Florida Senate - 2008

Bill No. CS/CS/HB 1399, 2nd Eng.



	CHAMBER ACTION
	Senate . House
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1	Senator Dockery moved the following amendment:
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3	Senate Amendment (with title amendment)
4	Delete line(s) 2254-2874
5	and insert:
6	(a) Contract with the freight rail operator or its
7	successors, from whom the department has acquired a real property
8	interest in the rail corridor, to establish that each party is
9	solely responsible for any liability, cost, or expense it causes,
10	including, but not limited to, commuter rail passengers, rail
11	corridor invitees, or trespassers in the rail corridor.
12	(b) Purchase liability insurance which amount shall not
13	exceed \$200 million and establish a self-insurance retention fund
14	for the purpose of paying the deductible limit established in the
15	insurance policies it may obtain, including coverage for the
16	department, any freight rail operator as described in paragraph
17	(a), commuter rail service providers, governmental entities, or



18	ancillary development; however, the insureds shall pay a
19	reasonable monetary contribution to the cost of such liability
20	coverage for the sole benefit of the insured. Such insurance and
21	self-insurance retention fund may provide coverage for all
22	damages, including, but not limited to, compensatory, special,
23	and exemplary, and be maintained to provide an adequate fund to
24	cover claims and liabilities for loss, injury, or damage arising
25	out of or connected with the ownership, operation, maintenance,
26	and management of a rail corridor.
27	(c) Incur expenses for the purchase of advertisements,
28	marketing, and promotional items.
29	
30	Neither the assumption by contract to protect, defend, indemnify,
31	and hold harmless; the purchase of insurance; nor the
32	establishment of a self-insurance retention fund shall be deemed
33	to be a waiver of any defense of sovereign immunity for torts nor
34	deemed to increase the limits of the department's or the
35	governmental entity's liability for torts as provided in s.
36	768.28. The requirements of s. 287.022(1) shall not apply to the
37	purchase of any insurance hereunder. The provisions of this
38	subsection shall apply and inure fully as to any other
39	governmental entity providing commuter rail service and
40	constructing, operating, maintaining, or managing a rail corridor
41	on publicly owned right-of-way under contract by the governmental
42	entity with the department or a governmental entity designated by
43	the department.
44	(19) (17) Exercise such other functions, powers, and duties
45	in connection with the rail system plan as are necessary to

46 develop a safe, efficient, and effective statewide transportation 47 system.

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48	Section 37. Section 341.3023, Florida Statutes, is created
49	to read:
50	341.3023 Commuter rail programs and intercity rail
51	transportation system study
52	(1) The department shall undertake a comprehensive review
53	and study of commuter railroad programs and intercity railroad
54	transportation system plans and their impacts in the state
55	through 2028.
56	(2) The review and study shall encompass and include
57	information concerning:
58	(a) Commuter rail programs and intercity rail
59	transportation system facility and improvement needs and plans,
60	including those associated with connectivity to such facilities
61	and improvements, outlined or contained in, without limitation
62	thereto, the current Florida Transportation Plan developed
63	pursuant to s. 339.155(1); regional transportation plans
64	developed pursuant to s. 339.155(5); the Strategic Intermodal
65	System Plan developed pursuant to s. 339.64; the adopted work
66	plan developed pursuant to s. 339.135; long-range transportation
67	plans developed pursuant to s. 339.175(7); transportation
68	improvement plans of relevant metropolitan planning organizations
69	developed pursuant to s. 339.175(8); plans, information, and
70	studies prepared for or by the authorities created in parts I,
71	II, III, and V of chapter 343; relevant studies and information
72	previously prepared by the department and the Transportation
73	Commission; and the transportation and capital improvement
74	elements of relevant approved local government comprehensive
75	plans.
76	(b) A detailed review of funding in the state for commuter
77	rail programs and intercity rail transportation system



