

By Senator Baker

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1 A bill to be entitled
2 An act relating to the Department of Transportation;
3 amending s. 337.185, F.S.; providing for maintenance
4 contracts to be included in the types of claims settled by
5 the State Arbitration Board; amending s. 337.403, F.S.;
6 providing for the department or a local governmental
7 entity to pay the costs of removing or relocating a
8 utility that is interfering with the use of a road or rail
9 corridor; amending s. 338.01, F.S.; requiring that newly
10 installed electronic toll collection systems be
11 interoperable with the department's electronic toll
12 collection system; amending s. 338.165, F.S.; providing
13 that provisions requiring the continuation of tolls
14 following the discharge of bond indebtedness does not
15 apply to high-occupancy toll lanes or express lanes;
16 creating s. 338.166, F.S.; authorizing the department to
17 request that bonds be issued which are secured by toll
18 revenues from high-occupancy toll or express lanes in a
19 specified location; providing for the department to
20 continue to collect tolls after discharge of indebtedness;
21 authorizing the use of excess toll revenues for
22 improvements to the State Highway System; amending s.
23 338.2216, F.S.; directing the turnpike enterprise to
24 develop new technologies and processes for the collection
25 of tolls and usage fees; amending s. 338.231, F.S.;
26 eliminating reference to uniform toll rates on the Florida
27 Turnpike System; authorizing the department to fix by rule
28 and collect the amounts needed to cover toll collection
29 costs; amending s. 479.01, F.S.; redefining the term

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30 "automatic changeable facing" as used in provisions
31 governing outdoor advertising; amending s. 479.07, F.S.;
32 revising the locations within which signs require
33 permitting; providing requirements for the placement of
34 permit tags; requiring the department to establish by rule
35 a service fee for replacement tags; amending s. 479.08,
36 F.S.; deleting a provision allowing a sign permittee to
37 correct false information that was knowingly provided to
38 the department; amending s. 479.11, F.S.; revising the
39 description of prohibited signs; amending s. 479.261,
40 F.S.; revising requirements for the logo sign program of
41 the interstate highway system; deleting provisions
42 providing for permits to be awarded to the highest
43 bidders; requiring the department to implement a rotation-
44 based logo program; increasing the permit fee for
45 businesses that participate in the program; providing an
46 effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Subsections (1), (2), and (7) of section
51 337.185, Florida Statutes, are amended to read:

52 337.185 State Arbitration Board.--

53 (1) To facilitate the prompt settlement of claims for
54 additional compensation arising out of construction and
55 maintenance contracts between the department and the various
56 contractors with whom it transacts business, the Legislature does
57 hereby establish the State Arbitration Board, referred to in this
58 section as the "board." For the purpose of this section, "claim"

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59 | means ~~shall mean~~ the aggregate of all outstanding claims by a
60 | party arising out of a construction or maintenance contract.
61 | Every contractual claim in an amount up to \$250,000 per contract
62 | or, at the claimant's option, up to \$500,000 per contract or,
63 | upon agreement of the parties, up to \$1 million per contract
64 | which ~~that~~ cannot be resolved by negotiation between the
65 | department and the contractor shall be arbitrated by the board
66 | after acceptance of the project by the department. As an
67 | exception, either party to the dispute may request that the claim
68 | be submitted to binding private arbitration. A court of law may
69 | not consider the settlement of such a claim until the process
70 | established by this section has been exhausted.

71 | (2) The board shall be composed of three members. One
72 | member shall be appointed by the head of the department, and one
73 | member shall be elected by those construction or maintenance
74 | companies who are under contract with the department. The third
75 | member shall be chosen by agreement of the other two members.
76 | Whenever the third member has a conflict of interest regarding
77 | affiliation with one of the parties, the other two members shall
78 | select an alternate member for that hearing. The head of the
79 | department may select an alternative or substitute to serve as
80 | the department member for any hearing or term. Each member shall
81 | serve a 2-year term. The board shall elect a chair, each term,
82 | who shall be the administrator of the board and custodian of its
83 | records.

