

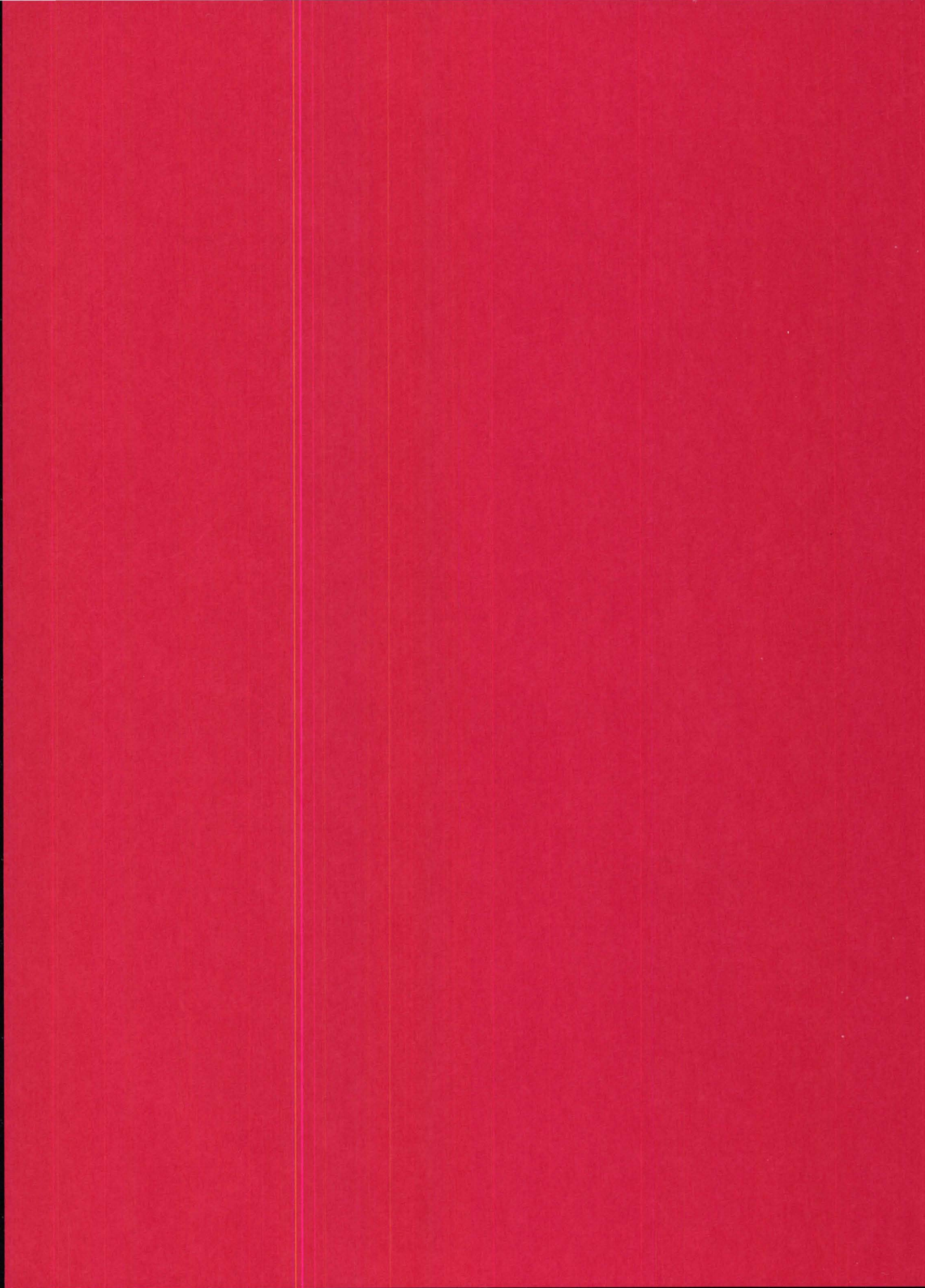
Florida Legislative  
Service Bureau

# 1971 Summary of General Legislation



Tallahassee  
July 1971





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1971 SUMMARY OF GENERAL LEGISLATION

The following information is presented as a service of the Legislative Service Bureau under the Joint Legislative Management Committee of the Florida Legislature.

The user is cautioned that the information is presented so as to reflect generally the areas in which the legislative interest was centered during the session. It is not to be considered a detailed analysis of any single act of the Legislature. Each piece of legislation of a general nature is discussed in sufficient detail to highlight the manner in which the subject was covered.

The booklet is designed to inform, not to construe; and any paraphrasing is done with intent to simplify the presentation rather than to indicate legislative intent.

The legislation taken up and enacted during the special session called by the Governor (as extended by him), of June 9 - June 24, 1971, is discussed as a part of the activities of the regular legislative session.

The legislation considered at the special session of January 27 - February 4, 1971, is treated separately at the end of booklet.



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AGRICULTURE AND CITRUS

The 1971 Legislature was active in the revision of Florida's agricultural and citrus laws. Important changes were made in the marketing program laws by establishing a Marketing Order Section in the Department of Agriculture's Division of Marketing and bringing the regulation of celery and sweet corn under the Department of Agriculture's jurisdiction.

Substantial improvements were also made in the areas of milk regulation and testing, sanitation requirements for poultry and eggs, city and county forestry programs, workmen's compensation benefits for farm labor, maturity standards for citrus hybrids, and labeling requirements for intrastate shipments of canned or concentrated citrus products. There was a complete revision of citrus fee inspection schedules and additional taxes were imposed on grapefruit and tangerines.

Department Matters:

House Bill No. 494 (Chapter 71-2) redesignates the membership of the Agricultural and Livestock Fair Council to change the Chairman from the Commissioner of Agriculture to one of the members as selected by him and to substitute the Administrator of Agricultural Education of the Department of Education for the Chief of the Department's State Markets, as a member. House Bill No. 493 (Chapter 71-1) amends the membership of the Agricultural and Vegetable Seed Law Arbitration Council to remove members appointed on recommendation of each of the Directors of the Experiment Station and Extension Services and replace them with members recommended by the Deans of Extension and Research of the Institute of Food and Agricultural Sciences, University of Florida. An alternate for each member of the Council is also provided. House Bill No. 922 (Chapter 71-340) authorizes the

Department of Agriculture to pay expenses for meritorious service plaques and membership dues in agriculture affiliated organizations.

Milk:

House Bill No. 1364 (Chapter 71-210) incorporates the somatic cell count standards into the milk and milk products code and provides standards and procedures for sampling and testing of milk for excessive somatic cell count. Amends standards for milk house sanitation to permit an opening between a milk house and milking barn providing a tight fitting door is used. House Bill No. 1365 (Chapter 71-211) adds filled milk and filled milk products to the definition of milk products in the milk and milk products code and requires that the specific name of the filled milk and filled milk products be substituted for the generic term on the label and that the name and amount of fat in the filled milk and filled milk product be stated on the package.

Poultry and Eggs:

House Bill No. 798 (Chapter 71-143) requires poultry and egg producers and hatcheries to provide an approved sanitary method of disposing of hatchery residue and birds that die by means other than slaughter, and authorizes the Department to prescribe rules, make inspections and quarantine violating premises. House Bill No. 607 (Chapter 71-3) requires eggs to be stored at temperature not exceeding 60° F. and at satisfactory humidity.

Marketing Laws:

Senate Bill No. 1544 (Chapter 71-195) creates a Marketing Order Section within the Department's Division of Marketing and authorizes it to administer the five marketing laws under Chapter 573, F. S. Senate Bill No. 1545 (Chapter 71-196) authorizes the celery and sweet corn marketing committee to carry out functions relating to their marketing orders as assigned them by the Commissioner of Agriculture and subject to his review and supervision, and Senate Bill No. 1543 (Chapter 71-194) authorizes the Department to contract for services needed to administer the



orders, for fees and fines to be deposited in the general inspection trust fund rather than in the advisory committee account and appropriates expense money from the fund. Section 573.21(1), F. S., is amended to require a producer or distributor to pay his pro rata expenses incurred in the formulation and enforcement of marketing orders and provides procedures for determining the pro rata shares. The maximum assessment of five cents per container is applied to containers of specified maximum sizes. An assessment is made the personal debt of the individual assessed and the Department is authorized to require that a bond be deposited in advance, based on the volume of celery and sweet corn to be handled.

#### Forestry:

House Bill No. 326 (Chapter 71-183) authorizes state cooperative forestry assistance and appropriations to be provided on a county or municipal basis, instead of solely on a county basis. Provides for work to be done under supervision of the Division of Forestry or district foresters and encourages urban and suburban environmental improvement, including development of outdoor recreation areas, water shed protection and wildlife habitats through forestry programs. House Bill No. 1210 (Chapter 71-64) requires a written permit to be obtained from the Division of Forestry before fires are set within 600 yards of any forest, grasslands, weeds, wildlands or marsh area where, because of emergency drought conditions, there is extraordinary danger from fire, unless setting a backfire is necessary for protection of life or property.

#### Workmen's Compensation:

Committee Substitute for House Bill No. 1289 (Chapter 71-80) repeals the workmen's compensation law exemption for turpentine labor and limits the exemption for agricultural labor to an employer who employs nine or less regular employees and nineteen or less other employees at one time on seasonal labor completed in less than thirty days. Such seasonal employment

may not exceed sixty days in a calendar year. Agricultural labor includes supervisory personnel. Fish farms are included.

Migrant Labor Crew Chiefs:

Senate Bill No. 1162 (Chapter 71-234) regulates persons who act as middlemen by arranging for, or hiring, or supervising a work force of at least ten agricultural workers for a farmer or grower. Such a person must register with an agency of the Commerce Department; a fee is required, and the registration certificate must be displayed. Registrants must, among other requirements, disclose the price terms of their contracts with farmers or growers and with the workers, and must carry specified casualty insurance. Registrants are prohibited from giving false employment information.

CITRUS

Commission Matters:

House Bill No. 800 (Chapter 71-184) makes it clear that members of the Florida Citrus Commission shall be paid \$25 per day in addition to per diem and reimbursement of travel expense. A prohibition against receiving any salary or other compensation is deleted. House Bill No. 801 (Chapter 71-158) authorizes the Executive Director of the Department of Citrus to execute on behalf of the Department any contracts approved by the Commission. The Secretary of the Commission is authorized to attest the signature of the Executive Director. House Bill No. 799 (Chapter 71-77) adds a severability clause to the Citrus Code so that the remainder of Chapter 601 shall not be affected should any portion be ruled unconstitutional.

Labeling:

House Bill No. 1242 (Chapter 71-78) exempts from labeling provisions intrastate shipments of canned or concentrated citrus products between licensed dealers, each of whom is an operator of a plant holding a certificate of registration. Senate Concurrent Resolution No. 892 requests the Commissioner of the United States Food and Drug Administration to promulgate federal

standards of identification for diluted orange drinks and for noncarbonated natural or artificially flavored orange drinks, and to require labeling provisions prominently disclosing the percentage of orange juice contained in such products.

Grapefruit:

House Bill No. 1598 (Chapter 71-187) imposes an additional four cents per box tax on grapefruit, one-half of which is to be deposited in the processed grapefruit rebate fund and the other half in the processed grapefruit advertising fund. The Department of Citrus is authorized to adopt rules governing rebate. The rebate fund is terminated on September 15 each year and transferred to the advertising fund. An additional excise tax of two cents per box is imposed on tangerines.

Citrus Hybrids:

House Bill No. 1600 (Chapter 71-186) defines citrus hybrids and authorizes the Department of Citrus to regulate, classify and promulgate maturity standards for them. The citrus excise taxes and fees are made applicable to all citrus hybrids so regulated.

Inspection Fees; Hearing Attorney:

House Bill No. 1243 (Chapter 71-185) restates the basis for estimating the citrus inspection fees assessed by the Department of Agriculture on fresh fruit, fruit inspected and certified for processing, and processed citrus products. The bureaus and the cooperative agreement, the costs of which are to be included, are specified in detail. Under the cooperative agreement, the Department's costs includes those for services and research work related to estimating and forecasting citrus production in the state.

The act makes it a duty of the Department to conduct hearings on violations of Chapter 601, F. S., and rules and regulations promulgated thereunder, through an attorney who shall be selected by the Commissioner of Agriculture and who shall be available to the Division of Fruit and Vegetable



Inspection for other legal services in addition to acting as hearing officer.

The present two mill per box fee for citrus crop estimate service and research is deleted. Fees are made retroactive to a date fixed by the Department, which may revise the fees fixed following the October estimate if subsequent estimates are substantially different. Persons liable to the fee are required to keep adequate records, to permit their inspection by the Department, and to maintain them for one year following the shipping season. Such persons are made personally liable for the fees and the Department is authorized to secure same by requiring a bond or cash deposit. A certified return must be filed when required by the Department. All fees must be paid by the 15th day of each month, are to be deposited in the Citrus Inspection Trust Fund, and are appropriated to the Department for its expenses in performing the duties of the specified bureaus and under the cooperative agreement. The Department is authorized to maintain adequate reserves and to invest funds not immediately needed. Section 601.281, F. S., is added, making provision for fees for operation of road guard stations, similar to the present provisions. Section 601.59(3), F. S., is amended to substitute the Citrus Inspection Trust Fund for the General Inspection Trust Fund.

CIVIL LAW, ACTIONS AND PROCEDURE

This discussion is divided roughly among varying subjects such as acts affecting conveyancing and other matters relating to real estate, probate and administration of estates, trusts, significant actions modified or authorized by the recent session, and miscellaneous acts relating to courts and judicial proceedings. Some of the legislation could be pointed up as being of great import and some could be described as innovative insofar as Florida is concerned. The majority of the acts, however, could be described as modernization of existing statutes and a clarification of ambiguities which inevitably exist in much of the product of the law-making process.

Real Estate and Conveyancing:

Because of prior legislative action, the root of most land titles will soon be found in the recorded plats. By the passage of Committee Substitute for House Bill No. 1154 (Chapter 71-339 ), the Legislature completely revised Chapter 177, Florida Statutes, on the subject of maps and plats. The plat must be accompanied by a title opinion or a policy of title insurance reflecting ownership of the land to be subdivided, as well as encumbrances thereon. The plat must be submitted to the appropriate governing body, city commission or council if inside city limits; otherwise, county commission for determination of compliance with the minimum specifications of the chapter. The survey permanent control point and permanent reference monument must tie into the state plane coordinates designated as the Florida Coordinate System. It must contain an appropriate dedication of all public areas and must be prepared with black permanent drawing ink or similar process on linen tracing cloth meeting the detailed specifications of a size required by the governing body. Section lines and quarter-section lines shall

be clearly indicated and contiguous properties shall be identified. Provision is made for vacating of existing plats. A prohibition against molestation of any monument or destruction of any recorded plat is added to the law. A violation constitutes a second degree misdemeanor punishable as such.

Section 695.24, Florida Statutes, (the Scrivener's Identification Law) was amended by House Bill No. 819 (Chapter 71-11) to permit an instrument which creates, conveys, encumbers, assigns, or otherwise disposes of an interest in real estate to have shown on it the name and address of the person under whose supervision it was prepared, as an alternative to showing the name and address of the person who prepared it. Exempts plats and instruments prepared or executed by a public officer other than as a notary public. The clerk is required to refuse to record an instrument not prepared in accordance with the act, but his failure to do so will not impair the validity of the recordation or of the constructive notice given by such record. Instruments which are otherwise valid but failed to comply with the act are declared to be constructive notice in the counties where improperly recorded.

Under the provisions of Senate Bill No. 553 (Chapter 71- 27 ) a homestead may be conveyed or encumbered by use of power of attorney executed with formality of a deed. Where the homestead is conveyed by a married person or by husband and wife, the power of attorney may be given by one spouse to the other or by one or both to a third party. The required joinder of husband and wife may be accomplished through the exercise of power of attorney.

Senate Bill No. 544 (Chapter 71-54) clarifies the procedure of recording conveyances between spouses (including homestead) by allowing one spouse to convey to the other without joinder of the grantee. A spouse holding title may create an estate by the entirety by conveying to the other spouse expressing the purpose of creating such estate or by conveying to both spouses.



In line with the philosophy of amendments to the Scrivener's Identification Act, House Bill No. 811 (Chapter 71-6) amends Section 199.141, Florida Statutes, to provide that the recordation of a mortgage or other instrument constituting evidence of a lien shall constitute constructive notice of the lien, notwithstanding failure of the tax collector or clerk to comply with the requirements respecting payment of the intangible tax and the notation of such payment on the face of the instrument.

Under Senate Bill No. 552 (Chapter 71- 56 ), Section 55.10, Florida Statutes was amended to specify that the proper place for recording judgments and decrees is the judgment lien record or official records of the county, whichever is maintained at the time of recording.

Section 55.101, Florida Statutes, is added to validate the lien of recorded judgments from the date of recordation of certified copies of the judgments. The judgment is not a lien until a certified copy is recorded in the judgment lien record or in official records.

With respect to corporate conveyances, Section 692.01 was amended by House Bill No. 817 (Chapter 71-10) to allow corporations to execute instruments conveying, mortgaging, or affecting any interest in its lands in the same manner as deeds are executed and conveyed (sealed with the corporate seal and signed in its name by the president, vice-president or chief executive officer). Satisfactions or partial releases executed by any corporate officer are authorized. No corporate resolution, as evidence of authority, is necessary and execution of the instrument is deemed valid whether or not the officer had such authority (in the absence of fraud in the transaction by the person receiving the instrument). Rights of a bone fide purchaser without notice of fraud prevail against any claim on the part of the corporation.

On and after July 1, 1971, a death certificate will be delivered by the state registrar (upon payment of the requisite fee) which certificate will exclude that portion of the original

which contains the medical certification of the cause of death. This information may be obtained only by persons having a direct and tangible interest therein as set forth in the rules and regulations of the Division of Health of the Department of Health and Rehabilitative Services. This restriction was imposed by an amendment to Section 382.35, Florida Statutes, by Senate Bill No. 550 (Chapter 71-26).

Probate and Administration of Estates:

Effective January 1, 1972, a county judge will be authorized to dispense with certain administrative steps or find administration unnecessary where the estate qualifies as provided in the current law, and the gross value in either case exclusive of exempt property is not more than \$10,000, as authorized by Senate Bill No. 122 (Chapter 71-24).

One of the small annoyances frequently present in the handling of estates was ameliorated by the passage of Senate Bill No. 367 (Chapter 71-32), which takes effect October 1, 1971. This act provides that any person paying the funeral expenses or any debt of the decedent for which no proper claim has been filed shall be subrogated to the rights of the payee against the estate and may, within the period of nonclaim, file a claim against the estate for reimbursement. A personal representative who has made such payment may file a statement to that effect without the formality of a claim. Objection to the claim of the personal representative or claim for payment of other obligations of the decedent to the personal representative creates an adverse interest requiring an appointment of an administrator ad litem.

Effective January 1, 1972, Senate Bill No. 542 (Chapter 71-25) which amended Section 731.35, Florida Statutes, requires a widow to protect her dower interest in real property conveyed by her husband prior to his death without a relinquishment on her part. This is accomplished by filing the required instrument with the clerk of the circuit court of the county in which

the property is located within three years following the death of her husband. This does not relieve her of the obligation to make an election nor does it dispense with petitions for assignment of dower. This act applies also where the husband died prior to January 1, 1972, but the widow's dower interest is not barred if the required instrument is filed before January 1, 1973.

Senate Bill No. 369 (Chapter 71-33) establishes Section 731.37, Florida Statutes, to authorize a beneficiary of any interest in property to disclaim such interest if done so within 12 months of the death of the donor of such interest (if such interest is devised) or within 12 months after the beneficiary's interest or identity becomes fixed or ascertained. Permits such a disclaimer to be made by the beneficiary's guardian or personal representative with court approval. Gives such disclaimer the legal effect of the death of the beneficiary before his interest vested in him. Requires such disclaimer to be written and executed as a deed and provides for irrevocability once filed with the county judge. Makes such disclaimer available to spend-thrift beneficiaries. Requires a disclaimant's wife to consent in writing to relinquish her dower right to disclaimed real property before the same shall be effective. Limits the effect of disclaimer to the interest disclaimed only.

#### Partnerships:

House Bill No. 823 (Chapter 71-71 ) designates as partnership property, property originally brought into a partnership or subsequently purchased by partnership to same extent as property acquired with partnership funds unless partners agree otherwise. Real property may be acquired in the partnership name and conveyed or encumbered in the partnership name by instrument executed by at least one of the partners. There will be no dower rights in partnership realty and no joinder of spouses is required. Prior conveyances to partnership in its name which were duly recorded are validated. Becomes effective January 1, 1972.

House Bill No. 814 (Chapter 71-9) amends Section 620.03, Florida Statutes, and creates Section 620.081, Florida Statutes, to do for limited partnerships what House Bill No. 823 is designed to do for general partnerships. Conveyances must be executed by a general partner. This is also effective January 1, 1972.

House Bill No. 815 (Chapter 71-70) amends Section 620.09, Florida Statutes, relating to the rights and powers of a general partner in a limited partnership, to provide that a general partner's act will be binding on the limited partnership if in doing such act he is apparently carrying on the business of the partnership in the usual way, unless he has no authority to so act and the person being dealt with has knowledge of this fact; deletes requirement that general partners must have written consent or ratification from all limited partners in order to: (1) do any act which would make it impossible to carry on the ordinary business of the partnership, and (2) possess partnership property or assign their rights in specific partnership property for other than a partnership purpose. Effective January 1, 1972.

#### Trusts and Trustees:

House Bill No. 1293 (Chapter 71-248) authorizes payment of death benefits to a trustee under a trust agreement or declaration of trust, to take effect on the date of the death of the trustor (as insured employee or annuitant). Such trust agreement or declaration is valid even though the corpus does not come into existence, except as a right of the trustee, until the death of the trustor. Death benefits may be payable to a named trustee or to a testamentary trustee designated by the trustor and are to be administered in accordance with the terms of the testamentary trust as established by will. In the absence of the trustee to receive payment within one year from the death of the trustor, the holder of the corpus may make payment to the personal representative of the trustor unless different

provision is made in the policy during the life of the trustor. Death benefits not payable to the personal representative are not part of the estate of the trustor and are not subject to contribution for payment of estate taxes, debts or other charges enforceable against the estate.

Senate Bill No. 546 (Chapter 71-55) authorizes out-of-state corporations, empowered to act as trustee under the laws of the state where principally located, to receive (in trust) devices of real property located in Florida and to sell, transfer and convey the same. This trust power becomes effective January 1, 1972.

House Bill No. 506 (Chapter 71-63) amended the uniform principal and income law in a manner which will clarify the obligation of a trustee to make distribution. Where the corpus contains obligations bearing no stated interest but the obligation is payable at a future date in excess of the initial consideration, the increment of increase is income. If the income accrues according to a fixed schedule, it is distributable to the beneficiary when the increment occurs. If such anticipated income has been paid to the beneficiary out of principal, the principal must be reimbursed from the income when received.

House Bill No. 1297 (Chapter 71-126) provides that if otherwise valid, an inter vivos trust would not be invalid because the settlor, at the time of the execution of the trust instrument, is the sole trustee or thereafter becomes the sole trustee, if at the time of the execution of the trust instrument it is valid under the law where executed or it is executed with the formalities of a will as required by the law of the place of execution.

Senate Bill No. 365 (Chapter 71-31) authorizes a beneficiary to disclaim any interest in property which would pass to him in any manner under a nontestamentary instrument. The disclaimer is subject to the same limitations and must be executed in the same manner as set forth in Senate Bill No. 369

(Chapter 71-33), which provides for the disclaimer of an interest in property acquired by succession or under a testamentary instrument, discussed in detail under the heading of "Probate and Administration of Estates."

Senate Bill No. 372 (Chapter 71-34). A testamentary gift to a trustee in trust for stated purposes may not be held invalid for any of the reasons that might invalidate an inter vivos trust as an attempted testamentary disposition if the provisions of Section 689.075, F. S., did not prevent such result.

Senate Bill No. 1392 (Chapter 71-256) is Florida's Charitable Trust Act of 1971, which provides that the trustee of a private foundation or of a split interest trust shall have the duty to avoid subjecting such trust to unnecessary taxation. Such charitable trusts may be amended to comply with the provisions of this act. Establishes the manner in which a power to select charitable donees may be released and for supervision by a public charitable organization. Makes provision for election to come under act and for notice where trust provisions are too stringent to permit application of the act. This act shall not apply to any trust to the extent a court shall determine, in proceedings initiated prior to the effective date of this act, that its application would be contrary to the instrument governing such trust and the trust cannot properly be conformed to this act. Effective November 1, 1971.

Senate Bill No. 370 (Chapter 71-23 ) amends Section 710.08, F. S., relating to gifts to minors, to permit a custodian to designate his successor by executing an instrument naming the successor before a subscribing witness other than the successor. Such instrument may, but need not, contain the resignation of the custodian. Permits a minor 14 years or older who has no guardian to name a successor custodian in same manner as above where custodian has died or has become incapacitated without so doing. Successor custodian's

power takes effect as to each item of custodial property when custodian dies, resigns, or becomes legally incapacitated and such property is registered in the successor's name as the new custodian if it is a security, annuity, or insurance policy, or the item and necessary instruments are delivered to the successor custodian. Requires the custodian, or his legal representative if he dies, to do everything within his power to put items of custodial property in possession of successor custodian or in possession of minor's guardian. If the custodian has executed more than one instrument, the one having later date revokes all previous instruments. Where custodian or successor custodian becomes unable to perform the duties before minor reaches 21, the minor's guardian, if he has one, shall be the successor custodian, otherwise the donor, his legal representative, custodian's legal representative, or adult member of minor's family may petition the court for designation of a successor custodian if one has not been designated according to this section. Successor custodian is authorized to petition the court for removal of the custodian or for order requiring custodian to give bond. Effective October 1, 1971.

#### Actions:

The 1971 session of the Legislature established new remedies for old problems and made modifications in many of the old remedies. The most significant piece of legislation of this type which has been lauded and condemned with equal vigor is House Bill No. 17-C (Chapter 71-241) which abolished actions for divorce in Florida and substituted therefor a proceeding for the dissolution of marriage. The bill was similar to the act vetoed by the Governor at the end of the regular session and was designed to overcome objections to that act which were sustained when the veto was taken under consideration.

The act amends Chapter 61, F. S., by abolishing actions for divorce and by providing, in lieu thereof, a petition in chancery for dissolution of marriage. The defenses of condonation,



collusion, recrimination and laches are abolished and two grounds for dissolution are established:

1. Marriage is irretrievably broken, or
2. Mental incompetence of a party under Section 394.22, F. S., for a period of at least three years.

Corroboration of evidence is unnecessary except to establish the six months' residency requirement.

If there are minor children or if the issue of irretrievable break is contested, the court may order the parties to seek qualified consultation, continue the proceedings for a period not exceeding three months in an effort to effect reconciliation, or take other action in the best interest of the parties.

Either party may be awarded attorney's fees, suit money, costs, alimony pendente lite, or rehabilitative or permanent alimony payable periodically or in lump sum or both. The court may consider any factors necessary to do equity and justice in the premises in determining alimony awards.

The award of alimony, child custody and support, and adjudication of financial obligations of a spouse without a petition for dissolution of marriage are authorized. Either spouse residing apart from the other and minor children may obtain an adjudication of the obligation for support, custody and visitation rights, without a judgment of dissolution of marriage.

In a proceeding for dissolution of marriage, the court may order either or both parties to pay child support, award child custody without giving preference to the mother, and enter orders for the care and visitation of the children. A party who is in arrears is allowed to obtain an order reducing alimony or child support without fully paying current obligations for same.

Act applies to proceedings originally instituted after the effective date, July 1, 1971, and pending actions shall be deemed to have been commenced on the grounds that the marriage is irretrievably broken or the spouse has been incompetent for the three-year period. Act applies to modification proceedings

commenced after effective date. In cases pending on appeal or new trial on the effective date, the law in effect at the time of the order sustaining the appeal governs.

Repeals Florida Statute Sections 61.041 (grounds for divorce), 61.042 (insanity as grounds), 61.051 (effect of divorce on legitimacy of children), 61.15 (suit money in enforcement proceedings). The act is supplemental to laws not specifically repealed.

