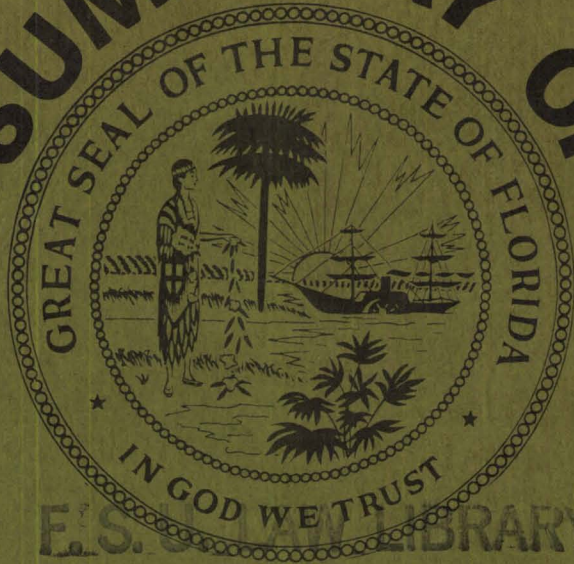


SUMMARY OF



GENERAL LEGISLATION 1974

REGULAR SESSION APRIL 2 - MAY 31

JOINT LEGISLATIVE
MANAGEMENT COMMITTEE
of the
FLORIDA LEGISLATURE

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THE FLORIDA LEGISLATURE
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REPRESENTATIVE JIM K. TILLMAN

ROOM 95, HOLLAND BUILDING
TALLAHASSEE, FLORIDA 32304
TELEPHONE (904) 488-2194

August 8, 1974

Honorable Louis de la Parte
President, and Members of
the Senate

Honorable Terrell Sessums
Speaker, and Members of
the House of Representatives

Gentlemen:

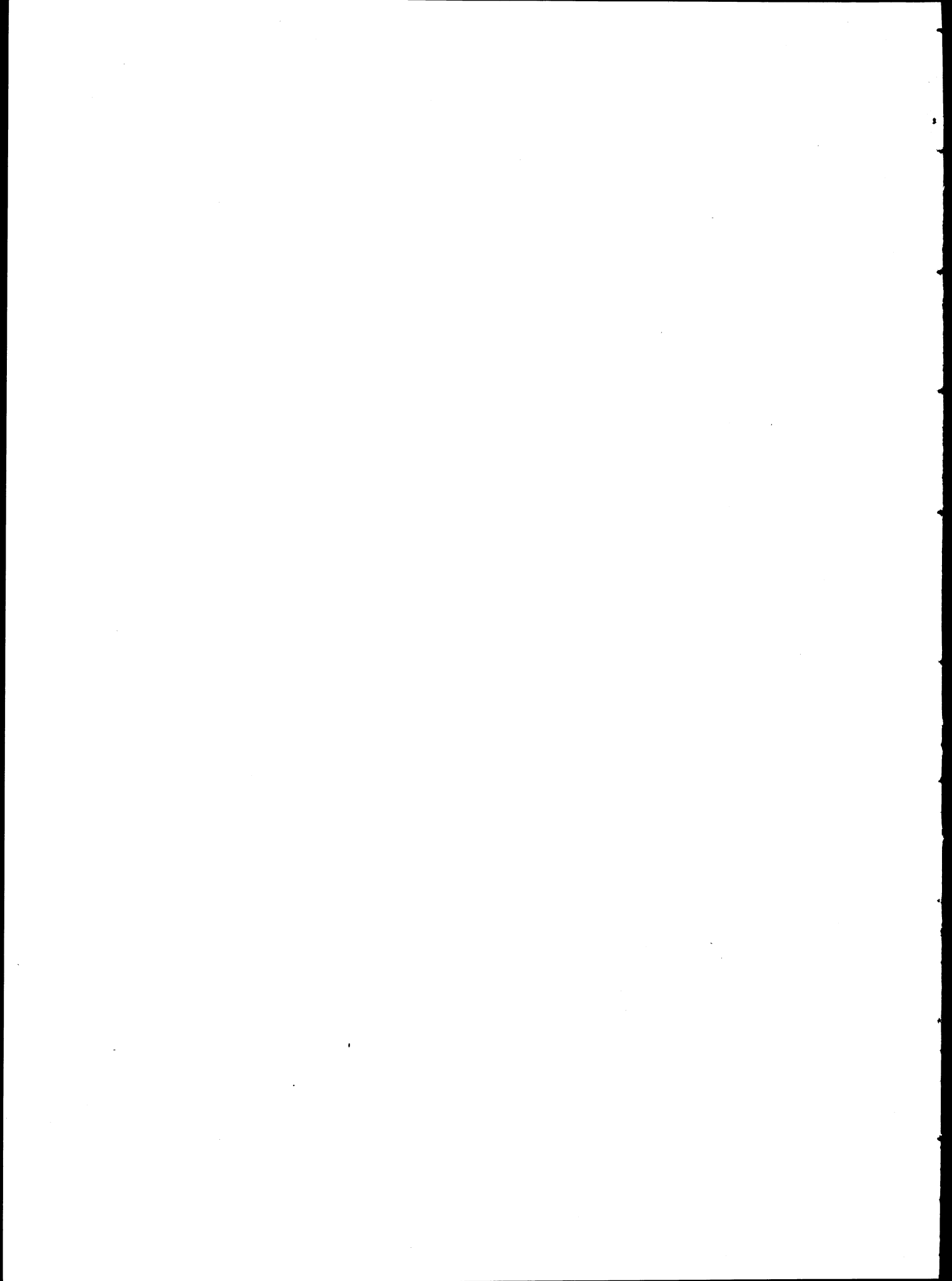
I am pleased to furnish you herewith the Summary of General Legislation, 1974, prepared under the supervision and coordination of the Division of Library Services, with the assistance of members of the legislative staff.

The information in these articles is presented so as to reflect generally the areas in which the legislature interest was centered during the session.

Yours very truly

A handwritten signature in cursive script, appearing to read "George Firestone".

George Firestone, Chairman
Joint Legislative Management Committee





THE FLORIDA LEGISLATURE
JOINT LEGISLATIVE MANAGEMENT COMMITTEE
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REPRESENTATIVE JIM K. TILLMAN

August 8, 1974

B. GENE BAKER, DIRECTOR
ROOM 2, HOLLAND BUILDING
TALLAHASSEE, FLORIDA 32304
TELEPHONE (904) 488-2812

Mr. Tom Wade, Executive Director
Joint Legislative Management
Committee
Room 95, Holland Building
Tallahassee, Florida 32304

Dear Tom:

I am pleased to transmit herewith the completed Summary of General Legislation 1974 in which the enactments of the 1974 Regular Session of the Florida Legislature are discussed under major topics and sub-groupings. The earlier "Preliminary Summaries" have been revised and updated.

The 1974 Regular Session followed through on deliberative efforts begun in recent years by enacting a number of important measures. These include: collective bargaining for public employees; a new Administrative Procedures Act; extensive revision of the Condominium Act; a new Probate Code; correctional reform; increase in the homestead exemption for the elderly and disabled; a financial disclosure law for elected officials; establishment of a non-contributory state retirement system; creation of a state Commission on Ethics for public officers and employees; and several laws relating to the creation and structure of local governments. Also approved was a state growth policy statement.

All articles included in the Summary of General Legislation 1974 were prepared under the supervision and coordination of the Division of Legislative Library Services. Acknowledgment is made to several individuals for their generous cooperation and assistance in preparation of the various articles: Senate Legislative Services - Martha Bass, Director, for the Courts section and Jane Harris, Attorney, for the Civil Law, Actions and Procedures section of the article on Courts and Civil Law, Actions and Procedures, Martha Bass for the Law Enforcement section and Malcolm Mickler and Zane Leeper, Analysts, for the Criminal Justice

. . . continued

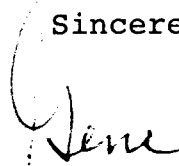
Mr. Tom Wade

- 2 -

August 8, 1974

section of the article on Law Enforcement and Criminal Justice, and Robert Kennedy, III, Attorney, for the article on Local Government; House Bill Drafting Service - James R. Lowe, Director, for the article on Natural Resources and Environmental Protection, Dr. Arthur Cunkle, Economist, for the articles on Appropriations, Education, State Government, and Taxation, Sharon Wright, Legislative Research Assistant, for the article on Elections, Jim Morrison, Attorney, for the article on Business Regulation and Commerce, and Bill Leary, Legislative Research Assistant, for the article on Public Health and Rehabilitative Services; David V. Kerns, Chief Attorney, Department of Administration, for the article on Public Officers and Employees; House Insurance Committee - Jack Herzog, Staff Director, for the article on Insurance; and the Staff of the House Committee on Transportation for the article on Motor Vehicles and Transportation. Acknowledgment is also made to John Obarski, Division of Statutory Revision and Indexing, Joint Legislative Management Committee, for his summary of the Administrative Procedure Act which is included in the article on State Government; to the House Commerce Committee for the summary of the Collective Bargaining Act which is included in the article on Public Officers and Employees; and to Flo Rafnel, Legislative Information Service, for her assistance in obtaining final copies of the passed bills.

Sincerely,

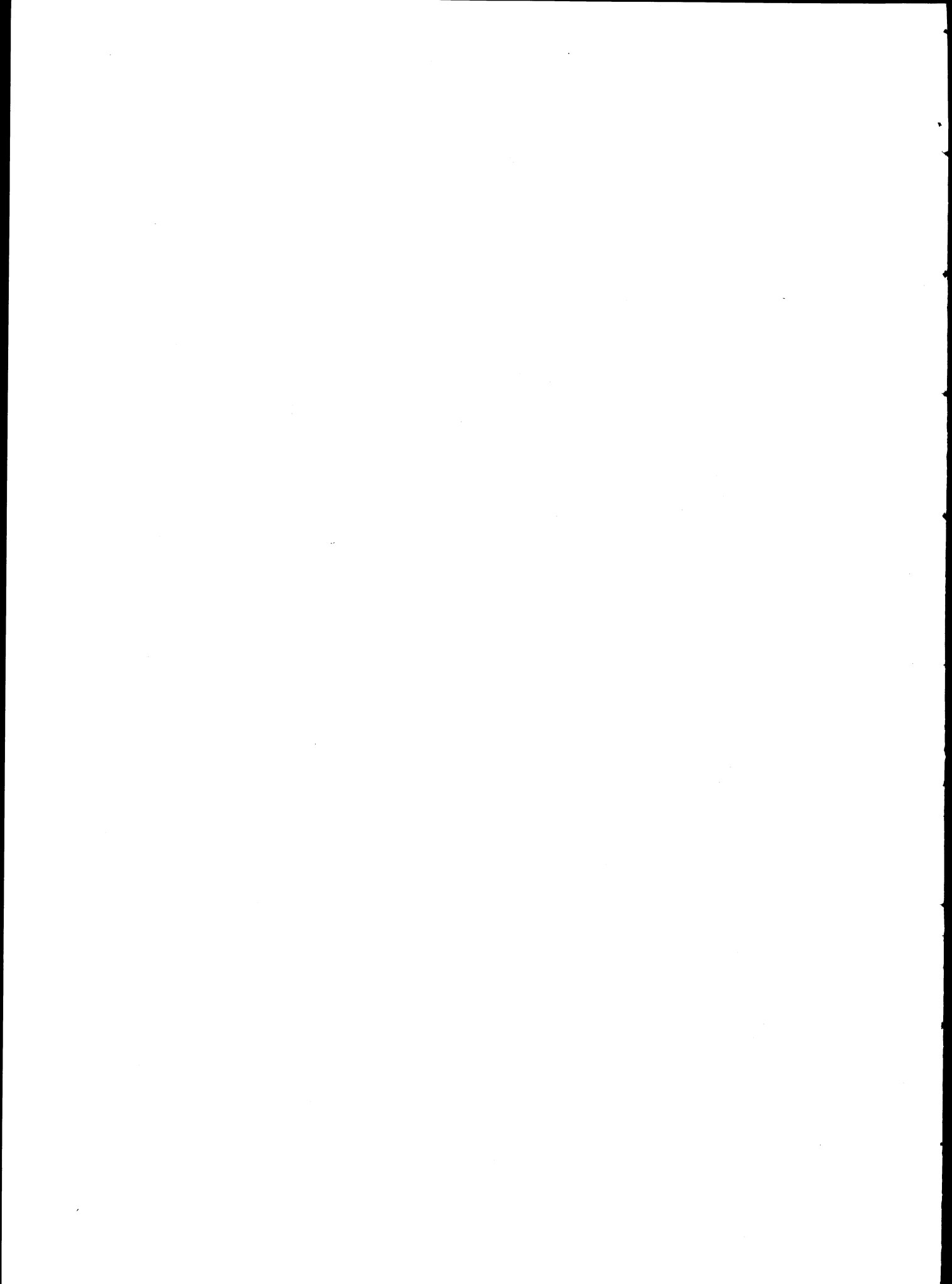


B. Gene Baker

Attachment

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AGRICULTURE

The 1974 Legislature made substantial improvements in the areas of citrus marketing and regulation of pesticides by passage of the "Frozen Concentrated Orange Juice Pooling Act" and the "Florida Pesticide Application Act of 1974." Other changes were made by passage of laws relating to statutory definitions, fees, registration of certain trade marks, and administrative functions of the Department of Agriculture and Consumer Services.

Citrus Industry

In an effort to enable citrus fruit producers and handlers to correlate more effectively the supply and marketing of citrus fruit and frozen concentrated orange juice, the Legislature enacted Senate Bill 966 (Chapter 74-85) which creates the "Frozen Concentrated Orange Juice Pooling Act of Florida," to be administered by the Florida Citrus Commission. The Commission is allowed after notice to adopt market orders affecting varieties of citrus fruit in order to establish orderly marketing conditions for frozen concentrated orange juice and to effect an orderly flow of supply to the market. Each such order must be assented to by at least 65% of the producers and 65% of

the processors of orange juice (who represent at least 51% of the orange juice processed). After such orders are approved, protests may be filed and public hearings held.

Marketing orders are to be administered by a Pooling Board consisting of ten members, five of whom are growers and five processors. The Board will promulgate rules under the provisions of the marketing order and will consider modifications of a diversion table or release-price table on the affirmative vote of at least three of the grower members and three of the processor members of the Pooling Board. Marketing orders are required to contain provisions relating to diversion, storage, operation and administration of the reserve pool, equity payments and funding, restraints on the size of the reserve pool, and provisions for termination of the marketing order at the end of three years or for extension of said order under a certain procedure.

The act also provides for the effective date and duration of diversion tables and release-price tables; for judicial review of any action of the Citrus Commission denying a protest; and for the handling of the "Concentrate Reserve Fund."

Pesticides

Committee Substitute for Senate Bill 374 (Chapter

74-247) creates the "Florida Pesticide Application Act of 1974" whereby the Department of Agriculture and Consumer Services is empowered to regulate the use and application of restricted pesticides in the public interest. The Department is authorized to devise and administer a certification plan for applicators of such pesticides, in cooperation with the Federal Government, unless application is regulated by the Mosquito and Pest Control Laws.

The Pesticide Technical Council as presently constituted under Florida law is designated the Pesticide Application Council to advise, counsel and consult with the Department in the promulgation, administration and enforcement of all laws relating to pesticide application.

The Department may promulgate the necessary rules and regulations by January 1, 1975, to prevent damage to plants, wildlife, fish and pollinating insects after consideration of pertinent research findings of state and federal agencies.

Applications for a certified applicator license are to be made to the Department on forms furnished by the Department which may charge an initial processing and issuing fee of \$100 maximum and renewal fee every third year of \$5 maximum per annum. Collected fees are to be

deposited in the General Inspection Trust Fund and used to defray administrative expenses. No licenses may be issued prior to January 1, 1976, and no person may apply restricted pesticides after October 21, 1976, unless licensed.

Applicants are required to demonstrate competence by written or oral examination as established by the Department along guidelines set forth in the act. Holders of valid restricted pesticide permits issued under the Florida Pesticide Law meet the requirements for a certified applicator's license under this act. In order to qualify for a license to engage in aerial application of pesticides, a person must meet Federal Aviation Agency and Florida Department of Transportation requirements to operate the equipment described in the application. Nonresident applicants without resident agents must file a written power of attorney naming the Secretary of State as agent for service of process.

The Department is required to issue a limited license without fee to public applicators employed by governmental agencies.

Grounds for the denial, suspension or revocation of a license are set out. Penalties are provided for failure

to renew a license on time as well as procedures for late renewal.

Procedures are established for filing claims for damages. Upon receipt of a claims statement, the Department must notify the licensee or other responsible person and, if investigation warrants, institute proceedings for suspension or revocation of the license. The filing or failure to file such a report has no effect on judicial proceedings, but may be grounds for the Department to refuse to hold a hearing. The claimant must allow the licensee the right of inspection or the claim will be barred automatically.

Licensees are required to keep records for a period of three years from the date of pesticide application, copies of which the Department may secure by written request. Governmental, university or industrial research agencies and their personnel are exempt from the provisions of the act when applying pesticides on experimental or demonstration plots.

The Department is authorized to publish information and conduct short courses in the safe use and application of pesticides in cooperation with other state and federal agencies and to enter into formal agreements with such

agencies. The right of injunctive relief is granted the Department, and violations of the act are punishable as second degree misdemeanors.

Definitions

House Bill 2551 (Chapter 74-88) extends the definition of agricultural products to include "aquatic products" with respect to the production and marketing operations of nonprofit cooperative associations.

House Bill 2684 (Chapter 74-284) provides a statutory definition of "honey" and makes it unlawful to sell, label or advertise any product as honey unless it is pure honey as defined in this act.

Fees

Committee Substitute for House Bill 282 (Chapter 74-54) provides fee increases for impounding, serving notice, care and feeding, and disposing of impounded animals.

House Bill 2498 (Chapter 74-180) repeals the statutory authority for the Department of Agriculture and Consumer Services to levy an inspection fee on dressed poultry sold in the state or used in the preparation of food sold to the public.

House Bill 802 (Chapter 74-10) provides for an increase in the state inspection fee on nursery stock from \$25 to \$200.

Miscellaneous

House Bill 1660 (Chapter 74-280) permits the registration of brand names or marks with the Secretary of State by persons, corporations or associations engaged in receiving, packing, handling or selling eggs in permanent type containers which will hold four dozen or more shell eggs. The Secretary is authorized to charge a \$2 filing and recording fee and may deny the application if the name or mark applied for is a duplication of one already recorded, or so closely resembles it as to be confusing. The Secretary is required to issue duplicate certificates of recordation for a \$1 fee and the certificate is legal proof of adoption and recordation in all state court proceedings. Use of the recorded name or mark by other than the owner is made illegal as is defacement, removal or concealment of same without the owner's consent. Any person finding a container with recorded name or mark must notify the owner within 14 days. If the owner cannot be located the Secretary is to be notified within seven days.

Common carriers and private carriers for hire are

required to possess a bill of lading or invoice when receiving or transporting containers with registered names or marks. The requiring, taking or accepting of any deposit upon delivery of any such container is not to be deemed a sale. The owner is authorized to undertake court proceedings to recover containers with expenses to be borne by the possessor. A penalty of \$10 per container for the first offense and \$20 per container for subsequent offenses is authorized upon legal recovery by the owner.

Senate Bill 683 (Chapter 74-41) authorizes the Department of Agriculture and Consumer Services to establish state standards by regulation for certain flours and related products as defined in the act. The sale at retail of any products containing the defined foods which fail to meet state standards is prohibited after January 1, 1975, unless produced prior to this date. Examination and investigation of producers by the Department is authorized and violations are punishable as first degree misdemeanors.

House Bill 803 (Chapter 74-204) deletes the requirement that the Assistant Commissioner of Agriculture serve as Director of the Division of Administration of the Department and to fill any other vacant directorship within

the Department, except for the Divisions of Animal and Plant Industries. The position of Director of the Division of Administration is created.

House Bill 3965 (Chapter 74-391) appropriates \$15,032 from the General Inspection Trust Fund to the Division of Marketing of the Department of Agriculture and Consumer Services for the construction of a packing plant at the Florida City State Farmers Market. This appropriation is in addition to that contained in the 1973 general appropriations act.

Committee Substitute for Committee Substitute for House Bill 3102 (Chapter 74-322) creates the Florida State Fair Authority under the supervision of the Commissioner of Agriculture and provides that this annual exhibition is to serve the entire State of Florida and shall provide for exhibits of agricultural and industrial products. A summary of this act can be found in the article on STATE GOVERNMENT.

Another act (summarized in the article on BUSINESS REGULATION AND COMMERCE) which relates in part to agricultural interests is Committee Substitute for Committee Substitute for House Bill 3096 (Chapter 74-197) which extends workmen's compensation coverage to agricultural laborers who work for farmers or associations which

employ more than five regular employees and more than twelve other employees for seasonal labor.

Committee Substitute for Senate Bill 1020 (Chapter 74-370) states the intent of the Legislature that duplication of inspections of dairy farms be eliminated and provides for inspection by the Department of Agriculture and Consumer Services with cooperation from the Department of Health and Rehabilitative Services on all matters relating to the preservation of public health. A summary of this act is included in the article on PUBLIC HEALTH AND REHABILITATIVE SERVICES.

APPROPRIATIONS*

The 1974 Florida Legislature enacted Conference Committee Report on Senate Bill 1100 (Chapter 74-300), the general appropriations act which provided total appropriations of \$4,819,127,677, of which \$2,523,954,428 is from the General Revenue Fund and \$75,200,000 from Federal Revenue Sharing funds with the balance from trust funds. Excluding these trust funds, 60% of the total appropriated is for education and 17.7% is for health and rehabilitative services. A total of \$148,287,037 is appropriated for fixed capital outlay in fiscal 1974-75 of which \$123,331,887 (83%) comes from the General Revenue Fund and the balance from trust funds. The state revenue sharing program to local governments was continued at the same level, and Florida's share of federal revenue sharing funds is expected to be about \$65 million again in 1974-75.

The tables which follow are taken with permission from the report of the Senate Ways and Means Committee entitled Fiscal Analysis in Brief. This report contains much more analysis and discussion than is presented here.

*Prepared by Dr. Arthur L. Cunkle,
House Bill Drafting Service

SUMMARY OF 1974 APPROPRIATIONS

	General Revenue Fund	Fed. Revenue Sharing Fund	Trust Funds	Total
	\$	\$	\$	\$
Gen. Appropriations Act	2,523,177,827	75,200,000	1,913,635,983	4,512,013,810
Less Contingency Items Not Passed	<u>18,688,934</u>	-	<u>763,979</u>	<u>19,452,913</u>
Gen. Appropriations Act (Adjusted)	2,504,488,893	75,200,000	1,912,872,004	4,492,560,897
Higher Education Capital Outlay			82,850,000*	82,850,000*
Revenue Sharing Act (Estimated)	-	-	224,200,000	224,200,000
Claims Bills (Excluding Those From Local Funds)	1,619,232	-	51,245	1,670,477
Other Special Acts	<u>17,846,303</u>	-	-	<u>17,846,303</u>
Total Appropriations Acts	<u>2,523,954,428</u>	<u>75,200,000</u>	<u>2,219,973,249</u>	<u>4,819,127,677</u>

*From Higher Education Bond Account

GENERAL REVENUE AND FEDERAL REVENUE SHARING FUNDS
SUMMARY OF 1974 APPROPRIATIONS

Purpose	General Approp. Act		Spc. Approp. Acts		Total Appropriations	
	\$ Amount	% of Total	\$ Amount	% of Total	\$ Amount	% of Total
<u>Operations</u>						
Education	1,558,971,600*		454,500		1,559,426,100*	60.0
Health & Rehab. Svs.	460,156,651		226,200		460,382,851	17.7
Judicial Branch	65,483,158				65,483,158	2.5
Legislative Branch	30,167,367				30,167,367	1.2
All Other Agencies	<u>243,219,087</u>		<u>7,165,603</u>		<u>250,384,690</u>	<u>9.6</u>
Total-Operations	<u>2,357,997,863</u>	<u>91.4</u>	<u>7,846,303</u>	<u>40.3</u>	<u>2,365,844,166</u>	<u>91.0</u>
Fixed Capital Outlay	<u>123,331,887</u>	<u>4.8</u>	-		<u>123,331,887</u>	<u>4.8</u>
<u>Special Programs</u>						
Special Contingency Items	676,143				676,143	.03
Addit. Homestead Exemp.	20,000,000				20,000,000	.8
Green Swamp Purchase	13,683,000				13,683,000	.5
Claims Acts	-		1,619,232		1,619,232	.06
Interstate Highway Loan	64,000,000				64,000,000	2.5
Coastal Protection Fd. Loan	-		10,000,000		10,000,000	.4
Total-Special Programs	<u>98,359,143</u>	<u>3.8</u>	<u>11,619,232</u>	<u>59.7</u>	<u>109,978,375</u>	<u>4.2</u>
Total Appropriations	<u>2,579,688,893*</u>	<u>100.0</u>	<u>19,465,535</u>	<u>100.0</u>	<u>2,599,154,428*</u>	<u>100.0</u>
Plus: Contingency Items Not Enacted	<u>18,688,934</u>					
Total-Conference Report (SB 1100)	<u>2,598,377,827*</u>					

Note: *Includes \$75,200,000 from Federal Revenue Sharing Fund.

GENERAL REVENUE, WORKING CAPITAL, FEDERAL REVENUE SHARING FUNDS
Available Funds and Appropriations

1973-74 and 1974-75

<u>Funds Available, 1973-74</u>	Federal Revenue Sharing Fund	Working Capital Fund	General Revenue Fund
	\$	\$	\$
Balance Forward, 7-1-73	61,802,525	50,000,000	248,780,467
Transfer to Working Capital (Chap.73-196)	-	41,456,143	(41,456,143)
Midyear Reversions, 12-31-73	-	-	1,644,918
Estimated Revenue, 1973-74	<u>65,300,000</u>	<u>-</u>	<u>2,111,100,000</u>
Total Available, 1973-74	<u>127,102,525</u>	<u>91,456,143</u>	<u>2,320,069,242</u>
<u>Expenditures, 1973-74</u>			
General Appropriations Act	117,500,000	-	2,105,620,541
Other Appropriation Acts	-	-	13,906,899
Unused Appropriations	<u>-</u>	<u>-</u>	<u>(40,000,000)</u>
Total Estimated Expenditures, 1973-74	<u>117,500,000</u>	<u>-</u>	<u>2,079,527,440</u>
<u>Funds Available, 1974-75</u>			
Balance Forward, 7-1-74	9,602,525	91,456,143	240,541,802
Transfer to Working Capital (Chap.73-196)	-	14,098,857	(14,098,857)
Midyear Reversions	-	-	400,000
Estimated Revenue (Jan 74 Estimate)	65,600,000	-	2,327,800,000
Revenue Law Changes	<u>-</u>	<u>-</u>	<u>(8,150,000)</u>
Total Available, 1974-75	<u>75,202,525</u>	<u>105,555,000</u>	<u>2,546,492,945</u>
<u>Expenditures, 1974-75</u>			
General Appropriations Act	75,200,000	-	2,504,488,893
Other Appropriations Acts	-	-	19,465,535
Unused Appropriations	<u>-</u>	<u>-</u>	<u>-</u>
Total Estimated Expenditures, 1974-75	<u>75,200,000</u>	<u>-</u>	<u>2,523,954,428</u>
<u>Balances, 6-30-75</u>			
Balances Remaining	2,525	105,555,000	22,538,517
Transfer to Working Capital (Chap.73-196)	<u>-</u>	<u>10,427,500</u>	<u>(10,427,500)</u>
Balances After Transfer	<u>2,525</u>	<u>115,982,500</u>	<u>12,111,017</u>

GENERAL REVENUE FUND
OTHER SPECIAL APPROPRIATIONS ACTS

Chapter No.	Bill No.	Subject	General Revenue
			\$
74-336	SB 132 (CS)	Coastal Protection Fund Advance	10,000,000
74-362	SB 284 (CS)	Regional Criminal Analysis Laboratories	3,060,967
74-196	HB 1543 (CS)	Public Service Commission - Energy Grid Study	50,000
74-342	HB 2837 & 2280 (CS) (CS)	Pollution Control Dept. - Resource Recovery	140,000 (a)
74-319	HB 2862	Continuing Education in Environ- mental Occupations	1,348,280
74-392	HB 3095	Tourism Promotion	300,000
74-357	HB 3277 & 3340 (CS)	Telephone Emergency Number "911"	95,000
74-390	HB 3295	Fuel Allocation Office	73,500
74-270	HB 3324	H&RS Dept. - Involuntary Admission Hearings	226,200
74-169	HB 3499	Mobile Home Inspections	1,807,856
74-186	HB 3630 (CS)	Energy Data Center	160,000
74-187	HB 3649 (CS)	Energy Conservation Construction Planning	100,000
74-227	HB 3692 (CS)	Educational Funding - Price Level Study	454,500
74-333	HB 3839	Civil Air Patrol	<u>30,000</u>
		Total - Other Special Acts	<u>\$17,846,303</u>

Note:

(a) Duplicates appropriation in
Section 5, Item BG of General
Appropriations Act.

GENERAL REVENUE FUND

Estimated Collections 1973-74 and 1974-75
(Millions of Dollars)

	Actual 1972-73	Estimated 1973-74	Estimated 1974-75
	\$	\$	\$
Sales Tax	1,041,300,000	1,230,000,000	1,380,000,000
Beverage Tax & Licenses	160,500,000	173,500,000	187,500,000
Corporation Income Tax	147,700,000	182,000,000	187,000,000
Motor Vehicle Licenses (a)	108,800,000	98,600,000	107,700,000
Documentary Stamp Tax	81,400,000	95,200,000	112,800,000
All Other Sources	283,200,000	331,800,000	352,800,000
Legislative Changes - 1974	<u>-0-</u>	<u>-0-</u>	<u>(8,150,000)</u>
Total Estimated Revenue (b)	<u>1,822,900,000</u>	<u>2,111,100,000</u>	<u>2,319,650,000</u>

Note: (a) General Revenue portion only; School Tag Fees and Mobile Home Licenses excluded

(b) Refunds of Tax Overpayments deducted

MEASURES AFFECTING REVENUES

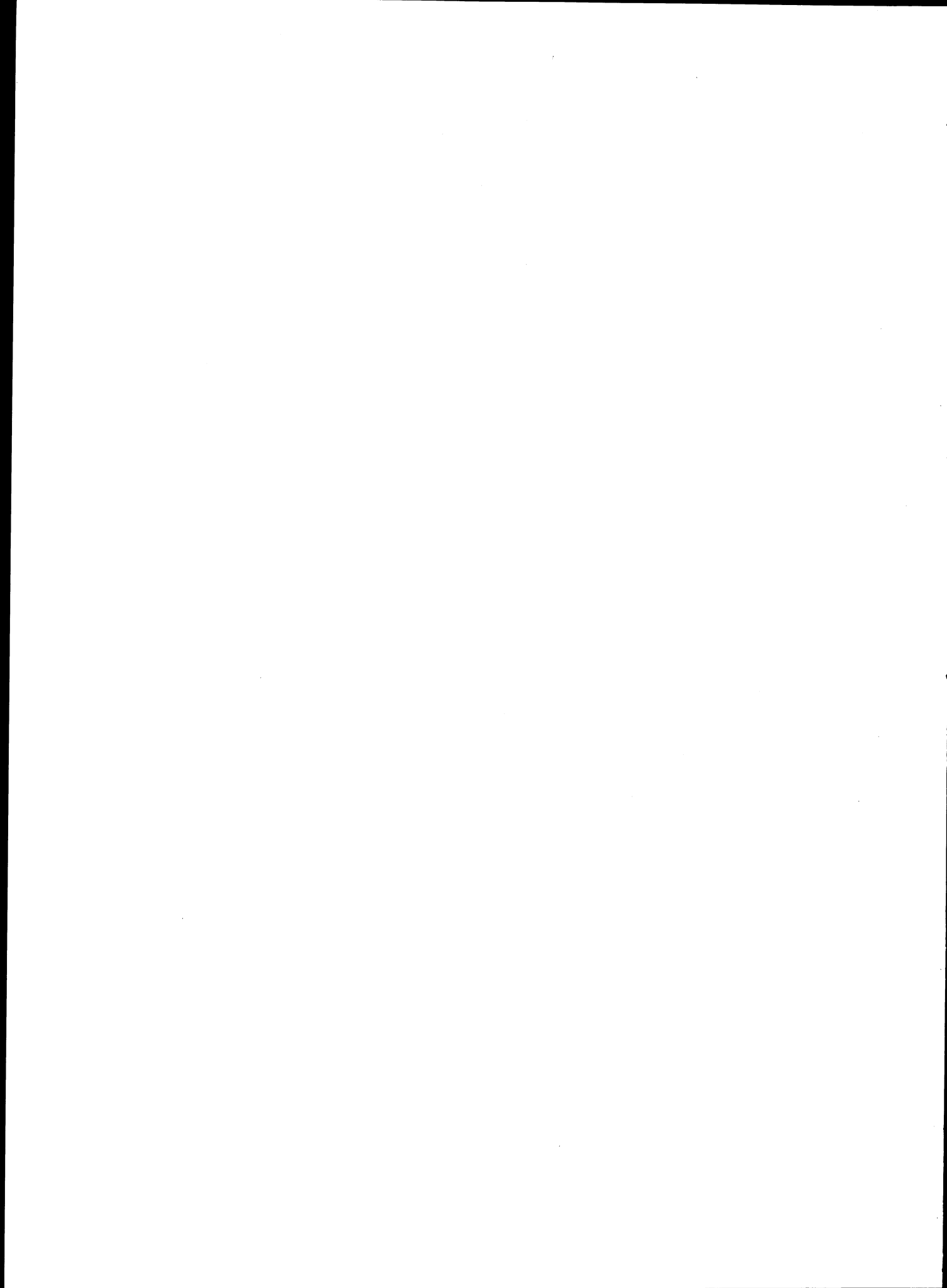
Chapter No.	Bill No.	Subject	Trust	General
			Funds	Revenue
			\$	\$
74-237	SB 48	Intangibles Tax - \$20,000 Exemption	(5,900,000)	(4,900,000)
74-360	SB 56 (CS)	Independent Schools - License Fees	(e)	-
74-336	SB 132 (CS)	Oil Spill Fees (2c per bbl.)	(e)	-
74-68	SB 210	Mobile Home Mfgs. - License Fees	-	50,000
74-243	SB 256	Motor Vehicle Licenses - Slide-in Camper Exemption	-	(100,000)
74-4	SB 380	Sales Tax - Flag Exemption	-	Insignificant
Vetoed	SB 395	Sales Tax - Transient Rental Revision and Guide Dog Exemption	-	Insignificant
74-32	SB 427	Sales Tax - Telecommunications Exemption	-	(a)
74-96	SB 475	Beverage Licenses - Symphony Associations	-	Insignificant
74-251	SB 497	Chiropractic License Fees	(e)	-
74-252	SB 498	Chiropractic License Fees	(e)	-
74-338	SB 553	Motor Vehicle Licenses - Duplicate Registration Certificates	-	(b)
74-54	HB 282 (CS)	Livestock Impounding Fees (Local Funds)	-	-
74-381	HB 629	Motor Vehicle Inspection Fees - Delinquent Fees to Local Stations	-	(200,000)
74-126	HB 711	Sales Tax - School Event Exemptions	-	(100,000)
74-10	HB 802	Citrus Inspection Fee	80,000	-
Vetoed	HB 1955	Motor Vehicle Licenses - Mailing Fees	-	Insignificant (c)
74-134	HB 2359	Sales Tax - Commercial Crab Bait Exemption	-	(100,000)
74-180	HB 2498	Poultry Inspection Fees - Repeal	(500,000)	-
74-212	HB 2609	Mutual Trust Investment Companies - Documentary Stamp Tax - Partial Exemption	-	Insignificant
74-52	HB 2643	Motor Vehicle Licenses - National Guard Fee Repeal	-	Insignificant
74-181	HB 2886	Real Estate Brokers - Fee Increase	(e)	-
74-169	HB 3499	Mobile Home Inspection Fees	-	(d)
Vetoed	HB 3608	Documentary Stamp Tax Revision	-	(2,500,000)
74-327	HB 3948 (CS)	Motor Boat Registration Fees	900,000	-
74-305	HB 3951	Sales Tax - Utilities Revision	-	(300,000)
Total Revenue Increase (Decrease)			(e)	(8,150,000)

- Notes:
- (a) Revenue loss of \$200,000 to \$400,000 per launching.
 - (b) Possible some increase, because Department had not previously enforced \$2 fee, but will collect 50¢ fee.
 - (c) Most mailings will be from local tag agencies; state office mailings are few in number.
 - (d) Rate of fee and estimated numbers of seals to be issued are not yet determined.
 - (e) Estimate not yet available.

