

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Tourism, Infrastructure &
2 Energy Subcommittee

3 Representative Andrade offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 287.05705, Florida Statutes, is created
8 to read:

9 287.05705 Procurements of road, bridge, and other
10 specified public construction services.-

11 (1) With respect to competitive solicitations for the
12 procurement of contractual services that are limited to the
13 classes of work for which the Department of Transportation
14 issues certificates of qualification pursuant to s. 337.14,
15 which services do not involve the construction, remodeling,
16 repair, or improvement of any building, a governmental entity

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

17 procuring such services may not prohibit a response from a
18 vendor possessing a valid certificate of qualification under s.
19 337.14 or license under chapter 489 corresponding to the
20 contractual services being procured.

21 (2) This section applies to all competitive solicitations
22 issued by a governmental entity on or after October 1, 2021.

23 Section 2. Paragraph (b) of subsection (56) of section
24 316.003, Florida Statutes, is amended to read:

25 316.003 Definitions.—The following words and phrases, when
26 used in this chapter, shall have the meanings respectively
27 ascribed to them in this section, except where the context
28 otherwise requires:

29 (56) PERSONAL DELIVERY DEVICE.—An electrically powered
30 device that:

31 (b) Weighs less than 550 ~~80~~ pounds, excluding cargo;

32
33 A personal delivery device is not considered a vehicle unless
34 expressly defined by law as a vehicle. A mobile carrier is not
35 considered a personal delivery device.

36 Section 3. Subsection (10) of section 316.2397, Florida
37 Statutes, is renumbered as subsection (12), subsections (2) and
38 (7) are amended, and new subsections (10) and (11) are added to
39 that section, to read:

40 316.2397 Certain lights prohibited; exceptions.—

41 (2) It is expressly prohibited for any vehicle or

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

42 equipment, except police vehicles and road construction
43 equipment specified in subsections (10) and (11), to show or
44 display blue lights. However, vehicles owned, operated, or
45 leased by the Department of Corrections or any county
46 correctional agency may show or display blue lights when
47 responding to emergencies.

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

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

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

55 (c) During periods of extreme low visibility on roadways
56 with a posted speed limit of 55 mph or higher; and

57 (d) ~~(e)~~ For the lamps authorized under subsections (1),
58 (2), (3), (4), and (9), s. 316.2065, or s. 316.235(6) which may
59 flash.

60 (10) Paving machines or compaction rollers within a work
61 zone area on roadways with a posted speed limit of 55 mph or
62 higher may show or display flashing blue lights while performing
63 paving operations or where a hazard exists.

64 (11) Under the direction of a law enforcement officer,
65 portable radar speed display units in advance of a work zone
66 area on roadways with a posted speed limit of 55 mph or higher

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

67 may show or display flashing red and blue lights when workers
68 are present.

69 Section 4. Section 337.025, Florida Statutes, is amended
70 to read:

71 337.025 Innovative transportation projects; department to
72 establish program.—

73 (1) The department may establish a program for
74 transportation projects demonstrating innovative techniques of
75 highway and bridge design, construction, maintenance, and
76 finance which have the intended effect of measuring resiliency
77 and structural integrity and controlling time and cost increases
78 on construction projects. Such techniques may include, but are
79 not limited to, state-of-the-art technology for pavement,
80 safety, and other aspects of highway and bridge design,
81 construction, and maintenance; innovative bidding and financing
82 techniques; accelerated construction procedures; and those
83 techniques that have the potential to reduce project life cycle
84 costs. To the maximum extent practical, the department must use
85 the existing process to award and administer construction and
86 maintenance contracts. When specific innovative techniques are
87 to be used, the department is not required to adhere to those
88 provisions of law that would prevent, preclude, or in any way
89 prohibit the department from using the innovative technique.
90 However, before using an innovative technique that is
91 inconsistent with another provision of law, the department must

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

92 document in writing the need for the exception and identify what
93 benefits the traveling public and the affected community are
94 anticipated to receive. The department may enter into no more
95 than \$120 million in contracts annually for the purposes
96 authorized by this section.

