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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/28/2022	.	
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	.	

The Committee on Appropriations (Hooper) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 334.066, Florida Statutes, is created to
read:

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

(1) The Implementing Solutions from Transportation Research
and Evaluating Emerging Technologies Living Lab (I-STREET) is



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11 established within the University of Florida.

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

13 (a) Conduct and facilitate research on issues related to
14 innovative transportation mobility and safety technology
15 development and deployment in this state and serve as an
16 information exchange and depository for the most current
17 information pertaining to transportation research, education,
18 workforce development, and related issues.

19 (b) Be a continuing resource for the Legislature, the
20 department, local governments, the nation's metropolitan
21 regions, and the private sector in the area of transportation
22 and related research.

23 (c) Promote intercampus transportation and related research
24 activities among Florida universities to enhance the ability of
25 these universities to attract federal and private sector funding
26 for transportation and related research.

27 (d) Provide by July 1, 2023, and each July 1 thereafter, to
28 the Governor, the President of the Senate, and the Speaker of
29 the House of Representatives a comprehensive report that
30 outlines its clearly defined goals and its efforts and progress
31 on reaching those goals.

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

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

37 (b) A member appointed by the Speaker of the House of
38 Representatives.

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



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40 (d) The Secretary of Economic Opportunity or his or her
41 designee.

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

43 (f) Four members nominated by the University of Florida's
44 College of Engineering and approved by the university's
45 president. The College of Engineering's nominees may include
46 representatives of the University of Florida, other academic and
47 research institutions, or private entities.

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

50 337.025 Innovative transportation projects; department to
51 establish program.—

52 (1) The department may establish a program for
53 transportation projects demonstrating innovative techniques of
54 highway and bridge design, construction, maintenance, and
55 finance which have the intended effect of measuring resiliency
56 and structural integrity and controlling time and cost increases
57 on construction projects. Such techniques may include, but are
58 not limited to, state-of-the-art technology for pavement,
59 safety, and other aspects of highway and bridge design,
60 construction, and maintenance; innovative bidding and financing
61 techniques; progressive design-build contracts as specified in
62 subsection (2); accelerated construction procedures; and those
63 techniques that have the potential to reduce project life cycle
64 costs. To the maximum extent practical, the department must use
65 the existing process to award and administer construction and
66 maintenance contracts. When specific innovative techniques are
67 to be used, the department is not required to adhere to those
68 provisions of law that would prevent, preclude, or in any way



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69 prohibit the department from using the innovative technique.
70 However, before using an innovative technique that is
71 inconsistent with another provision of law, the department must
72 document in writing the need for the exception and identify what
73 benefits the traveling public and the affected community are
74 anticipated to receive. The department may enter into no more
75 than \$120 million in contracts awarded annually for the purposes
76 authorized by this section.

77 (2) If the department determines that it is in the best
78 interests of the public, the department may combine the design
79 and construction phases of a project into a single contract and
80 select the design-build firm in the early stages of a project to
81 ensure that the design-build firm is part of the collaboration
82 and development of the design as part of a step-by-step
83 progression through construction. Such contract is referred to
84 as a progressive design-build contract. For progressive design-
85 build contracts, the selection and award processes must include
86 a two-phase process. For phase one, the department shall
87 competitively award the contract to a design-build firm based
88 upon qualifications. For phase two, the design-build firm shall
89 competitively bid construction trade subcontractor packages and,
90 based upon these bids, negotiate with the department a fixed
91 firm price or guaranteed maximum price that meets the project
92 budget and scope as advertised in the request for
93 qualifications.

94 (3) The annual cap on contracts provided in subsection (1)
95 does not apply to:

96 (a) Turnpike enterprise projects.

97 (b) Progressive design-build contracts for complex, high-



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98 risk projects with a minimum contract value of \$400 million ~~Low-~~
99 ~~bid design-build milling and resurfacing contracts.~~

100 Section 3. Section 337.107, Florida Statutes, is amended to
101 read:

102 337.107 Contracts for right-of-way services.-

103 (1) The department may enter into contracts pursuant to s.
104 287.055 for right-of-way services on transportation corridors
105 and transportation facilities. Right-of-way services include
106 negotiation and acquisition services, appraisal services,
107 demolition and removal of improvements, and asbestos-abatement
108 services.

109 (2) For a construction project funded in the first 3 years
110 of the department's adopted work program, a landowner with land
111 contiguous to a limited access facility may be allowed, under a
112 department-issued permit, to remove vegetation designated to be
113 removed as part of the construction project on a department
114 right-of-way in an area associated with a limited access
115 facility, within the same limits of removal as identified in the
116 final plans of the project.

