60 for transportation ~~highway~~ projects demonstrating innovative
61 techniques of highway and bridge design, construction,
62 maintenance, and finance which have the intended effect of
63 measuring resiliency and structural integrity and controlling
64 time and cost increases on construction projects. Such
65 techniques may include, but are not limited to, state-of-the-art
66 technology for pavement, safety, and other aspects of highway
67 and bridge design, construction, and maintenance; innovative
68 bidding and financing techniques; accelerated construction
69 procedures; and those techniques that have the potential to
70 reduce project life cycle costs. To the maximum extent
71 practical, the department must use the existing process to award
72 and administer construction and maintenance contracts. When
73 specific innovative techniques are to be used, the department is
74 not required to adhere to those provisions of law that would
75 prevent, preclude, or in any way prohibit the department from
76 using the innovative technique. However, before ~~prior to~~ using
77 an innovative technique that is inconsistent with another
78 provision of law, the department must document in writing the
79 need for the exception and identify what benefits the traveling
80 public and the affected community are anticipated to receive.
81 The department may enter into no more than \$120 million in
82 contracts annually for the purposes authorized by this section.

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

85 337.14 Application for qualification; certificate of
86 qualification; restrictions; request for hearing.—

87 (1) Any contractor ~~person~~ desiring to bid for the

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88 performance of any construction contract in excess of \$250,000
89 which the department proposes to let must first be certified by
90 the department as qualified pursuant to this section and rules
91 of the department. The rules of the department must ~~shall~~
92 address the qualification of contractors ~~persons~~ to bid on
93 construction contracts in excess of \$250,000 and must ~~shall~~
94 include requirements with respect to the equipment, past record,
95 experience, financial resources, and organizational personnel of
96 the applying contractor which are ~~applicant~~ necessary to perform
97 the specific class of work for which the contractor ~~person~~ seeks
98 certification. Any contractor desiring to bid on contracts in
99 excess of \$50 million must have satisfactorily completed two
100 projects, each in excess of \$25 million, for the department or
101 for any other state department of transportation. The department
102 may limit the dollar amount of any contract upon which a
103 contractor ~~person~~ is qualified to bid or the aggregate total
104 dollar volume of contracts such contractor ~~person~~ is allowed to
105 have under contract at any one time. Each applying contractor
106 ~~applicant~~ seeking qualification to bid on construction contracts
107 in excess of \$250,000 shall furnish the department a statement
108 under oath, on such forms as the department may prescribe,
109 setting forth detailed information as required on the
110 application. Each application for certification must ~~shall~~ be
111 accompanied by the latest annual financial statement of the
112 applying contractor ~~applicant~~ completed within the last 12
113 months. If the application or the annual financial statement
114 shows the financial condition of the applying contractor
115 ~~applicant~~ more than 4 months prior to the date on which the
116 application is received by the department, ~~then~~ an interim

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117 financial statement and an updated application must be submitted
118 ~~and be accompanied by an updated application~~. The interim
119 financial statement must cover the period from the end date of
120 the annual statement and must show the financial condition of
121 the applying contractor applicant no more than 4 months prior to
122 the date that the interim financial statement is received by the
123 department. However, upon the request of ~~by~~ the applying
124 contractor applicant, an application and accompanying annual or
125 interim financial statement received by the department within 15
126 days after either 4-month period under this subsection shall be
127 considered timely. Each required annual or interim financial
128 statement must be audited and accompanied by the opinion of a
129 certified public accountant. An applying contractor applicant
130 desiring to bid exclusively for the performance of construction
131 contracts with proposed budget estimates of less than \$1 million
132 may submit reviewed annual or reviewed interim financial
133 statements prepared by a certified public accountant. The
134 information required by this subsection is confidential and
135 exempt from ~~the provisions of~~ s. 119.07(1). The department shall
136 act upon the application for qualification within 30 days after
137 the department determines that the application is complete. The
138 department may waive the requirements of this subsection for
139 projects having a contract price of \$500,000 or less if the
140 department determines that the project is of a noncritical
141 nature and the waiver will not endanger public health, safety,
142 or property.

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

145 337.185 State Arbitration Board.—

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

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