97 (2) The annual cap on contracts provided in subsection (1)
98 does ~~shall~~ not apply to:

99 (a) Turnpike enterprise projects, ~~and turnpike enterprise~~
100 ~~projects shall not be counted toward the department's annual~~
101 ~~cap.~~

102 (b) Low-bid design-build milling and resurfacing contracts
103 ~~Transportation projects funded by the American Recovery and~~
104 ~~Reinvestment Act of 2009.~~

105 Section 5. Subsections (1), (4), and (7) of section
106 337.14, Florida Statutes, are amended to read:

107 337.14 Application for qualification; certificate of
108 qualification; restrictions; request for hearing.—

109 (1) Any contractor desiring to bid for the performance of
110 any construction contract in excess of \$250,000 which the
111 department proposes to let must first be certified by the
112 department as qualified pursuant to this section and rules of
113 the department. The rules of the department must address the
114 qualification of contractors to bid on construction contracts in
115 excess of \$250,000 and must include requirements with respect to
116 the equipment, past record, experience, financial resources, and

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

117 organizational personnel of the applying contractor which are
118 necessary to perform the specific class of work for which the
119 contractor seeks certification. Any contractor who desires to
120 bid on contracts in excess of \$50 million and who is not
121 qualified and in good standing with the department as of January
122 1, 2019, must first be certified by the department as qualified
123 ~~and desires to bid on contracts in excess of \$50 million~~ must
124 have satisfactorily completed two projects, each in excess of
125 \$15 million, for the department or for any other state
126 department of transportation. The department may limit the
127 dollar amount of any contract upon which a contractor is
128 qualified to bid or the aggregate total dollar volume of
129 contracts such contractor is allowed to have under contract at
130 any one time. Each applying contractor seeking qualification to
131 bid on construction contracts in excess of \$250,000 shall
132 furnish the department a statement under oath, on such forms as
133 the department may prescribe, setting forth detailed information
134 as required on the application. Each application for
135 certification must be accompanied by audited, certified
136 financial statements prepared in accordance with generally
137 accepted accounting principles and auditing standards by a
138 certified public accountant licensed in this state or another
139 state. The audited, certified financial statements must be for
140 the applying contractor and must have been prepared ~~the latest~~
141 ~~annual financial statement of the applying contractor completed~~

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

142 within the immediately preceding last 12 months. The department
143 may not consider any financial information of the parent entity
144 of the applying contractor, if any. The department may not
145 certify as qualified any applying contractor that fails to
146 submit the audited, certified financial statements required by
147 this subsection. If the application or the annual financial
148 statement shows the financial condition of the applying
149 contractor more than 4 months before ~~prior to~~ the date on which
150 the application is received by the department, a reviewed
151 interim financial statement or an interim audited, certified
152 financial statement prepared in accordance with generally
153 accepted accounting principles and auditing standards by a
154 certified public accountant licensed in this state or another
155 state may be requested by the department ~~statement and an~~
156 ~~updated application must be submitted.~~ The interim financial
157 statements, if requested, ~~statement~~ must cover the period from
158 the end date of the annual statement and must show the financial
159 condition of the applying contractor no more than 4 months
160 before ~~prior to~~ the date that the interim financial statements
161 are ~~statement is~~ received by the department. However, upon the
162 request of the applying contractor, an application and
163 accompanying annual or interim financial statement received by
164 the department within 15 days after either 4-month period under
165 this subsection shall be considered timely. ~~Each required annual~~
166 ~~or interim financial statement must be audited and accompanied~~

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

167 ~~by the opinion of a certified public accountant.~~ An applying
168 contractor desiring to bid exclusively for the performance of
169 construction contracts with proposed budget estimates of less
170 than \$1 million may submit reviewed annual or reviewed interim
171 financial statements prepared by a certified public accountant.
172 The information required by this subsection is confidential and
173 exempt from s. 119.07(1). The department shall act upon the
174 application for qualification within 30 days after the
175 department determines that the application is complete. The
176 department may waive the requirements of this subsection for
177 projects having a contract price of \$500,000 or less if the
178 department determines that the project is of a noncritical
179 nature and the waiver will not endanger public health, safety,
180 or property.

