

1 A bill to be entitled
2 An act relating to transportation; creating s.
3 163.31803, F.S.; requiring local governments to issue
4 mobility fee credits under a specified circumstance;
5 creating s. 334.066, F.S.; establishing the
6 Implementing Solutions from Transportation Research
7 and Evaluating Emerging Technologies Living Lab (I-
8 STREET) within the University of Florida; specifying
9 the duties of I-STREET; requiring I-STREET to annually
10 provide the Governor and the Legislature with a
11 certain report; requiring the creation of a certain
12 advisory board; specifying the composition of the
13 board; amending s. 337.025, F.S.; providing that the
14 Department of Transportation's program for innovative
15 transportation projects may include progressive
16 design-build contracts; authorizing the department to
17 enter into a progressive design-build contract if it
18 makes a certain determination; providing procedures
19 and requirements for progressive design-build
20 contracts; revising contracts exempt from a specified
21 annual monetary cap on contracts; amending s. 337.107,
22 F.S.; authorizing landowners, under a department-
23 issued permit, to remove vegetation under specified
24 circumstances; amending s. 337.11, F.S.; revising the
25 department's authority relating to design-build

26 | contracts; revising rulemaking authority; requiring
 27 | specified department contracts to contain specified
 28 | insurance provisions; amending s. 337.1101, F.S.;
 29 | revising the calculation of a certain settlement paid
 30 | to a nonselected responsive bidder; amending s.
 31 | 337.14, F.S.; revising a dollar limit of proposed
 32 | budget estimates of construction contracts for which
 33 | an applying contractor may submit certain financial
 34 | statements; revising procedures relating to
 35 | certificates of qualification issued by the department
 36 | to construction contractors seeking certification to
 37 | bid on certain contracts; exempting progressive
 38 | design-build prequalifications from a certain
 39 | restriction on contractors and their affiliates;
 40 | amending s. 337.168, F.S.; deleting a public records
 41 | exemption for certain documents revealing the identity
 42 | of a potential bidder; amending s. 338.165, F.S.;
 43 | revising the frequency with which the department must
 44 | make toll rate adjustments for inflation; providing an
 45 | effective date.

46 |
 47 | Be It Enacted by the Legislature of the State of Florida:

48 |
 49 | Section 1. Section 163.31803, Florida Statutes, is created
 50 | to read:

51 163.31803 Mobility fee credits for certain planned housing
52 communities.—Pursuant to s. 163.31801, a local government must
53 provide mobility fee credits to a residential developer for
54 capital improvements to a transportation system that the
55 Department of Transportation deems necessary to ensure the safe
56 and efficient mobility of people, commerce, and goods to bring a
57 planned housing community into service.

58 Section 2. Section 334.066, Florida Statutes, is created
59 to read:

60 334.066 Implementing Solutions from Transportation
61 Research and Evaluating Emerging Technologies Living Lab.—

62 (1) The Implementing Solutions from Transportation
63 Research and Evaluating Emerging Technologies Living Lab (I-
64 STREET) is established within the University of Florida.

65 (2) At a minimum, I-STREET shall:

66 (a) Conduct and facilitate research on issues related to
67 innovative transportation mobility and safety technology
68 development and deployment in this state and serve as an
69 information exchange and depository for the most current
70 information pertaining to transportation research, education,
71 workforce development, and related issues.

72 (b) Be a continuing resource for the Legislature, the
73 department, local governments, the nation's metropolitan
74 regions, and the private sector in the area of transportation
75 and related research.

76 (c) Promote intercampus transportation and related
77 research activities among Florida universities to enhance the
78 ability of these universities to attract federal and private
79 sector funding for transportation and related research.

80 (d) Provide by July 1, 2023, and each July 1 thereafter,
81 to the Governor, the President of the Senate, and the Speaker of
82 the House of Representatives a comprehensive report that
83 outlines its clearly defined goals and its efforts and progress
84 on reaching those goals.