FIXED CAPITAL OUTLAY

The Legislature provided \$148,287,037 in appropriations for Fixed Capital Outlay for 1974-75. These are widespread over the State, and for the benefit of many agencies and programs. For details, the reader should see Sections 2 and 3 of SB 1100, the General Appropriations Act. Following are major highlights:

Lump Sum Provided for Inflationary Supplement to Projects Funded Prior to 1974-75 from the General Revenue Fund		\$25,000,000
State Fair		6,200,000
Agricultural Market Improvements		2,000,000
Inter-American Center Authority		6,254,000
Education (Total)		21,412,800
School for the Deaf and the Blind	\$ 1,028,200	
Community Colleges	3,500,000	
Universities (In Addition to Bond Proceeds)	16,884,600	
Regional State Office Facilities (Four)		26,100,000
Health and Rehabilitative Services (Total)		28,530,675
Criminal and Sexual Psychopath Facility	7,700,000	
Facilities Additions, Improvements, Repairs, Renovations:		
Corrections	5,303,007	
Youth Services	2,194,400	
Mental Health	7,319,300	
Retardation	5,592,368	
Vocational Rehabilitation	421,600	
Highway Safety and Motor Vehicles Facilities		1,427,695
Department of Natural Resources (Total)		17,658,712
Recreation and Parks	14,617,800	
Game and Fish	3,004,512	
Other	36,400	
Transportation Department Facilities		3,426,500



BUSINESS REGULATION AND COMMERCE*

Workmen's Compensation, Industrial Relations,
and Unemployment Compensation

The most important piece of legislation in the area of Workmen's Compensation was the Committee Substitute for Committee Substitute for House Bill 3096 (Chapter 74-197). The act extends coverage to agricultural laborers who work for farmers or associations which employ more than five regular employees and more than twelve other employees for seasonal labor, and to personnel associated with athletic events. The act includes full-time students under twenty-two years of age attending an accredited educational institution within the definition of "child," defines the term "spouse," and deletes the terms "widow" and "widower." The act authorizes corporate officers to exempt themselves from coverage and to revoke such an exemption, and provides rules therefor. The act also provides coverage for employment which is principally localized in the state even if the accident occurs without the state, and provides that no coverage will be paid for disability or death of any employee covered by the Federal Employer's Liability Act, the Longshoremen's and Harbor Worker's Compensation Act

* Prepared by Jim Morrison,
House Bill Drafting Service

or the Jones Act. An employee is permitted to have an action in tort against a subcontractor other than his own employer. A subcontractor is not responsible for payment of compensation to employees of another subcontractor, and a subcontractor other than the employer of an injured employee is not protected.

The act provides that the Department of Commerce determine each year the average weekly wage paid in this state and sets the compensation rate based on the maximum of 66-2/3% of the average weekly wage. Employees who are permanently and totally disabled shall receive additional weekly compensation benefits equal to 5% of the injured employee's weekly compensation rate as established pursuant to the law in effect on the date of his injury, multiplied by the number of calendar years since the date of injury, limited to the maximum weekly compensation rate set forth in the act, thus helping to restore the lost purchasing power for this limited class of injured employees. The act extends to certain temporary total disabilities a rehabilitative period not to exceed six months and authorizes payment of temporary total disability compensation of 80% of his average weekly wage not to exceed a maximum weekly compensation rate of \$400.

Occupational disease is redefined as one that arises out of the course and scope of the injured employee's employment and involves any disease which has a substantially higher ratio in the employee's occupation than that of the general public. The act increases the \$25,000 maximum death benefit to \$50,000 to provide for more reasonable compensation for dependents for a longer period of time, eliminates the distinction between widow and widower, and reduces the compensation for surviving spouse to 45% of the average weekly wage. Additional coverage is provided for surviving children where the surviving spouse dies or remarries. Employers who are not self-insured are required to notify their carriers of an accident within ten days after the employer has been notified subject to a penalty for non-compliance or delay.

The act authorizes the dismissal of a claim if the claimant fails to comply with an order of the industrial claims judge and provides that practice and procedure before the judges of industrial claims shall be governed by rules adopted by the Supreme Court. The act removes the limit on the number of judges of industrial claims but provides at least one judge for each judicial circuit in this state. The Governor is authorized to remove industrial claims

judges during their tenure for cause and the Judicial Nominating Commission is required to examine the conduct of said judges prior to the expiration of the judges' term of office and to report to the Governor. The Special Disability Trust Fund is made as self-executing as possible in an attempt to reduce the amount of litigation in this field.

Committee Substitute for House Bill 1460 (Chapter 74-46) authorizes officers of corporations to elect to exempt themselves from workmen's compensation coverage and authorizes sole proprietors and partners, as defined by the act, to choose workmen's compensation coverage.

Committee Substitute for House Bill 312 (Chapter 74-124) broadens the definition of "injury" with respect to the Workmen's Compensation Law to include damage to dentures, eyeglasses, prosthetic devices, and artificial limbs when the damage occurs as a direct result of an accident in the normal course of employment.

Senate Bill 873 (Chapter 74-363) provides that Industrial Relations Commissioners shall have the same qualifications and salaries as judges of district courts of appeal, and industrial claims judges shall receive \$4,000 less per year than Commissioners.

House Bill 1790 (Chapter 74-48) permits judges of industrial claims in the county where the injury occurs to move venue, and extends the time provided for moving venue from twenty to thirty days.

House Bill 4122 (Chapter 74-198) redefines "employment" for purposes of unemployment compensation coverage to include service after December 31, 1973, with any political subdivision or instrumentality of the state and provides for the financing of benefits paid to such employees through reimbursement to the Unemployment Compensation Trust Fund by the several political subdivisions. The maximum weekly benefit allowable to a person receiving unemployment compensation is increased from \$64 to \$74. The act also empowers the Division of Employment Security of the Department of Commerce, rather than the Industrial Relations Commission, to make rules and regulations for the administration of the Unemployment Compensation Law.

Statewide Building Construction and Mobile Homes

The Florida Building Codes Act of 1974, enacted into law as House Bill 3231 (Chapter 74-167) establishes a Florida Board of Building Codes and Standards within the Department of Community Affairs with the object in mind of establishing state minimum building codes. The

act requires all local governments and state agencies with building construction regulation responsibilities to establish an interim state building code by January 1, 1975, and places enforcement requirements upon such local and state agencies. It requires the Board to adopt standards for all local governmental units which have not complied as of the aforementioned deadline. Where any authority charged with enforcement of a code does not in fact enforce it, the act places enforcement responsibilities on the Board. The act requires that all state building codes must be in effect no later than January 1, 1977, and makes all construction in conflict with the codes unlawful.

In response to energy shortages with respect to conventional fuel systems in the state, Senate Bill 158 (Chapter 74-361) requires that no single family residence shall be constructed in the state unless the plumbing therein can facilitate the future installation of solar water heating equipment.

House Bill 2441 (Chapter 74-17) requires that all buildings exceeding three stories in height constructed after January 1, 1975, have at least one elevator which can accommodate an ambulance stretcher of specified size.

The mobile home or factory built housing industry

was the subject of several pieces of legislation in the 1974 Session. House Bill 3499 (Chapter 74-169) eliminates the net worth statement as a substitute for the bonding requirements applicable to mobile home dealers and requires that persons engaged in mobile home manufacturing must be licensed by the Department of Highway Safety and Motor Vehicles. The act provides for on-site unannounced inspections of mobile home manufacturing installations or other appropriate action by Department inspectors to ascertain that every new mobile home sold in the State of Florida meets the required quality standards in construction of mobile homes, and requires every county in the state to prepare and adopt a plan for on-site inspection on or before January 1, 1975, for the inspection of every new mobile home in the county. So long as the mobile home meets the requirements of the Uniform Standards Code, the county may not require additional modification. The act also provides warranty protection for purchasers of homes after October 1, 1974, and procedures for the filing of warranty claims and service. A schedule of liquidated damages is provided for mobile home retailers.

Senate Bill 210 (Chapter 74-68) applies to mobile home and recreational vehicle manufacturers and dealers

and requires that manufacturers be licensed annually by the Department of Highway Safety and Motor Vehicles for a \$100 fee. The act requires a performance bond of \$2,000 per mobile home manufactured in the prior license year up to a maximum of \$50,000. Procedures are established for suspension or revocation of licenses, for public hearings, and for reinstatement of licenses. The Department may inspect books, records, letters and contracts of any licensee pursuant to a complaint and is directed to appoint a seven-man Advisory Council to aid in administering the act. Also provided are mobile home warranty requirements, warranty claims and service, and authorization for civil suits for damages in the event that a warranty claim is not satisfactorily resolved.

Senate Bill 300 (Chapter 74-99) provides that a mobile home dealer who violates or fails to comply with the provisions of the Uniform Standards Code for Mobile Homes is guilty of a first degree misdemeanor. This penalty already applied to mobile home manufacturers.

Mobile home park leases will no longer be enforceable or subject to termination by the landlord unless, prior to occupancy, the tenant has been offered a written lease, under the provisions of Committee Substitute for

House Bills 2288 and 3001 (Chapter 74-160). The act requires that such a lease contain the amount of rent, security deposit, installation charges, fees, assessments, and other financial obligations of the tenant in addition to other referenced requirements. The provisions of the act relative to required leases only apply to mobile home parks containing more than ten mobile home lots.

Under the provisions of House Bill 1696 (Chapter 74-208) factory built housing was reexamined by the Legislature with an eye toward reflecting changes and recommendations of the National Conference of States on Building Codes and Standards relative to Florida's 1971 act (Chapter 71-172). State agencies are added to the list of governmental units which do not have to approve factory built housing after the Department of Community Affairs has issued an insignia of approval. The counterfeiting, alteration or fraudulent use of such insignia is made a third degree felony. The main thrust of the law provides that noncompliance with present Florida statutory or regulatory provisions relating to factory built housing is prima facie evidence of irreparable damage in any cause of action brought under the act.

Condominiums and Cooperative Apartments

The most significant piece of legislation passed in the 1974 Session dealing with condominiums and cooperative apartments is Conference Committee Report on House Bill 2155 (Chapter 74-104) which is a comprehensive revision of the Condominium Act. A separate portion of the law concerning cooperative apartments is created, as well as a separate section on both condominiums and cooperatives. Several definitions are added and the obsolete statutory section limiting homestead exemption with regard to condominiums and cooperatives is repealed. In addition to these housekeeping provisions, the law provides a manner of amending the declaration and bylaws to meet the possibility that the condominium documents omit such provisions. A limitation is placed upon the charges that may be made by the association for approving transfer of the ownership or leasing of a unit. The act makes certain requirements for the bylaws of associations, including a statement of voting rights and quorum, notice of meetings, open meetings, notice and approval of budgets, use of proxies, and making of assessments to provide funds in advance of paying expenses. Associations are also given power to bring certain class actions and are required to permit inspection of accounting

records and insurance policies.

The act provides a method for adding property to the common element of a condominium and it requires easements for rights-of-way for ingress and egress to and from units. Recreational area and other leases are made the subject of a new section in the statutes and future leases must include an option for the unit owners to purchase the facilities. During litigation involving any lease, rent may be withheld and placed in the registry of the court until the issues are resolved. Another new section is devoted to developments that are constructed in phases. The developers of phase projects are required to make certain disclosures and commitments concerning future phases of developments.

The last major area of the bill concerns itself with sales of condominiums and cooperatives. Under these provisions, implied warranties are set forth by law, and advance payments by purchasers are to be treated in such a manner as to provide greater security for those funds. A new section restates the general law that there be no discrimination in the sale or lease of units and requires notice to tenants of rental operations before these operations are converted to condominium or cooperative

ownership. The present disclosure provisions of the statutes are strengthened by requiring a developer to prepare and deliver a prospectus to all prospective buyers in projects containing twenty or more units, and to deliver certain items to prospective buyers in smaller projects. Attorney fees are now allowed to the prevailing party in actions to recover on account of false and misleading information. The existing law is expanded concerning the cancellation by unit owners of certain maintenance, management, and other contracts. It also provides requirements for the transfer of control of associations from a developer to the unit owners. This act repeals Section 711.24, Florida Statutes, relating to publication of false or misleading information in the sale of condominiums or cooperative apartments, which was amended by House Bill 1459 (Chapter 74-75).

Professional and Occupational Regulation

Two acts affect the Department of Professional and Occupational Regulation, which is charged with the responsibility of supervising numerous examining and licensing boards. Senate Bill 212 (Chapter 74-57) authorizes and directs the Department to establish uniform procedures for handling complaints to, or reports received by, any licensing board within the Department. Such procedures

include the creation of a uniform complaint form and uniform complaint report form. Specific information is required on the complaint form and each licensing board or agency is required to report semi-annually to the Secretary of the Department on all complaints received by the agency. Within a reasonable time after receipt of the report, the Secretary is to report in writing to the Governor concerning the nature of the complaints and actions taken.

Committee Substitute for House Bill 3732 (Chapter 74-105) directs all boards and commissions regulated by the Department to offer continuing education programs to applicants who have lawfully practiced their profession prior to July 1, 1974, in a foreign country, upon proof that the applicants were licensed in another country. The act requires professional examinations for graduates of these programs equivalent to those given to other applicants in the same area, and authorizes an examination in the applicant's native tongue if requested by no less than five applicants. These provisions are alternative to boards or commissions which have already established programs for granting licenses to foreign professionals. Along these same lines, Senate Bill 9 (Chapter 74-37) provides that no person shall be disqualified from practicing an occupation or profession regulated by the state solely because he is not a United States

citizen. However, when declaration of intent to become a citizen is required as a prerequisite for such practice, failure to do so within five years after the granting of a license is grounds for revocation of the license.

The Florida State Board of Architecture is directed to employ an executive director and staff to aid the Board in performance of its duties, and Board members' compensation is increased under the provisions of House Bill 3353 (Chapter 74-182). It also tightens admission to the field of architecture in the state by requiring a professional degree of Master of Architecture or a Bachelor of Architecture and one year of experience prior to taking the examination. It establishes an experience requirement after passage of the exam and provides for issuance of a certificate of registration. The annual fee is increased to \$35.00.

In addition to requiring that psychologists pay an increased reexamination fee of \$40 and renew said license annually, House Bill 2352 (Chapter 74-354) grants the Florida State Board of Examiners of Psychology the authority, after notice and hearing, to impose against any licensee a civil penalty of up to \$500 for violation of the chapter relating to psychologists or any rules adopted thereunder.

Senate Bills 496 (Chapter 74-250), 497 (Chapter 74-251), and 498 (Chapter 74-252) all dealing with chiropractors, increases the daily recompense for members of the Florida State Board of Chiropractic Examiners to \$25 a day; increases membership and term of office on the Board; raises the fee for license renewal to \$50; raises the fee for license reinstatement to \$100; raises the fee for examination to \$100 and for a second examination to \$50.

House Bill 1364 (Chapter 74-24) prohibits any person from engaging in the practice of professional forestry, as defined by the act, without being registered as a professional forester; and exempts the practice of forestry on private land by the owner or lessor, or by any graduate of a school of forestry under certain authorized supervision. The act also raises the fee for registration to \$25.

House Bill 1685 (Chapter 74-352) increases from \$2,000 to \$12,000 per year the salary of the Secretary of the Florida State Board of Optometry.

House Bill 1757 (Chapter 74-49) adds the phrase "Florida licensed" to the definition of electrical contractor as licensed by the Florida Electrical Contractor Licensing Board and provides definitions for "applicant"

and "qualifying agent." Registration procedures are prescribed and the qualifying agent examination is to be held at least semi-annually.

House Bill 3534 (Chapter 74-346) defines residential pool contractors, and swimming pool servicing contractors within the statutory provisions relating to licensing of the construction industry.

House Bill 928 (Chapter 74-74) permits the Division of Health of the Department of Health and Rehabilitative Services to establish the annual anniversary date for renewal of pest control licenses and to prescribe the application forms for such licenses. Pest control activities are to be supervised by certified operators or operators certified in the categories of the licensee, and all license fees collected are to be deposited in the Pest Control Trust Fund. The licensee or certified operator is required to secure and destroy employee identification cards upon the departure of an employee and to provide written notification to the Division within ten days of termination. Identification cards are to be issued and renewed in the same manner as licenses.

House Bill 732 (Chapter 74-277) provides for a terminology change in Chapter 470, Florida Statutes, and House Bill 788 (Chapter 74-389) authorizes licensed funeral establishments to operate a single branch funeral

chapel as defined in the act.

Committee Substitute for House Bills 509, 510, 511 and 512 (Chapter 74-276) defines business "establishments" which may accept or receive watches or clocks for repair without the required "watchmaker's" registration certificate, and authorizes such business establishments to accept watches and clocks for repair when the repair work is to be done out of state or by a registered watchmaker elsewhere in the state. However, these establishments are required to obtain an establishment certificate from the Florida Watchmakers' Commission which necessitates payment of a registration fee of not less than \$10 nor more than \$15, such fee to be established by rule or regulation of the Commission. This law provides a \$25 penalty fee for late renewal of license certificates for watchmakers, apprentice watchmakers and establishment certificates within thirty days after their annual expiration date (June 30) in addition to an annual renewal fee of \$12. The penalty and renewal fee are payable for each delinquent year. The act also provides that the customer must receive upon demand an itemized statement of the cost of watch repair parts and labor.

Gasoline stations and petroleum products, the subject of intense interest in the 1974 Session, are the

subject of two bills in the area of business regulation. House Bill 2407 (Chapter 74-162) authorizes the establishment of self-service gasoline stations, as defined by the act, and makes a clear distinction as to the areas of responsibility of the gasoline station attendant in the interest of fire safety. The act directs the State Fire Marshal to make necessary rules and regulations, and specifically does not preclude price differentials between self-service and attendant-service dispensing of the gasoline from a common storage at the same station.

Committee Substitute for Senate Bill 880 (Chapter 74-387) limits the number of retail service stations which a petroleum producer or refiner may operate with company personnel to 3% of the total number of all classes of retail service stations selling the producer's or refiner's petroleum, and requires uniform equipment rental charges to all retail service station dealers they supply. Injunctive relief for violations is provided. An exception is granted to service stations operated by producers or refiners who purchase or obtain over 90% of unrefined petroleum products from another producer or refiner.

Land sales and the real estate industry are also the subject of several pieces of legislation. Senate Bill 903 (Chapter 74-179) exempts unplatted subdivisions from

cancellation of required registration for failure to show affirmative action by January 1, 1975, as required by the Florida Uniform Land Sales Practices Law, if 30% of the lots or parcels have been subject to deeds, agreements for deeds, installment land sales contracts, or other instruments of conveyance executed before January 1, 1975.

House Bill 2886 (Chapter 74-181) increases registration, renewal and reissue fees for real estate brokers and salesmen and the registration fee for each branch office.

House Bill 2889 (Chapter 74-343) lowers the age requirement for real estate brokers and salesmen to eighteen years, adds the alternative requirement of intent to become a U. S. citizen and deletes the requirement that an applicant for active broker registration show proof of state residency for the year preceding the filing of his application.

Financial Institutions and Investments

Senate Bill 797 (Chapter 74-183) the "Florida Credit Union Guaranty Corporation Act," is designed to protect the shareholdings, savings and deposits of credit union members up to established amounts and to avoid excessive delay in payment or financial loss resulting from the insolvency or liquidation of a credit union; to assist in the detection

and prevention of such insolvencies and liquidations; to create an administering corporation for the plan of operation set out in the act; and to assess and equitably apportion protection costs among credit unions which are members of the administering corporation.

The Florida Credit Union Guaranty Corporation, Inc. is created with all the powers granted profit corporations under Florida law in addition to those specified in the act. A procedure is established for the creation of an interim board of directors from a list submitted to the Department of Banking and Finance by eligible member credit unions as defined in the act. The Interim Board is to be appointed not later than November 30, 1974, for a term ending with the first annual meeting of the Corporation to be held during August 1975, at which time the first board of directors is to be elected for terms set in the plan of operation.

Credit unions are to apply for membership to the Corporation on or before March 31, 1975, and are to be issued guaranty certificates of membership upon approval of their applications. Credit unions which fail to qualify are to receive two year provisional certificates pending qualification or institution of proceedings by the

Department to revoke their charters for failure to qualify. The means of paying covered claims and the costs of operation are provided within the power of the Corporation to levy against each member credit union initial membership fees, growth fees, uniform annual assessments and uniform special assessments.

The Corporation is authorized to refund up to 90% of a member credit union's investment upon withdrawal and conversion to a federal credit union or entry into voluntary liquidation. No refund is allowed if total assets of the Corporation are less than 1% of the aggregate total of guaranteed shares, savings and deposits of all member credit unions. The Corporation is required to submit a plan of operation as prescribed in the act to the Department for approval on or before January 1, 1975, or the Department can promulgate the necessary rules after notice and hearing.

The powers and duties of the Department of Banking and Finance relating to insolvencies, examinations and certificate revocation are described, as well as the effect of paid claims upon the Corporation and receivers, liquidators or statutory successors to insolvent credit unions. The duties of the Corporation, its directors and the Department are set out with respect to the detection and

prevention of credit union insolvencies and liquidations. The Corporation is subject to annual examination by the Department and is required to submit a financial report each year. Immunity is provided from suit against any member credit union, the Corporation and its officers and employees, the Interim Board of Directors, the Department or its representatives, except in the case of willful, wanton or fraudulent conduct.

Senate Bill 627 (Chapter 74-40) alters the current procedure for the destruction of credit union records to provide a retention limit of five years, except for ledger sheets or photographic or microphotographic copies of them which must be retained in an accesible location. The copying on film of all records is authorized and the provisions of the act are made applicable to federal credit unions operating in the state insofar as possible.

House Bill 3327 (Chapter 74-78) includes credit unions among those financial institutions which may establish payable-upon-death accounts, without regard to the powers retained by a settlor in an inter vivos trust.

Savings and loan associations are the subject of several bills enacted by the 1974 Session. Senate Bill 334 (Chapter 74-83) permits confidential books and records pertaining to the accounts and loans of savings associations to be made available for inspection or examination pursuant to legislative subpoena. The books and records so subpoenaed retain their confidential status while in the possession of a legislative body or committee and when returned to the source from which obtained. No member of the Legislature, member of a legislative body or committee, or other person may disclose or make public such records except in cases involving investigation of charges against any officer subject to impeachment. Violation of the provisions of this act is made a third degree felony. Senate Bill 335 (Chapter 74-84) makes these same provisions apply to banks and trust companies.

House Bill 3443 (Chapter 74-290) authorizes the changing of the name or location of a branch office of a savings and loan association upon application to and approval by the Department of Banking and Finance in accordance with procedures presently provided for with regard to home offices of said associations.

House Bill 3915 (Chapter 74-55) authorizes savings and loan associations to participate in real estate loans with approved Federal Housing Administration mortgagees and authorizes an increase in the percentage of assets which may be loaned outside of the primary lending area. The act requires associations to build up reserves to at least 5% of all savings accounts within a given period.

House Bill 3488 (Chapter 74-223) authorizes bank and trust companies to invest up to 10% of the unimpaired capital and surplus in a clearing corporation, while Committee Substitute for House Bill 2700 (Chapter 74-164) provides that state banks which offer secured and unsecured loans may not permit these loans to exceed 25% of the unimpaired capital and surplus of the lending bank. The latter act excludes first mortgages on the home of a borrower and increases secondary loan authorization for a home improvement loan to \$10,000.

Senate Bill 325 (Chapter 74-92) permits the investment of public, fiduciary, and insurance funds in notes, bonds, debentures, or similar obligations, consolidated or otherwise, issued by farm credit institutions under the federal Farm Credit Act of 1971.

The Mutual Trust Investment Company Act was enacted

into law as House Bill 2609 (Chapter 74-212), and authorizes three or more corporate fiduciaries, with the approval of the Department of Banking and Finance, to be organized and incorporated as a mutual trust investment company. In addition to requiring audits and financial reports each year, the act delineates who may purchase stock in the corporation and how investments may be made. The stock of such companies, issued and outstanding, shall not be subject to the intangible personal property tax provided the company pays the annual tax due on the intangibles it owns, but such stock shall be subject to the documentary stock tax provided that stock purchasers, upon redemption of such shares, are given a credit equal to the tax paid.

House Bill 972 (Chapter 74-278) provides that a securities dealer not a member of the Securities Investor Protection Corporation must post a bond running in favor of the Governor conditioned on compliance with applicable law. The act increases to \$50,000 the total liability which such a dealer may be required to undertake under the bond. The act authorizes a \$50,000 deposit with the Department of Banking and Finance in lieu of such a bond.

House Bill 3489 (Chapter 74-224) authorizes fiduciaries and custodians for fiduciaries to deposit

securities in a clearing corporation and provides procedures for such deposits and for transferring securities so deposited. It also authorizes certain fiduciaries and custodians for fiduciaries to deposit securities, for which the United States has guaranteed payment of the principal and interest, with a federal reserve bank. The act further provides procedures for such deposits and for transferring securities so deposited.

House Bill 3487 (Chapter 74-222) redefines a clearing corporation for purposes of regulation of investment securities in the Uniform Commercial Code to be a corporation in which at least 90% of its capital stock is held by one or more persons (not individuals) regulated by banking or insurance laws, or which is a registered investment broker or dealer, or which is a national securities exchange or association, and limits the amount of holdings for such person, unless a national securities exchange or association, to 20% of the corporation's capital stock. A clearing corporation is further defined to be one in which the remaining capital stock is held by individuals who purchased such stock on or prior to becoming directors in the minimum amount to qualify as directors.

Horse Racing, Dog Racing, Jai Alai, and Billiards

The statutory prohibition against a dog or horse racing licensee making contributions to a political party or political campaign is removed under the provisions of House Bill 2665 (Chapter 74-19).

Charity days at race tracks and jai alai frontons were the subject of several bills in the 1974 Session. House Bill 3531 (Chapter 74-350) authorizes a charity day for any track or fronton in St. Lucie County, the proceeds of which are to go to the Indian River Community College, and in Marion County the proceeds of said additional day are to be paid to Central Florida Community College.

House Bill 3573 (Chapter 74-268) authorizes the Board of Business Regulation to grant one additional day of racing for summer thoroughbred tracks to be paid to Florida State University for the intercollegiate athletic department.

House Bill 2931 (Chapter 74-349) authorizes the Florida Downs and Turf Club, Inc. to hold an additional charity day, 50% of the proceeds to go to the Hillsborough Community College and 50% to the St. Petersburg Junior College Alumni Association, Inc. to be used for scholarships.

Committee Substitute for House Bill 2848 (Chapter 74-331) authorizes the Board of Business Regulation to extend the time limitations for horse tracks in Hillsborough County for an additional third charity day, the proceeds of which will go to the Pasco-Hernando Community College.

House Bill 2627 (Chapter 74-330) authorizes an additional charity day for the Jefferson County Kennel Club and directs that 50% of the proceeds be paid to the Monticello Opera Company of Monticello.

House Bill 3759 (Chapter 74-269) authorizes a third charity day of racing at any track or fronton in Hillsborough County with the proceeds to go to the Brandon Cultural Center Civic Association.

House Bill 3281 (Chapter 74-266) authorizes an additional day of operation at the fronton in Palm Beach County for the benefit of the Civic Opera of Palm Beach.

Senate Bill 192 (Chapter 74-94) authorizes a third charity day at jai alai frontons in Seminole County with the charity proceeds thereby realized going to Florida Agricultural and Mechanical University.

Committee Substitute for Senate Bill 663 (Chapter 74-178) authorizes a quarter horse racing permit holder to substitute other races of other breeds of horses which

are registered with the International Arabian Horse Association, Appaloosa Horse Club, The Palomino Horse Breeders of America or the Jockey Club for no more than 50% of the quarter horse races daily. No more than three races daily may be comprised of thoroughbred horses registered with the Jockey Club, nor may any quarter horse racing permit holder substitute thoroughbred races while a thoroughbred horse race meet is in progress at a licensed thoroughbred track within fifty air miles. No substitute races comprised of thoroughbred horses registered with the Jockey Club are permitted from September 1 through January 5 of each racing year in any county where there are one or more licensed dog tracks conducting a race meet. The act is to have no bearing on the competitive award of matinee performances to jai alai frontons or dog tracks in opposition to substitute races of thoroughbred horses registered with the Jockey Club. Quarter horse or harness racing permit holders are to hold no more than twelve races per racing day.

House Bill 3428 (Chapter 74-267) authorizes any holder of a valid outstanding permit for greyhound dog racing, in a county in which there is only one such permit issued, to move the location of the permit without

county referendum to another location within a thirty mile radius within the county provided the move is approved by the Board of Business Regulation after a public hearing and does not conflict with county or municipal zoning regulations.

Committee Substitute for Senate Bill 727 (Chapter 74-97) exempts persons playing billiards in bona fide bowling establishments or frequenting such establishment, as defined by the act, from the age restrictions imposed on persons frequenting billiard parlors. The Division of Beverage of the Department of Business Regulation is made responsible for developing and issuing parental approval permits required for billiard parlors.

Public Health, Drugs, and Public Accommodations

Several bills designed to protect the public citizen of the state in the area of business regulation were enacted in the 1974 Session. Senate Bill 172 (Chapter 74-240) prohibits places of employment or places serving the public from making a charge for the use of any toilet required to be provided by the Division of Health.

Committee Substitute for House Bill 2802 (Chapter 74-108) authorizes the substitution of a less expensive

generic or brand name drug in lieu of a prescribed drug under certain circumstances. The act also requires pharmacies to post signs indicating that a less expensive drug may be available.

House Bill 3542 (Chapter 74-90) specifies that the label on medicinal drugs shall contain the name and place of business of the manufacturer of the finished dosage form of the drug, as defined by the act, and the name and place of business of the packer or distributor.

Senate Bill 38 (Chapter 74-27) removes the prohibition which prevents pharmacists or owners or employees of retail drug establishments from promoting by advertising drugs which require a prescription.

House Bill 3834 (Chapter 74-347) provides that public lodging establishments may not display signs containing statements or numbers which appear to relate to the room rates when in fact they do not.

Tourism

The tourist industry was the subject of two pieces of legislation in the 1974 Session. House Bill 3920 (Chapter 74-230) removes from the Division of Economic Development certain power and authority relative to

tourism and directs the Division of Tourism to conduct a Florida tourism promotional program. It creates a Florida Tourism Commission within the Division of Tourism of the Department of Commerce as well as a Tourism Advisory Council within the Division to aid in guiding and stimulating efficient and beneficial travel and leisure development in the state with consideration of Florida's future growth outlook.

House Bill 3095 (Chapter 74-392) authorizes a reserve emergency fund appropriation from the General Revenue Fund of \$300,000 to the Division of Tourism of the Department of Commerce to be used to adequately and truthfully inform the public regarding the current fuel and travel situation in Florida. The fund may be drawn upon during the present crisis, or until June 30, 1974, at which time any unexpended balance reverts to the General Revenue Fund.

