

By the Committee on Transportation; and Senator Hooper

596-01437-22

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1 A bill to be entitled
2 An act relating to transportation projects; amending
3 s. 206.46, F.S.; revising the requirement for the
4 annual commitment of State Transportation Trust Fund
5 revenues for public transportation projects by the
6 Department of Transportation; amending s. 337.025,
7 F.S.; providing that the department's program for
8 innovative transportation projects may include
9 progressive design-build contracts; revising contracts
10 exempt from a specified annual monetary cap on
11 contracts; amending s. 337.11, F.S.; revising the
12 department's authority relating to design-build
13 contracts; authorizing the department to enter into a
14 progressive design-build contract if it makes a
15 certain determination; providing procedures and
16 requirements for progressive design-build contracts;
17 exempting progressive design-build contracts from
18 certain requirements; requiring the department to
19 adopt rules; amending s. 337.14, F.S.; revising
20 procedures relating to certificates of qualification
21 issued by the department to construction contractors
22 seeking certification to bid on certain contracts;
23 amending s. 337.168, F.S.; deleting a public records
24 exemption for certain documents revealing the identity
25 of a potential bidder; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsection (3) of section 206.46, Florida

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30 Statutes, is amended to read:

31 206.46 State Transportation Trust Fund.—

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

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

42 337.025 Innovative transportation projects; department to
43 establish program.—

44 (1) The department may establish a program for
45 transportation projects demonstrating innovative techniques of
46 highway and bridge design, construction, maintenance, and
47 finance which have the intended effect of measuring resiliency
48 and structural integrity and controlling time and cost increases
49 on construction projects. Such techniques may include, but are
50 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

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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 design-build contracts for complex, high-
73 risk projects with a minimum contract value of \$250 million ~~Low-~~
74 ~~bid design-build milling and resurfacing contracts.~~

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

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

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88 interests 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 a project to
91 ensure that the design-build firm is part of the collaboration
92 and development of the design as part of a step-by-step
93 progression through construction. Such contract is referred to
94 as a progressive design-build contract. For progressive design-
95 build contracts, the selection and award processes must include
96 a two-phase process. For phase one, the department shall
97 competitively award the contract to a design-build firm based
98 upon qualifications. For phase two, the design-build firm shall
99 competitively bid construction trade subcontractor packages and,
100 based upon these bids, negotiate with the department a fixed
101 firm price or guaranteed maximum price that meets the project
102 budget and scope as advertised in the request for
103 qualifications.

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-

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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. Subsection (4) of section 337.14, Florida
136 Statutes, is 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

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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 must 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 Section 5. Section 337.168, Florida Statutes, is amended to
166 read:

167 337.168 Confidentiality of official estimates, ~~identities~~
168 ~~of potential bidders,~~ and bid analysis and monitoring system.—

169 (1) A document or electronic file revealing the official
170 cost estimate of the department of a project is confidential and
171 exempt from the provisions of s. 119.07(1) until the contract
172 for the project has been executed or until the project is no
173 longer under active consideration.

174 (2) ~~A document that reveals the identity of a person who~~

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

186 ~~(3)~~ The bid analysis and monitoring system of the
187 department is confidential and exempt from the provisions of s.
188 119.07(1). This exemption applies to all system documentation,
189 input, computer processes and programs, electronic data files,
190 and output, but does not apply to the actual source documents,
191 unless otherwise exempted under other provisions of law.

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