

By Senator Albritton

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1 A bill to be entitled
2 An act relating to transportation; amending s. 20.23,
3 F.S.; revising requirements for determining the
4 salaries of the secretary of the Department of
5 Transportation and assistant secretaries; specifying
6 the secretary's minimum salary; amending s. 316.2397,
7 F.S.; authorizing certain vehicles to show or display
8 certain lights under certain circumstances; amending
9 s. 337.14, F.S.; requiring certain contractors to be
10 certified by the department as qualified; revising the
11 financial statements required to accompany an
12 application for certification; prohibiting the
13 department from considering certain financial
14 information; requiring the contractor to submit
15 interim financial statements under certain
16 circumstances; providing requirements for such
17 statements; expanding an exception to a certain
18 prohibition on contracting to include airport
19 projects; amending s. 337.195, F.S.; specifying
20 conditions under which the limitation on liability of
21 the department applies for personal injury, property
22 damage, or death; amending s. 338.155, F.S.;
23 authorizing the Governor to suspend payment of tolls
24 when necessary to assist emergency evacuation;
25 providing for automatic reinstatement of tolls;
26 authorizing the Governor to override the automatic
27 reinstatement in extraordinary circumstances;
28 providing an effective date.

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

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32 Section 1. Subsection (1) of section 20.23, Florida
33 Statutes, is amended to read:

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

37 (1)~~(a)~~ The head of the Department of Transportation is the
38 Secretary of Transportation. The secretary shall be appointed by
39 the Governor from among three persons nominated by the Florida
40 Transportation Commission and shall be subject to confirmation
41 by the Senate. The secretary shall serve at the pleasure of the
42 Governor.

43 ~~(b)~~ The secretary shall be a proven, effective
44 administrator who, by a combination of education and experience,
45 ~~shall~~ clearly possesses ~~possess~~ a broad knowledge of the
46 administrative, financial, and technical aspects of the
47 development, operation, and regulation of transportation systems
48 and facilities or comparable systems and facilities.

49 ~~(c)~~ The secretary shall provide to the Florida
50 Transportation Commission or its staff, ~~such assistance,~~
51 information, and documents as are requested by the commission or
52 its staff to enable the commission to fulfill its duties and
53 responsibilities.

54 ~~(d)~~ The secretary may appoint up to three assistant
55 secretaries who shall be directly responsible to the secretary
56 and who shall perform such duties as are assigned by the
57 secretary. The secretary shall designate to an assistant
58 secretary the duties related to enhancing economic prosperity,

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59 including, but not limited to, the responsibility of liaison
60 with the head of economic development in the Executive Office of
61 the Governor. Such assistant secretary shall be directly
62 responsible for providing the Executive Office of the Governor
63 with investment opportunities and transportation projects that
64 expand the state's role as a global hub for trade and investment
65 and enhance the supply chain system in the state to process,
66 assemble, and ship goods to markets throughout the eastern
67 United States, Canada, the Caribbean, and Latin America. The
68 secretary may delegate to any assistant secretary the authority
69 to act in the absence of the secretary.

70 (a) (e) The Any secretary appointed after July 5, 1989, and
71 the assistant secretaries are shall be exempt from the
72 provisions of part III of chapter 110 and shall receive
73 compensation commensurate with their qualifications and
74 competitive with compensation for comparable responsibility in
75 other public sector organizations and in the private sector.

76 (b) Upon this act becoming a law, the Florida
77 Transportation Commission shall establish and adjust the salary
78 of the secretary according to a market analysis focused on
79 comparably skilled individuals in other public sector
80 organizations, including, but not limited to, expressway
81 authorities, aviation authorities, and port authorities, and on
82 comparably skilled individuals in the private sector. The market
83 analysis shall serve as a basis for ascertaining compensation
84 levels required to retain the secretary in the position within
85 the department and to attract external individuals whose talents
86 can fulfill the department's mission and effect change. Such
87 market analysis shall be updated before the appointment of a new

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88 secretary. The salary of the secretary shall be a minimum of
89 \$180,000 per year.

90 Section 2. Subsections (2) and (7) of section 316.2397,
91 Florida Statutes, are amended to read:

92 316.2397 Certain lights prohibited; exceptions.—

93 (2) It is expressly prohibited for any vehicle or
94 equipment, ~~except police vehicles,~~ to show or display blue
95 lights, except that:

96 (a) Police vehicles may show or display blue lights.

