



337318

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2023	.	
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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. Section 334.179, Florida Statutes, is amended to
read:

334.179 Department standards or specifications for
permissible use of aggregates.—

(1) Notwithstanding any law, rule, or ordinance to the
contrary, a local government may not adopt standards or



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11 specifications that are contrary to the department standards or
12 specifications for permissible use of aggregates that have been
13 certified for use. For purposes of this section, the term
14 "certified for use" means that the aggregates have been
15 certified by the producer in compliance ~~accordance~~ with
16 department rules. This section does not apply to a multicounty
17 independent special district created by a special act of the
18 Legislature.

19 (2) A producer may not certify any shipment of aggregates
20 to a customer other than the department unless such shipment is
21 in compliance with department rules. Notwithstanding this
22 section, producer certification of aggregates must be in
23 accordance with rules adopted pursuant to s. 334.044(10).

24 Section 2. Present subsections (15) and (16) of section
25 337.11, Florida Statutes, are redesignated as subsections (18)
26 and (19), respectively, and new subsections (15) and (16) and
27 subsection (17) are added to that section, to read:

28 337.11 Contracting authority of department; bids; emergency
29 repairs, supplemental agreements, and change orders; combined
30 design and construction contracts; progress payments; records;
31 requirements of vehicle registration.—

32 (15) Each contract let by the department for performance of
33 bridge construction or maintenance over navigable waters must
34 contain a provision requiring marine general liability
35 insurance, in an amount to be determined by the department, that
36 covers third-party personal injury and property damage caused by
37 vessels used by the contractor in the performance of the work.

38 (16) The department shall implement strategies to reduce
39 the cost of all project phases, including design, construction,



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40 and inspection, while ensuring that the design and construction
41 of projects meet applicable federal and state standards, and
42 shall track such strategies and the projected savings.

43 (17) The department may share with a design services
44 consultant or a construction engineering and inspection services
45 consultant a portion of the construction cost savings realized
46 due to a change in the construction contract design and scope
47 which is initiated after execution of the contract. Payments
48 made under this subsection must be calculated taking into
49 consideration the extent that the consultant's input and
50 involvement contributed to such savings. The amount paid to a
51 consultant pursuant to this subsection may not exceed 10 percent
52 of the construction cost savings realized.

53 Section 3. Subsection (1) of section 337.1101, Florida
54 Statutes, is amended to read:

55 337.1101 Contracting and procurement authority of the
56 department; settlements; notification required.-

57 (1) When the department, or any entity or enterprise within
58 the department, determines that it is in the best interest of
59 the public to resolve a protest filed in accordance with s.
60 120.57(3) of the award of a contract being procured pursuant to
61 s. 337.11 or related to the purchase of personal property or
62 contractual services being procured pursuant to s. 287.057,
63 through a settlement that requires the department to pay a
64 nonselected responsive bidder a total sum of \$1 million or more,
65 including any amount paid pursuant to s. 334.049, any amount
66 paid pursuant to s. 337.11(8) which is not included in the
67 department's work program approved by the Legislature as part of
68 the General Appropriations Act, or any amount paid pursuant to



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69 any other law, the department must:

70 (a) Document in a written memorandum by the secretary the
71 specific reasons that such settlement and payment to a
72 nonselected responsive bidder is in the best interest of the
73 state. The written memorandum must be included and maintained in
74 the department's permanent files concerning the procurement and
75 must include:

76 1. A description of the property rights, patent rights,
77 copyrights, trademarks, or the engineering design or other
78 design work that the department will acquire or retain as a
79 result of such settlement; and

80 2. The specific appropriation in the existing General
81 Appropriations Act which the department intends to use to
82 provide such payment.

83 (b) Provide prior written notification to the President of
84 the Senate, the Speaker of the House of Representatives, the
85 Senate and House of Representatives minority leaders, the chair
86 and vice chair of the Legislative Budget Commission, and the
87 Attorney General at least 5 business days, or as soon thereafter
88 as practicable, before the department makes the settlement
89 agreement final. Such written notification must include the
90 written memorandum required pursuant to paragraph (a).

91 (c) Provide, at the time settlement discussions regarding
92 any such payment have begun in earnest, written notification of
93 such discussions to the President of the Senate, the Speaker of
94 the House of Representatives, the Senate and House of
95 Representatives minority leaders, the chair and vice chair of
96 the Legislative Budget Commission, and the Attorney General.