85 (3) An advisory board shall be created to periodically
86 review and advise I-STREET concerning its research program. The
87 board shall consist of nine members with expertise in
88 transportation-related areas, as follows:

89 (a) A member appointed by the President of the Senate.

90 (b) A member appointed by the Speaker of the House of
91 Representatives.

92 (c) The Secretary of Transportation or his or her
93 designee.

94 (d) The Secretary of Economic Opportunity or his or her
95 designee.

96 (e) A member of the Florida Transportation Commission.

97 (f) Four members nominated by the University of Florida's
98 College of Engineering and approved by the university's
99 president. The College of Engineering's nominees may include
100 representatives of the University of Florida, other academic and

101 research institutions, or private entities.

102 Section 3. Section 337.025, Florida Statutes, is amended
103 to read:

104 337.025 Innovative transportation projects; department to
105 establish program.—

106 (1) The department may establish a program for
107 transportation projects demonstrating innovative techniques of
108 highway and bridge design, construction, maintenance, and
109 finance which have the intended effect of measuring resiliency
110 and structural integrity and controlling time and cost increases
111 on construction projects. Such techniques may include, but are
112 not limited to, state-of-the-art technology for pavement,
113 safety, and other aspects of highway and bridge design,
114 construction, and maintenance; innovative bidding and financing
115 techniques; progressive design-build contracts as specified in
116 subsection (2); accelerated construction procedures; and those
117 techniques that have the potential to reduce project life cycle
118 costs. To the maximum extent practical, the department must use
119 the existing process to award and administer construction and
120 maintenance contracts. When specific innovative techniques are
121 to be used, the department is not required to adhere to those
122 provisions of law that would prevent, preclude, or in any way
123 prohibit the department from using the innovative technique.
124 However, before using an innovative technique that is
125 inconsistent with another provision of law, the department must

126 document in writing the need for the exception and identify what
127 benefits the traveling public and the affected community are
128 anticipated to receive. The department may enter into no more
129 than \$120 million in contracts awarded annually for the purposes
130 authorized by this section.

131 (2) If the department determines that it is in the best
132 interests of the public, the department may combine the design
133 and construction phases of a project into a single contract and
134 select the design-build firm in the early stages of a project to
135 ensure that the design-build firm is part of the collaboration
136 and development of the design as part of a step-by-step
137 progression through construction. Such contract is referred to
138 as a progressive design-build contract. For progressive design-
139 build contracts, the selection and award processes must include
140 a two-phase process. For phase one, the department shall
141 competitively award the contract to a design-build firm based
142 upon qualifications. For phase two, the design-build firm shall
143 competitively bid construction trade subcontractor packages and,
144 based upon these bids, negotiate with the department a fixed
145 firm price or guaranteed maximum price that meets the project
146 budget and scope as advertised in the request for
147 qualifications.

148 (3)-(2) The annual cap on contracts provided in subsection
149 (1) does not apply to:

150 (a) Turnpike enterprise projects.

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

154 Section 4. Section 337.107, Florida Statutes, is amended
155 to read:

156 337.107 Contracts for right-of-way services.—

157 (1) The department may enter into contracts pursuant to s.
158 287.055 for right-of-way services on transportation corridors
159 and transportation facilities. Right-of-way services include
160 negotiation and acquisition services, appraisal services,
161 demolition and removal of improvements, and asbestos-abatement
162 services.

163 (2) For a construction project funded in the first 3 years
164 of the department's adopted work program, a landowner with land
165 contiguous to a limited access facility may be allowed, under a
166 department-issued permit, to remove vegetation designated to be
167 removed as part of the construction project on a department
168 right-of-way in an area associated with a limited access
169 facility, within the same limits of removal as identified in the
170 final plans of the project.

