

By Senator Albritton

26-00565A-19

20191044__

1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 20.23, F.S.; providing that the Department
4 of Transportation consists of a central office that
5 establishes policies and procedures and districts that
6 carry out certain projects; deleting the requirement
7 that the Governor appoint the Secretary of
8 Transportation from among three persons nominated by
9 the Florida Transportation Commission; providing
10 additional qualification requirements for the
11 secretary; amending s. 112.061, F.S.; requiring that
12 certain mileage be computed on the basis of the most
13 commonly used maps; amending s. 334.046, F.S.;
14 requiring certain preservation goals to include
15 ensuring that a specified percentage of the pavement
16 in each of the department's districts meet department
17 standards by a specified year; creating s. 334.179,
18 F.S.; prohibiting local governments from adopting
19 standards or specifications that are contrary to the
20 department standards or specifications for permissible
21 use of aggregates and materials that have been
22 certified for use; defining the term "certified for
23 use"; amending s. 337.14, F.S.; requiring any
24 contractor, instead of any person, desiring to bid for
25 the performance of certain construction contracts to
26 first be certified by the department as qualified;
27 conforming provisions to changes made by the act;
28 requiring a contractor desiring to bid on certain
29 contracts to have satisfactorily completed certain

26-00565A-19

20191044__

30 projects; amending s. 337.18, F.S.; requiring that a
31 certain schedule include a reduction of the daily
32 liquidated damage charges to certain costs when
33 traffic is in its final configuration and the project
34 is functional for its intended purpose; amending s.
35 337.185, F.S.; revising the maximum amounts per
36 contract of certain contractual claims that must be
37 arbitrated by the State Arbitration Board under
38 certain circumstances; amending s. 338.166, F.S.;
39 prohibiting the department from using toll revenue
40 from high-occupancy toll lanes or express lanes to
41 offset funding that the facilities would use if the
42 facilities were not high-occupancy toll lanes or
43 express lanes; amending s. 339.135, F.S.; requiring
44 the department to allocate a minimum specified
45 percentage of all transportation capacity funds, with
46 the exception of funds allocated for the transit
47 program and the surface transportation program
48 attributable to areas with certain populations, to the
49 Florida Strategic Intermodal System; amending s.
50 339.65, F.S.; requiring that priority for certain
51 facility improvements by the department be given to
52 correcting or improving certain sections of interstate
53 highway; requiring that project development and
54 environmental studies for a certain section of
55 interstate highway begin within a specified period;
56 providing an effective date.

57
58 Be It Enacted by the Legislature of the State of Florida:

26-00565A-19

20191044__

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

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

(1) (a) The Department of Transportation shall consist of:

1. A central office that establishes policies and procedures; and

2. Districts that carry out projects as authorized or required under the policies and procedures of the central office pursuant to paragraph (3) (a).

(b) The head of the Department of Transportation is the Secretary of Transportation. The secretary is ~~shall be~~ appointed by the Governor, ~~from among three persons nominated by the Florida Transportation Commission and shall be~~ subject to confirmation by the Senate. The secretary shall serve at the pleasure of the Governor.

(c) ~~(b)~~ The secretary must ~~shall~~ be a proven, effective administrator who, by a combination of education and experience, clearly possesses ~~shall clearly possess~~ a broad knowledge of the administrative, financial, and technical aspects of the development, operation, and regulation of transportation systems and facilities or comparable systems and facilities. The secretary must be a professional engineer licensed under chapter 471 or the laws of another state or, in lieu of such licensure, must hold an advanced degree in a related discipline, such as a Master of Business Administration, or have 10 years of relevant experience.

26-00565A-19

20191044__

88 (d) ~~(e)~~ The secretary shall provide to the Florida
89 Transportation Commission or its staff, such assistance,
90 information, and documents as are requested by the commission or
91 its staff to enable the commission to fulfill its duties and
92 responsibilities.

93 (e) ~~(d)~~ The secretary may appoint up to three assistant
94 secretaries ~~who shall be~~ directly responsible to the secretary
95 ~~and~~ who shall perform ~~such~~ duties ~~as are~~ assigned by the
96 secretary. The secretary shall designate to an assistant
97 secretary the duties related to enhancing economic prosperity,
98 including, but not limited to, the responsibility of liaising
99 ~~liaison~~ with the head of economic development in the Executive
100 Office of the Governor. This ~~Such~~ assistant secretary is ~~shall~~
101 ~~be~~ directly responsible for providing the Executive Office of
102 the Governor with investment opportunities and transportation
103 projects that expand the state's role as a global hub for trade
104 and investment and enhance the supply chain system in the state
105 to process, assemble, and ship goods to markets throughout the
106 eastern United States, Canada, the Caribbean, and Latin America.
107 The secretary may delegate to any assistant secretary the
108 authority to act in the absence of the secretary.

