

1 A bill to be entitled
2 An act relating to transportation; amending s. 212.08,
3 F.S.; reducing motor vehicle sales tax for certain
4 fiscal years; creating s. 287.05705, F.S.; providing
5 that certain governmental entities may not prohibit
6 certain vendors from responding to competitive
7 solicitations of certain contractual services;
8 providing applicability; amending s. 316.003, F.S.;
9 revising the definition of the term "personal delivery
10 device"; amending s. 316.2397, F.S.; revising
11 provisions authorizing vehicles to show or display
12 flashing lights; amending s. 337.025, F.S.; revising
13 the type of transportation project contracts that are
14 subject to an annual cap; revising application of such
15 cap; amending s. 337.14, F.S.; requiring contractors
16 wishing to bid on certain contracts to first be
17 certified by the Department of Transportation as
18 qualified; revising requirements for applying for and
19 issuing a certificate of qualification; providing
20 construction with respect to submission and approval
21 of an application for such certificate; exempting
22 airports from certain restrictions regarding entities
23 performing engineering and inspection services;
24 amending s. 337.185, F.S.; revising and providing
25 definitions; revising requirements for arbitration of

26 | certain contracts by the State Arbitration Board;
 27 | revising requirements regarding arbitration requests,
 28 | hearings, procedures, and awards; revising membership
 29 | and meeting requirements; revising compensation of
 30 | board members; amending s. 378.403, F.S.; defining the
 31 | term "borrow pit"; amending s. 378.801, F.S.;
 32 | prohibiting operation of a borrow pit at a new
 33 | location without notifying the Secretary of
 34 | Environmental Protection of the intent to extract;
 35 | conforming provisions; amending s. 378.802, F.S.;
 36 | revising application of provisions to exclude existing
 37 | mines; providing an effective date.

38 |

39 | Be It Enacted by the Legislature of the State of Florida:

40 |

41 | Section 1. Paragraph (ppp) is added to subsection (7) of
 42 | section 212.08, Florida Statutes, to read:

43 | 212.08 Sales, rental, use, consumption, distribution, and
 44 | storage tax; specified exemptions.—The sale at retail, the
 45 | rental, the use, the consumption, the distribution, and the
 46 | storage to be used or consumed in this state of the following
 47 | are hereby specifically exempt from the tax imposed by this
 48 | chapter.

49 | (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
 50 | entity by this chapter do not inure to any transaction that is

51 otherwise taxable under this chapter when payment is made by a
 52 representative or employee of the entity by any means,
 53 including, but not limited to, cash, check, or credit card, even
 54 when that representative or employee is subsequently reimbursed
 55 by the entity. In addition, exemptions provided to any entity by
 56 this subsection do not inure to any transaction that is
 57 otherwise taxable under this chapter unless the entity has
 58 obtained a sales tax exemption certificate from the department
 59 or the entity obtains or provides other documentation as
 60 required by the department. Eligible purchases or leases made
 61 with such a certificate must be in strict compliance with this
 62 subsection and departmental rules, and any person who makes an
 63 exempt purchase with a certificate that is not in strict
 64 compliance with this subsection and the rules is liable for and
 65 shall pay the tax. The department may adopt rules to administer
 66 this subsection.

67 (ppp) Motor vehicle sales tax for specified fiscal years.-
 68 For fiscal years 2021-2022 and 2022-2023, after calculating the
 69 sales tax imposed by this chapter on the sale of a motor
 70 vehicle, the amount due shall be reduced by \$50.

71 Section 2. Section 287.05705, Florida Statutes, is created
 72 to read:

73 287.05705 Procurements of road, bridge, and other
 74 specified public construction services.-

75 (1) With respect to competitive solicitations for the

76 procurement of contractual services that are limited to the
 77 classes of work for which the Department of Transportation
 78 issues certificates of qualification pursuant to s. 337.14,
 79 which services do not involve the construction, remodeling,
 80 repair, or improvement of any building, a local or regional
 81 governmental entity procuring such services may not prohibit a
 82 response from a vendor possessing a valid certificate of
 83 qualification under s. 337.14 or license under chapter 489
 84 corresponding to the contractual services being procured.

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

87 Section 3. Paragraph (b) of subsection (56) of section
 88 316.003, Florida Statutes, is amended to read:

89 316.003 Definitions.—The following words and phrases, when
 90 used in this chapter, shall have the meanings respectively
 91 ascribed to them in this section, except where the context
 92 otherwise requires:

93 (56) PERSONAL DELIVERY DEVICE.—An electrically powered
 94 device that:

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

96
 97 A personal delivery device is not considered a vehicle unless
 98 expressly defined by law as a vehicle. A mobile carrier is not
 99 considered a personal delivery device.