171 Section 5. Subsections (15) and (16) of section 337.11,
172 Florida Statutes, are renumbered as subsections (16) and (17),
173 respectively, a new subsection (15) is added to that section,
174 and paragraphs (a) and (b) of subsection (7) of that section are
175 amended, to read:

176 337.11 Contracting authority of department; bids;
 177 emergency repairs, supplemental agreements, and change orders;
 178 combined design and construction contracts; progress payments;
 179 records; requirements of vehicle registration.—

180 (7)(a) If the department determines that it is in the best
 181 interests of the public, the department may combine the design
 182 and construction phases of a ~~building, a major bridge, a limited~~
 183 ~~access facility, or a rail corridor~~ project into a single
 184 contract. Such contract is referred to as a design-build
 185 contract. Design-build contracts may be advertised and awarded
 186 notwithstanding the requirements of paragraph (3)(c). However,
 187 construction activities may not begin on any portion of such
 188 projects for which the department has not yet obtained title to
 189 the necessary rights-of-way and easements for the construction
 190 of that portion of the project has vested in the state or a
 191 local governmental entity and all railroad crossing and utility
 192 agreements have been executed. Title to rights-of-way shall be
 193 deemed to have vested in the state when the title has been
 194 dedicated to the public or acquired by prescription.

195 (b) The department shall adopt by rule procedures for
 196 administering design-build contracts, including progressive
 197 design-build contracts. Such procedures shall include, but not
 198 be limited to:

- 199 1. Prequalification requirements.
- 200 2. Public announcement procedures.

- 201 3. Scope of service requirements.
- 202 4. Letters of interest requirements.
- 203 5. Short-listing criteria and procedures.
- 204 6. Bid proposal requirements.
- 205 7. Technical review committee.
- 206 8. Selection and award processes.
- 207 9. Stipend requirements.

208 (15) Each contract let by the department for performance
 209 of bridge construction or maintenance over navigable waters must
 210 contain a provision requiring general liability insurance, in an
 211 amount to be determined by the department, that covers third-
 212 party personal injury and property damage caused by vessels used
 213 by the contractor in the performance of the work.

214 Section 6. Subsection (1) of section 337.1101, Florida
 215 Statutes, is amended to read:

216 337.1101 Contracting and procurement authority of the
 217 department; settlements; notification required.—

218 (1) When the department, or any entity or enterprise
 219 within the department, determines that it is in the best
 220 interest of the public to resolve a protest filed in accordance
 221 with s. 120.57(3) of the award of a contract being procured
 222 pursuant to s. 337.11 or related to the purchase of personal
 223 property or contractual services being procured pursuant to s.
 224 287.057, through a settlement that requires the department to
 225 pay a nonselected responsive bidder a total sum of \$1 million or

226 | more, including any amount paid pursuant to s. 334.049, any
 227 | amount paid pursuant to s. 337.11(8) which is not included in
 228 | the department's work program approved by the Legislature as
 229 | part of the General Appropriations Act, or any amount paid
 230 | pursuant to any other law, the department must:

231 | (a) Document in a written memorandum by the secretary the
 232 | specific reasons that such settlement and payment to a
 233 | nonselected responsive bidder is in the best interest of the
 234 | state. The written memorandum must be included and maintained in
 235 | the department's permanent files concerning the procurement and
 236 | must include:

237 | 1. A description of the property rights, patent rights,
 238 | copyrights, trademarks, or the engineering design or other
 239 | design work that the department will acquire or retain as a
 240 | result of such settlement; and

241 | 2. The specific appropriation in the existing General
 242 | Appropriations Act which the department intends to use to
 243 | provide such payment.

244 | (b) Provide prior written notification to the President of
 245 | the Senate, the Speaker of the House of Representatives, the
 246 | Senate and House of Representatives minority leaders, the chair
 247 | and vice chair of the Legislative Budget Commission, and the
 248 | Attorney General at least 5 business days, or as soon thereafter
 249 | as practicable, before the department makes the settlement
 250 | agreement final. Such written notification must include the

251 written memorandum required pursuant to paragraph (a).