109 (f) ~~(e)~~ Any secretary appointed after July 5, 1989, and the
110 assistant secretaries are ~~shall be~~ exempt from ~~the provisions of~~
111 part III of chapter 110 and must ~~shall~~ receive compensation that
112 is commensurate with their qualifications and competitive with
113 compensation for comparable responsibility in the private
114 sector.

115 Section 2. Paragraph (d) of subsection (7) of section
116 112.061, Florida Statutes, is amended to read:

26-00565A-19

20191044__

117 112.061 Per diem and travel expenses of public officers,
118 employees, and authorized persons.—

119 (7) TRANSPORTATION.—

120 (d)1. The use of privately owned vehicles for official
121 travel in lieu of publicly owned vehicles or common carriers may
122 be authorized by the agency head or his or her designee.
123 Whenever travel is by privately owned vehicle:

124 a. A traveler shall be entitled to a mileage allowance at a
125 rate of 44.5 cents per mile; or

126 b. A traveler shall be entitled to the common carrier fare
127 for such travel if determined by the agency head to be more
128 economical.

129 2. Reimbursement for expenditures related to the operation,
130 maintenance, and ownership of a vehicle shall not be allowed
131 when privately owned vehicles are used on public business and
132 reimbursement is made pursuant to this paragraph, except as
133 provided in subsection (8).

134 3. All mileage shall be shown from point of origin to point
135 of destination and, when possible, shall be computed on the
136 basis of the most commonly used maps ~~current map of the~~
137 ~~Department of Transportation~~. Vicinity mileage necessary for the
138 conduct of official business is allowable but must be shown as a
139 separate item on the expense voucher.

140 Section 3. Paragraph (a) of subsection (4) of section
141 334.046, Florida Statutes, is amended to read:

142 334.046 Department mission, goals, and objectives.—

143 (4) At a minimum, the department's goals shall address the
144 following prevailing principles.

145 (a) *Preservation*.—Protecting the state's transportation

26-00565A-19

20191044__

146 infrastructure investment. Preservation includes:

147 1. Ensuring that 80 percent of the pavement on the State
148 Highway System meets department standards and, by the end of
149 fiscal year 2023, ensuring that 80 percent of the pavement in
150 each of the department's districts meets the department
151 standards;

152 2. Ensuring that 90 percent of department-maintained
153 bridges meets ~~meet~~ department standards; and

154 3. Ensuring that the department achieves 100 percent of the
155 acceptable maintenance standard on the state highway system.

156 Section 4. Section 334.179, Florida Statutes, is created to
157 read:

158 334.179 Department standards or specifications for
159 permissible use of aggregates and materials.—Notwithstanding any
160 law, rule, or ordinance to the contrary, a local government may
161 not adopt standards or specifications that are contrary to the
162 department standards or specifications for permissible use of
163 aggregates and materials that have been certified for use. For
164 purposes of this section, "certified for use" means that the
165 aggregates and materials have been approved for use by the
166 department through its certification program.

167 Section 5. Subsection (1) of section 337.14, Florida
168 Statutes, is amended to read:

169 337.14 Application for qualification; certificate of
170 qualification; restrictions; request for hearing.—

171 (1) Any contractor ~~person~~ desiring to bid for the
172 performance of any construction contract in excess of \$250,000
173 which the department proposes to let must first be certified by
174 the department as qualified pursuant to this section and rules

