

1                                   A bill to be entitled  
2           An act relating to transportation projects; amending  
3           s. 206.46, F.S.; revising the amount of state revenues  
4           committed by the Department of Transportation for  
5           public transportation projects; providing an  
6           exception; amending s. 337.025, F.S.; including  
7           progressive design-build contracts as an innovative  
8           technique that the department may use; providing an  
9           exception to the annual monetary cap on contracts for  
10          certain progressive design-build contracts; amending  
11          s. 337.11, F.S.; removing limits on the types of  
12          projects that the department may combine into a  
13          design-build contract; providing terms under which the  
14          department may enter into progressive design-build  
15          contracts; providing for a selection and award  
16          process; providing for advertising of such contracts;  
17          requiring rulemaking; amending s. 337.14, F.S.;  
18          providing that an applicant may request to keep an  
19          existing certificate of qualification under certain  
20          circumstances; providing for the maximum capacity  
21          rating of the applicant to remain in place; amending  
22          s. 337.168, F.S.; removing a public records exemption  
23          for documents that reveal the identity of a potential  
24          bidder on a transportation project; providing an  
25          effective date.

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

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

206.46 State Transportation Trust Fund.—

(3) Unless otherwise specified in the General Appropriations Act, each fiscal year, at least a minimum of 15 percent but not more than 25 percent of all state revenues deposited into the State Transportation Trust Fund, excluding state revenues used for matching federal grants, shall be committed annually by the department for public transportation projects in accordance with chapter 311, ss. 332.003-332.007, chapter 341, and chapter 343.

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

337.025 Innovative transportation projects; department to establish program.—

(1) The department may establish a program for transportation projects demonstrating innovative techniques of highway and bridge design, construction, maintenance, and finance which have the intended effect of measuring resiliency and structural integrity and controlling time and cost increases on construction projects. Such techniques may include, but are not limited to, state-of-the-art technology for pavement,

51 safety, and other aspects of highway and bridge design,  
52 construction, and maintenance; innovative bidding and financing  
53 techniques; progressive design-build contracts; accelerated  
54 construction procedures; and those techniques that have the  
55 potential to reduce project life cycle costs. To the maximum  
56 extent practical, the department must use the existing process  
57 to award and administer construction and maintenance contracts.  
58 When specific innovative techniques are to be used, the  
59 department is not required to adhere to those provisions of law  
60 that would prevent, preclude, or in any way prohibit the  
61 department from using the innovative technique. However, before  
62 using an innovative technique that is inconsistent with another  
63 provision of law, the department must document in writing the  
64 need for the exception and identify what benefits the traveling  
65 public and the affected community are anticipated to receive.  
66 The department may enter into no more than \$120 million in  
67 contracts awarded annually for the purposes authorized by this  
68 section.

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

71 (a) Turnpike enterprise projects.

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

75 Section 3. Subsection (7) of section 337.11, Florida

76 Statutes, is amended to read:

77 337.11 Contracting authority of department; bids;  
 78 emergency repairs, supplemental agreements, and change orders;  
 79 combined design and construction contracts; progress payments;  
 80 records; requirements of vehicle registration.-

81 (7)(a) If the department determines that it is in the best  
 82 interests of the public, the department may combine the design  
 83 and construction phases of a ~~building, a major bridge, a limited~~  
 84 ~~access facility, or a rail corridor~~ project into a single  
 85 contract. Such contract is referred to as a design-build  
 86 contract.

87 (b) If the department determines that it is in the best  
 88 interest of the public, the department may combine the design  
 89 and construction phases of a project into a single contract and  
 90 select the design-build firm in the early stages of the project  
 91 to ensure that the design-build firm is part of the  
 92 collaboration and development of the design as part of a step-  
 93 by-step progression through construction. Such contract is  
 94 referred to as a progressive design-build contract. For  
 95 progressive design-build contracts, the selection and award  
 96 process shall include a two-phase process. For phase one, the  
 97 department shall competitively award the contract to a design-  
 98 build firm based upon qualifications. For phase two, the design-  
 99 build firm shall competitively bid construction trade and  
 100 subcontractor packages and, based upon these bids, negotiate

101 with the department a fixed firm price or guaranteed maximum  
102 price that meets the project budget and scope, as advertised in  
103 the request for qualification.

104 (c) Design-build contracts and progressive design-build  
105 contracts may be advertised and awarded notwithstanding the  
106 requirements of paragraph (3)(c). However, construction  
107 activities may not begin on any portion of such projects for  
108 which the department has not yet obtained title to the necessary  
109 rights-of-way and easements for the construction of that portion  
110 of the project has vested in the state or a local governmental  
111 entity and all railroad crossing and utility agreements have  
112 been executed. Title to rights-of-way shall be deemed to have  
113 vested in the state when the title has been dedicated to the  
114 public or acquired by prescription.

