



26 requiring the department to implement strategies to  
27 reduce certain costs and to record such strategies and  
28 projected savings related thereto; authorizing the  
29 department to share a certain portion of construction  
30 cost savings with certain consultants; amending s.  
31 337.1101, F.S.; revising procedures for resolving  
32 certain protests through settlements requiring the  
33 payment of certain amounts; amending s. 337.14, F.S.;  
34 revising a limitation on the amount of a construction  
35 contract for which a bidder may submit annual or  
36 interim financial statements prepared by a certified  
37 public accountant; revising the effect of submission  
38 and approval of an application for a certificate of  
39 qualification; authorizing submission of a written  
40 request to maintain an existing certificate; exempting  
41 a progressive design-build prequalification from a  
42 limitation on services a contractor may qualify to  
43 provide; amending s. 337.168, F.S.; deleting an  
44 exemption from public records requirements for  
45 identities of potential transportation project  
46 bidders; amending s. 338.223, F.S.; deleting  
47 provisions prohibiting the department from requesting  
48 legislative approval of a proposed turnpike project  
49 until the design phase is partially completed;  
50 providing an effective date.

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

Section 1. Subsection (6) is added to section 206.46, Florida Statutes, to read:

206.46 State Transportation Trust Fund.—

(6) Of revenues deposited into the State Transportation Trust Fund which are derived from state fuel taxes and motor vehicle license-related fees, no more than 20 percent shall be committed annually by the department for public transit projects in accordance with chapter 341.

Section 2. Section 334.179, Florida Statutes, is amended to read:

334.179 Department standards or specifications for permissible use of aggregates; limitation on certification.—

(1) Notwithstanding any law, rule, or ordinance to the contrary, a local government may not adopt standards or specifications that are contrary to the department standards or specifications for permissible use of aggregates that have been certified for use. For purposes of this section, the term "certified for use" means that the aggregates have been certified by the producer in compliance ~~accordance~~ with department rules. This section does not apply to a multicounty independent special district created by a special act of the Legislature.

76        (2) A producer may not certify a shipment of aggregate to  
 77 a customer other than the department unless that shipment is in  
 78 compliance with department rules. Notwithstanding this section,  
 79 certification of aggregates to the department shall be in  
 80 compliance with chapter 14-103, Florida Administrative Code.

81        Section 3. Section 334.181, Florida Statutes, is created  
 82 to read:

83        334.181 Department-approved electronic tickets.—  
 84 Notwithstanding any law, rule, or ordinance to the contrary, a  
 85 local government may not refuse to accept an electronic ticket  
 86 approved by the department for use on a department project as an  
 87 official record for a material delivery on a local government  
 88 project.

89        Section 4. Section 337.025, Florida Statutes, is amended  
 90 to read:

91        337.025 Innovative transportation projects; department to  
 92 establish program.—

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

101 construction, and maintenance; progressive design-build  
102 contracts as specified in subsection (2); innovative bidding and  
103 financing techniques; accelerated construction procedures; and  
104 those techniques that have the potential to reduce project life  
105 cycle costs. To the maximum extent practical, the department  
106 must use the existing process to award and administer  
107 construction and maintenance contracts. When specific innovative  
108 techniques are to be used, the department is not required to  
109 adhere to those provisions of law that would prevent, preclude,  
110 or in any way prohibit the department from using the innovative  
111 technique. However, before using an innovative technique that is  
112 inconsistent with another provision of law, the department must  
113 document in writing the need for the exception and identify what  
114 benefits the traveling public and the affected community are  
115 anticipated to receive. The department may enter into no more  
116 than \$120 million in contracts awarded annually for the purposes  
117 authorized by this section.

118 (2) If the department determines that it is in the best  
119 interest of the public, the department may combine the design  
120 and construction phases of a project into a single contract and  
121 select the design-build firm in the early stages of a project to  
122 ensure that the design-build firm is part of the collaboration  
123 and development of the design as part of a step-by-step  
124 progression through construction. Such contract is referred to  
125 as a progressive design-build contract. For progressive design-

126 build contracts, the selection and award processes must include  
127 a two-phase process. For phase one, the department shall  
128 competitively award the contract to a design-build firm based  
129 upon qualifications. For phase two, the design-build firm shall  
130 solicit and receive competitive bids on all construction trade  
131 subcontractor packages and, based upon such bids, negotiate with  
132 the department a fixed firm price or guaranteed maximum price  
133 that meets the project budget and scope as advertised in the  
134 request for qualifications.