Under the provisions of Senate Bill No. 938 (Chapter 71-103) actions for the appointment of a conservator over the property of an absentee were transferred from the jurisdiction of the county judge to the circuit court. The act also finds that an absentee is considered incompetent for the purposes of alienation of homestead under the provisions of Section 4, Article 10 of the State Constitution. The circuit court may appoint a conservator of the estate of an absentee who has an interest in property in this state or is a legal resident, or whose wife or next of kin is a legal resident, and the absentee has not made provision for management of his property by power of attorney still in effect and there is a necessity for preserving the property for wife and children, or if none then for the mother and father of the absentee.

Summary proceedings are allowed where the gross value of the absentee's property is less than \$5,000. Where the value is more than \$5,000, petition setting forth all jurisdictional facts must be filed and notice by registered mail given to all persons named in the petition. Hearing is provided and court may appoint a guardian ad litem for the absentee. Conservatorship may be limited to specific property of the absentee. Court is required to consider one of the next of kin as conservator. Conservator must make oath and may be required to post bond. The conservator is vested with the powers of a guardian. The conservatorship is terminated upon the appearance of an attorney in fact with an adequate power from the absentee or upon evidence of the death of the absentee. Upon termination, conservator required to make final accounting and application

for discharge. Actions against the conservator or surety are barred after one year from date of discharge.

House Bill No. 1447 (Chapter 71-165) reinstated, for limited purposes, the waiver of sovereign immunity established by Chapter 69-116 and repealed by Chapter 69-357, effective July 1, 1970. The waiver of sovereign immunity is revived as to causes of action which arose during the period from July 1, 1969 to July 1, 1970 and reinstatement of any action which was dismissed because of repeal of the waiver is required. Persons who have a cause of action upon which suit has not been filed may file the same any time after July 1, 1971, but before July 1, 1972. Any such action shall be subject to all the provisions of Chapter 69-116 which set forth the conditions under which the sovereign immunity was being waived.

Senate Bill No. 625 (Chapter 71-254) amended Section 95.11, F. S., to make the two-year statute of limitation applicable to medical malpractice suits. It provides that the cause of action accrues when the injury is discovered or, through reasonable care, should have been discovered by the plaintiff. Includes within the operation of the act dental, optometric, podiatric or chiropractic treatment, as well as medical treatment or surgical operation.

Senate Bill No. 619 (Chapter 71-268) gives the Attorney General equal status with the state attorney, county solicitor and county prosecutor in proceedings in the name of the state to enjoin nuisances (as defined in Section 823.05, F. S.).

House Bill No. 508 (Chapter 71-69) has clarified the responsibility of a bank as garnishee. After service of a writ of garnishment, it shall retain any deposit or personal property of a defendant named in the writ or in which such defendant appears to have an interest and shall report in its answer the names and addresses of other individuals appearing to share any ownership interest in such property. The bank may not retain more than double the amount of the claim or the judgment. The plaintiff is required to serve

notice upon such other individuals of the issuance of the writ and of the answer of the garnishee within five days after service of such answer. Action taken by the garnishee in good faith creates no liability to the defendant or to any other person having an interest in the property retained. The garnishee is liable in a fiduciary capacity if such capacity is specified in the writ served upon him.

House Bill No. 1876 (Chapter 71-292) amends the uniform commercial code to provide that the holder of a warehouse receipt, or the person entitled to delivery of goods from a warehouseman as bailee, where the value exceeds \$10,000, has the burden of establishing negligence on the part of the warehouseman. This provision is effective September 1, 1971.

Senate Bill No. 774 (Chapter 71-324) in effect eliminates out-of-state checks in payment of wages by requiring that any order, check, draft, note, memorandum or other acknowledgment of indebtedness, used as payment of wages or salary, must be negotiable, payable in cash on demand without discount at an established place of business in the state, the name and address of which must appear on the instrument. At time of issuance and for at least 30 days thereafter, the drawer must have sufficient funds or credit with drawee. Amends Section 532.02, F. S., making any person issuing any device in lieu of cash as payment for labor, upon demand by the legal holder thereof, liable 30 days after issuance for the full value in cash, notwithstanding any contrary stipulation which may be contained therein. Amount of recovery in suit brought by the legal holder includes full face value of the device with legal interest from demand, and 10 percent of the amount as attorney's fees in the court's discretion.

Senate Bill No. 115 (Chapter 71-308) provides that substituted service of process directed to a nonresident and made on a public officer shall be valid if the copies are sent to the public officer by certified mail along with the necessary fee. Effective January 1, 1972.

Senate Bill No. 628 (Chapter 71-269) requires the filing of the designation of resident agent for a corporation (name

and street address) at the time of the application for a domestic charter, or for permit to transact business in the state as a foreign corporation. The filing fee is increased from \$2.00 to \$3.00.

### Miscellaneous Provisions of Civil Law

#### Judicial Proceedings:

House Bill No. 906 (Chapter 71-72 ) qualifies a convicted perjurer to testify as a witness in a judicial proceeding. Evidence of conviction of perjury may be used to affect the credibility of the witness. The removal of the current disqualification takes effect January 1, 1972.

House Bill No. 808 (Chapter 71-5) modifies the procedure respecting judicial sales. If there is an equity of redemption, the court may fix the time of sale but may not specify the time for redemption of the property. The holder of the equity may redeem it any time prior to sale. Subject to republication, the court may enlarge the time of the sale. The clerk's certificate of sale, certificate of title and report of disbursements shall be served on each party not in default. The amount bid at the clerk's sale is conclusively presumed to be sufficient consideration but may be considered by the court in the determination of a deficiency if application for judgment is made.

House Bill No. 232 (Chapter 71-67) authorizes electronic processing in connection with the preparation of jury lists. Where electronic data processing equipment is used, the county commission (or the jury commission, if there is one) is authorized to perform the duties of the sheriff with respect to his obligation to summon petit jurors.

Senate Bill No. 424 (Chapter 71-52) authorizes the drawing of a jury venire by mechanical or electronic means when so determined by a majority of the trial judges in a county, subject to the approval of the Supreme Court. Selection shall be under the supervision of the presiding circuit judge. Uniformity of equipment throughout the state is not required.

House Bill No. 2195 (Chapter 71-214) gives the presiding circuit judge administrative supervision over all trial courts in his circuit, with the exception of municipal courts. This supervision extends to other officers of such courts as well as over judges. He may make assignments and determine their duration, regulate the use of courtrooms, assign clerks and bailiffs, supervise dockets, require attendance of prosecutors and public defenders and take other action necessary to promote the prompt and efficient administration of justice in the courts of the circuit. He is responsible for furnishing information required by the chief justice concerning the operation of the courts. He is selected by a majority of the judges of the trial courts in the circuit (other than municipal courts) for a term of two years and may succeed himself. Any judge or court officer failing to comply with an order or directive of the presiding judge may be suspended from office for neglect of duty. The act authorizes an executive assistant to the presiding judge for the performance of such duties as the judge may direct but is silent with respect to his selection and tenure.

House Bill No. 826 (Chapter 71-7) vests jurisdiction in the circuit court to complete matters pending in an abolished court where no other provision for transfer of cases has been made. Any motions, pleadings or other matters to be filed in the cause may be filed in the circuit court, at which time the court may require the custodian of the records of the abolished court to turn the file over to the clerk of the circuit court. The clerk of the circuit court shall not charge additional filing fees for such proceedings.

#### Miscellaneous Matters:

House Bill No. 807 (Chapter 71-4). Commencing January 1, 1972, each clerk of the circuit court, as official recorder of the county, shall, if he has not already done so, convert to the system of official records for the recording of every instrument required or authorized by law to be recorded and shall keep a chronological register containing information

respecting each instrument filed for record and recorded by him. He shall also maintain a direct and an inverse index of all such instruments. He may maintain a separate book for maps, plats and drawings recorded pursuant to Chapters 177, 253 and 337, F. S.

Senate Bill No. 543 (Chapter 71-94) authorizes the satisfaction of a liquidated obligation, for less than the amount due, by a written instrument other than the endorsement on a check.

Senate Bill No. 547 (Chapter 71-147) revises Chapter 743, F. S., relating to the removal of disability of nonage of minors by combining sections removing disability upon marriage regardless of sex or subsequent status and the removal of disability of nonage for the purpose of obtaining certain servicemens benefits or for borrowing for educational purposes. Removes references to persons over 21 years of age and substitutes therefor persons who are not minors.

Under House Bill No. 737 (Chapter 71-123), persons responsible for the deposit of public funds may accept as pledges to secure such deposits U. S. government guaranteed student loans and small business administration loans.



COMMERCE; REGULATED BUSINESSES AND OCCUPATIONS; LABOR

1. Regulation of commercial activities

Generally:            Franchises and distributorships. House Bill No. 428 (Chapter 71-61) prohibits a parent company, in setting up a new franchisor or distributor, from misrepresenting: his "chances for success"; the total investment he must make; or the fact that more of such enterprises have been established in the immediate market area than the market can be expected to sustain. An overall plan involving such a purpose is also a violation. Among other kinds of relief, civil damages will lie in the amount of the investment.

Advertising. Senate Bill No. 19 (Chapter 71-304) prohibits the conduct of games of chance to promote sales, where the operator is capable of allocating winners among participating businesses or distributing winners over the period of operation, or where the operator arbitrarily fails to award a prize or otherwise rejects an entry, or advertises the game deceptively. No on-going business may be forced to participate in a promotional game. A trust fund or a bond for the payment of prizes is required. Disclosure of rules and contest winners must be made. House Bill No. 766 (Chapter 71-287) requires merchants who give away promotional prizes selected by lot to announce that Florida residents are eligible.

                 Committee Substitute for Senate Bill No. 882 (Chapter 71-233) specifies which of the prohibitions against false trade practices under part I, chapter 817, may be the subject of injunctive and other equity relief. False and deceptive advertising,

misleading solicitation of payments and simulated legal process are covered; prior law was unclear but may have covered more. County solicitors are added to state's attorneys as the moving parties in interest.

Sales. Committee Substitute for House Bill No. 69 (Chapter 71-65) amends the 1970 law giving the buyer in a "home solicitation sale" the right to rescind for three days after the sale. The rescission is now available only if the sale is consummated at the home; if the buyer goes to the store to sign the contract, the law doesn't apply.

Banks and banking: Reserves. House Bill No. 558 (Chapter 71-169) allows banks, for the purpose of satisfying the cash reserve requirement, to rely upon the excess of the par value of certain stock that may be treated as cash, less the amount of the deposit to which the stock is pledged.

Investments. House Bill No. 555 (Chapter 71-167) allows investments by general banks of up to 5 per cent of available amounts -- increased from 2 per cent -- in "small business companies" under the federal code.

Director ownership. House Bill No. 556 (Chapter 71-168), with respect to general banks, and House Bill No. 561 (Chapter 71-171), with respect to industrial savings banks, allow a director to satisfy the stock ownership requirement (at least \$1000 in the bank he serves) with stock which is encumbered or is subject to an option.

Examinations. House Bill No. 559 (Chapter 71-170), with respect to general banks, and House Bill No. 560 (Chapter 71-200), with respect to industrial savings banks, provides that records of bank examinations and related papers, except those required to be published, cannot be made public without consent of the commissioner or a court order.

Emergency closings. House Bill No.

1245 (Chapter 71-160) repeals permissive bank holidays and emergency closing provisions; substitutes authorization for any bank to choose to close part or all of its operations for up to 48 hours if its officers decide that there exists or is impending an emergency that may interrupt business or pose a safety threat. The banking commissioner may, for the same reason, approve a longer shut-down or authorize a shut-down of any length on his initiative. Closing under this law has the effect of a banking holiday. Proclamations, unrepealed statutory provisions and national holidays are still operative.

Foreign. Senate Bill No. 1379

(Chapter 71-336) provides that out-of-state banks, which under §659.57 could previously transact mortgage business in this state directly with the public, are no longer exempted from violating the doing-business laws by such transactions unless the transactions are entered through independent servicing agencies qualified in this state.

Late charges. House Bill No. 560

(Chapter 71-200) clarifies the authority of industrial savings banks to impose late charges of up to 5 per cent on loan defaults. Makes the same provision for records of bank examinations, at a new §656.211, as is made under the amended §658.10 (see chapter 71-170) for general banking and trust companies.

Copies. Senate Bill No. 374 (Chapter 71-44) provides, at paragraph 674.104(1)(g), that photographic copies of lost or destroyed commercial instruments, if the loss or destruction is supported by affidavit and security, are to be treated as the original bank items by all banks in the collecting process.

Joint accounts. House Bill No. 507 (Chapter 71-205) creates, at §659.291, a rebuttable presumption that deposits in jointly-established bank accounts payable, by the terms of the signature card, to the survivor of the depositors are intended by the depositors to vest in the survivor. No affirmative showing of donative intent or other element of a gift is necessary; but contrary terms on the signature card or other clear proof will overcome such result.

Savings associations:

Investments. Senate Bill No. 508

(Chapter 71-90) changes the legal investments for savings associations organized under chapter 665. Among other changes: Florida obligations are limited to a 25 per cent category; the department of banking and finance can no longer publish a list of legal investments for the 25 per cent category; state and local obligations outside of Florida are allowed. All investments are subjected to standards for payment history and investment grading or rating. Senate Bill No. 513 (Chapter 71-93) clarifies §665.381, which provides that savings associations must invest at least 60 per cent of their non-liquid assets in certain kinds of real estate loans, defined in that section and in §665.021. Qualifying loans are limited by a maximum amount limitation and a limitation on the percentage of the security value that they represent.

Loans. Senate Bill No. 512 (Chapter 71-92) allows savings associations to sell paper evidencing loans made by it, either without recourse to the borrower, as they could under existing law, or with recourse to the borrower.

Quorum. Senate Bill No. 509 (Chapter 71-91) requires presence of 25 or more members for a quorum at annual and special meetings of the membership; old law required only one or more members.

Credit unions: Committee Substitute for House Bill No. 342 (Chapter 71-106) provides that credit union bylaws may effectively allow the appointment of the mandatory credit committee by the directors rather than its being elected by the members. Raises the maximum dividend that may be declared for the benefit of the members from 6 per cent to 7-1/2 per cent. Adds to the list of legal investments for credit unions the purchase, in any amounts, of certificates of deposit and time deposits in any other credit union or in state or national banks or savings and loan associations. Provides an alternative formula for arriving at minimum required reserves to be maintained by credit unions that have federal deposit share insurance.

Pari-mutuel industry: Governing agency. House Bill No. 794 (Chapter 71-98) in part abolishes the racing commission under chapters 550 and 551. An appointed committee, with specified qualifications, will advise in regard to thoroughbred racing. The board of business regulation will assign racing and jai alai dates, and the other functions of the commission will be carried out through the division of pari-mutuel wagering.

State and county revenues. House Bill No. 728 (Chapter 71-129) provides that the tax revenues payable to the counties under chapter 550 and 551 for years beginning with fiscal 1972 cannot exceed the amount of such revenues paid in 1971, and that the excess will go to the general revenue fund.

Purses and awards. House Bill No. 1720 (Chapter 71-146) raises by one cent, to seventeen cents, the amount of each betting dollar that can be withheld by horse racing tracks for taxes, expenses and profits. Requires the use of the increment for horse breeders' awards and overnight purses.

Leased facilities. Senate Bill No. 1211 (Chapter 71-180) allows the holder of a permit for horse racing to run its race meet at the facilities of another horse racing permittee no more than 35 miles away, pursuant to a lease and the listing of the leased premises on the license for that meet.

Bi-centennial days. Committee Substitute for House Bill No. 1079 (Chapter 71-237) allows the board of business regulation to grant an additional charity day in each year through the first half of fiscal 1977 to any racing or jai alai licensee, the profits up to \$350 thousand per year to be used for the conduct of the bi-centennial celebration and any excess to be paid to the general revenue fund.

Hotels and restaurants: House Bill No. 668 (Chapter 71-157) allows the hotels and restaurants division to accept local government inspections and specification approvals for purposes of its determination of the safety of buildings under §§509.211 and 509.2111. Provides that licenses issued by the division attach to the operator as well as to the premises and cannot be transferred in either respect. Allows the indication of fire escapes by green lights, as an alternative to red lights. Requires adequate ventilation in sleeping rooms for license purposes. Makes National Fire Protection Association standards applicable to buildings that house incapacitated persons. Transfers the responsibility for inspecting and regulating elevators, even though not in hotels and restaurants, to the division. Allows the division to accept elevator safety inspections by insurers or service contractors, and county as well as city inspections, in lieu of its inspections under §399.08. Expands the criminal offenses for misrepresenting the nature of some foods so that all foods served in a restaurant are covered, and adds a description of acts that constitute misrepresenting fruit and fruit juices.

Beverage industry:                License quotas. House Bill No. 1407  
  (Chapter 71-238) provides that between  
July 3, 1971, and September 1, 1972, quotas on beverage licenses  
are frozen at the levels available under subsection 561.20(1),  
without further increases by reason of the 1970 census.

New owners. Senate Bill No. 260 (Chapter 71-229) provides that purchaser of a business with a current beverage license must be allowed to operate for up to 90 days under a temporary license, subject to an investigation and the payment of a fee.

Conventions. Senate Bill No. 243 (Chapter 71-100) provides that the holder of a beverage license issued for a convention hall or similar building may be given a permit by the beverage division to conduct a manufacturers' display on the licensed premises, for up to five days, of beverages not necessarily limited to those under his license. The holder may allow consumption of the beverages on the premises, but the statute doesn't enlarge his license to sell rather than give away the beverages.

Electrical contracting: Senate Committee Substitute for House Bill No. 772 (Chapter 71-224) regulates primary contractors who install or repair electrical fixtures. An appointed 9-member board within the occupations division of the department of professional and occupational regulation will conduct examinations and licensure, under its adopted regulations. Local laws and permit systems are unaffected. The board will investigate applicants and, on its initiative, will investigate possible building code violations, misuse of certificates and other specified acts, for which the board may withdraw licenses and impose civil penalties.

## 2. Professional licensing

Physicians: CS for H.B.No. 396 (Chapter 71-122) waives the requirement of a state examination under chapter 458 for persons applying to practice medicine who have recently passed the national boards or the FLEX examination, except that the applicant can be required to pass an oral examination; licenses so issued are voided if the applicant fails to engage in practice. Also waives the examination requirement for medical school faculty members who practice in connection with their teaching duties.

Dentists: Senate Bill No. 714 (Chapter 71-148) provides that aliens who have declared an intent to become naturalized and who are otherwise qualified for a license to practice dentistry are allowed to file under §466.13 and receive a license.

Opticians: House Bill No. 1350 (Chapter 71-209) raises the prerequisites for licensing as a dispensing optician under §484.03; the education requirement is 2000 hours rather than 850, and the alternative apprenticeship period is 3 years rather than 2. Examination fees and license renewal fees are raised. The state board is directed to establish a continuing education program. Compensation and procedures for board meetings are revised.

Pharmacists: Senate Bill No. 1475 (Chapter 71-281) separates the licensing of pharmacies into three categories. Commercial pharmacies are not affected; some pharmacies in a health care institution will be allowed only to administer, and not to dispense, regulated drugs; all pharmacies in health care institutions must have a specially qualified consultant pharmacist, and all are prohibited from dispensing to out-patients without a commercial license; no health care institution may keep on hand or administer regulated drugs without a license. The act also removes the prohibition against a pharmacist's having supervision of more than a single outlet at one time.



Senate Bill No. 1066 (Chapter 71-330) provides that rules and adjudications made by the pharmacy board are appealable as a matter of right to the district courts in the manner described in the administrative procedure act; the amended subsection 465.20(2) formerly required an intermediate appeal to a circuit court.

### 3. Securities regulation

Senate Bill No. 827 (Chapter 71-98) exempts from state registration private offerings (fewer than 25 subscriptions) of foreign securities, in addition to those with Florida incorporation or situs; and exempts private offerings where commissions are paid to a dealer. The exemption for dealer sales is extended to include securities with a current SEC registration. Forms of compensation for the selling of regulated securities in addition to commissions may be limited in amount by the securities division. Registration by "notification" is no longer available. A new method, registration by "coordination", is provided, under which offerings by certain issuers concurrently filed with the SEC and underwritten on a firm commitment basis may be registered by filing a paper with the division. The information to be supplied in connection with a registration by "announcement" is revised. Dealers are required to keep records as will be provided by regulation. Registrations granted in November or December are made effective until the end of the following year rather than the end of the current year.

### 4. Labor

Workmen's compensation: Senate Bill No. 808 (Chapter 71-190) provides that an employer who secures payment for medical expenses, disability compensation and death benefits as required under chapter 440 has

satisfied the obligation to the employee and his relatives or estate and, under §440.11 as amended, is also immune from suit by a third-party tortfeasor.

Unemployment benefits: Senate Bill No. 795 (Chapter 71-227) lowers the rate of contributions by employers with less than 12 quarters of benefit payments, based on compensation paid during or after calendar 1972, to one per cent without regard to experience rating. Previous rate was 2.7 per cent, or other rate determined by benefit experience, for all employers. Statute is §443.08.

Senate Bill No. 777 (Chapter 71-225) makes numerous changes in coverage, extent of benefits and administration of the state law, at chapter 443, to conform to the 1970 amendments of the federal tax code with respect to coverage of the federal unemployment tax act, and to conform to the requirements of the Secretary of Labor for approval of the state program. Beginning in calendar 1972, the state law will cover services of certain persons, such as corporate officers, commission agents, certain traveling salesmen, and employees under application of common law rules for the determination of such relationship. State employees will be covered; also employees of certain hospitals and institutions of higher learning. Exempts church employees and members, employees of a school not an institution of higher learning and participants in a vocational rehabilitation program or in a work relief program. Exempts services for a prison hospital by an inmate. Includes specified services performed outside the United States. Covers any service taxable under federal law for which credit is allowed. Re-defines agricultural labor. Exempts services for tax-exempt institutions engaged in testing for public safety. Organizations must not participate in partisan politics to continue their exempt status. Exempts services performed for a hospital by a patient; exempts services by a college student under age 22 for the institution in a credit course involving work experience. Revises the definition of covered employers. Increases the maximum taxable

wages from \$3,000 to \$4,200 in any one year. Provides for extension of benefits beyond the former maximum period under a formula approved by Congress and established by regulations of Secretary of Labor, based upon national and state unemployment ratios. Claimants participating in training programs will be deemed available for work and will not be denied benefits. A claimant will be denied benefits in a new benefit year unless since the last year in which benefits were paid he earned at least three times his weekly benefit amount. Benefits will not be payable to university personnel for unemployment beginning during an interim between academic years or semesters, or during sabbatical leave, if the employment contract covers the periods before and after the interim. Nonprofit corporations may elect to pay tax or assume responsibility for payment of benefits. Revises the formula for determination of the base period employer and chargeability in regard to previously exempt employers. Political subdivisions may elect coverage for a year or more, and become subject to payments of benefits in lieu of contributions. State may elect to cover all employees whether or not in exempt employment. Provides for termination of elections. Revises procedure for interstate claims and wage credits to facilitate payment of benefits under reciprocal arrangements.

Senate Bill No. 790 (Chapter 71-226) puts salaries and wages paid to non-elected employees of the state under the general unemployment compensation law. Benefits for employment during and after calendar 1972 are covered.

Committee Substitute for House Bill No. 1109 (Chapter 71-247) raises the maximum unemployment benefit by seven dollars, to fifty-four dollars per week. Applies to benefit years beginning after fiscal 1971.

House Bill No. 2258 (Chapter 71-215) allows contributions for unemployment compensation purposes to be commingled with other funds in the state treasury.

Migrant Farm Workers:

Senate Bill No. 1162 (Chapter 71-234)

regulates persons who act as middlemen by arranging for, or hiring, or supervising a work force of at least 10 agricultural workers for a farmer or grower. Such a person must register with an agency of the commerce department; a fee is required, and the registration certificate must be displayed. Registrants must, among other requirements, disclose the price terms of their contracts with farmers or growers and with the workers, and must carry specified casualty insurance. Registrants are prohibited from giving false employment information.

5. Utilities

Water and sewage operations:

Senate Bill No. 905 (Chapter 71-278) rewrites the water

and sewer system regulatory law, at chapter 367, in its entirety. The revision will initially affect only the 17 counties now under the public service commission for such purposes; other counties can elect to be governed. The new law applies to utilities with as few as 100 connections, rather than 400 as under the former statute. Governmental agencies, non-profit cooperatives, hotels and motels, certain landlords and certain manufacturers are exempted. The burden of providing and advertising notice of applications for certificates is now on the utility. New fees are set. The fixing of rates, which was based upon contributions in aid of construction owned by the utility, will now be based primarily on the quality of the service and on the cost, as defined, of providing the service. The cost of compliance with other authorities such as the pollution control board will also be considered. Excessive requirements of contributions in aid of construction may be investigated and modified. The quality of utility service rendered will be measured by and must conform to specific standards under the administrative code.

Electric cooperatives:

House Bill No. 891 (Chapter 71-83)

allows cooperatives organized, both now and in the future, under the rural electric cooperative law (chapter 425) to engage in water distribution and sewage services.

House Bill No. 677 (Chapter 71-37)

amends §§425.22 and 425.29. Allows the trustees of such a cooperative, without membership authorization, to mortgage or encumber the assets of the cooperative without limitation as to the mortgagee or pledgee; previous law allowed mortgage or encumbrance by act of the trustees only to a financial member-institution in which the cooperative held membership; sale, lease or other disposition of such property continues to require membership authorization. Exempts from the blue sky laws any debt paper issued by such a cooperative in favor of state and national banks or financial member-institutions in which the cooperative holds membership; only such paper issued in favor of the federal government was previously exempted.

6. Other laws

Horses. House Bill No. 158 (Chapter 71-166)

prohibits and specially defines the practice of "soring" horses in connection with a horse exhibition; allows inspection and requires records. Also prohibits drugging of horses in connection with an exhibition, and possession of devices with intent; allows inspections. Both the owner and the exhibitor are responsible.

Bloodless bullfights. Committee Substitute

for House Bill No. 177 and 248 (Chapter 71-12) repeals §548.031 and subsection 828.12(2) to remove the 1970-session exemption of bloodless bullfighting from the prohibition against certain animal exhibitions under chapter 548 and from the prohibition against cruelty to animals under chapter 828; also removes the other references to animal exhibitions in §548.01.

Mortgage insurance. House Bill No. 1318 (Chapter 71-151) makes chapter 635--providing for licensing of agents, limitations upon insurance written, and regulation by the department of insurance--applicable to insurance against non-payment of rent, in addition to its existing applicability to mortgage payments; indebtedness on real estate in forms other than mortgages are now covered. Drops the prohibition against writing mortgage insurance on dwellings occupied by more than four families.

Phonograph records. Senate Bill No. 156 (Chapter 71-102) makes it a misdemeanor to sell, or copy for the purpose of selling, phonograph records or tapes or films with a soundtrack, without permission of the owner of the master copy. Civil remedies and federal copyright laws are unaffected. At \$543.041.

Condominiums. Senate Bill No. 752 (Chapter 71-322) removes the authorization, under §711.131, that allowed condominium associations to delegate their duties to maintain the common grounds and their management duties by contracting with a third party (and which section validated such existing contracts).

Committee Substitute for Senate Bill No. 842 (Chapter 71-277) requires condominium associations to give owners an annual summary of the accounting records kept pursuant to subsection 711.12(7). Provides that the owners' right to cancel a management or maintenance contract under subsection 711.13(4) exists even if such contract was executed by a fiduciary or appointee of the association. Makes the disclosure requirements of §711.24 applicable only to the initial sale of the condominium.

Hearing aids. Senate Bill No. 772 (Chapter 71-223) provides that the licensing agency under part III of chapter 468 for persons engaging in fitting and selling hearing aids will investigate the background of new applicants; additional grounds for refusal of a license are set out, including the act of promising a cure for hearing loss. The handling of expenses of the agency is standardized, and disposition of fees is kept within the purposes of the statute whether or not currently used. Licensure will be available with less delay for new residents and for qualified minors. Procedures for denial and suspension of licenses are revised, incorporating the procedure act in part. The separate sale of batteries and cords is excluded from the governance of the statute, and sale and fitting activities are re-defined.