26-00565A-19

20191044__

175 of the department. The rules of the department must ~~shall~~
176 address the qualification of contractors ~~persons~~ to bid on
177 construction contracts in excess of \$250,000 and must ~~shall~~
178 include requirements with respect to the equipment, past record,
179 experience, financial resources, and organizational personnel of
180 the applying contractor which are ~~applicant~~ necessary to perform
181 the specific class of work for which the contractor ~~person~~ seeks
182 certification. Any contractor desiring to bid on contracts in
183 excess of \$50 million must have satisfactorily completed two
184 projects, each in excess of \$25 million, for the department or
185 for any other state department of transportation. The department
186 may limit the dollar amount of any contract upon which a
187 contractor ~~person~~ is qualified to bid or the aggregate total
188 dollar volume of contracts such contractor ~~person~~ is allowed to
189 have under contract at any one time. Each applying contractor
190 ~~applicant~~ seeking qualification to bid on construction contracts
191 in excess of \$250,000 shall furnish the department a statement
192 under oath, on such forms as the department may prescribe,
193 setting forth detailed information as required on the
194 application. Each application for certification must ~~shall~~ be
195 accompanied by the latest annual financial statement of the
196 applying contractor ~~applicant~~ completed within the last 12
197 months. If the application or the annual financial statement
198 shows the financial condition of the applying contractor
199 ~~applicant~~ more than 4 months prior to the date on which the
200 application is received by the department, ~~then~~ an interim
201 financial statement and an updated application must be submitted
202 ~~and be accompanied by an updated application.~~ The interim
203 financial statement must cover the period from the end date of

26-00565A-19

20191044__

204 the annual statement and must show the financial condition of
205 the applying contractor ~~applicant~~ no more than 4 months prior to
206 the date that the interim financial statement is received by the
207 department. However, upon the request of ~~by~~ the applying
208 contractor ~~applicant~~, an application and accompanying annual or
209 interim financial statement received by the department within 15
210 days after either 4-month period under this subsection shall be
211 considered timely. Each required annual or interim financial
212 statement must be audited and accompanied by the opinion of a
213 certified public accountant. An applying contractor ~~applicant~~
214 desiring to bid exclusively for the performance of construction
215 contracts with proposed budget estimates of less than \$1 million
216 may submit reviewed annual or reviewed interim financial
217 statements prepared by a certified public accountant. The
218 information required by this subsection is confidential and
219 exempt from ~~the provisions of~~ s. 119.07(1). The department shall
220 act upon the application for qualification within 30 days after
221 the department determines that the application is complete. The
222 department may waive the requirements of this subsection for
223 projects having a contract price of \$500,000 or less if the
224 department determines that the project is of a noncritical
225 nature and the waiver will not endanger public health, safety,
226 or property.

227 Section 6. Subsection (2) of section 337.18, Florida
228 Statutes, is amended to read:

229 337.18 Surety bonds for construction or maintenance
230 contracts; requirement with respect to contract award; bond
231 requirements; defaults; damage assessments.—

232 (2) The department shall provide in its contracts for the

26-00565A-19

20191044__

233 determination of default on the part of any contractor for cause
234 attributable to such contractor. The department shall have no
235 liability for anticipated profits for unfinished work on a
236 contract which has been determined to be in default. Every
237 contract let by the department for the performance of work must
238 ~~shall~~ contain a provision for payment to the department by the
239 contractor of liquidated damages due to failure of the
240 contractor to complete the contract work within the time
241 stipulated in the contract or within such additional time as may
242 have been granted by the department. The contractual provision
243 must ~~shall~~ include a reasonable estimate of the damages that
244 would be incurred by the department as a result of such failure.
245 The department shall establish a schedule of daily liquidated
246 damage charges, based on original contract amounts, for
247 construction contracts entered into by the department, which
248 schedule must ~~shall~~ be incorporated by reference into the
249 contract. The schedule shall include a reduction of the daily
250 liquidated damage charges to construction engineering and
251 inspection costs when traffic is in its final configuration and
252 the project is functional for its intended purpose. The
253 department shall update the schedule of liquidated damages at
254 least once every 2 years, but no more often than once a year.
255 The schedule must ~~shall~~, at a minimum, be based on the average
256 construction, engineering, and inspection costs experienced by
257 the department on contracts over the 2 preceding fiscal years.
258 The schedule must ~~shall~~ also include anticipated costs of
259 project-related delays and inconveniences to the department and
260 traveling public. Anticipated costs may include, but are not
261 limited to, road user costs, a portion of the projected revenues

26-00565A-19

20191044__

262 that will be lost due to failure to timely open a project to
263 revenue-producing traffic, costs resulting from retaining
264 detours for an extended time, and other similar costs. Any such
265 liquidated damages paid to the department must ~~shall~~ be
266 deposited to the credit of the fund from which payment for the
267 work contracted was authorized.

