

By the Committee on Transportation; and Senator Hooper

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1                                   A bill to be entitled  
2           An act relating to the Department of Transportation;  
3           amending s. 334.179, F.S.; revising the definition of  
4           the term "certified for use" in regard to permissible  
5           use of aggregates; prohibiting a producer from  
6           certifying shipments of aggregates which are not in  
7           compliance with department rules; requiring a producer  
8           to certify aggregates in accordance with specified  
9           rules; amending s. 337.11, F.S.; requiring that  
10          contracts let by the department for performance of  
11          bridge construction or maintenance over navigable  
12          waters contain certain insurance requirements;  
13          requiring the department to implement and track  
14          strategies to reduce the cost of projects while  
15          ensuring that such projects meet federal and state  
16          standards; authorizing the department to share a  
17          portion of cost savings with certain consultants under  
18          specified circumstances; providing that payments to  
19          consultants may not exceed a specified amount;  
20          amending s. 337.1101, F.S.; revising the calculation  
21          of a certain settlement paid to a nonselected  
22          responsive bidder which requires the department to  
23          maintain certain records and provide certain notices  
24          to the Legislature and the Attorney General; amending  
25          s. 337.14, F.S.; increasing the proposed budget  
26          estimates of construction contracts for which an  
27          applying contractor may submit certain financial  
28          statements; revising procedures relating to  
29          certificates of qualification issued by the department

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30 to construction contractors seeking certification to  
31 bid on certain contracts; amending s. 337.168, F.S.;  
32 deleting a public records exemption for certain  
33 documents that reveal the identity of a potential  
34 bidder; amending s. 338.223, F.S.; deleting a  
35 requirement regarding the department's request for  
36 legislative approval of proposed turnpike projects;  
37 creating s. 334.180, F.S.; specifying that an  
38 electronic ticket generated by a system used by the  
39 department serves as a certain official record;  
40 prohibiting local governments from refusing to accept  
41 such electronic tickets; providing an effective date.

42  
43 Be It Enacted by the Legislature of the State of Florida:

44  
45 Section 1. Section 334.179, Florida Statutes, is amended to  
46 read:

47 334.179 Department standards or specifications for  
48 permissible use of aggregates.—

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

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

64 Section 2. Present subsections (15) and (16) of section  
65 337.11, Florida Statutes, are redesignated as subsections (18)  
66 and (19), respectively, and new subsections (15) and (16) and  
67 subsection (17) are added to that section, to read:

68 337.11 Contracting authority of department; bids; emergency  
69 repairs, supplemental agreements, and change orders; combined  
70 design and construction contracts; progress payments; records;  
71 requirements of vehicle registration.—

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

78 (16) The department shall implement strategies to reduce  
79 the cost of all project phases, including design, construction,  
80 and inspection, while ensuring that the design and construction  
81 of projects meet applicable federal and state standards, and  
82 shall track such strategies and the projected savings.

83 (17) The department may share with a design services  
84 consultant or a construction engineering and inspection services  
85 consultant a portion of the construction cost savings realized  
86 due to a change in the construction contract design and scope  
87 which is initiated after execution of the contract. Payments

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88 made under this subsection must be calculated taking into  
89 consideration the extent that the consultant's input and  
90 involvement contributed to such savings. The amount paid to a  
91 consultant pursuant to this subsection may not exceed 10 percent  
92 of the construction cost savings realized.

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

95 337.1101 Contracting and procurement authority of the  
96 department; settlements; notification required.-

97 (1) When the department, or any entity or enterprise within  
98 the department, determines that it is in the best interest of  
99 the public to resolve a protest filed in accordance with s.  
100 120.57(3) of the award of a contract being procured pursuant to  
101 s. 337.11 or related to the purchase of personal property or  
102 contractual services being procured pursuant to s. 287.057,  
103 through a settlement that requires the department to pay a  
104 nonselected responsive bidder a total sum of \$1 million or more,  
105 including any amount paid pursuant to s. 334.049, any amount  
106 paid pursuant to s. 337.11(8) which is not included in the  
107 department's work program approved by the Legislature as part of  
108 the General Appropriations Act, or any amount paid pursuant to  
109 any other law, the department must:

110 (a) Document in a written memorandum by the secretary the  
111 specific reasons that such settlement and payment to a  
112 nonselected responsive bidder is in the best interest of the  
113 state. The written memorandum must be included and maintained in  
114 the department's permanent files concerning the procurement and  
115 must include:

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

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117 copyrights, trademarks, or the engineering design or other  
118 design work that the department will acquire or retain as a  
119 result of such settlement; and

120 2. The specific appropriation in the existing General  
121 Appropriations Act which the department intends to use to  
122 provide such payment.