84 | (7) The members of the board may receive compensation for
85 | the performance of their duties hereunder, from administrative
86 | fees received by the board, except that no employee of the
87 | department may receive compensation from the board. The

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88 compensation amount shall be determined by the board, but shall
89 not exceed \$125 per hour, up to a maximum of \$1,000 per day for
90 each member authorized to receive compensation. ~~Nothing in~~ This
91 section does not shall prevent the member elected by construction
92 or maintenance companies from being an employee of an association
93 affiliated with the industry, even if the sole responsibility of
94 that member is service on the board. Travel expenses for the
95 industry member may be paid by an industry association, if
96 necessary. The board may allocate funds annually for clerical and
97 other administrative services.

98 Section 2. Subsection (1) of section 337.403, Florida
99 Statutes, is amended to read:

100 337.403 Relocation of utility; expenses.--

101 (1) Any utility heretofore or hereafter placed upon, under,
102 over, or along any public road or publicly owned rail corridor
103 which that is found by the authority to be unreasonably
104 interfering in any way with the convenient, safe, or continuous
105 use, or the maintenance, improvement, extension, or expansion, of
106 such public road or publicly owned rail corridor shall, upon 30
107 days' written notice to the utility or its agent by the
108 authority, be removed or relocated by such utility at its own
109 expense except as provided in paragraphs (a), (b), ~~and~~ (c), and
110 (d).

111 (a) If the relocation of utility facilities, as referred to
112 in s. 111 of the Federal-Aid Highway Act of 1956, Pub. L. No. 627
113 of the 84th Congress, is necessitated by the construction of a
114 project on the federal-aid interstate system, including
115 extensions thereof within urban areas, and the cost of such
116 project is eligible and approved for reimbursement by the Federal

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117 Government to the extent of 90 percent or more under the Federal
118 Aid Highway Act, or any amendment thereof, then in that event the
119 utility owning or operating such facilities shall relocate such
120 facilities upon order of the department, and the state shall pay
121 the entire expense properly attributable to such relocation after
122 deducting therefrom any increase in the value of the new facility
123 and any salvage value derived from the old facility.

124 (b) When a joint agreement between the department and the
125 utility is executed for utility improvement, relocation, or
126 removal work to be accomplished as part of a contract for
127 construction of a transportation facility, the department may
128 participate in those utility improvement, relocation, or removal
129 costs that exceed the department's official estimate of the cost
130 of such work by more than 10 percent. The amount of such
131 participation shall be limited to the difference between the
132 official estimate of all the work in the joint agreement plus 10
133 percent and the amount awarded for this work in the construction
134 contract for such work. The department may not participate in any
135 utility improvement, relocation, or removal costs that occur as a
136 result of changes or additions during the course of the contract.

137 (c) When an agreement between the department and utility is
138 executed for utility improvement, relocation, or removal work to
139 be accomplished in advance of a contract for construction of a
140 transportation facility, the department may participate in the
141 cost of clearing and grubbing necessary to perform such work.

142 (d) If the facility being relocated exclusively serves the
143 authority, the authority shall bear the costs of removal or
144 relocation.

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145 Section 3. Subsection (6) is added to section 338.01,
146 Florida Statutes, to read:

147 338.01 Authority to establish and regulate limited access
148 facilities.--

149 (6) Notwithstanding any other provision of law, all new
150 limited access facilities and existing transportation facilities
151 on which new or replacement electronic toll collection systems
152 are installed shall be interoperable with the department's
153 electronic toll collection system.

154 Section 4. Present subsections (7) and (8) of section
155 338.165, Florida Statutes, are redesignated as subsections (8)
156 and (9), respectively, and a new subsection (7) is added to that
157 section, to read:

158 338.165 Continuation of tolls.--

159 (7) This section does not apply to high-occupancy toll
160 lanes or express lanes.

161 Section 5. Section 338.166, Florida Statutes, is created to
162 read:

163 338.166 High-occupancy toll lanes or express lanes.--

164 (1) Under s. 11, Art. VII of the State Constitution, the
165 department may request the Division of Bond Finance to issue
166 bonds secured by toll revenues collected on high-occupancy toll
167 lanes or express lanes located on Interstate 95 in Miami-Dade and
168 Broward Counties.

