

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Tourism, Infrastructure &
2 Energy Subcommittee

3 Representative Andrade offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Subsection (3) of section 206.46, Florida
8 Statutes, is amended to read:

9 206.46 State Transportation Trust Fund.—

10 (3) Unless otherwise specified in the General
11 Appropriations Act, each fiscal year, at least a minimum of 15
12 percent but not more than 25 percent of all state revenues
13 deposited into the State Transportation Trust Fund, excluding
14 state revenues used for matching federal grants, shall be
15 committed annually by the department for public transportation
16 projects in accordance with chapter 311, ss. 332.003-332.007,

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17 chapter 341, and chapter 343.

18 Section 2. Section 337.025, Florida Statutes, is amended
19 to read:

20 337.025 Innovative transportation projects; department to
21 establish program.—

22 (1) The department may establish a program for
23 transportation projects demonstrating innovative techniques of
24 highway and bridge design, construction, maintenance, and
25 finance which have the intended effect of measuring resiliency
26 and structural integrity and controlling time and cost increases
27 on construction projects. Such techniques may include, but are
28 not limited to, state-of-the-art technology for pavement,
29 safety, and other aspects of highway and bridge design,
30 construction, and maintenance; innovative bidding and financing
31 techniques; progressive design-build contracts; accelerated
32 construction procedures; and those techniques that have the
33 potential to reduce project life cycle costs. To the maximum
34 extent practical, the department must use the existing process
35 to award and administer construction and maintenance contracts.
36 When specific innovative techniques are to be used, the
37 department is not required to adhere to those provisions of law
38 that would prevent, preclude, or in any way prohibit the
39 department from using the innovative technique. However, before
40 using an innovative technique that is inconsistent with another
41 provision of law, the department must document in writing the

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42 need for the exception and identify what benefits the traveling
43 public and the affected community are anticipated to receive.
44 The department may enter into no more than \$120 million in
45 contracts awarded annually for the purposes authorized by this
46 section.

47 (2) The annual cap on contracts provided in subsection (1)
48 does not apply to:

49 (a) Turnpike enterprise projects.

50 (b) Progressive design-build contracts for complex, high
51 risk projects with a minimum contract value of \$400 million ~~Low-~~
52 ~~bid design-build milling and resurfacing contracts.~~

53 Section 3. Subsection (7) of section 337.11, Florida
54 Statutes, is amended to read:

55 337.11 Contracting authority of department; bids;
56 emergency repairs, supplemental agreements, and change orders;
57 combined design and construction contracts; progress payments;
58 records; requirements of vehicle registration.-

59 (7)(a) If the department determines that it is in the best
60 interests of the public, the department may combine the design
61 and construction phases of a ~~building, a major bridge, a limited~~
62 ~~access facility, or a rail corridor~~ project into a single
63 contract. Such contract is referred to as a design-build
64 contract.

65 (b) If the department determines that it is in the best
66 interest of the public, the department may combine the design

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67 and construction phase of a project into a single contract and
68 select the design-build firm in the early stages of the project
69 to ensure that the design-build firm is part of the
70 collaboration and development of the design as part of a step-
71 by-step progression through construction. Such contract is
72 referred to as a progressive design-build contract. For
73 progressive design-build contracts, the selection and award
74 process shall include a two-phase process. For phase one, the
75 department shall competitively award the contract to a design-
76 build firm based upon qualifications. For phase two, the design-
77 build firm shall competitively bid construction trade and
78 subcontractor packages and based upon these bids, negotiate with
79 the department a fixed firm price or guaranteed maximum price
80 that meets the project budget and scope, as advertised in the
81 request for qualification.

82 (c) Design-build contracts and progressive design-build
83 contracts may be advertised and awarded notwithstanding the
84 requirements of paragraph (3)(c). However, construction
85 activities may not begin on any portion of such projects for
86 which the department has not yet obtained title to the necessary
87 rights-of-way and easements for the construction of that portion
88 of the project has vested in the state or a local governmental
89 entity and all railroad crossing and utility agreements have
90 been executed. Title to rights-of-way shall be deemed to have
91 vested in the state when the title has been dedicated to the

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92 public or acquired by prescription.

93 ~~(d)-(b)~~ The department shall adopt by rule procedures for
94 administering design-build contracts and progressive design-
95 build contracts. Such procedures shall include, but not be
96 limited to:

- 97 1. Prequalification requirements.
- 98 2. Public announcement procedures.
- 99 3. Scope of service requirements.
- 100 4. Letters of interest requirements.
- 101 5. Short-listing criteria and procedures.
- 102 6. Bid proposal requirements.
- 103 7. Technical review committee.
- 104 8. Selection and award processes.
- 105 9. Stipend requirements.

106 ~~(e)-(e)~~ The department must receive at least three letters
107 of interest in order to proceed with a request for proposals.
108 The department shall request proposals from no fewer than three
109 of the design-build firms submitting letters of interest. If a
110 design-build firm withdraws from consideration after the
111 department requests proposals, the department may continue if at
112 least two proposals are received.