Alcoholic Beverages

Senate Bill 475 (Chapter 74-96) authorizes the issuance of a liquor license to a state chartered nonprofit legal entity whose principle function is to manage the affairs of a symphony orchestra. Sales are restricted to the premises and allowed during the hours of an event under the auspices or authorization of the entity so licensed. Such licenses are not subject to quota or limitation.

Miscellaneous

Committee Substitute for House Bill 1543 (Chapter 74-196) extends the jurisdiction of the Public Service Commission over rural electric cooperatives and municipal electric utilities for specified purposes including systems and accounts classification, rate structures, the conservation of electric power within grids, the approval of territorial agreements among cooperatives and utilities, and the resolution of territorial disputes. The act also grants jurisdiction to the Commission to plan, maintain, and develop a coordinated electric power grid system for the state for the efficient utilization of electrical energy resources. The act grants the Commission the authority to require necessary reports and recommendations from all electrical utility companies to assure the development of adequate and reliable energy grids. The act also requires a utility rate structure study to be conducted by a joint select legislative committee.

House Bill 2894 (Chapter 74-165) creates the State Manpower Services Council Act which establishes a council within the Department of Commerce to develop overall state manpower policies to guide the use of state and federal resources for the overall growth of the state. The act

sets forth specific areas which the Council must address. The act further establishes regional manpower planning districts and advisory boards, and provides for their duties which include fulfilling the manpower requirements of the district pursuant to U. S. Department of Labor requirements, coordinating manpower planning with related social services, identifying regional needs, and developing a regional manpower plan to be submitted to the Council.

House Bill 3198 (Chapter 74-332) requires every charitable organization which intends to solicit contributions to file with the Department of State a registration statement including, in addition to other required information, a copy of a financial statement, audited by an independent public accountant, which covers complete disclosure of all the fiscal activities of the charitable organization during preceding years. Bona fide religious organizations, as defined in the act, are excluded. A registration fee of \$50 is required of all charitable organizations. For all professional solicitors an annual registration fee of \$500 is established. The act prohibits any person who has been convicted within the past five years for a violation of the Solicitation of Charitable Funds Act from being registered as a professional solicitor

or from serving as an employee of a professional solicitor, and requires certification of every employee of a professional solicitor. The act prohibits the use of the word "charity" or "charitable" by unlicensed persons, and prohibits the unauthorized use of the word "POLICE." It also prohibits telephone solicitations by a professional solicitor, and limits his total fee to 25% of the gross contributions solicited. All fund raising costs are to be included in such gross contributions.

House Bill 2724 (Chapter 74-136) makes it a first degree misdemeanor to steal or embezzle a trade secret, as defined by the act, with the intent of depriving the owner of its control or to appropriate it to the use of another.

Senate Bill 937 (Chapter 74-70) provides that any corporation may merge, under the provisions of the corporation not for profit statutes, with a nonprofit corporation so long as the nonprofit corporation is the survivor.

Senate Bill 491 (Chapter 74-33) authorizes rural electric cooperatives, in their bylaws, to provide a fixed fee and expenses for members of the governing board for the conduct of cooperative business other than board meetings, provided it has prior approval of the board.

Committee Substitute for House Bill 1485 (Chapter

74-131) authorizes chartered counties to regulate and license for hire passenger motor vehicles within unincorporated areas and within certain municipalities. The act requires such counties to prescribe uniform rates and charges as well as set minimum standards. The act limits the number of for hire vehicles to one per 1,000 residents of the county for a three-year period and then authorizes the county to set a maximum number.

Senate Bill 34 (Chapter 74-80) provides for the issuance of permanent permit tags for outdoor advertising structures, signs, or advertisements located along any federal aid primary highway or Interstate Highway within any incorporated city or town. The Department of Transportation is to issue such tags without charge. Provision is made for an additional charge of \$1 per advertising structure above the regular permit fee based on the size of the structure. Permits not renewed or returned are to be accounted for on an affidavit form furnished by the Department. Permit tags issued for use in 1974 and thereafter shall be considered permanent permit tags and shall be maintained on the structure until returned to the Department for cancellation. The owner is required to affix his name or that of the lessee to the front of the outdoor advertising structures, signs, or advertisements.

CONSTITUTIONAL AMENDMENTS

Four joint resolutions proposing amendments to the state constitution were adopted by the 1974 Regular Session of the Florida Legislature for submission to the electorate at the November 1974 General Election.

Senate Joint Resolution 917 proposes an amendment to Section 2 of Article I of the Florida Constitution, relating to basic rights of citizens, to provide that no person shall be discriminated against because of a physical handicap.

Committee Substitute for House Joint Resolutions 2289 and 2984 proposes an amendment to Section 9 of Article XII of the Constitution of Florida to extend the earmarking of the gross receipts tax on utilities to the year 2025, and permit the issuance of bonds pledging the full faith and credit of the State without a referendum up to the amount that can be serviced from 90% of the utilities tax. Funds not needed to service or refund existing bonds shall be used for capital outlay projects for universities, junior colleges, vocational technical schools and public schools, provided such projects have been authorized by the Legislature.

Committee Substitute for House Joint Resolution 3522 proposes an amendment to Section 9 of Article XII of the Constitution to extend the earmarking of the "second gas tax" of two cents per gallon to January 1, 2025, and to broaden the purposes for which the funds may be used from roads and bridges to other transportation facilities including terminals. It also permits the pledging of other revenues to secure and service the bonds.

Conference Committee Report on House Joint Resolution 3911 proposes an amendment to Section 12 of Article V of the Florida Constitution to permit the Judicial Qualifications Commission to investigate and recommend to the Supreme Court the removal or reprimand of any justice or judge whose conduct, during term of office or otherwise occurring on or after November 1, 1966, demonstrates unfitness to hold office or warrants a reprimand. Procedures are provided for the removal of Commission members, the adoption of rules and the appointment of a new Commission. Policies on the confidentiality of Commission proceedings and information are established.

COURTS AND CIVIL LAW, ACTIONS AND PROCEDURES*

COURTS

The recent implementation of Article V, Constitution of the State of Florida, left little to be done in the area of courts except the annual consideration of the recommendations of the Supreme Court as to a need for the increase or decrease in the number of judges. No new circuit judge positions were recommended but the assignment of qualified county judges to circuit courts is believed to be adequate.

Circuit and County Courts

House Bill 1911 (Chapter 74-209) divests the Circuit Court of exclusive original jurisdiction in actions involving right of possession of real property and vests in the County Court jurisdiction of such actions and of actions relating to forcible or unlawful detention of lands and tenements.

Senate Bill 1120 (Chapter 74-154) authorizes the financing of legal aid programs through service charges in excess of the statutory filing fee for instituting a civil action in the circuit or county court, if such

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Senate Legislative Services

Civil Law, Actions and Procedures prepared by
Jane Harris, Attorney, Senate Legislative Services

service charge is imposed by county ordinance or by special or local law.

House Bill 3063 (Chapter 74-217) authorizes the Chief Justice of the Supreme Court, upon recommendation of the Chief Judge of the Circuit, to assign, on a temporary basis, a county court judge to preside over circuit court cases in counties where there is no resident circuit judge. A county court judge so assigned must have the same qualifications as a circuit judge, and for the period of his assignment he shall receive the same salary as a circuit judge. He may be assigned to exercise all circuit court jurisdiction in his county except appeals from the county court, or he may be assigned by the chief judge of the circuit to perform circuit court duties in other counties as his time permits and need arises.

In accordance with the recommendations of the Supreme Court, the Legislature in House Bill 3966 (Chapter 74-306) increased the number of county court judges by authorizing one additional judge for each of two counties, Duval and Bay. The sum of \$92,488 was appropriated for their salaries and expenses.

Traffic Courts

Senate Bill 105 (Chapter 74-335) requires the clerk

of the court which tried a moving traffic violation, or a case involving parking on a roadway outside municipal limits, to report, within ten days, the final judicial disposition to the Department of Highway Safety and Motor Vehicles by Uniform Traffic Ticket.

Jury and Jurors

Senate Bill 240 (Chapter 74-38) grants a presiding judge discretionary authority to exempt a practicing physician from jury duty.

CIVIL LAW, ACTIONS AND PROCEDURES

The major changes made by the 1974 Legislature in the civil law of Florida are to be found in House Bill 4050 (Chapter 74-106) which substantially revises three areas of the law: decedent's estates, trusts and guardianships. The impact of these changes, however, will not be immediate in that this law has a delayed effective date of July 1, 1975. Of more immediate and perhaps far-reaching impact is the revision of limitations of action made by Committee Substitute for House Bill 895 (Chapter 74-382) which goes into effect on January 1, 1975, and which cuts across all areas of the civil law, in many

instances greatly reducing periods of limitation. Significant also are the extension of the waiver of sovereign immunity in tort actions to encompass the acts and omissions of agents and the advancement of the waiver's effective date to July 1, 1974, with respect to executive departments.

Claims Against the State

House Bill 4016 (Chapter 74-235) advances the effective date for waiver of sovereign immunity from January 1, 1975, to July 1, 1974, for the "executive departments of the state" only. For other agencies and subdivisions, the effective date is January 1, 1975. The authorization for submission for administrative settlement of any claim not exceeding \$1,000 was repealed. Agents of the state or its subdivisions were included among those persons not personally liable for damages suffered for acts or omissions within the scope of their employment or function, except those committed in bad faith, maliciously or wantonly. However, personal judgments rendered against a state officer, employee or agent for acts or omissions within the scope of his employment or function will be paid by the state, subject to the same monetary limitations as exist for claims

against the state.

The act authorizes the Department of Health and Rehabilitative Services to compensate, in the full amount of the judgment, any officer, employee or agent who has been held personally liable in a civil action arising as a result of an act or omission within the scope of his employment or function.

The general liability and fleet automotive liability insurance coverages under the Florida Casualty Insurance Risk Management Trust Fund, which already apply to "all departments of the State", are extended to cover departmental employees, agents and "other authorized persons". The prohibition against the Fund covering any medical malpractice liability is amended to prohibit only professional medical liability coverage for physicians, officers, employees or agents of the Board of Regents. In addition, claim files maintained by the Division of Risk Management of the Department of Insurance are made confidential.

Constructive Service of Process

The law relating to constructive service of process by publication was amended by House Bill 3967 (Chapter

74-152) to provide that posting of notices of action on behalf of insolvent and poverty-stricken persons constitutes "publication" in dissolution or annulment of marriage proceedings, adoption proceedings, or proceedings in which personal service is not required. The clerk of the court must post these notices at least 28 days before the return date of notice in three conspicuous places in the county, including the courthouse door.

Eminent Domain

Conference Committee Report on Committee Substitute for Senate Bill 79 (Chapter 74-174) requires persons or entities holding real property in general or limited partnerships, corporations, trusts, or any form of representative capacity to make, under oath, a written public disclosure of every person having a beneficial interest in the property before it is sold or leased, taken by eminent domain, or otherwise conveyed to any state or local governmental unit or agency. The acquiring unit or agency must send advance written notice of the disclosure requirement by registered mail, and the disclosure must be made to the chief officer of the unit or agency or to his designee at least 10 days prior to the transaction's closing or, in eminent domain cases, within 48 hours after notice by registered or certified mail of

the required deposit in the court registry. Persons or entities, other than public officers or employees, holding real property in a trust created more than three years prior to the required deposit in the court registry, are exempt if they certify, within 48 hours after the deposit, that no public officer or employee has any beneficial interest in the trust, and if they disclose any changes in the trust instrument or persons having beneficial interests in the trust which have occurred within the three-year period. In addition, disclosure need not be made of persons having less than a 5% "vested, noncontingent" beneficial interest in a trust. Also exempt from the act is stock in public corporations registered with the Federal Securities and Exchange Commission or pursuant to the state Sale of Securities Law.

House Bill 1716 (Chapter 74-47) provides that the right of a railroad or canal company to condemn land for terminal facilities is subordinate to the local government's exercise of eminent domain.

Estates, Trusts and Guardianships

Florida law pertaining to decedent's estates, trusts and guardianships is substantially revised by House Bill 4050 (Chapter 74-106). The revision will not

take effect until July 1, 1975, and substantive rights that vest prior to that date are to be determined under present law, but procedures for enforcement of such rights are to be determined under the new law.

Section 3 of this act repeals the entire Florida Guardianship Law and the entire Florida Probate Law. Also repealed is the law which relates to administration unnecessary in small estates, and miscellaneous probate provisions which include the Uniform Simultaneous Death Law and the Uniform Anatomical Gift Act. In addition, the Trust Accounting Law, the Uniform Principal and Income Law, the Uniform Trust Administration Law, and the Charitable Trust Act are repealed.

The law creates the Florida Probate Code, the Trust Administration Law, the Florida Guardianship Law, and provides for the recording and custody of probate records.

Because the revision is accomplished by repeal of existing statutes and creation of new ones, no statutes being amended either by coding or substantial rewording, it is difficult to compare the new law with present law to determine the nature and extent of changes. Although in a number of instances it appears that existing provisions are simply reworded or reenacted under new section

numbers, many provisions are greatly changed and others are entirely new. For this reason, and because of the tremendous importance of the subject matter, it is recommended to attorneys that the law itself be examined to determine the nature and extent of the changes, both procedural and substantive. A few examples of provisions that are new or that have been greatly altered are as follows:

With respect to the order of intestate succession, whereas present law provides that an intestate estate descends to the surviving spouse and lineal descendants, with the surviving spouse taking a child's share, the new law provides that \$20,000 plus 1/2 the balance of the estate descends to the surviving spouse if all of the surviving lineal descendants are also lineal descendants of the surviving spouse, but if one or more are not lineal descendants of the surviving spouse, then 1/2 the estate descends to the surviving spouse.

Another example of a substantive change is that dower and curtesy are abolished. However, such rights are replaced by provision for the right of the surviving spouse to elect a 1/3 share of the "net distributable estate", i.e., the assets of the estate after payment of

taxes, claims, family allowances, exempt property, and expenses of administration.

Other examples are the requirement that all wills be in writing, neither nuncupative nor holographic wills being recognized; and the procedure established for "family administration" of a decedent's estate when the heirs at law, or beneficiaries under the will, consist solely of a surviving spouse or lineal descendants or both, the value of the estate is under \$60,000, and the will, if any, does not direct otherwise.

One example with respect to trusts is the new provision that permits the trustee of a trust having its principal place of administration in this state to register the trust with the circuit court clerk in the county of the principal place of administration, but mandates the trustee to register the trust if required by the trust instrument or requested by any beneficiary. By registering the trust, or accepting the trusteeship of a registered trust, the trustee submits personally to the jurisdiction of the court in any proceeding concerning the administration and distribution of the trust.

Examples pertaining to guardianships are the new provisions that permit a "limited" guardianship to be

established for the administration of an incompetent's property other than wages or earnings, and the appointment of a "standby" guardian to assume office upon the death or adjudication of incompetency of the last surviving parent of an incompetent.

House Bill 3327 (Chapter 74-78) enables credit unions to establish accounts payable-upon-death or adjudication of incompetency.

The University of South Florida School of Medicine is added by House Bill 729 (Chapter 74-127) to the list of medical schools from which a licensed funeral director may obtain a certificate of competence in eye enucleation to qualify him to remove from dead persons eyes that are intended as gifts.

Estrays

Certain civil remedies in cases of stray studhorses and asses are repealed by House Bill 812 (Chapter 74-23).

Garnishment

Senate Bill 264 (Chapter 74-98) requires a bank or other financial institution authorized to accept deposits to provide the name and address of the defendant, if known, in its answer to a writ of garnishment. Within

five days of the service of the answer on him, the plaintiff is required to serve the defendant, by delivery or mail, notice of the writ and the garnishee's answer and to "file in the proceeding a certificate of such service at the address of the defendant as shown on the records of the bank."

Guardianships See: Estates, Trusts and Guardianships, above.

Gifts to Minors

Senate Bill 245 (Chapter 74-31), relating to the Florida Gifts to Minors Act, redefines the term "adult" to mean a person who has attained the age of eighteen, and the term "minor" to mean a person who has not attained the age of eighteen. However, gifts made prior to July 1, 1973, to persons not twenty-one years old prior to July 1, 1973, are not to be paid by the custodian until the recipient reaches twenty-one years of age, or to his estate if he dies prior to attaining twenty-one years of age.

House Bill 3318 (Chapter 74-142) recognizes a credit union as an authorized financial institution under the Florida Gift to Minors Act.

Landlord and Tenant - Residential

The term "security deposits" is defined by House Bill 3551 (Chapter 74-143) to mean any moneys held by a landlord as security for performance of the rental agreement, including damages caused by the tenant's breach of lease.

Committee Substitute for House Bill 3734 (Chapter 74-93) requires a tenant to give at least seven days' notice by certified mail to the landlord before vacating or abandoning the premises if he holds as tenant at will or if he vacates before the expiration of the term of a written lease, unless the lease provides otherwise. Failure to give such notice relieves the landlord of the fifteen day requirement for returning the security deposit or giving notice of intention to impose a claim on the deposit.

House Bill 3667 (Chapter 74-146) requires the court to advance on its calendar any action for removal of a tenant, for adjudication of rights to the security deposit, or action involving the landlord's application for disbursement of funds deposited into the court registry.

Senate Bill 165 (Chapter 74-12) prohibits mobile home parks from charging entrance or exit fees, except

those directly incurred in placing a mobile home on or removing it from a park site. Such fee shall be clearly identified in writing at the time of execution of the rental agreement. An agreement to split fees between the mobile home park owner, operator or any mobile home dealer is made a second degree misdemeanor. The law also grants to mobile home owners the same right to sell a mobile home within a park as exists for a mobile home park resident.

Legal and Official Advertisements

House Bill 3475 (Chapter 74-221) requires legal notices to be published in newspapers which have been in existence for one year. It deletes the requirement that the newspaper shall have been published at least once a week for one year.

Limitations of Actions

The law relating to limitations of actions is substantially revised by Committee Substitute for House Bill 895 (Chapter 74-382). This act, which is of great importance to attorneys in protecting the interests of their clients, becomes effective on January 1, 1975, but actions in existence at that time, if they would be barred by this act, may be brought before January 1, 1976.

The applicability of the law is expanded to include, within the general limitations, civil actions brought by the state, political subdivisions, public bodies or public officers. The statute of limitations runs from the time the last element constituting the cause of action occurs and is tolled by absence from the state, use of a false name unknown to the person entitled to sue, or by concealment in the state, except in cases in which service of process or service by publication can confer jurisdiction. The statute is also tolled by voluntary payments by the alleged father in paternity actions during the time of the payments or by the adjudicated incompetency of the person entitled to sue before the cause of action accrued, but in no event for more than seven years. Only provisions of this act and of the Florida Probate Law and the Florida Guardianship Law can toll a statute of limitations.

The limitation periods have in many cases been reduced. For example: The distinction between written contracts under seal and those not under seal is eliminated and the statute of limitations for all written contracts is set at five years. The seven year limitation on actions on judgments or decrees of U. S. courts, courts of other states, territories, and of foreign governments is reduced to five years.

Other types of substantive changes have been made. One example involves adverse possession of real property without color of title. The reference to an "occupant" is retained in "actual continued occupation" of the property for seven years, but the definition of the term "occupation" and all references to adverse possession without color of title is deleted. Another example is the provision that when a person contracts to purchase real property before July 1, 1972, and the final maturity of the obligation is not ascertainable from the record of the contract, or when a person takes an assignment of such a contract, such person shall have no interest in the property, and the record of the contract or assignment will no longer constitute actual or constructive notice, unless a deed or judgment recognizing the interest has been recorded or the person is in actual possession. A new section provides for limitations on delinquent taxes and tax liens. In addition, this law appears to permit the application of the doctrine of laches only within the limitation period for legal actions concerning the same subject, but thereafter the assertion of the defense operates as a mandatory bar without proof of the major elements of the defense.

This act also amends a number of sections in other chapters of the Florida Statutes.

Marriage

Committee Substitute for House Bill 671 (Chapter 74-372) authorizes the Clerk of the Circuit Court to issue marriage licenses in the same manner and subject to the same statutory provisions and restrictions as the County Court Judge when performing this duty. The total marriage license fee remains at five dollars, but the Clerk and the County Court Judge are required to transmit monthly \$3, instead of \$2.75, to the Bureau of Vital Statistics. Section 2 of this act repeals Senate Bill 321 (Chapter 74-3) which granted the authority to issue marriage licenses to the "Clerk of the County Court."

Powers of Attorney

Senate Bill 276 (Chapter 74-245) authorizes the creation of a "durable family power of attorney" by which the principal may designate his spouse, parent or child as his attorney-in-fact. The designation must be in writing, state the relationship of the parties, and include specific language showing the intent that the power conferred is exercisable notwithstanding a later disability or incapacity

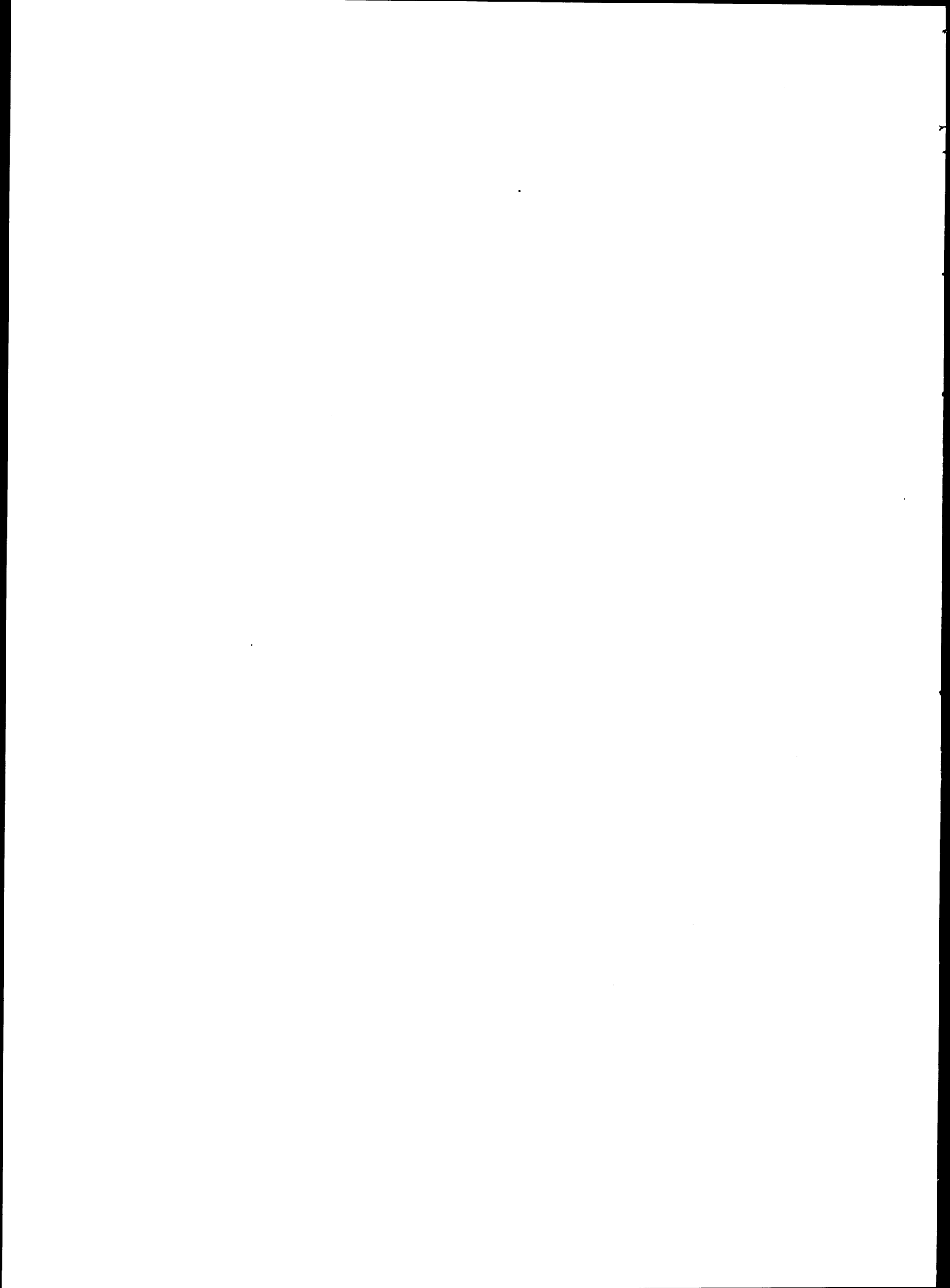
of the principal "unless otherwise provided by statute."
Acts performed under such power while the principal suffers a disability or incapacity have the same binding effect as if the principal were competent. This power of attorney is "nondelegable" and is valid until the "donor" dies, revokes it or is adjudged incompetent. However, it is temporarily suspended if a petition to determine the competency of or to appoint a guardian for the "donor" is filed, but is reinstated upon the petition's dismissal, withdrawal, or adjudication that the "donor" is competent. Notice of petition is required to all known "donees" of the power. If an emergency arises during the period of suspension, the "donee" may petition the court for permission to exercise the power.

Trusts See: Estates, Trusts and Guardianships, above.

Usury

House Bill 3955 (Chapter 74-232) provides that for the purposes of the interest and usury statutes, the rate of interest on any loan shall be computed upon the assumption that the debt will be paid according to the agreed terms whether or not it is collected by a court action prior to the loan term. Any property taken as an advance

or forbearance, which is taken into account in the calculation of interest, shall be valued as of the date received. The criteria for determining if a loan exceeds \$500,000 is specified, but interest on such a loan shall not include the value of property taken as an advance or forbearance, the value of which substantially depends upon the success of the venture for which the proceeds are used. Obligations which exceed \$500,000 are exempt from the statutory provisions fixing the maximum liability for interest of corporations and individuals secondarily liable on corporate obligations.



EDUCATION*

The amount of school legislation in 1974 may be surprising in view of all that was passed the previous year. In 1973, with the two year study by the Governor's Citizens' Committee on Education, the Legislature replaced the Minimum Foundation Program with the Florida Education Finance Program. This substituted full-time equivalent students for instruction units. The FEFP equalized most of the school funds among districts and repealed many features such as salary schedules, leaving these decisions to the district school boards. The state also assumed the burden of school construction in 1973. The 1974 enactments are concerned mainly with extending and clarifying these objectives and provisions.

PUBLIC SCHOOLS

School Funding: Florida Education Finance Program

Conference Committee Report on Committee Substitute for House Bill 3692 (Chapter 74-227) amends the Florida Education Finance Program. The base student cost is fixed at \$745.00. This, with the other computations, results in total state school funds for operations at \$1,015,365,000 for the 1974-75

* Prepared by Dr. Arthur L. Cunkle,
House Bill Drafting Service

year, as compared to \$830,000,000 for the 1973-74. The required local contribution for 1974-75 was set at \$487,400,000, an increase of \$163,400,000 over the 1973-74. The school millage was reduced to eight mills and it is estimated that with higher assessments this levy will yield \$563 million, or \$10 million more than 10 mills produced this year. The hold harmless clause guarantees that each school district will get in total funds per full-time equivalent (FTE) at least 10% more than in the current year.

A controversial change was the deletion of the permanent formula for the required local effort, so the Legislature must determine the state and local shares for succeeding years. The ad valorem tax equalization feature was repealed, together with the replacement funds for the additional homestead exemption. With all but 13 or 14% of local revenues in the required local effort, these two state features are now part of the total state share. The cost-of-living factors were renamed the district cost differentials and the factors were changed. The compensatory education supplement was also omitted for the coming year.

This act incorporates the provisions of Senate Bill 609 (Chapter 74-14) which provide for excluding portions of the tax roll under litigation from the determination of the required school district local effort, and for adjustments after final adjudication.

House Bill 3692 further directs the Department of Education to review all programs for exceptional and vocational students. It fixes the maximum FTE's as 152,409 in the first category and 305,835 in the second.

The maximum interest rate on current loans made by school boards is raised from 6 to 7.5%. Provision is made for recomputing amounts in the comprehensive school construction and debt service program and reallocating the changed funds.

The requirements of cost reporting under the comprehensive system are changed to require the districts to report their spending by program categories during the next year and in 1975-76 to spend at least 70% of the funds where generated, and 80% the following year.

There are a number of changes in the Teacher Education Center Act of 1973. The objectives were restated, and to the membership of the state council is added a principal and another teacher. The relationship

of the universities to the centers is tightened. Ten centers are authorized for the coming year. Five dollars per FTE is designated for funding in-service training.

The Department of Education is directed to establish 16 regional diagnostic and research centers for testing and identifying children with disabilities. By 1976 all children entering kindergarten are to be tested. The centers are to hold workshops with all instructional personnel. They are to provide testing for children not in the public schools for reasonable fees. The duties of the Department, the state coordinator and the center directors are detailed. The centers are to coordinate and supplement the various services for aiding children.

School Textbooks and Instructional Materials

Committee Substitute for Senate Bill 492 (Chapter 74-337) renames state textbooks as instructional materials and gives to the school districts the legal title to the materials. The organization, duties and responsibilities of the state instructional materials councils are amended, and the district superintendents are directed to requisition materials and to control their distribution and storage.

Funds collected for lost, sold or destroyed books are to go into the district fund, and unused amounts may be carried over. Guidelines for the evaluation of materials and relationship between members of the state and district councils and publishers and manufacturers are established. Certain acts are prohibited and penalties are provided for violations. Contracts for materials are regulated and reduced from 5 to 4 years, with a 2 year renewal.

The educational research and development program is to be administered by a Director of Research and Development under the Commissioner of Education, and the board of governors is abolished. The Commissioner is required annually to submit a two year program with a report on the current year. The duties of the director and the board of advisors are set forth, and two legislators are added to the board.

Accountability

Conference Committee Report on House Bill 1145 (Chapter 74-205) amends the Educational Accountability Act to require that procedures in Florida shall be comparable to national systems and indicators. All third and six graders are to be tested by the 1974-75 school year and all third through six

graders the following year in the basic areas of reading, writing and mathematics. Annual reports of school progress are to include an interpretation of the test results.

Early Childhood Education

Committee Substitute for Senate Bill 96 (Chapter 74-238) expresses the legislative intent to restructure early childhood education in Florida so that each child after the third grade will have acquired the basic skills to continue his education. Each school district is required to include a plan for early childhood education in its 1976-77 comprehensive plan, and various objectives and strategies are set forth.

The school attendance law is modified to provide that a child who is 6 years by January 1 may enter the first grade at any time during the school year, in schools with annual promotions. For schools on the semester plan, a child who is at least 5 years and 11 months on the first day may enter any time during the semester. A child who is 6 after January 1 may be admitted any time during the first month of the year to schools with annual promotions, provided he has demonstrated readiness. For schools on the semester plan, a

child demonstrating readiness need only be 5 years and 6 months on opening day to be admitted during the first two weeks of the semester. The Department of Education is to assist the districts in planning during the next year.

Consumer Education

Committee Substitute for Senate Bill 77 (Chapter 74-173) requires the public schools to conduct a consumer education and free enterprise program for all students, and it directs the Department of Education to develop materials, coordinate the efforts and provide in-service training. The Commissioner is directed to make annual reports on the effectiveness of the program.

Community School Program

Senate Bill 887 (Chapter 74-364) extends the community school program to recreational, cultural, social, health and other shared needs, and other local governmental agencies are included. School districts are authorized to acquire property for community programs, jointly with other governmental bodies, and to use school property for these programs.

Driver Education

House Bill 2591 (Chapter 74-339) repeals the requirement that students enrolling in driver education must have a physical examination.

Sick Leave

Senate Bill 80 (Chapter 74-81) permits instructional staff of public schools to be credited with four days of sick leave on the first day of employment of each contract year and to earn additional sick leave at the rate of one day for each month of employment. No limit is placed upon the total number of days of sick leave a member may accrue over a period of years. School boards are authorized to permit paid absences of two days per school year for personal reasons as well as for emergencies, all of which are charged to sick leave. Terminal pay is to be based on the daily rate of pay at time of retirement or death times one-half of the total number of accumulated sick leave days or sixty days, whichever is less. This benefit is not authorized for non-instructional personnel where retirement is for disability. This exclusion already applies to instructional personnel.

Principals

House Bill 1199 (Chapter 74-315) requires the school boards to employ principals under written contracts and specifies their duties.

Conference Committee Report on Committee Substitute for House Bill 157 (Chapter 74-351) transfers principals and supervisors from the definition of "instructional personnel" to "administrative personnel," and changes their continuing contract status. Supervisors and principals may receive contracts for three years, subject to renewal, which must contain provisions for dismissal only for just cause. Members of the instructional staff with continuing contracts who become supervisors and principals shall have this status retained and may return to it. School boards may enter into continuing contracts with presently employed supervisors and principals until 1977.

District Superintendent

House Bill 1174 (Chapter 74-45) permits the district school superintendent to locate his office anywhere in his school district rather than requiring it to be situated at the county seat.

Committee Substitute for House Bill 2263 (Chapter 74-353) provides that as of October 1, 1973, no county school superintendent shall have a decrease in gross salary as a result of the implementation of the salary schedule provided in Section 145.08(1), Florida Statutes 1973.

School Safety and Health

Committee Substitute for House Bill 1782 (Chapter 74-132) requires that school bus routes shall be planned to eliminate children standing on moving buses. When standing cannot be avoided buses must reduce speed and only one child per handhold is permitted. School districts are to study the cost of removing hazardous conditions within the two-mile limit.

House Bill 3536 (Chapter 74-63) provides that all flags, belts, apparel and devices furnished to pupils or persons acting in the capacity of school traffic safety patrols, or special traffic police at schools, shall be made from retro-reflective and fluorescent materials visible both day and night at three hundred feet to motorists using lawful low beam headlights.