135 (3)-(2) The annual cap on contracts provided in subsection  
136 (1) does not apply to:

137 (a) Turnpike enterprise projects.

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

141 Section 5. Subsections (15) and (16) of section 337.11,  
142 Florida Statutes, are renumbered as subsections (18) and (19),  
143 respectively, paragraphs (a) and (b) of subsection (7) are  
144 amended, and new subsections (15), (16), and (17) are added to  
145 that section, to read:

146 337.11 Contracting authority of department; bids;  
147 emergency repairs, supplemental agreements, and change orders;  
148 combined design and construction contracts; progress payments;  
149 records; requirements of vehicle registration.-

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

151 interests of the public, the department may combine the design  
152 and construction phases of a ~~building, a major bridge, a limited~~  
153 ~~access facility, or a rail corridor~~ project into a single  
154 contract. Such contract is referred to as a design-build  
155 contract. Design-build contracts may be advertised and awarded  
156 notwithstanding the requirements of paragraph (3)(c). However,  
157 construction activities may not begin on any portion of such  
158 projects for which the department has not yet obtained title to  
159 the necessary rights-of-way and easements for the construction  
160 of that portion of the project has vested in the state or a  
161 local governmental entity and all railroad crossing and utility  
162 agreements have been executed. Title to rights-of-way shall be  
163 deemed to have vested in the state when the title has been  
164 dedicated to the public or acquired by prescription.

165 (b) The department shall adopt by rule procedures for  
166 administering design-build contracts, including progressive  
167 design-build contracts. Such procedures shall include, but not  
168 be limited to:

- 169 1. Prequalification requirements.
- 170 2. Public announcement procedures.
- 171 3. Scope of service requirements.
- 172 4. Letters of interest requirements.
- 173 5. Short-listing criteria and procedures.
- 174 6. Bid proposal requirements.
- 175 7. Technical review committee.

176 8. Selection and award processes.

177 9. Stipend requirements.

178 (15) Each contract let by the department for performance  
179 of bridge construction or maintenance over navigable waters must  
180 contain a provision requiring marine general liability  
181 insurance, in an amount to be determined by the department,  
182 which covers third-party personal injury and property damage  
183 caused by vessels used by the contractor in the performance of  
184 the work.

185 (16) The department shall implement strategies to reduce  
186 the cost of all project phases, including design, construction,  
187 and inspection, while ensuring that the design and construction  
188 of projects meet applicable federal and state standards. The  
189 department shall record such strategies and the projected  
190 savings related thereto.

191 (17) The department may share a portion of the  
192 construction cost savings realized due to a change in the  
193 construction contract design and scope, initiated after  
194 execution of the contract, with a design services consultant or  
195 a construction engineering and inspection services consultant to  
196 the extent that the consultant's input and involvement  
197 contributed to such savings. The amount paid to a consultant  
198 pursuant to this subsection may not exceed 10 percent of the  
199 construction cost savings realized.

200 Section 6. Subsection (1) of section 337.1101, Florida



201 Statutes, is amended to read:

202       337.1101 Contracting and procurement authority of the  
203 department; settlements; notification required.—

204       (1) When the department, or any entity or enterprise  
205 within the department, determines that it is in the best  
206 interest of the public to resolve a protest filed in accordance  
207 with s. 120.57(3) of the award of a contract being procured  
208 pursuant to s. 337.11 or related to the purchase of personal  
209 property or contractual services being procured pursuant to s.  
210 287.057, through a settlement that requires the department to  
211 pay a nonselected responsive bidder a total sum of \$1 million or  
212 more, including any amount paid pursuant to s. 334.049, any  
213 amount paid pursuant to s. 337.11(8) which is not included in  
214 the department's work program approved by the Legislature as  
215 part of the General Appropriations Act, or any amount paid  
216 pursuant to any other law, the department must:

217       (a) Document in a written memorandum by the secretary the  
218 specific reasons that such settlement and payment to a  
219 nonselected responsive bidder is in the best interest of the  
220 state. The written memorandum must be included and maintained in  
221 the department's permanent files concerning the procurement and  
222 must include:

223       1. A description of the property rights, patent rights,  
224 copyrights, trademarks, or the engineering design or other  
225 design work that the department will acquire or retain as a

226 result of such settlement; and

227 2. The specific appropriation in the existing General  
 228 Appropriations Act which the department intends to use to  
 229 provide such payment.

