



401062

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/24/2024	.	
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The Committee on Transportation (Wright) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (1) of section 337.14, Florida  
Statutes, is amended to read:

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

(1) (a) Any contractor desiring to bid for the performance  
of any construction contract in excess of \$250,000 which the



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11 department proposes to let must first be certified by the  
12 department as qualified pursuant to this section and rules of  
13 the department. The rules of the department must address the  
14 qualification of contractors to bid on construction contracts in  
15 excess of \$250,000 and must include requirements with respect to  
16 the equipment, past record, experience, financial resources, and  
17 organizational personnel of the applying contractor which are  
18 necessary to perform the specific class of work for which the  
19 contractor seeks certification. Any contractor who desires to  
20 bid on contracts in excess of \$50 million and who is not  
21 qualified and in good standing with the department as of January  
22 1, 2019, must first be certified by the department as qualified  
23 and must have satisfactorily completed two projects, each in  
24 excess of \$15 million, for the department or for any other state  
25 department of transportation. The department may limit the  
26 dollar amount of any contract upon which a contractor is  
27 qualified to bid or the aggregate total dollar volume of  
28 contracts such contractor is allowed to have under contract at  
29 any one time. Each applying contractor seeking qualification to  
30 bid on construction contracts in excess of \$250,000 shall  
31 furnish the department a statement under oath, on such forms as  
32 the department may prescribe, setting forth detailed information  
33 as required on the application. Each application for  
34 certification must be accompanied by audited, certified  
35 financial statements prepared in accordance with generally  
36 accepted accounting principles and auditing standards by a  
37 certified public accountant licensed in this state or another  
38 state. The audited, certified financial statements must be for  
39 the applying contractor and must have been prepared within the



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40 immediately preceding 12 months. The department may not consider  
41 any financial information of the parent entity of the applying  
42 contractor, if any. The department may not certify as qualified  
43 any applying contractor who fails to submit the audited,  
44 certified financial statements required by this paragraph  
45 ~~subsection~~. If the application or the annual financial statement  
46 shows the financial condition of the applying contractor more  
47 than 4 months before the date on which the application is  
48 received by the department, the applicant must also submit  
49 interim audited, certified financial statements prepared in  
50 accordance with generally accepted accounting principles and  
51 auditing standards by a certified public accountant licensed in  
52 this state or another state. The interim financial statements  
53 must cover the period from the end date of the annual statement  
54 and must show the financial condition of the applying contractor  
55 no more than 4 months before the date that the interim financial  
56 statements are received by the department. However, upon the  
57 request of the applying contractor, an application and  
58 accompanying annual or interim financial statement received by  
59 the department within 15 days after either 4-month period under  
60 this paragraph ~~subsection~~ shall be considered timely. An  
61 applying contractor desiring to bid exclusively for the  
62 performance of construction contracts with proposed budget  
63 estimates of less than \$2 million may submit reviewed annual or  
64 reviewed interim financial statements prepared by a certified  
65 public accountant. The information required by this paragraph  
66 ~~subsection~~ is confidential and exempt from s. 119.07(1). The  
67 department shall act upon the application for qualification  
68 within 30 days after the department determines that the



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69 application is complete. The department may waive the  
70 requirements of this subsection for projects having a contract  
71 price of \$500,000 or less if the department determines that the  
72 project is of a noncritical nature and the waiver will not  
73 endanger public health, safety, or property.

74 (b) In addition to the information required by paragraph  
75 (a), any financial information required by the department for  
76 prequalification purposes which would reveal the revenue,  
77 profit, loss, expenses, gross receipts, taxes paid, or capital  
78 investment of any applying contractor is confidential and exempt  
79 from s. 119.07(1) and s. 24(a), Art. I of the State  
80 Constitution. This paragraph is subject to the Open Government  
81 Sunset Review Act in accordance with s. 119.15 and shall stand  
82 repealed on October 2, 2029, unless reviewed and saved from  
83 repeal through reenactment by the Legislature.

84 Section 2. The Legislature finds that it is a public  
85 necessity that any financial information required by the  
86 Department of Transportation for prequalification purposes,  
87 including information that would reveal the revenue, profit,  
88 loss, expenses, gross receipts, taxes paid, or capital  
89 investment from any applying contractor, be made exempt from s.  
90 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
91 State Constitution. In the prequalification process, an applying  
92 contractor will provide financial statements to the department,  
93 and the department may request additional financial information  
94 in order to verify the financial adequacy of the prospective  
95 bidder. These records may contain sensitive information related  
96 to an applying contractor's financial condition. The risk of  
97 potential disclosure of sensitive financial information defeats



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98 the purpose of protections already afforded to financial  
99 statements and may have a chilling effect on entities desiring  
100 to prequalify or maintain prequalification. The chilling effect  
101 may result in a limited pool of prequalified bidders, thus  
102 negatively impacting the department's ability to receive the  
103 best value for projects. Additionally, protecting this financial  
104 information from public disclosure will prevent such information  
105 from being used by competitors to gain an unfair advantage  
106 against other bidders on the project. Lastly, protecting this  
107 information from disclosure promotes the free provision of such  
108 information to the department by removing a prospective bidder's  
109 concern for attendant risks in doing so. As a result, this  
110 exemption promotes the state's interest in ensuring that  
111 prospective bidders on transportation projects possess the  
112 necessary financial resources to complete such projects, many of  
113 which involve immense costs and may be complex and of long  
114 duration.

115 Section 3. This act shall take effect July 1, 2024.

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

118 And the title is amended as follows:

119 Delete everything before the enacting clause  
120 and insert:

121 A bill to be entitled  
122 An act relating to public records; amending s. 337.14,  
123 F.S.; providing an exemption from public records  
124 requirements for certain financial information  
125 provided by a prospective bidder to the Department of  
126 Transportation for prequalification purposes;



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127 providing for future legislative review and repeal of  
128 the exemption; providing a statement of public  
129 necessity; providing an effective date.