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CS/CS/CS/HB 905, Engrossed 1

2019 Legislature

1
 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"; providing an exception; amending
 9 s. 336.044, F.S.; prohibiting local governmental
 10 entities from adopting standards or specifications
 11 that are contrary to the department standards or
 12 specifications for permissible use of reclaimed
 13 asphalt pavement material in construction; prohibiting
 14 such material from being considered solid waste for
 15 specified purposes; amending s. 337.025, F.S.;
 16 authorizing the department to establish a program for
 17 transportation projects that demonstrate certain
 18 innovative techniques for measuring resiliency and
 19 structural integrity and controlling time and cost
 20 increases; amending s. 337.14, F.S.; requiring any
 21 contractor, instead of any person, desiring to bid for
 22 the performance of certain construction contracts to
 23 first be certified by the department as qualified;
 24 conforming provisions to changes made by the act;
 25 requiring certain contractors desiring to bid on

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26 certain contracts to have satisfactorily completed
27 certain projects; prohibiting a local governmental
28 entity from contracting with a single entity for the
29 performance of certain services for certain projects
30 funded by the department; providing an exception;
31 amending s. 337.185, F.S.; revising the maximum
32 amounts per contract of certain contractual claims
33 that must be arbitrated by the State Arbitration Board
34 under certain circumstances; amending s. 338.26, F.S.;
35 revising provisions of an interlocal agreement for use
36 of specified fees to reimburse a local governmental
37 entity for the direct actual costs of operating a
38 specified fire station; requiring a contribution by
39 the local governmental entity; providing for the
40 transfer of specified equipment; amending s. 339.2818,
41 F.S.; revising the definition of the term "small
42 county"; providing an effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Section 334.179, Florida Statutes, is created
47 to read:

48 334.179 Department standards or specifications for
49 permissible use of aggregates.—Notwithstanding any law, rule, or
50 ordinance to the contrary, a local government may not adopt

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51 standards or specifications that are contrary to the department
 52 standards or specifications for permissible use of aggregates
 53 that have been certified for use. For purposes of this section,
 54 the term "certified for use" means that the aggregates have been
 55 certified by the producer in accordance with department rules.
 56 This section does not apply to a multicounty independent special
 57 district created by a special act of the Legislature.

58 Section 2. Subsection (5) of section 336.044, Florida
 59 Statutes, is renumbered as subsection (6), and a new subsection
 60 (5) is added to that section to read:

61 336.044 Use of recyclable materials in construction.—

62 (5) Notwithstanding any law, rule, or ordinance to the
 63 contrary, a local governmental entity may not adopt standards or
 64 specifications that are contrary to the department standards or
 65 specifications for permissible use of reclaimed asphalt pavement
 66 material in construction. For purposes of this section, such
 67 material may not be considered solid waste.

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

70 337.025 Innovative transportation ~~highway~~ projects;
 71 department to establish program.—

72 (1) The department may ~~is authorized to~~ establish a
 73 program for transportation ~~highway~~ projects demonstrating
 74 innovative techniques of highway and bridge design,
 75 construction, maintenance, and finance which have the intended

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76 | effect of measuring resiliency and structural integrity and
77 | controlling time and cost increases on construction projects.
78 | Such techniques may include, but are not limited to, state-of-
79 | the-art technology for pavement, safety, and other aspects of
80 | highway and bridge design, construction, and maintenance;
81 | innovative bidding and financing techniques; accelerated
82 | construction procedures; and those techniques that have the
83 | potential to reduce project life cycle costs. To the maximum
84 | extent practical, the department must use the existing process
85 | to award and administer construction and maintenance contracts.
86 | When specific innovative techniques are to be used, the
87 | department is not required to adhere to those provisions of law
88 | that would prevent, preclude, or in any way prohibit the
89 | department from using the innovative technique. However, before
90 | ~~prior to~~ using an innovative technique that is inconsistent with
91 | another provision of law, the department must document in
92 | writing the need for the exception and identify what benefits
93 | the traveling public and the affected community are anticipated
94 | to receive. The department may enter into no more than \$120
95 | million in contracts annually for the purposes authorized by
96 | this section.

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

99 | 337.14 Application for qualification; certificate of
100 | qualification; restrictions; request for hearing.—

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101 (1) Any contractor ~~person~~ desiring to bid for the
102 performance of any construction contract in excess of \$250,000
103 which the department proposes to let must first be certified by
104 the department as qualified pursuant to this section and rules
105 of the department. The rules of the department must ~~shall~~
106 address the qualification of contractors ~~persons~~ to bid on
107 construction contracts in excess of \$250,000 and must ~~shall~~
108 include requirements with respect to the equipment, past record,
109 experience, financial resources, and organizational personnel of
110 the applying contractor which are ~~applicant~~ necessary to perform
111 the specific class of work for which the contractor ~~person~~ seeks
112 certification. Any contractor who is not qualified and in good
113 standing with the department as of January 1, 2019, and desires
114 to bid on contracts in excess of \$50 million must have
115 satisfactorily completed two projects, each in excess of \$15
116 million, for the department or for any other state department of
117 transportation. The department may limit the dollar amount of
118 any contract upon which a contractor ~~person~~ is qualified to bid
119 or the aggregate total dollar volume of contracts such
120 contractor ~~person~~ is allowed to have under contract at any one
121 time. Each applying contractor ~~applicant~~ seeking qualification
122 to bid on construction contracts in excess of \$250,000 shall
123 furnish the department a statement under oath, on such forms as
124 the department may prescribe, setting forth detailed information
125 as required on the application. Each application for