117 Section 4. Present subsections (15) and (16) of section
118 337.11, Florida Statutes, are redesignated as subsections (16)
119 and (17), a new subsection (15) is added to that section, and
120 paragraphs (a) and (b) of subsection (7) of that section are
121 amended, to read:

122 337.11 Contracting authority of department; bids; emergency
123 repairs, supplemental agreements, and change orders; combined
124 design and construction contracts; progress payments; records;
125 requirements of vehicle registration.-

126 (7) (a) If the department determines that it is in the best



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127 interests of the public, the department may combine the design
128 and construction phases of a ~~building, a major bridge, a limited~~
129 ~~access facility, or a rail corridor~~ project into a single
130 contract. Such contract is referred to as a design-build
131 contract. Design-build contracts may be advertised and awarded
132 notwithstanding the requirements of paragraph (3)(c). However,
133 construction activities may not begin on any portion of such
134 projects for which the department has not yet obtained title to
135 the necessary rights-of-way and easements for the construction
136 of that portion of the project has vested in the state or a
137 local governmental entity and all railroad crossing and utility
138 agreements have been executed. Title to rights-of-way shall be
139 deemed to have vested in the state when the title has been
140 dedicated to the public or acquired by prescription.

141 (b) The department shall adopt by rule procedures for
142 administering design-build contracts, including progressive
143 design-build contracts. Such procedures shall include, but not
144 be limited to:

- 145 1. Prequalification requirements.
- 146 2. Public announcement procedures.
- 147 3. Scope of service requirements.
- 148 4. Letters of interest requirements.
- 149 5. Short-listing criteria and procedures.
- 150 6. Bid proposal requirements.
- 151 7. Technical review committee.
- 152 8. Selection and award processes.
- 153 9. Stipend requirements.

154 (15) Each contract let by the department for performance of
155 bridge construction or maintenance over navigable waters must



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156 contain a provision requiring marine general liability
157 insurance, in an amount to be determined by the department,
158 which covers third-party personal injury and property damage
159 caused by vessels used by the contractor in the performance of
160 the work.

161 Section 5. Subsection (1) of section 337.1101, Florida
162 Statutes, is amended to read:

163 337.1101 Contracting and procurement authority of the
164 department; settlements; notification required.—

165 (1) When the department, or any entity or enterprise within
166 the department, determines that it is in the best interest of
167 the public to resolve a protest filed in accordance with s.
168 120.57(3) of the award of a contract being procured pursuant to
169 s. 337.11 or related to the purchase of personal property or
170 contractual services being procured pursuant to s. 287.057,
171 through a settlement that requires the department to pay a
172 nonselected responsive bidder a total sum of \$1 million or more,
173 including any amount paid pursuant to s. 334.049, any amount
174 paid pursuant to s. 337.11(8) which is not included in the
175 department's work program approved by the Legislature as part of
176 the General Appropriations Act, or any amount paid pursuant to
177 any other law, the department must:

178 (a) Document in a written memorandum by the secretary the
179 specific reasons that such settlement and payment to a
180 nonselected responsive bidder is in the best interest of the
181 state. The written memorandum must be included and maintained in
182 the department's permanent files concerning the procurement and
183 must include:

184 1. A description of the property rights, patent rights,



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185 copyrights, trademarks, or the engineering design or other
186 design work that the department will acquire or retain as a
187 result of such settlement; and

188 2. The specific appropriation in the existing General
189 Appropriations Act which the department intends to use to
190 provide such payment.

191 (b) Provide prior written notification to the President of
192 the Senate, the Speaker of the House of Representatives, the
193 Senate and House of Representatives minority leaders, the chair
194 and vice chair of the Legislative Budget Commission, and the
195 Attorney General at least 5 business days, or as soon thereafter
196 as practicable, before the department makes the settlement
197 agreement final. Such written notification must include the
198 written memorandum required pursuant to paragraph (a).

199 (c) Provide, at the time settlement discussions regarding
200 any such payment have begun in earnest, written notification of
201 such discussions to the President of the Senate, the Speaker of
202 the House of Representatives, the Senate and House of
203 Representatives minority leaders, the chair and vice chair of
204 the Legislative Budget Commission, and the Attorney General.