100 Section 4. Subsection (10) of section 316.2397, Florida

101 Statutes, is renumbered as subsection (12), subsections (2) and
 102 (7) are amended, and new subsections (10) and (11) are added to
 103 that section, to read:

104 316.2397 Certain lights prohibited; exceptions.—

105 (2) It is expressly prohibited for any vehicle or
 106 equipment, except police vehicles and vehicles and equipment
 107 specified in subsections (10) and (11), to show or display blue
 108 lights. However, vehicles owned, operated, or leased by the
 109 Department of Corrections or any county correctional agency may
 110 show or display blue lights when responding to emergencies.

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

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

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

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

120 (d) ~~(e)~~ For the lamps authorized under subsections (1),
 121 (2), (3), (4), and (9), s. 316.2065, or s. 316.235(6) which may
 122 flash.

123 (10) Construction vehicles within a work zone on roadways
 124 with a posted speed limit of 55 mph or higher may show or
 125 display flashing blue lights while performing paving operations

126 | or where a hazard exists.

127 | (11) Under the direction of a law enforcement officer,
128 | portable radar speed display units in advance of a work zone on
129 | roadways with a posted speed limit of 55 mph or higher may show
130 | or display flashing red and blue lights when workers are
131 | present.

132 | Section 5. Section 337.025, Florida Statutes, is amended
133 | to read:

134 | 337.025 Innovative transportation projects; department to
135 | establish program.—

136 | (1) The department may establish a program for
137 | transportation projects demonstrating innovative techniques of
138 | highway and bridge design, construction, maintenance, and
139 | finance which have the intended effect of measuring resiliency
140 | and structural integrity and controlling time and cost increases
141 | on construction projects. Such techniques may include, but are
142 | not limited to, state-of-the-art technology for pavement,
143 | safety, and other aspects of highway and bridge design,
144 | construction, and maintenance; innovative bidding and financing
145 | techniques; accelerated construction procedures; and those
146 | techniques that have the potential to reduce project life cycle
147 | costs. To the maximum extent practical, the department must use
148 | the existing process to award and administer construction and
149 | maintenance contracts. When specific innovative techniques are
150 | to be used, the department is not required to adhere to those

151 provisions of law that would prevent, preclude, or in any way
152 prohibit the department from using the innovative technique.
153 However, before using an innovative technique that is
154 inconsistent with another provision of law, the department must
155 document in writing the need for the exception and identify what
156 benefits the traveling public and the affected community are
157 anticipated to receive. The department may enter into no more
158 than \$120 million in design-build contracts awarded annually
159 pursuant to s. 337.11(7) for the purposes authorized by this
160 section.

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

163 (a) Turnpike enterprise projects, ~~and turnpike enterprise~~
164 ~~projects shall not be counted toward the department's annual~~
165 ~~cap.~~

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

169 Section 6. Subsections (1), (4), and (7) of section
170 337.14, Florida Statutes, are amended to read:

171 337.14 Application for qualification; certificate of
172 qualification; restrictions; request for hearing.—

173 (1) Any contractor desiring to bid for the performance of
174 any construction contract in excess of \$250,000 which the
175 department proposes to let must first be certified by the

176 department as qualified pursuant to this section and rules of
177 the department. The rules of the department must address the
178 qualification of contractors to bid on construction contracts in
179 excess of \$250,000 and must include requirements with respect to
180 the equipment, past record, experience, financial resources, and
181 organizational personnel of the applying contractor which are
182 necessary to perform the specific class of work for which the
183 contractor seeks certification. Any contractor who desires to
184 bid on contracts in excess of \$50 million and who is not
185 qualified and in good standing with the department as of January
186 1, 2019, must first be certified by the department as qualified
187 ~~and desires to bid on contracts in excess of \$50 million~~ must
188 have satisfactorily completed two projects, each in excess of
189 \$15 million, for the department or for any other state
190 department of transportation. The department may limit the
191 dollar amount of any contract upon which a contractor is
192 qualified to bid or the aggregate total dollar volume of
193 contracts such contractor is allowed to have under contract at
194 any one time. Each applying contractor seeking qualification to
195 bid on construction contracts in excess of \$250,000 shall
196 furnish the department a statement under oath, on such forms as
197 the department may prescribe, setting forth detailed information
198 as required on the application. Each application for
199 certification must be accompanied by audited, certified
200 financial statements prepared in accordance with generally