78	improvements, projects, facilities, equipment, rights-of-way,
79	operating costs, and other costs during the previous 20 years
80	from state, federal, and local government sources.
81	(c) An assessment of the impacts of commuter rail programs
82	and intercity rail transportation system improvements, projects,
83	and facilities that have been undertaken in the state during the
84	previous 20 years and their impact on the state, regional, and
85	local transportation system and Florida's economic development.
86	(d) Proposed commuter rail programs and intercity rail
87	transportation system improvements, projects, and facilities
88	throughout the state to be undertaken during the next 20 years,
89	including, based upon the best available, existing data, a
90	detailed listing of specific projects with estimates of the costs
91	of each specific project; projected timelines for such
92	improvements, projects, and facilities; and the estimated
93	priority of each such improvement, project, and facility.
94	(e) A map of those proposed improvements, projects, and
95	facilities.
96	(f) A finance plan based upon reasonable projections of
97	anticipated revenues available to the department and units of
98	local government, including both 10-year and 20-year cost-
99	feasible components, for such improvements, projects, and
100	facilities that demonstrates how or what portion of such
101	improvements, projects, and facilities can be implemented.
102	(g) A feasibility study of the best alternatives for
103	implementing intercity passenger railroad service between the
104	Tampa Bay region and the greater Orlando area.
105	(h) A proposed prioritization process, including
106	alternatives, for commuter railroad and intercity railroad
107	improvements, projects, and facilities.
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108	(i) Funding alternatives for commuter rail programs and
109	intercity rail transportation system improvements, projects, and
110	facilities including specific resources, both public and private,
111	that are reasonably expected to be available to accomplish such
112	improvements, projects, and facilities and any innovative
113	financing techniques that might be used to fund such
114	improvements, projects, and facilities.
115	(3) The report shall also include detailed information and
116	findings about negative impacts caused by current, or projected
117	to be caused by proposed, commuter rail programs and intercity
118	rail transportation system projects or freight railroad traffic
119	in urban areas of the state. For the purpose of this section,
120	"negative impacts" means those caused by noise, vibration, and
121	vehicular traffic congestion and delays occurring at rail and
122	road intersections. "Urban areas" means those areas within or
123	adjacent to a municipality generally characterized by high
124	density development and building patterns, greater concentration
125	of population, and a high level and concentration of public
126	services and facilities. The Orlando commuter rail project means
127	the Central Florida Rail Corridor, a line of railroad between
128	Deland and Poinciana. The report shall include, without
129	limitation:
130	(a) Options and alternatives for eliminating negative
131	impacts associated with increased freight railroad traffic and
132	freight railroad congestions within urban areas resulting from
133	commuter rail programs or intercity rail transportation system
134	improvements, projects, and facilities, including specifically
135	those associated with the Orlando commuter railroad project.
136	(b) Proposed freight railroad improvements, projects, and
137	facilities to be undertaken in the next 20 years, including those
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138	associated with the Orlando commuter railroad project, to
139	eliminate such negative impacts, including, based upon the best
140	available, existing data, a detailed listing of specific projects
141	with estimates of the costs of each specific improvement,
142	project, and facility; projected timelines for such improvements,
143	projects, and facilities; the estimated priority of each such
144	improvement, project, and facility; and the benefits to public
145	safety, economic development, and downtown development and
146	redevelopment from such improvements, projects, and facilities.
147	(c) A map of those proposed improvements, projects, and
148	facilities.
149	(d) A finance plan based upon reasonable projections of
150	anticipated revenues available to the department and units of
151	local government, including both 10-year and 20-year cost-
152	feasible components, for such improvements, projects, and
153	facilities that demonstrates how or what portion of such
154	improvements, projects, and facilities can be implemented, as it
155	is the intent of the Legislature and the public policy of the
156	state that such negative impacts of commuter rail programs, and
157	intercity rail transportation system projects funded by the
158	state, including those associated with the Orlando commuter
159	railroad project, be eliminated not later than 8 years after
160	commuter rail programs and intercity rail transportation system
161	projects begin operation.
162	(4) The report containing the information required pursuant
163	to subsections (1), (2), and (3) shall be delivered to the
164	Governor, the President of the Senate, the Speaker of the House
165	of Representatives, and the leaders of the minority parties of
166	the Senate and House of Representatives on or before January 15,
167	2009.