205 Section 6. Subsections (1), (4), and (7) of section 337.14,
206 Florida Statutes, are amended to read:

207 337.14 Application for qualification; certificate of
208 qualification; restrictions; request for hearing.—

209 (1) Any contractor desiring to bid for the performance of
210 any construction contract in excess of \$250,000 which the
211 department proposes to let must first be certified by the
212 department as qualified pursuant to this section and rules of
213 the department. The rules of the department must address the



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214 qualification of contractors to bid on construction contracts in
215 excess of \$250,000 and must include requirements with respect to
216 the equipment, past record, experience, financial resources, and
217 organizational personnel of the applying contractor which are
218 necessary to perform the specific class of work for which the
219 contractor seeks certification. Any contractor who desires to
220 bid on contracts in excess of \$50 million and who is not
221 qualified and in good standing with the department as of January
222 1, 2019, must first be certified by the department as qualified
223 and must have satisfactorily completed two projects, each in
224 excess of \$15 million, for the department or for any other state
225 department of transportation. The department may limit the
226 dollar amount of any contract upon which a contractor is
227 qualified to bid or the aggregate total dollar volume of
228 contracts such contractor is allowed to have under contract at
229 any one time. Each applying contractor seeking qualification to
230 bid on construction contracts in excess of \$250,000 shall
231 furnish the department a statement under oath, on such forms as
232 the department may prescribe, setting forth detailed information
233 as required on the application. Each application for
234 certification must be accompanied by audited, certified
235 financial statements prepared in accordance with generally
236 accepted accounting principles and auditing standards by a
237 certified public accountant licensed in this state or another
238 state. The audited, certified financial statements must be for
239 the applying contractor and must have been prepared within the
240 immediately preceding 12 months. The department may not consider
241 any financial information of the parent entity of the applying
242 contractor, if any. The department may not certify as qualified



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243 any applying contractor who fails to submit the audited,
244 certified financial statements required by this subsection. If
245 the application or the annual financial statement shows the
246 financial condition of the applying contractor more than 4
247 months before the date on which the application is received by
248 the department, the applicant must also submit interim audited,
249 certified financial statements prepared in accordance with
250 generally accepted accounting principles and auditing standards
251 by a certified public accountant licensed in this state or
252 another state. The interim financial statements must cover the
253 period from the end date of the annual statement and must show
254 the financial condition of the applying contractor no more than
255 4 months before the date that the interim financial statements
256 are received by the department. However, upon the request of the
257 applying contractor, an application and accompanying annual or
258 interim financial statement received by the department within 15
259 days after either 4-month period under this subsection shall be
260 considered timely. An applying contractor desiring to bid
261 exclusively for the performance of construction contracts with
262 proposed budget estimates of less than \$2 ~~\$1~~ million may submit
263 reviewed annual or reviewed interim financial statements
264 prepared by a certified public accountant. The information
265 required by this subsection is confidential and exempt from s.
266 119.07(1). The department shall act upon the application for
267 qualification within 30 days after the department determines
268 that the application is complete. The department may waive the
269 requirements of this subsection for projects having a contract
270 price of \$500,000 or less if the department determines that the
271 project is of a noncritical nature and the waiver will not



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272 endanger public health, safety, or property.

273 (4) If the applicant is found to possess the prescribed
274 qualifications, the department shall issue to him or her a
275 certificate of qualification that, unless thereafter revoked by
276 the department for good cause, will be valid for a period of 18
277 months after the date of the applicant's financial statement or
278 such shorter period as the department prescribes. Submission of
279 an application does ~~and subsequent approval do~~ not affect
280 expiration of the certificate of qualification, ~~the ability~~
281 ~~factor of the applicant, or the maximum capacity rating of the~~
282 ~~applicant.~~ An applicant may submit a written request with a
283 timely submitted application to keep an existing certificate of
284 qualification in place until the expiration date. If the request
285 is approved by the department, the current maximum capacity
286 rating of the applicant must remain in place until expiration of
287 the current certificate of qualification. If the department
288 finds that an application is incomplete or contains inadequate
289 information or information that cannot be verified, the
290 department may request in writing that the applicant provide the
291 necessary information to complete the application or provide the
292 source from which any information in the application may be
293 verified. If the applicant fails to comply with the initial
294 written request within a reasonable period of time as specified
295 therein, the department shall request the information a second
296 time. If the applicant fails to comply with the second request
297 within a reasonable period of time as specified therein, the
298 application shall be denied.

299 (7) A "contractor" as defined in s. 337.165(1)(d) or his or
300 her "affiliate" as defined in s. 337.165(1)(a) qualified with



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301 the department under this section may not also qualify under s.
302 287.055 or s. 337.105 to provide testing services, construction,
303 engineering, and inspection services to the department. This
304 limitation does not apply to any design-build, including
305 progressive design-build, prequalification under s. 337.11(7)
306 and does not apply when the department otherwise determines by
307 written order entered at least 30 days before advertisement that
308 the limitation is not in the best interests of the public with
309 respect to a particular contract for testing services,
310 construction, engineering, and inspection services. This
311 subsection does not authorize a contractor to provide testing
312 services, or provide construction, engineering, and inspection
313 services, to the department in connection with a construction
314 contract under which the contractor is performing any work.
315 Notwithstanding any other provision of law to the contrary, for
316 a project that is wholly or partially funded by the department
317 and administered by a local governmental entity, except for a
318 seaport listed in s. 311.09 or an airport as defined in s.
319 332.004, the entity performing design and construction
320 engineering and inspection services may not be the same entity.

