

1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 20.23, F.S.; providing additional
4 qualification requirements for the Secretary of
5 Transportation; creating s. 334.179, F.S.; prohibiting
6 local governments from adopting standards or
7 specifications that are contrary to the department
8 standards or specifications for permissible use of
9 aggregates that have been certified for use; defining
10 the term "certified for use"; amending s. 337.025,
11 F.S.; authorizing the department to establish a
12 program for transportation projects that demonstrate
13 certain innovative techniques for measuring resiliency
14 and structural integrity and controlling time and cost
15 increases; amending s. 337.14, F.S.; requiring any
16 contractor, instead of any person, desiring to bid for
17 the performance of certain construction contracts to
18 first be certified by the department as qualified;
19 conforming provisions to changes made by the act;
20 requiring a contractor desiring to bid on certain
21 contracts to have satisfactorily completed certain
22 projects; prohibiting a department district or the
23 Florida Turnpike Enterprise from contracting with an
24 entity for the performance of certain services;
25 amending s. 337.185, F.S.; revising the maximum

26 amounts per contract of certain contractual claims
 27 that must be arbitrated by the State Arbitration Board
 28 under certain circumstances; providing an effective
 29 date.

30
 31 Be It Enacted by the Legislature of the State of Florida:

32
 33 Section 1. Paragraph (b) of subsection (1) of section
 34 20.23, Florida Statutes, is amended to read:

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

38 (1)

39 (b) The secretary must ~~shall~~ be a proven, effective
 40 administrator who, by a combination of education and experience,
 41 clearly possesses ~~shall clearly possess~~ a broad knowledge of the
 42 administrative, financial, and technical aspects of the
 43 development, operation, and regulation of transportation systems
 44 and facilities or comparable systems and facilities. The
 45 secretary must be a professional engineer licensed under chapter
 46 471 or the laws of another state or, in lieu of such licensure,
 47 must:

48 1. Hold an advanced degree in a related discipline, such
 49 as a Master of Business Administration, and have 5 years of
 50 relevant transportation experience; or

51 2. Have 10 years of relevant transportation experience.

52 Section 2. Section 334.179, Florida Statutes, is created
53 to read:

54 334.179 Department standards or specifications for
55 permissible use of aggregates.—Notwithstanding any law, rule, or
56 ordinance to the contrary, a local government may not adopt
57 standards or specifications that are contrary to the department
58 standards or specifications for permissible use of aggregates
59 that have been certified for use. For purposes of this section,
60 the term "certified for use" means that the aggregates have been
61 certified by the producer in accordance with department rules.

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

64 337.025 Innovative transportation ~~highway~~ projects;
65 department to establish program.—

66 (1) The department may ~~is authorized to~~ establish a
67 program for transportation ~~highway~~ projects demonstrating
68 innovative techniques of highway and bridge design,
69 construction, maintenance, and finance which have the intended
70 effect of measuring resiliency and structural integrity and
71 controlling time and cost increases on construction projects.
72 Such techniques may include, but are not limited to, state-of-
73 the-art technology for pavement, safety, and other aspects of
74 highway and bridge design, construction, and maintenance;
75 innovative bidding and financing techniques; accelerated

76 construction procedures; and those techniques that have the
77 potential to reduce project life cycle costs. To the maximum
78 extent practical, the department must use the existing process
79 to award and administer construction and maintenance contracts.
80 When specific innovative techniques are to be used, the
81 department is not required to adhere to those provisions of law
82 that would prevent, preclude, or in any way prohibit the
83 department from using the innovative technique. However, before
84 ~~prior to~~ using an innovative technique that is inconsistent with
85 another provision of law, the department must document in
86 writing the need for the exception and identify what benefits
87 the traveling public and the affected community are anticipated
88 to receive. The department may enter into no more than \$120
89 million in contracts annually for the purposes authorized by
90 this section.

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

93 337.14 Application for qualification; certificate of
94 qualification; restrictions; request for hearing.—

95 (1) Any contractor ~~person~~ desiring to bid for the
96 performance of any construction contract in excess of \$250,000
97 which the department proposes to let must first be certified by
98 the department as qualified pursuant to this section and rules
99 of the department. The rules of the department must ~~shall~~
100 address the qualification of contractors ~~persons~~ to bid on

101 construction contracts in excess of \$250,000 and must ~~shall~~
102 include requirements with respect to the equipment, past record,
103 experience, financial resources, and organizational personnel of
104 the applying contractor which are ~~applicant~~ necessary to perform
105 the specific class of work for which the contractor ~~person~~ seeks
106 certification. Any contractor desiring to bid on contracts in
107 excess of \$50 million must have satisfactorily completed two
108 projects, each in excess of \$25 million, for the department or
109 for any other state department of transportation. The department
110 may limit the dollar amount of any contract upon which a
111 contractor ~~person~~ is qualified to bid or the aggregate total
112 dollar volume of contracts such contractor ~~person~~ is allowed to
113 have under contract at any one time. Each applying contractor
114 ~~applicant~~ seeking qualification to bid on construction contracts
115 in excess of \$250,000 shall furnish the department a statement
116 under oath, on such forms as the department may prescribe,
117 setting forth detailed information as required on the
118 application. Each application for certification must ~~shall~~ be
119 accompanied by the latest annual financial statement of the
120 applying contractor ~~applicant~~ completed within the last 12
121 months. If the application or the annual financial statement
122 shows the financial condition of the applying contractor
123 ~~applicant~~ more than 4 months prior to the date on which the
124 application is received by the department, ~~then~~ an interim
125 financial statement and an updated application must be submitted

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

151 (7) A "contractor" as defined in s. 337.165(1)(d) or his
152 or her "affiliate" as defined in s. 337.165(1)(a) qualified with
153 the department under this section may not also qualify under s.
154 287.055 or s. 337.105 to provide testing services, construction,
155 engineering, and inspection services to the department. This
156 limitation does not apply to any design-build prequalification
157 under s. 337.11(7) and does not apply when the department
158 otherwise determines by written order entered at least 30 days
159 before advertisement that the limitation is not in the best
160 interests of the public with respect to a particular contract
161 for testing services, construction, engineering, and inspection
162 services. This subsection does not authorize a contractor to
163 provide testing services, or provide construction, engineering,
164 and inspection services, to the department in connection with a
165 construction contract under which the contractor is performing
166 any work. Notwithstanding any other provision of law to the
167 contrary, a department district or the Florida Turnpike
168 Enterprise may not contract with an entity for the performance
169 of both design services and construction, engineering, and
170 inspection services for the same project.

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

173 337.185 State Arbitration Board.—

174 (1) To facilitate the prompt settlement of claims for
175 additional compensation arising out of construction and

176 maintenance contracts between the department and the various
177 contractors with whom it transacts business, the Legislature
178 does hereby establish the State Arbitration Board, referred to
179 in this section as the "board." For the purpose of this section,
180 the term "claim" means the aggregate of all outstanding claims
181 by a party arising out of a construction or maintenance
182 contract. Every contractual claim in an amount up to \$250,000
183 per contract or, at the claimant's option, up to \$1 million
184 ~~\$500,000~~ per contract or, upon agreement of the parties, up to
185 \$2 million ~~\$1 million~~ per contract which ~~that~~ cannot be resolved
186 by negotiation between the department and the contractor must
187 ~~shall~~ be arbitrated by the board after acceptance of the project
188 by the department. As an exception, either party to the dispute
189 may request that the claim be submitted to binding private
190 arbitration. A court of law may not consider the settlement of
191 such a claim until the process established by this section has
192 been exhausted.

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