Elevators. Senate Bill No. 812 (Chapter 71-228) extends the coverage of chapter 399 to include moving walks and certain lifting devices. Any non-complying elevator in operation on July 1, 1971, is excused from the requirement that it be rebuilt and from other requirements. The manufacturer or installer is declared to be responsible for compliance with the chapter until approval of an elevator has been given, and thereafter the owner is responsible. The nature of the drawing required to be submitted with elevator permit applications is changed. Removes the exemption of the pull out of the governor cable from compliance with the elevator safety code. Revises the permit fee and yearly fee schedules. Repeals parts of the chapter relating to changes in power and electrical standards for elevators. Further restricts the issuance of temporary use permits. Extends routine yearly inspections to all devices regulated by the chapter, but no longer requires the presence of the owner.

Public building contracts. Senate Bill No. 1015 (Chapter 71-47) amends subsection 255.05(1) to provide that materialmen and others who claim against bonds put up by contractors in regard to the construction of public buildings must apply to the director of the general services department rather than the state treasurer if the construction is for the state, and to the public official in charge if the construction is for a county or other authority.



CONSERVATION, PUBLIC LANDS  
AND ENVIRONMENTAL PROTECTION

Marine Waters and Marine Life:

The Department of Natural Resources has been given authority to adopt rules and regulations pertaining to the water column over shellfish leases and it may establish specifications for cultch materials placed on leased bottoms. (HB 1078, Chapter 71-246)

An amendment to the law regulating oysters and shellfish provided that leased areas must be kept in good condition during the closed season as well as during the open season and such leased areas must be marked in accordance with the uniform waterway markings. The rental rate for oyster and shellfish leases has been raised from 50¢ per acre per year to \$5.00 per acre per year; however, the rent for any lease currently in effect shall not be increased during the first ten years of such lease. (HB 664, Chapter 71-244)

The shellfish lease law was amended to require written approval of the Division of Marine Resources before any lease can be transferred. No lease shall be transferred within the first two years of its life and when approval is granted, the transferee shall pay a \$50 transfer fee. (HB 675, Chapter 71-245)

The "green turtle law," enacted by the 1971 session, has the effect of closing the east coast to the harvesting of the specie. Under the measure, it is unlawful to take, kill, possess, mutilate or destroy any green turtle while such turtle is on the beaches, sand dunes or territorial waters of the east coast from the Georgia line through and including Dade county. It is unlawful to take or possess any such turtle in Monroe county

which does not have a carapace measurement of more than 41 inches unless the person taking or possessing the turtle has a certified invoice showing that such turtle was shipped into Monroe county from outside the territorial waters of the state. It is unlawful for any person to take or possess any turtle on the beaches or sand dunes of the West coast of Florida between the Monroe-Collier county line and the western boundary of the state unless such turtle has a carapace measurement of more than 26 inches. Violation is punishable as a first degree misdemeanor. (CS HB 1526, Chapter 71-145)

The stone crab law was reworded by the 1971 session. The closed season on any size, regardless of where taken, is restated as being between May 15 and October 15 of each year. It is unlawful to possess, sell, or offer for sale any stone crab at any time which has a claw of less than 4 1/4 inches in length and it is unlawful to take or possess female stone crabs at any time. The length of traps is restricted to 6 1/2 inches and the width of the throat or entrance to 4 inches. A location buoy of sufficient strength and buoyancy to continuously remain afloat and of such color as to be easily distinguished and located must be attached to each trap. A numbering system pertaining to buoys and traps was established. (SB 1300, Chapter 71-335)

The period from sunup on November 15 until sundown on March 15 of each year constitutes the season during which commercial fishing for anadromous shad can take place. Allowable nets or seines shall be clearly marked so that the commercial fisherman's boat registration may be readily determined and the Department of Natural Resources was given authority to set by regulation the 72 consecutive hours each week which would have to be closed during the open commercial fishing period. Except for hand held landing nets, it is unlawful for any person other than commercial fishermen to use any type of net or seine and it is unlawful for anyone at any time to use stop nets. It is unlawful for other than commercial fishermen to take in one

day and have in possession more than ten anadromous shad.

(HB 602, Chapter 71-156)

Previous snook regulations made it unlawful for any person, firm or corporation to have possession of more than two days bag limit. The reference to bag limit is removed and the law now simply provides that it shall be unlawful for any person to have in his possession more than four snook, none of which shall measure less than 18 inches in length.

(HB 601, Chapter 71-155)

Minimum length requirements for pompano, redfish and striped bass have been established. Pompano must measure at least 9 1/2 inches from tip of nose to tip of tail; redfish must measure not less than 12 inches from tip of nose to tip of tail and striped bass shall not be taken unless they have a length of not less than 15 inches from tip of nose to fork of tail. (HB 439, Chapter 71-154)

It is unlawful to import for sale or use, or to release within the salt waters of the state, any species of marine or animal kingdom not indigenous to Florida without a permit to be issued by the Department of Natural Resources. (CS HB 229, Chapter 71-68)

#### Beaches and Shores:

The 1971 Legislature went back to the problems involved in dealing with coastal construction setback lines. In the previous session there had been established a 50 foot setback line to be measured from the line of mean high water. Believing there could be a more reliable reference point, the 1971 session gave the Department of Natural Resources the authority to establish coastal construction setback lines on a county by county basis after comprehensive study, engineering and topographic surveys and public hearings. The line must be recorded in the public records of the county and municipalities affected and it shall be subject to review by the Department at five year intervals or at the written request of any affected county or municipality. Waivers or variances may be authorized under

certain circumstances and authority may also be given for the construction of pipelines or piers extending outward from the shore line unless it is determined that such construction would cause erosion of the beach. Lines established under the act shall not contravene setback requirements established by any county or municipality which are equal to or more strict than setback requirements under the act. Any coastal structure erected or any excavation created in violation of the act is declared to be a public nuisance. The 50 feet setback line established by the 1970 legislature remains in force until such time as it is superseded by establishment of setback lines under the new law. (SB 1311, Chapter 71-280)

The Department has also been given authority to establish trust fund accounts within the Erosion Control Account and, subject to legislative appropriation, to deposit trust funds annually, over a period not to exceed three years, for the purpose of accumulating state matching funds in support of locally sponsored and federally authorized erosion control projects. (HB 1068, Chapter 71-182)

It is unlawful for any purpose to remove or eradicate sea oats or sea grapes from public or private land without consent of the owner of such land. (HB 170, Chapter 71-153)

#### Fresh Water and Wildlife:

The 1970 legislature had declared it to be in the public interest and that it was the legislative intent to curb the activities of those who illegally kill and skin alligators for profit. Included in the definition of alligator at that time was "caiman." The 1971 legislature removed caiman from the definition thereby enabling the resumption of importation of both the live species and skins for processing into the list of items normally associated with crocodilian products. (SB 1421, Chapter 71-299)

Fishing license requirements are amended so that military personnel who are Florida residents may fish the fresh waters of Florida without a license while they are home on leave for a period of 30 days or less. (HB 703, Chapter 71-142)

### Aquatic Weed Control:

The Department of Revenue has been directed to transfer to the Department of Natural Resources or such other successor agencies as might be charged with controlling noxious aquatic vegetation a sum equal to 2% of all revenue collected under the first gasoline tax. It is specifically provided that moneys transferred under the act shall be added to those set aside for aquatic vegetation control under the motor boating revolving trust fund and that the total moneys for aquatic vegetation control shall not exceed \$2,800,000. (SB 569, Chapter 71-232)

For the purpose of conducting experiments in aquatic vegetation control the Department of Natural Resources was given authority to import fresh water fish of any species of the animal kingdom not indigenous to Florida, without having to obtain a permit from the Game and Fresh Water Fish Commission. (HB 360, Chapter 71-294)

### Public Lands:

Several obsolete provisions, dealing with such matters as state authority to borrow money to drain swamp and overflowed lands, grants to aid in canal construction and homesteading, sale of moss and mineral leases under conditions no longer existing, were repealed. (SB 20, Chapter 71-295) (SB 174, Chapter 71-50) (SB 175, Chapter 71-296) (SB 176, Chapter 71-179) (SB 177, Chapter 71-51)

### Environmental Protection:

Several significant measures were passed in the field of environmental protection and pollution control. The legislature authorized the Governor to execute the Interstate Environmental Compact under which provision is made for coordination and cooperation between the several states on environmental problems which transcend state boundaries. (HB 1537, Chapter 71-79)

The Environmental Protection Act of 1971 authorizes the Department of Legal Affairs, any political subdivision, municipality or citizen to maintain an action for injunctive relief in the protection of the air, water and other natural resources of the state. An action may be brought to compel enforcement or to enjoin a violation. In either instance, the Department of Legal Affairs may intervene to represent the interest of the state. The act also establishes the right of the Department of Legal Affairs, any political subdivision or municipality or any citizen of the state to intervene in any administrative proceeding having to do with the protection of the air, water or other natural resources. The prevailing party shall be entitled to costs and attorney fees and, if the court is doubtful as to the solvency of a plaintiff, it can require the posting of a sufficient surety bond or cash. The doctrines of res judicata and collateral estoppel shall apply and the court shall make such orders as are necessary to avoid multiplicity of actions. (CS HB 430 & 386, Chapter 71-343)

The state is authorized to recover civilly for damages to animal or plant life, or other damage to the air caused by an unlawful discharge of contaminants into the air of the state. (HB 838, Chapter 71-204)

Noise has been added in the definition of pollution and the Department of Air and Water Pollution Control has been given authority to establish standards for the abatement of excessive and unnecessary noise and, in cooperation with the Department of Transportation, the Department is given the authority to establish maximum decibels of sound permissible from motor vehicles and trucks operating on Florida highways. (HB 385, Chapter 71-36)

The Florida Litter Law of 1971 makes it unlawful for any person to throw, discard, place or deposit litter on any public highway, public lands, fresh waters or tidal or coastal waters of the state except in containers or areas lawfully provided therefor, or upon any private property without prior consent

of owner and provided said litter will not create a public nuisance or be in violation of any other state or local law. (CS HB 706, 513 & 516, Chapter 71-239)

The Department of Air and Water Pollution Control is empowered to adopt rules to insure that no detergents are sold in Florida after December 31, 1972, which contain additives in amounts reasonably found to have a harmful or deleterious effect on human health or on the environment. The act specifically mentions but does not limit itself to phosphorous and polyphosphate additives. (CS HB 191 & 449, Chapter 71-35)

The 1971 legislature dealt with waste treatment on two fronts. A condition precedent to the approval for construction or any sanitary sewage disposal facility is that provision must be made for secondary waste treatment and, if considered necessary by the Department of Air and Water Pollution Control, advanced waste treatment. Existing facilities have until January 1, 1973, to make the necessary arrangements for such treatment. (SB 81, Chapter 71-259) Provision for the treatment of industrial wastes will be a condition precedent to the approval of construction of any ocean outfall, inland outfall or disposal well. Industrial plants or facilities which discharge industrial wastes of any kind through ocean outfall, inland outfall or disposal wells must make provisions for treatment no later than January 1, 1973. (SB 745, Chapter 71-274)

In addition to its other powers, the Department of Air and Water Pollution Control may now require a permit before any stationary installation which reasonably may be expected to be a source of air or water pollution may be operated, maintained, constructed, expanded or modified. A procedure is established for obtaining a permit to discharge wastes into the waters of the state which would not exempt any permittee from local pollution control ordinances or codes. (HB 425, Chapter 71-203)

A measure to become effective July 1, 1972, will authorize the Department of Health and Rehabilitative Services to examine and license all water and waste water treatment plant operators.

The Department may charge a fee not in excess of \$10 for the examination, issuance and renewal of certification and moneys collected will go into the General Revenue Fund. Licensed public lodging establishments are excluded. (SB 401, Chapter 71-315)

Chapter 70-244, dealing with oil spill prevention, was amended to exempt terminal facilities having a storage capacity of less than 1200 gallons from the licensing provisions of the act. (HB 209, Chapter 71-243)

Miscellaneous:

The Division of Forestry is authorized to cooperate with municipalities as well as counties. Urban and suburban environmental improvement is encouraged, including development of outdoor recreation areas, watershed protection, and wildlife habitats through cooperative forestry programs. The cost would be jointly determined and paid by the Division of Forestry and the county or municipality. (HB 326, Chapter 71-183)

The Suwannee River along with its tributaries and surrounding areas has been approved for a coordinated development and improvement program. The Department of Natural Resources, through its Suwannee River Authority, has the authority to promote such a program and expenditures therefor are for proper public purpose. (SB 518, Chapter 71-16)

Except for the owner, his agents, or persons regularly engaged in harvesting, processing or moving forest or farm products, it is unlawful to enter or travel in any area in which emergency drought conditions exist, except on public roads or highways or on well-defined private roads. Nonessential activities during such periods in the affected areas have also been made unlawful. (HB 2265, Chapter 71-293)



CRIMINAL LAW AND PRACTICE

Criminal Code Revision:

The 1971 Legislature continued on its course to keep Florida in the mainstream of the nation-wide movement for criminal code revision by taking the first step in substantive revision. Chapter 71-136 (C.S. for H.B. 935) is a forerunner of the implementation of the recommendations contained in the American Bar Association's Minimum Standards relating to Sentencing Alternatives and Procedures and the Model Penal Code sentencing provisions. The act classifies over 1150 crimes into six uniform categories and standardizes the penalties for each category as follows:

FELONIES:

	MAXIMUM	
Imprisonment	Fine	Subsequent
\$775.082	\$775.083	Felonies
		\$775.084

a. Capital	Life-Death		
b. First Degree	30 Years	\$10,000	Life
c. Second Degree	15 Years	10,000	30 Years
d. Third Degree	5 Years	5,000	10 Years

MISDEMEANORS:

a. First Degree	1 Year	1,000
b. Second Degree	60 Days	500

All minimum penalties, including those for a second or subsequent conviction of a felony, are deleted. Unless otherwise provided by statute, courts may not sentence under §775.084 (subsequent felony convictions) except upon a finding of all the following factors: (1) Defendant was over 17 years of age at the time of imposing the sentence, (2) The first offense was a felony in this state or a violation of the law of another state or of United States punishable by death or imprisonment

exceeding one year, (3) The second felony was committed within five years of first felony or within five years after release or parole, (4) Defendant has not been pardoned on ground of innocence, (5) First conviction has not been set aside, (6) A longer sentence is necessary for protection of the public. It is effective January 1, 1972.

In the procedural area of criminal code revision there are three major changes. Chapter 71-99 (C.S. for H.B. 976) amends §914.04, Florida Statutes, to clearly grant immunity from prosecution to persons compelled to testify or to produce papers or documents in a grand jury proceeding, investigation before a state attorney or county solicitor, or in a proceeding before a court having felony trial jurisdiction. A loophole in the statute making grand jury testimony secret was closed by Chapter 71-66 (C.S. for H.B. 80) which amends §905.27(2), Florida Statutes, to make it unlawful for any person to publish or divulge the testimony of a witness before the grand jury unless it has been disclosed in a court proceeding. Court-ordered disclosure of such testimony can be used only in the defense or prosecution of civil or criminal cases and may be made available to both parties. This act does not prohibit a client from disclosing to his attorney any testimony he gave before a grand jury. Violations constitute both criminal contempt and a first degree misdemeanor. Chapter 71-72 (H.B. 906) repeals §90.07, Florida Statutes, and amends §90.08, Florida Statutes, to allow a person previously convicted of perjury to testify as a witness after December 31, 1971, but evidence of such conviction may be used to affect the credibility of the witness.

#### Drugs:

Of the many drug bills introduced, the ones relating to cannabis (marijuana) generated the greatest interest. Chapter 71-107 (C.S. for H.B. 501 and H.B. 458), effective July 1, 1971,

transfers cannabis from the narcotic drug law (Chapter 398) to the dangerous drug law [§404.01(12)] and reduces the penalty for first offense possession of not more than 5 grams to a first degree misdemeanor (§404.15). Possession of resin or any preparation of resin from the plant cannabis sativa, L., is not within the misdemeanor provision. Arrest on probable cause, without a warrant, is authorized for this misdemeanor.

Other drug legislation includes Chapter 71-313 (S.B. 362) which requires that records be kept of samples of narcotic drugs and that records of dangerous drugs be kept in the same manner as is required for narcotic drugs. Drug wholesalers and manufacturers are by Chapter 71-261 (S.B. 343) brought under the regulations of the drug laws and the rules of the Department of Health and Rehabilitation. They are required to obtain a permit which may be revoked or suspended for violations. This bill becomes effective January 1, 1972. Chapter 71-331 (S.B. 1068) makes the forging or uttering of false prescriptions as defined in §465.031(2), Florida Statutes, for medicinal drugs a misdemeanor on or after September 1, 1971. The opium den law was repealed by Chapter 71-341 (H.B. 60).

#### False Fire Alarms and False Bomb Reports:

Chapter 71-306 (C.S. for S.B. 56) effective January 1, 1972, amends §823.03, Florida Statutes, relating to the crime of giving false fire alarms, by increasing the penalty for a first conviction to a first degree misdemeanor and for subsequent offenses to a third degree felony. This bill creates a new section 790.164, Florida Statutes, to make the false reporting of any act of arson or bombing of state-owned buildings a second degree felony. A \$5,000 reward to be paid by the Department of Law Enforcement from the deficiency fund is authorized for information leading to a conviction with the circuit judge making the final determination on the applications for award.

### Law Enforcement:

Chapter 71-275 (S.B. 788) declares that members of the Highway Patrol are law enforcement officers. It authorizes them to make a search if incident to lawful arrest and to apply for and serve search and arrest warrants, capias and other process in matters over which they have primary responsibility. Chapter 71-15 (S.B. 186) authorizes auxiliary highway patrolmen to carry arms and enjoy the protection and immunities afforded regular patrolmen.

### Operation of Boats and Aircraft:

Chapter 71-81 (H.C.S. for S.C.S. for S.B. 54 and H.B. 99) prohibits the operation or control of vessels on the waters of this state by persons under the influence of alcohol, narcotic drugs, dangerous drugs or chemical substances, and Chapter 71-282 (C.S. for H.B.s 31, 140 & C.S. for S.B. 23) prohibits the operation of aircraft while under the same influences. Both acts are effective January 1, 1972.

### Pornography:

Section 847.011, Florida Statutes, the obscenity law applicable to persons over age 17, was amended by Chapter 71-337 (S.B. 1496) which increased the penalties, authorized attorneys for municipalities to institute injunctive proceedings, and added a new section to make the promotion or participation in an obscene show or live performance before an audience a first degree misdemeanor and subsequent convictions a third degree felony.

### Prisoners and Parolees:

Chapter 71-110 (S.B. 493) deletes the requirement that a prisoner must serve a portion of his sentence to be eligible for parole. Prisoners sentenced to a five-year term or less are to be interviewed by a member or representative of the Parole and Probation Commission within six months after initial

confinement; those sentenced to a term in excess of five years are to be interviewed within one year; and those convicted of a capital offense to be interviewed at the discretion of the Commission. After the initial interview, inmates shall be interviewed at least annually. This bill requires the Commission to advise the inmate of its decision within 30 days after the interview.

Chapter 71-111 (S.B.494) provides that a warrant issued by a member of the Parole and Probation Commission for arrest of a parolee shall be returnable before a member or authorized representative of the commission, rather than before the member issuing the warrant. Chapter 71-112 (S.B. 497) removes the 24 hour limit for out-of-confinement visits by prisoners, authorizes visits as an aid in rehabilitation, and permits work releases during the last 12 months of confinement instead of the last six months.

#### Protection of Property:

The Auto Theft Statute (Chapter 814) was amended by Chapter 71-342 (C.S. for H.B. 244) to make the crimes prescribed therein applicable not only to motor vehicles but also to aircraft, boats and boat motors. Chapter 71-310 (S.B. 225) effective January 1, 1972, amends §822.18, Florida Statutes, to provide that intentionally damaging real or personal property of another, by any means not described in Chapter 822, is a first degree misdemeanor. If the damage exceeds \$200 the crime is a third degree felony. Chapter 71-30 (S.B. 195) amends §811.021(1) and (3), Florida Statutes, to make shoplifting a form of larceny and to make the third conviction for petit larceny a third degree felony. This act repeals §811.022(1), Florida Statutes, the shoplifting law.

Chapter 71-102 (S.B. 156), effective October 1, 1971, makes the copying of sounds from any record, tape, or sound-making device without the owner's consent or the sale of such

copies a second degree misdemeanor.

Miscellaneous:

Chapter 71-116 (H.B. 41), effective September 1, 1971, includes abandoned clothes washers, dryers or similar airtight units within the class of appliances considered attractive nuisances to children and makes it unlawful to fail to remove the doors when such units have a capacity of one and one-half cubic feet.

Chapter 71-318 (C.S. for S.B. 525) extends the prohibition against the carrying of firearms to all felons except those whose civil rights have been restored.

Chapter 71-120 (H.B. 364) prohibits the taking or molesting of porpoises except for scientific, educational or exhibitional purposes under a permit from the Department of Natural Resources, and makes it unlawful to capture at anytime a nursing female or her calf. Violations are punishable by a fine up to \$500 or up to six months imprisonment.

The Florida Corrections Code was amended by Chapter 71-345 (C.S. for H.B. 963) which redefined the word "prisoner" to include any person under lawful arrest and in custody of any law enforcement officer or any person sentenced and committed to a county or municipal jail.

EDUCATION

Finance:

House Bill No. 71-C (Chapter 71-358) supplements the Appropriations Act and makes several changes in the education appropriations. In lieu of the amount specified in the 1971 Appropriations Act for the K-12 Minimum Foundation Program, this act appropriates \$5,000,000 from the state school fund and \$596,035,119 from General Revenue, for a total of \$601,035,119. This figure is sufficient to provide a unit value of \$2,700 for other current expenses (besides salaries and transportation).

Another provision of this act sets the required local effort for participation in the M. F. P. at 4-1/2 mills for 1971-72, and appropriates \$208,500 from General Revenue to be added to the amount provided in the Appropriations Act for county school sales tax.

An additional \$3,200,000 is appropriated from General Revenue for junior college M. F. P. This money is to be used for 160 instruction units, with the remainder to be distributed to each of the junior colleges on a pro rata basis.

This act also appropriates \$4,924,400 for the Department of Education, Division of Elementary and Secondary Education; and \$14,773,200 to be distributed to school boards on the basis of the 1970-71 average daily attendance in grades one through twelve.

For capital outlay construction projects, Senate Bill No. 3-C (Chapter 71-369) allocates \$13,300,000 to 28 junior colleges, \$3,150,000 to 21 districts for vocational-technical centers, and \$18,550,000 for state universities.

Senate Concurrent Resolution No. 4-C approves the following

changes in registration and tuition fees to be charged students in the state university system for 1971-72:

FEE	1971-72	1970-71
Full-time Undergraduate	\$190	\$150
Full-time Graduate	\$240	\$175
Out-of-state	\$350	\$300
Part-time Graduate	\$20 per hour	\$18 per hour
Part-time Out-of-state	\$27 per hour	\$25 per hour
Continuing Ed. Graduate	\$23 per hour	\$21 per hour
Continuing Ed. Out-of-state	\$27 per hour	\$25 per hour
M. D., D. D. Programs	Up \$150 for Residents & Out-of-state	
GENESYS	\$60 per hour	\$40 per hour

This resolution also suggests that fees be experimentally adjusted by the Board of Regents in order to even out the quarterly enrollments, and limits waivers of out-of-state tuition to 70% of the non-resident undergraduate enrollment and 40% of the non-resident graduate enrollment. It also expresses the consensus of the legislature that no portion of the student activities fees be used to pay campus speakers advocating violent overthrow or disruption.



### Public Schools, K-12:

The Legislature passed a dozen bills affecting public schools, the most significant of which are discussed first.

House Bill No. 894 (Chapter 71-197) requires the Commissioner of Education to develop and implement a program of educational accountability, with established goals and a state-wide system of tests to assess attainment of these goals. Results of the tests and each district's and school's level of achievement of the stated goals will be made public, and used to develop accreditation standards. This act will apply to reading by 1971-72, to writing and mathematics by 1972-73, and to other subjects by 1973-74.

Reading will be further emphasized by Senate Bill No. 698 (Chapter 71-273), which directs the Commissioner to design and carry out a remedial reading program. The Division of Youth Services, as well as the local school districts, will participate in the program, which will include pre- and post-testing of reading levels, setting up programmed tutoring (teaching machines or special books) or other programs with good success potential, and other technical assistance. Priorities for funding the remedial reading program in the school districts will be based on: number of pupils served, other available funds utilized by the district, and programs with the greatest likelihood of effectiveness.

Another significant bill which will affect many students is Senate Bill No. 124 (Chapter 71-21), which allows married students, unmarried pregnant students, or those who previously had a child out of wedlock, to attend school. In addition to regular instruction, they may be given special classes or programs better suited to their particular needs.

Vocational education also received attention this session. House Bill No. 917 (Chapter 71-289) broadened the definition of vocational education to include instruction in pre-vocational or technically oriented industrial arts. In determining allocations

for vocational education construction, the State Board of Education shall designate as an area vocational education school center any district or combination of districts having eight or more vocational education teaching units, and at least one high school with a vocational education department offering instruction in at least five different occupational fields. A further provision directs that vocational education teaching units must be computed for elementary and secondary schools by 1973-74, and that units for occupational specialists will be allowed on the basis of one such unit for each twenty vocational education instructional units.

Other legislation relating to public schools includes the following: House Bill No. 1153 (Chapter 71-76), permitting high school seniors lacking three credits or less for graduation to attend school only that portion of a school day necessary to earn the needed credits; Committee Substitute for House Bill No. 157 (Chapter 71-283), requiring children entering public or private schools in Florida to be immunized against polio, smallpox, diphtheria, rubeola (red measles), rubella (German measles), pertussis (whooping cough), tetanus, and any other disease for which immunization is recommended by the Division of Health, unless the parents have religious objections or any such immunizations are deemed unnecessary by medical authorities; and House Bill No. 1800 (Chapter 71-291), including radio broadcasts within the scope of state policy on educational television.

The gifted child is remembered in Senate Bill No. 1295 (Chapter 71-193), which makes the inclusion of the gifted child in "exceptional child" programs optional, deletes the school districts' responsibility for the children in institutions, allows teacher units to be prorated on less than a one-teacher--five-students ratio, and permits part-time programs.

School districts are permitted to use 10% of their

textbook allocation for instructional material not included on the adopted list, according to House Bill No. 440 (Chapter 71-62). This flexibility will allow the use of textbooks in ecology or other subjects not yet provided for on the adopted list, and special materials for handicapped or gifted children.

An extended school day or year-round operation, resulting in more efficient and productive use of existing facilities, is encouraged by Senate Bill No. 683 (Chapter 71-272). This act provides for optional quinmester plans in fixing the opening and closing days for the school year, and requires the surveys done by the school boards to be taken every five years instead of ten, adding year-round operation or extended days to the factors studied in the survey.

Two bills concern students and sites under the control of the principal, one to restrict and one to broaden such control. Senate Bill No. 663 (Chapter 71-255) takes out of the principal's control pupils en route to and from school by means other than a school bus, and pupils during the time they are presumed by law to be in school but who actually are not in attendance. This relieves the principal of responsibility for pupils who are physically out of his jurisdiction. However, such students may be placed under his control by the school board. House Bill No. 1330 (Chapter 71-162) gives the principal control over school buildings within a reasonable distance of the main center. This is in keeping with situations already in practice, wherein certain buildings are not adjacent to the school center, yet are under the control of the principal; therefore the definition of a school center needed to be broadened.

#### Public School Personnel:

Several bills were passed which were necessary to remove statutory references to district school trustees, an office which was eliminated by the constitutional revision of 1968. These were House Bills No. 1327 and 1409 (Chapters

71-161 and 71-164), and Senate Bills No. 911 and 919 (Chapters 71-192 and 71-297).

Paraprofessionals, people with needed skills and knowledge but without a formal degree or teacher training, may be used to better advantage with the provisions of two bills: Senate Bill No. 1194 (Chapter 71-334) authorizes school boards to use up to 5% of their Minimum Foundation instructional and administrative salaries funds for approved non-certified teachers; Senate Bill No. 1297 (Chapter 71-221) eliminates the requirement that a school board must certify that fully qualified counselors are not available before occupational specialists can be certified.