123 (b) Provide prior written notification to the President of  
124 the Senate, the Speaker of the House of Representatives, the  
125 Senate and House of Representatives minority leaders, the chair  
126 and vice chair of the Legislative Budget Commission, and the  
127 Attorney General at least 5 business days, or as soon thereafter  
128 as practicable, before the department makes the settlement  
129 agreement final. Such written notification must include the  
130 written memorandum required pursuant to paragraph (a).

131 (c) Provide, at the time settlement discussions regarding  
132 any such payment have begun in earnest, written notification of  
133 such discussions to the President of the Senate, the Speaker of  
134 the House of Representatives, the Senate and House of  
135 Representatives minority leaders, the chair and vice chair of  
136 the Legislative Budget Commission, and the Attorney General.

137 Section 4. Subsections (1) and (4) of section 337.14,  
138 Florida Statutes, are amended to read:

139 337.14 Application for qualification; certificate of  
140 qualification; restrictions; request for hearing.—

141 (1) A ~~Any~~ contractor desiring to bid for the performance of  
142 any construction contract in excess of \$250,000 which the  
143 department proposes to let must first be certified by the  
144 department as qualified pursuant to this section and rules of  
145 the department. The rules of the department must address the

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146 qualification of contractors to bid on construction contracts in  
147 excess of \$250,000 and must include requirements with respect to  
148 the equipment, past record, experience, financial resources, and  
149 organizational personnel of the applying contractor which are  
150 necessary to perform the specific class of work for which the  
151 contractor seeks certification. Any contractor who desires to  
152 bid on contracts in excess of \$50 million and who is not  
153 qualified and in good standing with the department as of January  
154 1, 2019, must first be certified by the department as qualified  
155 and must have satisfactorily completed two projects, each in  
156 excess of \$15 million, for the department or for any other state  
157 department of transportation. The department may limit the  
158 dollar amount of any contract upon which a contractor is  
159 qualified to bid or the aggregate total dollar volume of  
160 contracts such contractor is allowed to have under contract at  
161 any one time. Each applying contractor seeking qualification to  
162 bid on construction contracts in excess of \$250,000 shall  
163 furnish the department a statement under oath, on such forms as  
164 the department may prescribe, setting forth detailed information  
165 as required on the application. Each application for  
166 certification must be accompanied by audited, certified  
167 financial statements prepared in accordance with generally  
168 accepted accounting principles and auditing standards by a  
169 certified public accountant licensed in this state or another  
170 state. The audited, certified financial statements must be for  
171 the applying contractor and must have been prepared within the  
172 immediately preceding 12 months. The department may not consider  
173 any financial information of the parent entity of the applying  
174 contractor, if any. The department may not certify as qualified

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175 any applying contractor who fails to submit the audited,  
176 certified financial statements required by this subsection. If  
177 the application or the annual financial statement shows the  
178 financial condition of the applying contractor more than 4  
179 months before the date on which the application is received by  
180 the department, the applicant must also submit interim audited,  
181 certified financial statements prepared in accordance with  
182 generally accepted accounting principles and auditing standards  
183 by a certified public accountant licensed in this state or  
184 another state. The interim financial statements must cover the  
185 period from the end date of the annual statement and must show  
186 the financial condition of the applying contractor no more than  
187 4 months before the date that the interim financial statements  
188 are received by the department. However, upon the request of the  
189 applying contractor, an application and accompanying annual or  
190 interim financial statement received by the department within 15  
191 days after either 4-month period under this subsection must  
192 ~~shall~~ be considered timely. An applying contractor desiring to  
193 bid exclusively for the performance of construction contracts  
194 with proposed budget estimates of less than \$2 ~~\$1~~ million may  
195 submit reviewed annual or reviewed interim financial statements  
196 prepared by a certified public accountant. The information  
197 required by this subsection is confidential and exempt from s.  
198 119.07(1). The department shall act upon the application for  
199 qualification within 30 days after the department determines  
200 that the application is complete. The department may waive the  
201 requirements of this subsection for projects having a contract  
202 price of \$500,000 or less if the department determines that the  
203 project is of a noncritical nature and that the waiver will not

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204 endanger public health, safety, or property.