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168	Section 38. Part III of chapter 343, Florida Statutes,
169	consisting of sections 343.71, 343.72, 343.73, 343.74, 343.75,
170	343.76, and 343.77, is repealed.
171	Section 39. Subsection (4) of section 348.0003, Florida
172	Statutes, is amended to read:
173	348.0003 Expressway authority; formation; membership
174	(4)(a) An authority may employ an executive secretary, an
175	executive director, its own counsel and legal staff, technical
176	experts, and such engineers and employees, permanent or
177	temporary, as it may require and shall determine the
178	qualifications and fix the compensation of such persons, firms,
179	or corporations. An authority may employ a fiscal agent or
180	agents; however, the authority must solicit sealed proposals from
181	at least three persons, firms, or corporations for the
182	performance of any services as fiscal agents. An authority may
183	delegate to one or more of its agents or employees such of its
184	power as it deems necessary to carry out the purposes of the
185	Florida Expressway Authority Act, subject always to the
186	supervision and control of the authority. Members of an authority
187	may be removed from office by the Governor for misconduct,
188	malfeasance, misfeasance, or nonfeasance in office.
100	

(b) Members of an authority are entitled to receive from
the authority their travel and other necessary expenses incurred
in connection with the business of the authority as provided in
s. 112.061, but they may not draw salaries or other compensation.

(c) Members of <u>each expressway</u> an authority, transportation
 authority, bridge authority, or toll authority, created pursuant
 to this chapter, chapter 343, or chapter 349, or pursuant to any
 <u>other legislative enactment</u>, shall be required to comply with the
 applicable financial disclosure requirements of s. 8, Art. II of



198	the State Constitution. This subsection does not subject a
199	statutorily created expressway authority, transportation
200	
200	authority, bridge authority, or toll authority, other than one
	created under this part, to any of the requirements of this part
202	other than those contained in this subsection.
203	Section 40. Paragraph (c) is added to subsection (1) of
204	section 348.0004, Florida Statutes, to read:
205	348.0004 Purposes and powers
206	(1)
207	(c) Notwithstanding any other provision of law, expressway
208	authorities created under parts I-X of chapter 348 may index toll
209	rates on toll facilities to the annual Consumer Price Index or
210	similar inflation indicators. Once a toll rate index has been
211	implemented pursuant to this paragraph, the toll rate index shall
212	remain in place and may not be revoked. Toll rate index for
213	inflation under this subsection must be adopted and approved by
214	the expressway authority board at a public meeting and may be
215	made no more frequently than once a year and must be made no less
216	frequently than once every 5 years as necessary to accommodate
217	cash toll rate schedules. Toll rates may be increased beyond
218	these limits as directed by bond documents, covenants, or
219	governing body authorization or pursuant to department
220	administrative rule.
221	Section 41. Subsection (1) of section 479.01, Florida
222	Statutes, is amended to read:
223	479.01 DefinitionsAs used in this chapter, the term:
224	(1) "Automatic changeable facing" means a facing that which
225	through a mechanical system is capable of delivering two or more
226	advertising messages <u>through an automated or remotely controlled</u>



227 process and shall not rotate so rapidly as to cause distraction 228 to a motorist.

229 Section 42. Subsections (1), (5), and (9) of section 230 479.07, Florida Statutes, are amended to read:

479.07 Sign permits.--

231

232 (1) Except as provided in ss. 479.105(1)(e) and 479.16, a 233 person may not erect, operate, use, or maintain, or cause to be 234 erected, operated, used, or maintained, any sign on the State 235 Highway System outside an urban incorporated area, as defined in 236 s. 334.03(32), or on any portion of the interstate or federal-aid 237 primary highway system without first obtaining a permit for the 238 sign from the department and paying the annual fee as provided in this section. For purposes of this section, "on any portion of 239 240 the State Highway System, interstate, or federal-aid primary 241 system" shall mean a sign located within the controlled area 242 which is visible from any portion of the main-traveled way of 243 such system.

(5) (a) For each permit issued, the department shall furnish 244 to the applicant a serially numbered permanent metal permit tag. 245 The permittee is responsible for maintaining a valid permit tag 246 247 on each permitted sign facing at all times. The tag shall be securely attached to the sign facing or, if there is no facing, 248 on the pole nearest the highway; and it shall be attached in such 249 a manner as to be plainly visible from the main-traveled way. 250 251 Effective July 1, 2011, the tag shall be securely attached to the 252 upper 50 percent of the pole nearest the highway and shall be 253 attached in such a manner as to be plainly visible from the main-254 traveled way. The permit will become void unless the permit tag is properly and permanently displayed at the permitted site 255 256 within 30 days after the date of permit issuance. If the

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257 permittee fails to erect a completed sign on the permitted site 258 within 270 days after the date on which the permit was issued, 259 the permit will be void, and the department may not issue a new 260 permit to that permittee for the same location for 270 days after 261 the date on which the permit became void.