Senate Bill No. 676 (Chapter 71-95) defines administrative personnel to include professional administrative assistants to the principal, for purposes of the school code.

Two bills were passed concerning teacher certification. One, Senate Bill No. 409 (Chapter 71-177) deletes the requirement that the institution from which the applicant for certification was graduated must give a recommendation. The other, House Bill No. 1411 (Chapter 71-199) provides that teaching certificates may be suspended for up to three years.

Teacher retirement was affected by three bills, which are discussed in the section on Retirement in this digest.

#### Junior Colleges:

Junior college boards of trustees are authorized by Senate Bill No. 754 (Chapter 71-220) to enter into lease-purchase agreements to acquire land and buildings other than dormitories needed for use of the junior college, subject to the approval of the Department of Education. The necessary funds for these agreements will derive from capital outlay and debt service funds. Terms of contracts are not to exceed thirty years.

Full-time faculty members at junior colleges who are paid wholly from Minimum Foundation funds are required by

Senate Bill No. 297 (Chapter 71-253) to teach a minimum of fifteen contact hours weekly. Contact hours are defined as regularly scheduled classroom activity in an approved course. Contact hours required of faculty members assigned to special research or off-campus programs are reduced proportionately, as are those required of faculty members receiving part of their salaries from sources other than M. F. P.

Universities:

A similar bill pertaining to university faculty members, Senate Bill No. 292 (Chapter 71-365), requires them to teach a minimum of twelve contact hours weekly. Full-time administrators, librarians, and counselors are exempt; colleges of medicine and law are exempted from parts of this act which differ from national standards prescribed for accreditation. The same prorated reductions in required contact hours apply to university personnel as to junior college personnel.

Another bill of significance, Senate Bill No. 478 (Chapter 71-178), requires state universities to award Associate of Arts degrees to students who request them and meet the requirements. Formerly, this was a degree given exclusively by the junior colleges. The requirements are the successful completion of 60 semester hours or the equivalent, of which not less than 36 hours must be in general education subjects.

Property lost or abandoned on a university campus and not claimed within 30 days may be sold at public auction by the university president, according to the provisions of House Bill No. 447 (Chapter 71-75). Written notice of the sale must be given to the owner of such property, if known, and public notice of the sale must be made in a publication of general circulation on the campus. Proceeds from such sales will be used for student scholarships and loans.

Two bills relate to the functions of the Board of Regents. Senate Bill No. 239 (Chapter 71-43) transfers to

the Department of General Services such functions of the Board as pertain to the engaging of architects, supervision of construction or substantial remodelling of buildings, and related duties. Senate Bill No. 665 (Chapter 71-270) authorizes the Board to act as its own self-insurer if it elects to do so, for institutions and employees under its supervision. To fund such a program, the Department of Administration is authorized to establish necessary insurance trust funds in the State Treasury. Appropriations cannot be made directly to these funds, but the transfer of liability insurance appropriations to such funds is permitted.

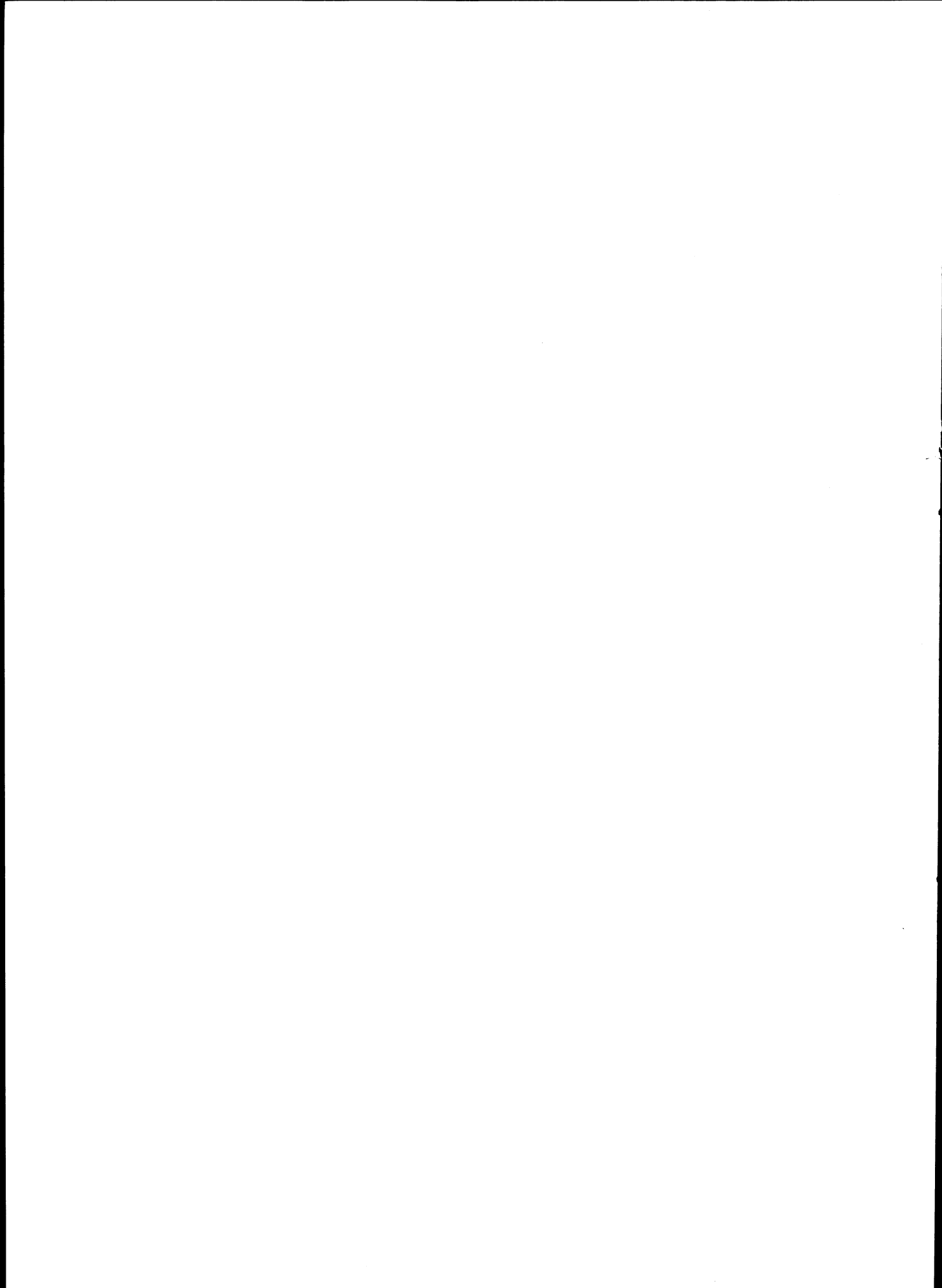
Private universities will be regulated by the provisions of Senate Bill No. 443 (Chapter 71-128), which creates the State Board of Independent Colleges and Universities, to consist of nine members of whom five will be educators from private junior colleges or universities, two from public colleges, and two lay citizens. This Board's duties and responsibilities include licensing certain nonpublic schools and their agents, and setting minimum standards to be met before such licenses are granted.

#### Scholarships:

House Bill No. 18-C (Chapter 71-372) provides that no new teaching scholarship loans or nursing scholarships will be awarded after July 1, 1971, and that funds obtained from repayment of principal and interest of such loans will be deposited in the Student Financial Aid Trust Fund rather than in General Revenue. Further provisions establish eligibility requirements for other loans, including full-time status, good academic and conduct standing, two-year Florida residency, and financial need. Priority will be given applicants who show promise of academic success. To assist in funding the scholarship loan program, full-time student fees at state universities and junior colleges are raised \$3.00 per quarter or \$4.50 per semester. Junior colleges and professional

nursing diploma schools are included in participation in loan programs.

Senate Bill No. 90 (Chapter 71-217) includes Miccosukee Indians as well as Seminoles in eligibility for Indian scholarships, and eliminates reservation residency requirements, while requiring evidence of financial need from scholarship applicants.





ELECTION LAWS

The Florida Presidential Preference Primary Law:

House Bill No. 1255 (Chapter 71-236) creates the Florida Presidential Preference Primary Law. Each political party casting at least ten percent of the total vote in the previous presidential election and having at least ten percent of the total registered electors on February 1 of the general election year is entitled to elect a candidate for nomination as President of the United States. The primary is to be held the second Tuesday in March, 1972, and on that day every four years thereafter.

In the second week of January in a presidential primary year, the Secretary of State is to prepare and publish a list of candidates for party nomination from those who are generally advocated or recognized in the national or state news media.

A selection committee, composed of the Secretary of State as the nonvoting chairman, the Speaker of the House of Representatives, the President of the Senate, and the chairmen of political parties participating in the presidential primary, is to receive the list in the second week in January. By January 20 the committee is to submit to the Department of State the names of candidates who are to appear on the presidential primary ballot. The Department of State is to notify by registered mail each of the candidates by February 1.

A candidate's name may be deleted from the ballot on unanimous agreement of all committee members of the candidate's political party. Prior to February 10, any candidate not selected to appear on the ballot may submit a written request to the chairman of the selection committee to have his name placed on the ballot. The Secretary of State is to convene the committee between February 10 and 15 to consider these requests. A candidate's name may also be placed on the ballot

if any member of the selection committee of his party requests it. A candidate may have his name removed from the ballot by submitting to the Department of State by noon February 15 an affidavit disclaiming his candidacy.

By noon March 1 candidates whose names are to be on the ballot may submit to the Department of State a list of delegates and delegate alternates which list will be available to the public. At least 90 days before the primary election, party executive committees shall adopt rules which establish procedures for selecting delegates and alternates. A delegate or alternate to the national convention must file with the Department of State a qualification oath pledging that until two nominating ballots have been taken he will support the party candidate until he: (1) is nominated, (2) receives less than 35 percent of the convention vote, (3) releases the delegate from his pledge, or (4) withdraws.

Executive committee rules and regulations are sent to the Department of State within seven days of adoption. A rule to determine the number of delegates and alternates elected from the state at large and from each congressional district shall be adopted at least 90 days prior to the primary election. At least two-thirds of all delegates are to be elected from congressional districts. At least two delegates, but no more than ten percent of all delegates, are to be elected by the state executive committee. The remainder of the delegates are to be elected from the state at large.

Presidential candidates receiving the highest number of votes in a congressional district are to receive all delegate votes from that district. The candidate who receives the highest number of statewide votes receives the votes of all statewide delegates and of all delegates chosen by the state executive committee.

Each state executive committee shall adopt rules to establish county committees and the number of members and units of the state executive committee, providing equal representation

of the sexes. Until otherwise provided by rule, the state executive committee shall consist of two members elected from each county, one of each sex.

The political parties elect committee members in the first primary election in 1974; thereafter, each party is to elect state executive committee members on the second Tuesday of March in 1976 and on that day every four years thereafter. From 45 to 30 days preceding the election, the executive committee shall determine the qualification date for executive committee membership. The election result is determined by plurality of the vote cast.

The county executive committee is to consist of one man and one woman member from each precinct or district unless otherwise provided by party rule. In 1974, political parties are to elect county executive committee members in the first primary election; thereafter, county executive committee members are to be elected on the second Tuesday in March, 1976 and on that day every four years thereafter. From 45 to 30 days preceding the election, the executive committee shall determine the qualification date for county executive committee membership. Until changed by party rules, in any precinct or district where a party has an official registration of more than 1,000 electors, it is authorized an additional man and woman member. The election is determined by plurality of the vote cast.

Members of state and county executive committees elected at the first primary election in 1974 take office on December 1, 1974 and serve until April 1, 1976. Members of state and county executive committees selected on the second Tuesday in March, 1976 and every four years thereafter take office on April 1, following their election and serve four-year terms. The outgoing chairman of each committee shall, within 14 days after the committee members take office, call an organizational meeting for the election of committee officers. Effective August 1, 1971.

## Nonpartisan Election of Judges:

House Bill No. 468 (Chapter 71-49) provides nonpartisan election of "judicial officers"--Judges of Supreme Court, courts of appeal, circuit courts, courts of record, county judges and juvenile judges. Elections coincide with primaries.

The qualifying fees are deposited in the General Revenue Fund by the Division of Elections of the Department of State, with which all candidates for judicial office must qualify.

All candidates for a specific office (or group) shall be listed alphabetically by name and reference to party affiliation on the ballot is prohibited.

If no candidate receives a majority of votes cast in the first election (at the time of the first primary for other offices), the two highest will be on the ballot at the second election (at the time of the second primary). In case of a tie at the second election, the winner shall be determined by lot.

No political party or partisan political organization shall endorse or support any candidate for judicial office. Political activity of a candidate for judicial office, except on his own behalf, is severely restricted. Candidates are bound by the applicable provisions of the campaign spending and reporting laws.

## Registration and Voting Procedures

### Registration:

Supervisors of elections are authorized by House Bill No. 893 (Chapter 71-124) to continue to accept registrations for the general election during the time registration books are closed for the primary election. This act amends Section 98.051, F. S.

### Mobile Units for Voter Registration:

House Bill No. 378 (Chapter 71-206) will permit the supervisor of elections to use motor vehicles, buses, and other mobile units for voter registration because of the amendment to Section 97.021, F. S., which includes these vehicles in the definition of "permanent branch office."

#### Change of Name:

Committee Substitute for Senate Bill No. 87 (Chapter 71-307) amends Section 97.091(2), F. S., to allow an elector whose name is changed by marriage to vote in the precinct where the newly married elector is registered under a maiden name after signing an affidavit obtained from the supervisor of elections. Before the next general election the elector is to give the supervisor written notice, obtain a certificate of transfer to the precinct of permanent residence, and effect the change of name in accord with Section 97.103, F. S., in order to be entitled to vote in future elections.

#### 18 Year Old Electors:

House Bill No. 950 (Chapter 71-108) is now repealed since three-fourths of the states have ratified the constitutional amendment proposed by Congress which permits persons between 18 and 21 years of age to vote in state and local elections. It prescribed the method by which persons between the ages of 18 and 21 were to be registered for voting in national elections.

#### Ineligible Voter List:

House Bill No. 648 (Chapter 71-207) amends Sections 98.311 and 98.312, F. S., with reference to the supervisor of elections as the recipient of lists of persons adjudged mentally incompetent, persons whose mental competency has been restored, and persons who have been convicted of felonies during the preceding calendar month from the various county officials who compile such lists. Previously, these lists have been furnished to both the supervisors and the Department of State. The Department of State had been required under these sections to maintain an alphabetical list of the names of all those persons on the lists. The Department was also required to distribute this composite list to supervisors of elections at least once a month. References to the Department of State in these two sections of the election law have now been eliminated.

### Voting by New Residents:

House Bill No. 951 (Chapter 71-208) amends Section 97.031, F. S., and will permit voting in national elections for President and Vice-President by persons who meet all other qualifications for voting in state except length of residence. Special procedures and ballots are prescribed.

### Absentee Voting:

Senate Bill No. 681 (Chapter 71-149) will permit a supervisor of elections to provide applications for absentee ballots to persons from other counties which will then be sent to the supervisor of the county in which the applicant is registered. The application so sent must bear the signature and official seal of the supervisor issuing the absentee application.

The deadline for return of absentee ballots to the supervisors has changed from 5:00 p.m. on the day preceding the election to 7:00 p.m. on the day of the election. Absentee ballots will not be issued after 5:00 p.m. on the day preceding the election. The signatures of two witnesses are no longer required on the application blank for an absentee ballot. The requirement that the names of all applicants for absentee ballots be posted each week at the courthouse or published in a newspaper has been eliminated. Absentee ballots received after 7:00 p.m. the day of the election will not be counted but will be marked with the time and date of receipt and filed in the office of the supervisor of elections.

### Unopposed Candidates:

Senate Bill No. 593 (Chapter 71-266) amends subsection 101.27(4), F. S., to provide that names of unopposed candidates will no longer appear on general election voting machine ballots unless a write-in candidate has qualified. Each unopposed candidate is deemed to have voted for himself.

### Special Elections

#### Corporate Income Tax Election:

House Bill No. 1257 (Chapter 71-20) provides for a special

election on November 2, 1971, for the purpose of approving or rejecting House Joint Resolution No. 7-B, which would amend Article VII, Section 5, of the Florida Constitution to permit a corporate income tax. The expense of the counties for the special election is to be reimbursed by the state from the General Revenue Fund. Item 914a of Senate Bill No. 13-C, the General Appropriations Act, provides a lump sum allocation of \$1,500,000 for this purpose.

#### School District Millage Elections:

Senate Bill No. 381 (Chapter 71-263) amends Sections 236.31 and 236.32(3), F. S., to eliminate all references to the requirement that electors voting in school district millage elections shall be freeholders. The statutory form of Article XII, Section 8, of the Constitution of 1885 is repealed.

NOTE: The provisions of the State Constitution limiting the electorate in bond and millage elections to owners of freeholds not wholly exempt from taxation have been held unconstitutional under the equal protection clause of the United States Constitution. Fair v. Fair, D. C. 317 F. Supp. 859 (1970).

#### Elected Officials

#### Financial Disclosure:

House Bill No. 926 (Chapter 71-159) amends Section 111.011, F. S., which was enacted in the 1970 session and which required elected national, state, county and municipal office-holders to file semi-annual reports of contributions in excess of \$25 and also report the manner in which such contributions have been expended.

The 1971 amendment now excludes from the requirement of reporting all honorary memberships in social, service, or fraternal organizations and eliminates the necessity of filing a report when no contributions have been received. The semi-annual report must be filed before February 15, for the second half of the previous year (from 7-1 to 12-31) and before August 15 for the first half of the current year (from 1-1 to 6-30).





HEALTH AND REHABILITATIVE SERVICES

The following Summary of General Legislation related to the Department of Health and Rehabilitative Services is a fairly detailed compilation of laws which impose new duties on the department and provide additional services for the citizens of the state. The comprehensive manner in which the legislation is presented is intended to provide some immediate answers to questions which will be asked in the ensuing months.

The material presented has been organized to correspond with the Divisions of the Department of Health and Rehabilitative Services. The first item, however, is a short summary of the portions of the General Appropriations Act which relate to the Department. General revenue items have been separated from trust fund items to allow a better perspective of amounts derived from each source. Also provided is a table showing amounts appropriated to the Divisions this fiscal year as compared with 1970-71 fiscal year.

Specific acts of broad general interest are:

Education of Children in Care of Department	Page 76
The Mental Health Act (The Baker Act)	Page 76
Interstate Compact on Mental Health	Page 78
The Comprehensive Alcoholism Prevention, Control and Treatment Act	Page 78
Licensing of Drug Abuse Treatment and Education Centers	Page 81
Child Abuse	Page 82
Physician's Assistant Act	Page 84

Renal Dialysis	Page 86
Testing for PKU	Page 87
Sale of Prison Products	Page 87
Work-Release and Outside Visits	Page 88
Inspection of Municipal Detention Facilities	Page 88
Community Hospital Educational Act	Page 92

#### APPROPRIATIONS:

In the General Appropriations Act the Department of Health and Rehabilitative Services is authorized to transfer an appropriation from the account of one institution to that of another of the same division for disbursement purposes after submitting a request to the state comptroller and obtaining a release from the Secretary of Administration. The account must be similar in purpose to the category of the appropriation from which it was transferred.

The General Appropriations Act provides a total of \$581,010,639 to the Department of Health and Rehabilitative Services - \$252,415,645 from General Revenue and \$328,594,994 from trust funds. These funds are allocated to the various divisions of the Department as follows:

<u>Division or Bureau</u>	<u>General Revenue</u>	<u>Trust Funds</u>
Administrative Services	\$ 554,390	\$ 435,822
Community Medical Facilities	171,204	28,027,518
Model State Project Jacksonville Data Center		586,582
Grants and Donations		3,328,282
Drug Abuse	594,450	376,057
Planning & Evaluation	223,491	50,000
Crippled Children	5,271,845	944,815
Corrections	22,579,696	1,528,347
Youth Services	13,937,680	9,744,315
Mental Health	43,548,113	5,741,728
Retardation	34,228,963	5,570,694
Vocational Rehabilitation	4,849,910	1,177,409
Family Services	101,411,530	23,073,384
Health	25,044,373	216,773,288
Total	\$252,415,645	31,236,753
		\$328,594,994

Comparison with fiscal year 1970-71

General Revenue appropriations increased or decreased from the 1970-71 appropriations as follows:

<u>Division or Bureau</u>	<u>1970-71</u>	<u>1971-72</u>
Administrative Services	\$ 362,585	\$ 554,390
Community Medical Facilities	189,079	171,204
Drug Abuse	200,000	594,450
Planning & Evaluation (Including Comprehensive Health Planning)	220,428	223,491
Crippled Children	4,677,894	5,271,845
Corrections	18,692,976	22,579,696
Youth Services	10,022,023	13,937,680
Mental Health	41,405,439	43,548,113
Retardation	31,522,170	34,228,963
Vocational Rehabilitation (Including Blind Services)	4,282,768	4,849,910
Family Services	74,706,075	101,411,530
Health	23,919,761	25,044,373
Total	\$210,001,198	\$252,586,849

Capital Expenditures

Capital Expenditures authorized by the 1970-71 Appropriations Act are:

CORRECTIONS - Multi-Treatment Complex at Apalachee	\$ 289,131
YOUTH SERVICES - Academic and Vocational Building at Marianna	800,138
MENTAL HEALTH - Florida Mental Health Institute at Tampa	4,897,958
Plumbing and Electric Warehouse Addition at Florida State Hospital	133,632
RETARDATION - Expansion of Existing School Building at Marianna	270,448
Class-i-torium and Parents Visiting Area at Orlando	103,680
Maintenance Shop Addition at Miami	121,920
Recreation and Resident Services Building at Gainesville	398,880
HEALTH - Regional Laboratory Building at Miami	528,000
TOTAL	\$7,543,787

## Additional Provisions of General Appropriations Act

Sections 10 through 17 of the General Appropriations Act contain restrictions and authorizations related to the Department of Health and Rehabilitative Services as follows:

Section 10 prohibits payments by the DIVISIONS of HEALTH and FAMILY SERVICES of travel expenses and out-of-state tuition for educational leaves, grants or scholarships except for authorized courses not offered in the state university system.

Section 11 provides that notwithstanding the restriction on transferring appropriations in Section 216.292, F.S., funds may be transferred to the DIVISION of FAMILY SERVICES with the approval of the Department of Administration if it determines the best interest of the state is to be served by maximizing federal funding of payments for care and treatment and the rendering of other authorized services for recipients.

Section 12 provides that funds received under social security by institutions in the DIVISIONS OF MENTAL HEALTH and RETARDATION may be deposited in a trust fund for operation of the divisions, with the approval of the Department of Administration.

Section 13 authorizes the DIVISION of YOUTH SERVICES to assume operation of the juvenile detention home (Youth Hall) and the Kendall Parkway Training Schools of Dade County as a pilot project to test feasibility of state-operated detention and treatment facilities. Metropolitan Dade County Commissioners are required to complete construction of a new detention facility to replace Walter H. Beckam Youth Hall and contribute one-half of the total operating cost, an amount sufficient to meet federal matching funds, not to exceed \$1,750,000. The Board of Instruction of Metropolitan Dade County must continue to provide educational services of at least the quality and variety currently being provided. This authorization is contingent upon acquisition of sufficient federal funds to undertake operation of the facilities without requiring the expenditure of state general revenue funds. Other

counties or facilities may be brought into the pilot project if there are sufficient federal funds available for expansion of the program.

Section 14 authorizes the DIVISION of YOUTH SERVICES to utilize funds provided for probation and intake services in juvenile courts to provide intake services to children who are delinquent, dependent or in need of supervision.

Section 15 authorizes the Department to expend money from the State Welfare Trust Fund to provide juvenile courts with expanded services and case work services for dependent children if federal funds are available without expenditure of general revenue funds. The expenditure must be approved by the Department of Administration after a financial plan showing the additional positions and expenses is submitted.

Section 16 provides legislative intent for an appropriation of \$25,000 for a program to promote the adoption of hard-to-place children now residing in foster homes.

Section 17 sets up the method of funding MEDICAID. The state assumes responsibility for the full portion of the state matching funds required under the Social Security Act, but charges counties for 35% of the total cost of payments for in-patient hospitalization in excess of 12 days and payments for nursing home and similar facility care in excess of \$120 a month. Counties are expected to set aside sufficient funds to pay for eligible recipients regardless of the area in the state where the recipients receive the care or service. The county is to pay its pro-rata share into the general revenue fund unallocated, based on statements rendered by the DIVISION of FAMILY SERVICES. The Comptroller is to withhold distribution of cigarette tax receipts and other funds from any county which has not remitted the amount it owes within 30 days after it is billed for it. A county which has a special taxing district or authority may divide the financial responsibility of the county with the districts and authorities, having them assume a proportionate financial responsibility for the MEDICAID program in the county. Appeals of the proration may be brought before the Comptroller who would then set the proportionate share due by each party.

## Educational Needs for All Children under 21 in Care of Department:

House Bill No. 1507 (Chapter 71-350) directs the Department of Health and Rehabilitative Services to establish programs for the education of all persons under the age of 21 who are in the care of the Department. The Department of Education is to cooperate in developing a comprehensive educational plan with (1) a formula for regular and adequate funding, (2) methods of determining eligibility of persons for the program, (3) appropriate programs for each major type of disability with estimates of costs, and (4) proposed methods of program evaluation or assessment.

The plan is to be developed by October 1, 1971, for inclusion in the 1972-73 legislative budget of the Department of Education. Thereafter, the Department of Education budget is to include the educational needs of the Department of Health and Rehabilitative Services.

## DIVISION OF MENTAL HEALTH

### Mental Health Act (The Baker Act)

Effective on July 1, 1972, Committee Substitute for House Bill No. 665 (Chapter 71-131) will substitute a completely rewritten and modernized mental health act for Chapter 394, Part I, Florida Statutes. The new law will conform the structure and the relationship of the Division of Mental Health and the Department of Health and Rehabilitative Services to the plan of governmental reorganization. The services rendered by the Division are also to be geared into the provisions of the Community Mental Health Act passed by the 1970 Legislature. The new law also recognizes the services available to mentally ill persons which are provided by other divisions of the Department of Health and Rehabilitative Services.

The Act provides certain rights to patients such as to individual dignity, to communications and visits, to personal property, to confidential status of clinical records, and the

right to select personal representatives to receive notices. A hearing examiner will be selected by the Secretary of the Department. He will hear testimony for continued hospitalization of patients who request discharge from the state hospitals.

Receiving facilities, to be designated by the Department, will provide a 24 hour period of emergency treatment and up to five days of evaluation service. More extended treatment will be provided by treatment facilities, either the state hospitals or designated community facilities. Patients will enter the treatment facilities on either a voluntary or involuntary basis. A patient who resists either evaluation or hospitalization is accorded the right to a full hearing in the county judge's court. When an involuntary patient has been in the hospital for six months and wishes to be discharged, the administrator of the hospital must either apply to the hearing examiner for an order authorizing continued hospitalization or discharge the patient. If an order is entered to authorize continued hospitalization it is for a period of up to one additional year.

Another important feature of the revision is an amendment to Section 744.31, Florida Statutes, which incorporates in this section all of the law related to the adjudication of incompetency and the appointment of a guardian for incompetents. By removing this section from Chapter 394 the procedure for incompetency is separated from the hospitalization proceeding so that it is an independent proceeding. A person may then be declared incompetent without being hospitalized and, on the other hand, a person may be hospitalized without being declared incompetent. There is also a provision that allows hearings for the two proceedings to be held together if they are both necessary.

Since this law does not take effect until July 1, 1972, the county judges, Division of Mental Health, community mental health centers, the Department of Health and Rehabilitative Services and all other interested or concerned persons will

have time for study and adjustment to the new procedures.

