

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. 119.071,
7 F.S.; revising the time period during which sealed
8 bids, proposals, or replies received by the department
9 pursuant to a competitive solicitation are exempt from
10 public records requirements; amending s. 316.2397,
11 F.S.; authorizing certain vehicles to show or display
12 certain lights under certain circumstances; amending
13 s. 337.14, F.S.; requiring certain contractors to be
14 certified by the department as qualified; revising the
15 financial statements required to accompany an
16 application for certification; prohibiting the
17 department from considering certain financial
18 information; requiring the contractor to submit
19 interim financial statements under certain
20 circumstances; providing requirements for such
21 statements; amending s. 337.195, F.S.; specifying
22 conditions under which limitation on liability of the
23 department for personal injury, property damage, or
24 death applies; amending s. 338.155, F.S.; authorizing
25 the Governor to suspend payment of tolls when

26 necessary to assist emergency evacuation; providing
27 for automatic reinstatement of tolls; authorizing the
28 Governor to override the automatic reinstatement in
29 extraordinary circumstances; providing an effective
30 date.

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

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

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

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

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

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

56 ~~(d)~~ The secretary may appoint up to three assistant
57 secretaries who shall be directly responsible to the secretary
58 and who shall perform such duties as are assigned by the
59 secretary. The secretary shall designate to an assistant
60 secretary the duties related to enhancing economic prosperity,
61 including, but not limited to, the responsibility of liaison
62 with the head of economic development in the Executive Office of
63 the Governor. Such assistant secretary shall be directly
64 responsible for providing the Executive Office of the Governor
65 with investment opportunities and transportation projects that
66 expand the state's role as a global hub for trade and investment
67 and enhance the supply chain system in the state to process,
68 assemble, and ship goods to markets throughout the eastern
69 United States, Canada, the Caribbean, and Latin America. The
70 secretary may delegate to any assistant secretary the authority
71 to act in the absence of the secretary.

72 (a)~~(e)~~ The Any secretary ~~appointed after July 5, 1989,~~ and
73 the assistant secretaries are ~~shall be~~ exempt from ~~the~~
74 ~~provisions of~~ part III of chapter 110 and shall receive
75 compensation commensurate with their qualifications and

76 competitive with compensation for comparable responsibility in
 77 other public sector organizations and in the private sector.

78 (b) Upon this act becoming a law, the Florida
 79 Transportation Commission shall establish and adjust the salary
 80 of the secretary according to a market analysis focused on
 81 comparably skilled individuals in other public sector
 82 organizations, including, but not limited to, expressway
 83 authorities, aviation authorities, and port authorities, and on
 84 comparably skilled individuals in the private sector. The market
 85 analysis shall serve as a basis for ascertaining compensation
 86 levels required to retain the secretary in the position within
 87 the department and to attract external individuals whose talents
 88 can fulfill the department's mission and effect change. Such
 89 market analysis shall be updated before the appointment of a new
 90 secretary. The salary of the secretary shall be a minimum of
 91 \$180,000 per year.

92 Section 2. Paragraph (b) of subsection (1) of section
 93 119.071, Florida Statutes, is amended to read:

94 119.071 General exemptions from inspection or copying of
 95 public records.—

96 (1) AGENCY ADMINISTRATION.—

97 (b)1. For purposes of this paragraph, "competitive
 98 solicitation" means the process of requesting and receiving
 99 sealed bids, proposals, or replies in accordance with the terms
 100 of a competitive process, regardless of the method of

101 procurement.

102 2. Sealed bids, proposals, or replies received by an
 103 agency pursuant to a competitive solicitation are exempt from s.
 104 119.07(1) and s. 24(a), Art. I of the State Constitution until
 105 such time as the agency provides notice of an intended decision
 106 or until 30 days, or 90 days for a competitive solicitation
 107 under s. 337.11, after opening the bids, proposals, or final
 108 replies, whichever is earlier.

109 3. If an agency rejects all bids, proposals, or replies
 110 submitted in response to a competitive solicitation and the
 111 agency concurrently provides notice of its intent to reissue the
 112 competitive solicitation, the rejected bids, proposals, or
 113 replies remain exempt from s. 119.07(1) and s. 24(a), Art. I of
 114 the State Constitution until such time as the agency provides
 115 notice of an intended decision concerning the reissued
 116 competitive solicitation or until the agency withdraws the
 117 reissued competitive solicitation. A bid, proposal, or reply is
 118 not exempt for longer than 12 months after the initial agency
 119 notice rejecting all bids, proposals, or replies.

120 Section 3. Subsections (2) and (7) of section 316.2397,
 121 Florida Statutes, are amended to read:

122 316.2397 Certain lights prohibited; exceptions.—

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

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

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

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

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

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

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

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

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

147 (d) ~~(e)~~ For the lamps authorized under subsections ~~(1)~~,
 148 (2), (3), (4), (5), and (9), s. 316.2065, or s. 316.235(6) which
 149 may flash.

