

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Commerce and Tourism

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BILL: CS/SB 1080

INTRODUCER: Transportation Committee and Senator DiCeglie

SUBJECT: Transportation

DATE: January 27, 2026

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>McMillan</u>	<u>McKay</u>	<u>CM</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

PLEASE MAKE SELECTION

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**I. Summary:**

CS/SB 1080 requires the Florida Department of Transportation (FDOT) to adopt rules providing circumstances under which it may make direct payments to a first-tier subcontractor, including specified conditions, with the amount paid to the subcontractor deducted from the amount paid to the contractor.

The bill also requires that, if due to default by the contract, the FDOT and the surety enter into a takeover agreement, such agreement must require the surety's completion contractor to meet the certificate of qualification requirements of the original contract bid solicitation and that the surety must follow the contract's procedures regarding the payment of subcontractors.

This bill does not appear to have a fiscal impact on state or local government entities.

This bill takes effect July 1, 2026.

**II. Present Situation:**

**Florida Prompt Payment Act**

Florida law has several "Prompt Payment Acts" regulating various aspects of payments connected to construction projects and services. Part VII of ch. 218, F.S., addresses payment for local government construction projects. Chapter 255, F.S., governs payments connected to state

agency construction projects, and payments for private construction projects are regulated in chs. 713 and 715, F.S.

### ***Prompt Payment Act for State Construction Projects***

Sections 255.0705 - 255.078, F.S., are known as the Florida Prompt Payment Act. This act governs the timely payment for construction services by the state or any agency thereof (public entity).<sup>1</sup> This act also governs payments made by contractors to subcontractors and suppliers when the construction services are in connection with a public entity construction project.

### ***Payment Deadline for Public Entity to Contractor***

For public entities contracting with a prime contractor, the public entity must submit the contractor's request to the Chief Financial Officer within 14 days of receiving the payment application.<sup>2</sup> If a public entity disputes a portion of a payment request, the undisputed portion must be paid by the date required under the contract or by 20 business days after receipt of the request, whichever is earlier.<sup>3</sup>

When a contractor receives payment from a public entity for labor, services, or materials furnished by subcontractors and suppliers hired by the contractor, the contractor is required to remit payment due to those subcontractors and suppliers within 10 days after the contractor's receipt of payment.<sup>4</sup> When a subcontractor receives payment from a contractor for labor, services, or materials furnished by subcontractors and suppliers hired by the subcontractor, the subcontractor is required to remit payment due to those subcontractors and suppliers within 7 days after the subcontractor's receipt of payment.<sup>5</sup>

### ***Penalties for Late Payment***

All payments due for the purchase of construction services under the Florida Prompt Payment Act and wrongfully withheld by a public entity or prime contractor bear statutorily imposed interest at the rate of 2 percent per month.<sup>6</sup>

### **Florida Department of Transportation Contracting Authority**

Section 337.11, F.S., authorizes the Florida Department of Transportation (FDOT) to enter into contracts for the construction and maintenance of roads and related facilities under its jurisdiction.<sup>7</sup>

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<sup>1</sup> Section 255.072, F.S., defines "public entity" to mean the state, or any office, board, bureau, commission, department, branch, division, or institution thereof, but does not include a local governmental entity as defined in s. 218.72, F.S.

<sup>2</sup> Section 255.074, F.S.

<sup>3</sup> Section 255.073(2), F.S.

<sup>4</sup> Section 255.073(3), F.S.

<sup>5</sup> *Id.* A contractor or subcontractor is still permitted to dispute, pursuant to the terms of the relevant contract, all or any portion of a payment alleged to be due to another party if the contractor or subcontractor notifies the party whose payment is disputed, in writing, of the amount in dispute and the actions required to cure the dispute. The contractor or subcontractor must pay all undisputed amounts due within the time limits imposed by this subsection.

<sup>6</sup> Section 255.073(4), F.S.

<sup>7</sup> Section 337.11(1), F.S.

Every contract let by the FDOT for the performance of work must require the prime contractor, before receiving any progress payment under such contract, to certify that the prime contractor has disbursed to all of its subcontractors and suppliers their pro rata shares of the payment out of previous progress payments received by the prime contractor for all work completed and materials furnished in the previous period,<sup>8</sup> as FDOT approved payment.<sup>9</sup> The FDOT may not make any such progress payment before receiving such certification, unless the contractor demonstrates good cause for not making any such required payment and furnishes written notification of any such good cause to both the FDOT and the affected subcontractors and suppliers.<sup>10</sup>

Every contract let by the FDOT for the performance of work must require the prime contractor, within 30 days of receipt of the final progress payment or any other payments received thereafter except the final payment, to pay all of its subcontractors and suppliers their pro rata shares of the payment for all work completed and materials furnished, unless the contractor demonstrates good cause for not making any such required payment and furnishes written notification of any such good cause to both the FDOT and the affected subcontractors or suppliers within such 30-day period.<sup>11</sup>

### **Surety Bonds for FDOT's Construction and Maintenance Contracts**

Section 337.18, F.S., requires a surety bond of the successful bidder in an amount equal to the awarded contract price for a FDOT contract. However, in limited circumstances, the FDOT has the discretion to authorize phased bonding or waive all or a portion of the bond requirement.<sup>12</sup>

The FDOT's contracts must provide for the determination of default on the part of any contractor for cause attributable to such contractor. The FDOT is not liable for anticipated profits for unfinished work on a contract which it has determined to be in default.<sup>13</sup>

### **FDOT Certificate of Qualification**

Section 337.14, F.S., requires the FDOT to prequalify any contractor wishing to bid on a contract in excess of \$250,000. Rule 14-22, F.A.C., provides the FDOT's rules regarding obtaining a certificate of qualification.

## **III. Effect of Proposed Changes:**

**Section 1** amends s. 337.11, F.S. to require the FDOT to adopt rules establishing circumstances under which it may make direct payments to first-tier subcontractors. Such circumstances must include all of the following:

- The contractor has not requested payment from the FDOT in the past six months.

<sup>8</sup> Section 337.11(11)(a), F.S. This is less any retainage withheld by the prime contractor pursuant to an agreement with a subcontractor.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Section 337.11(11)(b), F.S.

<sup>12</sup> Section 337.18(1)(a), F.S.

<sup>13</sup> Section 337.18(2), F.S.

- There is a binding, written subcontract between the contractor and the subcontractor, and the FDOT is in possession of a complete copy of the contract.
- The subcontractor has performed work that is unpaid by the subcontractor, and the FDOT has sufficient documentation of such unpaid work.
- There is no bona fide, documented dispute between the contractor and the subcontractor.

The amounts the FDOT pays to the subcontractor must be deducted from amounts otherwise due to the contractor.

**Section 2** amends s. 337.18, F.S., to provide that if, due to a default by the contractor, the FDOT and the surety enter into a takeover agreement such agreement must require the surety's completion contractor to meet the certification of qualification requirements in the original contract's bid solicitation. The bill also requires the surety to follow the contract's procedures regarding the certification of disbursement of payment to subcontractors.

**Section 3** provides that this bill takes effect July 1, 2026.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

The FDOT's rules specifying circumstances under which it may directly pay subcontractors may have a positive fiscal impact on such subcontractors. However, the fiscal impact is indeterminate.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 337.11 and 337.18.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Transportation on January 20, 2026:**

The committee substitute:

- Requires FDOT to adopt rules regarding the circumstances under which it may directly pay first-tier subcontractors; and
- Requires the completion contractor in a takeover agreement to meet the same certification of qualification requirements as in the original contract's bid solicitation.

**B. Amendments:**

None.