Committee Substitute for House Bills 3208 and 3166 (Chapter 74-356), the School Health Services Act, is summarized in the article on PUBLIC HEALTH AND REHABILITATIVE SERVICES; and school health and safety standards are mandated in Committee Substitute for House Bill 4026 (Chapter 74-374) which is summarized below under the topic "School Buildings and Facilities."

Commissioner and State Board of Education

Senate Bill 1068 (Chapter 74-263) authorizes the Commissioner of Education, with approval of the State Board of Education, to reorganize the Department of Education to promote more efficient operation. The Commissioner is also authorized to suspend the requirement of written reports for the period July 1, 1974 until June 30, 1975 from schools or agencies.

House Bill 3371 (Chapter 74-345) authorizes the State Board of Education to issue \$117,000,000 in bonds during the 1973-75 biennium.

School Buildings and Facilities

Committee Substitute for House Bill 4026 (Chapter 74-374), "The Murray H. Dubbin Act," creates the Office

of Educational Facilities Construction to be headed by an associate commissioner of education, and directs the Commissioner to transfer to this Office the various building functions of his department. The duties and responsibilities of the Office are prescribed, including the development of a uniform building code. All local and special laws not in conformance are repealed, and all construction must conform in the future. The Office will be the state agency for planning, designing, financing and approving all school construction, pursuant to rules and regulations adopted by the State Board of Education. Sidewalks, bicycle trails and community centers are included in the plans.

School safety is emphasized and given top priority. Annual inspections are required, and any state or local inspection agency may require that hazards be corrected. The Office is directed to prescribe health and safety standards.

The State Board is directed to provide criteria for school plants including prototype designs and guidelines for construction and financing. Included are facilities that can be converted into community service areas if enrollments decline. The Office is to provide systems-based modular relocatable facilities

where the population is unstable, under prescribed criteria. Annual revision of prototype criteria is required.

School boards are prohibited from constructing any school project without written approval of the Office, except where the cost is no more than \$25,000 (\$10,000 for instruction space). Schools may include fall-out shelters and receive free assistance from the Department of Community Affairs. School boards may negotiate contracts for repairs or renovation. School construction contracts are exempt from the prevailing wage requirements, but are brought under the Davis-Bacon Act if 25% or more of the money comes from federal funds.

School boards are required to submit annually school construction plans to the Department, and the Office of Educational Facilities Construction shall submit a combined report to the Commissioner who shall submit his report to the State Board. The Board shall submit this with its request for funds to the Legislature.

COMMUNITY COLLEGES AND VOCATIONAL-TECHNICAL CENTERS

Capital Outlay

House Bill 3372 (Chapter 74-359) authorizes the expenditures for capital outlay projects of \$31,648,700

at community colleges, \$24,689,300 at vocational-technical centers and \$26,512,000 at the state universities. The State Board of Education is authorized to allocate the funds from bonds backed by the gross receipts tax on utilities among the named projects as the money becomes available.

Credit Cards and Student Activity Fees

House Bill 2892 (Chapter 74-312) authorizes the state universities and community colleges to accept credit cards in payment for goods, services, tuition and fees, provided that no discount is given and no service charge assessed. The state universities are authorized to collect a student activity fee which shall be used for student publications and activities, but not for events charging an admission except for inter-collegiate athletics. The expenditure of funds is to be determined by the student government associations, but with the appropriate university president having the power to veto line items.

Transportation and Financing

House Bill 3757 (Chapter 74-293) adopts new procedures for determining the transportation density

index and allotment, and the total allocation of funds for the community colleges. The transportation index now used for the public schools replaces transportation units and the transportation of students between college centers is included in total miles. The use for operating purposes of motor vehicle license funds not required for capital outlay purposes is authorized, but they are deducted from the allocation for operating expenses.

Allocations for current operations are now based on full-time equivalent enrollments determined by the Department of Education, and adjusted in the succeeding year by actual costs and enrollments. Community colleges are directed to maintain an unencumbered fund balance of 6 to 10% of the current budget.

Veterans

House Bill 2621 (Chapter 74-61) includes the community college system among those State institutions where eligible veterans are granted an additional 60 days in which to pay registration fees, provided that the extension does not exceed the term for which they are registered.

Committee Substitute for House Bill 2235 (Chapter 74-211) removes the fixed limitations on the payment of college fees for the children of deceased and disabled veterans, and provides that no student shall receive more than tuition and registration fees.

House Bill 1990 (Chapter 74-210) requires state supported vocational training centers to give veterans of the Southeast Asia conflict preference for admission, as though they had been placed on the list 36 months previously, and urges private schools to give them admission preferences.

HIGHER EDUCATION

A number of new laws affect the state universities as well as the Community Colleges. These include: House Bill 3372 (Chapter 74-359), capital outlay projects; House Bill 2892 (Chapter 74-312), credit cards and student activity fees; and Committee Substitute for House Bill 2235 (Chapter 74-211), tuition for veterans' children. See the section above on COMMUNITY COLLEGES for these.

School of Optometry

Committee Substitute for Committee Substitute for Senate Bill 364 (Chapter 74-156) directs the Board of

Regents to establish a school of optometry in the state university system within the next biennium. The school is to be in conjunction with an existing accredited college of medicine and must meet accreditation standards of the American Optometric Association.

Patents and Copyrights

House Bill 3942 (Chapter 74-304) authorizes the Board of Regents to enter into binding agreements with university personnel concerning the division of ownership of trademarks, patents and copyrights between the personnel and the Board. The Board's proceeds are to go into the Permanent Sponsored Research Fund. Any action taken by the Board in securing or exploiting such trademarks, patents or copyrights shall be reported in writing by the Board's secretary to the Trustees of the Internal Improvement Trust Fund within 30 days.

Continuing Education

House Bill 2862 (Chapter 74-319) directs the Board of Regents to establish and operate a continuing education center for training and research in environmental occupations in order to assist utilities in meeting legal standards for water and waste treatment. The Board may

cooperate with utilities and governmental units and may accept federal or other funds. The appropriation for this center is \$1,348,280.

Committee Substitute for House Bill 3732 (Chapter 74-105) directs all boards and commissions regulated by the Department of Professional and Occupational Regulation, in conjunction with the Department of Education, to offer certain continuing education programs upon request of at least five applicants who have lawfully practiced their profession prior to July 1, 1974, in a foreign country. (A summary of this act can be found in the article on BUSINESS REGULATION AND COMMERCE.)

Miscellaneous

House Bill 3614 (Chapter 74-145) authorizes the renewal of a medical faculty certificate for one year if the holder has taken the appropriate examination and receives the recommendation of the dean of the medical school. A limit of two such renewals is provided.

Senate Bill 642 (Chapter 74-184) appropriates \$4,500,000 for the construction of parking facilities at the J. Hillis Miller Health Center at the University of Florida. The Board of Regents is required to develop a plan of rental fees that will recover costs.

House Bill 3190 (Chapter 74-402) directs the Board of Regents to name the library building at Florida Atlantic University the "Stanley E. Wimberly Memorial Library."

House Bill 3672 (Chapter 74-399) directs the Board of Regents to name the union complex at Florida State University the "Roscoe R. Oglesby Union."

DEAF AND BLIND SCHOOL

House Bill 1837 (Chapter 74-159) requires that there shall be one blind and one deaf person on the Board of Trustees for the Florida School for the Deaf and the Blind.

Senate Bill 1091 (Chapter 74-86) directs the Board of Trustees of the Florida School for the Deaf and Blind to designate a portion of the school as "The Verle Allyn Pope Complex for the Deaf," in tribute to the late Senator Pope.

PRIVATE POST-SECONDARY SCHOOLS

Committee Substitute for Senate Bill 56 (Chapter 74-360) establishes a State Board of Independent Post-Secondary Vocational, Technical, Trade and Business Schools of nine members appointed by the Governor, and

provides its duties and responsibilities. The Board is to make rules and regulations, subject to approval by the State Board of Education; set minimum standards for schools; and license these schools and their agents. Procedures for the refusal, suspension and revocation of licenses are prescribed, as are provisions for enforcement. Schools that are accredited by an approved agency shall be in compliance by applying for a license and filing a report. Exempted from this act are all schools entitled to property tax exemption; colleges and universities; and classes operated by employers or labor unions.

House Bill 2496 (Chapter 74-355) requires that all private and vocational schools must have insurance or a bond to indemnify their students for prepaid tuition and fees if they should cease to operate. Failure to submit evidence of surety will invalidate a license.

ELECTIONS*

The Election Code Generally

Committee Substitute for House Bill 1936 (Chapter 74-119) attempts to provide a uniform and equitable formula for determining the amount of filing fees, an alternative means of ballot access for candidates of limited means, and a uniform petitioning standard for independent candidates and minority political parties. In order to qualify, each potential candidate is required either to pay a filing fee of 3% of the annual salary of the office to which he aspires, or to swear under oath that he is unable to pay the filing fee without imposing an undue burden on resources available to him and to undertake the prescribed petitioning process. After the oath and statement of intention to qualify are timely filed, the potential candidate may obtain petition forms from the qualifying officer and may begin to seek the signatures of the required 5% of the registered voters of his party residing within the geographical entity represented by the office sought. Petitions must be submitted to the appropriate supervisor of elections for verification no later than the first day of the qualifying period. The supervisor determines the number of valid

* Prepared by Sharon Wright,
House Bill Drafting Service

signatures and certifies this number to the Secretary of State who then determines whether ballot status is achieved. Counties are reimbursed from General Revenue the sum of 10¢ for each name checked or the actual cost of such verifying, whichever is less. A uniform petitioning requirement of 5% of the registered voters in the geographical entity is also prescribed for independent candidates and minority political parties. The fee charged for verifying signatures is waived for candidates of limited means, as are filing fees.

Senate Bill 470 (Chapter 74-120) relates to the statute requiring the Governor to call a special election to fill a vacant elective office whenever such office may not be filled by appointment. The act provides that the dates fixed by the Governor for such election shall be specific days and shall not be established by the happening of a condition or stated in the alternative. The cost of such elections is to be reimbursed to the county by the state after verification by the Department of State of actual expenses filed by the supervisor of elections with the county governing body.

House Bill 3777 (Chapter 74-200) is basically a reviser's bill which attempts to clear up inconsistencies

and conflicts in the law, and to clarify provisions which have caused the Division of Elections difficulty in the administration and implementation of Chapter 106 of the Election Code. The revision is for the most part an effort to conform statutory language to legislative intent.

House Bill 2699 (Chapter 74-5) removes the sixty day residency requirement as a qualification to register to vote because this requirement has been declared unconstitutional. The act also provides that registration books shall be closed on the forty-fifth day before state and local elections and the thirtieth day before national elections. This will necessitate two book closings before general elections involving presidential electors.

House Bill 1474 (Chapter 74-129) provides that county supervisors of elections, with approval of the boards of county commissioners, may arrange voting machine ballots by party candidates either in columns or horizontal rows.

Local Elections

Committee Substitute for Committee Substitute for House Bill 1739 (Chapter 74-130) supersedes existing city recall measures and provides uniform procedures for recalling members of municipal or charter county governing

bodies. A petition must be prepared naming the person sought to be recalled and citing grounds for recall. This petition, to be prepared and filed within a period of thirty days, must be signed by the requisite number of registered electors, and each signature must be witnessed by the circulator. After the petition has been filed and validated, a copy thereof is to be served upon the person sought to be recalled, who may then file a defensive statement. The petition or its counterparts may then be circulated for a period of sixty days to obtain the signatures of 15% of the electors, the minimum required to force a recall election. If the petition is then certified as valid by the county supervisor of elections and contains the required signatures, notice shall be served upon the person sought to be recalled, who may choose to resign within five days of receipt of notice or to participate in a recall election to be held not less than thirty nor more than sixty days after the expiration of the period of five days last mentioned. Uniform procedures are provided with regard to ballots, filling of vacancies, and effect of resignations. No petition to recall may be filed within one year after taking office. No person removed by recall or resigning after petition has been filed against him may be appointed to the governing

body within a period of two years after such recall or resignation, and all papers relating to said recall or resignation are to be preserved in the office of the city auditor or clerk for two years. Any person who falsely or fraudulently signs a petition, makes expenditures to campaign for or against an officer being recalled prior to the public announcement of the recall election, or employs or pays another to circulate a recall petition, is guilty of a second degree misdemeanor.

Senate Bill 522 (Chapter 74-13) removes the statutory authority of a municipality to regulate by ordinance the political activities of its officers or employees or candidates, and provides for free expression of political opinions and participation in political campaigns by public employees during off-duty hours subject to certain statutory restrictions.

Committee Substitute for House Bill 2732 (Chapter 74-53) repeals the requirement that an elector of a soil conservation district or soil and water conservation district also be a landowner. The act also provides that the election of supervisors for each soil and water conservation district shall be held every two years, at the time of the second nonpartisan election in conjunction with the second primary

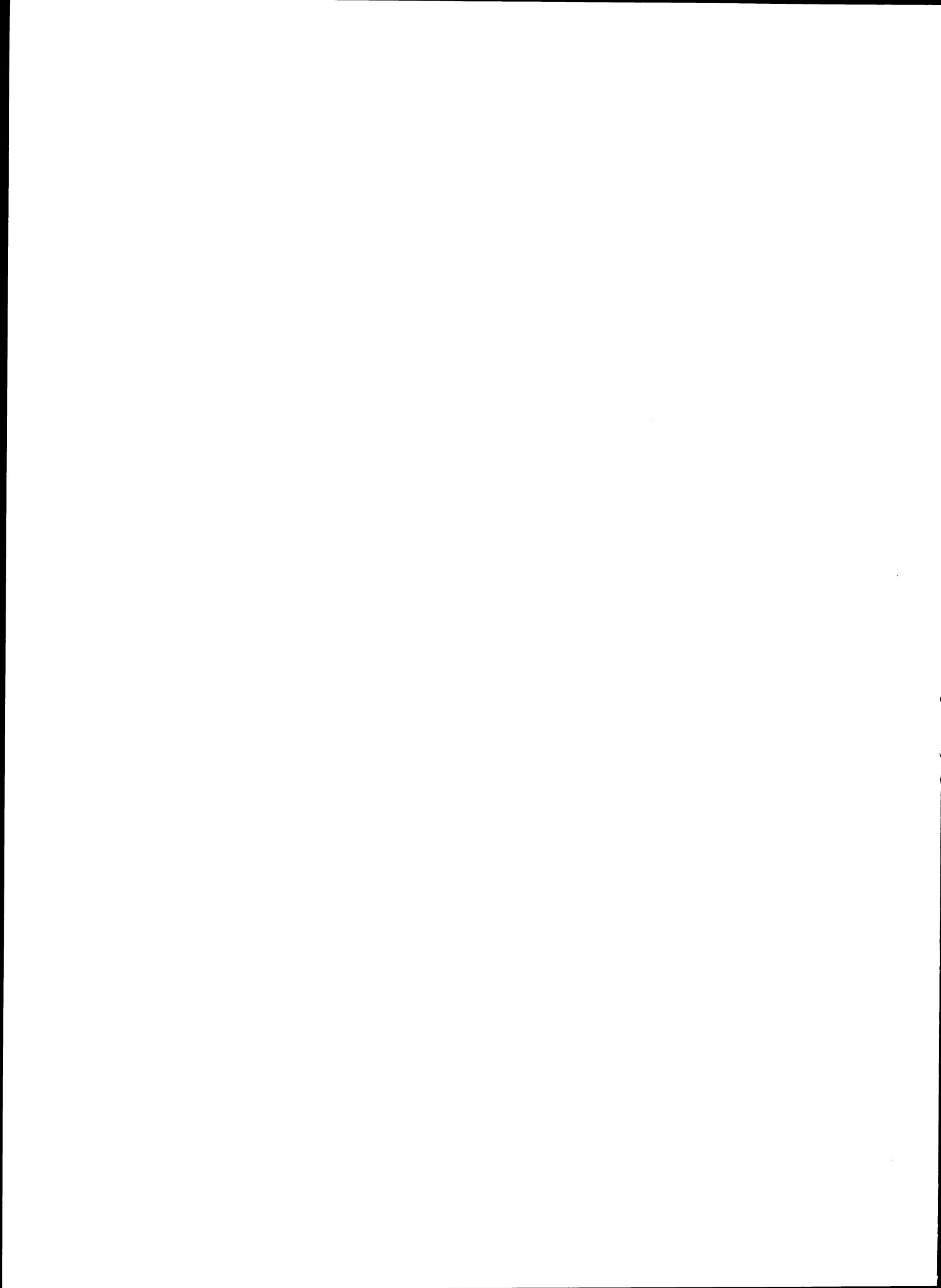
election. Vacancies for unexpired terms are to be filled by the remaining supervisors by appointment in established districts. In newly created districts supervisors shall be elected for full terms by the qualified electors of the district.

Political Parties

House Bill 3242 (Chapter 74-199), relating to the operation of state and county executive committees of political parties, is, in part, an attempt to clarify questionable provisions in existing law. In addition, the act authorizes parties to select or elect state and county committee members by rule rather than as provided by statute, provides for district representation in counties with over forty precincts, and modifies provisions relating to qualifying dates. The act also provides a detailed procedure for the election of delegates from Florida to the 1974 Conference on Democratic Organization and Policy, and limits the expenditures of candidates for delegate to \$2,000.

House Bill 2903 (Chapter 74-89) changes the qualification dates for candidates for state and county executive committees of political parties from not earlier than forty-five and not later than thirty days prior to election to

not earlier than sixty-three and not later than forty-nine days prior to election, conforming the filing period to that of all other elected officials.



INSURANCE *

The thrust of insurance legislation enacted by the 1974 Legislature was directed toward protecting policy holders under an existing group policy when the policy is replaced; extending the benefits in disability policies; and authorizing additional entities to issue various types of insurance.

General

House Bill 611 (Chapter 74-43) authorizes insurers to invest in student loans guaranteed as to principal by the United States Government.

House Bill 1107 (Chapter 74-44) extends definition of prohibiting "fronting company" to include an authorized insurer who by reinsurance or otherwise transfers to an unauthorized insurer substantially all risk of loss on one or more lines of insurance, or all risk of loss on business produced through one or more agents or agencies, or all risk of loss on business from a designated geographic territory.

*Prepared with the assistance of
Jack Herzog, Staff Director,
House Insurance Committee

Partnerships and other unincorporated associations or trusts are authorized to make agreements to provide care for life or for a term of years under Senate Bill 263 (Chapter 74-244). The application for a certificate of authority to provide such care must be accompanied by a copy of the membership, partnership or trust agreement. The act provides for certain information to be included in the annual statement in order to obtain renewal. Waivers of the provisions of the chapter relating to life care contracts are invalid. Disclosure of certain information relative to such life care contract to a prospective nominee or transferor must be made. Copy of annual statement required for renewal must be given to a nominee or transferor. The act provides for a civil action for damages for a violation, and further provides that a violation constitutes a third degree felony. Each violation to be considered a separate offense.

House Bill 1974 (Chapter 74-50) prohibits issuance of insurance policies containing annual endowments and the issuance of founders or coupon bearing policies, and authorizes the Department of Insurance to define such prohibited policies by rules and regulations.

House Bill 3041 (Chapter 74-216) authorizes the Department of Insurance to require that insurers licensed to transact property insurance in Florida (rather than all authorized insurers as was required prior to this act) to provide windstorm coverage, or the Department shall adopt a plan or plans for the equitable apportionment or sharing among insurers of windstorm insurance.

Committee Substitute for House Bill 1554 (Chapter 74-207) authorizes a group life and accident insurance benefit program for all state officers and all full-time state employees holding salaried positions, in addition to the health insurance program already authorized by law. "Full-time state employees holding salaried positions" is redefined to include employees paid from regular salary appropriations for eight months employment including university personnel on academic contracts. Persons paid from o.p.s. funds are specifically excluded. The requirement that the Comptroller approve rules promulgated by the Secretary of Administration for handling state group insurance program funds is deleted. Premium dollars are to be invested prior to their disbursement to the insurance carrier and the earnings from such investments shall be deposited in the General Revenue Fund unallocated.

Refunds from the carrier are to be deposited in the same manner.

House Bill 3119 (Chapter 74-218) authorizes the governing board of any water management district to provide for life, health, accident, hospitalization, or annuity insurance for members of the board, officers and employees.

House Bill 3136 (Chapter 74-219) provides that professional liability insurers are required to report no less than once a year to the Department of Insurance certain malpractice claims against medical and osteopathic practitioners which resulted in a final judgment or settlement in any amount, or a final disposition not resulting in payment on behalf of the insured. Contents of the report are specified, and the Department is to retain such as confidential records. Insurers and the Department are exempted from liability for compliance with this act.

Committee Substitute for House Bill 3152 (Chapter 74-35) provides that no insurance agent or solicitor associated with, under contract with, retained by, owned or controlled by a financial institution shall engage in insurance agency activities. The Department of

Insurance shall not grant, renew or permit any license to such agent. The Department shall allow the continued operation under the same ownership and control of all financial institution agencies which were in existence and engaged in insurance agency activities as of April 2, 1974. The insurance agent or solicitor may act as a director or officer of a financial institution provided his insurance activities are separate from the financial institution. Exempts agents or solicitors engaged in prohibited activities prior to April 2, 1974, and continuously engaged since that date.

House Bill 3679 (Chapter 74-64) authorizes an insurance agent to give a power of attorney to, or otherwise authorize, the issuing insurance company to countersign any policy or certificate to be issued outside his office by imprinting his name thereon in lieu of manually countersigning such document.

Committee Substitute for House Bill 3742 (Chapter 74-148) exempts from the resident agent counter signature commission requirement any contracts of insurance purchased by a person whose premiums for such insurance in the preceding year of such purchase exceeded \$250,000 in the aggregate.

Committee Substitute for House Bill 3793 (Chapter 74-149) based in part on a New York law, authorizes the Department of Insurance to issue a special permit allowing certain non-profit corporations or charitable trusts to make annuity agreements with donors.

House Bill 3832 (Chapter 74-299) repeals the requirement that the Department of Insurance transfer all funds from specific trust funds to the Commissioner's Regulatory Trust Fund. Five related acts delete the deposit requirement for these special trust funds and provide that all moneys collected under respective authority for the funds be paid directly into the Regulatory Trust Fund pending disbursement as provided by law. These acts are: House Bill 3828 (Chapter 74-296) liquefied Petroleum Gas Administrative Trust Fund; House Bill 3819 (Chapter 74-294) Municipal Firemen's Pension Trust Fund; House Bill 3829 (Chapter 74-297) Municipal Police Officers' Retirement Trust Fund; House Bill 3827 (Chapter 74-295) State Fire Marshal Trust Fund; and House Bill 3830 (Chapter 74-298) Publications Trust Fund.

Disability Insurance

House Bill 1503 (Chapter 74-71) provides that where an insurer replaces an existing group, blanket

or franchise insurance contract, the replacing company must assume coverage of all certificate holders who are covered under the contract which is being replaced, regardless of health conditions, or whether or not they are actively at work.

Committee Substitute for Senate Bill 518 (Chapter 74-69) requires an outline of coverage to be included in every individual health insurance policy delivered or issued for delivery in Florida.

Committee Substitute for Senate Bill 579 (Chapter 74-367) prohibits the use of any provision in certain group disability insurance policies whereby the insurer may reduce or refuse to pay benefits, covered under the policy, on the grounds that the insured is entitled to receive benefits under a policy of another insurer. The bill is similar to a provision contained in House Bill 2040 (Chapter 74-281) which also directs the Department of Insurance to promulgate uniform minimum standards of health insurance policy forms. The Department may disapprove those forms that are not in compliance with the law, or are unjust or inequitable to the policyholder or insured.

Committee Substitute for House Bill 2929 (Chapter 74-34) provides that disability insurers offering a policy that provides for medical expense benefits excluding chiropractic services shall offer an optional rider, when requested by the prospective policyholder, to cover such services.

House Bill 1135 (Chapter 74-87) provides for payment for procedures specified in any accident and sickness policy, medical service plan, or other contract to a podiatrist when such procedures are within the scope of his professional license. Payment is to be made in accordance with medical and surgical benefit coverage.

Senate Bill 76 (Chapter 74-8) requires group disability policies, which provide hospital, medical or surgical coverage for newborn children, to include coverage for congenital anomalies from the moment of birth.

Credit Life Insurance

House Bill 608 (Chapter 74-203) provides that no insurer shall cede or retrocede credit life or credit disability insurance covering a risk located or written

in this state to any insurer not approved by the Department of Insurance for the purpose of such reinsurance.

Life Insurance

House Bill 1504 (Chapter 74-72) provides that when a master group life insurance policy is replaced, the new policy must cover all participants covered under the old one.

House Bill 2099 (Chapter 74-283) redefines professional associations eligible for group life insurance and provides that such policies, upon which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance, must insure all eligible members except those to whom evidence of individual insurability is not satisfactory to the insurer.

Motor Vehicle Insurance

House Bill 2545 (Chapter 74-51) permits automobile insurers licensed by the State to establish a joint underwriting plan for the purpose of equitable apportionment or sharing of automobile insurance, except apportionment of applicants, as an alternative

to the insurance risk apportionment plan heretofore provided. If such a plan is approved by the Department of Insurance, all automobile insurers in the State are required to subscribe.

House Bill 3040 (Chapter 74-320) clarifies the authority of the Department of Insurance to require licensed motor vehicle insurers to report their loss and expense experience to the Department in a manner in conformity with adopted statistical plans.

Committee Substitute for House Bill 3619 (Chapter 74-225) provides that no automobile liability insurer shall impose a higher premium, cancel a policy, or refuse to renew a policy solely because the insured is a handicapped or physically disabled person.

LAW ENFORCEMENT AND CRIMINAL JUSTICE*

LAW ENFORCEMENT

Law Enforcement Officers - Duties

Committee Substitute for House Bill 2395 (Chapter 74-25) requires every law enforcement officer, when arresting a person who appears to be intoxicated or not in control of his physical functions, to examine such person for an identifying device indicating a medical disability which would account for the person's action. If the officer discovers such a device, he is required to take immediate steps to get medication or treatment for such person.

Law Enforcement Officers - Rights

Committee Substitute for Senate Bill 84 (Chapter 74-274) provides that any law enforcement officer under investigation for any reason which would subject him to disciplinary action may be interrogated by members of his agency only at a reasonable hour; for reasonable periods of time; either at the office of the command of the

* Law Enforcement prepared by
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Criminal Justice prepared by Malcolm Mickler and
Zane Leeper, Analysts, Senate Legislative Services

investigating officer or at the local precinct or police unit where the incident allegedly occurred; by only one interrogator at any one time without use of offensive language, threats or promises of reward; and only when the interrogation is recorded. The officer under investigation shall be informed of the rank, name and command of the officer in charge of the investigation, the interrogating officer and all persons present; the nature of the investigation; the names of all complainants; and of all his rights if he is likely to be placed under arrest. Upon request he shall have the right to be represented by counsel during the interrogation.

The act provides for the number of members and method of selection of the members of a Complaint Review Board but does not specify any powers or duties for the Board.

Law enforcement officers are authorized to bring a civil suit for damages or abridgment of civil rights suffered during performance of official duties. Prior to imposition of any punitive measure or action effecting loss of pay or benefits, the officer shall be notified of the action to be taken and the reason therefor, but no officer shall be disciplined or threatened because of his

exercise of the rights granted by this act. Every law enforcement agency is required to put into operation a system for investigation and determination of complaints. At the request of the Police Standards Board, the Attorney General shall institute an action to enjoin law enforcement agency violations of this act.

Investigators

By Committee Substitute for Senate Bill 973 (Chapter 74-260) investigators employed on a full time basis by a state attorney are made law enforcement officers with the same rights, protections and immunities as other law enforcement officers including full arrest powers within their judicial circuit and the right to make arrest outside the circuit following hot pursuit begun within the circuit. They are required to take the Constitutional oath and post a \$5,000 performance bond. Except for those investigators employed by a state attorney on July 1, 1974, such investigators are required to meet the minimum standards established by the Florida Police Standards Council of the Department of Community Affairs.

CRIMINAL JUSTICE

Criminal Code Revision

Conference Committee Report on Committee Substitute for House Bill 2179 (Chapter 74-383) substantially revises Florida criminal law, effective July 1, 1975. The law, which may be cited as the Florida Criminal Code, is intended to proscribe conduct that improperly causes or threatens substantial harm to individual or public interests; to give "fair warning" of the nature of the conduct proscribed and the sentences authorized; to define clearly the material elements constituting an offense, and the accompanying state of mind or criminal intent required of that offense; to differentiate on reasonable grounds between serious and minor offenses; to safeguard conduct that is without fault or of legitimate state interest from being condemned as criminal; and to insure the public safety by deterring the commission of offenses, by providing for rehabilitation of those convicted and their confinement when required in the interest of public protection. It codifies the permissible uses of force in defense of person or dwelling or in defense of others, and the use of such force by aggressors or by law enforcement officers in making arrests and preventing escapes.

The Florida Criminal Code establishes varying degrees of penalties for offenses. A minimum mandatory prison sentence of three years will be required for repeat offenders using firearms or destructive devices in the commission of crime. Extended jail terms of up to three years for first degree misdemeanors and up to one year for second degree misdemeanors are provided for the third or subsequent conviction of the same crime if the offender is convicted within the time period specified. The statute of limitations is extended to three and four years for specified felonies, while limiting the maximum statutory period to an additional three years when the unindicted offender is absent from the jurisdiction. The statute of limitations for second degree misdemeanors is reduced to one year. Misuse of confidential information by a public servant is designated a crime. The penalties are reduced for the crimes of kidnapping for ransom and for perjury. Kidnapping for ransom is included in the general definition for "kidnapping" which is made a first degree felony. Perjury in official proceedings, as defined in the act, is reduced from a first degree or second degree felony to a third degree felony in all cases. The crime of perjury not in an official proceeding is reduced from a second degree felony to a first degree misdemeanor. Of general

application is the provision allowing a defendant unable to pay a fine in full to do so in installment payments.

Also created is the "violation", a new class of non-criminal offense, for which fines and civil penalties are provided. However, the provisions of Chapter 316, Florida Statutes, decriminalized in major part by Conference Committee Report on Senate Bill 171 (Chapter 74-377) are exempted from such definition. (See Summary of Senate Bill 171 in article on MOTOR VEHICLES AND TRANSPORTATION.)

Crimes

In addition to the Criminal Code Revision, the 1974 Legislature made a number of changes in the substantive criminal laws. These changes range from House Bill 318 (Chapter 74-115) which makes it a second degree misdemeanor to smoke in an elevator, to the Committee Substitute for Senate Bill 959 (Chapter 74-121) which revises the laws relating to rape and crimes against nature. This latter bill combines the former offenses of rape and sodomy under the definition of "involuntary sexual battery" and prescribes penalties for varying degrees of this offense, beginning with those prescribed for second degree felonies for offenses between adults involving force and violence not

likely to cause serious personal injury, to capital punishment for cases in which an adult commits a sexual battery on a child eleven years of age or younger. Corroboration of the victim's testimony is not required and evidence of prior consensual sexual activity of the victim is admissible only under specified conditions and only when it tends to establish a pattern of conduct.

Senate Bill 61 (Chapter 74-6) defines the removal or alteration of serial numbers or identification marks from items of personal property with intent to prevent identification by the true owner as a misdemeanor of the first degree. The possession of property so altered with knowledge it was done to prevent identification is made a like offense.

Committee Substitute for House Bill 661 (Chapter 74-314) limits the crime of obtaining food, lodging or other accommodations with intent to defraud to transient occupancy, and provides that the crime, otherwise punishable as a second degree misdemeanor, constitutes a third degree felony if the value of the services exceeds \$100.

The practice of the professions of law, chiropractic and podiatry are further regulated by passage of these acts: Committee Substitute for House Bill 1289 (Chapter 74-128),

redefines the conditions constituting misrepresentation as a lawyer punishable as a first degree misdemeanor; House Bill 3084 (Chapter 74-321) increases the penalty for practicing chiropractic without a license or unlawfully advertising chiropractic practice to a third degree felony; and House Bill 3273 (Chapter 74-77) raises to a third degree felony any infraction of the statutory provisions relating to unauthorized practice of podiatry.

A drastic increase in the amount of livestock stolen in Florida during the first quarter of this year led the 1974 Legislature to enact Committee Substitute for House Bill 3903 (Chapter 74-229) which makes cattle rustling or horse stealing a third degree felony without regard to the value of the animal stolen. House Bill 2736 (Chapter 74-116) redefines the crime of maliciously killing, maiming or poisoning livestock or animals of another person to include the attempt to do so as being punishable as a third degree felony. The first degree misdemeanor of committing such acts without malice toward the owner is abolished.

The 1974 Legislature extended further protection to the state's telephone companies through the enactment

of two bills. House Bill 2926 (Chapter 74-137) makes it a third degree felony to make or possess any electronic device to be used for the purpose of avoiding or attempting to avoid long distance telecommunication charges, and House Bill 3064 (Chapter 74-138) makes it a first degree misdemeanor to transmit or publish certain codes, numbers or credit devices which may be used to avoid payment of telephone charges.

House Bill 3957 (Chapter 74-67) amends statutory language dealing with shooting into or throwing deadly missiles into buildings or vehicles, to make it more explicit.

The penalty for willful failure to redeliver a hired motor vehicle is increased from a second degree misdemeanor to a third degree felony, and the prima facie evidence of intent to defraud provision is removed by Committee Substitute for House Bill 3412 (Chapter 74-373).

Senate Bill 239 (Chapter 74-95) creates the crime of publishing the name or identity of a party to an intercepted wire or oral communication until he has been indicted or informed against. Conviction is punishable as a third degree felony.

Criminal Procedure

Criminal procedures were affected by several bills enacted by the 1974 Legislature.