268 Section 7. Subsection (1) of section 337.185, Florida
269 Statutes, is amended to read:

270 337.185 State Arbitration Board.—

271 (1) To facilitate the prompt settlement of claims for
272 additional compensation arising out of construction and
273 maintenance contracts between the department and the various
274 contractors with whom it transacts business, the Legislature
275 does hereby establish the State Arbitration Board, referred to
276 in this section as the "board." For the purpose of this section,
277 the term "claim" means the aggregate of all outstanding claims
278 by a party arising out of a construction or maintenance
279 contract. Every contractual claim in an amount up to \$250,000
280 per contract or, at the claimant's option, up to \$1 million
281 ~~\$500,000~~ per contract or, upon agreement of the parties, up to
282 \$2 million ~~\$1 million~~ per contract which ~~that~~ cannot be resolved
283 by negotiation between the department and the contractor must
284 ~~shall~~ be arbitrated by the board after acceptance of the project
285 by the department. As an exception, either party to the dispute
286 may request that the claim be submitted to binding private
287 arbitration. A court of law may not consider the settlement of
288 such a claim until the process established by this section has
289 been exhausted.

290 Section 8. Present subsections (5), (6), and (7) of section

26-00565A-19

20191044__

291 338.166, Florida Statutes, are renumbered as subsections (6),
292 (7), and (8), respectively, and a new subsection (5) is added to
293 that section, to read:

294 338.166 High-occupancy toll lanes or express lanes.—

295 (5) The department may not use toll revenue from the high-
296 occupancy toll lanes or express lanes to offset funding that the
297 facilities would use if the facilities were not high-occupancy
298 toll lanes or express lanes.

299 Section 9. Paragraph (a) of subsection (4) of section
300 339.135, Florida Statutes, is amended to read:

301 339.135 Work program; legislative budget request;
302 definitions; preparation, adoption, execution, and amendment.—

303 (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

304 (a)1. To assure that no district or county is penalized for
305 local efforts to improve the State Highway System, the
306 department shall, for the purpose of developing a tentative work
307 program, allocate funds for new construction to the districts,
308 except for the turnpike enterprise, based on equal parts of
309 population and motor fuel tax collections. Funds for
310 resurfacing, bridge repair and rehabilitation, bridge fender
311 system construction or repair, public transit projects except
312 public transit block grants as provided in s. 341.052, and other
313 programs with quantitative needs assessments shall be allocated
314 based on the results of these assessments. The department may
315 not transfer any funds allocated to a district under this
316 paragraph to any other district except as provided in subsection
317 (7). Funds for public transit block grants shall be allocated to
318 the districts pursuant to s. 341.052. Funds for the intercity
319 bus program provided for under s. 5311(f) of the federal

26-00565A-19

20191044__

320 nonurbanized area formula program shall be administered and
321 allocated directly to eligible bus carriers as defined in s.
322 341.031(12) at the state level rather than the district. In
323 order to provide state funding to support the intercity bus
324 program provided for under provisions of the federal 5311(f)
325 program, the department shall allocate an amount equal to the
326 federal share of the 5311(f) program from amounts calculated
327 pursuant to s. 206.46(3).

328 2. Notwithstanding the provisions of subparagraph 1., the
329 department shall allocate at least 75 ~~50~~ percent of all
330 transportation capacity funds, with the exception of funds
331 allocated for the transit program and the surface transportation
332 program attributable to areas with populations over 200,000, any
333 ~~new discretionary highway capacity funds~~ to the Florida
334 Strategic Intermodal System created pursuant to s. 339.61. Any
335 remaining ~~new discretionary~~ highway capacity funds shall be
336 allocated to the districts for new construction as provided in
337 subparagraph 1. ~~For the purposes of this subparagraph, the term~~
338 ~~"new discretionary highway capacity funds" means any funds~~
339 ~~available to the department above the prior year funding level~~
340 ~~for capacity improvements, which the department has the~~
341 ~~discretion to allocate to highway projects.~~

342 Section 10. Paragraph (a) of subsection (3) of section
343 339.65, Florida Statutes, is amended to read:

344 339.65 Strategic Intermodal System highway corridors.—

345 (3) The department shall adhere to the following policy
346 guidelines in the development of Strategic Intermodal System
347 highway corridors. The department shall:

348 (a) Make capacity improvements to existing facilities where

26-00565A-19

20191044__

349 feasible to minimize costs and environmental impacts. Priority
350 must be given to correcting or improving sections of interstate
351 highway that experience unusually high accident rates. For a
352 section of interstate highway that experiences high levels of
353 both recurring and non-recurring congestion and in which non-
354 recurring congestion accounts for more than 75 percent of the
355 total congestion of the section, project development and
356 environmental studies must begin within 3 years after an
357 analysis of the section is complete.

358 Section 11. This act shall take effect July 1, 2019.