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New Transportation & Engineering Requirements Impacting Local Governments

The Florida Legislature enacted HB 905¹ (Department of Transportation) and HB 827² (Engineering) during the 2019 Legislature Regular Session. The Governor signed both bills and HB 905 became effective July 1, 2019 and HB 827 will become effective on October 1, 2019. These laws may impact local governments' construction bidding and engineering practices.

HB 905 creates and amends statutory provisions related to the Florida Department of Transportation (FDOT). Among the changes, the law:

- Creates section 334.179, Florida Statutes to prohibit local governments from adopting standards or specifications that are contrary to FDOT's standards or specifications for the permissible use of aggregates that have been certified for use³ in transportation systems.
- Amends section 336.044(5), Florida Statutes, to prohibit local governments from adopting standards and specifications that are contrary to FDOT's standards or specifications for permissible uses of reclaimed asphalt pavement material in transportation construction. The subsection also provides that reclaimed asphalt pavement material in construction projects may not be considered solid waste.
- Amends section 337.14(7), Florida Statutes, to prohibit the same entity from performing both design services and construction engineering and inspection services on projects wholly or partially funded by FDOT and administered by a local governmental entity, except for a seaport listed in section 311.09.



HB 827 creates and amends statutory provisions relating to the licensure and regulation of professional engineers under the Department of Business and Professional Regulation (DBPR) and engineering contracting requirements under FDOT. Among the changes, the law:

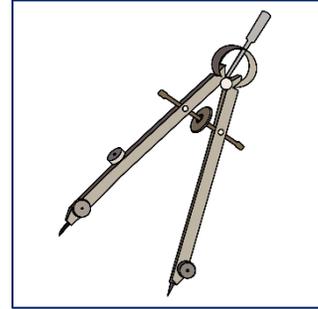
¹ Ch 2019-153, Laws of Florida, Approved by the Governor June 26, 2019.

² Ch 2019-86, Laws of Florida, Approved by the Governor June 7, 2019.

³ "Certified for use" means that the aggregates have been certified by the producer in accordance with FDOT rules.

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- Amends sections 471.005(3) and (8), and section 471.023, Florida Statutes, to remove the requirement that engineers obtain a separate license (certificate of authorization) for their engineering firm.
- Amends sections 471.021(1) and (2), Florida Statutes to note that the Board of the Florida Engineers Management Corporation shall issue a temporary registration, instead of a temporary license, for work on one specified project in this state for a period not to exceed 1 year to an engineer holding a certificate to practice in another state or to an out of state entity under certain circumstances.
- Creates section 471.025(4), Florida Statutes, to provide that a successor engineer seeking to reuse documents previously sealed by another engineer must be able to independently re-create all of the work done by the original engineer. The successor engineer relying on the work, findings, or recommendations of the original engineer who previously sealed the pertinent documents assumes full professional and legal responsibility by signing and affixing his or her seal to the assumed documents. Such documents must be treated as though they were the successor engineer's original product, and the original engineer is released from any professional responsibility or civil liability for prior work assumed by the successor engineer.
- Amends section 553.79(5)(a), Florida Statutes, to provide that during new construction or during repair or restoration projects in which the structural system or structural loading of a building is being modified, the enforcing agency⁴ shall require a special inspector to perform structural inspections on a threshold building⁵ pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to and approved by the enforcing agency before the issuance of a building permit for the construction of a threshold building.
- Amends sections 553.791(4) and (5), Florida Statutes, to reduce the timeframes that property owners or their contractors have to notify local building officials of the use of private inspection providers from seven (7) business days to 2 p.m. local time two business days prior to the first scheduled inspection by the local building official or building code enforcement agency.
- Amends section 553.791(7)(a), Florida Statutes, to reduce the 30-business day period to 20-business days in which a local building official must issue the requested permit or provide a written notice to the applicant identifying the specific plan features that do not comply with the applicable codes.



⁴ Section 553.71 (5), Florida Statutes, states a ““Local enforcement agency” means an agency of local government, a local school board, a community college board of trustees, or a university board of trustees in the State University System with jurisdiction to make inspections of buildings and to enforce the codes which establish standards for design, construction, erection, alteration, repair, modification, or demolition of public or private buildings, structures, or facilities.

⁵ Section 553.71 (12), Florida Statutes, states a “Threshold building” means any building which is greater than three stories or 50 feet in height, or which has an assembly occupancy classification as defined in the Florida Building Code which exceeds 5,000 square feet in area and an occupant content of greater than 500 persons.

Suggestions

We recommend that local government entities compare HB 827 and HB 905, with current construction project management and bid procedures, specifically:

- Review aggregate specifications and the permissible uses of reclaimed asphalt material specifications for compliance with FDOT standards.
- Review project management procedures and bid language regarding the prohibition of the same entity (consultant/contractor) performing both the design services, and construction & testing services on FDOT funded projects managed by the local governmental entity.
- Review procurement policies and bid language regarding the licensing and qualification requirements for engineering professionals and engineering firms for compliance with Section 471, Florida Statutes, Regulation of Professions and Occupations, Engineering.
- Review project management procedures, and contract provisions regarding the liability of successor engineers, and qualification status changes of engineering firms under a licensed engineer.
- Review threshold building inspection requirements.
- Review policies and procedures regarding the owner's use of private inspection providers.
- Review policies and procedures regarding timelines for taking action on permit applications.