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126 certification must ~~shall~~ be accompanied by the latest annual
 127 financial statement of the applying contractor applicant
 128 completed within the last 12 months. If the application or the
 129 annual financial statement shows the financial condition of the
 130 applying contractor applicant more than 4 months prior to the
 131 date on which the application is received by the department,
 132 ~~then~~ an interim financial statement and an updated application
 133 must be submitted ~~and be accompanied by an updated application.~~
 134 The interim financial statement must cover the period from the
 135 end date of the annual statement and must show the financial
 136 condition of the applying contractor applicant no more than 4
 137 months prior to the date that the interim financial statement is
 138 received by the department. However, upon the request of ~~by~~ the
 139 applying contractor applicant, an application and accompanying
 140 annual or interim financial statement received by the department
 141 within 15 days after either 4-month period under this subsection
 142 shall be considered timely. Each required annual or interim
 143 financial statement must be audited and accompanied by the
 144 opinion of a certified public accountant. An applying contractor
 145 ~~applicant~~ desiring to bid exclusively for the performance of
 146 construction contracts with proposed budget estimates of less
 147 than \$1 million may submit reviewed annual or reviewed interim
 148 financial statements prepared by a certified public accountant.
 149 The information required by this subsection is confidential and
 150 exempt from ~~the provisions of~~ s. 119.07(1). The department shall

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151 act upon the application for qualification within 30 days after
152 the department determines that the application is complete. The
153 department may waive the requirements of this subsection for
154 projects having a contract price of \$500,000 or less if the
155 department determines that the project is of a noncritical
156 nature and the waiver will not endanger public health, safety,
157 or property.

158 (7) A "contractor" as defined in s. 337.165(1)(d) or his
159 or her "affiliate" as defined in s. 337.165(1)(a) qualified with
160 the department under this section may not also qualify under s.
161 287.055 or s. 337.105 to provide testing services, construction,
162 engineering, and inspection services to the department. This
163 limitation does not apply to any design-build prequalification
164 under s. 337.11(7) and does not apply when the department
165 otherwise determines by written order entered at least 30 days
166 before advertisement that the limitation is not in the best
167 interests of the public with respect to a particular contract
168 for testing services, construction, engineering, and inspection
169 services. This subsection does not authorize a contractor to
170 provide testing services, or provide construction, engineering,
171 and inspection services, to the department in connection with a
172 construction contract under which the contractor is performing
173 any work. Notwithstanding any other provision of law to the
174 contrary, for a project that is wholly or partially funded by
175 the department and administered by a local governmental entity,

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176 except for a seaport listed in s. 311.09, the entity performing
177 design and construction engineering and inspection services may
178 not be the same entity.

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

181 337.185 State Arbitration Board.—

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

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201 Section 6. Paragraph (a) of subsection (3) of section
 202 338.26, Florida Statutes, is amended to read:
 203 338.26 Alligator Alley toll road.—
 204 (3) (a) Fees generated from tolls shall be deposited in the
 205 State Transportation Trust Fund and shall be used:
 206 1. To reimburse outstanding contractual obligations;
 207 2. To operate and maintain the highway and toll
 208 facilities, including reconstruction and restoration;
 209 3. To pay for those projects that are funded with
 210 Alligator Alley toll revenues and that are contained in the
 211 1993-1994 adopted work program or the 1994-1995 tentative work
 212 program submitted to the Legislature on February 22, 1994; and
 213 4. By interlocal agreement effective July 1, 2019 ~~2014~~,
 214 through no later than June 30, 2027 ~~2019~~, to reimburse a ~~county~~
 215 ~~or another~~ local governmental entity for the direct actual costs
 216 of operating the fire station at mile marker 63 on Alligator
 217 Alley, which shall ~~may~~ be used by the ~~a county or another~~ local
 218 governmental entity to provide fire, rescue, and emergency
 219 management services exclusively to the public on Alligator
 220 Alley. The local governmental entity must contribute 10 percent
 221 of the direct actual operating costs. The amount of
 222 reimbursement to the local governmental entity may not exceed
 223 \$1.4 million in any state fiscal year. At the end of the term of
 224 the interlocal agreement, the ownership and title of all fire,
 225 rescue, and emergency equipment used at the fire station during

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226 | the term of the interlocal agreement transfers to the state.

227 | Section 7. Subsection (2) of section 339.2818, Florida
228 | Statutes, is amended to read:

229 | 339.2818 Small County Outreach Program.—

230 | (2) For the purposes of this section, the term "small
231 | county" means any county that has a population of 200,000
232 | ~~170,000~~ or less as determined by the most recent official
233 | estimate pursuant to s. 186.901.

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