230 (b) Provide prior written notification to the President of  
 231 the Senate, the Speaker of the House of Representatives, the  
 232 Senate and House of Representatives minority leaders, the chair  
 233 and vice chair of the Legislative Budget Commission, and the  
 234 Attorney General at least 5 business days, or as soon thereafter  
 235 as practicable, before the department makes the settlement  
 236 agreement final. Such written notification must include the  
 237 written memorandum required pursuant to paragraph (a).

238 (c) Provide, at the time settlement discussions regarding  
 239 any such payment have begun in earnest, written notification of  
 240 such discussions to the President of the Senate, the Speaker of  
 241 the House of Representatives, the Senate and House of  
 242 Representatives minority leaders, the chair and vice chair of  
 243 the Legislative Budget Commission, and the Attorney General.

244 Section 7. Subsections (1), (4), and (7) of section  
 245 337.14, Florida Statutes, are amended to read:

246 337.14 Application for qualification; certificate of  
 247 qualification; restrictions; request for hearing.—

248 (1) Any contractor desiring to bid for the performance of  
 249 any construction contract in excess of \$250,000 which the  
 250 department proposes to let must first be certified by the

251 department as qualified pursuant to this section and rules of  
252 the department. The rules of the department must address the  
253 qualification of contractors to bid on construction contracts in  
254 excess of \$250,000 and must include requirements with respect to  
255 the equipment, past record, experience, financial resources, and  
256 organizational personnel of the applying contractor which are  
257 necessary to perform the specific class of work for which the  
258 contractor seeks certification. Any contractor who desires to  
259 bid on contracts in excess of \$50 million and who is not  
260 qualified and in good standing with the department as of January  
261 1, 2019, must first be certified by the department as qualified  
262 and must have satisfactorily completed two projects, each in  
263 excess of \$15 million, for the department or for any other state  
264 department of transportation. The department may limit the  
265 dollar amount of any contract upon which a contractor is  
266 qualified to bid or the aggregate total dollar volume of  
267 contracts such contractor is allowed to have under contract at  
268 any one time. Each applying contractor seeking qualification to  
269 bid on construction contracts in excess of \$250,000 shall  
270 furnish the department a statement under oath, on such forms as  
271 the department may prescribe, setting forth detailed information  
272 as required on the application. Each application for  
273 certification must be accompanied by audited, certified  
274 financial statements prepared in accordance with generally  
275 accepted accounting principles and auditing standards by a

276 certified public accountant licensed in this state or another  
277 state. The audited, certified financial statements must be for  
278 the applying contractor and must have been prepared within the  
279 immediately preceding 12 months. The department may not consider  
280 any financial information of the parent entity of the applying  
281 contractor, if any. The department may not certify as qualified  
282 any applying contractor who fails to submit the audited,  
283 certified financial statements required by this subsection. If  
284 the application or the annual financial statement shows the  
285 financial condition of the applying contractor more than 4  
286 months before the date on which the application is received by  
287 the department, the applicant must also submit interim audited,  
288 certified financial statements prepared in accordance with  
289 generally accepted accounting principles and auditing standards  
290 by a certified public accountant licensed in this state or  
291 another state. The interim financial statements must cover the  
292 period from the end date of the annual statement and must show  
293 the financial condition of the applying contractor no more than  
294 4 months before the date that the interim financial statements  
295 are received by the department. However, upon the request of the  
296 applying contractor, an application and accompanying annual or  
297 interim financial statement received by the department within 15  
298 days after either 4-month period under this subsection shall be  
299 considered timely. An applying contractor desiring to bid  
300 exclusively for the performance of construction contracts with

301 proposed budget estimates of less than \$2 ~~\$1~~ million may submit  
302 reviewed annual or reviewed interim financial statements  
303 prepared by a certified public accountant. The information  
304 required by this subsection is confidential and exempt from s.  
305 119.07(1). The department shall act upon the application for  
306 qualification within 30 days after the department determines  
307 that the application is complete. The department may waive the  
308 requirements of this subsection for projects having a contract  
309 price of \$500,000 or less if the department determines that the  
310 project is of a noncritical nature and the waiver will not  
311 endanger public health, safety, or property.

