

1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 20.23, F.S.; providing additional
4 qualification requirements for the Secretary of
5 Transportation; creating s. 334.179, F.S.; prohibiting
6 local governments from adopting standards or
7 specifications that are contrary to the department
8 standards or specifications for permissible use of
9 aggregates that have been certified for use; defining
10 the term "certified for use"; amending s. 337.025,
11 F.S.; authorizing the department to establish a
12 program for transportation projects that demonstrate
13 certain innovative techniques for measuring resiliency
14 and structural integrity and controlling time and cost
15 increases; amending s. 337.14, F.S.; requiring any
16 contractor, instead of any person, desiring to bid for
17 the performance of certain construction contracts to
18 first be certified by the department as qualified;
19 conforming provisions to changes made by the act;
20 requiring a contractor desiring to bid on certain
21 contracts to have satisfactorily completed certain
22 projects; amending s. 337.185, F.S.; revising the
23 maximum amounts per contract of certain contractual
24 claims that must be arbitrated by the State
25 Arbitration Board under certain circumstances;

26 providing an effective date.

27

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

29

30 Section 1. Paragraph (b) of subsection (1) of section
31 20.23, Florida Statutes, is amended to read:

32 20.23 Department of Transportation.—There is created a
33 Department of Transportation which shall be a decentralized
34 agency.

35 (1)

36 (b) The secretary must ~~shall~~ be a proven, effective
37 administrator who, by a combination of education and experience,
38 clearly possesses ~~shall clearly possess~~ a broad knowledge of the
39 administrative, financial, and technical aspects of the
40 development, operation, and regulation of transportation systems
41 and facilities or comparable systems and facilities. The
42 secretary must be a professional engineer licensed under chapter
43 471 or the laws of another state or, in lieu of such licensure,
44 must:

45 1. Hold an advanced degree in a related discipline, such
46 as a Master of Business Administration, and have 5 years of
47 relevant transportation experience; or

48 2. Have 10 years of relevant transportation experience.

49 Section 2. Section 334.179, Florida Statutes, is created
50 to read:

51 334.179 Department standards or specifications for
 52 permissible use of aggregates.—Notwithstanding any law, rule, or
 53 ordinance to the contrary, a local government may not adopt
 54 standards or specifications that are contrary to the department
 55 standards or specifications for permissible use of aggregates
 56 that have been certified for use. For purposes of this section,
 57 the term "certified for use" means that the aggregates have been
 58 certified by the producer in accordance with department rules.

59 Section 3. Subsection (1) of section 337.025, Florida
 60 Statutes, is amended to read:

61 337.025 Innovative transportation ~~highway~~ projects;
 62 department to establish program.—

63 (1) The department may ~~is authorized to~~ establish a
 64 program for transportation ~~highway~~ projects demonstrating
 65 innovative techniques of highway and bridge design,
 66 construction, maintenance, and finance which have the intended
 67 effect of measuring resiliency and structural integrity and
 68 controlling time and cost increases on construction projects.
 69 Such techniques may include, but are not limited to, state-of-
 70 the-art technology for pavement, safety, and other aspects of
 71 highway and bridge design, construction, and maintenance;
 72 innovative bidding and financing techniques; accelerated
 73 construction procedures; and those techniques that have the
 74 potential to reduce project life cycle costs. To the maximum
 75 extent practical, the department must use the existing process

76 | to award and administer construction and maintenance contracts.
77 | When specific innovative techniques are to be used, the
78 | department is not required to adhere to those provisions of law
79 | that would prevent, preclude, or in any way prohibit the
80 | department from using the innovative technique. However, before
81 | ~~prior to~~ using an innovative technique that is inconsistent with
82 | another provision of law, the department must document in
83 | writing the need for the exception and identify what benefits
84 | the traveling public and the affected community are anticipated
85 | to receive. The department may enter into no more than \$120
86 | million in contracts annually for the purposes authorized by
87 | this section.