169 (2) The department may continue to collect the toll on the
170 high-occupancy toll lanes or express lanes after the discharge of
171 any bond indebtedness related to such project. All tolls so
172 collected shall first be used to pay the annual cost of the

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173 operation, maintenance, and improvement of the high-occupancy
174 toll lanes or express lanes project.

175 (3) Any remaining toll revenue from the high-occupancy toll
176 lanes or express lanes shall be used by the department for the
177 construction, maintenance, or improvement of any road on the
178 State Highway System.

179 (4) Except for high-occupancy toll lanes or express lanes,
180 tolls may not be charged for use of an interstate highway where
181 tolls were not charged as of July 1, 1997.

182 (5) This section does not apply to the turnpike system as
183 defined under the Florida Turnpike Enterprise Law.

184 Section 6. Paragraph (d) is added to subsection (1) of
185 section 338.2216, Florida Statutes, to read:

186 338.2216 Florida Turnpike Enterprise; powers and
187 authority.--

188 (1)

189 (d) The turnpike enterprise is directed to pursue and
190 implement new technologies and processes in its operations and in
191 the collection of tolls and other amounts associated with road
192 and infrastructure use. This shall include, without limitation,
193 video billing and variable pricing.

194 Section 7. Section 338.231, Florida Statutes, is amended to
195 read:

196 338.231 Turnpike tolls, fixing; pledge of tolls and other
197 revenues.--The department shall at all times fix, adjust, charge,
198 and collect such tolls for the use of the turnpike system as are
199 required in order to provide a fund sufficient with other
200 revenues of the turnpike system to pay the cost of maintaining,
201 improving, repairing, and operating such turnpike system; to pay

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202 | the principal of and interest on all bonds issued to finance or
203 | refinance any portion of the turnpike system as the same become
204 | due and payable; and to create reserves for all such purposes.

205 | ~~(1) In the process of effectuating toll rate increases over~~
206 | ~~the period 1988 through 1992, the department shall, to the~~
207 | ~~maximum extent feasible, equalize the toll structure, within each~~
208 | ~~vehicle classification, so that the per mile toll rate will be~~
209 | ~~approximately the same throughout the turnpike system. New~~
210 | ~~turnpike projects may have toll rates higher than the uniform~~
211 | ~~system rate where such higher toll rates are necessary to qualify~~
212 | ~~the project in accordance with the financial criteria in the~~
213 | ~~turnpike law. Such higher rates may be reduced to the uniform~~
214 | ~~system rate when the project is generating sufficient revenues to~~
215 | ~~pay the full amount of debt service and operating and maintenance~~
216 | ~~costs at the uniform system rate. If, after 15 years of opening~~
217 | ~~to traffic, the annual revenue of a turnpike project does not~~
218 | ~~meet or exceed the annual debt service requirements and operating~~
219 | ~~and maintenance costs attributable to such project, the~~
220 | ~~department shall, to the maximum extent feasible, establish a~~
221 | ~~toll rate for the project which is higher than the uniform system~~
222 | ~~rate as necessary to meet such annual debt service requirements~~
223 | ~~and operating and maintenance costs. The department may, to the~~
224 | ~~extent feasible, establish a temporary toll rate at less than the~~
225 | ~~uniform system rate for the purpose of building patronage for the~~
226 | ~~ultimate benefit of the turnpike system. In no case shall the~~
227 | ~~temporary rate be established for more than 1 year. The~~
228 | ~~requirements of this subsection shall not apply when the~~
229 | ~~application of such requirements would violate any covenant~~

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230 | ~~established in a resolution or trust indenture relating to the~~
231 | ~~issuance of turnpike bonds.~~

232 | (1)~~(2)~~ Notwithstanding any other provision of law, the
233 | department may defer the scheduled July 1, 1993, toll rate
234 | increase on the Homestead Extension of the Florida Turnpike until
235 | July 1, 1995. The department may also advance funds to the
236 | Turnpike General Reserve Trust Fund to replace estimated lost
237 | revenues resulting from this deferral. The amount advanced must
238 | be repaid within 12 years from the date of advance; however, the
239 | repayment is subordinate to all other debt financing of the
240 | turnpike system outstanding at the time repayment is due.