#### Interstate Compact on Mental Health

Senate Bill No. 112 (Chapter 71-219) is the Interstate Compact on Mental Health in which, by its enactment, Florida will participate with 40 other states. The Compact allows for transfer and care of mental patients between states taking into consideration such factors as location of family and character and duration of illness. Acceptance of a receiving state is a prerequisite for the transfer of a patient. The states are notified when a dangerous or potentially dangerous patient escapes, but except for this notification, the Compact does not apply to patients who are under criminal charges or sentences. Withdrawal of a state from the Compact is effected by enactment of a statute repealing the Compact and a year's notice of withdrawal. The secretary of Health and Rehabilitative Services is designated as Compact Administrator with authority to enter into supplemental agreements with other states.

The Florida residency requirements in Sections 394.27 and 394.271, Florida Statutes, are repealed by this law, which is effective January 1, 1972.

#### BUREAU OF ALCOHOLIC REHABILITATION

##### Comprehensive Alcoholism Prevention, Control and Treatment Act

Senate Bill No. 439 (Chapter 71-132) assigns to the Division of Mental Health of the Department of Health and Rehabilitative Services the duty to formulate and effect a plan for prevention, care, treatment and rehabilitation of alcoholics. The Division is to arrange for treatment of alcoholics in hospitals, clinics, and mental health centers. Services to be provided shall include detoxification and emergency social services on a 24 hour a day basis for initial examination, diagnosis and referral.

Intermediate care services and in-patient facilities may be either a part of a licensed hospital, mental hospital



or a community mental health center and may be for either short term or extended care of alcoholics. The assignment of patients for treatment shall be made to out-patient and intermediate care facilities unless in-patient care is required for medical reasons. When possible, the patient is to be treated on a voluntary rather than an involuntary basis.

When a person is intoxicated in a public place and appears in need of help a peace officer may assist him to his home or to an emergency service or facility. If a person is incapacitated and refuses consent to be assisted, he may be detained and given emergency care against his will, but with no use of unreasonable force and for no longer than 96 hours.

The law provides for both voluntary treatment and for emergency commitment of alcoholics by the certificate of a physician for a period of no more than five days. After July 1, 1973, during the five-day emergency commitment period a petition for involuntary commitment may be filed with the county judge, and the person may be held for up to 20 additional days. A petition for commitment shall allege that the person is an alcoholic who has lost the power of self-control with respect to the use of alcohol and that he has threatened, attempted or actually inflicted physical harm on himself or others or that he is in need of medical treatment and care and his judgment has been impaired so that he is incapable of making a rational decision on his need for such care. The person is required to be present at the hearing unless his presence is likely to be injurious to him, in which case the court appoints a guardian ad litem. The court may enter a preliminary order to commit the person for five days to a community facility for a diagnostic examination. When a person is committed for treatment by the court, he may be held for up to 30 days unless a court order is entered for recommitment for up to 90 additional days. The criteria for such recommitment is: the person is an alcoholic who (a) has impaired judgment or (b) is likely to inflict physical harm on himself or others. The 90 day period may be extended by court

order for further periods up to six months. Prior to commitment or recommitment a person shall be informed of his right to contest the application and to be represented by counsel.

The records of the treatment facilities are confidential, and information entered on the records shall be considered privileged. Provisions for visitation and communication of patients are to be made by the Division and the facility. Persons convicted of crimes may also be committed for treatment in accord with provisions of law related to criminal offenses. Alcoholics able to pay may be charged for their care and treatment; when the commitment is involuntary the amount paid is to be fixed by the county commissioners.

A new section in Chapter 856, F. S., is created which will prohibit public disturbances and intoxication or drinking alcoholic beverages in public places or conveyances. Violation is punishable as a misdemeanor of the second degree subject to a fine up to \$500, imprisonment up to 60 days, or both. Conviction or forfeiture of collateral three times in 12 months is cause for a person to be deemed an habitual offender, and he may be committed by the court for up to 60 days of treatment.

Effective on July 1, 1973, Section 856.01, F. S., prohibiting drunkenness from voluntary use of intoxicating liquors or drugs is repealed, and Section 856.02, F. S., is revised to eliminate reference to drunkards; all counties and municipalities are prohibited from adopting laws and ordinances which render public intoxication or public drinking or vagrancy a crime. Laws or ordinances against drunken driving and other similar offenses are not affected.

The Department of Health and Rehabilitative Services is authorized to create advisory councils. Chapter 396, F. S., relating to the Bureau of Alcoholic Rehabilitation, is repealed. Effective July 1, 1971, except as to involuntary commitment and repeal of intoxication and public drinking offenses, which become effective July 1, 1973.

### Power to Contract

In Senate Bill No. 169 (Chapter 71-176) the Bureau of Alcoholic Rehabilitation is authorized to contract for services or make expenditures for grants to units, agencies or departments of the federal, state or local government and any public or private facility for approved treatment, rehabilitation or educational services related to alcoholism. This amendment of Section 396.121, Florida Statutes, also changes a reference to budget periods from biennial to annual in order to conform to the present state practice of annual budgets.

### OFFICE OF DRUG ABUSE

#### Licensing of Drug Abuse Treatment and Education Centers

Senate Bill No. 438 (Chapter 71-222) amends Sections 397.021, 397.031, and creates Sections 397.071 - 397.097, F. S., to define a 24 hour a day telephone information service as "hot line" and a drug abuse treatment and education center as "DATE center." A DATE center may be either (1) a residential rehabilitation center, (2) a nonresidential day care center, (3) an educational information center, or (4) a communication center or rap house. The Department of Health and Rehabilitative Services is authorized to establish guidelines and evaluate the effectiveness of drug abuse programs. A department license is required for operation of a DATE center. Entry and inspection of licensed DATE centers by officers or employees of the Department of Health and Rehabilitative Services is authorized. The Department has a right to enter and inspect premises believed to be operating as a DATE center without a license after first obtaining permission of the owner or the person in charge of the premises or after a warrant has been issued by a circuit court.

Information received by employees of a DATE center or by the licensing agency is deemed privileged and confidential and shall not be disclosed publicly in a manner which would identify individuals of facilities except in proceedings having to do with licensing.

A facility operated by the state or the federal government is automatically issued a license when the Department of Health and Rehabilitative Services receives an application.

#### DIVISION OF FAMILY SERVICES

##### Child Abuse

Committee Substitute for Senate Bill No. 50 (Chapter 71-97) amends Section 828.041, Florida Statutes, and extends protection from abuse to children under the age of 17 rather than those under 16 as at present. A report of child abuse is to be made to the Department of Health and Rehabilitative Services by a physician, nurse, teacher, social worker, and employee of a public or private facility which serves children.

Abuse is defined to include neglect, malnutrition, severe physical injury inflicted other than by accidental means and failure to provide sustenance, clothing, shelter, or medical services.

The report is to be made by telephone followed by a written report with more detailed information. The Department is to investigate this report and notify the juvenile court of it. A central registry of these reports and the results of the Department's investigation of them is to be established by the Department. The records of the Department are to be closed except to reputable researchers or for use in connection with treatment of the child or the person accused of the abuse and the attorney representing the accused. Persons acting in good faith in connection with reports of child abuse are immune from civil or criminal liability.

Witnesses and communications are not privileged except in the attorney-client relationship and as to ministers in connection with civil or criminal litigation connected with child abuse.

Penalty for violation of any provisions of the act is imprisonment in the county jail not exceeding 60 days, a misdemeanor of the second degree. Effective date is July 1, 1971.

## DIVISION OF HEALTH

### Advisory Council

Senate Bill No. 870 (Chapter 71-191) amends Section 381.011, F. S., to increase the membership of the Advisory Council of the Division of Health from five to six members. Members shall be an osteopathic physician, two doctors of medicine, a dentist, a pharmacist, and a citizen.

### National Cancer Authority

Senate Memorial 1357 urges that Congress establish a national cancer authority and provide adequate funding for an "all out war" on cancer.

### Vital Statistics

Senate Bill No. 550 (Chapter 71-26) amends Section 382.35, F. S., to permit the State Registrar to furnish certified copies of certificates of marriage, divorce, or death, excluding the portion which contains medical certification of cause of death, to any person requesting it and paying the required fee. Medical certification of cause of death is furnished to persons having a direct and tangible interest in the cause of death under rules and regulations of the Division of Health.

### Anatomical Gifts

House Bill No. 805 (Chapter 71-201) amends Section 736.25, F. S., to authorize issuance of a uniform donor card which is sufficient and legal for a person to donate all or part of his body. The signature of the donor is required to be executed in the presence of two witnesses who also sign the document.

### Regulation of Devices Emitting Radiation

Senate Bill No. 670 (Chapter 71-189) requires the Department of Health and Rehabilitative Services to promulgate

rules and regulations necessary to protect persons exposed to laser devices or other nonionizing radiation.

The Department is authorized to (1) register laser devices, (2) receive information relating to present or future radiation-producing products, (3) study the degree of hazard involved in use of such devices, (4) establish and prescribe performance standards for laser and other radiation control and (5) amend or revoke any performance standards previously established under the program.

NOTE: Senate Bill No. 671 (Chapter 71-271) requires the Department to regulate transportation of radioactive material.

#### Physician's Assistant Act

The Conference Committee Substitute for House Bill No. 377 (Chapter 71-121) establishes a program and sets up standards for training physician's assistants, a new health care profession.

A physician's assistant may perform medical services under the direct supervision of a licensed physician in the specialty area for which he is trained or experienced. He may render services for the physician to whom he has been assigned in an office where the physician maintains his primary practice, in the physical presence of the physician, or in a hospital where the physician is a member of the staff. He may make calls outside the office only on the direct order of the physician to whom he is assigned. A person in training as a physician's assistant may perform medical services in an approved training program.

The Board of Medical Examiners is to issue certificates of approval for programs for the education and training of physician's assistants. A program curriculum approved by the Board is to cover a 24 month period. The Board is to give credit for past experience and education in health fields and create specialty classifications in one or more of the

fields in which the physician's assistant is to receive training. The Board is to adopt standards to insure that the program does not endanger the health and welfare of patients.

When a physician wishes to employ a physician's assistant he applies to the Board of Medical Examiners, listing his professional background and specialty, a description of his practice, the way in which the assistant is to be utilized, and the qualifications and experience of the assistant. The Board approves the application when it is satisfied that the assistant is a graduate of an approved program, is qualified to perform the services for which he is to be employed, and that the public will be adequately protected.

A physician practicing alone may have two physician's assistants, two physicians practicing together may have four physician's assistants, and a group of physicians practicing together, either formally or informally, may have two physician's assistants for every three physicians in the group.

A person holding himself out as or using a term which indicates or implies that he is a physician's assistant without Board approval is guilty of a felony of the third degree punishable on first offense by a prison term not exceeding five years or a fine not exceeding \$5,000.

The Board is to submit an annual report to the Legislature by March 15, 1973, with information as to the number and types of programs approved, the number of assistants approved for supervision, their scope of practice, the specialties of the physicians supervising them, an evaluation of the programs, acceptance of them by the community, and the doctor-patient ratio of the counties in which the assistants are employed.

The fee for the physician's annual application to the Board for authorization to supervise a physician's assistant is \$50. The fee for Board certification of an approved physician's assistant program and for renewal every three years is \$500. The physician's assistant pays a \$25 fee on Board approval of his application for certification and an annual \$15 fee for renewal of his certificate.

A physician is liable for acts or omissions of a physician's assistant while he is acting under the supervision and control of the physician. Effective July 1, 1971.

### Renal Dialysis

House Bill No. 335 (Chapter 71-139) creates Section 402.21, F. S., to establish a program for the care and assistance of persons suffering from chronic kidney disease. The Department of Health and Rehabilitative Services shall appoint a Kidney Disease Board to act in an advisory capacity with division directors in the Department. The Board is composed of eleven members, four physicians (either medical or osteopathic doctors) who are trained in the treatment of chronic renal diseases, two representatives of hospitals or medical schools with dialysis centers, three representatives of local health agencies and two members of the general public.

The Department is to: (1) develop the program for care and treatment of persons suffering from chronic kidney disease by medical procedures and techniques, including dialysis, (2) develop standards for determining eligibility for treatment, (3) assist in developing programs for the prevention of chronic renal diseases, (4) assist in establishing screening programs and early diagnostic facilities, (5) utilize available division funds and programs to obtain financial assistance for persons qualified for it who are suffering from chronic renal disease, (6) assist in equipping dialysis centers, (7) institute an educational program for physicians, hospitals, county health departments, and the public in the prevention of chronic renal disease and care and treatment of persons suffering from it, (8) contract with existing facilities for providing care.

The Board shall submit guidelines for determining priorities and qualifications of persons who need assistance in obtaining treatment.

The state is not committed to provide direct financial assistance to patients requiring dialysis therapy.



### Testing for PKU

House Bill No. 1269 (Chapter 71-140) amends Section 383.14, F. S., to authorize the Division of Health to promote the testing of all infants for phenylketonuria and other metabolic disorders by using any available and practical tests. The Division is to promulgate and enforce rules requiring every newborn prior to becoming two weeks old to be subjected to testing for metabolic disorders. The Division is to administer this program and an educational program among physicians, hospitals, nurses and the public concerning testing for and treatment of metabolic diseases. The Division is to furnish forms on which test results may be reported, maintain a registry of cases, supply the necessary treatment products for diagnosed cases, if practical and if the product is not available through other state agencies, and arrange for or provide public health nursing, nutrition and social services and clinical consultation, if necessary.

The act does not apply when a parent or guardian submits a written objection to the testing. Effective July 1, 1971.

### Medical Treatment of Minors

House Bill No. 1458 (Chapter 71-349) amends Section 384.061, F. S., to permit rendering of medical or surgical care or service by a public clinic, hospital, or physician to a minor who has been exposed to a venereal disease.

### DIVISION OF ADULT CORRECTIONS

#### Sale of Prison-Produced Items

Senate Bill No. 492 (Chapter 71-109) amends subsection 945.16(1), F. S., to permit the Division of Adult Corrections to furnish or sell prison-produced products not required for use in the Division to all state agencies, departments, and institutions. The following items may be sold to counties, school districts, sheriffs or county public safety officers,

municipalities or other political subdivisions: (1) furniture, (2) metal products, (3) canned goods, (4) clothing, (5) farm products, (6) bricks and masonry products, (7) repair and maintenance services, (8) tobacco, (9) janitorial supplies. For distribution of any products not specified the Division must have specific legislative authority.

#### Work-Release and Outside Visits

Senate Bill No. 497 (Chapter 71-112) authorizes the Division of Adult Corrections on approval of the Director of the Division, to permit an inmate to make outside visits which would aid in rehabilitation. The 24 hour restriction on these visits has been removed. The Florida Parole and Probation Commission is notified of the action, but is no longer required to investigate and make recommendations prior to leave being granted for the visit.

Work-release may now be authorized at any time during the last 12 months of confinement.

#### Inspection of Municipal Detention Facilities

Senate Bill No. 726 (Chapter 71-113) amends Section 951.02, F. S., to require that municipal detention facilities be inspected by the Division of Adult Correction. Copies of the inspection report are to be sent to the appropriate agency, the city or county commissioners.

Section 951.23, F. S., is amended to require the Department of Health and Rehabilitative Services to adopt rules prescribing standards for construction, equipment, operation, sanitation and prisoner confinement by classification for both county and municipal detention facilities. Where possible, the prisoners are to be classified by sex, age, and type of crime, whether convicted or not, with separation of unusual prisoners for the safety of the prisoners and operation of the facility. The Director of the Division of Adult Corrections

is required to enforce the rules and to certify to the circuit court any facilities which do not meet the standards so that the court may order removal of prisoners confined there.

Effective October 1, 1971.

#### Purchase of Real Property for Avon Park Correctional Institution

House Bill No. 936 (Chapter 71-13) appropriates \$305,000 from the general revenue fund to purchase surplus federal land for the Avon Park Correctional Institution which, together with \$120,000 appropriated by the 1967 Legislature, meets the selling price set by the federal government. The federal government has agreed to sell the land for \$425,000 which is \$225,000 less than the price quoted in 1969 when the Legislature authorized further negotiation under Chapter 69-372.

#### DIVISION OF YOUTH SERVICES

##### Care and Supervision of Children

House Bill No. 1769 (Chapter 71-130) authorizes agents of the Division of Youth Services to supervise and take children into custody, file petitions and issue summons for delinquent children or children in need of supervision, issue witness subpoenas and notices to appear, serve papers issued by the juvenile court, and administer oaths and affirmations.

The juvenile court is authorized to commit a delinquent child to the Division of Youth Services, the Division of Family Services, or to a licensed or public child care institution, and to order the parents to pay reasonable sums for the support of the child. A child in need of supervision may also be placed in these facilities but cannot be committed to the Division of Youth Services. A child shall not be committed to a jail or to a facility used only for detention.

The Division of Youth Services is authorized to develop its programs in aftercare, intake, probation services, shelter care, individual and group counseling and other types of residential and nonresidential treatment programs. The Division

is to establish intake services for juvenile courts for preliminary screening, as alternatives to court action, provide nonjudicial supervision, nonresidential treatment, shelter care, and individual and group counseling. The Division is to provide voluntary counseling services or nonjudicial supervision only if parents and the child agree. Intake decisions regarding referrals and treatment of children are subject to review by the court.

County employees who on October 1, 1971, are performing services delegated to the Division of Youth Services will be offered comparable positions with the Division at no decrease in salary, based on salaries of juvenile court employees as of April 1, 1971, with allowances for scheduled merit increases due subsequent to April 1, 1971.

#### Delinquent Children

House Bill No. 179 (Chapter 71-117) amends Section 39.01(12)(b) to provide that a child twice adjudicated as being in need of supervision may be adjudicated to be delinquent. Effective July 1, 1971.

#### DIVISION OF PLANNING AND EVALUATION

##### Governmental Reorganization, Bureau of Community Medical Facilities

House Bill No. 2030 (Chapter 71-213) transfers the Bureau of Community Medical Facilities from the Division of Administrative Services to the Division of Planning and Evaluation and renames it the Bureau of Community Medical Facilities Planning.

#### VOCATIONAL REHABILITATION

##### Bureau of Blind Services

House Bill No. 1016 (Chapter 71-14) amends Subsection 413.012(2), Florida Statutes, to permit the Division of

Vocational Rehabilitation, Bureau of Blind Services, to disclose information to the Department of Highway Safety and Motor Vehicles, Division of Driver's Licenses, in a monthly dispatch giving the name, place and date of birth, sex, social security number, and address of persons with central visual acuity of 20/200 or less in the better eye with correcting glasses or a disqualifying field defect in which the peripheral field has contracted so that the widest diameter or visual field subtends an angular distance no greater than 20 degrees. Effective July 1, 1971.

#### Identification Card

Senate Bill No. 566 (Chapter 71-265) authorizes the Division of Vocational Rehabilitation, Bureau of Blind Services, to issue identification cards to blind and partially sighted persons on specified proof of blindness and payment of a fee.

#### Right to Accomodations

Senate Bill No. 823 (Chapter 71-276) amends Section 413.08, F. S., to assure full and equal accommodations for blind and visually handicapped persons and provide the right to be accompanied by a guide dog on common carriers, airplanes, motor vehicles, trains, buses, boats and other public conveyances, in hotels, lodging places, amusements and resorts. A blind or partially blind person shall not be required to pay an extra charge for the guide dog, but will remain liable for damage done by the dog.

A person or corporation denying a blind person the right to be admitted to public facilities is subject to being charged with a misdemeanor.

It is state policy that blind and visually handicapped persons are to be employed by the state and its political subdivisions, the public schools and in other employment supported by public funds. They shall be entitled to rent, lease or purchase housing accommodations, but are not entitled

to any modification of property or to a higher degree of care. A blind or partially blind person is entitled to full and equal access to housing accommodations and shall not be required to pay extra compensation for a guide dog, but remains liable for damage done to the premises by the dog.

NOTE: The following act is to be administered by the Board of Regents and is included here because of its relation to health care in the state.

Community Hospital Education Act

A Committee Substitute for Senate Bill No. 280 (Chapter 71-131) creates a Community Hospital Education Council which will advise the Board of Regents in administering a program established within the Department of Education for providing continuing medical education programs for interns and residents and advanced education for physicians in the state. The Board of Regents is to designate an administrator to serve as staff director, and the Council is to elect its chairman from its membership. Council membership is five - three directors of medical education in approved programs, one dean of a Florida medical school, and one representative of the administration of a hospital participating in the program.

Hospitals are to be qualified by the Board of Regents for participation in the program by submission of an educational plan and a training schedule, supervision of the program by a physician other than a hospital administrator, and maintenance of a high degree of academic excellence and qualification for approval by the Council on Education of the American Medical Association.

Funding of the program is to follow a formula developed by the Board of Regents from \$25,000 state funds which are to be matched in the following manner: participating hospital, 50%; community, 25%; state, 25%. Funds are to be used for student stipends, teaching assistants and equipment, and faculty review. Annual reports are to be made to the Legislature by the Council.

HIGHWAY SAFETY, MOTOR VEHICLES AND TRANSPORTATION

Highway Safety Legislation:

The 1971 Legislature passed a number of highway safety laws which will in time make the Florida streets, roads and highways safer places upon which to drive. Safety was the paramount interest, but as a secondary value these safety measures will help greatly in meeting the 16 federal highway safety standards of 1966, as amended, which in turn assure Florida matching federal funds.

House Bill No. 119 (Chapter 71-135), one of the most important bills to pass the Legislature this session, is the so-called "Rules of the Road." This bill takes two chapters, 317 (State Traffic Laws) and 186 (Municipal Traffic Ordinances), and combines them into Chapter 316 to be known as "The Florida Uniform Traffic Control Law." Few substantive changes were made, but the statutes were clarified; ambiguities and conflicts were removed so that Florida now has an understandable and uniform traffic code applicable throughout the state, in all counties and cities, over all streets, roads and highways and other places where vehicles may be driven. The language from many sections of the "Uniform Vehicle Code" and "The Model Traffic Ordinance" was used so that Florida now has a traffic code as good as or better than that of any other state in the nation.

Two important measures which will greatly assist law enforcement officers and traffic courts in general are Senate Bills No. 390 and 711. Senate Bill No. 390 (Chapter 71-314) requires a report to the Department of Highway Safety and Motor Vehicles, within ten days, of all final judicial dispositions involving moving traffic violations. The purpose was to provide a method of determining how well law enforcement officers and traffic court judges perform their duties. Senate Bill No. 711 (Chapter 71-321) mandates the issuance of uniform

traffic citations by the Department of Highway Safety and Motor Vehicles. The original of the citation and one copy is to be deposited with the court having jurisdiction over the offense and a copy is to be submitted to the Department of Highway Safety and Motor Vehicles. A violation of this procedure constitutes official misconduct.

House Bill No. 142 (Chapter 71-285) makes a legislative finding that for inspection purposes tires are unsafe if any ply or cord is exposed; if anything affecting tire structure is damaged; if tread depth measured is less than 2/32 of an inch; if tread wear indicators contact the road; or if they are marked "not for highway use," or "for racing purposes only."

House Bill No. 241 (Chapter 71-351) requires that the headlights of a motorcycle or motor-driven cycle be turned on while such vehicle is operated on the public streets or highways.

Committee Substitute for Senate Bill No. 276 (Chapter 71-175), commonly known as the "bumper bill", repeals subsection 501.125(3), F. S., which required all automobiles manufactured after January 1, 1975, and sold and licensed in the state to withstand, both front and rear, a ten mile an hour impact with the standard SAE J-850 barrier, sustaining no damage to the automobile. It also delayed the effective date one year (January 1, 1974), for compliance with the same requirements where the speed is reduced to five miles per hour for both front and rear impact.

House Bill No. 1010 (Chapter 71-38) allows the Division of Road Operations to summarily remove from the right-of-way any advertising structure or lights having a value of \$500 or less without notifying the owner of the structure prior to such removal. Heretofore such authority applied only to signs valued at \$100 or less.

#### Driver's License:

House Bill No. 995 (Chapter 71-144) authorizes the Department of Highway Safety and Motor Vehicles to impose restrictions on a driver's license, when such action is recommended by a court or by the Probation and Parole Commission.



House Bill No. 1016 (Chapter 71-41) permits the Division of Vocational Rehabilitation, Bureau of Blind Services, to disclose information to the Department of Highway Safety and Motor Vehicles, Division of Drivers' Licenses, in a monthly dispatch giving name, place and date of birth, sex, social security number, and address of persons with central visual acuity of 20/200 or less in the better eye with correcting glasses or a disqualifying field defect in which the peripheral field has contracted so that the widest diameter or visual field subtends an angular distance no greater than 20 degrees.

House Bill No. 1018 (Chapter 71-74) requires that every application for driver's license or instruction permit reflect proof of birth date or the social security number of the applicant, as well as all other information previously required.

House Bill No. 1015 (Chapter 71-73) increases the fee for a duplicate driver's license from 25¢ to \$2.50. In addition to the increase in fee, the applicant must furnish either a birth certificate or social security card showing his full name, date of birth, sex and residence address.

#### Abandoned Vehicles:

House Bill No. 1701 (Chapter 71-352) authorizes law enforcement officers to remove any abandoned vehicle, at the owner's expense, which obstructs traffic; is abandoned within 30 feet of the pavement edge for more than 48 hours; or abandoned more than 30 feet from the pavement edge for ten days. Such removal shall be reported within 24 hours to the Department of Highway Safety and Motor Vehicles.

#### Vehicle Registration:

House Bill No. 1020 (Chapter 71-42) deletes the standard of the National Automobile Chamber of Commerce for net weight classification of motor vehicles. Permits the applicant for motor vehicle registration to list his residence or business address rather than both as previously required.

#### Motor Vehicle Inspection:

House Bill No. 207 (Chapter 71-300) exempts antique automobiles from the mechanical inspection now required of motor vehicles.

Committee Substitute for Senate Bill No. 108 (Chapter 71-242) requires that odometer readings be recorded on the motor vehicle inspection form provided for that purpose by the director of the Department of Public Safety and Motor Vehicles.

#### Florida Junkyard Control Law:

Senate Bill No. 1576 (Chapter 71-338) creates the Florida junkyard control law to prohibit the operation of junkyards, auto graveyards, or scrap metal processing plants within 1,000 feet of any interstate or primary highway unless screened from public view. Exempt from the provisions of this act are areas zoned industrial, areas not visible from the highway, and areas which, due to the elevation of the highway, a 20-foot fence will not screen from view. However, those areas which are visible due to elevated highways must have a 10-foot fence as a partial screen.

#### Highway Patrol:

Senate Bill No. 186 (Chapter 71-15) permits the director of the Highway Patrol to allow auxiliaries to bear firearms on an individual basis and after completion of an approved firearms course.

Senate Bill No. 788 (Chapter 71-275) declares each member of the Highway Patrol to be a law enforcement officer of the state with the power to execute a search warrant, arrest warrant, capias or other process of any court within his jurisdictional area. His power to search is contingent upon, or incident to, a lawful arrest.

#### Motor Fuels Tax:

House Bill No. 1681 (Chapter 71-212) returns to the counties all of the monies derived from the 7th cent motor fuels tax.

It charges the counties with the full responsibility for maintenance of transportation facilities and roads in the state secondary road system within their boundaries.

Motor Vehicle License:

House Bill No. 612 (Chapter 71-302) amends Chapter 320, F. S., and requires the Department of Highway Safety and Motor Vehicles to issue at no charge 640 automobile license plates required for use on automobiles owned and operated by members of the Seminole indian tribe.

Land Sales, Leases, Etc.:

House Bill No. 1012 (Chapter 71-39) makes the Division of Administration, rather than the Division of Road Operations, of the Department of Transportation responsible for depositing monies received from the sale, lease or conveyance of land.

D.O.T. Contracts:

House Bill No. 1013 (Chapter 71-40) increases from \$200 to \$2,500 the maximum price of a road improvement, demolition, or removal contract for which a successful bidder is allowed to post a cashier's check, money order, or certified check in lieu of a surety bond.

Gasoline & Oil Inspection:

House Bill No. 187 (Chapter 71-152) makes it unlawful to break, cut, or remove the inspector's seal placed on gasoline or kerosene container measuring devices.

House Bill No. 189 (Chapter 71-119) authorizes the Commissioner of Agriculture to apply to the circuit court for an injunction against violations of the law or department rules relating to gasoline and oil inspection.