181 (4) If the applicant is found to possess the prescribed
182 qualifications, the department shall issue to him or her a
183 certificate of qualification that, unless thereafter revoked by
184 the department for good cause, will be valid for a period of 18
185 months after the date of the applicant's financial statement or
186 such shorter period as the department prescribes. Submission of
187 an application and subsequent approval do ~~shall~~ not affect
188 expiration of the certificate of qualification, the ability
189 factor of the applicant, or the maximum capacity rating of the
190 applicant. If the department finds that an application is
191 incomplete or contains inadequate information or information

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

192 that cannot be verified, the department may request in writing
193 that the applicant provide the necessary information to complete
194 the application or provide the source from which any information
195 in the application may be verified. If the applicant fails to
196 comply with the initial written request within a reasonable
197 period of time as specified therein, the department shall
198 request the information a second time. If the applicant fails to
199 comply with the second request within a reasonable period of
200 time as specified therein, the application shall be denied.

201 (7) A "contractor" as defined in s. 337.165(1)(d) or his
202 or her "affiliate" as defined in s. 337.165(1)(a) qualified with
203 the department under this section may not also qualify under s.
204 287.055 or s. 337.105 to provide testing services, construction,
205 engineering, and inspection services to the department. This
206 limitation does not apply to any design-build prequalification
207 under s. 337.11(7) and does not apply when the department
208 otherwise determines by written order entered at least 30 days
209 before advertisement that the limitation is not in the best
210 interests of the public with respect to a particular contract
211 for testing services, construction, engineering, and inspection
212 services. This subsection does not authorize a contractor to
213 provide testing services, or provide construction, engineering,
214 and inspection services, to the department in connection with a
215 construction contract under which the contractor is performing
216 any work. Notwithstanding any other provision of law to the

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

217 contrary, for a project that is wholly or partially funded by
218 the department and administered by a local governmental entity,
219 except for a seaport listed in s. 311.09 or an airport as
220 defined in s. 332.004, the entity performing design and
221 construction engineering and inspection services may not be the
222 same entity.

223 Section 6. Section 337.185, Florida Statutes, is amended
224 to read:

225 (Substantial rewording of section. See
226 s. 337.185, F.S., for present text.)
227 337.185 State Arbitration Board.-

228 (1) To facilitate the prompt resolution of claims arising
229 out of or in connection with a construction or maintenance
230 contract with the department, the Legislature has established
231 the State Arbitration Board, referred to in this section as the
232 "board."

233 (2) As used in this section, the term:

234 (a) "Claim" means the aggregate of all outstanding written
235 requests for additional monetary compensation, time, or other
236 adjustments to the contract, the entitlement or impact of which
237 is disputed with the department and could not be resolved by
238 negotiations between the department and the contractor.

239 (b) "Contractor" means a person or firm having a contract
240 for rendering services to the department relating to the
241 construction or maintenance of a transportation facility.

212831 - h0057-strike.docx

Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

242 (c) "Final acceptance" means that the contractor has
243 completely performed the work provided for under the contract,
244 the department or its agent has determined that the contractor
245 has satisfactorily completed the work provided for under the
246 contract, and the department or its agent has submitted written
247 notice of final acceptance to the contractor.

248 (3) Every claim in an amount of up to \$250,000 per
249 contract that could not be resolved by negotiations between the
250 department and the contractor shall be arbitrated by the board.
251 An award issued by the board pursuant to this subsection is
252 final and enforceable by a court of competent jurisdiction.