97 (b) ~~However,~~ Vehicles owned, operated, or leased by the
98 Department of Corrections or any county correctional agency may
99 show or display blue lights when responding to emergencies.

100 (c) Construction vehicles within a work zone on roadways
101 with a posted speed limit of 55 miles per hour or more may show
102 or display flashing blue lights in conjunction with paving
103 operations or where a hazard exists.

104 (d) Portable radar speed display units in advance of a work
105 zone on roadways with a posted speed limit of 55 miles per hour
106 or more may show or display flashing red and blue lights when
107 workers are present.

108 (7) Flashing lights are prohibited on vehicles except:

109 (a) As a means of indicating a right or left turn, to
110 change lanes, or to indicate that the vehicle is lawfully
111 stopped or disabled upon the highway;

112 (b) When a motorist intermittently flashes his or her
113 vehicle's headlamps at an oncoming vehicle notwithstanding the
114 motorist's intent for doing so;

115 (c) During periods of extreme low visibility on roadways
116 with a posted speed limit of 55 miles per hour or more; and

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117 (d)~~(e)~~ For the lamps authorized under subsections ~~(1)~~, (2),
118 (3), (4), (5), and (9), s. 316.2065, or s. 316.235(6) which may
119 flash.

120 Section 3. Subsections (1) and (7) of section 337.14,
121 Florida Statutes, are amended to read:

122 337.14 Application for qualification; certificate of
123 qualification; restrictions; request for hearing.—

124 (1) Any contractor desiring to bid for the performance of
125 any construction contract in excess of \$250,000 which the
126 department proposes to let must first be certified by the
127 department as qualified pursuant to this section and rules of
128 the department. The rules of the department must address the
129 qualification of contractors to bid on construction contracts in
130 excess of \$250,000 and must include requirements with respect to
131 the equipment, past record, experience, financial resources, and
132 organizational personnel of the applying contractor which are
133 necessary to perform the specific class of work for which the
134 contractor seeks certification. Any contractor who desires to
135 bid on contracts in excess of \$50 million and is not qualified
136 and in good standing with the department as of January 1, 2019,
137 must first be certified by the department as qualified and
138 ~~desires to bid on contracts in excess of \$50 million~~ must have
139 satisfactorily completed two projects, each in excess of \$15
140 million, for the department or for any other state department of
141 transportation. The department may limit the dollar amount of
142 any contract upon which a contractor is qualified to bid or the
143 aggregate total dollar volume of contracts such contractor is
144 allowed to have under contract at any one time. Each applying
145 contractor seeking qualification to bid on construction

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146 contracts in excess of \$250,000 shall furnish the department a
147 statement under oath, on such forms as the department may
148 prescribe, setting forth detailed information as required on the
149 application. Each application for certification must be
150 accompanied by audited, certified financial statements prepared
151 in accordance with United States generally accepted accounting
152 principles and United States generally accepted auditing
153 standards by a certified public accountant licensed by this
154 state or another state ~~the latest annual financial statement of~~
155 ~~the applying contractor completed within the last 12 months. The~~
156 audited, certified financial statements must be for the applying
157 contractor specifically and must have been prepared within the
158 immediately preceding 12 months. The department may not consider
159 any financial information relating to the parent entity of the
160 applying contractor, if any. The department shall not certify as
161 qualified any applying contractor that fails to submit the
162 audited, certified financial statements required by this
163 subsection. If the application or the annual financial statement
164 shows the financial condition of the applying contractor more
165 than 4 months before ~~prior to~~ the date on which the application
166 is received by the department, the applying contractor must also
167 submit interim audited, certified financial statements prepared
168 in accordance with United States generally accepted accounting
169 principles and United States generally accepted auditing
170 standards by a certified public accountant licensed by this
171 state or another state ~~an interim financial statement and an~~
172 ~~updated application must be submitted.~~ The interim financial
173 statements ~~statement~~ must cover the period from the end date of
174 the annual statement and must show the financial condition of