Unregistered Brake Fluid:

House Bill No. 188 (Chapter 71-118) requires that any unregistered brake fluid be impounded for 30 days by the Department of Agriculture and Consumer Services. If application for registration has not been made within 30 days, the brake fluid

may be destroyed or disposed of through the Department's representatives if it meets legal specifications.

T.O.P.I.C.S. Program:

House Bill No. 2305 (Chapter 71-216) permits the Department of Transportation to expend restricted and unrestricted state road and gas tax revenues to match federal funds for planning, design and construction of streets and highways and for other highway-oriented projects not on the state highway system. The law provides that local governments shall agree in writing to provide pro rata shares of matching funds if required and also agree to maintain projects after completion.

Transportation of Radioactive Materials:

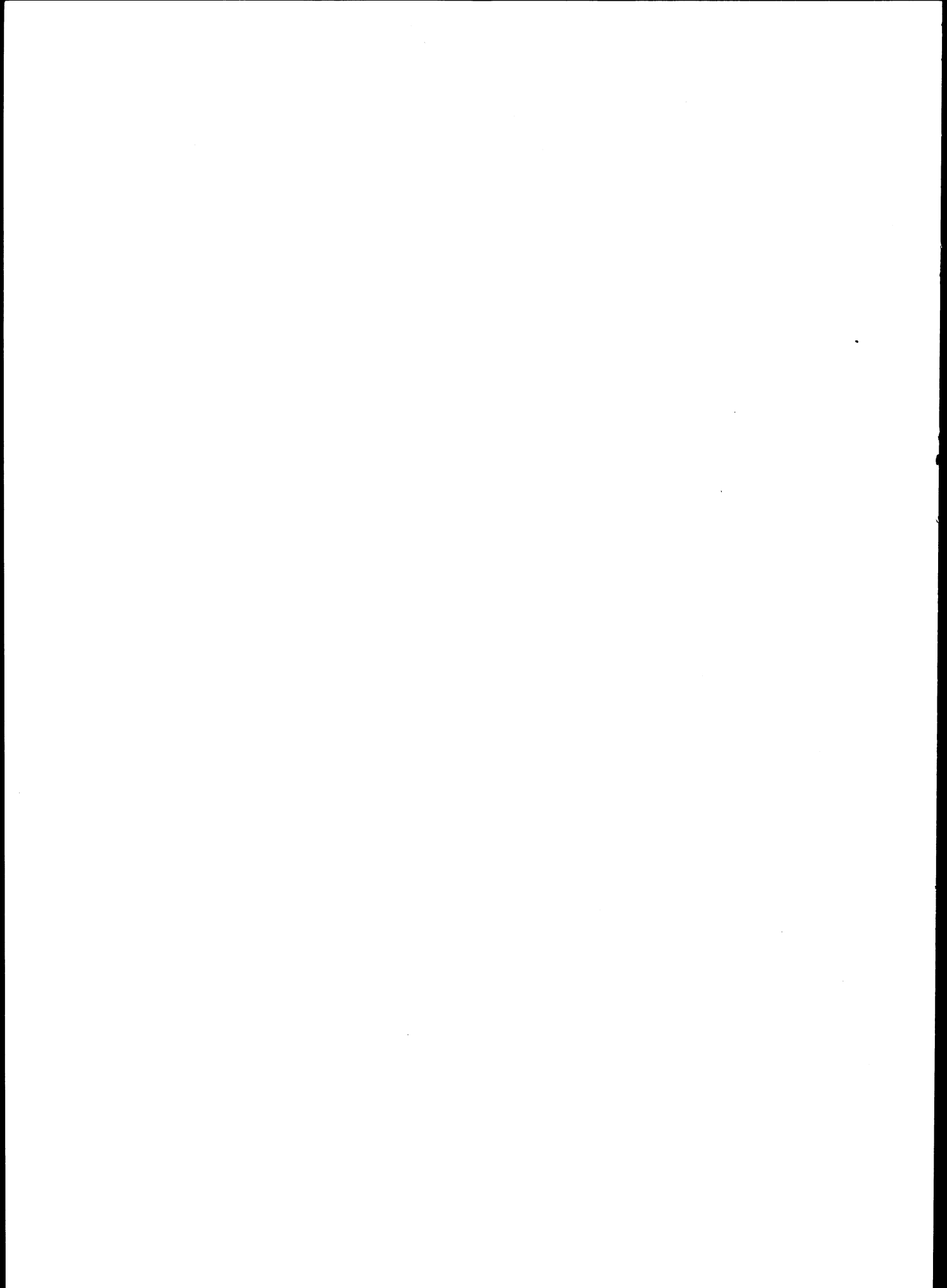
Senate Bill No. 671 (Chapter 71-271) transfers from the Department of Insurance to the Department of Health and Rehabilitative Services the regulation of the transportation of radioactive materials. It also authorizes regulations to promote the public health, safety and welfare, and to protect the environment. The rules may include, but are not limited to, provisions for the use of warning signs, for packing, marking, loading and handling of radioactive materials, and for precautions necessary to determine whether the material is in proper condition for transport. Such rules shall not apply to the equipment or operation of the carrier vehicle nor to the transportation of radioactive material within the confines of an authorized facility of use. Such rules are to be compatible with (but not more restrictive than) those set by U. S. agencies and departments. Enforcement by the Division of Health and Rehabilitative Services, the Department of Highway Safety, the Department of Transportation and the Public Service Commission is authorized. The Division of Health is also authorized to inspect the records of transporters of radioactive materials, to enter and inspect the premises of such persons during business hours with or without a warrant, and where applicable, to issue an order requiring correction. Any violation is a misdemeanor and punishable accordingly.

Regional Transportation Authorities:

House Bill No. 28-C (Chapter 71-373) creates the Regional Transportation Authority Law which provides that the governing bodies of any two or more contiguous counties, municipalities of 20,000 population, other political subdivisions, or combinations thereof, are authorized to activate an authority upon approval by each governing body contemplating membership in such authority. Each political subdivision shall appoint one member to the governing body of the authority and the Governor, with the advice and consent of the Senate, shall appoint two members who shall be residents of the area represented in the authority. The governing body shall be composed of not less than five members. Each member of the authority shall be a member of a governing body having membership in the authority.

The authority is granted the power of eminent domain limited to right-of-way and contiguous facility acquisition. It is considered a special taxing district and can levy up to three mills on the taxable real property located within the district upon a referendum. Any contiguous political subdivision, upon a resolution adopted by its governing body, and contingent upon a majority vote of the members of the authority, may join the regional transportation area.

The act exempts such authority from the regulatory provisions of Chapter 350, F. S., (Public Service Commission) and from the regulatory provisions of Chapter 323, F. S., (Motor Carriers; Freight Forwarding Act).



INSURANCE

The 1971 regular session was faced with the task of seeking long term reform in answer to the automobile insurance problem previously handled on a limited basis with the enactment of the rate moratorium and repeal of the California Plan in the special sessions of October, 1970, and January, 1971. The result was the enactment of one of the major laws of the session, the Florida Automobile Reparations Reform Act (No-fault). This measure is a substantive change from the present automobile insurance system relying largely on tort liability to a system which will free the insured from negligence liability and indemnify those covered, on a limited basis, without regard to fault.

This act, the Conference Committee Substitute for House Bill No. 1821 (Chapter 71-252) requires private passenger automobile owners to purchase medical and income loss insurance for the benefit of occupants and pedestrians. Excluded are commercial, business and government vehicles, motorcycles, and the automobiles of nonresidents within the state less than 90 days. Owners and occupants of excluded vehicles remain under the present tort system for reparations or responsibility therefor. If an injured occupant is the owner of a vehicle subject to this act, he must look to his insurer for the prescribed payments. Non-residents are covered only when they are passengers in an insured vehicle.

Benefits are payable up to a total of \$5,000. These include medical care, income loss, funeral costs up to \$1,000, and incidental expenses incurred. Suit may be instituted to collect from the party at fault for economic losses incurred in excess

of these amounts. Suit is not allowed to collect general damages for pain and suffering unless medical expenses exceed \$1,000; or there is an injury consisting of permanent disfigurement; a fracture of a weight-bearing bone or a compound, comminuted, displaced or compressed fracture; a loss of a body member; permanent injury; loss of a bodily function; or death. An individual collecting damages under tort liability must reimburse his insurer for benefits paid to him under the "no-fault" coverage and duplicated by the tort recovery.

Each automobile owner subject to the act is exempt from liability for property damage up to \$550 caused to another vehicle required to be insured by the act. An owner may, but is not required, to purchase either (1) insurance which covers collision or comprehensive damage to his vehicle without regard to fault; or (2) basic insurance coverage which covers damage to his vehicle caused by the fault of another subject to the act. Tort liability is retained for property damage in excess of \$550 with recovery being collectible from the first dollar.

Owners may reduce their premiums and still comply with the act by purchasing deductibles from personal injury benefits in amounts of \$250, \$500 or \$1,000. The deductibles are applicable only to the owner and members of his household. Others who qualify for benefits, such as passengers or pedestrians, are entitled to medical and wage loss benefits without regard to this limitation. The present limits of required liability coverage, 10/20/5, are continued to protect the insured from liability resulting from out-of-state accidents and collisions involving vehicles not coming under the act.

An owner failing to purchase the coverage or to provide other security is subject to suspension of his driver's license and vehicle registration. He will also be personally liable to pay the no-fault benefits to passengers or others injured by his automobile and he may be liable in tort for additional damages.



Insurers are required to lower their rates for the required coverages by not less than 15% of the combined premiums for the existing financial responsibility coverage. The reduction goes into effect on the effective date of the coverage sections of the act, January 1, 1972, with a refund or credit given on existing liability policies whose terms extend beyond this date. The reduced rates may not be increased prior to January 1, 1973. Within 60 days of July 1, 1971, each insurer must file its proposed rules and rates with the Department of Insurance. They will be deemed approved 60 days thereafter if not approved or disapproved prior thereto.

#### Insurer Finance and Reporting:

Committee Substitute for House Bills No. 524 and 527 (Chapter 71-87) authorizes a civil penalty of \$100 per day from an insurer failing to report required information concerning officers of the company or relating to proxies or other authorizations of voting security. The bill also removes the 30 day limitation for bringing suit for violations of regulations governing the solicitation and use of proxies. Senate Bill No. 1017 (Chapter 71-46) requires officials of domestic insurers to acknowledge receipt of the Department's examination report and indicate their intention to comply with the recommendations contained therein. It further authorizes the Insurance Department to set rates of compensation and expense allowances for rate analysts and examiners.

The suspension or revocation of a non-life or non-disability insurer is authorized by Senate Bill No. 624 (Chapter 71-320) if its surplus to policyholders is less than \$5,000,000 and is also less than one-half of net premiums written. Senate Bill No. 1010 (Chapter 71-89) enables the Department, for the protection of policyholders and creditors, to require a deposit in trust from any class of insurer.

#### Agents:

Six bills were enacted into law requiring higher standards for insurance agents and increasing the Insurance

Commissioner's authority over their activities. According to the provisions of Senate Bill No. 1009 (Chapter 71-58), insurers or agents furnishing supplies to and accepting business from an unappointed agent are held to be civilly liable to an insured to the same extent as if the agent were licensed. Senate Bill No. 1008 (Chapter 71-57) repeals the exemption permitting certain agents to solicit disability insurance covering persons over 65 years of age without meeting licensing requirements.

House Bill No. 532 (Chapter 71-86) requires a supervising or managing general agent to hold a permit and to comply with the state's insurance laws. General agents are required to obtain permits before October 1, 1971, and must pay appointment and renewal fees of twenty dollars.

House Bill No. 528 (Chapter 71-18) prohibits persons located in Florida from transacting insurance business on out-of-state risks with an insurer not licensed in that state for such purposes. It also raises the minimum trust fund required of alien insurers to the capital and surplus required of authorized insurers and extends the time for filing surplus lines policies with the Department to within 60 days of issuance.

Senate Bill No. 1011 (Chapter 71-327) requires a property, casualty and surety insurer to give an agent 60 days notice of its intention to terminate an appointment. An insurer terminating the appointment of a general lines agent is required to continue the policies transacted by the agent to anniversary date or expiration. Senate Bill No. 1007 (Chapter 71-326) permits property and casualty agents to place excess or rejected business directly with an insurer by eliminating the necessity of transacting such risks through a licensed agent of a company.

Insurance Commissioner and Treasurer:

House Bill No. 533 (Chapter 71-19) permits the posting of the State Treasurer's fidelity bond by any licensed, solvent surety qualified to write bonds for public officials. House Bill No. 519 (Chapter 71-17) requires insurers to file

proposed policy and other forms with the Tallahassee office of the Insurance Department.

The Department of Insurance may employ examiners who are over 65 years of age under the provisions of Senate Bill No. 1018 (Chapter 71-328). House Bill No. 521 (Chapter 71-85) increases the authority of the Department to issue cease and desist orders by allowing hearings on practices violating the general insurance laws, not merely the unfair trade practices section, which are harmful to policyholders or to the public.

Coverage:

Senate Bill No. 700 (Chapter 71-150) raises from five thousand to ten thousand dollars the amount of credit life and credit disability insurance that may be written on the life of a debtor. The maximum term of such policies is increased from five to ten years.

Senate Bill No. 1006 (Chapter 71-45) extends the application of the Insurance Code provisions on binders and representations in applications to wet marine and transportation insurance. The bill limits the denial of a fire insurance claim based upon a breach of warranty or policy provision to breaches contributing to the loss or damage.

Senate Bill No. 226 (Chapter 71-88) raises the limits of uninsured motorist and insolvent insurer insurance required to be included with an automobile liability policy to the same amount of the bodily injury limits purchased. It also limits uninsured motorist coverage to be excess over, and not duplicative of, benefits recoverable from other types of insurance.

Senate Bill No. 1004 (Chapter 71-325) requires a motor vehicle liability policy accepted as proof of financial responsibility to contain a deductible of \$500 for property damage unless such provision is rejected by the insured.

Financial Responsibility:

Senate Bill No. 1019 (Chapter 71-59) amends the Financial

Responsibility Law to apply only to motor vehicles which are required to be licensed. The amount of property damage sustained in an accident is raised to \$200 before proof of financial responsibility must be shown.

Miscellaneous:

Senate Bill No. 894 (Chapter 71-230) allows the public officials and governing bodies presently permitted to provide liability insurance for their political subdivisions to cover agents and employees acting within the scope of their employment.

House Bill No. 538 (Chapter 71-141) requires all regulated fire extinguishers and extinguishing systems to be serviced only by licensees or permittees of the State Fire Marshal. The installation, inspection, testing and repairing of extinguishers are included in the activities for which a license is necessary.

LEGISLATURE

The 60-day 1971 Regular Session was followed by a 16-day Special Session (June 9 - 24), giving a combined total of 76 legislative days. Introductions during the Regular Session were 4,231; an additional 138 during the Special Session brought the total to 4,369. General bills introduced were 3,274, about 600 less than in 1970; general bills enacted were 418, about 100 less than in 1970. When local bills and other measures are added, the total legislation adopted was 1,021. These figures are similar to 1970, when 4,455 bills were introduced and 1,028 were passed. Although a flood of local legislation was expected to result from the 1970 decennial census, there were only slightly more local bills than a year earlier; 521 in 1970 and 568 in 1971.

Most notable among the bills affecting the Legislature was that setting the convening date for the 1972 Regular Session. Senate Bill No. 457 (Ch. 71-317) set the date as "the first Tuesday in February" - February 1, 1972.

Senate Bill No. 1043 (Ch. 71-329), changed the membership of the Joint Legislative Management Committee. The ex officio membership of the chairman and one member of the Senate Committee on Rules and Calendar, the chairman of the House Committee on Rules and Calendar, the chairman of the House Committee on Administration and the minority leader of each house were deleted. In their places will be three members of the Senate appointed by the Senate President and three members of the House appointed by the Speaker. One member from each house is to be a member of the minority party. Senate Bill No. 1132 (Ch. 71-332) amended Section 11.146, F. S., to provide that the Legislative Service Bureau's furnishing of professional assistance to standing committees shall be requisitioned by the committee under rules of the Joint Legislative Management Committee. The procedure by which standing committees' research is received by

the Bureau and transmitted to successor committees was clarified.

Three official reviser bills were enacted: House Bill No. 1806 (Ch. 71-251, adoption of Florida Statutes), House Bill No. 1805 (Ch. 71-355, general revision) and House Bill No. 25C (Ch. 71-377, reorganization revision). Other major revisions were enacted in the fields of criminal penalties, motor vehicle traffic laws, mental health, Trustees of the I.I.F, state boundary and local government.

1971 REGULAR SESSION AND  
JUNE SPECIAL SESSION

	<u>Legislation Introduced:</u>			<u>Legislation Passed:</u>		
	<u>House</u>	<u>Senate</u>	<u>Total</u>	<u>House</u>	<u>Senate</u>	<u>Total</u>
General Bills	1,837	1,437	3,274	226	192	418
Joint Resolutions	51	35	86	-0-	1	1
Local	629	123	752	469	99	568
Other Measures	102	82	184	15	19	34
Withdrawn	<u>48</u>	<u>25</u>	<u>73</u>	<u>      </u>	<u>      </u>	<u>      </u>
Totals	2,667	1,702	4,369	710	311	1,021

LOCAL GOVERNMENT

Population Acts Repealed:

House Bill No. 932 (Chapter 71-29) repeals listed general laws of local application (population acts). Those repealed acts relating to courts are incorporated into the Florida Statutes as general laws; those affecting counties become county ordinances; those affecting municipalities become municipal ordinances; and those affecting school districts become regulations of the district school board. Contracts, licenses, franchises, privilege or trust agreements created under any such law are not affected by its repeal. Effective on the day prior to the effective date of the 1970 Census.

County and City:

Senate Bill No. 1179 (Chapter 71-333) amends §112.42, Florida Statutes, relating to Governor's power to suspend any officer on constitutional grounds for offense that occurred during existing term or during the preceding four years. Deletes requirement that suspended officer held public office at time the grounds for suspension occurred.

Adds §112.49, Florida Statutes, to classify any officer, official or employee of a merged city-county government, or any such form of government which provides for the merging of powers, duties, and functions of municipal and county government as a county officer, if he exercised the power and duties of a county officer, and subject to gubernatorial suspension. If the charter, or other authority under which city-county merger is accomplished, shall provide for suspension or removal of such officers, then power to suspend will be concurrent in the city-county government and in the Governor.

Adds §112.50, Florida Statutes, to provide that Governor's power to suspend state, county, or municipal officers shall not be affected by statutory or charter provisions giving the suspension power, and the power to suspend is concurrent in the Governor and statutory or charter authority.

Section 945.16, Florida Statutes, was amended with the passage of Senate Bill No. 492 (Chapter 71-109) to allow the Division of Corrections to furnish or sell all services or items produced, processed or manufactured to all state agencies, departments and institutions. Provides that certain items or services when available may be sold to counties, school districts, municipalities or other political subdivisions without specific legislative authority. No items other than those specifically provided for in this act may be provided or sold without specific legislative authority.

Senate Bill No. 798 (Chapter 71-115) grants to felons the right to be employed by any political subdivision or the state, except when the felony committed directly relates to the position sought. Persons whose civil rights have been restored shall not be disqualified to practice or engage in any profession or occupation for which a license, permit or certificate is issued by the state provided that the offense committed did not relate to the position sought or to the profession or occupation. Law enforcement agencies are exempt but may adopt by reference this policy.

House Bill No. 1008 (Chapter 71-<sup>172</sup>~~57~~) authorizes the Department of Community Affairs to promulgate rules and regulations applicable to the manufacture, sale or installation of factory-built housing in the state of Florida; to affix an insignia to all factory-built housing that complies with such standards and such insignia shall be deemed to comply with local government requirements which govern construction of housing. All such rules and regulations promulgated under the authority of this



act shall be subject to the provisions of Chapter 120, F.S.  
Provides penalties for violations.

House Bill No. 326 (Chapter 71-183) amends §589.28-589.34, Florida Statutes, authorizing Board of County Commissioners and the governing bodies of municipalities to cooperate with the Division of Forestry including authorization for the above named boards to appropriate funds and enter into cooperative agreements with the Division of Forestry under the terms and conditions provided in §589.28-589.34, Florida Statutes, as amended. Such agreements would include specific areas of cooperative functions such as urban and suburban environmental improvement relating to development of outdoor recreational areas and water shed protection. Provides a specific formula of financial participation.

Committee Substitute for House Bills No. 430 and 386 (Chapter 71-343) is known and referred to as the "Environmental Protection Act of 1971." It provides that the Department of Legal Affairs and any political subdivision or municipality of the state or a citizen of the state may maintain an action for injunctive relief against any governmental agency responsible for enforcing any law, rule or regulation for the protection of the air, water and other natural resources. Authorizes the Department of Legal Affairs to intervene in any suit pursuant to this act to represent the interest of the state. The act also provides for assessing attorney fees, court costs and requirement for bond.

Municipal:

Senate Bill No. 101 (Chapter 71-218) requires all municipalities (including financial department, officers, and agencies thereof whose total annual budget from all sources equal \$50,000 or more) to have an annual postaudit of its accounts and financial records made by an independent certified public accountant. Requires and sets forth criteria for adoption of accounting and

bookkeeping procedures. Specifies matters to be included in auditor's report. Provides that report shall be a public record. Requires chief executive officer to respond to any adverse findings. Provides penalties for violations. Provides that this act shall be cumulative to provisions which allow municipalities to petition for a postaudit by the Auditor General. Effective January 1, 1972.

Senate Bill No. 726 (Chapter 71-113) amends §951.02, Florida Statutes, to require prison inspectors for state prisoners to inspect and supervise all municipal detention facilities under the direction of the Division of Adult Corrections of the Department of Health and Rehabilitative Services. Requires written reports to be sent to the city commissioner of the municipality in which such prisoners so inspected were sentenced. Amends subsection 951.23(1), Florida Statutes, by adding new paragraphs defining municipal detention facility to be a city jail, stockade, prison camp and all the places, except a county detention facility, that are used by a municipality or municipal office for detaining persons charged or convicted of violation of municipal ordinances. Municipal prisoner means one detained in a municipal detention facility because charged with or convicted of violation of a municipal ordinance. Amends subsection 951.23(2), Florida Statutes, by authorizing the secretary of the Department of Health and Rehabilitative Services to adopt rules prescribing standards for construction, maintenance, equipment and operation of municipal detention facilities. Amends subsection 951.23(3), Florida Statutes, to require the director of the Division of Adult Corrections to enforce rules and sanitation inspection of municipal detention facilities. Amends subsection 951.23(4), Florida Statutes, providing for removal of prisoners from county and municipal detention facilities that do not meet the required standards. Effective October 1, 1971.

House Bill No. 891 (Chapter 71-83) expands the powers of electrical cooperative corporations to engage in the businesses of water distribution and sanitary sewage service and they may purchase, construct and own the facilities to provide the above services.

County:

By House Bill No. 693 (Chapter 71-14), the Legislature classified the powers of county commissioners in the conduct of local affairs into 23 general and specific areas, No. 21 of which reads:

(21) "Perform any other acts not inconsistent with law which are in the common interest of the people of the county, and exercise all powers and privileges not specifically prohibited by law."

By rule of constriction included in the act, the Legislature conferred upon counties all implied and incidental powers necessary to the exercise of the powers specifically granted.

Many specific powers heretofore granted to county governments were repealed, the intent of which, as expressed in the act, was not to repeal or limit the powers of the board of county commissioners, but was:

"...to continue and expand such powers and remove certain limitations heretofore prescribed by law."

County ordinances were granted equal status with acts of the Legislature for determination of personal liability of members of the board of county commissioners in the expenditure of county funds, and of the liability of the clerk in issuing a county warrant for any such illegal expenditures.

Senate Bill No. 1557 (Chapter 71-956) established a local government study commission in Volusia County. A county charter was adopted last year in Volusia County and the commission is to study in further depth the need and efficiency for unifying services, revising governmental structure and operations and otherwise improving the county government.

House Bill No. 728 (Chapter 71-129) amends subsection 550.13(1), Florida Statutes, changing the method of distribution of racing funds to counties. After expenses of the commission are paid all remaining funds, provided the total of such funds does not exceed in any year the total sums after expenses so paid for the fiscal year 1971, shall be divided into as many equal parts as are counties within the state. Any excess

moneys after distribution shall be paid into the state General Revenue Fund.

House Bill No. 468 (Chapter 71-49). The enactment of this law provides for the nonpartisan nomination and election of certain justices and judges. Provides that such nonpartisan election shall be held at the time of the state primary as provided in §110.061 and §110.091, Florida Statutes. This law establishes method of qualifying, establishes the qualifying fee and method of distribution. Prohibits any reference to political party affiliation on the ballot.

Names of unopposed candidates shall not appear on nonpartisan ballots unless write-in candidates have qualified as required for write-in candidates. All qualified electors shall be qualified to vote in nonpartisan elections. No candidate in such election shall receive the endorsement or support of any political party or partisan political organization.

House Bill No. 1032 (Chapter 71-67). Authorizes the use of electronic data processing equipment for transcription, preservation and certification of jury lists. Also provides that the county commission or jury commission in counties using data processing equipment may perform those duties of the sheriff insofar as summoning of petit jurors.

Senate Bill No. 771 (Chapter 71-323) eliminates the requirement that petitioners for the creation of mosquito control districts be freeholders and amends §388.031, 388.041, 388.061 and 388.211, Florida Statutes, to provide that all registered electors residing within such proposed district shall be eligible to vote on the question of creation of such a district or change of such district.

Counties are authorized and granted the right to enter into lease or lease-purchase arrangements with the passage of House Bill No. 2060 (Chapter 71-240). Such arrangements may be entered into with private individuals, governmental agencies or corporations for rental purposes for periods not to exceed 30 years. If the rental or lease agreement is for longer than

24 months such rental payments shall arise from sources other than ad valorem taxation. Lease agreements under this act shall be subject to approval by board of county commissioners and shall be invalid without said approval.

House Bill No. 1959 (Chapter 71-249) grants to any county and the board of county commissioners thereof power to: construct, acquire and maintain (harbors, shipping and airport facilities, railroads, motor terminals, car ferries, causeways, etc.) within the territorial boundaries of the county; construct, maintain and control harbors and waterways; acquire property; construct, maintain and operate toll roads within the county; fix and collect rates and charges; regulate watercraft using the waterways within the county and all aircraft operating in the county; receive federal aid; adopt rules and regulations for the operation of any project; enforce a lien on aircraft when such aircraft fail to pay charges of any airport owned and operated by the county; pledge revenues from projects to costs of such projects; issue bonds to pay for projects; specially tax property to pay principal and interest on said bonds.

Authorizes the board of county commissioners to adopt an appropriate title (such as Port Authority). Any county may acquire by purchase or condemnation the docks, wharves, warehouses, and other port facilities, or any projects, of any municipality within such county; and provides that any county project shall be under the exclusive jurisdiction of the county.

An ad valorem tax not exceeding 1-1/2 mills may be levied upon all property in the county. Authorizes county to employ agents, clerks or servants to administer any project. Requires that all rules and regulations be reasonable and consistent with public interest; and provides that such rules and regulations are subject to review by any court of competent jurisdiction. Provides that all powers, acts and deeds conferred are county purposes, and that all projects financed by this act are free from state taxation.

House Bill No. 807 (Chapter 71-4) requires circuit court clerks to adopt a uniform progress docket with provisions for keeping separate dockets for civil and criminal matters. Also requires clerks to record all instruments in one general series of books called "official records." The clerk may maintain a separate book for maps, plats and drawings. Such uniform method of recording shall be adopted by January 1, 1972. Amends §28.29, Florida Statutes, to require orders of dismissal and final judgments in civil actions be recorded. Other orders to be recorded only on written direction of the court. Failure to record does not affect validity.