150 Section 4. Subsection (1) of section 337.14, Florida

151 Statutes, is amended to read:

152 337.14 Application for qualification; certificate of
153 qualification; restrictions; request for hearing.—

154 (1) Any contractor desiring to bid for the performance of
155 any construction contract in excess of \$250,000 which the
156 department proposes to let must first be certified by the
157 department as qualified pursuant to this section and rules of
158 the department. The rules of the department must address the
159 qualification of contractors to bid on construction contracts in
160 excess of \$250,000 and must include requirements with respect to
161 the equipment, past record, experience, financial resources, and
162 organizational personnel of the applying contractor which are
163 necessary to perform the specific class of work for which the
164 contractor seeks certification. Any contractor who desires to
165 bid on contracts in excess of \$50 million and is not qualified
166 and in good standing with the department as of January 1, 2019,
167 must first be certified by the department as qualified and
168 ~~desires to bid on contracts in excess of \$50 million~~ must have
169 satisfactorily completed two projects, each in excess of \$15
170 million, for the department or for any other state department of
171 transportation. The department may limit the dollar amount of
172 any contract upon which a contractor is qualified to bid or the
173 aggregate total dollar volume of contracts such contractor is
174 allowed to have under contract at any one time. Each applying
175 contractor seeking qualification to bid on construction

176 contracts in excess of \$250,000 shall furnish the department a
177 statement under oath, on such forms as the department may
178 prescribe, setting forth detailed information as required on the
179 application. Each application for certification must be
180 accompanied by audited, certified financial statements prepared
181 in accordance with United States generally accepted accounting
182 principles and United States generally accepted auditing
183 standards by a certified public accountant licensed by this
184 state or another state ~~the latest annual financial statement of~~
185 ~~the applying contractor completed within the last 12 months.~~ The
186 audited, certified financial statements must be for the applying
187 contractor specifically and must have been prepared within the
188 immediately preceding 12 months. The department may not consider
189 any financial information relating to the parent entity of the
190 applying contractor, if any. The department shall not certify as
191 qualified any applying contractor that fails to submit the
192 audited, certified financial statements required by this
193 subsection. If the application or the annual financial statement
194 shows the financial condition of the applying contractor more
195 than 4 months before ~~prior to~~ the date on which the application
196 is received by the department, the applying contractor must also
197 submit interim audited, certified financial statements prepared
198 in accordance with United States generally accepted accounting
199 principles and United States generally accepted auditing
200 standards by a certified public accountant licensed by this

201 state or another state ~~an interim financial statement and an~~
202 ~~updated application must be submitted.~~ The interim financial
203 statements ~~statement~~ must cover the period from the end date of
204 the annual statement and must show the financial condition of
205 the applying contractor no more than 4 months before ~~prior to~~
206 the date that the interim financial statements are ~~statement is~~
207 received by the department. However, upon the request of the
208 applying contractor, an application and accompanying annual or
209 interim financial statements ~~statement~~ received by the
210 department within 15 days after either 4-month period under this
211 subsection shall be considered timely. ~~Each required annual or~~
212 ~~interim financial statement must be audited and accompanied by~~
213 ~~the opinion of a certified public accountant.~~ An applying
214 contractor desiring to bid exclusively for the performance of
215 construction contracts with proposed budget estimates of less
216 than \$1 million may submit reviewed annual or reviewed interim
217 financial statements prepared by a certified public accountant.
218 The information required by this subsection is confidential and
219 exempt from s. 119.07(1). The department shall act upon the
220 application for qualification within 30 days after the
221 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 5. Subsection (2) of section 337.195, Florida
228 | Statutes, is amended to read:

229 | 337.195 Limits on liability.—

230 | (2) In all cases involving personal injury, property
231 | damage, or death, a contractor who constructs, maintains, or
232 | repairs a highway, road, street, bridge, or other transportation
233 | facility for the Department of Transportation is not liable to a
234 | claimant for personal injury, property damage, or death arising
235 | from the performance of the construction, maintenance, or repair
236 | if, at the time of the personal injury, property damage, or
237 | death, the contractor was in compliance with contract documents
238 | material to the condition that was the proximate cause of the
239 | personal injury, property damage, or death.

240 | (a) The limitation on liability contained in this
241 | subsection applies when the contractor is deemed in compliance
242 | with the contract and the Department of Transportation
243 | Contractor's Past Performance Rating (CPPR) indicates
244 | conformance with the contract documents at the time of the
245 | personal injury, property damage, or death.

246 | (b)-(a) The limitation on liability contained in this
247 | subsection does not apply when the proximate cause of the
248 | personal injury, property damage, or death is a latent
249 | condition, defect, error, or omission that was created by the
250 | contractor and not a defect, error, or omission in the contract

251 documents; or when the proximate cause of the personal injury,
252 property damage, or death was the contractor's failure to
253 perform, update, or comply with the maintenance of the traffic
254 safety plan as required by the contract documents.

255 ~~(c)(b) Nothing in This subsection does not relieve shall~~
256 ~~be interpreted or construed as relieving~~ the contractor of any
257 obligation to provide the Department of Transportation with
258 written notice of any apparent error or omission in the contract
259 documents.

260 ~~(d)(e) Nothing in This subsection does not shall be~~
261 ~~interpreted or construed to~~ alter or affect any claim of the
262 Department of Transportation against such contractor.

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

267 Section 6. Paragraph (b) of subsection (1) of section
268 338.155, Florida Statutes, is amended to read:

269 338.155 Payment of toll on toll facilities required;
270 exemptions.—

271 (1)

272 (b) The Governor ~~secretary or the secretary's~~ designee may
273 suspend the payment of tolls on a toll facility when necessary
274 to assist in emergency evacuation. Such tolls shall
275 automatically be reinstated when the county in which such tolls

276 | are collected resumes a Level 3 activation of the State
277 | Emergency Operations Center. The Governor may override the
278 | automatic reinstatement in extraordinary circumstances.

279 | Section 7. This act shall take effect July 1, 2020.