241 | (2)~~(3)~~ The department shall publish a proposed change in
242 | the toll rate for the use of an existing toll facility, in the
243 | manner provided for in s. 120.54, which will provide for public
244 | notice and the opportunity for a public hearing before the
245 | adoption of the proposed rate change. When the department is
246 | evaluating a proposed turnpike toll project under s. 338.223 and
247 | has determined that there is a high probability that the project
248 | will pass the test of economic feasibility predicated on proposed
249 | toll rates, the toll rate that is proposed to be charged after
250 | the project is constructed must be adopted during the planning
251 | and project development phase of the project, in the manner
252 | provided for in s. 120.54, including public notice and the
253 | opportunity for a public hearing. For such a new project, the
254 | toll rate becomes effective upon the opening of the project to
255 | traffic.

256 | (3) (a)~~(4)~~ For the period July 1, 1998, through June 30,
257 | 2017, the department shall, to the maximum extent feasible,
258 | program sufficient funds in the tentative work program such that

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259 | the percentage of turnpike toll and bond financed commitments in
260 | Dade County, Broward County, and Palm Beach County as compared to
261 | total turnpike toll and bond financed commitments shall be at
262 | least 90 percent of the share of net toll collections
263 | attributable to users of the turnpike system in Dade County,
264 | Broward County, and Palm Beach County as compared to total net
265 | toll collections attributable to users of the turnpike system.
266 | The requirements of this subsection do not apply when the
267 | application of such requirements would violate any covenant
268 | established in a resolution or trust indenture relating to the
269 | issuance of turnpike bonds. The department may establish at any
270 | time for economic considerations lower temporary toll rates for a
271 | new or existing toll facility for a period not to exceed 1 year,
272 | after which period the toll rates adopted under s. 120.54 shall
273 | become effective.

274 | (b) The department shall also fix, adjust, charge, and
275 | collect such amounts needed to cover the costs of administering
276 | the different toll collection and payment methods and types of
277 | accounts being offered and used in the manner provided for in s.
278 | 120.54, which provides for public notice and the opportunity for
279 | a public hearing before adoption. Such amounts may stand alone,
280 | be incorporated into a toll rate structure, or be a combination
281 | thereof.

282 | (4)~~(5)~~ When bonds are outstanding which have been issued to
283 | finance or refinance any turnpike project, the tolls and all
284 | other revenues derived from the turnpike system and pledged to
285 | such bonds shall be set aside as may be provided in the
286 | resolution authorizing the issuance of such bonds or the trust
287 | agreement securing the same. The tolls or other revenues or other

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288 moneys so pledged and thereafter received by the department are
289 immediately subject to the lien of such pledge without any
290 physical delivery thereof or further act. The lien of any such
291 pledge is valid and binding as against all parties having claims
292 of any kind in tort or contract or otherwise against the
293 department irrespective of whether such parties have notice
294 thereof. Neither the resolution nor any trust agreement by which
295 a pledge is created need be filed or recorded except in the
296 records of the department.

297 (5)~~(6)~~ In each fiscal year while any of the bonds of the
298 Broward County Expressway Authority series 1984 and series 1986-A
299 remain outstanding, the department is authorized to pledge
300 revenues from the turnpike system to the payment of principal and
301 interest of such series of bonds and the operation and
302 maintenance expenses of the Sawgrass Expressway, to the extent
303 gross toll revenues of the Sawgrass Expressway are insufficient
304 to make such payments. The terms of an agreement relative to the
305 pledge of turnpike system revenue will be negotiated with the
306 parties of the 1984 and 1986 Broward County Expressway Authority
307 lease-purchase agreements, and subject to the covenants of those
308 agreements. The agreement shall establish that the Sawgrass
309 Expressway shall be subject to the planning, management, and
310 operating control of the department limited only by the terms of
311 the lease-purchase agreements. The department shall provide for
312 the payment of operation and maintenance expenses of the Sawgrass
313 Expressway until such agreement is in effect. This pledge of
314 turnpike system revenues shall be subordinate to the debt service
315 requirements of any future issue of turnpike bonds, the payment
316 of turnpike system operation and maintenance expenses, and

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317 subject to provisions of any subsequent resolution or trust
318 indenture relating to the issuance of such turnpike bonds.