252 (c) Provide, at the time settlement discussions regarding
 253 any such payment have begun in earnest, written notification of
 254 such discussions to the President of the Senate, the Speaker of
 255 the House of Representatives, the Senate and House of
 256 Representatives minority leaders, the chair and vice chair of
 257 the Legislative Budget Commission, and the Attorney General.

258 Section 7. Subsections (1), (4), and (7) of section
 259 337.14, Florida Statutes, are amended to read:

260 337.14 Application for qualification; certificate of
 261 qualification; restrictions; request for hearing.—

262 (1) Any contractor desiring to bid for the performance of
 263 any construction contract in excess of \$250,000 which the
 264 department proposes to let must first be certified by the
 265 department as qualified pursuant to this section and rules of
 266 the department. The rules of the department must address the
 267 qualification of contractors to bid on construction contracts in
 268 excess of \$250,000 and must include requirements with respect to
 269 the equipment, past record, experience, financial resources, and
 270 organizational personnel of the applying contractor which are
 271 necessary to perform the specific class of work for which the
 272 contractor seeks certification. Any contractor who desires to
 273 bid on contracts in excess of \$50 million and who is not
 274 qualified and in good standing with the department as of January
 275 1, 2019, must first be certified by the department as qualified

276 and must have satisfactorily completed two projects, each in
277 excess of \$15 million, for the department or for any other state
278 department of transportation. The department may limit the
279 dollar amount of any contract upon which a contractor is
280 qualified to bid or the aggregate total dollar volume of
281 contracts such contractor is allowed to have under contract at
282 any one time. Each applying contractor seeking qualification to
283 bid on construction contracts in excess of \$250,000 shall
284 furnish the department a statement under oath, on such forms as
285 the department may prescribe, setting forth detailed information
286 as required on the application. Each application for
287 certification must be accompanied by audited, certified
288 financial statements prepared in accordance with generally
289 accepted accounting principles and auditing standards by a
290 certified public accountant licensed in this state or another
291 state. The audited, certified financial statements must be for
292 the applying contractor and must have been prepared within the
293 immediately preceding 12 months. The department may not consider
294 any financial information of the parent entity of the applying
295 contractor, if any. The department may not certify as qualified
296 any applying contractor who fails to submit the audited,
297 certified financial statements required by this subsection. If
298 the application or the annual financial statement shows the
299 financial condition of the applying contractor more than 4
300 months before the date on which the application is received by

301 the department, the applicant must also submit interim audited,
302 certified financial statements prepared in accordance with
303 generally accepted accounting principles and auditing standards
304 by a certified public accountant licensed in this state or
305 another state. The interim financial statements must cover the
306 period from the end date of the annual statement and must show
307 the financial condition of the applying contractor no more than
308 4 months before the date that the interim financial statements
309 are received by the department. However, upon the request of the
310 applying contractor, an application and accompanying annual or
311 interim financial statement received by the department within 15
312 days after either 4-month period under this subsection shall be
313 considered timely. An applying contractor desiring to bid
314 exclusively for the performance of construction contracts with
315 proposed budget estimates of less than \$2 ~~\$1~~ million may submit
316 reviewed annual or reviewed interim financial statements
317 prepared by a certified public accountant. The information
318 required by this subsection is confidential and exempt from s.
319 119.07(1). The department shall act upon the application for
320 qualification within 30 days after the department determines
321 that the application is complete. The department may waive the
322 requirements of this subsection for projects having a contract
323 price of \$500,000 or less if the department determines that the
324 project is of a noncritical nature and the waiver will not
325 endanger public health, safety, or property.