262 (b) If a permit tag is lost, stolen, or destroyed, the 263 permittee to whom the tag was issued may must apply to the 264 department for a replacement tag. The department shall establish 265 by rule a service fee for replacement tags in an amount that will 266 recover the actual cost of providing the replacement tag. Upon receipt of the application accompanied by the a service fee of 267 268 \$3, the department shall issue a replacement permit tag. Alternatively, the permittee may provide its own replacement tag 269 270 pursuant to department specifications which the department shall 271 establish by rule at the time it establishes the service fee for 272 replacement tags.

(9) (a) A permit shall not be granted for any sign for which
a permit had not been granted by the effective date of this act
unless such sign is located at least:

One thousand five hundred feet from any other permitted
 sign on the same side of the highway, if on an interstate
 highway.

279 2. One thousand feet from any other permitted sign on the 280 same side of the highway, if on a federal-aid primary highway.

The minimum spacing provided in this paragraph does not preclude the permitting of V-type, back-to-back, side-to-side, stacked, or double-faced signs at the permitted sign site. <u>If a sign is</u> <u>visible from the controlled area of more than one highway subject</u> to the jurisdiction of the department, the sign shall meet the

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287 permitting requirements of, and, if the sign meets the applicable 288 permitting requirements, be permitted to, the highway with the 289 more stringent permitting requirements.

(b) A permit shall not be granted for a sign pursuant to
this chapter to locate such sign on any portion of the interstate
or federal-aid primary highway system, which sign:

293 1. Exceeds 50 feet in sign structure height above the crown
 294 of the main-traveled way, if outside an incorporated area;

295 2. Exceeds 65 feet in sign structure height above the crown
296 of the main-traveled way, if inside an incorporated area; or

297 3. Exceeds 950 square feet of sign facing including all298 embellishments.

(c) Notwithstanding subparagraph (a)1., there is established a pilot program in Orange, <u>Hillsborough</u>, and Osceola Counties, <u>and within the boundaries of the City of Miami</u>, under which the distance between permitted signs on the same side of an interstate highway may be reduced to 1,000 feet if all other requirements of this chapter are met and if:

305 1. The local government has adopted a plan, program, 306 resolution, ordinance, or other policy encouraging the voluntary 307 removal of signs in a downtown, historic, redevelopment, infill, 308 or other designated area which also provides for a new or 309 replacement sign to be erected on an interstate highway within 310 that jurisdiction if a sign in the designated area is removed;

311 2. The sign owner and the local government mutually agree 312 to the terms of the removal and replacement; and

313 3. The local government notifies the department of its 314 intention to allow such removal and replacement as agreed upon 315 pursuant to subparagraph 2.

316



317 The department shall maintain statistics tracking the use of the 318 provisions of this pilot program based on the notifications 319 received by the department from local governments under this 320 paragraph.

321 Section 43. Section 479.08, Florida Statutes, is amended to 322 read:

323 479.08 Denial or revocation of permit.--The department has 324 the authority to deny or revoke any permit requested or granted 325 under this chapter in any case in which it determines that the 326 application for the permit contains knowingly false or knowingly 327 misleading information. The department has the authority to 328 revoke any permit granted under this chapter in any case in which 329 or that the permittee has violated any of the provisions of this 330 chapter, unless such permittee, within 30 days after the receipt 331 of notice by the department, corrects such false or misleading 332 information and complies with the provisions of this chapter. For the purpose of this section, the notice of violation issued by 333 334 the department shall describe in detail the alleged violation. 335 Any person aggrieved by any action of the department in denying 336 or revoking a permit under this chapter may, within 30 days after receipt of the notice, apply to the department for an 337 administrative hearing pursuant to chapter 120. If a timely 338 339 request for hearing has been filed and the department issues a final order revoking a permit, such revocation shall be effective 340 30 days after the date of rendition. Except for department action 341 342 pursuant to s. 479.107(1), the filing of a timely and proper 343 notice of appeal shall operate to stay the revocation until the department's action is upheld. 344