Senate Bill 459 (Chapter 74-249) limits the use of wiretapping or the interception of oral communications to situations in which all parties to the communication have given their consent and to cases in which the interception is accomplished by a law enforcement officer or a person acting under his direction for the purpose of obtaining evidence of a criminal act and in which one of the parties has given his consent. Telephone company employees are permitted to intercept wire communications upon request of the recipient for the sole purpose of tracing the origin of a communication whenever a recipient alleges that a communication is obscene, harassing or threatening, but the interceptor must notify local police authorities within 48 hours.

Committee Substitute for Senate Bill 974 (Chapter 74-379) addresses itself to several aspects of the law. In capital cases in which a separate proceeding for the purpose of determining penalty is prescribed, the trial judge is authorized to summon a special juror or jurors as needed whenever it is impossible to reconvene the trial

jury for the penalty proceeding. In addition, in both criminal and civil cases, it is made unlawful to dismiss a juror from his employment because of the nature or the length of his jury service. A person so dismissed may bring an action for compensatory and punitive damages as well as for attorney fees. The law also permits the court to suspend sentence and certify a defendant for a hearing to determine whether he is a mentally disordered sex offender only after he has been convicted rather than charged with a felony or misdemeanor. This law rephrases the statutory language which prohibits persons who have been convicted of any felony, those with a reputation of being a bookmaker or those who associate regularly with bookmakers or criminals, from holding pari-mutuel permits, or from serving as an officer of a corporation or as a member of an association holding such permits.

House Bill 544 (Chapter 74-125) requires the court, in its discretion, to consider restitution a mitigation of sentence in criminal cases involving property but not injury or opportunity for injury to persons; while the Committee Substitute for House Bill 1538 (Chapter 74-206) provides a procedure for persons indicted or arrested, but not convicted, to have the record of the indictment or arrest expunged from

the official record. This procedure applies only to persons not previously convicted and permits nonpublic records to be retained for use by law enforcement agencies in future investigations relating to similar offenses. After a court order expunging the official record, a person may not be found guilty of perjury for denying arrests or indictments which have been expunged.

The Committee Substitute for House Bill 2751 (Chapter 74-318) expands the grounds for the issuance of search warrants to include situations in which a private dwelling contains evidence relevant to proving a felony has been committed, and House Bill 4142 (Chapter 74-348) provides new procedures for handling worthless checks issued to governmental entities. The county tax collector must swear out a complaint, rather than a warrant, when any worthless check is given his office. If the state attorney cannot sign the information because of lack of proof, he is required to issue a certificate to that effect and the tax collector may then request a refund from the agency involved. Taxes, other than ad valorem, and the sums due to the Game and Fresh Water Fish Commission are added to the items covered by this statute.

The 1974 Legislature determined that the Florida crime

laboratory system is inadequate in certain areas of the state and that a detrimental effect upon the criminal justice system is thereby created. As a solution to this problem, Committee Substitute for Senate Bill 284 (Chapter 74-362) was enacted. This act establishes a system of state operated criminal analysis laboratories, provides for matching state funds for locally funded laboratories and makes it possible for these local laboratories to become state operated. The Department of Law Enforcement is given responsibility for full operational control of the state operated laboratories and the duty to establish policies and procedures, determine organizational structures of these laboratories, promote cooperation between the state and other crime laboratories and to establish standards of education and experience for personnel of the state laboratories. A ten-man Crime Laboratory Council appointed by the Governor is created to act in an advisory capacity to the Department of Law Enforcement. An appropriation of \$2,728,717 is provided for the crime laboratories in Jacksonville, Pensacola, Tallahassee and Tampa and \$332,250 for the matching funds. The bill is effective July 1, 1974 except for the matching funds provision which is effective January 1, 1975.

Florida's laws relating to the manufacture, possession or transportation of contraband and to the confiscation of vessels, vehicles and aircraft used in the transportation of contraband were unified by House Bill 2930 (Chapter 74-385), the "Florida Uniform Contraband Transportation Act." Contraband is defined to include controlled substances (drugs, narcotics, hallucinogens, etc.) untaxed motor fuel, any equipment used in violation of beverage or tobacco laws of the state, and gambling equipment and paraphernalia not held, sold, transported or manufactured by persons who have properly registered with the federal government or any such items, whether or not owned by a federally registered person, when they are displayed to the general public, sold for use in Florida, or held or manufactured in contravention of federal law. In addition to the contraband article, itself, any aircraft, vessel or vehicle used to transport contraband may be seized and forfeited. Exceptions are provided for common carriers when the owner or person legally in charge of the transportation medium is not privy to the illegal act and for innocent parties and valid lien-holders. The state attorney is to proceed against the vessel or vehicle seized by rule to show cause in the circuit court within whose jurisdiction the offense occurs; and if the vessel,

vehicle or aircraft is ordered forfeited, it may be put to use by the law enforcement agency making the seizure, or may be sold, subject to valid liens, and the resulting funds paid into the appropriate county or municipal fine and forfeiture fund. When the owner is unknown or is out of the state, the court is required to appoint an attorney to represent him in the proceedings.

Conference Committee Report on House Bill 2922 (Chapter 74-384) prohibits driving with a blood alcohol level of 0.10 percent or more, which is prima facie evidence that the driver was under the influence of alcoholic beverages. A law enforcement officer with probable cause may, with the written consent of the driver, give a prearrest breath test, the results of which shall not be admissible in evidence. The driver may also demand a prearrest breath test.

Second and subsequent convictions require minimum terms of imprisonment, and a new provision forbids the withholding of adjudication. If the blood alcohol level is 0.20 percent or more, the acceptance of a guilty plea to a lesser offense is prohibited. Upon first conviction for driving under the influence or driving with an unlawful blood alcohol level, the defendant may obtain a temporary driving permit for work or business if enrolled in a drinking driver

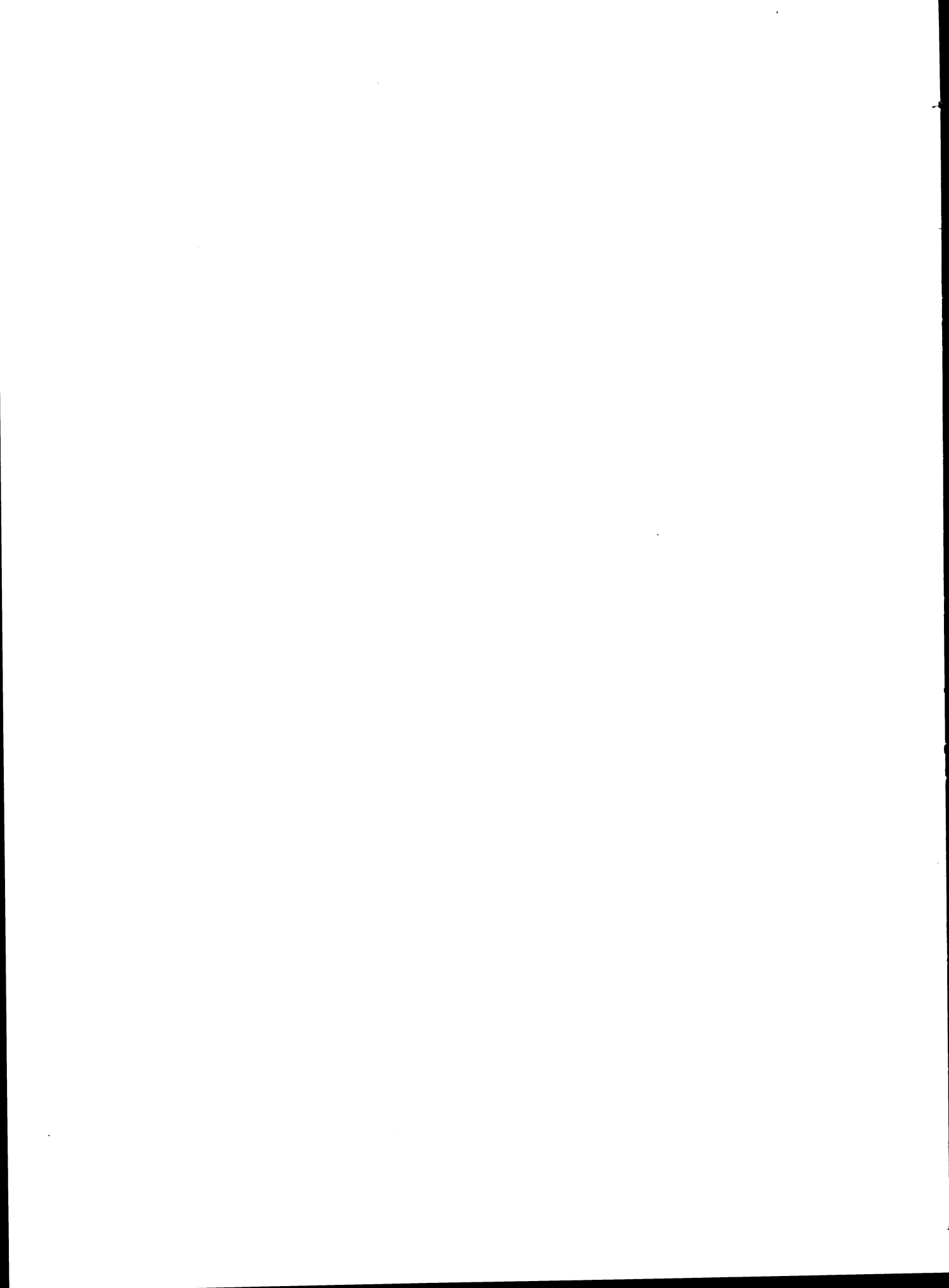
rehabilitation course. Additionally, an habitual offender whose license is revoked for five years may now petition for limited restoration of driving privilege after one year.

Provisions relative to decriminalization of certain traffic violations, procedures for adjudication of infractions, standard civil penalties and mandatory hearings are required by Conference Committee Report on Senate Bill 171 (Chapter 74-377), the Florida Uniform Disposition of Traffic Infractions Act, which is summarized in the article on MOTOR VEHICLES AND TRANSPORTATION. Senate Bill 105 (Chapter 74-335), summarized in the article on COURTS, requires each court to report the final disposition of all moving traffic violations and certain parking violations to the Department of Highway Safety and Motor Vehicles within ten days after the final judicial disposition.

The Governor is directed, by House Bill 304 (Chapter 74-22), to execute an amendment to the Interstate Compact on Juveniles relating to out-of-state confinement. This amendment deals with juveniles who escape from confinement or break parole and are apprehended in states other than the one in which they were confined or placed on parole. Each state adopting this amendment is required to designate at least one of its institutions as a "compact institution" for the purpose of confining juveniles from other states.

Instead of demanding the return of juvenile escapees or absconders as provided in Article V of the Compact, the state from which the juvenile escapes or absconds may direct that he be confined in a "compact institution" in the state in which he is apprehended, with that state acting as an agent for the juvenile's home state. Unless otherwise agreed, the state from which the juvenile absconds or escapes shall bear the cost of the apprehension and confinement; shall retain jurisdiction over the juvenile at all times; and may direct that he be transferred to a "compact institution" in another compact member state, paroled, placed on probation, discharged or returned to his home state for any purpose permitted by law. The amendment takes initial effect when any two or more states enact it and is effective only upon those states enacting the amendment.

Senate Bill 983 (Chapter 74-261) eliminates from the definition of "juvenile traffic offense" all violations of federal law, fleeing or attempting to elude a police officer, leaving the scene of an accident involving death or personal injuries, or driving under the influence of alcohol, drugs or other stimulants.



LEGISLATURE

Statutory Construction

House Bill 3968 (Chapter 74-153) provides that acts passed during the same legislative session and amending the same statutory provision are in pari materia [upon the same matter or subject] and full effect should be given to each if possible. Language carried forward unchanged in one amendatory act should not be read as conflicting with changed language contained in another act passed during the same session. Amendments enacted during the same session are in conflict with each other only to the extent that they cannot be given effect simultaneously.

Joint Select Committees

Enactments relating to administrative rules, public officer and employee ethics, resource recovery and management and correctional reform necessitate the creation of committees which require legislative membership in whole or in part. Two measures establish joint select legislative committees.

Committee Substitute for House Bill 1543 (Chapter

74-196) provides for a joint select committee consisting of five members of each chamber appointed by the respective presiding officers to conduct a study of rate structure of all electric utilities in Florida including rural electric cooperatives and municipal electric utilities, or contract with consultants of national reputation to conduct the study. The study is to examine the form of marginal costs of service to new customers, technical and economic ability of the utilities to engage in peak-load pricing, the electricity demand-price relationship in the state, and other factors possibly affecting alternative rate structure.

A report is to be made jointly to the Public Service Commission and the Legislature by March 15, 1975, and an appropriation of \$50,000 is provided for the study during the fiscal year 1974-75.

House Concurrent Resolution 2562 provides for the creation of a select legislative committee composed of five representatives and five senators appointed by the Speaker and President respectively from the membership of the House and Senate Transportation Committees to study present and future transportation needs of the Florida East Coast Transportation Corridor. The Corridor is defined as that area of the state between the City of Miami

and the City of Jacksonville, corresponding principally to the present route of Interstate Highway 95 and/or the Florida East Coast Railroad right-of-way.

The committee is empowered to employ a director and staff, and the Department of Transportation is required to assist and cooperate with the committee.

The committee is to report to the presiding officers of the Legislature not later than December 1, 1974, its findings, conclusions and recommendations as to the necessity and feasibility of a rapid transit system along any part or all of the corridor.

FLORIDA STATE LEGISLATIVE SYSTEM

07/19/74

1974 REGULAR SESSION -- STATISTICS

	SENATE		HOUSE		TOTAL	
	INTRODUCED	PASSED	INTRODUCED	PASSED	INTRODUCED	PASSED
CONCURRENT RESOLUTIONS	27	19	37	19	64	38
RESOLUTIONS	7	0	16	0	23	0
GENERAL BILLS	1016	131	1888	299	2904	430
LOCAL BILLS	44	26	243	187	287	213
GEN BILL/LOC APPLICATIONS	0	0	1	0	1	0
JOINT RESOLUTIONS	26	1	55	3	81	4
MEMORIALS	10	3	40	9	50	12
WITHDRAWN PRIOR TO INTRODUCTION	0	---	120	---	120	---
TOTAL	1130	180	2400	517	3530	697
APPROVED BY GOVERNOR		114		268		382
BECAME LAW WITHOUT SIGNATURE		38		206		244
VETOED BY GOVERNOR		5		12		17
BILLS TO CONFERENCE COMMITTEE		7		11		18
BILLS AMENDED		150		517		667
COMMITTEE SUBSTITUTES		51		165		216
FAILED TO PASS SENATE BY VOTE		6		0		6
FAILED TO PASS HOUSE BY VOTE		2		6		8
UNFAVOR COMMITTEE REPORT IN SENATE		67		22		89
UNFAVOR COMMITTEE REPORT IN HOUSE		3		75		78
DIED IN SENATE COMMITTEES		492		145		637
DIED IN HOUSE COMMITTEES		28		922		950
DIED ON SENATE CALENDAR		150		126		276
DIED ON HOUSE CALENDAR		24		294		318
DIED IN MESSAGES		3		14		17
AUTOMATICALLY PREFILED HOUSE BILLS		0		0		0

LOCAL GOVERNMENT*

The 1974 Regular Session of the Florida Legislature enacted several important measures affecting local governments. Specific attention was given to county self-government in legislation which authorizes an alternative method for the adoption of a county charter. Another law authorizes counties to provide municipal-type services in specific areas of the county by creating special districts in unincorporated and incorporated areas subject to the approval by the governing body of any affected municipality. In addition, the procedures for the creation, abolition, and merger of municipalities and special districts were substantially revised as were the procedures for changing municipal territorial boundaries.

Also of major importance, the 1974 Legislature passed laws providing state financial assistance to local governments for community service and rural housing programs, and reenacted the Revenue Sharing Act of 1972.

COUNTY GOVERNMENT

Organization of Charter Governments

Senate Bill 139 (Chapter 74-239) changes the

*Prepared by Robert L. Kennedy, III,
Attorney, Senate Legislative Services

procedure for appointing charter commissions for counties wishing to adopt a home rule charter. Formerly, charter commissions were appointed by the legislative delegation of the county. Under this law such charter commissions will be appointed by the county commissioners unless an initiative petition of the electors, requesting the appointment of a charter commission, directs the charter commission be appointed by the legislative delegation.

Committee Substitute for House Bill 3378 (Chapter 74-193) creates two new parts to the statutory laws relating to county government: the "County Administration Law of 1974" and the "Optional County Charter Law," both effective October 1, 1974.

The county administration law provides that any county which has not adopted a charter form of government may, by passage of a county ordinance, elect to come under the provisions of this law. A county administrator is to be appointed by the Board of County Commissioners and shall be responsible for the administration of all departments of the county government. The law provides the qualifications as well as the procedure for the appointment and removal of the administrator. Specific administrative or ministerial duties of the county administrator are enumerated.

The optional county charter law provides an alternative method for adoption of a county charter. In lieu of the presently existing procedures, the Board of County Commissioners may propose a charter by ordinance and provide for a special election for the approval or rejection of the proposed charter by the electors of the county. The charter may provide for one of three forms of county government defined in the act: the "county executive form," the "county manager form," or the "county chairman-administrator plan." The responsibilities of both the legislative and the executive branches of government of a county adopting a charter are enumerated in detail. After the reorganization under a charter, the Board of County Commissioners shall adopt an administrative code setting out the duties and responsibilities of all county officials and agencies. The law also provides that the rights and privileges of county employees shall not be abridged by a county reorganizing under a charter.

County Authorization to Create Special Districts

Effective January 1, 1975, Committee Substitute for House Bill 3280 (Chapter 74-191) will authorize counties to establish "municipal service taxing or benefit units" for any part or all of the unincorporated area of the

county in order to provide municipal-type services to such areas. The services provided such areas are to be financed from funds derived from service charges, special assessments, or ad valorem taxes imposed only within the area served and at a rate not to exceed ten mills. The Board of County Commissioners shall be the governing body of each such "municipal service taxing or benefit unit." A county may subsequently merge or abolish any "municipal service taxing or benefit units" which it creates pursuant to this law.

Counties are authorized to create "special districts" in unincorporated or incorporated areas of the county provided the governing body of any affected incorporated area approves by ordinance the creation of the special district. Such special districts may provide municipal services and facilities to be financed from service charges, special assessments, or ad valorem taxes levied within the district in any amount authorized by ordinance approved by a vote of the electors. The governing body of such special districts may be composed of representatives of both the county government and each participating municipality.

The governing body of a municipality by resolution, or the citizens of a municipality or county by a petition of ten percent of the electors, are authorized to identify

a service which is financed from countywide revenues for the benefit of property or residents in specific unincorporated areas and to petition the Board of County Commissioners to develop a financing mechanism which would place the cost of the service on property or residents solely benefited by the service.

County Officers and Employees

Committee Substitute for House Bill 3441 (Chapter 74-325) requires that funds received by county officials for services performed as an official duty or as a private nonofficial act for any agency, official of the state, county, municipality, or individual, wherein any personnel, equipment or office space is used, shall not be retained as personal income but shall be included as income of the office. The law provides that the County Comptroller or Clerk of the Circuit Court serve as ex officio agent of the Department of Revenue for the collection of the excise tax on documents. Additionally, the law repeals compensation for special services provided by the Clerk of the Circuit Court, and the provision which set the salary of the County Comptroller and Clerk of the Circuit Court of a county which has an elected County Comptroller at 15% less than the amount that would be paid the Clerk

of the Circuit Court who is also the County Comptroller.

House Bill 3514 (Chapter 74-103) permits a sheriff to appeal action by the Board of County Commissioners or County Budget Commission on his proposed budget to the Administration Commission. The appeal petition must set forth the budget proposed by the sheriff and the approved budget in the form and manner prescribed by the Department of Administration and approved by the Administration Commission. Upon receipt of the petition, the Secretary of Administration is to provide for a hearing at which matters in the petition and the reply are to be considered. The recommendation and finding of the Department are to be promptly submitted to the Administration Commission which must make the final decision within thirty days. If the application of a sheriff to the Board of County Commissioners for an emergency appropriation is denied in whole or part, the sheriff may apply to the Administration Commission, at the same time delivering to the Board a copy of his application to the County Commission. The Administration Commission may then hold a hearing and render the final decision. The Administration Commission is required to render an annual report by February 1 of each year to the presiding officers of the Legislature and to the chairman

of the House Appropriations Committee and the chairman of the Senate Ways and Means Committee.

House Bill 3778 (Chapter 74-150) removes the prohibition against a county employing an independent accounting firm to audit its financial records if the firm is also employed during the auditing period by a person in receipt of compensation in excess of \$10,000 from the county. The law also requires one copy of each county audit report to be filed with the state Auditor General.

MUNICIPAL GOVERNMENT AND SPECIAL DISTRICTS

Organization, Dissolution, and Merger of Municipalities and Special Districts

Committee Substitute for House Bill 3266 (Chapter 74-192) the "Formation of Local Governments Act," substantially revises standards and procedures for the formation, dissolution and merger of municipalities and special districts.

Municipalities may be created only by a special act of the Legislature. Special districts may be created either by a special act of the Legislature or by an ordinance of a county or municipality having jurisdiction over the affected area.

The merger of two or more municipalities is to be accomplished by passage of a concurrent ordinance by the governing body of each municipality, which ordinance must be approved by a majority vote of the electors in each area affected. The merger of one or more municipalities or counties with special districts, or of two or more special districts, shall be pursuant to the adoption of a concurrent ordinance or resolution by the governing body of each unit affected. Such creation or merger may be initiated either by a resolution of the governing body of the area to be affected, or by a petition signed by 10% of the qualified voters in the area to be affected.

Any municipality or special district may be dissolved either by a special act of the Legislature or by an ordinance of the governing body approved by a vote of the electors. This new law provides a special dissolution procedure whereby the Secretary of State may dissolve a municipality or special district upon a finding that the municipality or special district is inactive.

The law provides standards and conditions required for incorporation, creation, merger and dissolution of municipalities and special districts; provides for financial allocations relative to assumption of existing

governmental indebtedness and transfer of property; and prohibits the Legislature from enacting any special law which incorporates, merges or dissolves a municipality unless the Department of Community Affairs has attached to the bill a statement as to whether all of the standards and conditions prescribed by law have been met. The new law also authorizes the Department of Community Affairs to make certain studies on local government service delivery and on boundary reorganization problems, and to make an annual report to the Governor and Legislature on the status of the continuing study and any related specific studies.

Adjustment of Municipal Territorial Boundaries

Committee Substitute for House Bill 2730 (Chapter 74-190) the "Municipal Annexation or Contraction Act," sets forth new uniform procedures and standards for adjusting municipal boundaries. Under the new law, annexation is to be initiated by an ordinance proposed by the governing body of the municipality or by a petition bearing the signatures of 15% of the registered electors of the area seeking annexation. The law provides procedures for voluntary annexation upon the request of the owner of the land to be annexed. A referendum is required in all cases in which the area to be annexed has ten or more

registered electors. The law sets out general standards for annexation which basically require that the area proposed for annexation must be urban in character, contiguous to the municipality, and must, when annexed, constitute a reasonably compact addition to the municipality. Prior to the adoption of any annexation ordinance, the municipality is required to prepare detailed plans to provide urban services to the affected area.

The procedure for the deannexation of an area parallels that for annexation. Deannexation is initiated by an ordinance proposed by the governing body of the municipality or by a petition bearing the signatures of at least 15% of the registered electors of the area seeking deannexation. When such an ordinance has been proposed the governing body of the municipality shall set a time and place for a meeting at which the ordinance will be considered and shall give adequate notice of the meeting. No referendum is required on the question of the deannexation of an area unless a petition requesting a referendum and signed by 15% of the voters in the area to be excluded is submitted to the governing body at the meeting set for consideration of the proposal.

A majority vote in a referendum against annexation

shall prevent any part of the area proposed for inclusion from being the subject of annexation for a period of two years from the date of the referendum. A majority vote against deannexation shall prevent any part of the area proposed for exclusion from being the subject of deannexation for a period of two years.

The law provides for the payment and assumption of debts and other obligations in the event of annexation or deannexation, and for appellate procedure for any party affected who will suffer material injury because of the failure of the municipal governing body to comply with the provisions of the law. The Department of Community Affairs is instructed to lend its technical assistance to any municipality in preparing for annexation or deannexation.

Special Improvement District for
Seminole and Miccosukee Indians

House Bill 2205 (Chapter 74-175) creates a special improvement district for each of the areas contained within the Seminole and Miccosukee Indian reservations. The governing bodies of the tribes are made the governing bodies of the special improvement districts. The governing bodies shall have the power to implement programs of law

enforcement and social services, to employ qualified law enforcement personnel who have specified powers and duties, to employ other personnel necessary to carry out the responsibilities of the district, to execute instruments, and to borrow money.

Historic Boca Raton Preservation Board

House Bill 3500 (Chapter 74-265) creates the Historic Boca Raton Preservation Board of Commissioners within the Department of State. The Board is given the authority to acquire, restore and maintain historic sites, landmarks, buildings and other objects of interest in the City of Boca Raton and surrounding areas. The powers of the Board include the power to adopt a seal, to contract, acquire and dispose of property, and to draft an historical plan of development for the City of Boca Raton. Palm Beach County and the City of Boca Raton are authorized to establish historical districts and to name an Architectural Review Board, which shall approve or disapprove plans for buildings in the historical districts. The Review Board also has the power to make rules for the transaction of its own business.

HOUSING AND COMMUNITY SERVICES

Financial Assistance for Rural Housing Programs

Committee Substitute for House 3383 (Chapter 74-168)

the "Florida Rural Housing Land Acquisition and Site Development Assistance Act of 1974," establishes the Rural Land Acquisition and Site Development Assistance Trust Fund to be administered by the Department of Community Affairs. The Secretary of the Department is authorized to make loans to any county or municipal governing body or agency thereof, or housing authority for the purpose of acquiring land and providing suitable housing in rural areas for persons in low and moderate income brackets. The law provides for the terms and limits of such loans. The Secretary shall promulgate rules and regulations on or before February 1, 1975, and make annual reports to the Governor. Remedies are provided in the case of default by the borrower. The law authorizes the appropriate legal action by the Secretary to transfer land title to the state when suitable housing is not developed by the loan recipient within three years of the loan, or when a change in the characteristics of the land, or a change in programs, makes it impossible to use the land for such housing. Land transferred to the state may be made available to

other developers of low income housing, or, if the land cannot be developed, it may be sold in accordance with procedures for the disposition of state lands. The Secretary's lending authority expires on June 30, 1979, and all unencumbered funds and loan repayments revert to the General Revenue Fund after that date.

Financial Assistance for Community Service Programs

House Bill 3073 (Chapter 74-166) creates the "Florida Financial Assistance for Community Services Act of 1974." The act will facilitate and assist local governing authorities in providing community service programs in the area of human resource development. A Community Service Trust Fund is established to be administered by the Department of Community Affairs. Counties, municipalities, and private nonprofit corporations whose community service programs have been approved by a county or municipality may apply by September 1 of each year for financial assistance to implement these programs. State financial assistance must be matched by an equal amount of funds from the applicant, at least one-half of which must be in cash. Distribution of trust fund resources shall be based on population. The Department of Community Affairs is to provide the necessary rules and regulations

and make an annual report on the program to the Governor and the Legislature. Any elector may file a petition with the Department alleging a misuse of funds. Upon proof of such a charge, through a local hearing, the local governing authority is required to repay the funds used for unauthorized purposes, plus a penalty of 10%. Also provided are program priorities and other limitations on the use of appropriations made to the Department for the purpose of this law.

FINANCE

Revenue Sharing

House Bill 3504 (Chapter 74-194) reenacts and amends the Florida Revenue Sharing Act of 1972 which otherwise would have expired on June 30, 1974. The revenue sharing program for fiscal year 1974-75 is continued in substantially the same form and with substantially the same provisions as in prior years. The amendments update the provisions of the law, exclude special districts from the provisions of the act, and require the local governments to produce the revenue equivalent to three mills on the dollar based on the 1973 taxable values in order to be eligible to participate in the revenue sharing program,

except that municipalities incorporated after July 1, 1974, are required to produce the revenue equivalent of three mills on the dollar based on the taxable values for the year of incorporation. The hold harmless clause is amended to give the Metro government of Dade an annual increase of 7%. If no recent population figures for an urban service district are available, it shall be determined by the latest distribution available.

Tax Reimbursement to Publicly-Owned
Transit Systems

House Bill 3962 (Chapter 74-393) appropriates sufficient money to reimburse every publicly-owned transit system for the amount of any overpayment of bus license tag taxes in fiscal year 1971-72 for buses which should have been classified as "exempt or official" motor vehicles.

MOTOR VEHICLES AND TRANSPORTATION*

MOTOR VEHICLES

Driver Licenses

Senate Bill 7 (Chapter 74-36) provides that after the Department has suspended or revoked a license, a review of that order shall be by writ of certiorari in the manner prescribed by the Florida appellate rules and not in accordance with the Uniform Administrative Procedure Act.

Senate Bill 392 (Chapter 74-248) authorizes the courts to issue an order for reinstatement of restricted driving privileges on a temporary basis for those drivers convicted of a first violation of driving any vehicle while under the influence of alcoholic beverages, model glue, or any substance controlled under the Florida Comprehensive Drug Abuse Prevention and Control Act. It further provides that as a part of the penalty, the defendant shall enroll in and complete a driver improvement course for the rehabilitation of drinking drivers.

License Tags

Senate Bill 256 (Chapter 74-243) deletes all

* Prepared by the Staff of the
House Committee on Transportation

reference to the slide-in type camper unit from the law. Heretofore, the slide-in camper, defined as a portable unit designed to be loaded onto and unloaded from the bed of a pickup truck and used as temporary living quarters, was required to have a license tag at a cost of \$10 in addition to the license tag on the truck hauling it. As of July 1, 1974, license tags are no longer required.

House Bill 2643 (Chapter 74-52) repeals the \$1 fee which was in addition to the regular cost of the license tag specifically designed for active members of the Florida National Guard and stamped with the words "National Guard."

"Member Congress" and "United States Senator" will no longer appear on license tags as a result of House Bill 2856 (Chapter 74-118). Instead of being spelled out, the license tag will reflect "MC" and "USS" for those members of Congress and United States Senators wishing to purchase the special tag.

Beginning with the 1974 license tag year, any owner of a motor vehicle who is a resident of the state and is a wheelchair user may make application to the Department of Highway Safety and Motor Vehicles to purchase a license tag stamped with the international wheelchair user symbol

after the serial number. Senate Bill 128 (Chapter 74-30) requires the applicant furnish competent and appropriate proof of disability before the Department can issue the license tag.

Committee Substitute for House Bill 435 (Chapter 74-202) provides for the issuance of license tags to eligible handicapped persons bearing the letters "HP" in addition to the serial number. Eligible persons are those persons who have suffered the amputation of one or both legs, or who have suffered the loss of the use of one or both legs, as a consequence of paralysis or other permanent disability and who are licensed to operate a motor vehicle in this state. The Department of Highway Safety and Motor Vehicles is directed to furnish application forms which shall be submitted annually in order to qualify for the "HP" series license tag. The bill also exempts from the payment of any fee for parking on the public streets or highways, or in any metered parking space, those persons to whom the "HP" (handicapped persons), "DV" (disabled veterans) and wheelchair user symbol license tags are issued. The effective date of the bill is October 1, 1974, which will be after the close of the 1974-75 registration period.

House Bill 3914 (Chapter 74-301) directs the Department to provide prestige license tags bearing the names of organizations for the members thereof upon request. The digits imprinted on the tag shall be of such size so as to accommodate a maximum of eighteen. Effective date of this act is delayed until July 1, 1975.

Safety Inspection

House Bill 218 (Chapter 74-42) permits the owner of any motor vehicle bearing a current, valid inspection certificate to have the vehicle inspected at any time before the expiration of the certificate.

A current valid inspection certificate is now required on any motor vehicle before it is sold when that sale constitutes an occasional or private sale. House Bill 455 (Chapter 74-275) requires the owner of any vehicle which has been stored or unused and bearing an expired certificate to get authority from the nearest highway patrol station to drive the vehicle to the inspection station for the purpose of obtaining a valid certificate.

House Bill 629 (Chapter 74-381) relates to fees charged by safety equipment inspection stations and specifically prohibits self-inspectors from charging any

fee. It also requires crediting of delinquent fees collected by all inspection stations against the 40¢ remittance requirement of the delinquent fee fund.

Senate Bill 553 (Chapter 74-338) reduced the fee for a transfer or duplicate registration certificate from \$2 to 50 cents. It also changed the motor vehicle inspection law to provide that when a vehicle fails to pass the inspection, the authorized receipt and statement of defects shall operate as a temporary valid inspection permit for thirty days, during which time the operator is not subject to the penalty of driving a vehicle with defective equipment. The vehicle may be reinspected only one time within thirty days without having to pay the full fee again.

Traffic Control

House Bill 2812 (Chapter 74-117) exempts wreckers towing a disabled vehicle to a nearby repair service from the maximum width, height, and length regulations as established by the Florida Uniform Traffic Control Law.

House Bill 98 (Chapter 74-201) requires the liability insurance policy number be included on all accident reports. The exchange of the vehicle owner's

name, license tag number and liability insurance carrier is required of all parties suffering injury or property damage as a result of an accident.

Committee Substitute for House Bill 2714 (Chapter 74-213) redefines "migrant farm worker carrier" as any person who transports under contract, or arranges for the transportation of, nine or more migrant farm workers to or from their employment by motor vehicle other than a passenger automobile or station wagon. A migrant farm worker transporting himself or his immediate family is excluded, but the exception heretofore accorded a crop owner or manager or their full time employee is repealed.

Committee Substitute for House Bill 3471 (Chapter 74-111) requires the owner and driver of any vehicle hauling aggregates, trash, garbage or similar material upon any public road or highway to secure such loads with a close-fitting tarpaulin or other appropriate cover.