97 Section 4. Subsections (1) and (4) of section 337.14,



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98 Florida Statutes, are amended to read:

99 337.14 Application for qualification; certificate of
100 qualification; restrictions; request for hearing.—

101 (1) A ~~Any~~ contractor desiring to bid for the performance of
102 any construction contract in excess of \$250,000 which the
103 department proposes to let must first be certified by the
104 department as qualified pursuant to this section and rules of
105 the department. The rules of the department must address the
106 qualification of contractors to bid on construction contracts in
107 excess of \$250,000 and must include requirements with respect to
108 the equipment, past record, experience, financial resources, and
109 organizational personnel of the applying contractor which are
110 necessary to perform the specific class of work for which the
111 contractor seeks certification. Any contractor who desires to
112 bid on contracts in excess of \$50 million and who is not
113 qualified and in good standing with the department as of January
114 1, 2019, must first be certified by the department as qualified
115 and must have satisfactorily completed two projects, each in
116 excess of \$15 million, for the department or for any other state
117 department of transportation. The department may limit the
118 dollar amount of any contract upon which a contractor is
119 qualified to bid or the aggregate total dollar volume of
120 contracts such contractor is allowed to have under contract at
121 any one time. Each applying contractor seeking qualification to
122 bid on construction contracts in excess of \$250,000 shall
123 furnish the department a statement under oath, on such forms as
124 the department may prescribe, setting forth detailed information
125 as required on the application. Each application for
126 certification must be accompanied by audited, certified



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127 financial statements prepared in accordance with generally
128 accepted accounting principles and auditing standards by a
129 certified public accountant licensed in this state or another
130 state. The audited, certified financial statements must be for
131 the applying contractor and must have been prepared within the
132 immediately preceding 12 months. The department may not consider
133 any financial information of the parent entity of the applying
134 contractor, if any. The department may not certify as qualified
135 any applying contractor who fails to submit the audited,
136 certified financial statements required by this subsection. If
137 the application or the annual financial statement shows the
138 financial condition of the applying contractor more than 4
139 months before the date on which the application is received by
140 the department, the applicant must also submit interim audited,
141 certified financial statements prepared in accordance with
142 generally accepted accounting principles and auditing standards
143 by a certified public accountant licensed in this state or
144 another state. The interim financial statements must cover the
145 period from the end date of the annual statement and must show
146 the financial condition of the applying contractor no more than
147 4 months before the date that the interim financial statements
148 are received by the department. However, upon the request of the
149 applying contractor, an application and accompanying annual or
150 interim financial statement received by the department within 15
151 days after either 4-month period under this subsection must
152 ~~shall~~ be considered timely. An applying contractor desiring to
153 bid exclusively for the performance of construction contracts
154 with proposed budget estimates of less than \$2 ~~\$1~~ million may
155 submit reviewed annual or reviewed interim financial statements



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156 prepared by a certified public accountant. The information
157 required by this subsection is confidential and exempt from s.
158 119.07(1). The department shall act upon the application for
159 qualification within 30 days after the department determines
160 that the application is complete. The department may waive the
161 requirements of this subsection for projects having a contract
162 price of \$500,000 or less if the department determines that the
163 project is of a noncritical nature and that the waiver will not
164 endanger public health, safety, or property.

165 (4) If the applicant is found to possess the prescribed
166 qualifications, the department must ~~shall~~ issue to him or her a
167 certificate of qualification that, unless thereafter revoked by
168 the department for good cause, will be valid for a period of 18
169 months after the date of the applicant's financial statement or
170 such shorter period as the department prescribes. Submission of
171 an application does ~~and subsequent approval do~~ not affect
172 expiration of the certificate of qualification. An applicant may
173 submit a written request with a timely submitted application to
174 keep an existing certificate of qualification in place until the
175 expiration date. If the request is approved by the department,
176 the current maximum capacity rating of the applicant must remain
177 in place until expiration of the current certificate of
178 qualification, the ability factor of the applicant, or the
179 ~~maximum capacity rating of the applicant.~~ If the department
180 finds that an application is incomplete or contains inadequate
181 information or information that cannot be verified, the
182 department may request in writing that the applicant provide the
183 necessary information to complete the application or provide the
184 source from which any information in the application may be



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185 verified. If the applicant fails to comply with the initial
186 written request within a reasonable period of time as specified
187 therein, the department must ~~shall~~ request the information a
188 second time. If the applicant fails to comply with the second
189 request within a reasonable period of time as specified therein,
190 the application must ~~shall~~ be denied.

191 Section 5. Section 337.168, Florida Statutes, is amended to
192 read:

193 337.168 Confidentiality of official estimates, ~~identities~~
194 ~~of potential bidders, and the~~ bid analysis, and monitoring
195 system.—

196 (1) A document or electronic file revealing the official
197 cost estimate of the department of a project is confidential and
198 exempt from ~~the provisions of~~ s. 119.07(1) until the contract
199 for the project has been executed or until the project is no
200 longer under active consideration.