88 | Section 4. Subsection (1) of section 337.14, Florida
89 | Statutes, is amended to read:

90 | 337.14 Application for qualification; certificate of
91 | qualification; restrictions; request for hearing.—

92 | (1) Any contractor ~~person~~ desiring to bid for the
93 | performance of any construction contract in excess of \$250,000
94 | which the department proposes to let must first be certified by
95 | the department as qualified pursuant to this section and rules
96 | of the department. The rules of the department must ~~shall~~
97 | address the qualification of contractors ~~persons~~ to bid on
98 | construction contracts in excess of \$250,000 and must ~~shall~~
99 | include requirements with respect to the equipment, past record,
100 | experience, financial resources, and organizational personnel of

101 the applying contractor which are ~~applicant~~ necessary to perform
102 the specific class of work for which the contractor ~~person~~ seeks
103 certification. Any contractor desiring to bid on contracts in
104 excess of \$50 million must have satisfactorily completed two
105 projects, each in excess of \$25 million, for the department or
106 for any other state department of transportation. The department
107 may limit the dollar amount of any contract upon which a
108 contractor ~~person~~ is qualified to bid or the aggregate total
109 dollar volume of contracts such contractor ~~person~~ is allowed to
110 have under contract at any one time. Each applying contractor
111 ~~applicant~~ seeking qualification to bid on construction contracts
112 in excess of \$250,000 shall furnish the department a statement
113 under oath, on such forms as the department may prescribe,
114 setting forth detailed information as required on the
115 application. Each application for certification must ~~shall~~ be
116 accompanied by the latest annual financial statement of the
117 applying contractor ~~applicant~~ completed within the last 12
118 months. If the application or the annual financial statement
119 shows the financial condition of the applying contractor
120 ~~applicant~~ more than 4 months prior to the date on which the
121 application is received by the department, ~~then~~ an interim
122 financial statement and an updated application must be submitted
123 ~~and be accompanied by an updated application.~~ The interim
124 financial statement must cover the period from the end date of
125 the annual statement and must show the financial condition of

126 the applying contractor ~~applicant~~ no more than 4 months prior to
127 the date that the interim financial statement is received by the
128 department. However, upon the request of ~~by~~ the applying
129 contractor ~~applicant~~, an application and accompanying annual or
130 interim financial statement received by the department within 15
131 days after either 4-month period under this subsection shall be
132 considered timely. Each required annual or interim financial
133 statement must be audited and accompanied by the opinion of a
134 certified public accountant. An applying contractor ~~applicant~~
135 desiring to bid exclusively for the performance of construction
136 contracts with proposed budget estimates of less than \$1 million
137 may submit reviewed annual or reviewed interim financial
138 statements prepared by a certified public accountant. The
139 information required by this subsection is confidential and
140 exempt from ~~the provisions of~~ s. 119.07(1). The department shall
141 act upon the application for qualification within 30 days after
142 the department determines that the application is complete. The
143 department may waive the requirements of this subsection for
144 projects having a contract price of \$500,000 or less if the
145 department determines that the project is of a noncritical
146 nature and the waiver will not endanger public health, safety,
147 or property.

148 Section 5. Subsection (1) of section 337.185, Florida
149 Statutes, is amended to read:

150 337.185 State Arbitration Board.—

151 (1) To facilitate the prompt settlement of claims for
152 additional compensation arising out of construction and
153 maintenance contracts between the department and the various
154 contractors with whom it transacts business, the Legislature
155 does hereby establish the State Arbitration Board, referred to
156 in this section as the "board." For the purpose of this section,
157 the term "claim" means the aggregate of all outstanding claims
158 by a party arising out of a construction or maintenance
159 contract. Every contractual claim in an amount up to \$250,000
160 per contract or, at the claimant's option, up to \$1 million
161 ~~\$500,000~~ per contract or, upon agreement of the parties, up to
162 \$2 million ~~\$1 million~~ per contract which ~~that~~ cannot be resolved
163 by negotiation between the department and the contractor must
164 ~~shall~~ be arbitrated by the board after acceptance of the project
165 by the department. As an exception, either party to the dispute
166 may request that the claim be submitted to binding private
167 arbitration. A court of law may not consider the settlement of
168 such a claim until the process established by this section has
169 been exhausted.

170 Section 6. This act shall take effect July 1, 2019.