The Florida Uniform Disposition of Traffic Infractions act is created by Conference Committee Report on Senate Bill 171 (Chapter 74-377) and provides for decriminalization of certain traffic violations; establishes procedures for adjudication of infractions; establishes standard civil penalties for infractions; and continues mandatory hearings for certain

major offenses. A uniform fee schedule is established for non-criminal disposition of infractions, and penalties for major criminal traffic offenses are provided. This act has an effective date of January 1, 1975.

Conference Committee Report on House Bill 2922 (Chapter 74-384) relates to unlawful alcohol blood level in the operation of motor vehicles. (See article on LAW ENFORCEMENT AND CRIMINAL JUSTICE)

The Department of Transportation is directed to establish a uniform system of traffic and pedestrian control devices around school zones by Senate Bill 267 (Chapter 74-366). The uniform system shall be published and distributed to every county and municipality in the state. The responsibility for maintenance of the system is established according to the location of the school and regular inspection is required by the county sheriff's office, municipal police department, or other qualified agent.

Senate Bill 227 (Chapter 74-242) requires the Department of Transportation to include permanent curb ramps for use by handicapped persons at all intersection crosswalks in the minimum design, construction and maintenance standards and criteria for curbs, curb ramps and crosswalks. Municipal and county street and road plans and specifications are to contain like provisions.

TRANSPORTATION

Road Contracts

Senate Bill 1012 (Chapter 74-262) requires the Department of Transportation to provide a contract unit price adjustment for bituminous materials on certain road construction contracts at the option of the contractor and to adopt rules to implement payment of this adjustment. A formula for the determination of the amount of adjustment and a procedure for eligible contractors to exercise this option is provided.

Expressway Authorities

Senate Bill 825 (Chapter 74-369) reconstitutes the governing body of the Tampa-Hillsborough County Expressway Authority to provide a seven member board with four members appointed by the Governor and confirmed by the Senate, and three ex officio members: one from the largest city in Hillsborough County; one from the Hillsborough County Commission; and the District One Engineer of the Department of Transportation. Terms of office and procedures for removal from office and filling vacancies are provided.

Committee Substitute for House Bill 4047 (Chapter 74-375) creates the Seminole County Expressway Authority and sets forth the powers, duties, membership and responsibilities of the Authority. Seminole County gasoline

tax funds or any other funds available to the Authority are authorized to be pledged for the issuance of bonds as provided in the State Bond Act for the completion, extension, improvement, operation and maintenance of the Seminole County Expressway System. The Authority is authorized to enter into a lease-purchase agreement with the Department of Transportation for up to 40 years and the Department is authorized to covenant that it will pay all or any part of the cost of the system and any part of the cost to complete the system, to the extent that the proceeds of the bonds issued are insufficient for that purpose.

The State pledges not to change the powers and rights of the Authority until the bonds are retired and, in the event federal funds are expended on the project, further pledges to do nothing to prevent the facility from being operated and maintained consistent with any agreements with the United States.

Bonds, revenues, profits and property of the Authority are exempted from all taxes except for any tax imposed by Chapter 220, Florida Statutes, on interest, income or profits on debt obligations owned by corporations. Property leased from the Authority shall be exempt from ad valorem taxes only if the use by the lessee

qualifies the property for exemption as governmentally owned property under statutory authority.

Outdoor Advertising

Committee Substitute for Senate Bill 830 (Chapter 74-79) exempts benches with advertisements erected on the right-of-way of any municipal, county or state road for the safety, comfort or convenience of school children and the general public, or at official bus stops, from statutory restrictions on billboards, advertisements, advertising signs, advertising structures or lights so located. Permission of the pertinent political subdivision is required, and such benches must not interfere with right-of-way preservation and maintenance. The Department of Transportation is given the authority to immediately relocate any bench which endangers life or property. It is the intent of the Legislature that no bench be erected or placed which would conflict with federal law, regulations or safety standards and result in the loss of federal funds to the state or any political subdivision.

Committee Substitute for Senate Bill 997 (Chapter 74-273) prohibits local governments from removing outdoor advertisements or advertising structures without paying compensation in accordance with statutory provisions.

The act permits discretionary use of secondary road funds for this purpose. Responsibility for removal of outdoor advertisements or structures adjacent to federal interstate or primary highways is limited to the Department of Transportation.

MISCELLANEOUS

House Bill 3245 (Chapter 74-73) deletes the prohibition against a company having consecutive service stations along one side of a turnpike, but prohibits the operation of more than one service station per site if the proposed lessee has more than 50% of the service stations on the turnpike, or if the brand of motor fuel proposed is sold at more than 50% of such service stations.

Senate Bill 209 (Chapter 74-9) exempts those mobile homes which are permanently attached to a permanent structure from the requirement of having anchors and tie-downs. The permanent structure is defined as having a foundation and meeting such other structural elements as are required pursuant to rules and regulations by the Department of Highway Safety and Motor Vehicles to assure the rigidity and stability of the mobile home. The Department is further directed to establish standards for alternative

methods of securing mobile homes where over-the-roof tie-downs are not feasible. The Department may make such discriminations regarding mobile home tie-down requirements as are reasonable when factors such as age, location, and practicality of tying down a mobile home are considered.

Senate Bill 340 (Chapter 74-400) designates Old Cutler Road in Dade County as a state historic highway under the supervision of the Division of Archives, History and Records Management of the Department of State. The expenditure of state funds to alter the dimensions or location of the road or to effect physical changes along the road are prohibited with certain exceptions. These excepted alterations must be approved by the Division. The Division is authorized to obtain historic easements along the road to the extent deemed appropriate for the preservation of the road or of any structure of historical significance. Any restriction on the use of property resulting from historic easements is to be reported to the Dade County Tax Assessor for consideration in the assessment of the affected property.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION*

Legislation relating to conservation, natural resources, and the quality of our environment, adopted in the 1974 session, once again reflects the increased concern that these matters have received in recent years. The following discussion is broken down into broad subject areas for the convenience of the reader.

Pollution and the Environment

The most talked about bill in this area became the revised "Pollutant Spill Prevention and Control Act," Committee Substitute for Senate Bill 132 (Chapter 74-336). A thorough understanding of the revision can only be had by a careful examination of its contents; however, some of the primary changes from the previous oil spill law may be briefly summarized as follows:

1. The previously unlimited liability of vessels which permit a prohibited discharge or other polluting condition to take place within state boundaries was limited to a maximum liability for all costs of cleanup or abatement to \$14,000,000, unless willful or gross negligence or willful misconduct is shown. Similarly, liability of

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terminal facilities is limited to \$8,000,000.

2. Persons claiming damage may seek recovery against money in the Florida Coastal Protection Trust Fund which is initially funded by a \$10,000,000 appropriation from general revenue.

3. An excise tax designed to produce revenue for the Florida Coastal Protection Trust Fund is imposed upon each registered terminal facility at a rate of two cents per barrel of liquid pollutant transferred until the fund equals or exceeds \$35,000,000.

4. A procedure is established for submission of disputed claims against the fund to a board of arbitration.

With respect to so-called "noise pollution," House Bill 3365 (Chapter 74-110) creates the "Florida Motor Vehicle Noise Prevention and Control Act of 1974." The legislative intent is to implement the mandate of Section 7, Article II of the State Constitution to improve the quality of life in the state by limiting the noise of motor vehicles used on the highways of the state. The Department of Pollution Control, in cooperation with the Department of Highway Safety and Motor Vehicles, is to develop regulations providing test procedures to assure compliance with the schedule of new vehicle noise level limits according to

type of vehicle and date of manufacture as set out in the act. The test procedures must be in substantial conformance with applicable motor vehicle sound level standards and recommended practices of the Society of Automotive Engineers, Inc., and the American National Standards Institute, Inc., and are to be published no later than December 1, 1974. No noise abatement device for motor vehicles may be sold, offered for sale in the state, or used after July 1, 1975, which will permit a motor vehicle to operate above permitted sound levels. The manufacturer, distributor, importer, or designated agent for such devices must file a written certificate of compliance with the Department of Pollution Control. Operating vehicle noise measurements procedures are to be established by regulations produced in a similar manner and are to be issued by January 1, 1975. No local authority can enact or enforce any ordinance on such measurements without express authority, except for ordinances vesting violation jurisdiction in a local court. Modification of noise abatement control equipment to permit a vehicle to operate at a level above that emitted by the vehicle as originally manufactured is prohibited. Vehicles exempt from the provisions of the act are (1) emergency vehicles, (2) vehicles participating in certain sporting events, (3) manufacturer's test vehicles, and (4) construction or

agricultural equipment. The Departments of Pollution Control and Highway Safety and Motor Vehicles are to undertake a joint study of the effectiveness of the act during the initial two years of implementation and to report to the Legislature no later than thirty days prior to the convening of the 1977 Regular Session.

Committee Substitute for House Bill 584 (Chapter 74-371) directs the Department of Transportation to utilize vegetative noise control barriers (trees, shrubs, etc.) along new highways abutting urban-residential development. Where possible, the Department is to use federal matching funds for such purpose.

The Florida Air and Water Pollution Control Act was amended by three separate bills:

1. Committee Substitute for House Bills 2131 and 2132 (Chapter 74-133) revises several sections of Chapter 403, Florida Statutes, to conform them to new provisions of federal law, redefines pollution and defines "effluent limitation." The act extends time for decision on requests for a federal National Pollutant Discharge Elimination System (NPDES) permit from 60 days to 100 days and limits life of permits for water pollution sources to five years. Civil penalties for pollution are increased from \$5,000 a

day to \$10,000 a day and the criminal fine for willful violations of pollution law is increased to a minimum of \$2,500 and a maximum of \$25,000 per day of violation. The law also creates a criminal penalty of \$10,000 for filing a false statement under the act.

2. House Bill 4017 (Chapter 74-170) allows the Department of Pollution Control to grant variances to electric power plants constructed pursuant to the Power Plant Siting Act.

3. Senate Bill 358 (Chapter 74-308) requires that standards and requirements for sewage systems of the Department of Pollution Control be adopted as rules pursuant to the Administrative Procedures Act, and provides that the Department shall not withhold issuance of a permit upon consideration of standards and requirements not so adopted.

House Bill 1271 (Chapter 74-60) creates a pollution control awards program to be administered by the Department of Commerce. Governmental and private entities and individual citizens may be nominated and special awards are permitted for outstanding efforts to prevent or clean up pollution as provided by the rules and regulations published by the Department. The Department of Pollution Control is given veto power over any award which it feels would be so

controversial as to be unadvisable. Four categories of awards or special awards are established: water pollution, air pollution, noise pollution, and communication media on pollution problems.

Committee Substitute for House Bill 3669 (Chapter 74-226) clarifies the procedures for registration under the State Land Sales law with respect to which environmental permits are necessary prior to registering or developing lands.

Energy and Resource Management

Conference Committee Report on Committee Substitute for House Concurrent Resolution 2800 adopts a policy on growth for the state. Although not having the effect of law, the resolution expresses a policy for future development of the state which provides guidelines for potential legislative action in many areas. Highlights of the policy includes the following stated intentions:

1. It is not the state's policy to stimulate further growth generally, but to plan for and distribute such growth as may develop.
2. Modernization of local government is to be encouraged.

3. The impact of new residents is to be reviewed with respect to the equitable allocation of tax charges and revenues.

4. Comprehensive land-use planning is to be encouraged.

5. Balanced, statewide transportation systems are to be developed on a priority by needs basis.

6. Coordination of state government and other efforts generally is to be sought in order to maintain a high quality of life.

Committee Substitute for House Bill 3630 (Chapter 74-186) creates an energy data center within the Division of State Planning. It shall be the duty of the center to collect data on the extraction, production, importation, exportation, refinement, transportation, transmission, conversion, storage, sale or reserves of energy resources in the state and to prepare reports of such data. Every person who engages in such activities is required to report periodically to the center indicating the quantity of energy resources involved. The identity and type of petroleum products obtained from each refinery is specifically required. Those persons providing information to the center may request that it be held by the center as

confidential. Failure to submit information to the center in accordance with the act is a misdemeanor of the first degree. The center was provided with an appropriation of \$160,000 to employ personnel and carry out its duties.

The life of the Florida Energy Committee was extended for another year, until the end of 1976, by House Bill 3628 (Chapter 74-188). The Committee was charged with the duty of studying the interrelationships of growth and public demand for energy.

In order to enhance the quality of the environment and recycle our natural resources, Committee Substitute for Committee Substitute for House Bills 2837 and 2280 (Chapter 74-342) creates the "Florida Resource Recovery and Management Act," designed to bring about a comprehensive program of solid waste disposal management. The Department of Pollution Control is required to develop a statewide program, with local implementation programs to follow in two years. The program is to provide guidelines for the orderly collection, transportation, storage, processing, recycling, and disposal of solid waste throughout the state. A thirteen-member resource recovery and management advisory council is created to approve the guidelines, recommend siting and funding of pilot recycling programs throughout

the state, recommend additional legislation, and review local government implementation of programs required by the act. After January 1, 1975, no resource recovery and management facility may be operated without a permit issued by the Department. The Department is authorized to provide grants to assist local governments in meeting planning and project costs, up to 50% of the total cost. Issuance of state revenue bonds to fund construction and operation of resource recovery and management facilities is also authorized. The Public Service Commission is encouraged, in the setting of rates for rail and motor carrier transportation of solid wastes, to provide an incentive for resource recovery and recycling.

The Environmental Land and Water Management Act was amended by Committee Substitute for House Bill 3767 (Chapter 74-326) to allow the Governor and Cabinet to set development principles in newly-created areas of critical state concern, that shall apply prior to the adoption of formal land development regulations for the area. Detailed changes are also made in the procedures relating to the determination of proposed developments of regional impact.

Two bills relating to petroleum resources were enacted: House Bill 4221 (Chapter 74-189) provides that the Department of Administration shall assume the state's

role with regard to federal petroleum allocation programs. In cooperation with the Department of Revenue and the Florida Energy Committee, the DOA is also to make studies and reports reflecting the consumption of petroleum resources in the state and expected future demands. The act expires on July 1, 1975. House Bill 1280 (Chapter 74-316) provides for the operation as a unit of an entire oil or gas field or pools within a field after hearing and by order of the Department of Natural Resources. The act provides for the contents of the order and for its ratification by the affected owners, and also provides a method for allocating production and adjusting costs among the property owners.

Senate Bill 721 (Chapter 74-185) directs the Board of Regents to develop a plan for a solar energy center and to present the plan to the Legislature by March 1, 1975. The plan is to include a proposed location, organizational structure, and program and budget proposals, all designed to develop technical expertise with regard to solar energy research, development, and practical applications.

Public Lands and Beaches

Committee Substitute for House Bill 2809 (Chapter 74-102) gave an assist to beach erosion control efforts by

authorizing the state to fund up to 75% of the nonfederal construction and maintenance costs of erosion control and beach restoration programs. With regard to federal aid projects, local interests are required to pay the nonfederal costs of engineering and provide easements, rights-of-way, parking spaces, and other nonconstruction items. The state may pay 100% of the cost of inlet sand transfer projects when the primary purpose is beach nourishment. Local interests must provide sufficient public access in order to qualify for state funds. A five year schedule of priority projects is set forth in the bill, and no other projects may be initiated without further legislative enactment.

House Bill 3032 (Chapter 74-56) creates the Florida Coastal Mapping Act of 1974. The establishment of a coastal zone mapping program is declared to be necessary for the confirmation of the mean high-water line as the boundary between state sovereignty lands and uplands subject to private ownership and the establishment of uniform standards and procedures for local tide data. The Department of Natural Resources is designated as the administering agency. Maps produced are required to conform to minimal national standards of accuracy, and completed copies are to be filed with the clerk of the circuit court in the county or counties affected. Before the Department may approve a proposed map

a public hearing must be held in the county or counties affected. Provision is made for review, at least once every twenty-five years, of approved coastal zone maps and the issuance of revised maps is authorized where necessary.

Committee Substitute for Committee Substitute for House Bill 187 (Chapter 74-59) requires the Department of Natural Resources to hold a public meeting before making recommendations to the Governor and Cabinet on the purchase of environmentally endangered land. The meeting is to be held in the county where the major portion of such land is situated pursuant to public notice in a local newspaper.

House Bill 3031 (Chapter 74-26) requires the Board of Trustees of the Internal Improvement Trust Fund to give public notice of intent to sell, lease, or exchange any public lands to which the Board holds title. The notice is to be published in a newspaper in the county in which the lands lie and a copy of the notice is to be mailed to landowners within 1,000 feet of the parcel to be conveyed. If written objections are filed within thirty days of initial publication of the notice, a public hearing must be held in the county in which the lands lie. Certain lands are exempted from the provisions of the act.

House Bill 4018 (Chapter 74-171) designates Biscayne

Bay in Dade and Monroe Counties as an aquatic preserve. The Board of Trustees of the Internal Improvement Trust Fund is to maintain the preserve and the further sale, dredging, or filling of lands therein is made subject to strict limitations. Seaward relocation of bulkhead lines and construction or replacement of seawalls is also limited. The Trustees may adopt additional preserve management criteria and regulate human activity within the preserve so as not to interfere with recreational uses. No wastes or effluents may be discharged into the preserve which substantially inhibit accomplishment of the purposes of the act. Violations of the act are subject to injunctive relief and civil penalties of \$5,000 per day.

Fresh Water Management

Committee Substitute for Senate Bill 504 (Chapter 74-114) authorizes the governing board of each water management district under Chapter 373, Florida Statutes, to assist counties, municipalities, and regional water supply authorities in planning for and meeting the water supply needs of the rapidly urbanizing areas within its district. Such regional water supply authorities may be formed by agreement between local governmental units, for the purpose of developing, storing, and supplying water,

and may thereafter construct water supply facilities, issue revenue bonds, levy taxes with approval of the electors, and exercise eminent domain except for water and water rights already devoted to a reasonable beneficial use. Prior rights of counties to their own water are protected. Formation of such authorities must be approved by the Governor and Cabinet.

Committee Substitute for House Bill 2531 (Chapter 74-65) creates the "Florida Nonindigenous Aquatic Plant Control Act" which recognizes that the uncontrolled growth of nonindigenous aquatic plants in Florida waters causes health, safety, and economic problems, and acknowledges the state's responsibility to cope with the situation. Responsibility for control in intercounty waters is given to the Department of Natural Resources, whereas the appropriate unit of local government, is given this duty for intracounty waters. Control is to be effected through maintenance programs rather than eradication or complaint spray programs so as to increase efficiency and reduce costs. Overall supervisory authority is given the Department within each water management district, and cost accounting for the programs is to be by watershed for comparison purposes. The Department may delegate all or part of its functions to state agencies or other governmental entities provided it pays

special attention to the keeping of accounting and cost data. The Department may dispurse matching funds to other entities if it has proof from each unit of fiscal adequacy and has approved control techniques and programs to be used by each. The water management districts are to present their information to the Department in a form which will permit comparison between the districts. The Department is authorized to cooperate with and enter into save harmless agreements with the Federal Government to maintain, control or eradicate noxious aquatic plants. The Department may delegate various functions to the Game and Fresh Water Fish Commission and may assist the Commission in carrying out the purposes of this act. The Commission in turn is to assist the Department in administering the Florida Aquatic Weed Control Act. The Department is directed to use biological agents for the control of nonindigenous aquatic plants.

House Bill 1216 (Chapter 74-279) amends the present prohibition against the uncontrolled flowing of artesian wells to exempt wells from the prohibition and penalties therefor unless the Department of Natural Resources can show that the uncontrolled flow of water does not have a beneficial use. The previous misdemeanor penalty for violations is replaced by a civil penalty.

Boating and Water Safety

Committee Substitute for House Bill 3948 (Chapter 74-327) amends provisions relating to the regulation of motorboats to provide for the registration of all motorboats, make them subject to a license fee (rather than the previous registration certificate tax), and consolidate administration of such registration under the Department of Natural Resources. The previous distribution of revenues to counties and school boards, through the motorboat revolving trust fund, is replaced by a provision for grants to counties for recreational channel marking, public launching facilities, and other boating related activities. The act also provides that certain class motorboats be furnished with additional safety equipment. The registration requirements were also modified by House Bill 2746 (Chapter 74-62) which provides a ten-day grace period following purchase for owners to register their motorboats.

House Bill 3077 (Chapter 74-344) requires that any person wholly or partially submerged in the waters of the state with a face mask and snorkel or underwater breathing apparatus must display a "Divers Down Flag" except when diving in an area customarily used for swimming only.

Salt Water Fisheries

Three bills relating to shrimp fishing were passed: Senate Bill 587 (Chapter 74-58) exempts live bait shrimp from statutory provisions relating to size limitations and requires all vessels fishing for live bait shrimp to have live bait shrimp tanks. Such vessels are prohibited from having more than five pounds of dead shrimp on board per day. Senate Bill 505 (Chapter 74-1) redefines the boundaries of the Tortugas Shrimp Bed, and House Bill 3287 (Chapter 74-140) creates the Florida East Coast Shrimp Bed from the Georgia boundary to the southern boundary of St. Lucie County and provides for closed seasons, permits, and penalties for violations with respect thereto. This latter act also includes Nassau County within the regulations currently imposed on live and dead shrimp production in Duval, St. Johns, Putnam, and Clay Counties.

Senate Bill 783 (Chapter 74-123) creates a seven-member ad hoc council within the Department of Natural Resources to evaluate and coordinate all research activities in the state relating to "red tide," and to make a report to the Legislature by March 1 of each year.

Committee Substitute for House Bill 3450 (Chapter 74-220) creates a two-day sports fisherman's crawfish season,

shortens the period during which no person may prevent shad from spawning, prohibits possession on a boat of more than 1,000 yards of gill nets for the taking of shad, and modifies provisions relating to the removal of commercial shad fishing nets and the bag limit for crawfish.

Committee Substitute for House Bill 3289 (Chapter 74-141) clarifies the statutory requirements relating to the unlawful taking of stone crabs and the return of stone crabs to the water after removal of the claws. The bill also requires persons who acquire ownership of stone crab traps to notify the Division of Marine Resources within five days requesting a transfer of stone crab permit.

Committee Substitute for House Bill 259 (Chapter 74-20) defines unlawful acts with respect to marine turtles, their nests and eggs, and requires a person, firm, or corporation having a turtle or portion thereof to present an invoice showing the turtle was imported from a foreign country, obtained outside Florida territorial waters, or is under special permit from the Division of Marine Resources for scientific, educational, or exhibitional purposes. Violation of the act is a first degree misdemeanor.

House Bill 2728 (Chapter 74-214) redefines those species of corals which may be lawfully taken or possessed

in the state as those which are hard or stony (scleractinia).

Fish and Game

Senate Bill 589 (Chapter 74-309) establishes a \$100 fee to be paid by persons who desire to possess as a personal pet wildlife "considered to present a real or potential threat to human safety" as classified by the Game and Fresh Water Fish Commission. The Commission is also to establish a class of wildlife which shall not be permitted to be possessed as personal pets. Wildlife exhibitors otherwise holding a permit are exempt from the act.

House Bill 3561 (Chapter 74-144) requires all organized poisonous reptile hunts to be registered with the Game and Fresh Water Fish Commission. All persons conducting such a hunt are to comply with provisions relating to poisonous reptiles. Those persons participating in such a hunt which is sponsored and conducted by a registered nonprofit organization are exempt from the licensing requirements.

PUBLIC HEALTH AND REHABILITATIVE SERVICES*

Alcoholism and Mental Health

Significant changes were made in the procedures for the treatment of alcoholics by the passage of Senate Bill 722 (Chapter 74-257). Persons found intoxicated in public places may be taken to an appropriate treatment resource rather than to an emergency service or facility. Those who, for their own safety, are detained in a jail or detention facility, may be held in protective custody up to twelve hours provided that, within the initial eight hours, the nearest treatment resource must be notified so that it may initiate appropriate services. A person may be ordered to an appropriate treatment resource for involuntary treatment by the circuit court upon the petition of any physician, rather than just the certifying physician. Further, a circuit court may order involuntary treatment under the provisions of The Florida Mental Health Act for a person the court has reason to believe has a mental illness other than or in addition to alcoholism, and would be considered dangerous to himself or others. The act prohibits the adoption after January 1, 1975, of local ordinances which make public intoxication a crime. These provisions which are included in Section 396.161, Florida Statutes, were

* Prepared with the assistance of
Bill Leary, House Bill Drafting Service

originally scheduled to become effective October 1, 1974.

In addition to the legislation enacted relating to procedures for the treatment of alcoholics, attention was given to the methods by which persons are hospitalized and treated for mental retardation. House Bill 3324 (Chapter 74-270) appropriated \$226,200 to the Department of Health and Rehabilitative Services for the implementation of procedures enacted in 1973 for hearings relating to the determination of competency and the involuntary admission of persons to residential services provided by the Division of Retardation.

House Bill 4000 (Chapter 74-233) amends several provisions of the Florida Mental Health Act as they relate to rights of mentally ill persons. Henceforth, any person adjudicated not guilty by reason of insanity in a criminal proceeding shall be committed to the Division of Mental Health for hospitalization and treatment according to the provisions of the Florida Mental Health Act. In addition, a person charged with a misdemeanor will not be so committed solely on the basis of Florida Rules of Criminal Procedure 3.210, but shall also be committed according to the provisions of the Florida Mental Health Act. The law increased from 15 to 30 days the period within which the hearing examiner must hold a hearing after receiving a request from

an administrator of a facility for continued involuntary hospitalization of a patient; increased from 10 to 20 days the period within which the hearing examiner must set a time and place for a hearing after receiving a petition for a hearing on involuntary hospitalization from the patient or his guardian or representative; and increased from 5 to 30 days the length of a continuance which may be granted by the hearing examiner. Any order by a hearing examiner relating to the continued hospitalization of a patient at a mental health facility is now reviewable by the court of appeals of the appropriate district, rather than by the circuit court of the county. A jail may now be used as an emergency facility for mentally ill persons in felony criminal cases for so long as the emergency exists, up to a maximum of 45 days.

House Bill 3559 (Chapter 74-291) clarifies the formula for determining the state's share of financial participation in community mental health services by listing specific deductions to be made from the total operating costs of services and programs. A uniform funding percentage of 75% for state financial participation, up from 65%, is then applied to the net balance of the operating costs of all community based, state-aided

mental health and alcoholism prevention, treatment, and control programs. The authority of the Division of Mental Health to waive required services in a mental health district as a prerequisite to the receipt of state matching funds was eliminated and all mental health board districts are now required to submit annual budgets to the Division when applying for funds.

House Bill 3706 (Chapter 74-147) requires that at least one member of a mental health board in any board district be a physician or a psychiatrist.

Drug Abuse

The Legislature in 1974 addressed itself to treatment procedures for drug abusers as it had with regard to alcoholics and the mentally ill. Committee Substitute for Senate Bill 15 (Chapter 74-172) creates involuntary treatment procedures for persons habitually dependent upon controlled substances. Hearings are in a circuit court and procedures for examination, commitment to a treatment resource, recommitment and discharge are provided. All treatment records are considered confidential and may be disclosed only with the consent of the subject; upon court order; or for purposes of significant research as long as the subject's identification is not disclosed. Visitation

to persons voluntarily or involuntarily residing in a treatment resource is to be regulated, and provision is made for the reimbursement of the costs of care and treatment by the drug abuser or his parent or guardian. Persons who provide false information for purposes of securing the involuntary commitment of another, or who lack probable cause to believe the person is a drug abuser, are subject to heavy criminal and civil liability, unless they are acting in good faith.

Committee Substitute for House Bill 2629 (Chapter 74-340) assists drug abuse centers by increasing from 60 to 90 days the time during which the center may be reimbursed from the Drug Abuse Trust Fund within the Department of Health and Rehabilitative Services for persons referred to the center by the Department. Authorization is also given for an extra 90 days of reimbursement upon the written recommendation of the treatment director and the approval of the referral source. The act also provides for referrals to drug abuse treatment centers from the Division of Youth Services or the Parole and Probation Commission as well as the court of original jurisdiction.

Corrections

Important correctional reform was adopted at the

1974 Session with the passage of Committee Substitute for Senate Bill 215 (Chapter 74-112), known as the "Correctional Reform Act of 1974." Significantly, the Legislature stated its recognition of the failures of the present system and its intent to improve all phases of corrections. The Department of Health and Rehabilitative Services and the Parole and Probation Commission are required to jointly submit to the Legislature by January 1, 1975, a detailed plan for the operation of the state correctional system. The plan is to include an emphasis upon: (1) the decentralization of correctional facilities by the implementation of regional facilities, (2) vocational and educational training of offenders, (3) use of local jails for minor offenses, (4) use of alternatives to institutionalization, (5) improved pretrial and presentence investigation, and (6) improved diagnostic programs. Physical facilities for intake and evaluation are to be maintained by the Department wherein may be combined as many rehabilitative and correctional services for the offender as possible. The Commission is to supervise the pretrial intervention program under which first offenders charged with misdemeanors and third degree felonies are eligible, subject to agreement by the administrator of the program, the victim, the state attorney, and the judge. The program lasts 90 days, with provision

for an extension of an additional 90 days. If participation in the program by the offender is satisfactory, all charges may be dismissed, otherwise pending criminal proceedings are resumed against him. The Department is to provide community correctional centers, adult intake and evaluation programs and services, and drug treatment facilities; the Commission will provide residential facilities for probationer, participants in pretrial intervention programs, and those committed to or under supervision of the Commission. The form and content of presentence investigation reports are prescribed. The maximum period for a parole is set at two years unless the Commission designates a longer period of time. The offender is to receive a written explanation if the parole is in excess of two years. As regards probation, no person convicted of a misdemeanor may be placed on probation for more than six months and no felony offender for more than two years unless the court directs otherwise. Upon notifying the court, the Commission may release an offender from probation early. Procedures relating to hearings on parole and work release programs were revised. The policy for a determination by a court of whether an offender may be placed on probation was also changed. The court is provided the discretion at the time of imposing a term of probation to specify that the offender serve part or all of the term in

a community residential facility under the jurisdiction of the Commission.

A bureau of Vocational Education and Career Development was created in the Division of Corrections to coordinate and develop job training and job placement, and a Vocational Training Advisory Council established. Unless covered by a specific exemption, all persons on parole or probation are to contribute \$10 per month towards the cost of their supervision or rehabilitation. Public defenders, authorized representatives of the Parole and Probation Commission, and bona fide reporters or writers are to be permitted to visit state prisons. Other provisions relate to loss of gain time for any person convicted of escape or whose parole or clemency is revoked. All persons directed to the supervision of the Division are to be processed through a reception and evaluation program. Only those civil rights relating to the right to vote, hold public office, and to serve on a jury are suspended by the conviction of a felony. The number of commissioners on the Commission is increased from five to eight and shall include the director of the Division of Corrections. Finally, the act makes it unlawful for anyone upon the grounds of a county detention facility to possess any intoxicating beverage, narcotic or excitative drugs, dangerous weapons, or other devices which may aid in an

escape, unless authorized by the sheriff or officer in charge.

Other measures passed dealing with matters of reform in the areas of corrections and probation and parole are contained in Committee Substitute for Senate Bill 219 (Chapter 74-122) which authorizes the Division of Corrections to transfer drug dependent, retarded, addicted, tuberculous, mentally ill, or other prisoners requiring specialized services to appropriate public or private facilities or programs for the purpose of providing such specialized service or treatment for as long as needed, but for no longer than the remainder of the prisoner's sentence. The fact that such persons have been transferred to a treatment facility does not mean that they are not confined for purposes of eligibility for parole.

House Bill 2580 (Chapter 74-107) creates a Corrections Standards Council within the Department of Health and Rehabilitative Services to establish standards for the employment and training of correctional officers. Qualifications for employment as a correctional officer are provided and all such officers are required to be certified by the Council upon completion of a training program. Provision is made for the payment of tuition by the employing agency and for the reimbursement of part of a trainee's salary by the Council. The Council is further directed to study the compensation paid to all correctional personnel and report its findings to the Legislature.

Senate Bill 218 (Chapter 74-241) empowers the Parole and Probation Commission to issue summons and subpoenas to compel attendance of witnesses at a parole violation hearing. The Commission may also issue subpoenas on behalf of the parolee.

Juveniles and Dependent Children

In Committee Substitute for Senate Bill 643 (Chapter 74-368) the Legislature defines the effect the lowering of the age of majority last year would have on juveniles. As provided in the act, whenever a court obtains jurisdiction over a "delinquent child" it shall continue to have such jurisdiction until the child reaches the age of twenty-one. Delinquent children may be placed on probation or committed to the Division of Youth Services until age twenty-one. If the jurisdiction of the court is over a "child in need of supervision" or a "dependent child," such jurisdiction will terminate when the child reaches age eighteen, and a dependent child may only be committed to the custody of the Division of Family Services until age eighteen.

House Bill 304 (Chapter 74-22) adds the out-of-state confinement amendment to the Interstate Compact on Juveniles which the Governor is authorized to execute on behalf of Florida with any other state joining therein. The amendment provides that a juvenile offender may be confined in a state other than the one in which he committed an offense

and was judged delinquent. It further provides that any placement of a juvenile in an institution of another state can be done only with the concurrence of appropriate officials in the two states involved.

The Legislature adopted the Interstate Compact on the Placement of Children on the passage of House Bill 1836 (Chapter 74-317). The Compact provides that the state will cooperate with compacting states so that each child requiring placement will be placed in a suitable environment; so that the appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement to protect the child; so that the proper authorities for placement may obtain the most complete information on which to evaluate a proposed placement; and so that appropriate jurisdictional arrangements for the care of children will be promoted.