312 (4) If the applicant is found to possess the prescribed  
313 qualifications, the department shall issue to him or her a  
314 certificate of qualification that, unless thereafter revoked by  
315 the department for good cause, will be valid for a period of 18  
316 months after the date of the applicant's financial statement or  
317 such shorter period as the department prescribes. Submission of  
318 an application does ~~and subsequent approval do~~ not affect  
319 expiration of the certificate of qualification, ~~the ability~~  
320 ~~factor of the applicant, or the maximum capacity rating of the~~  
321 ~~applicant.~~ An applicant may submit a written request with a  
322 timely submitted application to keep an existing certificate of  
323 qualification in place until the expiration date. If the request  
324 is approved by the department, the current maximum capacity  
325 rating of the applicant must remain in place until expiration of

326 the current certificate of qualification. If the department  
327 finds that an application is incomplete or contains inadequate  
328 information or information that cannot be verified, the  
329 department may request in writing that the applicant provide the  
330 necessary information to complete the application or provide the  
331 source from which any information in the application may be  
332 verified. If the applicant fails to comply with the initial  
333 written request within a reasonable period of time as specified  
334 therein, the department shall request the information a second  
335 time. If the applicant fails to comply with the second request  
336 within a reasonable period of time as specified therein, the  
337 application shall be denied.

338 (7) A "contractor" as defined in s. 337.165(1)(d) or his  
339 or her "affiliate" as defined in s. 337.165(1)(a) qualified with  
340 the department under this section may not also qualify under s.  
341 287.055 or s. 337.105 to provide testing services, construction,  
342 engineering, and inspection services to the department. This  
343 limitation does not apply to any design-build prequalification,  
344 including any progressive design-build prequalification, under  
345 s. 337.11(7) and does not apply when the department otherwise  
346 determines by written order entered at least 30 days before  
347 advertisement that the limitation is not in the best interests  
348 of the public with respect to a particular contract for testing  
349 services, construction, engineering, and inspection services.  
350 This subsection does not authorize a contractor to provide

HB 425

2023

351 testing services, or provide construction, engineering, and  
352 inspection services, to the department in connection with a  
353 construction contract under which the contractor is performing  
354 any work. Notwithstanding any other provision of law to the  
355 contrary, for a project that is wholly or partially funded by  
356 the department and administered by a local governmental entity,  
357 except for a seaport listed in s. 311.09 or an airport as  
358 defined in s. 332.004, the entity performing design and  
359 construction engineering and inspection services may not be the  
360 same entity.

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

363 337.168 Confidentiality of official estimates, ~~identities~~  
364 ~~of potential bidders~~, and bid analysis and monitoring system.—

365 ~~(2) A document that reveals the identity of a person who~~  
366 ~~has requested or obtained a bid package, plan, or specifications~~  
367 ~~pertaining to any project to be let by the department is~~  
368 ~~confidential and exempt from the provisions of s. 119.07(1) for~~  
369 ~~the period that begins 2 working days before the deadline for~~  
370 ~~obtaining bid packages, plans, or specifications and ends with~~  
371 ~~the letting of the bid. A document that reveals the identity of~~  
372 ~~a person who has requested or obtained a bid package, plan, or~~  
373 ~~specifications pertaining to any project to be let by the~~  
374 ~~department before the 2 working days before the deadline for~~  
375 ~~obtaining bid packages, plans, or specifications remains a~~

376 ~~public record subject to s. 119.07(1).~~

377 Section 9. Paragraph (a) of subsection (1) of section  
378 338.223, Florida Statutes, is amended to read:

379 338.223 Proposed turnpike projects.—

380 (1) (a) Any proposed project to be constructed or acquired  
381 as part of the turnpike system and any turnpike improvement  
382 shall be included in the tentative work program. A proposed  
383 project or group of proposed projects may not be added to the  
384 turnpike system unless such project or projects are determined  
385 to be economically feasible and a statement of environmental  
386 feasibility has been completed for such project or projects and  
387 such projects are determined to be consistent, to the maximum  
388 extent feasible, with approved local government comprehensive  
389 plans of the local governments in which such projects are  
390 located. The department may authorize engineering studies,  
391 traffic studies, environmental studies, and other expert studies  
392 of the location, costs, economic feasibility, and practicality  
393 of proposed turnpike projects throughout the state and may  
394 proceed with the design phase of such projects. ~~The department~~  
395 ~~may not request legislative approval of a proposed turnpike~~  
396 ~~project until the design phase of that project is at least 30~~  
397 ~~percent complete.~~ If a proposed project or group of proposed  
398 projects is found to be economically feasible, consistent, to  
399 the maximum extent feasible, with approved local government  
400 comprehensive plans of the local governments in which such



HB 425

2023

401 projects are located, and a favorable statement of environmental  
402 feasibility has been completed, the department, with the  
403 approval of the Legislature, shall, after the receipt of all  
404 necessary permits, construct, maintain, and operate such  
405 turnpike projects.

406 Section 10. This act shall take effect July 1, 2023.