113 Section 4. Subsections (4) and (7) of section 337.14,
114 Florida Statutes, is amended to read:

115 337.14 Application for qualification; certificate of
116 qualification; restrictions; request for hearing.—

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117 (4) If the applicant is found to possess the prescribed
118 qualifications, the department shall issue to him or her a
119 certificate of qualification that, unless thereafter revoked by
120 the department for good cause, will be valid for a period of 18
121 months after the date of the applicant's financial statement or
122 such shorter period as the department prescribes. Submission of
123 an application does ~~and subsequent approval do~~ not affect
124 expiration of the certificate of qualification. An applicant may
125 submit a written request with a timely submitted application to
126 keep an existing certificate of qualification in place until the
127 expiration date. If the request is approved by the department,
128 the current maximum capacity rating of the applicant will remain
129 in place until expiration of the current certificate of
130 qualification, the ability factor of the applicant, or the
131 ~~maximum capacity rating of the applicant.~~ If the department
132 finds that an application is incomplete or contains inadequate
133 information or information that cannot be verified, the
134 department may request in writing that the applicant provide the
135 necessary information to complete the application or provide the
136 source from which any information in the application may be
137 verified. If the applicant fails to comply with the initial
138 written request within a reasonable period of time as specified
139 therein, the department shall request the information a second
140 time. If the applicant fails to comply with the second request
141 within a reasonable period of time as specified therein, the

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142 application shall be denied.

143 (7) A "contractor" as defined in s. 337.165(1)(d) or his
144 or her "affiliate" as defined in s. 337.165(1)(a) qualified with
145 the department under this section may not also qualify under s.
146 287.055 or s. 337.105 to provide testing services, construction,
147 engineering, and inspection services to the department. This
148 limitation does not apply to any design-build, including
149 progressive design-build, prequalification under s. 337.11(7)
150 and does not apply when the department otherwise determines by
151 written order entered at least 30 days before advertisement that
152 the limitation is not in the best interests of the public with
153 respect to a particular contract for testing services,
154 construction, engineering, and inspection services. This
155 subsection does not authorize a contractor to provide testing
156 services, or provide construction, engineering, and inspection
157 services, to the department in connection with a construction
158 contract under which the contractor is performing any work.
159 Notwithstanding any other provision of law to the contrary, for
160 a project that is wholly or partially funded by the department
161 and administered by a local governmental entity, except for a
162 seaport listed in s. 311.09 or an airport as defined in s.
163 332.004, the entity performing design and construction
164 engineering and inspection services may not be the same entity.

165 Section 5. Subsection (3) of section 337.168, Florida
166 Statutes, is redesignated as subsection (2) and present

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167 subsection (2) is amended to read:

168 337.168 Confidentiality of official estimates, identities
169 ~~of potential bidders,~~ and bid analysis and monitoring system.-

170 ~~(2) A document that reveals the identity of a person who~~
171 ~~has requested or obtained a bid package, plan, or specifications~~
172 ~~pertaining to any project to be let by the department is~~
173 ~~confidential and exempt from the provisions of s. 119.07(1) for~~
174 ~~the period that begins 2 working days before the deadline for~~
175 ~~obtaining bid packages, plans, or specifications and ends with~~
176 ~~the letting of the bid. A document that reveals the identity of~~
177 ~~a person who has requested or obtained a bid package, plan, or~~
178 ~~specifications pertaining to any project to be let by the~~
179 ~~department before the 2 working days before the deadline for~~
180 ~~obtaining bid packages, plans, or specifications remains a~~
181 ~~public record subject to s. 119.07(1).~~

182 Section 6. This act shall take effect July 1, 2022.

183

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185 **T I T L E A M E N D M E N T**

186 Remove everything before the enacting clause and insert:
187 An act relating to transportation projects; amending s. 206.46,
188 F.S.; revising the amount of state revenues committed by the
189 Department of Transportation for public transportation projects;
190 providing an exception; amending s. 337.025, F.S.; including
191 progressive design-build contracts as an innovative technique

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192 that the department may use; providing an exception to the
193 annual monetary cap on contracts for projects that demonstrate
194 innovative techniques; amending s. 337.11, F.S.; removing limits
195 on the types of projects that the department may combine into a
196 design-build contract; providing terms under which the
197 department may enter into progressive design-build contracts;
198 providing for a selection and award process; providing for
199 advertising of such contracts; requiring rulemaking; amending s.
200 337.14, F.S.; providing that an applicant may request to keep an
201 existing certificate of qualification under certain
202 circumstances; providing for the maximum capacity rating of the
203 applicant to remain in place; amending s. 337.168, F.S.;
204 removing a public records exemption for documents that reveal
205 the identity of a potential bidder on a transportation project;
206 providing an effective date.