The Legislature addressed itself to the needs of dependent children in Committee Substitute for House Bill 54 (Chapter 74-380). This legislation is designed to provide additional remedies for the collection of support for children receiving aid to families with dependent children. The Division of Family Services is required

to institute a civil action for support against persons liable for such support within 30 days of an application for public assistance for a dependent child. Any payments made pursuant to a court order for support are to then be made to the Division if it is providing public assistance. The payments are then to be forwarded to the public assistance recipient. Any payment made to or for a dependent child by the Department of Health and Rehabilitative Services is a debt to the state, enforceable against the parent responsible for the dependent child unless the parent is a recipient of public assistance for the benefit of the child or is for a time otherwise unable to pay. A court procedure for collection of the debt is provided in the nature of garnishment, seizure and sale of real and personal property, and attachment of bank accounts, and any such debt shall constitute a lien against the property of the responsible parent.

Health Care and Child Care Facilities

Committee Substitute for House Bill 3206 (Chapter 74-323) known as the "Health Facilities Authorities Law," represents an attempt to reduce the bonded indebtedness of health facilities and thereby reduce health care costs by allowing nonprofit health facilities to obtain financing

or refinancing moneys through the use of a public bonding mechanism. The law provides a mechanism whereby a health facility authority may be created in each local agency, but in order for it to exercise any power, a local ordinance or resolution must be adopted declaring a need for it. Each authority is to assist health facilities within the jurisdiction of the local agency in providing financing for health care services. The authority is given the power to acquire property for the operation of health facilities, to lease the property to a hospital or nursing home, to engage in construction contracts, issue notes and revenue bonds and to fix rents and charge fees for any project. Before any project is approved by the authority, and before any revenue bonds are validated, the Department of Health and Rehabilitative Services must have issued a certificate of need for such project.

The problems relating to the health and safety of children in child care centers were addressed in Conference Committee Report on Senate Bill 277 (Chapter 74-113). The act speaks to the need for uniform minimum standards for the operation of child care facilities in the state in order to provide for the health, safety, and well-being of the children involved. The Department of Health and Rehabilitative Services through a Child Care Advisory

Council is responsible for developing state minimum standards and other rules and regulations to carry out the act. The Advisory Council will consist of five parents, five operators of child care facilities, and five members of other concerned groups. State minimum standards are mandated that will protect the health, sanitation, safety, and well-being of all children under care by insuring competent personnel, adequate physical surroundings, and healthful food. Local licensing agencies will be allowed to continue or to begin administering their own child care licensing programs upon a determination by the Department of Health and Rehabilitative Services that their standards are found to meet or exceed the state standards. Coordination of all inspections is also required. A one-year provisional license may be issued to those facilities which are unable to conform to all of the standards. Family day-care homes will be licensed in those counties which presently license them or choose to do so. In other counties, such homes may file a short annual report to the Department. Operators may request such consultation services, technical assistance, and in-service training as are available to help improve programs and facilities for child care. Legislative intent clearly states that Chapter 74-113 does not give any government agency the

authority to regulate any Sunday school or nursery service provided during church services primarily for the convenience of those attending such services. In counties without existing licensing programs, a child care facility is exempt if it is an integral part of a church or parochial school which conducts regularly scheduled classes and is accredited by an organization which publishes and requires compliance with its health, safety, and sanitation standards. The exemption applies in counties with licensing programs already in existence only if the county elects to exempt these facilities. Any exempt facility may elect to be licensed. The effective date of this act is July 1, 1974, except that enforcement of standards pursuant to promulgation of rules and regulations under this act will not begin until July 1, 1975.

Senate Bill 650 (Chapter 74-255) provides that any county which transfers an indigent patient to the J. Hillis Miller Health Center without referral approval is liable for all costs relating to health care for the patient. A procedure is given for collection by the Department of Banking and Finance from a county failing to make prompt payment.

House Bill 290 (Chapter 74-21) repeals the authorization given the Division of Health to establish a tuberculosis hospital in Union County.

School Health Services

An effort to supplement parental responsibility in the area of child health passed during the 1974 Session in the form of Committee Substitute for House Bills 3208 and 3166 (Chapter 74-356), known as the School Health Services Act of 1974. The Department of Health and Rehabilitative Services and the Department of Education are given duties relating to the development and implementation of a state plan for school health screening to be coordinated with other school programs by the principal of each school. The Department of Health and Rehabilitative Services is given further duties relating to consultation with parents and school personnel whenever definitive diagnosis or treatment of any child is indicated. Each district school board is to provide facilities in each school for the health services program. Nonpublic schools are permitted by the act to participate in the program should they so desire. The act requires that a parent or guardian provide the school with written permission at the beginning of the school year in order for the child to participate in medical or physical examination, screening, and treatment under the program. An exception to this consent requirement is made with regard to contagious or communicable diseases where treatment is required by rule

or law. The Department of Health and Rehabilitative Services and the Department of Education are required by January 1, 1975, to provide the Legislature with a detailed plan for the implementation of statewide school health services programs. The act provides for the funding of the programs in annual increments beginning in 1975 with a target date of 1979 for provision of service to all children in the state. The act repealed existing provisions relating to the duties of school boards and superintendents for health examinations and treatments and to the cooperation of school boards and county health units.

Health Education

Two bills were enacted into law relating to the Community Health Education Act. House Bill 3363 (Chapter 74-358) requires the Community Hospital Education Council and the Department of Education to establish an ongoing program of family practice residencies. Except for fixed capital outlay, no state matching funds will be used for this ongoing program.

House Bill 2696 (Chapter 74-135) provides that accreditation by the American Osteopathic Association be included as a standard by which a program is to be

qualified for participation in the community hospital education program.

Disabled and Handicapped Persons

The needs of disabled and handicapped persons were given a good deal of attention during the 1974 Session. Important steps were taken to improve the chances of such persons in the area of employment by the passage of three bills. House Bill 3016 (Chapter 74-286) provides that any person who discriminates in employment practices or in housing accommodations against any blind, visually handicapped, or otherwise physically disabled person, solely on the basis of his handicap, is guilty of a misdemeanor of the second degree. An employer seeking to exempt himself from punishment must show that the particular disability would prevent the satisfactory performance of the work involved.

House Bill 2666 (Chapter 74-341) authorizes the Division of Vocational Rehabilitation to contract with a nonprofit organization operating rehabilitation facilities for the employment of persons with a developmental disability who are over the age of sixteen and who are capable of benefiting from such employment. The act limits those persons eligible to ones suffering from either mental

retardation, cerebral palsy, epilepsy, or a combination thereof. Any facility under contract with the Division is required to provide evaluation and job placement services for any disabled employee placed with the facility by the Division who is potentially able to compete in the job market.

House Bill 4144 (Chapter 74-236) creates a Council for the Purchase of Products and Services of the Blind and Other Severely Handicapped within the Department of General Services which will establish and maintain a list of products and services offered for sale by nonprofit agencies for the blind and other severely handicapped. Any agency intending to purchase a product or service on the list must do so from a nonprofit agency for the blind and other severely handicapped if reasonably possible or not otherwise prohibited.

Committee Substitute for Senate Bill 588 (Chapter 74-254) establishes a central registry of severely disabled persons in the Department of Health and Rehabilitative Services for purposes of assuring their receipt of proper services by the appropriate division within the Department.

Committee Substitute for House Bills 3659, 3763,

and 3879 (Chapter 74-292) is a significant law which will enable physically disabled persons to have access to buildings open to the public. Any building conducting business with the general public constructed after October 1, 1974, is required to provide at least one easily accessible entrance and exit for physically disabled persons. All presently existing buildings, or those under construction, must remove existing barricades to the use of entrances and exits by physically disabled persons. Certain exemptions are provided.

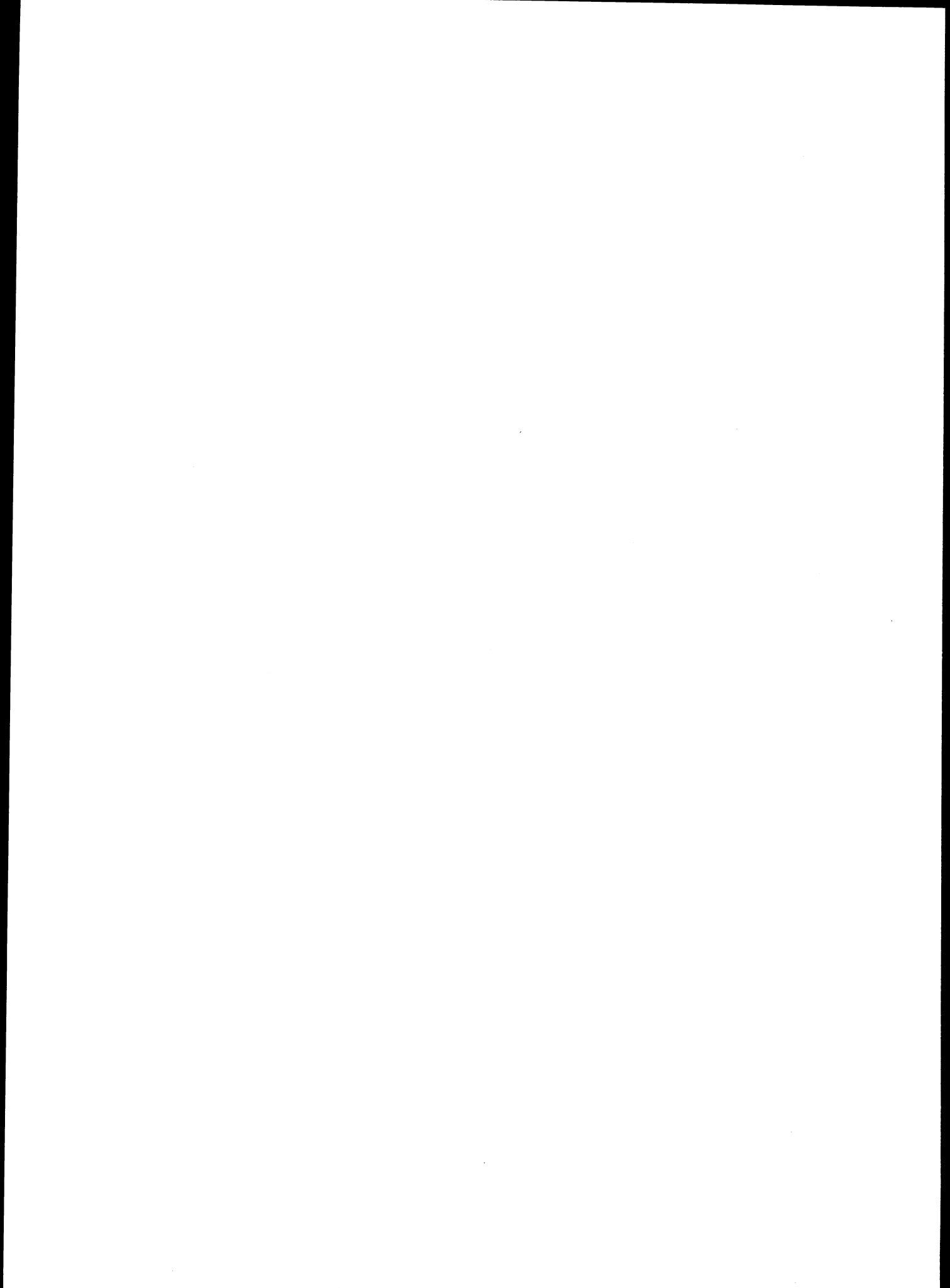
Emergency Medical Services

Senate Bill 63 (Chapter 74-334) exempts from the requirements of certain provisions of the Emergency Medical Services Act of 1973 voluntary personnel operating an ambulance owned by a volunteer squad chartered by the state prior to October 1, 1973, and any volunteer emergency squad approved by the Department of Health and Rehabilitative Services to serve the needs of areas of less than 5,000 persons. However, the competence of the volunteers must be certified to by two licensed physicians practicing in the local county. The exemption so provided to volunteer squads is to expire January 1, 1976. A schedule is provided for the payment of certification fees by volunteer

emergency squads in categories of number of volunteers in the squad rather than a set fee per member.

Dairy Inspection

Committee Substitute for Senate Bill 1020 (Chapter 74-370) states the intent of the Legislature that duplication of inspections of dairy farms be eliminated. Accordingly, the intent of the Legislature is that the Department of Health and Rehabilitative Services will assist the Department of Agriculture and Consumer Services in such inspections on all matters relating to the preservation of public health. Members of the Department of Health and Rehabilitative Services selected by the Secretary of the Department and certified by the Food and Drug Administration of the U. S. Public Health Service as milk sanitation officers shall conduct surveys in compliance with Federal recommendations. The bill further provides that the provisions of Chapter 502, Florida Statutes, relating to milk and milk products, shall supercede any municipal or county regulations unless they are equivalent to or in excess of requirements of the state law.



PUBLIC OFFICERS & EMPLOYEES*

Ethics

House Bill 2393 (Chapter 74-76) makes it mandatory for all incumbent public officers to comply with the resign-to-run law. Any county or municipal officer must direct and present his resignation to the officer with whom he qualified for the office from which he is resigning. Appointed officials are required to direct such notice to the appointing officer or authority for the office being resigned and to send a copy of the notice to the Governor and Department of State.

Committee Substitute for House Bill 2375 (Chapter 74-161) requires any employee of an executive, judicial or quasi-judicial department of the state who lobbies before the House of Representatives or Senate, or any committees thereof, to register with the Clerk and Secretary respectively, as a lobbyist. The law does not apply to employees who contact their legislators outside the established business hours of the agency where they are employed. Once registered, the employee must record his attendance before any legislative committee with the chairman of the committee unless his appearance is at the request of the committee or subcommittee chairman as a witness or for informational purposes. The employee must also record

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with the Clerk or the Secretary his attendance in chambers, offices and areas adjacent to the Legislature during established business hours of his agency. Any employee who violates provisions of the law is to have an amount equivalent to his hourly wage times the number of hours spent in violation deducted from his salary. An employee designated in his departmental budget as a full-time or part-time lobbyist is required to register as a lobbyist, otherwise he is exempt from provisions of the law. No departmental funds, excluding salaries, travel expenses or per diem, may be used for lobbying purposes including publications, media, advertising, postage, entertainment and telephone and telegraph costs. Such costs must be deducted from the salary of an employee who violates the provisions of the act.

The standards of conduct for public officers and employees prescribed by Part III of Chapter 112, Florida Statutes, were extensively revised by two bills, both of which are effective July 1, 1974. Committee Substitute for Committee Substitute for House Bill 3418 (Chapter 74-177) declares the legislative intent and policy of the state with respect to the economic interest of public officials and employees and provides extensive definitions. The act is made applicable to all elected officers of all

branches and levels of government, members of governing boards, university and department officers, non-clerical employees exempt from the Career Service, employees who accept compensation for consultations with other agencies or entities, hearing officers and purchasing agents. Such persons are prohibited from accepting a gift that would cause a prudent person to be influenced in the discharge of duties; owning a material interest in any business entity doing business with the agency where employed except on competitive bids; using his official position to secure special privileges; or disclosing official information for personal gain. Those who have an official position or material interest in any business licensed by or doing business with his agency must disclose such fact, as must candidates for such offices. Dual employment by legislative employees is prohibited without written permission. A public officer is prohibited from voting on a matter which inures to his particular private gain or which creates a conflict between his private interest and his public duties. Public officers and candidates are to file a statement by May 15 each year disclosing the source of all income that constitutes 10% or more of his defined income and the sources of 15% or more of the gross income of any business entity from which he receives

more than 15% of his defined income. He shall disclose any interest in excess of 10% in financial, beverage, insurance, or other franchised business. He shall name, in a quarterly report, the clients he represents and any agency before which he appears at his own level of government, excluding ministerial activities. In lieu of part of the disclosure he may file a certified financial statement and federal income tax return. The forms for such disclosure are to be prescribed by the Ethics Commission.

House Bill 2346 (Chapter 74-176), to be known as the John J. Savage Memorial Act of 1974, creates the Commission on Ethics to be composed of nine members, five appointed by the Governor and two by each of the two presiding officers of the Legislature. Members serve two-year staggered terms, with four of the original members appointed by the Governor serving one-year terms. An executive director is to be employed by the Commission and provided with necessary office space and assistance. The Commission has the duty of receiving and investigating complaints of violation of the Code of Ethics and transmitting it to the person involved and his superior official. If such official has not, after thirty days, initiated action on the complaint the Commission must conduct its own investigation and recommend appropriate action to the proper disciplinary body.

The Commission has the power to subpoena, audit and investigate, and may call on state agencies for assistance. A report of its work and its recommendations for legislation are to be furnished the Legislature from time to time. Any officer or employee in doubt about the applicability and interpretation of this law may request an advisory opinion from the Commission which will be binding on his conduct until amended or revoked. Penalties for violation of this part include such criminal penalty as may be involved and constitute grounds for removal from office or dismissal from employment, suspension, or reprimand.

Collective Bargaining

The long awaited Statute providing guidelines for collective bargaining for public employees under the 1968 Constitution was enacted by Conference Committee Report on House Bill 2028 (Chapter 74-100). The summary of the act which follows was prepared by the staff of the House Commerce Committee.

Sections 1 and 2 of the act reaffirm the right given in Article I, Section 6 of the Constitution for all employees to join or refrain from joining unions or labor organizations, and provides civil remedy of damages and injunctive relief for violations. The balance of the law gives to all public employees the right to collectively bargain based upon this

article of the Constitution.

The act will be administered by a Public Employee Relations Commission within the Department of Commerce, comprised of five members appointed by the Governor for four year terms and confirmed by the Senate. The Chairman of the Commission will devote full time to his duties; the other four members will serve as needed. The Commission will have five principal functions:

(1) It is directed to "resolve questions and controversies concerning claims for recognition" by employee organizations.

(2) It is responsible for remedying unfair practices by employers and employee organizations.

(3) It is responsible for initiating procedures to stop public employee strikes and punish employees and employee organizations engaging in strike activity.

(4) It is responsible for appointing special masters to aid public employers and employee organizations which encounter an impasse in their negotiations.

(5) The Commission is authorized by law to adopt and/or amend rules and regulations pursuant to the Administrative Procedure Act. It is also authorized to employ

supporting personnel and to create and maintain lists of qualified special masters to aid in the resolution of bargaining impasses.

The act requires public employee organizations to register with the Commission before they will be permitted to request recognition or a representation election. The employee organization must first be selected by a majority of the public employees of the unit it is to represent. The employee organization must also submit copies of the organization's constitution and bylaws, and finally, the employee organization is required to keep and submit annually to the Commission accurate accounts of its income, expenses, and affiliations.

The law accords to public employees the right to be represented by an employee organization of their own choosing and to negotiate collectively through a certified bargaining agent with their public employer in the determination of the terms and conditions of their employment. Certification of a bargaining agent can be obtained in two ways: (1) The organization can inform the public employer that it has been selected by a majority of the employees in a proposed unit as their bargaining representative and request recognition by that employer. If the public

employer has no doubt of the union's "majority" status, and agrees with the bargaining unit proposed by the employee organization, the employer can recognize the organization as the bargaining agent of the employees. Upon recognition, the employee organization must petition the Commission for certification. If the Commission approves of the proposed unit, it will certify the bargaining agent. If it does not approve the proposed unit, it will deny the request for certification. (2) The second route to certification is by a secret ballot election. If the employer disputes the "majority" status of the organization or disagrees with the proposed bargaining unit, he can refuse to recognize the employee organization. The organization must then petition the Commission for a representation election. The petition must be accompanied by dated statements signed by at least 30% of the employees in the proposed unit indicating that they desire to be represented by the petitioning labor organization. After investigation and a hearing, the Commission will direct an election in a unit which it has determined is appropriate for bargaining. The employees will have an opportunity to vote for or against representation in secret ballot. If an employee organization receives a majority of the votes cast, the Commission will certify the organization as the exclusive representative

of all employees in the unit. There is prescribed a limit of one such election each twelve months.

In determining the appropriate unit the Commission is directed to take into account a variety of factors, but the Commission is specifically admonished to avoid a multiplicity of fractionalized units.

Managerial employees are permitted to organize their own units and bargain in the same manner as rank-and-file employees. The reason for this somewhat unusual provision lies with the Florida Supreme Court's interpretation of Article I, Section 6. The Court has held that all public employees have the right to engage in collective bargaining. Presumably, managerial employees have been given the right as well as rank-and-file. Secondly, the Court held that effective implementation of the right requires legislative implementation. Consequently, managerial employees should be afforded the same opportunities and protections as ordinary employees to carry out the mandate of the Supreme Court.

The act does, however, prohibit the establishment of units which include ordinary employees and managerial employees. Also, professional and non-professional employees cannot be included in the same unit unless a majority of both

professionals and non-professionals vote for inclusion.

After a bargaining agent has been certified, it is authorized to engage in collective bargaining with the chief executive officer of the public employer concerning wages, hours, terms and conditions of employment of all employees in the unit. The public employer is given the right to reject any proposal which impinges on a management prerogative. In addition, any proposal which conflicts with a rule or regulation of a career or civil service system is void.

If the chief executive officer and the bargaining agent reach an agreement, it will be reduced to writing and signed by the chief executive acting on behalf of, and responsible to, the legislative body of the public employer and the bargaining agent of the public employees. With respect to employers other than the state, the agreement is not binding on the public employer and the public employees until the legislative body of the public employer ratifies the agreement and the public employees approve it.

In the case of the state, the provisions of the agreement are binding unless they require an appropriation or the amendment of an existing law to become binding. In those cases the chief executive officer must request the

Legislature to appropriate an amount sufficient to fund the agreement; he must also request the legislative body to amend any existing law in conflict with a provision of the agreement. However, if the Legislature decides not to appropriate the funds required by the agreement, or to amend an existing law, the chief executive officer must administer the agreement on the basis of the amounts appropriated and on the basis of existing law.

If the chief executive officer of the employer and the bargaining agent cannot resolve their disagreements through negotiations and an impasse occurs in the bargaining, either party can request or secure the appointment of a mediator. If the mediator is not able to resolve the dispute within ten (10) days, the Commission shall appoint a special master who is charged with the responsibility of recommending a resolution of the impasse. The recommended decision is binding on both parties unless the chief executive officer or the bargaining agent rejects the recommendation within fifteen (15) days of the date the decision was transmitted to him. If the decision is rejected, the legislative body has the ultimate authority to determine the dispute. Binding arbitration is used only in the instance of grievances and is not used in any other phase of the collective bargaining agreement.

Both employer and employee organizations are prohibited from interfering with employees because of participation in concerted activities or because of their nonparticipation in such activities. It is an unfair labor practice to discriminate against employees who exercise rights guaranteed by the law. It is also an unfair labor practice for either side to refuse to bargain in good faith or discuss grievances in good faith.

The Commission may, after a hearing, order the guilty party to cease and desist from such unfair practices. The Commission's order is not self-executing and the party defendant may seek review of the order in the appropriate district court of appeal. The Commission or the charging party may also petition for enforcement of the order in the district court of appeal. If the order is not appealed within thirty (30) days, it will, upon request of the Commission, be automatically enforced by the district court of appeal.

It is an unfair labor practice for an employee organization to engage in a strike. A "strike" is defined very broadly to include concerted slow-downs, mass resignations, boycotts or picket lines designed to slow or stop work. It is also a violation of the act for public

employees to strike, with or without the sanction of the employee organization. If a strike is threatened or actually occurs, either the Commission or the public employer affected may petition the appropriate circuit court for an injunction prohibiting the strike. If the employee organization disobeys the injunctive order, the circuit court is empowered to fine the organization up to \$5,000 for contempt. In addition, the court can fine officers and agents of the employee organization between \$50 and \$100 per day for each day the public employees remain on strike. The employee organization is prohibited from paying the fines for the employees.

The Commission is also authorized to penalize an employee organization and individual employees for engaging in strike activity. The Commission can, after a hearing, revoke any "check-off" (dues removal) privilege which may have been negotiated by the offending union; revoke its certification for a period of one year; fine the organization up to \$20,000 for each day of the strike; or fine the organization in excess of \$20,000 per day if the costs of the strike exceed that amount. With respect to the striking employees, the Commission may, after a hearing, recommend employee release, or place an employee on probation for a six-month period; and the Commission must forbid an increase

in remuneration for a period of one year.

The law permits a "local option." Any political subdivision of the state may adopt its own collective bargaining legislation, provided that the legislation is "substantially equivalent" to the provisions and procedures of this act.

The inclusion of a "check-off" clause, stipulating that the employer, if requested, will deduct organization dues and assessments from those employees who sign authorization cards is provided for in the act.

Certain exceptions to the Sunshine Law (§286.011, Florida Statutes) are provided under this law. All discussions between the chief executive and the legislative body of the public employer are exempt from the government-in-the-sunshine provisions. In addition, documents prepared by the public employer in anticipation of bargaining are exempt from the sunshine provisions. The collective bargaining negotiations between the chief executive officer and a bargaining agent are subject to government-in-the-sunshine provisions.

The state Legislature reserves the right to approve, amend or rescind all rules promulgated by the Commission. In the absence of such action said rules will have full

force and effect.

The bargaining aspect of the act has an effective date of January 1, 1975. Administrative organization may begin as of July 1, 1974.

Although the fire fighters bargaining act was repealed by the foregoing act, it also was amended by Senate Bill 462 (Chapter 74-378) relating to grievance procedure and arbitration, and House Bill 3368 (Chapter 74-101), extending its coverage to special districts and excluding managerial employees.

Career Service

Committee Substitute for House Bill 3796 (Chapter 74-151) permits each department head in addition to members of the Cabinet to exempt ten policy-making positions, and the secretaries to each, from the state career service system. Additional exempt positions may be designated for a special study or investigation for a limited time. The Department of Administration must approve each exempt position as policy-making or time limited. The chief administrative officer of all boards and commissions under the Department of Professional and Occupational Regulation also is made exempt.

Committee Substitute for Senate Bill 99 (Chapter 74-82) requires the Division of Personnel of the Department of Administration to establish and maintain, in coordination with the Comptroller's payroll system, a complete personnel information system for all authorized and established positions in the state service with the exception of the employees of the Legislature. The Comptroller is to determine the authorization for each position based on the appropriations acts requirements. The Department of Administration is to develop and maintain a position numbering system as part of the Comptroller's payroll system to identify each career service position and those positions exempted from career service, regardless of the funding source of the salary payments. Information regarding persons receiving payments from other sources is to be included. Revisions necessary to avoid duplication are to be made in the personnel and payroll policies of the state. Periodic reports are to be made to the head of each state agency including, but not limited to, employee name, length of state service, position classification, whether overlapped, in a multiple-filled position, or hired out of class. The Speaker of the House and the President of the Senate are to receive an annual report beginning March 1, 1975, with information as of February 1, consisting of a

listing by department, division or agency showing filled positions, exempt or non-exempt, vacant positions, turnover percentages by position class for each department, division or agency, statewide turnover percentages by position class, and the number of employees hired out of their salary classification.

House Bill 3352 (Chapter 74-289) authorizes the Career Service Commission to order reinstatement of an employee, with or without back pay, and may include, in an appeal in which the Commission sustains the employee, reimbursement for reasonable attorney fees, witness fees and other expenses of the appeal.

House Bill 3120 (Chapter 74-287) authorizes adoption of a program of meritorious service awards for employees in water management districts.

Allowances

House Bill 308 (Chapter 74-15) increases the mileage allowance for public officers, employees and authorized persons from ten to fourteen cents per mile.

Senate Bill 255 (Chapter 74-365) authorizes payment of meal allowance in the vicinity of a traveler's headquarters if on official business outside his regular place of employment

and if travel expenses are approved. Travel to a convention or conference is limited to that which seems a lawful public purpose. The Department of Banking & Finance is authorized to promulgate criteria to be used by a state agency to pre-determine justification for attendance by state personnel at conventions and conferences, with additional criteria to be made and filed by each agency. A form for approval of travel is now required and must be attached to the travel voucher. It must show the purpose of travel, estimated costs, and for a convention or conference must include the benefits to the state from such travel and copy of the program or agenda. Before the head of the agency approves the request, the traveler's supervisor must state the travel is incurred in connection with official state business.

Senate Bill 314 (Chapter 74-246) deleted the requirement of a bond for travel agencies who secure a permit to supply tickets to the state.

Professional Organizations

Committee Substitute for Senate Bill 101 (Chapter 74-91) allows components of state government to use state funds to pay membership dues in professional or other organizations for state agencies, officers, or employees. However, approval of the Administration Commission or its

designated agent is required. Payment of individual memberships is permitted if the agency certifies the organization does not accept institutional memberships, and provided membership is deemed essential to the statutory duties and responsibilities of the agency where the individual is employed.

Benefits

Senate Bill 941 (Chapter 74-157) permits any state, county, local or municipal governmental entity, or any unit of government created or established by law to enter into a written contract with any employee providing for payment of premium on an annuity contract issued in the employees name through salary reduction in the amount of the premium. Payments must be to an insurance company licensed to do business in Florida and the contract must be one which will qualify payments for tax deferral under the United States Internal Revenue Code. The amount of the reduction cannot exceed the amount excludible from income under Section 403(b) of the Code and is to be considered part of the employee's salary for all purposes other than federal income taxation. The governmental agency is relieved of all liability or responsibility other than showing payments have been made for the purposes for which deducted.

House Bill 3268 (Chapter 74-139) requires that the health insurance for which the employers of public officers and employees may pay premiums or charges must be health insurance as included in the statutory definition of disability insurance.

Committee Substitute for House Bill 1554 (Chapter 74-207) extends the State Officers and Employees Group Insurance Program to include life and accident insurance and to authorize participation by 8-month employees including university personnel on academic contracts. Interest on premiums and reserve refunds are to be deposited in the General Revenue Fund. This act is also summarized in the article on INSURANCE.

Retirement

A major change in the Florida Retirement System, shifting it to a non-contributory system, was enacted by Committee Substitute for House Bill 3909 (Chapter 74-302). As of January 1, 1975, employees of the state, community colleges and school districts who are regular or special risk members of the system cease to make contributions to the system. The contributions required by the employer agencies is increased by the amount previously contributed by the employee plus an additional one percent, or a total

of 9 percent for regular members and 13 percent for special risk members. For governmental units other than those named above, the change is effective October 1, 1975. The act declares that the change shall not impair or abridge the rights of members of the system and that such rights become of a contractual nature as of the act's principal effective date, July 1, 1974.

Other changes necessary to implement the conversion to a non-contributory system are a revision in the definition of prior service, in the formulae for purchase of past service and prior service, and in the provisions for refunds. The act clarifies the definition of continuous service, extends to July 1, 1975 the period for purchase of retroactive social security coverage for persons who transferred to the system in 1972, and increased to 6.5 percent after July 1, 1975 the interest to be computed on prior earnings when purchased for various types of creditable service. It also permits the surviving spouse, or other dependent of a member who dies before retirement with more than ten years creditable service, to elect to receive a deferred monthly benefit. Detailed provisions were added for the computation of cost-of-living increases to benefits. For adjustments after the initial adjustment the percentage change is to be applied to the actual benefit being received just before the

July 1 adjustment. For members who receive the \$8.00 minimum provided by §112.362, Florida Statutes, such adjustment is available after at least one year.

An important feature of the act is the re-opening of the Florida Retirement System, by which employees who were members of another system in 1970, and elected then not to transfer to F.R.S., are given the privilege again to transfer to F.R.S. A written election must be made and filed between September 1, 1974, and November 30, 1974, when it becomes irrevocable. Transferees membership in F.R.S. becomes effective January 1, 1975.

The act authorizes the Division of Retirement to employ a state retirement actuary and declares that all future increases in benefits shall be adequately funded concurrently according to sound actuarial data.

Senate Bill 81 (Chapter 74-376) increases the required contributions for special risk members of F.R.S. from 6% to 8% of gross compensation, effective October 1, 1974, and increases the benefits for that class from 2% to 3% of average final compensation for each year of creditable service after October 1, 1974, but not to exceed 100% of the average final compensation.

The elected officers class of the F.R.S. was

extended to cover County Court Judges by House Bill 3020 (Chapter 74-215). Employment prior to January 1, 1968, in the Cuban Refugee Assistance Program administered by the Florida State Board of Health was brought within the definition of "past service" for purposes of the F.R.S., regardless of the fund from which such employment was paid, by House Bill 549 (Chapter 74-158).

House Bill 4066 (Chapter 74-328) brings the former judicial retirement system established by Chapter 123, Florida Statutes, within the definition of "existing system" for the F.R.S.; provides that Justices or Judges retired for disability pursuant to the provisions of Article V, State Constitution, will receive a minimum monthly benefit of two-thirds of their monthly compensation; provides for deposit in the General Revenue Fund of the contributions made by such a Justice or Judge, and appropriates from the General Revenue Fund the amounts necessary to pay the benefits of such Justices and Judges.

The interest payable on earnings received during earlier periods of employment, and required to obtain retirement credit for such employment under various statutes, is increased to 6.5% effective July 1, 1975. A presumed retirement age of 62 years is prescribed for

membership of the State and County Officers and Employees System who die before retiring and whose surviving spouse elects a monthly benefit.

House Bill 3924 (Chapter 74-303) provides for cost-of-living adjustments to be made to the benefits of persons who retire under the non-contributory plan provided by Section 112.05, Florida Statutes, for incapacitated teachers retired under Section 238.171, Florida Statutes, and for persons on Confederate pensions under Section 291.325, Florida Statutes.

House Bill 3923 (Chapter 74-231) authorizes elected municipal officials who will have twenty years service by completion of their present terms of office to retire under the provisions of Section 121.20, Florida Statutes, even though other retirement plans may be available.

STATE GOVERNMENT*

Couched in the controversy about "phantom government," the complete revision of the Administrative Procedure Act passed by the 1974 Legislature portended the most far reaching implications for the daily operations of state government. The Florida Department of Law Enforcement was reorganized. Important new programs were authorized in these areas: rural water and sewer services; consumer representation on the Public Service Commission; state disaster preparedness planning; and implementation of a statewide emergency telephone number system.