319 ~~(6)~~~~(7)~~ The use and disposition of revenues pledged to bonds
320 are subject to the provisions of ss. 338.22-338.241 and such
321 regulations as the resolution authorizing the issuance of such
322 bonds or such trust agreement may provide.

323 Section 8. Subsection (1) of section 479.01, Florida
324 Statutes, is amended to read:

325 479.01 Definitions.--As used in this chapter, the term:

326 (1) "Automatic changeable facing" means a facing that ~~which~~
327 ~~through a mechanical system~~ is capable of delivering two or more
328 advertising messages through an automated or remotely controlled
329 process ~~and shall not rotate so rapidly as to cause distraction~~
330 ~~to a motorist.~~

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

333 479.07 Sign permits.--

334 (1) Except as provided in ss. 479.105(1)(e) and 479.16, a
335 person may not erect, operate, use, or maintain, or cause to be
336 erected, operated, used, or maintained, any sign on the State
337 Highway System outside an urban incorporated area, as defined in
338 s. 334.03(32), or on any portion of the interstate or federal-aid
339 primary highway system without first obtaining a permit for the
340 sign from the department and paying the annual fee as provided in
341 this section. For purposes of this section, "on any portion of
342 the State Highway System, interstate, or federal-aid primary
343 system" shall mean a sign located within the controlled area
344 which is visible from any portion of the main-traveled way of
345 such system.

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346 (5) (a) For each permit issued, the department shall furnish
347 to the applicant a serially numbered permanent metal permit tag.
348 The permittee is responsible for maintaining a valid permit tag
349 on each permitted sign facing at all times. The tag shall be
350 securely attached to the sign apron at the end nearest the
351 highway facing or, if there is no apron facing, on the pole
352 nearest the highway at a point not less than 2 feet or more than
353 4 feet below the sign facing; and it shall be attached in such a
354 manner as to be plainly visible from the main-traveled way. For
355 signs holding valid permits on July 1, 2008, the tag posting
356 requirement shall be effective July 1, 2010. The permit will
357 become void unless the permit tag is properly and permanently
358 displayed at the permitted site within 30 days after the date of
359 permit issuance. If the permittee fails to erect a completed sign
360 on the permitted site within 270 days after the date on which the
361 permit was issued, the permit will be void, and the department
362 may not issue a new permit to that permittee for the same
363 location for 270 days after the date on which the permit became
364 void.

365 (b) If a permit tag is lost, stolen, or destroyed, the
366 permittee to whom the tag was issued must apply to the department
367 for a replacement tag. The department shall establish by rule a
368 service fee for replacement tags in an amount that will recover
369 the actual cost of providing the replacement tag. Upon receipt of
370 the application accompanied by the a service fee ~~of \$3~~, the
371 department shall issue a replacement permit tag.

372 Section 10. Section 479.08, Florida Statutes, is amended to
373 read:

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374 479.08 Denial or revocation of permit.--The department has
375 the authority to deny or revoke any permit requested or granted
376 under this chapter in any case in which it determines that the
377 application for the permit contains knowingly false or misleading
378 information. The department has the authority to revoke any
379 permit granted under this chapter in any case where ~~or that~~ the
380 permittee has violated any of the provisions of this chapter,
381 unless such permittee, within 30 days after the receipt of notice
382 by the department, ~~corrects such false or misleading information~~
383 ~~and~~ complies with the provisions of this chapter. Any person
384 aggrieved by any action of the department in denying or revoking
385 a permit under this chapter may, within 30 days after receipt of
386 the notice, apply to the department for an administrative hearing
387 pursuant to chapter 120. If a timely request for hearing has been
388 filed and the department issues a final order revoking a permit,
389 such revocation shall be effective 30 days after the date of
390 rendition. Except for department action pursuant to s.
391 479.107(1), the filing of a timely and proper notice of appeal
392 shall operate to stay the revocation until the department's
393 action is upheld.