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175 the applying contractor no more than 4 months before ~~prior to~~
176 the date that the interim financial statements are ~~statement is~~
177 received by the department. However, upon the request of the
178 applying contractor, an application and accompanying annual or
179 interim financial statements ~~statement~~ received by the
180 department within 15 days after either 4-month period under this
181 subsection shall be considered timely. ~~Each required annual or~~
182 ~~interim financial statement must be audited and accompanied by~~
183 ~~the opinion of a certified public accountant.~~ An applying
184 contractor desiring to bid exclusively for the performance of
185 construction contracts with proposed budget estimates of less
186 than \$1 million may submit reviewed annual or reviewed interim
187 financial statements prepared by a certified public accountant.
188 The information required by this subsection is confidential and
189 exempt from s. 119.07(1). The department shall act upon the
190 application for qualification within 30 days after the
191 department determines that the application is complete. The
192 department may waive the requirements of this subsection for
193 projects having a contract price of \$500,000 or less if the
194 department determines that the project is of a noncritical
195 nature and the waiver will not endanger public health, safety,
196 or property.

197 (7) A "contractor" as defined in s. 337.165(1)(d) or his or
198 her "affiliate" as defined in s. 337.165(1)(a) qualified with
199 the department under this section may not also qualify under s.
200 287.055 or s. 337.105 to provide testing services, construction,
201 engineering, and inspection services to the department. This
202 limitation does not apply to any design-build prequalification
203 under s. 337.11(7) and does not apply when the department

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204 otherwise determines by written order entered at least 30 days
205 before advertisement that the limitation is not in the best
206 interests of the public with respect to a particular contract
207 for testing services, construction, engineering, and inspection
208 services. This subsection does not authorize a contractor to
209 provide testing services, or provide construction, engineering,
210 and inspection services, to the department in connection with a
211 construction contract under which the contractor is performing
212 any work. Notwithstanding any other provision of law to the
213 contrary, for a project that is wholly or partially funded by
214 the department and administered by a local governmental entity,
215 except for a seaport listed in s. 311.09 or an airport listed in
216 s. 332.004, the entity performing design and construction
217 engineering and inspection services may not be the same entity.

218 Section 4. Subsection (2) of section 337.195, Florida
219 Statutes, is amended to read:

220 337.195 Limits on liability.—

221 (2) In all cases involving personal injury, property
222 damage, or death, a contractor who constructs, maintains, or
223 repairs a highway, road, street, bridge, or other transportation
224 facility for the Department of Transportation is not liable to a
225 claimant for personal injury, property damage, or death arising
226 from the performance of the construction, maintenance, or repair
227 if, at the time of the personal injury, property damage, or
228 death, the contractor was in compliance with contract documents
229 material to the condition that was the proximate cause of the
230 personal injury, property damage, or death.

231 (a) The limitation on liability contained in this
232 subsection applies when the contractor is deemed in compliance

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233 with the contract and the Department of Transportation
234 Contractor's Past Performance Rating (CPPR) indicates
235 conformance with the contract documents at the time of the
236 personal injury, property damage, or death.

237 (b) ~~(a)~~ The limitation on liability contained in this
238 subsection does not apply when the proximate cause of the
239 personal injury, property damage, or death is a latent
240 condition, defect, error, or omission that was created by the
241 contractor and not a defect, error, or omission in the contract
242 documents; or when the proximate cause of the personal injury,
243 property damage, or death was the contractor's failure to
244 perform, update, or comply with the maintenance of the traffic
245 safety plan as required by the contract documents.

246 (c) ~~(b)~~ Nothing in This subsection does not relieve ~~shall be~~
247 ~~interpreted or construed as relieving~~ the contractor of any
248 obligation to provide the Department of Transportation with
249 written notice of any apparent error or omission in the contract
250 documents.

251 (d) ~~(c)~~ Nothing in This subsection does not ~~shall be~~
252 ~~interpreted or construed to~~ alter or affect any claim of the
253 Department of Transportation against such contractor.

254 (e) ~~(d)~~ This subsection does not affect any claim of any
255 entity against such contractor, which claim is associated with
256 such entity's facilities on or in Department of Transportation
257 roads or other transportation facilities.

258 Section 5. Paragraph (b) of subsection (1) of section
259 338.155, Florida Statutes, is amended to read:

260 338.155 Payment of toll on toll facilities required;
261 exemptions.-

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(1)

(b) The Governor ~~secretary or the secretary's~~ designee may suspend the payment of tolls on a toll facility when necessary to assist in emergency evacuation. Such tolls shall automatically be reinstated when the county in which such tolls are collected resumes a Level 3 activation of the State Emergency Operations Center. The Governor may override the automatic reinstatement in extraordinary circumstances.

Section 6. This act shall take effect July 1, 2020.