201 accepted accounting principles and auditing standards by a
202 certified public accountant licensed in this state or another
203 state. The audited, certified financial statements must be for
204 the applying contractor and must have been prepared ~~the latest~~
205 ~~annual financial statement of the applying contractor completed~~
206 within the immediately preceding ~~last~~ 12 months. The department
207 may not consider any financial information of the parent entity
208 of the applying contractor, if any. The department may not
209 certify as qualified any applying contractor that fails to
210 submit the audited, certified financial statements required by
211 this subsection. If the application or the annual financial
212 statement shows the financial condition of the applying
213 contractor more than 4 months before ~~prior to~~ the date on which
214 the application is received by the department, the applicant
215 must also submit an interim audited, certified financial
216 statements prepared in accordance with generally accepted
217 accounting principles and auditing standards by a certified
218 public accountant licensed in this state or another state
219 ~~statement and an updated application must be submitted.~~ The
220 interim financial statements ~~statement~~ must cover the period
221 from the end date of the annual statement and must show the
222 financial condition of the applying contractor no more than 4
223 months before ~~prior to~~ the date that the interim financial
224 statements are ~~statement is~~ received by the department. However,
225 upon the request of the applying contractor, an application and

226 accompanying annual or interim financial statement received by
227 the department within 15 days after either 4-month period under
228 this subsection shall be considered timely. ~~Each required annual~~
229 ~~or interim financial statement must be audited and accompanied~~
230 ~~by the opinion of a certified public accountant.~~ An applying
231 contractor desiring to bid exclusively for the performance of
232 construction contracts with proposed budget estimates of less
233 than \$1 million may submit reviewed annual or reviewed interim
234 financial statements prepared by a certified public accountant.
235 The information required by this subsection is confidential and
236 exempt from s. 119.07(1). The department shall act upon the
237 application for qualification within 30 days after the
238 department determines that the application is complete. The
239 department may waive the requirements of this subsection for
240 projects having a contract price of \$500,000 or less if the
241 department determines that the project is of a noncritical
242 nature and the waiver will not endanger public health, safety,
243 or property.

244 (4) If the applicant is found to possess the prescribed
245 qualifications, the department shall issue to him or her a
246 certificate of qualification that, unless thereafter revoked by
247 the department for good cause, will be valid for a period of 18
248 months after the date of the applicant's financial statement or
249 such shorter period as the department prescribes. Submission of
250 an application and subsequent approval do ~~shall~~ not affect

251 expiration of the certificate of qualification, the ability
252 factor of the project, or the maximum capacity rating of the
253 project. If the department finds that an application is
254 incomplete or contains inadequate information or information
255 that cannot be verified, the department may request in writing
256 that the applicant provide the necessary information to complete
257 the application or provide the source from which any information
258 in the application may be verified. If the applicant fails to
259 comply with the initial written request within a reasonable
260 period of time as specified therein, the department shall
261 request the information a second time. If the applicant fails to
262 comply with the second request within a reasonable period of
263 time as specified therein, the application shall be denied.

264 (7) A "contractor" as defined in s. 337.165(1)(d) or his
265 or her "affiliate" as defined in s. 337.165(1)(a) qualified with
266 the department under this section may not also qualify under s.
267 287.055 or s. 337.105 to provide testing services, construction,
268 engineering, and inspection services to the department. This
269 limitation does not apply to any design-build prequalification
270 under s. 337.11(7) and does not apply when the department
271 otherwise determines by written order entered at least 30 days
272 before advertisement that the limitation is not in the best
273 interests of the public with respect to a particular contract
274 for testing services, construction, engineering, and inspection
275 services. This subsection does not authorize a contractor to

276 provide testing services, or provide construction, engineering,
277 and inspection services, to the department in connection with a
278 construction contract under which the contractor is performing
279 any work. Notwithstanding any other provision of law to the
280 contrary, for a project that is wholly or partially funded by
281 the department and administered by a local governmental entity,
282 except for a seaport listed in s. 311.09 or an airport as
283 defined in s. 332.004, the entity performing design and
284 construction engineering and inspection services may not be the
285 same entity.

286 Section 7. Section 337.185, Florida Statutes, is amended
287 to read:

288 (Substantial rewording of section. See
289 s. 337.185, F.S., for present text.)

290 337.185 State Arbitration Board.—

291 (1) To facilitate the prompt resolution of claims arising
292 out of or in connection with a construction or maintenance
293 contract with the department, the Legislature has established
294 the State Arbitration Board, referred to in this section as the
295 "board."

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

297 (a) "Claim" means the aggregate of all outstanding written
298 requests for additional monetary compensation, time, or other
299 adjustments to the contract, the entitlement or impact of which
300 is disputed by the department.

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

304 (c) "Final acceptance" means that the contractor has
305 completely performed the work provided for under the contract,
306 the department or its agent has determined that the contractor
307 has satisfactorily completed the work provided for under the
308 contract, and the department or its agent has submitted written
309 notice of final acceptance to the contractor.

310 (3) Every claim in an amount of up to \$250,000 per
311 contract will be arbitrated by the board. An award issued by the
312 board pursuant to this section is final and enforceable by a
313 court of law.