394 Section 11. Subsection (2) of section 479.11, Florida
395 Statutes, is amended to read:

396 479.11 Specified signs prohibited.--No sign shall be
397 erected, used, operated, or maintained:

398 (2) Beyond 660 feet of the nearest edge of the right-of-way
399 of any portion of the interstate highway system or the federal-
400 aid primary highway system outside an urban area, the advertising
401 message or informative contents of which sign is visible from the
402 main traveled way ~~erected for the purpose of its message being~~

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403 ~~read from the main traveled way of such system, except as~~
404 ~~provided in ss. 479.111(1) and 479.16.~~

405 Section 12. Subsections (1), (3), (4), and (5) of section
406 479.261, Florida Statutes, are amended to read:

407 479.261 Logo sign program.--

408 (1) The department shall establish a logo sign program for
409 the rights-of-way of the interstate highway system to provide
410 information to motorists about available gas, food, lodging, ~~and~~
411 camping, attractions, and other services, as approved by the
412 Federal Highway Administration at interchanges, through the use
413 ~~of business logos, and may include additional interchanges under~~
414 ~~the program. A logo sign for nearby attractions may be added to~~
415 ~~this program if allowed by federal rules.~~

416 (a) An attraction as used in this chapter is defined as an
417 establishment, site, facility, or landmark that ~~which~~ is open a
418 minimum of 5 days a week for 52 weeks a year; that ~~which~~ ~~charges~~
419 ~~an admission for entry; which~~ has as its principal focus family-
420 oriented entertainment, cultural, educational, recreational,
421 scientific, or historical activities; and that ~~which~~ is publicly
422 recognized as a bona fide tourist attraction. ~~However, the~~
423 ~~permits for businesses seeking to participate in the attractions~~
424 ~~logo sign program shall be awarded by the department annually to~~
425 ~~the highest bidders, notwithstanding the limitation on fees in~~
426 ~~subsection (5), which are qualified for available space at each~~
427 ~~qualified location, but the fees therefor may not be less than~~
428 ~~the fees established for logo participants in other logo~~
429 ~~categories.~~

430 (b) The department shall incorporate the use of RV-friendly
431 markers on specific information logo signs for establishments

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432 that cater to the needs of persons driving recreational vehicles.
433 Establishments that qualify for participation in the specific
434 information logo program and that also qualify as "RV-friendly"
435 may request the RV-friendly marker on their specific information
436 logo sign. An RV-friendly marker must consist of a design
437 approved by the Federal Highway Administration. The department
438 shall adopt rules in accordance with chapter 120 to administer
439 this paragraph, including rules setting forth the minimum
440 requirements that establishments must meet in order to qualify as
441 RV-friendly. These requirements shall include large parking
442 spaces, entrances, and exits that can easily accommodate
443 recreational vehicles and facilities having appropriate overhead
444 clearances, if applicable.

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

448 (3) Logo signs may be installed upon the issuance of an
449 annual permit by the department or its agent and payment of a ~~an~~
450 ~~application and~~ permit fee to the department or its agent.

451 (4) The department may contract pursuant to s. 287.057 for
452 the provision of services related to the logo sign program,
453 including recruitment and qualification of businesses, review of
454 applications, permit issuance, and fabrication, installation, and
455 maintenance of logo signs. The department may reject all
456 proposals and seek another request for proposals or otherwise
457 perform the work. ~~If the department contracts for the provision~~
458 ~~of services for the logo sign program, the contract must require,~~
459 ~~unless the business owner declines, that businesses that~~
460 ~~previously entered into agreements with the department to~~

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461 | ~~privately fund logo sign construction and installation be~~
462 | ~~reimbursed by the contractor for the cost of the signs which has~~
463 | ~~not been recovered through a previously agreed upon waiver of~~
464 | ~~fees.~~ The contract also may allow the contractor to retain a
465 | portion of the annual fees as compensation for its services.

466 | (5) Permit fees for businesses that participate in the
467 | program must be established in an amount sufficient to offset the
468 | total cost to the department for the program, including contract
469 | costs. The department shall provide the services in the most
470 | efficient and cost-effective manner through department staff or
471 | by contracting for some or all of the services. Such annual
472 | permit fee shall not exceed \$3,000 ~~\$1,250~~.

473 | Section 13. This act shall take effect July 1, 2008.