321 Section 7. Section 337.168, Florida Statutes, is amended to
322 read:

323 337.168 Confidentiality of official estimates, ~~identities~~
324 ~~of potential bidders~~, and bid analysis and monitoring system.-

325 (1) A document or electronic file revealing the official
326 cost estimate of the department of a project is confidential and
327 exempt from the provisions of s. 119.07(1) until the contract
328 for the project has been executed or until the project is no
329 longer under active consideration.



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330 ~~(2) A document that reveals the identity of a person who~~
331 ~~has requested or obtained a bid package, plan, or specifications~~
332 ~~pertaining to any project to be let by the department is~~
333 ~~confidential and exempt from the provisions of s. 119.07(1) for~~
334 ~~the period that begins 2 working days before the deadline for~~
335 ~~obtaining bid packages, plans, or specifications and ends with~~
336 ~~the letting of the bid. A document that reveals the identity of~~
337 ~~a person who has requested or obtained a bid package, plan, or~~
338 ~~specifications pertaining to any project to be let by the~~
339 ~~department before the 2 working days before the deadline for~~
340 ~~obtaining bid packages, plans, or specifications remains a~~
341 ~~public record subject to s. 119.07(1).~~

342 ~~(3)~~ The bid analysis and monitoring system of the
343 department is confidential and exempt from the provisions of s.
344 119.07(1). This exemption applies to all system documentation,
345 input, computer processes and programs, electronic data files,
346 and output, but does not apply to the actual source documents,
347 unless otherwise exempted under other provisions of law.

348 Section 8. Subsection (3) of section 338.165, Florida
349 Statutes, is amended to read:

350 338.165 Continuation of tolls.—

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



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359 directed by bond documents, covenants, or governing body
360 authorization or pursuant to department administrative rule.

361 Section 9. This act shall take effect July 1, 2022.

362

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

364 And the title is amended as follows:

365 Delete everything before the enacting clause
366 and insert:

367 A bill to be entitled
368 An act relating to transportation; creating s.
369 334.066, F.S.; establishing the Implementing Solutions
370 from Transportation Research and Evaluating Emerging
371 Technologies Living Lab (I-STREET) within the
372 University of Florida; specifying the duties of I-
373 STREET; requiring I-STREET to annually provide the
374 Governor and the Legislature with a certain report;
375 requiring the creation of a certain advisory board;
376 specifying the composition and duties of the board;
377 amending s. 337.025, F.S.; providing that the
378 Department of Transportation's program for innovative
379 transportation projects may include progressive
380 design-build contracts; authorizing the department to
381 enter into a progressive design-build contract if it
382 makes a certain determination; providing procedures
383 and requirements for progressive design-build
384 contracts; revising contracts exempt from a specified
385 annual monetary cap on contracts; amending s. 337.107,
386 F.S.; authorizing certain landowners to remove certain
387 vegetation on department rights-of-way under specified



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388 circumstances; amending s. 337.11, F.S.; revising the
389 department's authority relating to design-build
390 contracts; requiring the department to adopt
391 procedures for administering progressive design-build
392 contracts; requiring that contracts let by the
393 department for performance of bridge construction or
394 maintenance over navigable waters contain certain
395 insurance requirements; amending s. 337.1101, F.S.;
396 revising the calculation of a certain settlement paid
397 to a nonselected responsive bidder which requires the
398 department to maintain certain records and provide
399 certain notices to the Legislature and Attorney
400 General; amending s. 337.14, F.S.; revising a dollar
401 limit of proposed budget estimates of construction
402 contracts for which an applying contractor may submit
403 certain financial statements; revising procedures
404 relating to certificates of qualification issued by
405 the department to construction contractors seeking
406 certification to bid on certain contracts; exempting
407 progressive design-build prequalifications from a
408 certain restriction on contractors and their
409 affiliates; amending s. 337.168, F.S.; deleting a
410 public records exemption for certain documents
411 revealing the identity of a potential bidder; amending
412 s. 338.165, F.S.; revising the interval and
413 circumstances under which the department must adjust
414 rates on existing toll facilities for inflation;
415 providing an effective date.