314 (4) The contractor may submit a claim greater than
315 \$250,000 up to \$1 million per contract or, upon agreement of the
316 parties, up to \$2 million per contract to be arbitrated by the
317 board. An award issued by the board pursuant to this subsection
318 is final if a request for a trial de novo is not filed within
319 the time provided by Rule 1.830, Florida Rules of Civil
320 Procedure. At the trial de novo, the court may not admit
321 evidence that there has been an arbitration proceeding, the
322 nature or amount of the award, or any other matter concerning
323 the conduct of the arbitration proceeding, except that testimony
324 given at an arbitration hearing may be used for any purpose
325 otherwise permitted by the Florida Evidence Code. If a request

326 for trial de novo is not filed within the time provided, the
327 award issued by the board is final and enforceable by a court of
328 law.

329 (5) An arbitration request may not be made to the board
330 before final acceptance but must be made to the board within 820
331 days after final acceptance.

332 (6) The board shall schedule a hearing within 45 days
333 after an arbitration request and, if possible, shall conduct the
334 hearing within 90 days after the request. The board may
335 administer oaths and conduct the proceedings as provided by the
336 rules of the court. The hearing shall be conducted informally.
337 Presentation of testimony and evidence shall be kept to a
338 minimum, and matters shall be presented to the arbitrators
339 primarily through the statements and arguments of counsel. The
340 board shall address the scope of discovery, presentation of
341 testimony, and evidence at a preliminary hearing by considering
342 the size, subject matter, and complexity of the dispute. Any
343 party to the arbitration may petition the board, for good cause
344 shown, to issue subpoenas for the attendance of witnesses and
345 the production of books, records, documents, and other evidence
346 at the arbitration and may petition the board for orders
347 compelling such attendance and production at the arbitration.
348 Subpoenas shall be served and are enforceable in the manner
349 provided by law.

350 (7) The board must issue an award within 45 days after the

351 conclusion of the arbitration hearing. If all three members of
352 the board do not agree, the award agreed to by the majority
353 shall constitute the award of the board.

354 (8) The board shall be composed of three members. The
355 first member shall be appointed by the Secretary of
356 Transportation, and the second member shall be elected by those
357 construction or maintenance companies that are under contract
358 with the department. The third member shall be chosen by
359 agreement of the first and second members. If the first or
360 second member has a conflict of interest regarding affiliation
361 with one of the parties to an arbitration hearing, the
362 appointing entity shall appoint an alternate member for that
363 hearing. If the third member has such a conflict of interest,
364 the first and second members shall select an alternate member.
365 Each member shall serve a 4-year term. The board shall elect a
366 chair for each term, who shall be the administrator of the board
367 and custodian of its records.

368 (9) The presence of all board members is required to
369 conduct a meeting in person or via virtual videoconferencing.

370 (10) The members of the board shall receive compensation
371 for the performance of their duties from deposits made by the
372 parties based on an estimate of compensation by the board. All
373 deposits will be held in escrow by the chair in advance of the
374 hearing. Each member eligible for compensation shall be
375 compensated at \$200 per hour, up to a maximum of \$1,500 per day.

376 A member shall be reimbursed for the actual cost of his or her
 377 travel expenses. The board may allocate funds annually for
 378 clerical and other administrative services.

379 (11) To cover the cost of administration and initial
 380 compensation of the board, the party requesting arbitration
 381 shall pay a filing fee to the board, according to a schedule
 382 established by the board, of:

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

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

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

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

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

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

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

395
 396 The board may apportion the filing fees and the cost of
 397 recording and preparing a transcript of the hearing among the
 398 parties in its award.

399 Section 8. Subsections (3) through (19) of section
 400 378.403, Florida Statutes, are renumbered as subsections (4)

401 through (20), respectively, and a new subsection (3) is added to
402 that section to read:

403 378.403 Definitions.—As used in this part, the term:

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

411 Section 9. Section 378.801, Florida Statutes, is amended
412 to read:

413 378.801 Other resources; notice of intent to extract ~~mine~~
414 required.—

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

422 (2) The operator's notice of intent to extract ~~mine~~ shall
423 consist of the operator's estimated life of the extraction
424 location ~~mine~~ and the operator's signed acknowledgment of the
425 performance standards provided by s. 378.803.

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426 Section 10. Section 378.802, Florida Statutes, is amended
427 to read:

428 378.802 Existing extraction locations ~~mines~~.—After January
429 1, 1989, all operators of existing locations ~~mines~~ for the
430 extraction of resources as described in s. 378.801 shall meet
431 the performance standards provided by s. 378.803 for any new
432 surface area disturbed at such locations ~~mines~~.

433 Section 11. This act shall take effect July 1, 2021.