345 Section 44. Section 479.156, Florida Statutes, is amended 346 to read:

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347 479.156 Wall murals. -- Notwithstanding any other provision 348 of this chapter, a municipality or county may permit and regulate wall murals within areas designated by such government. If a 349 350 municipality or county permits wall murals, a wall mural that 351 displays a commercial message and is within 660 feet of the 352 nearest edge of the right-of-way within an area adjacent to the 353 interstate highway system or the federal-aid primary highway 354 system shall be located in an area that is zoned for industrial 355 or commercial use and the municipality or county shall establish 356 and enforce regulations for such areas that, at a minimum, set 357 forth criteria governing the size, lighting, and spacing of wall 358 murals consistent with the intent of the Highway Beautification Act of 1965 and with customary use. Whenever a municipality or 359 county exercises such control and makes a determination of 360 361 customary use, pursuant to 23 U.S.C. s. 131(d), such 362 determination shall be accepted in lieu of controls in the 363 agreement between the state and the United States Department of 364 Transportation, and the department shall certify effective local 365 control pursuant to 23 U.S.C. s. 131(d) and C.F.R. s. 750.706(c). 366 A wall mural that is subject to municipal or county regulation 367 and the Highway Beautification Act of 1965 must be approved by 368 the Department of Transportation pursuant to and the Federal Highway Administration and may not violate the agreement and 369 between the state and the United States Department of 370 Transportation or violate federal regulations enforced by the 371 372 Department of Transportation under s. 479.02(1). The existence of 373 a wall mural as defined in s. 479.01(27) shall not be considered 374 in determining whether a sign as defined in s. 479.01(17), either 375 existing or new, is in compliance with s. 479.07(9)(a).



376 Section 45. Subsections (1), (3), (4), and (5) of section 377 479.261, Florida Statutes, are amended to read:

378

479.261 Logo sign program.--

379 The department shall establish a logo sign program for (1) the rights-of-way of the interstate highway system to provide 380 information to motorists about available gas, food, lodging, and 381 camping, attractions, and other services, as approved by the 382 383 Federal Highway Administration, at interchanges, through the use 384 of business logos, and may include additional interchanges under 385 the program. A logo sign for nearby attractions may be added to 386 this program if allowed by federal rules.

387 (a) An attraction as used in this chapter is defined as an establishment, site, facility, or landmark that which is open a 388 389 minimum of 5 days a week for 52 weeks a year; that which charges 390 an admission for entry; which has as its principal focus family-391 oriented entertainment, cultural, educational, recreational, scientific, or historical activities; and that which is publicly 392 393 recognized as a bona fide tourist attraction. However, the 394 permits for businesses seeking to participate in the attractions 395 logo sign program shall be awarded by the department annually to 396 the highest bidders, notwithstanding the limitation on fees in 397 subsection (5), which are qualified for available space at each qualified location, but the fees therefor may not be less than 398 the fees established for logo participants in other logo 399 400 categories.

(b) The department shall incorporate the use of RV-friendly
markers on specific information logo signs for establishments
that cater to the needs of persons driving recreational vehicles.
Establishments that qualify for participation in the specific
information logo program and that also qualify as "RV-friendly"

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406 may request the RV-friendly marker on their specific information 407 logo sign. An RV-friendly marker must consist of a design approved by the Federal Highway Administration. The department 408 shall adopt rules in accordance with chapter 120 to administer 409 this paragraph, including rules setting forth the minimum 410 requirements that establishments must meet in order to qualify as 411 RV-friendly. These requirements shall include large parking 412 413 spaces, entrances, and exits that can easily accommodate 414 recreational vehicles and facilities having appropriate overhead 415 clearances, if applicable.

416 (c) The department may implement a 3-year rotation-based 417 logo program providing for the removal and addition of 418 participating businesses in the program.

419 (3) Logo signs may be installed upon the issuance of an
420 annual permit by the department or its agent and payment of <u>a</u> an
421 application and permit fee to the department or its agent.