326 (4) If the applicant is found to possess the prescribed
327 qualifications, the department shall issue to him or her a
328 certificate of qualification that, unless thereafter revoked by
329 the department for good cause, will be valid for a period of 18
330 months after the date of the applicant's financial statement or
331 such shorter period as the department prescribes. Submission of
332 an application does ~~and subsequent approval do~~ not affect
333 expiration of the certificate of qualification, ~~the ability~~
334 ~~factor of the applicant, or the maximum capacity rating of the~~
335 ~~applicant.~~ An applicant may submit a written request with a
336 timely submitted application to keep an existing certificate of
337 qualification in place until the expiration date. If the request
338 is approved by the department, the current maximum capacity
339 rating of the applicant must remain in place until expiration of
340 the current certificate of qualification. If the department
341 finds that an application is incomplete or contains inadequate
342 information or information that cannot be verified, the
343 department may request in writing that the applicant provide the
344 necessary information to complete the application or provide the
345 source from which any information in the application may be
346 verified. If the applicant fails to comply with the initial
347 written request within a reasonable period of time as specified
348 therein, the department shall request the information a second
349 time. If the applicant fails to comply with the second request
350 within a reasonable period of time as specified therein, the

351 application shall be denied.

352 (7) A "contractor" as defined in s. 337.165(1)(d) or his
353 or her "affiliate" as defined in s. 337.165(1)(a) qualified with
354 the department under this section may not also qualify under s.
355 287.055 or s. 337.105 to provide testing services, construction,
356 engineering, and inspection services to the department. This
357 limitation does not apply to any design-build, including
358 progressive design-build, prequalification under s. 337.11(7)
359 and does not apply when the department otherwise determines by
360 written order entered at least 30 days before advertisement that
361 the limitation is not in the best interests of the public with
362 respect to a particular contract for testing services,
363 construction, engineering, and inspection services. This
364 subsection does not authorize a contractor to provide testing
365 services, or provide construction, engineering, and inspection
366 services, to the department in connection with a construction
367 contract under which the contractor is performing any work.
368 Notwithstanding any other provision of law to the contrary, for
369 a project that is wholly or partially funded by the department
370 and administered by a local governmental entity, except for a
371 seaport listed in s. 311.09 or an airport as defined in s.
372 332.004, the entity performing design and construction
373 engineering and inspection services may not be the same entity.

374 Section 8. Subsection (2) of section 337.168, Florida
375 Statutes, is amended to read:

376 337.168 Confidentiality of official estimates, ~~identities~~
 377 ~~of potential bidders,~~ and bid analysis and monitoring system.-
 378 ~~(2) A document that reveals the identity of a person who~~
 379 ~~has requested or obtained a bid package, plan, or specifications~~
 380 ~~pertaining to any project to be let by the department is~~
 381 ~~confidential and exempt from the provisions of s. 119.07(1) for~~
 382 ~~the period that begins 2 working days before the deadline for~~
 383 ~~obtaining bid packages, plans, or specifications and ends with~~
 384 ~~the letting of the bid. A document that reveals the identity of~~
 385 ~~a person who has requested or obtained a bid package, plan, or~~
 386 ~~specifications pertaining to any project to be let by the~~
 387 ~~department before the 2 working days before the deadline for~~
 388 ~~obtaining bid packages, plans, or specifications remains a~~
 389 ~~public record subject to s. 119.07(1).~~

390 Section 9. Subsection (3) of section 338.165, Florida
 391 Statutes, is amended to read:

392 338.165 Continuation of tolls.-

393 (3) Notwithstanding any other provision of law, the
 394 department, including the turnpike enterprise, shall index toll
 395 rates on existing toll facilities to the annual Consumer Price
 396 Index or similar inflation indicators. Toll rate adjustments for
 397 inflation under this subsection may be made no more frequently
 398 than once a year and must be made no less frequently than once
 399 every 10 ~~5~~ years ~~as necessary to accommodate cash toll rate~~
 400 ~~schedules~~. Toll rates may be increased beyond these limits as

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401 | directed by bond documents, covenants, or governing body
402 | authorization or pursuant to department administrative rule.
403 | Section 10. This act shall take effect July 1, 2022.