205 (4) If the applicant is found to possess the prescribed  
206 qualifications, the department must ~~shall~~ issue to him or her a  
207 certificate of qualification that, unless thereafter revoked by  
208 the department for good cause, will be valid for a period of 18  
209 months after the date of the applicant's financial statement or  
210 such shorter period as the department prescribes. Submission of  
211 an application does ~~and subsequent approval do~~ not affect  
212 expiration of the certificate of qualification. An applicant may  
213 submit a written request with a timely submitted application to  
214 keep an existing certificate of qualification in place until the  
215 expiration date. If the request is approved by the department,  
216 the current maximum capacity rating of the applicant must remain  
217 in place until expiration of the current certificate of  
218 qualification, ~~the ability factor of the applicant, or the~~  
219 ~~maximum capacity rating of the applicant.~~ If the department  
220 finds that an application is incomplete or contains inadequate  
221 information or information that cannot be verified, the  
222 department may request in writing that the applicant provide the  
223 necessary information to complete the application or provide the  
224 source from which any information in the application may be  
225 verified. If the applicant fails to comply with the initial  
226 written request within a reasonable period of time as specified  
227 therein, the department must ~~shall~~ request the information a  
228 second time. If the applicant fails to comply with the second  
229 request within a reasonable period of time as specified therein,  
230 the application must ~~shall~~ be denied.

231 Section 5. Section 337.168, Florida Statutes, is amended to  
232 read:



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233           337.168 Confidentiality of official estimates, ~~identities~~  
234 ~~of potential bidders, and~~ the bid analysis, and monitoring  
235 system.—

236           (1) A document or electronic file revealing the official  
237 cost estimate of the department of a project is confidential and  
238 exempt from ~~the provisions of~~ s. 119.07(1) until the contract  
239 for the project has been executed or until the project is no  
240 longer under active consideration.

241           ~~(2) A document that reveals the identity of a person who~~  
242 ~~has requested or obtained a bid package, plan, or specifications~~  
243 ~~pertaining to any project to be let by the department is~~  
244 ~~confidential and exempt from the provisions of s. 119.07(1) for~~  
245 ~~the period that begins 2 working days before the deadline for~~  
246 ~~obtaining bid packages, plans, or specifications and ends with~~  
247 ~~the letting of the bid. A document that reveals the identity of~~  
248 ~~a person who has requested or obtained a bid package, plan, or~~  
249 ~~specifications pertaining to any project to be let by the~~  
250 ~~department before the 2 working days before the deadline for~~  
251 ~~obtaining bid packages, plans, or specifications remains a~~  
252 ~~public record subject to s. 119.07(1).~~

253           ~~(3)~~ The bid analysis and monitoring system of the  
254 department is confidential and exempt from ~~the provisions of~~ s.  
255 119.07(1). This exemption applies to all system documentation,  
256 input, computer processes and programs, electronic data files,  
257 and output, but does not apply to the actual source documents,  
258 unless otherwise exempted under other provisions of law.

259           Section 6. Paragraph (a) of subsection (1) of section  
260 338.223, Florida Statutes, is amended to read:

261           338.223 Proposed turnpike projects.—

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262 (1) (a) Any proposed project to be constructed or acquired  
263 as part of the turnpike system and any turnpike improvement must  
264 ~~shall~~ be included in the tentative work program. A proposed  
265 project or group of proposed projects may not be added to the  
266 turnpike system unless such project or projects are determined  
267 to be economically feasible and a statement of environmental  
268 feasibility has been completed for such project or projects and  
269 such projects are determined to be consistent, to the maximum  
270 extent feasible, with approved local government comprehensive  
271 plans of the local governments in which such projects are  
272 located. The department may authorize engineering studies,  
273 traffic studies, environmental studies, and other expert studies  
274 of the location, costs, economic feasibility, and practicality  
275 of proposed turnpike projects throughout this ~~the~~ state and may  
276 proceed with the design phase of such projects. ~~The department~~  
277 ~~may not request legislative approval of a proposed turnpike~~  
278 ~~project until the design phase of that project is at least 30~~  
279 ~~percent complete.~~ If a proposed project or group of proposed  
280 projects is found to be economically feasible, consistent, to  
281 the maximum extent feasible, with approved local government  
282 comprehensive plans of the local governments in which such  
283 projects are located, and a favorable statement of environmental  
284 feasibility has been completed, the department, with the  
285 approval of the Legislature, must ~~shall~~, after the receipt of  
286 all necessary permits, construct, maintain, and operate such  
287 turnpike projects.

288 Section 7. Section 334.180, Florida Statutes, is created to  
289 read:

290 334.180 Department electronic tickets.—An electronic ticket

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291 generated by a system used by the department serves as an  
292 official record for material deliveries on local government  
293 projects. Notwithstanding any law, rule, or ordinance to the  
294 contrary, a local government may not refuse to accept such  
295 electronic ticket.

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