115 (d)-(b) The department shall adopt by rule procedures for  
116 administering design-build contracts and progressive design-  
117 build contracts. Such procedures shall include, but not be  
118 limited to:

- 119 1. Prequalification requirements.
- 120 2. Public announcement procedures.
- 121 3. Scope of service requirements.
- 122 4. Letters of interest requirements.
- 123 5. Short-listing criteria and procedures.
- 124 6. Bid proposal requirements.
- 125 7. Technical review committee.

126 8. Selection and award processes.

127 9. Stipend requirements.

128 ~~(e)-(e)~~ The department must receive at least three letters  
 129 of interest in order to proceed with a request for proposals.  
 130 The department shall request proposals from no fewer than three  
 131 of the design-build firms submitting letters of interest. If a  
 132 design-build firm withdraws from consideration after the  
 133 department requests proposals, the department may continue if at  
 134 least two proposals are received.

135 Section 4. Subsections (4) and (7) of section 337.14,  
 136 Florida Statutes, are amended to read:

137 337.14 Application for qualification; certificate of  
 138 qualification; restrictions; request for hearing.—

139 (4) If the applicant is found to possess the prescribed  
 140 qualifications, the department shall issue to him or her a  
 141 certificate of qualification that, unless thereafter revoked by  
 142 the department for good cause, will be valid for a period of 18  
 143 months after the date of the applicant's financial statement or  
 144 such shorter period as the department prescribes. Submission of  
 145 an application does ~~and subsequent approval do~~ not affect  
 146 expiration of the certificate of qualification, ~~the ability~~  
 147 ~~factor of the applicant, or the maximum capacity rating of the~~  
 148 ~~applicant.~~ An applicant may submit a written request with a  
 149 timely submitted application to keep an existing certificate of  
 150 qualification in place until the expiration date. If the request

151 is approved by the department, the current maximum capacity  
 152 rating of the applicant will remain in place until expiration of  
 153 the current certificate of qualification. If the department  
 154 finds that an application is incomplete or contains inadequate  
 155 information or information that cannot be verified, the  
 156 department may request in writing that the applicant provide the  
 157 necessary information to complete the application or provide the  
 158 source from which any information in the application may be  
 159 verified. If the applicant fails to comply with the initial  
 160 written request within a reasonable period of time as specified  
 161 therein, the department shall request the information a second  
 162 time. If the applicant fails to comply with the second request  
 163 within a reasonable period of time as specified therein, the  
 164 application shall be denied.

165 (7) A "contractor" as defined in s. 337.165(1)(d) or his  
 166 or her "affiliate" as defined in s. 337.165(1)(a) qualified with  
 167 the department under this section may not also qualify under s.  
 168 287.055 or s. 337.105 to provide testing services, construction,  
 169 engineering, and inspection services to the department. This  
 170 limitation does not apply to any design-build, including  
 171 progressive design-build, prequalification under s. 337.11(7)  
 172 and does not apply when the department otherwise determines by  
 173 written order entered at least 30 days before advertisement that  
 174 the limitation is not in the best interests of the public with  
 175 respect to a particular contract for testing services,

176 construction, engineering, and inspection services. This  
 177 subsection does not authorize a contractor to provide testing  
 178 services, or provide construction, engineering, and inspection  
 179 services, to the department in connection with a construction  
 180 contract under which the contractor is performing any work.  
 181 Notwithstanding any other provision of law to the contrary, for  
 182 a project that is wholly or partially funded by the department  
 183 and administered by a local governmental entity, except for a  
 184 seaport listed in s. 311.09 or an airport as defined in s.  
 185 332.004, the entity performing design and construction  
 186 engineering and inspection services may not be the same entity.

187 Section 5. Subsection (2) of section 337.168, Florida  
 188 Statutes, is amended to read:

189 337.168 Confidentiality of official estimates, ~~identities~~  
 190 ~~of potential bidders,~~ and bid analysis and monitoring system.-

191 ~~(2) A document that reveals the identity of a person who~~  
 192 ~~has requested or obtained a bid package, plan, or specifications~~  
 193 ~~pertaining to any project to be let by the department is~~  
 194 ~~confidential and exempt from the provisions of s. 119.07(1) for~~  
 195 ~~the period that begins 2 working days before the deadline for~~  
 196 ~~obtaining bid packages, plans, or specifications and ends with~~  
 197 ~~the letting of the bid. A document that reveals the identity of~~  
 198 ~~a person who has requested or obtained a bid package, plan, or~~  
 199 ~~specifications pertaining to any project to be let by the~~  
 200 ~~department before the 2 working days before the deadline for~~



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201 ~~obtaining bid packages, plans, or specifications remains a~~  
202 ~~public record subject to s. 119.07(1).~~

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