



316282

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
12/03/2021	.	
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The Committee on Transportation (Hooper) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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



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11 deposited into the State Transportation Trust Fund, excluding  
12 state revenues used for matching federal grants, shall be  
13 committed annually by the department for public transportation  
14 projects in accordance with chapter 311, ss. 332.003-332.007,  
15 chapter 341, and chapter 343.

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

18 337.025 Innovative transportation projects; department to  
19 establish program.—

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



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

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

47 (a) Turnpike enterprise projects.

48 (b) Progressive design-build contracts for complex, high-  
49 risk projects with a minimum contract value of \$250 million ~~Low-~~  
50 ~~bid design-build milling and resurfacing contracts.~~

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

53 337.11 Contracting authority of department; bids; emergency  
54 repairs, supplemental agreements, and change orders; combined  
55 design and construction contracts; progress payments; records;  
56 requirements of vehicle registration.-

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

63 (b) If the department determines that it is in the best  
64 interests of the public, the department may combine the design  
65 and construction phases of a project into a single contract and  
66 select the design-build firm in the early stages of a project to  
67 ensure that the design-build firm is part of the collaboration  
68 and development of the design as part of a step-by-step



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69 progression through construction. Such contract is referred to  
70 as a progressive design-build contract. For progressive design-  
71 build contracts, the selection and award processes must include  
72 a two-phase process. For phase one, the department shall  
73 competitively award the contract to a design-build firm based  
74 upon qualifications. For phase two, the design-build firm shall  
75 competitively bid construction trade subcontractor packages and,  
76 based upon these bids, negotiate with the department a fixed  
77 firm price or guaranteed maximum price that meets the project  
78 budget and scope as advertised in the request for  
79 qualifications.

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

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

- 95 1. Prequalification requirements.
- 96 2. Public announcement procedures.
- 97 3. Scope of service requirements.



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- 98 4. Letters of interest requirements.
- 99 5. Short-listing criteria and procedures.
- 100 6. Bid proposal requirements.
- 101 7. Technical review committee.
- 102 8. Selection and award processes.
- 103 9. Stipend requirements.

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

111 Section 4. Subsection (4) of section 337.14, Florida  
112 Statutes, is amended to read:

113 337.14 Application for qualification; certificate of  
114 qualification; restrictions; request for hearing.—

115 (4) If the applicant is found to possess the prescribed  
116 qualifications, the department shall issue to him or her a  
117 certificate of qualification that, unless thereafter revoked by  
118 the department for good cause, will be valid for a period of 18  
119 months after the date of the applicant's financial statement or  
120 such shorter period as the department prescribes. Submission of  
121 an application does ~~and subsequent approval do~~ not affect  
122 expiration of the certificate of qualification, ~~the ability~~  
123 ~~factor of the applicant, or the maximum capacity rating of the~~  
124 applicant. An applicant may submit a written request with a  
125 timely submitted application to keep an existing certificate of  
126 qualification in place until the expiration date. If the request



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127 is approved by the department, the current maximum capacity  
128 rating of the applicant must remain in place until expiration of  
129 the current certificate of qualification. If the department  
130 finds that an application is incomplete or contains inadequate  
131 information or information that cannot be verified, the  
132 department may request in writing that the applicant provide the  
133 necessary information to complete the application or provide the  
134 source from which any information in the application may be  
135 verified. If the applicant fails to comply with the initial  
136 written request within a reasonable period of time as specified  
137 therein, the department shall request the information a second  
138 time. If the applicant fails to comply with the second request  
139 within a reasonable period of time as specified therein, the  
140 application shall be denied.

141 Section 5. Section 337.168, Florida Statutes, is amended to  
142 read:

143 337.168 Confidentiality of official estimates, ~~identities~~  
144 ~~of potential bidders,~~ and bid analysis and monitoring system.-

145 (1) A document or electronic file revealing the official  
146 cost estimate of the department of a project is confidential and  
147 exempt from the provisions of s. 119.07(1) until the contract  
148 for the project has been executed or until the project is no  
149 longer under active consideration.

150 (2) ~~A document that reveals the identity of a person who~~  
151 ~~has requested or obtained a bid package, plan, or specifications~~  
152 ~~pertaining to any project to be let by the department is~~  
153 ~~confidential and exempt from the provisions of s. 119.07(1) for~~  
154 ~~the period that begins 2 working days before the deadline for~~  
155 ~~obtaining bid packages, plans, or specifications and ends with~~



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156 ~~the letting of the bid. A document that reveals the identity of~~  
157 ~~a person who has requested or obtained a bid package, plan, or~~  
158 ~~specifications pertaining to any project to be let by the~~  
159 ~~department before the 2 working days before the deadline for~~  
160 ~~obtaining bid packages, plans, or specifications remains a~~  
161 ~~public record subject to s. 119.07(1).~~

162       ~~(3)~~ The bid analysis and monitoring system of the  
163 department is confidential and exempt from the provisions of s.  
164 119.07(1). This exemption applies to all system documentation,  
165 input, computer processes and programs, electronic data files,  
166 and output, but does not apply to the actual source documents,  
167 unless otherwise exempted under other provisions of law.

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

170 ===== T I T L E   A M E N D M E N T =====

171 And the title is amended as follows:

172       Delete everything before the enacting clause  
173 and insert:

174                               A bill to be entitled  
175       An act relating to transportation projects; amending  
176       s. 206.46, F.S.; revising the requirement for the  
177       annual commitment of State Transportation Trust Fund  
178       revenues for public transportation projects by the  
179       Department of Transportation; amending s. 337.025,  
180       F.S.; providing that the department's program for  
181       innovative transportation projects may include  
182       progressive design-build contracts; revising contracts  
183       exempt from a specified annual monetary cap on  
184       contracts; amending s. 337.11, F.S.; revising the



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185 department's authority relating to design-build  
186 contracts; authorizing the department to enter into a  
187 progressive design-build contract if it makes a  
188 certain determination; providing procedures and  
189 requirements for progressive design-build contracts;  
190 exempting progressive design-build contracts from  
191 certain requirements; requiring the department to  
192 adopt rules; amending s. 337.14, F.S.; revising  
193 procedures relating to certificates of qualification  
194 issued by the department to construction contractors  
195 seeking certification to bid on certain contracts;  
196 amending s. 337.168, F.S.; deleting a public records  
197 exemption for certain documents revealing the identity  
198 of a potential bidder; providing an effective date.