201 ~~(2) A document that reveals the identity of a person who~~
202 ~~has requested or obtained a bid package, plan, or specifications~~
203 ~~pertaining to any project to be let by the department is~~
204 ~~confidential and exempt from the provisions of s. 119.07(1) for~~
205 ~~the period that begins 2 working days before the deadline for~~
206 ~~obtaining bid packages, plans, or specifications and ends with~~
207 ~~the letting of the bid. A document that reveals the identity of~~
208 ~~a person who has requested or obtained a bid package, plan, or~~
209 ~~specifications pertaining to any project to be let by the~~
210 ~~department before the 2 working days before the deadline for~~
211 ~~obtaining bid packages, plans, or specifications remains a~~
212 ~~public record subject to s. 119.07(1).~~

213 ~~(3) The bid analysis and monitoring system of the~~



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214 department is confidential and exempt from ~~the provisions of s.~~
215 119.07(1). This exemption applies to all system documentation,
216 input, computer processes and programs, electronic data files,
217 and output, but does not apply to the actual source documents,
218 unless otherwise exempted under other provisions of law.

219 Section 6. Paragraph (a) of subsection (1) of section
220 338.223, Florida Statutes, is amended to read:

221 338.223 Proposed turnpike projects.—

222 (1) (a) Any proposed project to be constructed or acquired
223 as part of the turnpike system and any turnpike improvement must
224 ~~shall~~ be included in the tentative work program. A proposed
225 project or group of proposed projects may not be added to the
226 turnpike system unless such project or projects are determined
227 to be economically feasible and a statement of environmental
228 feasibility has been completed for such project or projects and
229 such projects are determined to be consistent, to the maximum
230 extent feasible, with approved local government comprehensive
231 plans of the local governments in which such projects are
232 located. The department may authorize engineering studies,
233 traffic studies, environmental studies, and other expert studies
234 of the location, costs, economic feasibility, and practicality
235 of proposed turnpike projects throughout this ~~the~~ state and may
236 proceed with the design phase of such projects. ~~The department~~
237 ~~may not request legislative approval of a proposed turnpike~~
238 ~~project until the design phase of that project is at least 30~~
239 ~~percent complete.~~ If a proposed project or group of proposed
240 projects is found to be economically feasible, consistent, to
241 the maximum extent feasible, with approved local government
242 comprehensive plans of the local governments in which such



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243 projects are located, and a favorable statement of environmental
244 feasibility has been completed, the department, with the
245 approval of the Legislature, must ~~shall~~, after the receipt of
246 all necessary permits, construct, maintain, and operate such
247 turnpike projects.

248 Section 7. Section 334.180, Florida Statutes, is created to
249 read:

250 334.180 Department electronic tickets.—An electronic ticket
251 generated by a system used by the department serves as an
252 official record for material deliveries on local government
253 projects. Notwithstanding any law, rule, or ordinance to the
254 contrary, a local government may not refuse to accept such
255 electronic ticket.

256 Section 8. This act shall take effect July 1, 2023.

257
258 ===== T I T L E A M E N D M E N T =====

259 And the title is amended as follows:

260 Delete everything before the enacting clause
261 and insert:

262 A bill to be entitled
263 An act relating to the Department of Transportation;
264 amending s. 334.179, F.S.; revising the definition of
265 the term "certified for use" in regard to permissible
266 use of aggregates; prohibiting a producer from
267 certifying shipments of aggregates which are not in
268 compliance with department rules; requiring a producer
269 to certify aggregates in accordance with specified
270 rules; amending s. 337.11, F.S.; requiring that
271 contracts let by the department for performance of



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272 bridge construction or maintenance over navigable
273 waters contain certain insurance requirements;
274 requiring the department to implement and track
275 strategies to reduce the cost of projects while
276 ensuring that such projects meet federal and state
277 standards; authorizing the department to share a
278 portion of cost savings with certain consultants under
279 specified circumstances; providing that payments to
280 consultants may not exceed a specified amount;
281 amending s. 337.1101, F.S.; revising the calculation
282 of a certain settlement paid to a nonselected
283 responsive bidder which requires the department to
284 maintain certain records and provide certain notices
285 to the Legislature and the Attorney General; amending
286 s. 337.14, F.S.; increasing the proposed budget
287 estimates of construction contracts for which an
288 applying contractor may submit certain financial
289 statements; revising procedures relating to
290 certificates of qualification issued by the department
291 to construction contractors seeking certification to
292 bid on certain contracts; amending s. 337.168, F.S.;
293 deleting a public records exemption for certain
294 documents that reveal the identity of a potential
295 bidder; amending s. 338.223, F.S.; deleting a
296 requirement regarding the department's request for
297 legislative approval of proposed turnpike projects;
298 creating s. 334.180, F.S.; specifying that an
299 electronic ticket generated by a system used by the
300 department serves as a certain official record;



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301 prohibiting local governments from refusing to accept
302 such electronic tickets; providing an effective date.