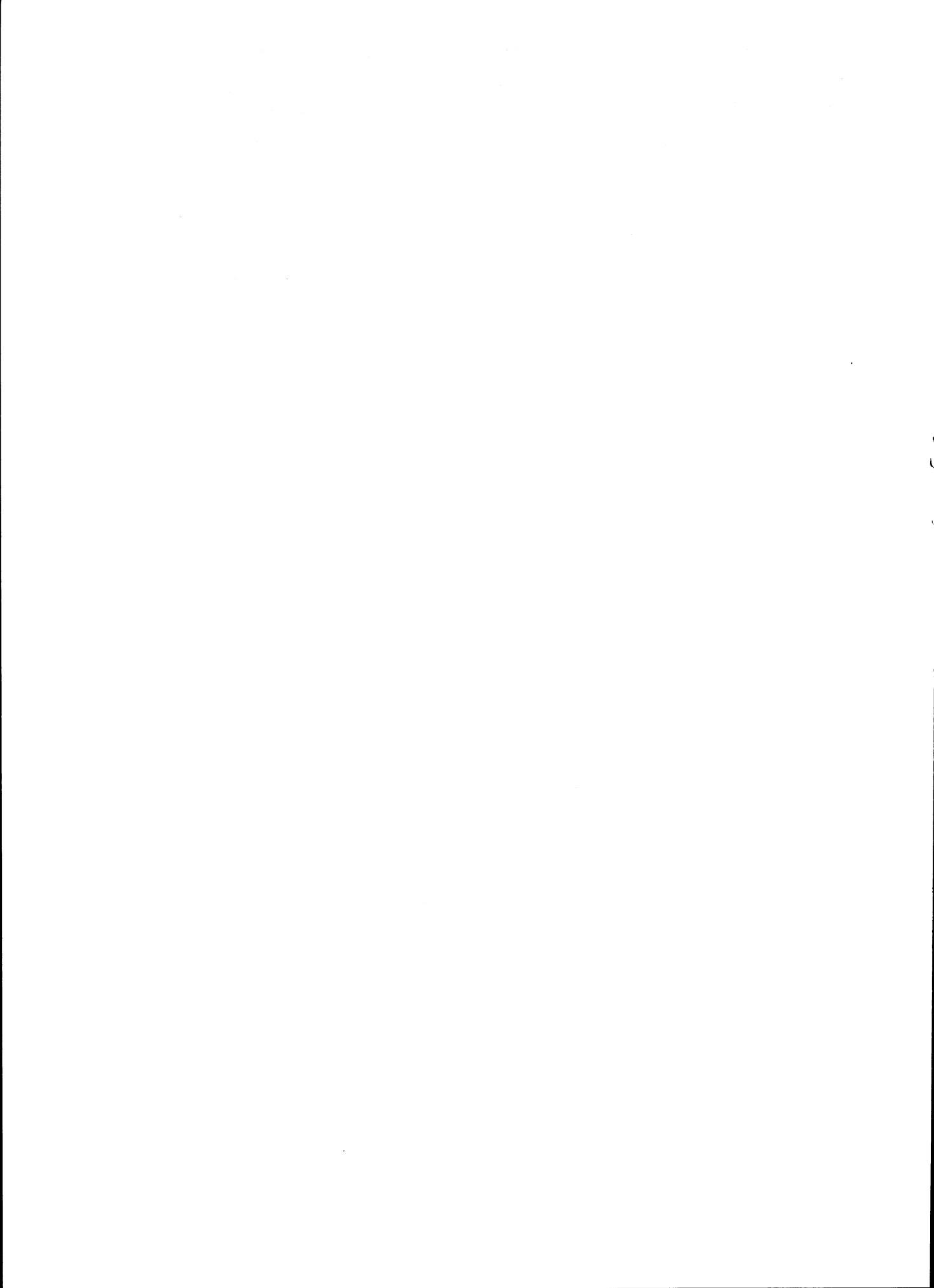
Senate Bill No. 1023 (Chapter 71-298) amends §44.12, Florida Statutes, providing that any county judge receiving annual compensation in excess of \$17,400 shall devote full time to the duties of his office and not engage in private practice of law. This section was also amended to provide salary increases for county judges in St. Lucie, Indian River and Martin Counties.

#### Special Session:

The special legislative session called following the adjournment of the regular 1971 session yielded significant legislation affecting fiscal operations of local government. Municipalities for the first time will be able to participate in the distribution of motor fuel taxes provided by passage of Senate Bill No. 20-C. Additional cigarette tax will add further to the municipal finances with the passage of Senate Bill No. 42-C. A revision of state, county and municipal licenses and taxes on alcoholic beverages is provided with the passage of Senate Bill No. 9-C. Each of the above-mentioned bills is described in greater detail under the section on State and Local Taxation.

Passage of House Bill No. 28-C provided for the establishment of regional transportation authorities, allowing any two or more contiguous counties, municipalities, other political subdivisions, or combination thereof in the State of Florida to activate and implement such authority. The authority may exercise the power

of eminent domain, may operate or provide for operation of local transportation systems, is granted all authority necessary to exercise all the powers to perform all purposes as defined in the act but not necessarily limited to those rights and powers listed. The authority created pursuant to this act shall be deemed a special tax district and as such authorized to levy ad valorem tax on taxable real property in the affected areas with the approval of the county commission or equivalent governing body. Such millage level levied by the authority is subject to approval by majority of the members of the authority and by referendum but may not exceed three mills under any circumstances.





PUBLIC EMPLOYMENT AND STATE  
ADMINISTERED RETIREMENT SYSTEMS

The 1971 Legislature enacted several laws which amended the statutes relating to public employment and state administered retirement systems.

Laws Related to Public Employment:

The career service law, Chapter 110, F. S., was amended by House Bill No. 500 (Chapter 71-354 ) to transfer the provisions of Section 110.021, F. S., related to the powers and duties of the Division of Personnel and Retirement to Section 110.022, F. S., which also relates to the powers and duties of the Department of Administration and eliminates Section 110.021, F. S., from the statutes. This act further amended the career service law to prohibit the creation of exempt positions by rules adopted by the Department of Administration and required all exempt positions be specifically authorized by law. To implement this provision, the exempt policy making positions in the offices of the Secretary of State, Attorney General, Comptroller, Treasurer, Commissioner of Education and Commissioner of Agriculture are limited to ten (plus secretaries for each). All employees of the Governor's general office, the Governor's mansion and the head of each separate budget entity assigned to the Governor's office are also in exempt positions. Other positions specifically exempt from the career service are the appointed secretaries, assistant secretaries, deputy secretaries, executive directors, assistant executive directors, and deputy executive directors of all departments and (unless otherwise provided) the directors of all divisions of all departments. The Department of Administration is required to set the salary of all exempt positions unless otherwise fixed by law.

The statutes providing death benefits of \$10,000 for firemen and law enforcement officers who are killed in line of duty (Sections 112.19 and 112.191, F. S.) were amended by House Bill No. 350 (Chapter 71-301 ) to increase the death benefits to \$20,000.

The law relating to unemployment compensation was amended by Senate Bill No. 790 (Chapter 71-226) to bring the employees of the state and any of its wholly owned instrumentalities under the unemployment compensation law for services performed after December 31, 1971. The unemployment compensation law (Chapter 443, F. S.) was also amended by Senate Bill No. 777 (Chapter 71-225) to extend such coverage to the employees of public hospitals and institutions of higher education, and in addition made other major revisions in the unemployment compensation law. These other changes are covered in the summary of general laws relating to labor and commerce.

The annual salary of each full-time industrial claims judge as established by Section 440.45(3), F. S., at \$18,500 was increased by House Bill No. 1268 (Chapter 71-290 ) to \$22,500 per year. The salary currently is set at \$20,000 in the 1970-71 General Appropriations Act. The current Appropriations Act confirms the \$22,500 salary for judges of industrial claims and increases the compensation of the two members of the Industrial Relations Commission other than the chairman from \$3,600 per year as presently provided by Sections 440.44(2) and 443.11(1), F. S., to \$7,200.

The law relating to the Police Standards Council (Chapter 23, F. S.) was amended by House Bills No. 135, 763 and 993 (Chapters 71-284, 71-303 and 71-125) to permit the Council to establish uniform minimum standards for the employment and training of part-time or auxiliary police officers and also to require a police trainee who attends an approved

training program at the expense of a municipality, state agency, or political subdivision to remain in the employment of such public agency for at least one year. If his employment is terminated on his own initiative within one year he is required to reimburse the public employer for the amount it paid for his participation in the training program and if not paid the public employer may institute a civil action to collect it.

The disqualification of convicted felons from employment by the state, its agencies or any of its political subdivisions (except for law enforcement agencies) is removed by Senate Bill No. 798 (Chapter 71-115). This act also provides that a person whose civil rights have been restored shall not be disqualified to practice, pursue or engage in any occupation, vocation, profession, trade or business for which a license or certificate is required to be issued by the state solely because of prior conviction of a felony. However, public employment or a license, permit or certificate may be denied if the felony conviction is directly related to the employment position sought or the profession, occupation, vocation, trade or business for which the license or permit is sought. Section 112.01, F. S., which denies certain civil rights, such as suffrage and holding public office, to persons convicted of bribery, larceny, perjury or other infamous crimes, offenses related to dueling and betting on elections, is repealed.

#### Laws Related to State Administered Retirement Systems:

The Legislature enacted six laws which amended the state's retirement laws, three of which affected the Florida Retirement System established during the 1970 session (Chapter 70-112 appearing as Chapter 121, F. S., 1970 Supplement).

### Florida Retirement System:

The Florida Retirement System law (Chapter 121, F. S., 1970 Supplement) was amended by Senate Bill No. 199 (Chapter 71-22) to provide that the surviving spouse of a member killed in the line of duty will receive for life or until remarriage a pension of one-half of the monthly salary being received at time of death. If surviving spouse dies prior to remarriage, the pension is payable to the deceased member's children under 18 and unmarried. If a member is survived only by a child or children under 18 and unmarried, such children shall receive said benefits until the youngest child attains his 18th birthday. The present law provides such benefits only if there is a surviving widow; paid first to the surviving widow (until death or remarriage) and upon her death the pension is payable to the member's children who are under 18 and unmarried.

The Florida Retirement System law was also amended by House Bill No. 279 (Chapter 71-82) to provide that when a county takes over a function being performed by a municipality resulting in the municipal employees becoming county employees and subject to compulsory membership in the Florida Retirement System that such employees who are members and elect to remain members of a municipal retirement system shall not be eligible to participate in the Florida Retirement System unless the municipality elects to bring the members of its retirement system under the Florida Retirement System. For those employees electing to retain their membership in a municipal retirement system, the county is authorized to make the appropriate retirement deductions from their salary for payment to the municipal retirement system and to pay the matching contributions previously paid by the municipality. The percentage of such salary deductions cannot be increased after they become county employees. This provision is very similar to an existing provision in the law governing the State and County Officers and Employees System (Chapter 122, F. S.) which was consolidated with the Florida Retirement System in 1970.

The provisions of the Florida Retirement System law relating to transfer to the system of a judge or justice was amended by House Bill No. 1844 (Chapter 71-353 ) to permit such justice or judge to pay for and receive credit for service performed in a position covered by an existing system for which he has not already received credit and also to permit a judge or justice who retires under the Florida Retirement System to be eligible for judicial service pursuant to the applicable provisions of law provided he has had five years of judicial service at the time of his retirement.

Florida Highway Patrol Retirement:

The disability retirement provisions of the Highway Patrol Retirement law (Section 321.20, F. S.) were amended by House Bill No. 2 (Chapter 71-181) to provide a minimum disability benefit of \$2,800 per year for total disability. This act also amended the Highway Patrol Retirement law to permit members who have served in the armed forces and returned to service with the Highway Patrol to receive credit for such time not exceeding five years by making the required contributions to the Retirement Trust Fund. Note: There are less than 100 patrolmen remaining under the Highway Patrol retirement provisions amended by the above act, and only a very few of these are affected by these amendments. The balance of the patrolmen became members of the Florida Retirement System by electing to transfer to it, or mandatorily if employed after December 1, 1970.

Teachers' Retirement:

Three laws were passed which amended certain provisions of the Teachers' Retirement law (Chapter 238, F. S.). The most significant of these acts was Chapter 71-198 (Committee Substitute for House Bill No. 941) which amended the provisions related to the survivors' benefits of retired members. This

act provided that the \$500 death benefit payable to the beneficiary or estate of a retired member (authorized by 70-998, Laws of Florida, passed over Governor's veto October 9, 1970) is also payable for a retiree who retired prior to July 1, 1957, the date that the survivors' benefit fund was established. Beginning July 1, 1971, these death benefit payments will apply to more than 2,000 teachers who retired before July 1, 1957. The survivors' benefit provisions were also amended by Senate Bill No. 183 (Chapter 71-260 ) to permit survivor benefit payments to continue to a dependent child under 18 years of age, though the child is legally adopted by someone other than the widow or widower of the deceased member. Other provisions of the Teachers' Retirement System were amended by this same act to authorize a teacher who had rendered service at a federally-assisted bi-national school, as provided in Section 1448 of Title 22, United States Code, to pay for and receive out-of-state credit in the Teachers' Retirement System for such service.

The regular retirement provisions of the Teachers' Retirement System were amended by House Bill No. 1061 (Chapter 71-347 ) to authorize a teacher (who was a member of the system prior to December 1, 1970) who has collected a disability allowance and who returns to active teaching to elect to receive credit for such time by making the required contributions plus interest. Any member making this election shall have his monthly retirement allowance reduced by an amount calculated to recover, within ten years, the total disability benefits he received while on disability retirement.

STATE FINANCES, BUDGETING AND APPROPRIATIONS

Several significant laws were passed by the 1971 Legislature amending the budget and fiscal procedures of the state. Most of the appropriations for the 1971-72 fiscal year were included in the general and supplemental appropriations bills enacted during the special session, but several appropriations were made by separate acts (including ten relief acts).

Appropriations:

Appropriations made by the 1971 Legislature may be summarized as follows:

<u>Item</u>	<u>General Revenue</u>	<u>Trust Funds</u>	<u>Total</u>
Gen. Approp. Act (SB 13-C) (71-357)	\$1,343,103,368	\$1,436,892,797	\$2,779,996,165
Supplemental Approp. Act (HB 71-C) (71-358)	7,066,968	4,400,000	11,466,968
Total	\$1,350,170,336	\$1,441,292,797	\$2,791,463,133
Special Approp.	337,500	35,337,903	35,675,403
Total	\$1,350,507,836	\$1,476,630,700	\$2,827,138,536
Adjust for Effect of Governor's Veto	-25,000	+600,000	+575,000
Net Approp. (1971-72)	\$1,350,482,836	\$1,477,230,700	\$2,827,713,536

The Governor's vetoes affected only two items. One item of \$25,000 for the Board of Regents to establish a community hospital education program was vetoed in the general appropriations bill, since a similar amount for the same purpose was included in Committee Substitute for Senate Bill No. 280. The Governor also vetoed Section 5 of House Bill No. 71-C, which reduced item 942 of the general appropriations bill (SB 13-C) by \$600,000, the amount authorized to be used by the Department of Transportation to purchase a suitable aircraft for the Governor.

The above appropriations may be allotted among the departments as follows:

<u>Department</u>	<u>General Revenue</u>	<u>Trust Funds</u>	<u>Total</u>
Administration	\$ 10,504,750	\$ 63,103,971	\$ 73,608,721*
Agriculture & Consumer Services	14,961,200	18,726,751	33,687,951
Air & Water Pollution Control	1,673,207	616,300	2,289,507
Banking & Finance	2,902,373	1,770,240	4,672,613
Business Regulation	4,825,312	2,957,297	7,782,609
Citrus	-	20,559,340	20,559,340**
Commerce	2,633,362	69,329,305	71,962,667
Com. on Uniform Legis. U. S.	5,700	-	5,700
Community Affairs	1,505,993	1,943,675	3,449,668
Education	935,680,423	289,944,065	1,225,624,488
General Services	5,924,547	8,610,187	14,534,734
Governor's Office	1,801,697	18,039,195	19,840,892
Health & Rehabili- tative Services	252,415,645	328,867,290	581,282,935
Highway Safety & Motor Vehicles	25,986,950	7,306,347	33,293,297
Insurance & State Treasurer	3,279,068	5,505,917	8,784,985
Internal Improvement Fund Trustees	-	1,468,477	1,468,477
Interstate Coopera- tion Commission	43,330	-	43,330
Judicial Branch	17,465,161	-	17,465,161
Law Enforcement	6,347,921	3,018,463	9,366,384
Law Revision Commission	55,471	-	55,471
Legal Affairs (Attorney General)	1,690,372	-	1,690,372
Legislative Branch	15,206,430	-	15,206,430
Military Affairs	1,223,481	245,040	1,468,521
Natural Resources	7,788,601	20,669,517	28,458,118
Probation & Parole Commission	5,278,145	1,462,742	6,740,887
Professional & Occu- pational Regulation	267,281	3,297,354	3,564,635
Public Service Commission	-	2,856,035	2,856,035
Revenue Department	5,568,027	4,044,110	9,612,137
Secretary of State	5,090,415	3,300,096	8,390,511
Transportation	-	526,086,429	526,086,429
Total Operations	\$1,330,124,862	\$1,403,728,143	\$2,733,853,005
Fixed Capital Outlay	20,045,474	73,164,654	93,210,128
Relief Acts	2,500	120,903	123,403
Other Special Approp.	310,000	217,000	527,000
TOTAL APPROP.	\$1,350,482,836	\$1,477,230,700	\$2,827,713,536

\* Includes \$62 million in pension benefits payable to retirees

\*\* Includes \$33.9 million in unemployment compensation benefits



The special appropriations include \$35 million in fixed capital outlay expenditures authorized from anticipated bond issues for university, junior college and vocational education facilities construction contained in Senate Bill No. 3-C (71-369) which may be summarized as follows:

<u>Institutions</u>	<u>Amount Authorized</u>
Junior Colleges	\$13,300,000
Vocational-Technical Centers	3,150,000
State Universities	18,550,000
Total	
(Section 9, Article XII)	<u>\$35,000,000</u>

The Board of Regents was authorized to borrow and spend an additional \$28 million for capital improvements at the universities by issuing revenue certificates supported by capital improvement fees and combining them with bond funds secured by gross utility taxes as provided by Section 9, Article XII of the State Constitution, making a total of \$63 million in borrowed money available for fixed capital outlay in higher education.

The appropriations made to the Department of Education (excluding the \$63 million for capital outlay noted above) may be further broken down by division as follows:

<u>Division</u>	<u>General Revenue</u>	<u>Trust Funds</u>	<u>Total</u>
Commission and State Bd. Staff	\$ 1,582,820	\$ 1,799,754	\$ 3,382,574
Division of Elementary & Secondary Schools:			
Administration & Staff	3,766,084	5,654,357	
Direct Aid to Counties	670,557,484	97,593,918	
Debt Service- Counties	-	16,190,205	
Total Elem. & Secondary	<u>\$674,323,568</u>	<u>\$119,438,480</u>	<u>\$793,762,048</u>

<u>Division</u>	<u>General Revenue</u>	<u>Trust Funds</u>	<u>Total</u>
Div. of Vocational Edu:			
Administration & Staff	\$ 544,164	\$ 3,373,929	
Direct Aid to Counties	<u>35,000</u>	<u>13,186,501</u>	
Total Vocational Edu.	<u>\$ 579,164</u>	<u>\$ 16,560,430</u>	<u>\$ 17,139,594</u>
Div. of Community Colleges:			
Administration & Staff	351,781	11,714	
Direct Aid to Counties	<u>93,211,645</u>	<u>3,825,420</u>	
Total Community Colleges	<u>\$93,563,426</u>	<u>\$ 3,837,134</u>	<u>\$ 97,400,560</u>
Div. of Universities:			
General Office	5,187,725	2,079,969	
Education			
Budgets	156,921,468	67,995,324	
Contracts & Grants	-	32,037,323	
Auxilliary Enterprises	<u>-</u>	<u>45,866,744</u>	
Total Universities	<u>\$162,109,193</u>	<u>\$ 147,979,360</u>	<u>\$ 310,088,553</u>
School for Deaf and Blind	<u>3,522,252</u>	<u>328,907</u>	<u>3,851,159</u>
Total Department of Education	<u><u>\$935,680,423</u></u>	<u><u>\$ 289,944,065</u></u>	<u><u>\$1,225,624,488</u></u>

#### Budget Procedures:

Several significant changes were made in the budget laws and procedures of the state by House Bills No. 1360 (Chapter 71-84) and 500 (Chapter 71-354).

Section 216.231, F. S., was amended by Chapter 71-84 to provide that monies appropriated for "discretionary contingencies"

to the Governor may be expended at his discretion to "promote general government, intergovernmental cooperation and to enhance the image of the state". An annual report on such expenditures showing the amount expended, the persons receiving payments and the purpose of each expenditure is required to be filed with the Auditor General and the legislative appropriation committees.

Many other sections of Chapter 216, F. S., were changed or amended by Chapter 71-354, which altered materially some of the budget procedures of the state. The provisions relating to the "operating" budgets were eliminated and new provisions relating to "approved" budgets were established. The approved budget is defined as the legislative budget, as modified by the Governor's recommendations or by the Legislature and furnished a state agency by the Department of Administration. The term "budget entity" was added to the law and defined as the unit or function at the lowest level to which funds are specifically appropriated in the Appropriations Act.

Consistent with the information furnished by the chairmen of the appropriations committees, the Department of Administration is required to furnish each state agency an "approved budget" for operational and capital outlay expenditures or in lieu thereof the Department may require the agency to submit a detailed plan of expenditures consistent with the Appropriations Act. A copy of the approved budget or amendments thereto must be furnished to the chairmen of the appropriations committees and to the Auditor General. Each state agency is required to develop such internal budgets and management procedures as may be necessary to assure compliance with the approved budget. A department under a cabinet member or a cabinet board which contends that its "approved budget" is not consistent with legislative intent may have the issue reviewed by the Administration Commission which shall decide the issue by majority vote. The amount of each agency's approved budget is required to be certified to the Comptroller by the Department of Administration. The above procedures do not apply to the budgets for the Legislative branch.

The Department of Administration is required to furnish the Comptroller a plan for the release of appropriations to the head of the state agency affected, the chairmen of the appropriations committees and the Auditor General. The Comptroller is required to authorize expenditures on the basis of such releases and the approved budget and not otherwise. A department under a cabinet member or cabinet board may have any differences it has with the plan for release of funds resolved by a majority vote of the Administration Commission. These release procedures do not apply to the Legislative branch.

With respect to the approved budgets and the release of appropriated funds, the legislative appropriation committees may advise the Secretary of the Department of Administration, the Administration Commission and the Comptroller regarding the legislative intent.

The authority of the Administration Commission to increase the number of authorized positions established by the Legislature for the several executive departments was restricted to seven specified conditions or circumstances. Any increase in authorized positions is required to be certified and filed with the legislative appropriations committees and the Auditor General. The appropriations committees may advise the Administration Commission relative to any increase in authorized positions. The Department of Administration may delegate to any state agency or department authority to add, delete or transfer authorized positions from one budget entity to another within the same division and within the same agency.

The Department of Administration instead of the Administration Commission was authorized to approve the establishment of revolving funds.

The provisions of Chapter 216, F. S., relating to transfers between appropriations were substantially changed to permit the head of a department to transfer appropriations funded from identical sources and between categories of appropriations within a budget entity, provided no category of appropriations is increased or decreased by more than five percent

of the approved budget. Such authorized revisions and any changes in the plan for release of appropriations is to be sent by the state agency to the Comptroller and a copy to the Department of Administration, the chairmen of the appropriations committees and the Auditor General. Transfers in excess of five percent may be authorized by the Administration Commission with notice to the appropriations committees of such action and the reasons therefor. The committees may advise the Commission relative to such transfers.

The Department of Administration, rather than the Administration Commission, is permitted to approve legal encumbrances and authorize their payment from appropriations for the current year certified forward. In numerous places in Chapter 216, the word "department" is substituted for the "Secretary of the Department", the "Administration Commission" and the "Director of the Division of Planning and Budgeting".

#### State Finances:

Several laws related to state finances were enacted during the 1971 session.

The statute (Section 18.10, F. S.) relating to the deposit of state funds in banks of the state, and the investment of surplus funds in excess of the immediate cash requirements of the state, was amended by House Bill No. 1260 (Ch. 71-104). The State Treasurer acting with the approval of the State Board of Administration (Governor, Comptroller, and State Treasurer) is required to deposit the money of the state in such banks of the state as will offer satisfactory collateral as required by Section 18.11, F. S. The Treasurer is required to keep the Board of Administration advised at all times of the amounts of money available and it is the duty of the Board to keep such funds fully invested or deposited in interest bearing time deposits.

Money estimated to be available for investment for not more than 90 days may be invested in direct U. S. Treasury obligations in varying maturities. Other money in excess of the immediate cash requirements is to be deposited in time deposits in such banks as will pay interest rates established

by the Board at levels not less than prevailing U. S. Treasury bill rates. If the banks of the state are unwilling to accept time deposits and pay such established rates, the Board may invest available surplus funds in short term direct obligations of the United States.

The statute listing additional securities authorized as collateral for the deposit of public funds (Section 18.112, F. S.) was amended by House Bill No. 737 (Ch. 71-123) to include "U. S. Government Guaranteed Student Loans" and "Small Business Administration Loans."

STATE GOVERNMENT

The 1971 session of the Legislature enacted several bills relating to the administration of state government and further implementation of governmental reorganization. Some of the measures were of a "house-cleaning" nature.

Governor:

Senate Bill No. 1179 (Chapter 71-333) relates to executive suspensions and the Governor's power to suspend any officer. The requirement that a suspended officer be in a public office at the time the ground for suspension occurred is deleted. Officers, officials and employees of merged city-county governments are made subject to gubernatorial suspension. In the event of statutory or charter provisions providing for suspension power, the power to suspend shall be concurrent in the Governor and in the statutory or charter authority.

Department of State (Secretary of State):

Senate Bill No. 789 (Chapter 71-114) establishes a new schedule of fees payable to the Department of State for services of filing, registration and copying. Chapters of Florida Statutes relating to trade marks, uniform commercial code, corporations - domestic and foreign, distinctive bottles and boxes, associations, trusts, limited partnerships and general services are amended to reflect the increase in fees. Senate Bill No. 324 (Chapter 71-312) authorizes the Division of Archives, History and Records Management of the Department of State to accept the donation of the oldest bank building in the state presently located in Tallahassee, and directs the Division to relocate the building in an appropriate new

site on state property and develop it into a museum of banking and finance. Senate Bill No. 597 (Chapter 71-267) directs that no state building, road, bridge, state park, recreation complex or other similar facility be named for any living person and that the Division of Archives, History and Records Management shall after consulting with appropriate citizens' committees recommend several persons whose contributions are of such significance that state buildings and facilities may be named for them. The State Library Advisory Council is increased from seven to 13 members in Senate Bill No. 111 (Chapter 71-279).

Department of Banking and Finance (Comptroller):

Senate Bill No. 445 (Chapter 71-173) directs the Comptroller to deliver all warrants and be charged with the official responsibility of the protection and security of said state warrants. Senate Bill No. 847 (Chapter 71-174) authorizes the Comptroller to engage two full-time law enforcement officers with appropriate police powers. The officers shall be under the direction and supervision of the Comptroller who shall also set their salaries and approve their expenses.

Department of Education (Commissioner of Education):

Senate Bill No. 239 (Chapter 71-43) pertains to university building and construction (see Department of General Services). The Board of Regents is authorized to pay the City of Gainesville for water services furnished the University of Florida by the city, Senate Bill No. 611 (71-397).

Department of Agriculture and Consumer Services (Commissioner of Agriculture):

Senate Bill No. 1545 (Chapter 71-196) permits the celery and sweet corn marketing committee, when authorized by the Commissioner of Agriculture, to carry out specific functions in the administration of marketing orders. When carrying out the activities authorized, the committee's actions are subject to review and approval of the Commissioner of Agriculture.



#### Department of Air and Water Pollution Control:

House Bill No. 176 (Chapter 71-137) changes the name of the Department of Air and Water Pollution Control to the Department of Environmental Protection and authorizes the change of name throughout the Florida Statutes, and House Bill No. 371 (Chapter 71-138) provides that a quorum of the Air and Water Pollution Control Board shall consist of three members at all hearings and meetings except those which affirm or modify previous orders stemming from the Department's findings that a violation has occurred.