253 (4) The contractor may submit a claim greater than
254 \$250,000 up to \$1 million per contract or, upon agreement of the
255 parties, up to \$2 million per contract to be arbitrated by the
256 board. An award issued by the board pursuant to this subsection
257 is final if a request for a trial de novo is not filed within
258 the time provided by Rule 1.830, Florida Rules of Civil
259 Procedure. At the trial de novo, the court may not admit
260 evidence that there has been an arbitration proceeding, the
261 nature or amount of the award, or any other matter concerning
262 the conduct of the arbitration proceeding, except that testimony
263 given at an arbitration hearing may be used for any purpose
264 otherwise permitted by the Florida Evidence Code. If a request
265 for trial de novo is not filed within the time provided, the
266 award issued by the board is final and enforceable by a court of

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

267 competent jurisdiction.

268 (5) An arbitration request may not be made to the board
269 before final acceptance but must be made to the board within 820
270 days after final acceptance.

271 (6) The board shall schedule a hearing within 45 days
272 after an arbitration request and, if possible, shall conduct the
273 hearing within 90 days after the request. The board may
274 administer oaths and conduct the proceedings as provided by the
275 Florida Rules of Civil Procedure and the Florida Evidence Code.
276 The hearing may be conducted informally. Presentation of
277 testimony and evidence shall be kept to a minimum, and matters
278 shall be presented to the board primarily through the statements
279 and arguments of counsel. The board shall address the scope of
280 discovery, presentation of testimony, and evidence at a
281 preliminary hearing by considering the size, subject matter, and
282 complexity of the dispute. Any party to the arbitration may
283 petition the board, for good cause shown, to issue subpoenas for
284 the attendance of witnesses and the production of books,
285 records, documents, and other evidence at the arbitration and
286 may petition the board for orders compelling such attendance and
287 production at the arbitration. Subpoenas shall be served and are
288 enforceable in the manner provided in the Florida Rules of Civil
289 Procedure.

290 (7) The board must issue an award within 45 days after the
291 conclusion of the arbitration hearing. If all three members of

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

292 the board do not agree, the award agreed to by the majority of
293 the board shall constitute the award of the board.

294 (8) The board shall be composed of three members. The
295 first member shall be appointed by the Secretary of
296 Transportation, and the second member shall be elected by those
297 construction or maintenance companies that are under contract
298 with the department. The third member shall be chosen by
299 agreement of the first and second members. If the first or
300 second member has a conflict of interest regarding affiliation
301 with one of the parties to an arbitration hearing, the
302 appointing entity shall appoint an alternate member for that
303 hearing. If the third member has such a conflict of interest,
304 the first and second members shall select an alternate member.
305 Each member shall serve a 4-year term. The board shall elect a
306 chair for each term, who shall be the administrator of the board
307 and custodian of its records.

308 (9) The presence of all board members is required to
309 conduct a meeting either in person or by means of communications
310 media technology used in accordance with rules adopted by the
311 Administration Commission under s. 120.54(5).

312 (10) The members of the board may receive compensation for
313 the performance of their duties from deposits made by the
314 parties based on an estimate of compensation by the board,
315 except that no employee of the department may receive
316 compensation from the board. All deposits shall be held in

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

317 escrow in advance of the hearing. Each member eligible for
318 compensation shall be compensated at a rate of \$200 per hour, up
319 to a maximum of \$1,500 per day. Members of the board are
320 entitled to receive per diem and travel expenses pursuant to s.
321 112.061. The board may allocate funds annually for clerical and
322 other administrative services.

323 (11) To cover the cost of administration and initial
324 compensation of the board, the party requesting arbitration
325 shall pay a filing fee to the board, according to a schedule
326 established by the board, of:

327 (a) Up to \$500 for a claim that is \$25,000 or less.

328 (b) Up to \$1,000 for a claim that is more than \$25,000 but
329 is \$50,000 or less.

330 (c) Up to \$1,500 for a claim that is more than \$50,000 but
331 is \$100,000 or less.

332 (d) Up to \$2,000 for a claim that is more than \$100,000
333 but is \$200,000 or less.

334 (e) Up to \$3,000 for a claim that is more than \$200,000
335 but is \$300,000 or less.