422 The department may contract pursuant to s. 287.057 for (4) 423 the provision of services related to the logo sign program, 424 including recruitment and qualification of businesses, review of 425 applications, permit issuance, and fabrication, installation, and 426 maintenance of logo signs. The department may reject all 427 proposals and seek another request for proposals or otherwise perform the work. If the department contracts for the provision 428 of services for the logo sign program, the contract must require, 429 430 unless the business owner declines, that businesses that 431 previously entered into agreements with the department to 432 privately fund logo sign construction and installation be 433 reimbursed by the contractor for the cost of the signs which has 434 not been recovered through a previously agreed upon waiver of



435 fees. The contract also may allow the contractor to retain a 436 portion of the annual fees as compensation for its services. (5) Permit fees for businesses that participate in the 437 program must be established in an amount sufficient to offset the 438 439 total cost to the department for the program, including contract costs. The department shall provide the services in the most 440 441 efficient and cost-effective manner through department staff or 442 by contracting for some or all of the services. The department 443 shall adopt rules that set reasonable rates based upon factors 444 such as population, traffic volume, market demand, and costs for 445 annual permit fees. However, annual permit fees for sign locations inside an urban area, as defined in s. 334.03(32), may 446 447 not exceed \$5,000 and annual permit fees for sign locations outside an urban area, as defined in s. 334.03(32), may not 448 449 exceed \$2,500. After recovering program costs, the proceeds from 450 the logo program shall be deposited into the State Transportation 451 Trust Fund and used for transportation purposes. Such annual 452 permit fee shall not exceed \$1,250. 453 Section 46. Business partnerships; display of names.--454 (1) School districts are encouraged to partner with local 455 businesses for the purposes of mentorship opportunities, 456 development of employment options and additional funding sources, 457 and other mutual benefits. 458 (2) As a pilot program through June 30, 2011, the Palm 459 Beach County School District may publicly display the names and 460 recognitions of their business partners on school district 461 property in unincorporated areas. Examples of appropriate 462 business partner recognition include "Project Graduation" and athletic sponsorships. The district shall make every effort to 463 464 display business partner names in a manner that is consistent

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465	with the county standards for uniformity in size, color, and
466	placement of the signs. Whenever the provisions of this section
467	are inconsistent with the provisions of the county ordinances or
468	regulations relating to signs or the provisions of chapter 125,
469	chapter 166, or chapter 479, Florida Statutes, in the
470	unincorporated areas, the provisions of this section shall
471	prevail.
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473	======================================
474	And the title is amended as follows:
475	Delete lines 147-197
476	and insert:
477	implementing commuter rail service; authorizing the
478	department to enter contracts with certain entities
479	relating to the rail corridor concerning responsibility
480	for certain liabilities, costs, or expenses; authorizing
481	the department to purchase and provide insurance in
482	relation to rail corridors; authorizing marketing and
483	promotional expenses; extending provisions to other
484	governmental entities providing commuter rail service on
485	public right-of-way; creating s. 341.3023, F.S.; requiring
486	the department to review and study commuter rail programs
487	and intercity rail transportation systems; requiring a
488	report to the Governor and the Legislature; repealing part
489	III of ch. 343 F.S.; abolishing the Tampa Bay Commuter
490	Transit Authority; amending s. 348.0003, F.S.; providing
491	for financial disclosure for expressway, transportation,
492	bridge, and toll authorities; amending s. 348.0004, F.S.;
493	providing for certain expressway authorities to index toll
494	rate increases; amending s. 479.01, F.S.; revising

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495 provisions for outdoor advertising; revising the 496 definition of the term "automatic changeable facing"; amending s. 479.07, F.S.; revising a prohibition against 497 498 signs on the State Highway System; revising requirements 499 for display of the sign permit tag; directing the 500 department to establish by rule a fee for furnishing a 501 replacement permit tag; revising the pilot project for 502 permitted signs to include Hillsborough County and areas 503 within the boundaries of the City of Miami; amending s. 504 479.08, F.S.; revising provisions for denial or revocation 505 of a sign permit; amending s. 479.156, F.S.; revising 506 provisions for a municipality or county to permit and regulate wall murals; amending s. 479.261, F.S.; revising 507 508 requirements for the logo sign program of the interstate highway system; deleting provisions providing for permits 509 510 to be awarded to the highest bidders; requiring the 511 department to implement a rotation-based logo program; requiring the department to adopt rules that set 512 513 reasonable rates based on certain factors for annual 514 permit fees; requiring that such fees not exceed a certain 515 amount for sign locations inside and outside an urban area; creating a business partnership pilot program; 516 517 authorizing the Palm Beach County School District to display names of business partners on district property in 518 519 unincorporated areas; exempting the program from specified 520 provisions; requiring the department to