"Noise" is added to the definition of pollution and the Department of Air and Water Pollution Control is directed to establish standards for the abatement of excessive and unnecessary noise. The Department is further directed to cooperate with the Department of Transportation in actions concerning motor vehicles and trucks operating in Florida, House Bill No. 385 (Chapter 71-36). Committee Substitute for House Bills Nos. 191 and 449 (Chapter 71-35) provides that no detergents that contain additives in amounts which are found to have a harmful or deleterious effect on human health or on the environment, including phosphorous and polyphosphate additives, shall be sold in Florida after December 31, 1972.

House Bill No. 1537 (Chapter 71-79) provides for interstate cooperation and communication relating to all environmental control activities by the adoption of the Interstate Environmental Compact.

#### Department of Business Regulation:

House Bill No. 794 (Chapter 71-98) provides for internal reorganization of the Department and authorizes the Governor to suspend members of the Board subject to removal or reinstatement by the Senate. The term of the members of the Board is changed to be concurrent with that of the Governor. Businesses affected and members of the general public shall be given an opportunity to be heard by the Department concerning general matters relating to the businesses regulated. A five-member advisory committee

is created within the Department to carry out these purposes. The State Racing Commission is abolished and its powers, duties and functions transferred to the Division of Pari-Mutuel Wagering except that the Board shall hear and approve dates for racing and fronton operations. The Land Sales Board is also abolished and its duties, powers and functions transferred to the Division of Land Sales.

House Bill No. 668 (Chapter 71-157) deletes obsolete references to the hotel commissioner and deputy hotel commissioner in Chapter 509, F. S. Also deletes obsolete references to the Code of National Fire Underwriters. Green lights, as well as red, are authorized for marking fire escapes. The use of local inspection and approval of building plans and specifications is authorized and the fees charged by the Division shall be waived in such event. The transfer of hotel and restaurant licenses from one place or individual to another is prohibited. The act amends Section 509.292, F. S., misrepresenting "seafoods," to read the broader term, misrepresenting "food," and includes fruit and fruit juices within the term "food." All powers, duties functions concerning the administration and enforcement of the elevator inspection law are transferred from the Division of General Regulation to the Division of Hotels and Restaurants and provides that the Division of Hotels and Restaurants may accept the inspection report made pursuant to a service contract or public liability insurance policy for an elevator. The Division is authorized to enter into cooperative agreements with counties as well as municipalities in the enforcement of Chapter 399, F. S., Elevators. The Fire Safety Regulations for "institutional occupancies" as defined in Pamphlet 101 (Life Safety Code Standards, 1970 Edition) of the National Fire Protection Association are made applicable to all public lodgings of two or more stories used for the lodging or boarding of four or more persons who are incapable of self-preservation. The state fire marshal shall determine and enforce the fire regulations prescribed and compliance with such regulations

shall be a condition for licensing. Representatives of the Division of Hotels and Restaurants and State Fire Marshal are authorized to enter any building or premises at any reasonable hour to make inspections or investigations.

Department of Commerce:

State employees are in covered employment according to the definition of "employment" in Subsection 443.03(5), F. S., relating to unemployment compensation, effective December 31, 1971. Reimbursement benefits paid for service for hospitals or institutions of higher education shall be required only for benefits paid after January 1, 1972. Elected officials and officials compensated on a fee basis, service performed on a work relief project and service performed for a political subdivision or its instrumentality, are excluded. Senate Bill No. 790 (Chapter 71-228).

Department of Community Affairs:

Senate Bill No. 442 (71-264) directs the Fire Fighters Standards Council to conduct a study and provide the 1972 Legislature with recommendations to establish a minimum foundation program for fire fighters which will provide statewide minimum salaries for fire fighters. House Bill No. 135 (71-284) authorizes the Police Standards Council to issue a certificate for training which it determines to be the equivalent of the provisions of Part IV, Chapter 23, F. S.

Senate Bill No. 1439 (Chapter 71-235) amends Chapter 554, F. S., relating to the Inter-American Cultural and Trade Center. The Inter-American Center Authority District is removed from the Division of Commercial Development of the Department of Commerce and made a state instrumentality. Provides for staggering the terms of the members of the authority effective July 1, 1971. The Department of Community Affairs is directed to assist the authority in obtaining financial assistance from all other governmental agencies and authorizes all other departments of the state to cooperate with the authority. An annual report to the Governor is directed.

#### Department of General Services:

The powers, duties and functions of the Board of Regents and institutions under its supervision relating to the appointment and employment of architects in the planning, design and construction of buildings are transferred to the Division of Building Construction and Maintenance of the Department of General Services, Senate Bill No. 239 (Chapter 71-43) (see Department of Education). Senate Bill No. 13 (Chapter 71-258) prohibits any constructing authority from making payments to contractors for building in excess of 90% of the amount due on the contract on the basis of work completed and materials suitably stored until at least 50% of the work is completed and the contracting authority determines that sufficient and satisfactory progress has been made. Final payment shall not be made until the building has been inspected by the appropriate architect or designated authority. Payments are also prohibited to the contractor in excess of 95% of the actual amount of work completed.

#### Department of Health and Rehabilitative Services:

House Bill No. 2030 (Chapter 71- 213) creates the Division of Planning and evaluation within the Department and places the Bureau of Comprehensive Health Planning and the Bureau of Medical Facility Planning under the newly created Division.

The Division of Mental Retardation is authorized to contract and erect two cottages which would provide accommodations for 32 handicapped persons from Sunland Centers at St. Joseph State Park, House Bill No. 791 (Chapter 71-288).

#### Department of Natural Resources:

Committee Substitute for Senate Bill No. 229 (Chapter 71-68) requires a permit from the Department of Natural Resources prior to the sale, use or release within the salt waters of this state of any species of the marine or

animal kingdom not indigenous to Florida. The Department is authorized to charge reasonable fees for such permits. Provides penalty upon conviction of a violation of not less than \$1,000 or imprisonment in the county jail for not less than three nor more than six months, or both. Senate Bill No. 568 (Chapter 71-319) creates an advisory council to the Division of Recreation and Parks. The Council shall consist of five members representing the five park regions appointed by the Governor with the approval of three members of the Cabinet subject to confirmation by the Senate. The Council may appoint subordinate advisory council of not more than five members in each of the five park regions subject to approval by the Governor and three members of the Cabinet. Qualifications for membership are provided. The duties of the Council shall be to advise and consult with the Division of Recreation and Parks. Senate Bill No. 518 (Chapter 71-16) authorizes the Department of Natural Resources to promote the development of the Suwannee River and surrounding area. Declares such expenditure when made to be for a proper public purpose.

Department of Transportation:

House Bill No. 1012 (Chapter 71-39) transfers from the Division of Road Operation to the Division of Administration the administration of the deposit of proceeds from the sale or lease of realty or conveyance of any property and directs the monies so received be placed in the state roads trust fund.

Trustees of the Internal Improvement Fund:

House Bill No. 611 (Chapter 71-286) designates the Board of Trustees of the Internal Improvement Trust Fund as trustees for all Seminole Indian lands. Such lands shall be held in trust for the proper use and benefit of the Seminole Indians and as a reservation for them. These powers were formerly vested in the Department of General Services.

Senate Bill No. 174 (Chapter 71-50), Senate Bill No. 175 (Chapter 71-296), Senate Bill No. 176 (Chapter 71-179) and Senate Bill No. 177 (Chapter 71-51) repeal obsolete sections of Chapter 253, F. S., which pertain to the forfeiture of certain lands granted to corporations to aid in the construction of railroads, canals and telegraph lines; the resettling of returned servicemen; the sale of moss from any lands belonging to the state and certain oil leases; and constructing railroads or canals, respectively. Sections .16-.22, .24-28, .35-.456, .46 and .601 of Chapter 253 are repealed.

Miscellaneous:

Senate Bill No. 621 (Chapter 71-188) establishes the second Sunday of October of each year as Grandmother's Day. Directs the Governor to issue annually a proclamation in this regard.

Senate Bill No. 894 (Chapter 71-230) authorizes all political subdivisions of the state and counties, except municipalities, to provide liability insurance for their agents and employees while acting in the scope of their employment with respect to the operation of motor vehicles, water craft or aircraft or owned or leased buildings or property.

House Bill No. 763 (Chapter 71-303) provides that a trainee whose tuition in attendance at approved training programs is paid by a municipality, state agency or political subdivision shall be obligated for a period of not less than one year to the governmental agency making such payment or shall be required to reimburse the agency for its expenses.

House Bill No. 1268 (Chapter 71-290) increases salary of each full-time judge of Industrial Claims from \$18,500 per year to \$22,500.

STATE AND LOCAL TAXATION

The 1971 Legislature enacted a number of tax measures estimated to raise nearly \$80 million in new state revenues for the fiscal year beginning July 1 and about \$34 million in new revenues for local governments, chiefly for the cities. These revenue measures may be summarized as follows:

<u>Bill Number</u>	<u>Chapter Number</u>	<u>Subject</u>	<u>State Revenue</u>	<u>Local Revenue</u>
SB 5-C	71-359	Corporation Privilege Tax	\$24,000,000	-
SB 7-C	71-360	Sales Tax	28,400,000	-
CS/HB 117	71-105	Severance Tax	1,500,000	-
SB 20-C	71-363	Motor Fuel	14,200,000	\$22,800,000
CS/SB 42-C	71-364	Cigarette Tax	3,000,000	11,300,000
SB 9-C	71-361	Beverage Licenses	2,800,000	-
SB 12-C	71-362	Documentary Stamps	2,100,000	-
HB 738	71-344	Documentary Stamps	400,000	-
HB 741	71-202	Estate Tax	400,000	-
HB 728	71-129	Racing Funds Distribution	3,000,000	-
TOTAL			\$79,800,000	\$34,100,000

In addition to the above, other measures will affect revenues. The revision of exemptions from property taxes is expected to place additional valuations on the local tax rolls. The changes in Chapter 199, relating to intangible property taxes, will bring in two years of tax collections during the next fiscal year; of \$50 million in anticipated new tax collections, 55 percent under present law will go to the counties the following year.

The constitutional amendment (House Joint Resolution No. 7-B) authorizing a tax on the net income of corporations will be voted upon in an election on November 2, 1971, as provided for by House Bill No. 1257 (Chapter 71-20). The state will reimburse the counties for the costs incurred.

## Corporation Privilege Tax

A major revision of corporation taxation is effected by Senate Bill No. 5-C (Chapter 71-359) which replaces the present corporation capital stock tax with a corporation privilege tax imposed at the rate of \$1.00 per each \$1,000 of the corporations' net worth in excess of \$50,000 but not less than \$75 per year. The definition of a corporation is expanded to include every corporation thus terminating the exemption of banks, insurance companies and savings and loan associations.

All corporations other than nonprofit ones are required to file annual returns containing detailed information and including a balance sheet and a statement of retained earnings. The return with the tax is due January 1, beginning in 1972, and is delinquent May 1. The Department of Revenue is to administer the tax, and a copy of the return, without the financial statements, must be filed with the Secretary of State, who will also collect the tax when corporations are first authorized to do business in Florida. Affiliated corporations may be required to file consolidated returns.

For the short period from July 1, 1971, to December 1, 1971, the tax shall be due July 1 at half the rate for the full calendar year.

This new tax is made subject to the tax administration act of 1971, which is part of Senate Bill No. 5-C, and will become Chapter 214 of the Florida Statutes. In the future, other taxes may also be administered under Chapter 214, which prescribes many details of tax administration: assessments, deficiencies, limitations, notices, errors, refunds, protests, waivers, jeopardy assessments, overpayments, interest, credits, claims, access to records, actions, information sharing, confidentiality, judicial review, penalties, liens, collection procedures, tax crimes and criminal penalties. The standard formula of apportioning among the states is used, giving equal weight to property, payrolls and sales, with alternate methods for insurance companies, pipelines, railroads and other businesses.



The present capital stock tax for the period ending June 30 is not affected.

The corporation privilege tax, except for the \$75 minimum, will be suspended on the effective date of a corporation net income tax.

#### Sales and Use Tax:

Senate Bill No. 7-C (Chapter 71-360) amends the sales and use tax by raising the tax rate from three percent to four percent upon motor vehicles, industrial machinery and commercial fishing vessels. Motor vehicles purchased for lease or rental purposes are now taxable, but when leased or rented to one person for a year or more the rent or lease is exempt. Cable television, ornamental nursery stock and equipment for the transmission and distribution of electricity are now taxable. Seeing-eye dogs are exempt and taxes paid upon them may be refunded.

House Bill No. 812 (Chapter 71-8) amends subsection 212.15(3), F. S., to authorize the Department of Revenue to issue, in its discretion, execution on tax warrants for collection of sales taxes.

#### Severance Tax:

Committee Substitute for House Bill No. 117 (Chapter 71-105) imposes a tax of five percent (three percent from July 1, 1971 to 1973, then four percent until July 1, 1975) on solid minerals extracted or severed from the soils and waters of this state. Exempt are solid minerals which pay the state sales tax, those sold to governmental agencies and minerals severed to improve the sites.

Taxpayers can credit the property taxes on their mineral interests up to 20 percent of their severance taxes, with the remainder of the new tax divided between the General Revenue Fund and the Land Reclamation Fund. The mineral rights must be assessed separately, and the assessor must so assess them upon the request of the owner. The portion of taxes going to the Land Reclamation Fund may be refunded if the owner institutes a program restoring the mined site and other sites with the approval of the Department of Natural Resources and in accordance with

established criteria. The taxpayer may elect to sell the site to the state for its fair market value but not for more than 50 percent of the taxes paid. Taxes are due by April 1 for the preceding year and the return shall include certain information, which shall be confidential. Its use in statistical reports is authorized. Unclaimed portions of the Reclamation Fund revert to the General Revenue Fund.

The administration of this severance tax is entrusted to the Department of Revenue, under the general provisions of Chapter 211, relating to the oil and gas production tax, and the Department is given the power to adopt additional rules and regulations and to determine the value of severed minerals in certain circumstances.

#### Motor Fuels Tax:

Senate Bill No. 20-C (Chapter 71-363) enacts the eighth cent tax on motor fuels, and provides that the revenues for the first fifteen months shall be used to fund the Florida Highway Patrol. After October 1, 1972, the revenues are to be returned to the municipalities and counties for road, street and transportation purposes. The funds are to be divided among the county areas by formula of 50 percent up on the basis of gasoline sales and 50 percent by population. Each county's total is to be divided among the municipalities according to population, with the board of county commissioners getting the part allocated on the population of unincorporated areas. Municipalities and counties may request the Department of Transportation to perform engineering and construction services, and cities may ask their counties to do so. Municipalities levying more than ten mills are required to use 80 percent of the revenues received under this act to reduce their millages, but are not required to go below ten.

House Bill No. 1681 (Chapter 71-212) provides that the seventh cent tax on motor fuels now divided 80 percent to the Department of Transportation and 20 percent to the county commissioners shall now be returned to the counties for road purposes. The formula for distribution among the counties is unchanged and the counties are assigned full responsibility for maintaining the

secondary roads. Counties may continue to contract with the DOT for maintenance. Counties which do not assess at the level required by law shall have the computed part of their funds placed in the pourover fund which shall be distributed in the same manner as the initial distribution.

#### Cigarette Tax:

Committee Substitute for Senate Bill No. 42-C (Chapter 71-364) levies an additional two cents on each pack of cigarettes. For three months beginning July 1, all of the new revenue will go to the General Revenue Fund. Thereafter, the funds will be distributed on the basis of population to municipalities which levy three or more mills. Counties which exercise municipal powers will receive funds for their populations in unincorporated areas. Beginning in 1972-73, municipalities which levy more than ten mills must use 80 percent of the revenue to reduce their millages, but not below ten mills.

#### Beverage Licenses:

Senate Bill No. 9-C (Chapter 71-361) makes important changes in alcoholic beverage licenses and increases the tax on beverages made from Florida products. These rates are now 20 percent of the rates on non-Florida products, and will be raised in approximately equal amounts on October 1 of the next five years, reaching 50 percent of the standard rates in 1975. The present three taxes on liquors are combined in one levy.

The present provisions relating to county and municipal beverage licenses are repealed and 24 percent of the state vendor license collections are to be returned to the counties where collected, and 38 percent of these amounts collected within their limits are to be returned to the municipalities. The prohibition against liquor licenses in areas so zoned by municipalities is extended to malt beverage licenses for consumption off premises.

#### Documentary Stamp Tax:

Senate Bill No. 12-C (Chapter 71-362) requires that documents granting the right to occupy a cooperative apartment shall be subject to the documentary stamp tax and be recorded with the clerk of the circuit court.

House Bill No. 738 (Chapter 71-344) authorizes the Department of Revenue to appoint agents for the collection of the documentary stamp tax, who shall be paid .5 percent of the value of the stamps sold. Agents will be subject to audit and must post a bond in amount set by Department of Revenue, which is authorized to adopt rules and set standards. Persons liable to the tax who fail to affix the stamps are subject to a penalty in addition to and equal to the price of the stamps that should have been affixed.

Estate Tax:

House Bill No. 741 (Chapter 71-202), as amended, strengthens Florida's estate tax. When estates owe taxes in more than one state, Florida will now get a prorated share, whereas in the past Florida claimed only that part of the credit against federal taxes which was not claimed in other states. The time for filing a return was reduced from 15 to nine months after the date of death, and the fee for a certificate that no tax is due was raised from \$1.00 to \$5.00. Also the requirement of filing a copy of the federal preliminary return with the state notice was eliminated.

Intangibles Tax:

Committee Substitute for House Bills No. 715 and 716 (Chapter 71-134) substantially revises Chapter 199, relating to the tax on intangible personal property. The administration of this tax is transferred to the Department of Revenue from the county tax assessors and tax collectors. The present A, B, C and D classes are abolished and all "intangible personal property" is taxed at one mill annually except money and deposits which are taxed at one-tenth mill, and mortgages and notes representing Florida real estate are taxed once when recorded at two mills. Thus, the rates are the same, except for present class C-2 intangibles representing real estate outside Florida which are to be exempt.

Procedures are materially changed. Taxes assessed as of January 1, 1971, become delinquent on April 1, 1972. Under

this new act, taxes assessed as of January 1, 1972, will become delinquent as of July 1, 1972. Discounts are maintained but are now four percent in February, three percent in March, two percent in April and one percent in May, instead of the same rates for November to February. All persons are required to file returns unless the tax on intangibles is less than \$5.00 (now \$1.00). Banks, savings and loan associations, brokers and other corporations are required to file information returns showing names, addresses, social security numbers and intangibles owned. Those that pay the tax on all intangibles held by them for others are excused from making such reports. Corporations are required to notify their Florida stockholders of the value of each share, and to report to the Department the method of valuation, and to file a balance sheet. Penalties are increased to five percent per month, but not to exceed 25 percent per year, and 15 percent per year after the first year. Failure to provide information returns carries a penalty of \$100 plus \$50 for each month. The property of welfare and benefit plans is exempt, but the intangibles of religious and charitable organizations are exempt only if the organizations are strictly nonprofit ones. The procedures and penalties relating to the tax on mortgages and other documents relating to Florida real estate are tightened.

In administering this act, the Department of Revenue is authorized to make and publish necessary rules and regulations. It is to assess all intangible personal property as of January 1 of each year, collect the taxes, distribute forms, conduct searches, examine returns, inspect books, assess penalties, conduct hearings and conferences, make refunds, issue subpoenas, issue warrants and liens, issue tax executions, and bring suits. All expenses of the Department arising from Chapters 192 to 199, relating to state administration of property and estate taxes, are to be paid from the Intangible Tax Fund.

County officials are to complete the collection of taxes based on the 1971 tax roll and are to receive their commissions. Thereafter, the Department takes over the tax on intangible property.

House Bill No. 811 (Chapter 71-6) amends paragraph 199.141(3)(a), F. S., relating to the tax on class C intangibles, to provide that failure to pay the correct tax or to note payment thereof before recording, shall not prevent the instrument from being constructive notice of such lien.

Property Tax - Exemption:

Florida adopts a new and original policy toward property tax exemptions in Senate Committee Substitute for House Bill No. 753 (Chapter 71-133). The detailed statutory exemptions (except those dealing with homestead exemptions and those for disabled veterans) together with all local and special laws on exemptions are repealed. The criteria on which exemptions may be granted are spelled out, and the determination of whether the exemption is to be granted is left to county tax assessor and the Board of Tax Adjustment. Owners of property having or desiring exemption must annually file an application, and the assessor must determine the extent to which the property is used for exempt purposes. His findings must be advertised, and reviewed by the Board of Tax Adjustment. Only property predominantly used (more than 50 percent) for exempt purposes may be exempt and only to the degree that it is so used. Failure to file for exemption constitutes waiver; owners, the tax assessor and the Board each may initiate the review of an application.

The act prescribes in detail the procedures for determining the nonprofit status of organizations applying for exemptions that use their property for religious, literary, scientific or charitable purposes. Bingo games do not impair their exempt status. Detailed provisions about the income of the residents are used to determine the exemption of homes for the aged. Property used exclusively for educational purposes is exempt, and the portions of college fraternity and sorority property are exempt that are certified by the president as being used for educational purposes.

Governmental property is exempt, but when leased to others is exempt only when used for exempt purposes. Exceptions are made where bond agreements or contracts would be impaired.

Nonpayments of taxes by lessees do not become liens, but the taxes may be recovered by legal action, and the lessee is subject to having his occupational license or corporate charter revoked.

Unless expressly exempt, all property shall be taxed.

Property Tax - Miscellaneous :

Senate Bill No. 188 (Chapter 71-309) implements the provision of the 1968 Constitution by granting an additional homestead exemption of \$5,000 to every person 65 or older who has resided in Florida the last five consecutive years. The exemption applies only to taxes levied for school operating purposes. Tax assessors must compile a list of property removed from the tax rolls as a result of the exemption and the revenues lost to the schools. This shall be reported to the Department of Revenue by April 10, 1972, and to the appropriate legislative committees. The 1972 Legislature is to replace the loss of school funds.

Senate Bill No. 381 (Chapter 71-263) amends Chapter 236, F. S., to remove the freeholder qualification from school millage elections and amends Section 236.25 to restate the millages which may be levied in excess of the ten-mill cap: debt service, decreases in federal funds, commissions to tax assessors and collectors, and deficits in retirement funds. All prior levies for schools are confirmed.

Senate Bill No. 1184 (Chapter 71-367) enacts again the "Rose" law, requiring the tax assessor's manual to provide that platted lands unsold as lots shall be assessed as unplatted acreage until 60 percent of such land in one plat has been sold as lots.

House Bill No. 11-C (Chapter 71-371) repeals the arbitration procedures used in the review and adjustment of property tax assessments.





SPECIAL SESSION, JANUARY 27, 1971

The special session of the Legislature which convened January 27, 1971, and adjourned February 4, 1971, enacted nine bills and adopted a proposed constitutional amendment to allow a corporate income tax, applied for federal revenue sharing, and adopted four other resolutions.

House Joint Resolution No. 7-B proposed to amend Article VII, Section 5 of the State Constitution to limit the prohibition against estate, inheritance and income taxes to natural persons only. It proposes to add a provision concerning a tax upon the income of citizens and residents of the state other than natural persons under which the tax would be limited to either a maximum of 5% of net income, or a rate authorized by 3/5 of the Legislature, or a rate which would provide the maximum amount allowed to be credited against income taxes levied by the U. S. and other states. There is also a provision for exemption of not less than \$5,000 of the excess of net income subject to tax over the maximum amount allowed to be credited against income taxes levied by the U. S. and other states.

The resolution will be voted on at the general election of November 1972, or earlier if authorized by 3/4 of both houses of the Legislature.\*

With regard to the second main purpose of the session, namely, insurance; The Legislature enacted five bills. Conference Committee Substitute for House Bill No. 4-B (Chapter 71-3B) repeals the California Plan as a regulator of private passenger automobile insurance rates until November 1, 1971, and replaces it with a system of prior approval by the Department of Insurance for rate changes proposed after the bill's effective date, February 5, 1971. An insurer may appeal a

Department ruling to the District Court of Appeal and place the disputed filing in effect. If the Department is upheld on final adjudication, the insurer must refund the overcharges with interest.

The insurers that filed rate changes between July 1, 1970, and the rate moratorium must, within 30 days, revert to the July 1 rates or file their present rates for approval. If an insurer appeals an order of disapproval which is subsequently upheld, it shall refund the overcharge and interest as determined from the effective date of disapproval.

The bill also authorizes the marketing of group automobile insurance in programs that are actuarially sound and not discriminatory of non-members.

Senate Bill No. 4-B (Chapter 71-6B) prohibits insurers from acting in concert in the making of private passenger automobile insurance rates.

Senate Bill No. 5-B (Chapter 71-7B) prohibits an insurer from failing to renew an automobile liability policy for any arbitrary or capricious reason including the sex, occupation, marital status, race, color, creed, national origin, residence, military service or age of the insured, or the vehicle's garage location.

Senate Bill No. 6-B (Chapter 71-8B) lengthens the time in which an automobile liability insurer must furnish notice of cancellation or nonrenewal to 45 days prior to the effective date. It also requires that the reason for such termination accompany the notice mailed to the insured and his agent.

Committee Substitute for House Bill No. 10-B (Chapter 71-9B) requires that the insurance premium tax be paid by quarterly installments based upon the estimated gross amount of insurance premium receipts received by the insurer during the preceding calendar quarter. Estimates of less than 80% of the actual quarterly receipts are subject to a 10% penalty on the amount of underpayment.

The original call was extended to cover certain matters of governmental organization, appropriations and administration of criminal justice.

Senate Bill No. 22-B (Chapter 71-2B) amended Section 20.16(1), F. S., to provide that the members of the Board of Business Regulation shall serve at the pleasure of the Governor.

Committee Substitute for Senate Bill No. 14-B (Chapter 71-4B) provided a supplemental appropriation of \$17,827,300 to the Department of Health and Rehabilitative Services, Division of Family Services, for the 1970-71 fiscal year to cover anticipated deficits in medical care programs.

House Bill No. 17-B (Chapter 71-1B) authorized the transfer of non-capital felony cases from certain courts of record to the circuit courts of the state and invested the circuit courts with jurisdiction for the trial of the cases. It provided the procedures under which the use of the circuit courts is anticipated to speed the trial of pending criminal cases. It authorized the state attorney or the prosecuting attorney of the court of record to prosecute cases, and required notice of such transfer to be given interested parties. A new subsection (2) was added to Section 918.015, F. S., requiring the Supreme Court of Florida to adopt rules to implement the constitutional guarantee of a speedy trial. It repealed Sections 915.01 and 915.02, F. S., relating to procedures for obtaining a speedy trial.

In other action, the Legislature adopted House Concurrent Resolution No. 1-B applying to Congress for a constitutional convention limited to proposing an amendment whereby a portion of the income tax levied by the federal government shall be available each year to state governments and political subdivisions thereof by means of direct allocation, tax credit, or both, for any use not inconsistent with the federal constitution. The resolution was the standard form for the states' application for revenue sharing.

Senate Bill No. 23-B (Chapter 71-5B) restored the 40 election district basis for the county executive committee in

counties having more than 300 precincts. All districts are required to be as nearly equal in number of registered voters as possible, with no precinct to be divided. The county executive committee of each party shall consist of one man and one woman, elected for four years, from each election district.

House Concurrent Resolution No. 33-B urged the State Cabinet to support the minimum foundation program for local law enforcement officers, Chapter 70-200, Laws of Florida.

Senate Concurrent Resolution No. 18-B expressed the concern of the Legislature and of all Florida for the plight of some 1,500 Americans held as prisoners of war or missing in action in Southeast Asia, recognizes the suffering of their families and friends, and expresses the state's gratitude to them, by establishing February 14, 1971, as a day marking such concern.

House Concurrent Resolution No. 15-B proposed that the month of February be designated Heart Month and that the citizens of the state be urged to support the American Heart Association.

House Concurrent Resolution No. 5-B recognized the Professional Golfers Association and commended the state's leaders who brought the National PGA Championship to Florida.

\*At the regular session, the House and Senate compromised on November 2, 1971, as the date for holding the election for the approval or rejection of House Joint Resolution No. 7-B. House Bill No. 1257 (Chapter 71-20). This act also provided that the counties be reimbursed for the costs to them of holding the election.