336 (f) Up to \$4,000 for a claim that is more than \$300,000
337 but is \$400,000 or less.

338 (g) Up to \$5,000 for a claim that is more than \$400,000.

339
340 The board may apportion the filing fees and the cost of
341 recording and preparing a transcript of the hearing among the

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

342 parties in its award.

343 Section 7. Subsections (3) through (19) of section
344 378.403, Florida Statutes, are renumbered as subsections (4)
345 through (20), respectively, and a new subsection (3) is added to
346 that section to read:

347 378.403 Definitions.—As used in this part, the term:

348 (3) "Borrow pit" means an area of land upon which
349 excavation of surface resources has been conducted, is being
350 conducted, or is planned to be conducted, as the term is
351 commonly used in the trade, and is not considered a mine. Such
352 resources are limited to soil, organic soil, sand, or clay that
353 can be removed with construction excavating equipment and loaded
354 on a haul truck with no additional processing.

355 Section 8. Section 378.801, Florida Statutes, is amended
356 to read:

357 378.801 Other resources; notice of intent to extract ~~mine~~
358 required.—

359 (1) An ~~No~~ operator may not begin the operation of a borrow
360 pit, or the process of extracting clay, peat, gravel, sand, or
361 any other solid substance of commercial value found in natural
362 deposits or in the earth, except fuller's earth clay, heavy
363 minerals, limestone, or phosphate, which are regulated elsewhere
364 in this chapter, at a new location ~~mine~~ without notifying the
365 secretary of the intention to extract ~~mine~~.

366 (2) The operator's notice of intent to extract ~~mine~~ shall

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

367 consist of the operator's estimated life of the extraction
368 location ~~mine~~ and the operator's signed acknowledgment of the
369 performance standards provided by s. 378.803.

370 Section 9. Section 378.802, Florida Statutes, is amended
371 to read:

372 378.802 Existing extraction locations ~~mines~~.—After January
373 1, 1989, all operators of existing locations ~~mines~~ for the
374 extraction of resources as described in s. 378.801 shall meet
375 the performance standards provided by s. 378.803 for any new
376 surface area disturbed at such locations ~~mines~~.

377 Section 10. This act shall take effect July 1, 2021.
378

379

T I T L E A M E N D M E N T

381 Remove everything before the enacting clause and insert:
382 An act relating to transportation; creating s. 287.05705, F.S.;
383 providing that governmental entities may not prohibit certain
384 vendors from responding to competitive solicitations of certain
385 contractual services; providing applicability; amending s.
386 316.003, F.S.; revising the definition of the term "personal
387 delivery device"; amending s. 316.2397, F.S.; revising
388 provisions authorizing certain equipment to show or display
389 flashing lights; amending s. 337.025, F.S.; revising the
390 application of the cap on innovative transportation projects;
391 amending s. 337.14, F.S.; requiring contractors wishing to bid

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Published On: 2/16/2021 3:41:38 PM

Amendment No. 1

392 on certain contracts to first be certified by the Department of
393 Transportation as qualified; revising requirements for applying
394 for and issuing a certificate of qualification; revising
395 provisions regarding interim financial statements; providing
396 construction with respect to submission and approval of an
397 application for such certificate; exempting airports from
398 certain restrictions regarding entities performing construction,
399 engineering, and inspection services; amending s. 337.185, F.S.;
400 revising and providing definitions; revising requirements for
401 arbitration of certain contracts by the State Arbitration Board;
402 revising requirements regarding arbitration requests, hearings,
403 procedures, and awards; revising membership and meeting
404 requirements; revising compensation of board members; amending
405 s. 378.403, F.S.; defining the term "borrow pit"; amending s.
406 378.801, F.S.; prohibiting operation of a borrow pit at a new
407 location without notifying the Secretary of Environmental
408 Protection of the intent to extract; conforming provisions;
409 amending s. 378.802, F.S.; revising application of provisions to
410 exclude existing mines; providing an effective date.