ADMINISTRATIVE PROCEDURE ACT**

The new Administrative Procedures Act, Conference Committee Substitute for Senate Bill 892 (Chapter 74-310) constitutes a complete revision with the expressed legislative intent of making administrative agency rule-making and adjudication procedures uniform.

In general scope, the act establishes statutory requirements applicable to rule-making and adjudicatory

* General Article prepared by
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** Administrative Procedure Act summary prepared
by John Obarski, Division of Statutory Revision
and Indexing, Joint Legislative Management Committee

actions taken by an administrative "agency" and the judicial review thereof; creates a standing joint committee of the Legislature designated as the Administrative Procedures Committee to maintain a continuous review of the exercise of administrative rule-making authority; and creates a Division of Administrative Hearings in the Department of Administration to provide hearing officers to conduct hearings required by the act or other law.

Definitions

An "agency" to which the act applies includes the Governor in the exercise of executive powers not derived from the Constitution; state officers, departments, departmental units, commissions, regional planning agencies, boards, districts, and authorities; and local government units, including counties and municipalities, to the extent made expressly subject to the act by general or special law or existing judicial decision. The act does not apply to the Legislature or courts.

Among additional definitions, the act defines "rule" to mean an agency statement of general applicability that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice

requirements of any agency, including the amendment or repeal of a rule. The term does not include internal management memoranda or plans; legal opinions prior to their use in agency action; contractual provisions reached as a result of collective bargaining; or agricultural or citrus fruit marketing orders promulgated under Florida Statutes.

An "order" is defined in a comparative sense as a final agency decision reduced to writing which does not have the effect of a rule. The term "order" relates to the concept of "decisions which affect substantial interests" as used in the act. In the most specific portion of its definition, the term "party" means specifically named persons whose substantial interests are being determined in a proceeding, or any other person whose substantial interests will be affected by proposed agency action and who makes an appearance as a party.

Rule Making

Concerning rule-making, the provisions of the act do not apply to the judges of industrial claims or unemployment compensation appeals referees.

The act affirmatively requires that each agency

adopt rules describing its organization and course of operations; providing for practice and procedure in its administrative proceedings; and providing for the scheduling of hearings, meetings, and workshops, including agenda therefor.

Prior to the adoption of any rule other than an emergency rule, each agency is required to give public notice of the proposed rule. General public notice is to be given by publication in the Florida Administrative Weekly (successor to the Florida Administrative Register) at least 21 days prior to the intended action. Notices of action proposed by school districts, community college districts, or government units with jurisdiction in only one county or part thereof are excepted. Direct notice is to be given to persons named in the rule; persons who have requested advance notice; classes of persons to whom the intended action is directed; and by copy of the proposed rule to the Administrative Procedures Committee of the Legislature and the Division of Administrative Hearings in the Department of Administration. A proposed rule may not be adopted prior to 21 days after publication in the Florida Administrative Weekly. Adoption is effected by filing with the Secretary of State and becomes effective 20 days after filing; on a later date specified in the rule; or

on a date required by statute.

Any proposed rule may be disapproved by the Administrative Procedures Committee as not within the statutory authority upon which it is based. In addition to Committee disapproval, a proposed rule not related exclusively to agency organization, practice, or procedure may, in effect, be contested in other ways. The agency, upon the request of any affected person received within 14 days after the date of publication of notice in the Florida Administrative Weekly, is required to give such person an opportunity to present evidence and argument on all issues under consideration. Any substantially affected person may, by petition filed with the Division of Administrative Hearings or the agency, seek an administrative determination of the validity of the proposed rule on the ground that it is an invalid exercise of validly delegated legislative authority or an exercise of invalidly delegated legislative authority.

The matters presented by an affected person who has been given an opportunity to present evidence and argument concerning a proposed rule will presumably be given appropriate consideration and weight by the agency in making a final determination as to adoption or modification of the

proposed rule.

The petition of a substantially affected person who seeks an administrative determination of the validity of a proposed rule triggers a hearing before a hearing officer for decision. If the hearing officer decides the proposed rule is wholly or partly invalid, the invalid rule or portion thereof may not be adopted. The hearing officer's decision is subject to judicial review.

If it disapproves a proposed rule, the Administrative Procedures Committee is required to certify that fact, with a statement of its objections, to the agency prior to the time the rule becomes effective. The agency is required, within 30 days, to: modify the proposed rule to meet Committee objections; withdraw the rule; or refuse to modify the rule. Rules modified by the agency must be resubmitted to the Committee. If the agency declines to withdraw or modify the rule and proceeds to file it with the Secretary of State for adoption, the Committee is required to file its disapproval and statement of objections with the Secretary of State for publication in the Florida Administrative Weekly. This procedure does not apply to emergency rules, although copies of such rules must be forwarded to the Committee.

An agency may adopt an emergency rule if it finds

that an immediate danger to the public health, safety, or welfare requires such action. The act authorizes any procedure which is fair under the circumstances and which protects statutory and state and federal constitutional rights. An adopted emergency rule may become effective immediately on filing. It may not remain effective for a period of more than 90 days and is not renewable. The agency, however, may take identical action by normal rule-making procedures.

The act requires the Administration Commission to file one or more sets of model rules of procedure with the Department of State on January 1, 1975. Such rules become the rules of procedure for each agency subject to the act to the extent that the agency has not adopted a specific rule of procedure covering the subject matter. An agency may amend model rules to conform to any requirement imposed as a condition precedent to the receipt of federal funds; to permit persons in the state to receive tax benefits under federal law; or as required for the most efficient operation of the agency as determined by the Administration Commission.

The act reserves to the Legislature the authority to establish penalties for violation of a rule and declares

that no agency has inherent rule-making authority.

Any person regulated by an agency or having a substantial interest in an agency rule may petition the agency to adopt a rule or amend or repeal an adopted rule. Also, each agency is required to provide a procedure by rule for the filing and prompt disposition of petitions for declaratory statements as to the applicability of any statutory provision or of any existing rule or order of the agency. In addition, any person substantially affected by an adopted rule may seek an administrative determination of its legal validity by petition and hearing as in the case of a proposed rule.

Administrative Adjudication

As distinguished from rule-making proceedings, administrative adjudication proceedings, described in the act as all proceedings in which the substantial interests of a party are determined by an agency, are categorized as formal and informal.

A formal proceeding is required in cases involving a disputed issue of material fact, unless waived by all parties and the agency involved. Such hearing must be conducted by a hearing officer assigned by the Division

of Administrative Hearings, except hearings before agency heads other than those within the Department of Professional and Occupational Regulation; before a member of an agency head other than agency heads within the Department of Professional and Occupational Regulation; before the Industrial Relations Commission, judges of industrial claims, unemployment compensation appeals referees; before the Public Service Commission or its examiners; hearings regarding drivers' licensing; hearings within the Division of Family Services of the Department of Health and Rehabilitative Services; and hearings to which the Division of Administrative Hearings is a party.

All parties to a formal hearing are entitled to at least 14 days notice thereof; to respond; to present evidence and argument of all issues involved; to conduct cross-examination and submit rebuttal evidence; to submit proposed findings of fact and orders; to file exceptions to any hearing officer's recommended order or agency order; and to be represented by counsel. The act specifies the content of the record in detail, including provisions for preserving all testimony in the proceeding and making a full or partial transcript thereof available at actual cost upon request of any party. The content of the hearing

officer's recommended order are specified. The agency may adopt the recommended order as its final order. If it does not do so, the act sets forth the limits within which the agency may act in dealing with the findings of fact, conclusions of law, interpretation of administrative rules, and penalties contained in the recommended order.

The act prohibits ex parte communications to a hearing officer relative to the merits of the proceeding by an agency head or member; any other public employee engaged in prosecution or advocacy in the matter; any party to the proceeding; or any person or his representative having a substantial interest in the proposed agency action. The hearing officer is required to place any such communication on the record, advising all parties and permitting rebuttal. A civil penalty up to \$500 or other disciplinary action is provided for violation of this provision.

When a formal hearing is not required by the act, an informal proceeding may be held in accordance with agency rules, subject to basic requirements in the act as to reasonable notice; opportunity to present written evidence to the agency or a hearing officer; and the record of such informal proceedings.

All final orders in a proceeding which affects substantial interests must be rendered within 90 days: after the hearing is concluded if conducted by the agency; after a recommended order is submitted to the agency and mailed to all parties if conducted by a hearing officer; or after the agency has received the written and oral material it has authorized to be submitted, if there has been no hearing. Each party or his attorney of record is entitled to a copy of the final order.

The administrative function of licensing is specifically referred to in the act.* An applicant whose license application has been denied is entitled to a formal hearing or opportunity to present evidence in an informal proceeding, depending upon the circumstances. Prior to instituting proceedings to revoke, suspend, annul, or withdraw any license, the agency must give the licensee notice of the proposed grounds and an opportunity to show that he has complied with all lawful requirements for retention of the license. Summary suspension may be ordered in cases involving immediate serious danger to the public health, safety, or welfare, but formal suspension or revocation proceedings must also be promptly instituted.

The act sets forth standards relating to the issuance

* The term "license" does not include a license primarily for revenue purposes where issuance is merely a ministerial act.

of and compliance with subpoenas, the discovery of evidence, and the admission of evidence as to all agency proceedings leading to the adoption of a rule or issuance of a final order. The right of cross-examination is expressly provided.

Any party who is adversely affected by final agency action is entitled to judicial review. A preliminary, procedural, or intermediate agency action or ruling is immediately reviewable, if review of the final agency decision would not provide an adequate remedy. Except in matters for which judicial review by the supreme court is provided by law, review is by petition in the district court of appeal in the district where the agency maintains its headquarters or where a party resides. Review proceedings are in accordance with the Florida Appellate Rules and the provisions of the act.

Enforcement of agency action is provided by petition in the circuit court where the subject matter of the enforcement is located. Such petition may be initiated by any agency or by any substantially interested person who is a resident of the state, conditioned in the latter case upon the petitioner's having given prior notice of the violation to the head of the agency concerned, the attorney

general, and the alleged violator of the agency action.

Each agency is required to make available for public inspection and copying, at no more than cost, all rules formulated, adopted, or used by the agency in the discharge of its functions; all agency orders; and a current subject matter index identifying for the public any rule or order issued or adopted after January 1, 1975. All rules adopted pursuant to the act must be indexed within 90 days. No agency rule or order is valid for any purpose until it has been made available for public inspection as required by the act unless the person or party against whom enforcement is sought has actual knowledge of such rule or order.

Hearing Officers

The Division of Administrative Hearings, created within the Department of Administration, is to be headed by a Director appointed by the Administration Commission and confirmed by the Senate. It is the duty of the Division to employ or contract for hearing officers to conduct hearings required by the act or other law. The Division is authorized to establish qualifications for hearing officers, subject to the provision that no person may be employed as a full time hearing officer unless he has been a member of The Florida Bar in good standing for the preceding three

years. The act provides that all hearing officers who conduct formal proceedings, except agency heads or members thereof or Public Service Commission hearing examiners in rate-making proceedings, shall be employees of or on contract to the Division. It also provides that for two years after January 1, 1975, "the agency or its designee may conduct the hearing if a full-time hearing officer conducts the hearing or if the Division advises the agency that it cannot provide a hearing officer within a reasonable time." A division revolving trust fund is created as a depository of Division receipts and from which Division expenditures may be made. Beginning July 1, 1975, all costs of administering the Division will be paid to the division trust fund on a pro-rata basis by the agencies using its services.

Legislative Oversight

The Administrative Procedures Committee created by the act is a standing joint committee of the Legislature consisting of six members, three each appointed by the Speaker of the House of Representatives and the President of the Senate. The act establishes the function of the committee as not only to review proposed agency rules, but to advise agencies whenever repeal, amendment, holding of a court of last resort, or other factor changes the

statutory authority upon which administrative rules are based, and to generally review agency rules and actions under the act and the operation of the act itself.

Transition

In transition from the prior to the new Administrative Procedures Act, all administrative adjudicative proceedings begun prior to January 1, 1975, shall be continued to conclusion under the provisions of the Florida Statutes, 1973. Such proceedings which have not progressed to the stage of a hearing may, with the consent of all parties and the agency, be conducted in accordance with the act as nearly as feasible. Notwithstanding the provisions of the new act, all public utilities and companies regulated by the Public Service Commission are entitled to proceed under the interim rate provisions as provided by law. All existing rules must be indexed by January 1, 1975, and if not adopted following a public hearing as provided by statute are void after October 1, 1975. All rules in effect on January 1, 1975, or filed with the Department of State prior thereto, except those adopted following a public hearing as provided by statute, are required to be promptly reviewed by the agency if a person substantially affected by the rule makes written request for such review. If the agency

fails to initiate rule-making procedures within 90 days of the receipt of such request, the operation of the rule is suspended.

The Division of Statutory Revision of the Joint Legislative Management Committee is directed by the act to prepare a reviser's bill to conform the Florida Statutes to the act's intent that it replace all other provisions of the Florida Statutes, 1973, relating to rule-making, agency orders, administrative adjudication or judicial review, except for marketing orders adopted pursuant to statutory law.

DEPARTMENTAL REORGANIZATION

Department of Criminal Law Enforcement

Committee Substitute for Committee Substitute for House Bill 3740 (Chapter 74-386) reorganizes the Department of Law Enforcement as the Department of Criminal Law Enforcement and transfers to it the functions of the Police Standards Board now in the Department of Community Affairs. It creates Divisions of Law Enforcement, Local Law Enforcement Assistance, Criminal Justice Information Systems, Standards and Training, and Staff Services. Each division is headed by a director and the Department by an executive

director. The Department is headed by the Governor and Cabinet and there is a Criminal Justice Information Systems Council and a Police Standards and Training Commission, which are to adopt rules, regulations and standards.

This act prescribes definitions, organization and powers and duties of the divisions, officials and boards.

Department of Business Regulation

Senate Bill 962 (Chapter 74-311) provides that the directors of the divisions of the Department of Business Regulation shall be appointed by the executive director, subject to confirmation by the Board of Business Regulation, and shall serve at his pleasure. These directors are now appointed by the Board and confirmed by the Senate.

House Bill 314 (Chapter 74-313) transfers all powers, duties and functions relating to the regulation of labor organizations from the Division of General Regulation of the Department of Business Regulation to the Division of Labor of the Department of Commerce.

Department of Community Affairs

House Bill 3975 (Chapter 74-307) reorganizes the Department of Community Affairs by transferring the powers

and duties of the Divisions of Economic Opportunity and Migrant Labor to the newly created Division of Community Services. The Secretary is directed to appoint the directors of any commissions or councils assigned to the Department, with the advice and consent of the commission or council.

House Bill 2622 (Chapter 74-163) authorizes the Division of Veterans' Affairs of the Department of Community Affairs to administer the provisions of Chapter 292, Florida Statutes, relating to veterans. Moreover, the Division is charged with applying for and administering all federal veteran programs and the development and coordination of state veteran programs.

Board of Trustees of the
Internal Improvement Trust Fund

House Bill 4175 (Chapter 74-329) creates the Divisions of Land Management, Field Operations, and Administrative Services in the Board of Trustees of the Internal Improvement Trust Fund and assigns duties and responsibilities to each.

Department of General Services

Senate Bill 716 (Chapter 74-256) creates a Division

of Administration in the Department of General Services, and authorizes heads of departments of the Executive Branch of state government to delegate powers, duties and functions to administrative units and assistants.

Division of Health

House Bill 2086 (Chapter 74-282) authorizes the Director of the Division of Health of the Department of Health & Rehabilitative Services to designate a representative to serve in his place on the State Board of Funeral Directors and Embalmers.

Civil Air Patrol

House Bill 3839 (Chapter 74-333) recognizes the Florida Wing of the Civil Air Patrol as a nonprofit educational and civil defense affiliated organization, and eligible to purchase surplus materials from the state. It appropriates \$50,000 annually to the CAP for expenses, of which none may be used for salaries or uniforms. \$15,000 per year may be used for purchase of aircraft, and an equal amount may be put in reserve for acquiring a state headquarters.

Department of State

Senate Bill 134 (Chapter 74-272) establishes a

Division of Licensing in the Department of State.

House Bill 3738 (Chapter 74-228) reduces from 13 to 7 the members of advisory council to the Division of Library Services of the Department of State. The division is directed to maintain a library for state officials and employees of materials relating to their work and for general reading. It is also directed to provide research and information service for all state agencies and to provide library services for the blind and handicapped.

Department of Administration

House Bill 3295 (Chapter 74-390) appropriates \$73,500 from the General Revenue Fund for sixteen new fuel allocation positions in the Department of Administration for the balance of the 1973-74 fiscal year.

NEW PROGRAMS

Rural Water and Sewer Services

House Bill 3317 (Chapter 74-66) directs the Division of Planning of the Department of Administration to oversee and disburse funds in a pilot program for the purpose of providing adequate water and sewer services in rural areas of Florida. The effort is to be performed

through Community Water and Sewer Association, Inc., a Florida non-profit corporation organized by rural electric cooperatives of Florida, and funded by a matching \$500,000 grant from the National Demonstration Water Project, a non-profit District of Columbia corporation. The Department of Administration is authorized to promulgate the necessary rules and regulations and is required to submit a progress report to the Governor and Legislature at least 90 days prior to the 1975, 1976 and 1977 legislative sessions.

Public Counsel with Public Service Commission

Committee Substitute for House Bills 1542 and 1370 (Chapter 74-195) creates the Office of Public Counsel to represent the public before the Florida Public Service Commission. He is to be appointed by the Joint Legislative Auditing Committee and serve at its pleasure, with annual reconfirmation. He and his employees are prohibited from engaging in other business or in any political activity. The Public Counsel may recommend the commencement of any proceeding by the Commission, appear before it in the name of the state and have access to any files or data available to any other attorney. He may seek review of any finding or order of the Commission and may appear before any agency

or court in the name of the state. He may make reports and recommendations to the Commission and must make an annual report of his activities to the Legislature and the Commission with recommendations for legislation relating to the Commission or to the Office of Public Counsel. The Public Counsel is authorized to employ assistants, under the supervision of the Committee. The Department of Administration has no power to determine their number or compensation.

In any rate proceeding before the Public Service Commission involving the rates charged by public utilities, telegraph and telephone companies, water and sewer systems or motor carriers, the Commission may withhold consent to new rate schedules by delivering within 30 days a written statement of cause, but such consent shall not be withheld more than eight months from the date of filing of the schedules. The utility may put the new rates into effect without consent but must keep an accurate account of all amounts received, and may be ordered to refund all amounts not justified.

Disaster Preparedness

Committee Substitute for House Bill 2799 (Chapter 74-285) creates the Division of Disaster Preparedness in

the Department of Community Affairs and transfers to it the functions of civil defense and emergency government. All of Chapter 252, Florida Statutes, on "Civil Defense" is rewritten but many of the provisions are unchanged. Various powers and duties of the Department relating to civil defense are vested in the Division. Planning is expanded for prevention of disasters and recovery from them. The act is limited in that it shall not be construed to: interfere with labor disputes or the news media; affect the jurisdiction of the fire, police or armed forces; or limit the authority of the Governor.

The Governor is given the responsibility for meeting disasters and his executive orders shall have the force of law. He shall declare an emergency when a disaster has occurred which shall continue until the conditions no longer exist, but not for more than 30 days unless the order is renewed. The Governor's proclamation of emergency shall activate the state and local disaster plans which are applicable, and the Governor shall be commander-in-chief of all forces, but shall delegate his authority by prior arrangement. He is given various additional powers for the emergency. He and the Division are to establish offices and appoint personnel, including state and area directors. He may transfer and spend available

funds including any unappropriated surplus funds. The Governor may combine two or more local disaster agencies.

The Division is authorized to fix the compensation for services and property used during an emergency, but not beyond the extent of the funds available for such compensation. The Division is directed to study potential disasters, including those from construction and land use, and to recommend actions. After January 1, 1975, the state waives its immunity, and suits against the state for damages arising from civil defense activities are authorized.

Energy Conservation in Buildings

Committee Substitute for House Bill 3649 (Chapter 74-187) directs the Division of Building Construction and Maintenance of the Department of General Services to develop measures and plans for buildings which make efficient use of energy. The Division is to evaluate the "life-cycle costs" of owning and operating each building to be constructed or leased by state agencies, and primary consideration is to be given to energy requirements. It is to promulgate rules and procedures for life-cycle cost analysis, including energy performance indices.

Emergency "911" Telephone Plan

Committee Substitute for House Bills 3277 and 3340 (Chapter 74-357) directs the Division of Communications of the Department of General Services to develop and implement a statewide emergency telephone number "911" system, to meet specific local requirements for law enforcement, firefighting, emergency medical and other services. The Division is to identify the costs, develop mutual aid agreements and work with the Public Service Commission in developing plans. It is to work toward coin-free dialing of "911" calls. County and municipal authority to implement emergency systems is repealed but the Division is required to work with such authorities in implementing the state-wide plan. The director is authorized to apply for federal funds and \$95,000 is appropriated from the General Revenue Fund for the purposes of the act.

Florida State Fair

Committee Substitute for Committee Substitute for House Bill 3102 (Chapter 74-322) creates the Florida State Fair Authority as an instrumentality of the state under the supervision of the Commissioner of Agriculture. The Authority is to be composed of 25 members, 4 ex-officio

and 21 appointed by the Governor from nominees of the Commissioner. Its powers and duties are prescribed. The Authority is to operate the State Fair in Tampa; own and improve its property; borrow money and issue revenue bonds, and fix all fees and charges. Its bonds cannot pledge the credit of the state and are payable solely from funds pledged for their payment. The property of the Authority is exempt from taxation but the income from its debt obligations is not exempt from the Corporation Income Tax.

The Authority cannot dispose of land without prior approval of the Trustees of the Internal Improvement Trust Fund who shall have an option to acquire the property. The Authority must make annual reports to the Governor and the Commissioner of Agriculture. The Commissioner shall then transmit the report to the Legislature with any comments and recommendations for legislation. The Authority is subject to annual audit by the Auditor General.

PLANNING & BUDGETING

Senate Bill 100 (Chapter 74-29) requires each state agency to file an annual statement of operation with the Auditor General as well as the Comptroller showing income and expenditures of the agency by September 30 of each year.

The Comptroller is required to include a consolidated balance sheet with a consolidated statement of operation in his annual report and to certify agency compliance to the Department of Administration. The Department is authorized to withhold release of appropriations pending certification.

Senate Bill 828 (Chapter 74-258) amends the state budgeting act to exempt meals, provided without charge to volunteers in approved programs, from the requirement that such perquisites be sold and the amounts accounted for.

MISCELLANEOUS

House Bill 3030 (Chapter 74-18) requires that deeds of conveyance on state-owned lands bear the personal signature of the officer or trustee effecting the action.

Committee Substitute for Senate Bill 506 (Chapter 74-253) authorizes the substitution of certificates of deposit from savings and loan associations for amounts retained on state contracts as authorized now for bank certificates of deposit.

House Bill 3258 (Chapter 74-288) requires that county service officers be wartime veterans, or their

surviving spouses, and that they have at least two years of college or a high school degree or equivalency diploma and four years of administrative experience. These requirements do not apply to county service officers employed before July 1, 1974. The Division of Veterans' Affairs of the Department of Community Affairs is directed to establish training programs and periodic refresher courses for county service officers.

House Bill 488 (Chapter 74-16) provides an alternative method for state observance of national days of mourning.

Senate Bill 251 (Chapter 74-39) requires custodians of state and county public documents to certify any such document as nonexistent when it cannot be found after due and diligent search.

Interest Rates Above Maximum

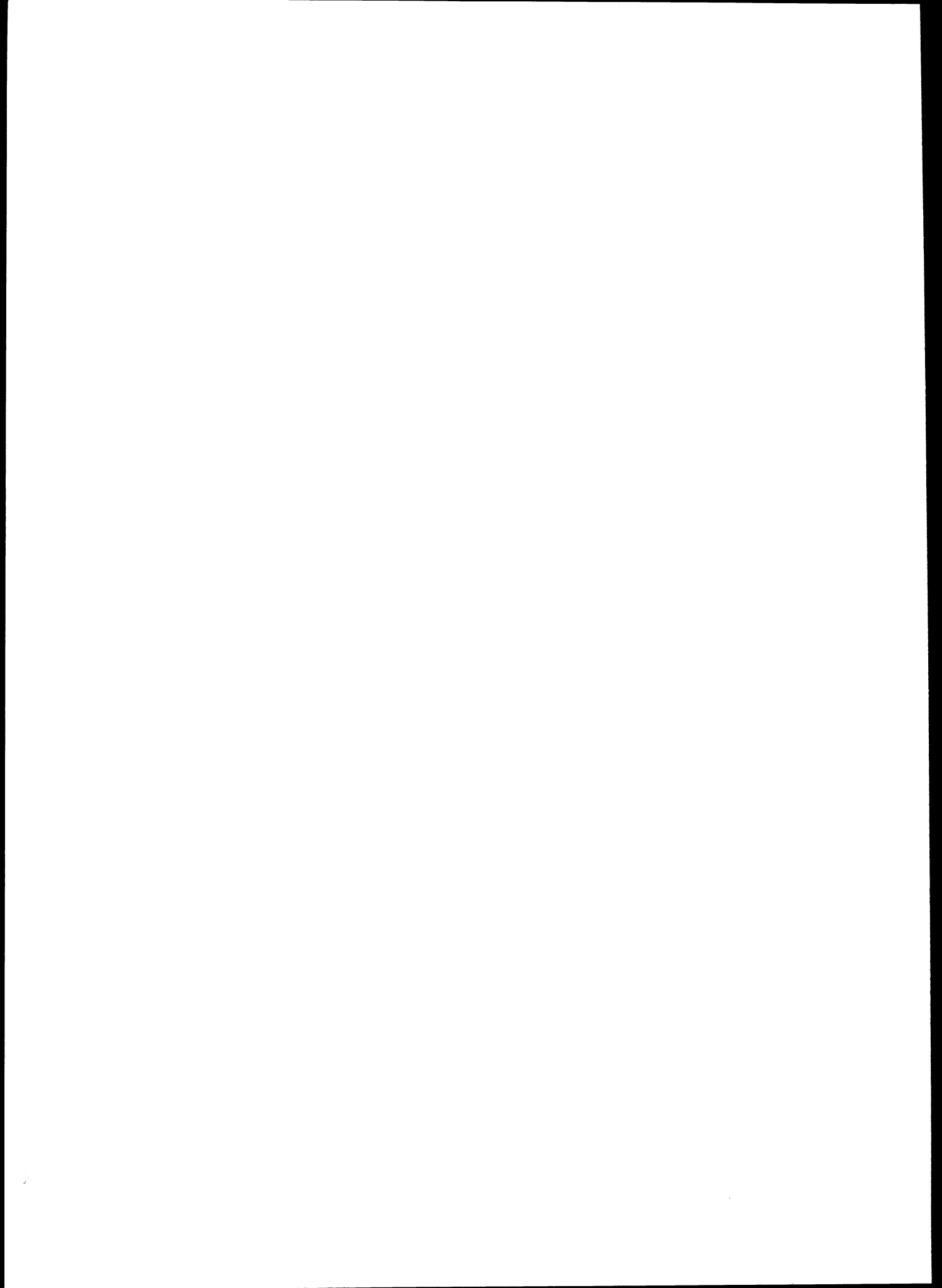
Senate Bill 889 (Chapter 74-259) authorizes the State Board of Administration to approve an interest rate in excess of the maximum rate set by law for a specific issue or reissue of public bonds when it is in the best interest of the public.

Prompt Payment of Invoices

Committee Substitute for Senate Bill 62 (Chapter 74-7) requires state agencies to file vouchers authorizing payment of invoices with the Comptroller not later than fifteen days after receipt of the invoices and approval of the goods or services. The Comptroller is required to issue warrants not later than fifteen days after receipt of the vouchers. These requirements may be waived under exceptional circumstances and the Department of Banking and Finance may adopt rules to implement the act. Persistent failure to comply constitutes grounds for dismissal of employees responsible.

Revolving Funds

Senate Bill 64 (Chapter 74-28) requires each state department to file a quarterly report with the State Treasurer listing each clearing account and revolving fund within the department's jurisdiction and stating the cash balance in each revolving fund as well as that portion of the cash balance in each clearing account to be deposited in the state treasury as provided by law.



TAXATION*

There were no important revenue raising measures in 1974, the result of growing tax collections, federal revenue sharing and substantial cash balances. On the other hand the taxpayers were given three substantial breaks: the maximum school millage was reduced from 10 to 8 mills and the state appropriation for schools was increased to replace the loss (See Committee Substitute for House Bill 3692 (Chapter 74-227) in Education); the additional homestead exemption was extended to all local levies; and a \$20,000 exemption from the intangible tax base was enacted. The state will replace the homestead loss, estimated to cost \$18 million. The intangible tax reduction is estimated at \$11 million.

STATE TAXATION

Corporation Income Tax

The Florida income tax code is amended by House Bill 3440 (Chapter 74-324) to include recent changes in the Federal law. The costs of reports and collections are now to be paid from general revenue appropriations. Corporations that owe no tax, but must file a federal

* Prepared by Dr. Arthur L. Cunkle,
House Bill Drafting Service

return, must now file a state return or be subject to a penalty of \$25 a month, not to exceed \$150. A corporation must pay its taxes before dissolution. Taxpayers who have not done so may elect to report their income under the installment sales method by filing amended returns and paying any additional tax due with interest for tax periods beginning after January 1, 1972.

Sales and Use Tax

There are five 1974 acts which grant or clarify exemptions from the state sales tax: House Bill 2359 (Chapter 74-134) exempts the purchase by commercial fishermen of bait intended solely for use in the entrapment of Blue Crabs and Stone Crabs; Senate Bill 380 (Chapter 74-4) exempts the sale of the United States and official Florida flags; Senate Bill 427 (Chapter 74-32) exempts telecommunication satellites and associated launch components; and House Bill 711 (Chapter 74-126) exempts admissions to athletic or other events sponsored by schools and correctional institutions when only student, faculty or inmate talent is utilized.

House Bill 3951 (Chapter 74-305) exempts residential utilities regardless of whether there are separate meters for each household or one meter for the landlord.

If there are non-exempt uses, the landlord must provide a separate meter for them. If any part of the utility or fuel is used for a non-exempt purpose, the entire sale is taxable.

Motor Vehicle Licenses

Senate Bill 256 (Chapter 74-243) redefines "truck camper" to eliminate "slide-in camper" and repeals the \$10 annual license under the latter.

Intangible Personal Property Tax

Senate Bill 48 (Chapter 74-237) grants an exemption of \$20,000 of intangibles to each taxpayer who is a natural person, and gives two exemptions to a husband and wife filing jointly. This is in addition to the \$5 minimum tax. Agents and fiduciaries are not entitled to the exemption. The value of annuities and life insurance policies are defined as money and thus exempt. Intangible tax returns are to be available to the Auditor General, the taxpayer or his representative.

PROPERTY TAXATION

Property Tax Administration

House Bill 4005 (Chapter 74-234), often referred

to as "Truth in Taxation," revises and clarifies many sections of the property tax statutes. Assessors, county officials and others associated with property tax administration will want to study this law. It changes the dates for filing applications for agricultural assessments, homestead exemptions and exemptions for fully exempt property. It amends provisions dealing with assessors' and collectors' budgets and with the submission and approval of tax rolls. It requires that a mobile home without a tag be assessed as real or personal property. Procedures for assessing railroad property are detailed. All municipal taxes including special assessments are to be administered by the county tax assessor and tax collector who are to report to the municipalities. The review by the Department of Revenue of changes in the assessors' rolls by the boards of tax adjustment is changed. Members of these boards shall serve a year, and the boards must keep documentary evidence and records of proceedings. Hearings of the boards of tax adjustment are subject to the administrative procedure act, but the preparation of the tax rolls, audits and post-audits are exempt therefrom.

The Department of Revenue is required to prescribe and furnish a form for each purpose, but it may approve for a year a form supplied by the county officer. Short

forms for renewal of applications for homestead, agricultural and full exemptions are authorized.

The procedures are clarified to require two hearings for increasing the tax millages after the assessor has certified the millage that will maintain budgets on the new assessments. The newspaper notice of the hearing on the increase must be 1/4 of a page in size, and multi-county districts are brought under the provision. Water management districts are required to adopt October 1-September 30 as the fiscal year.

Areas designated as of critical state concern are now subject to special treatment in assessments in order that prohibited uses may not be considered in determining values. The provisions of returns of tangible personal property are amended to require much additional information, but the information returns required on real property sales are abolished. Persons selling real estate to governmental units must put in escrow 120% of the previous year's taxes.

Homestead Exemption

Senate Bill 1110 (Chapter 74-264) extends to all operating levies of local governments, beginning with the 1974 assessment roll, the additional homestead

exemption of \$5,000 now granted for school taxes to persons over 65 with five years residence. Disabled persons, who now get the first \$5,000 exemption plus \$500 for disability, will also get a total homestead exemption of \$10,000 beginning in 1975.

The Department of Revenue is directed to pay to the counties, cities and special districts the revenues lost by the additional exemption upon the basis of data submitted. The Department is authorized to pay 85% of the previous year's replacement funds when data is not available, or to prorate the funds available. This act repealed and replaced Senate Bill 2 (Chapter 74-11) which contained some errors.

Senate Bill 102 (Chapter 74-155) provides a tax lien imposed on the property of a nonresident decedent who claimed homestead exemption shall not be filed, or shall be cancelled, when the circuit court having jurisdiction over the ancillary administration in this state determines that the decedent was a resident of this state during the year or years exemption was allowed.

Tax Exemption Application

House Bill 1086 (Chapter 74-2) authorizes the

owner of property fully exempt from taxation to file in lieu of an annual application a certified statement with the tax assessor stating that the ownership or use of his property has not changed during the previous year.

OTHER LOCAL TAXES

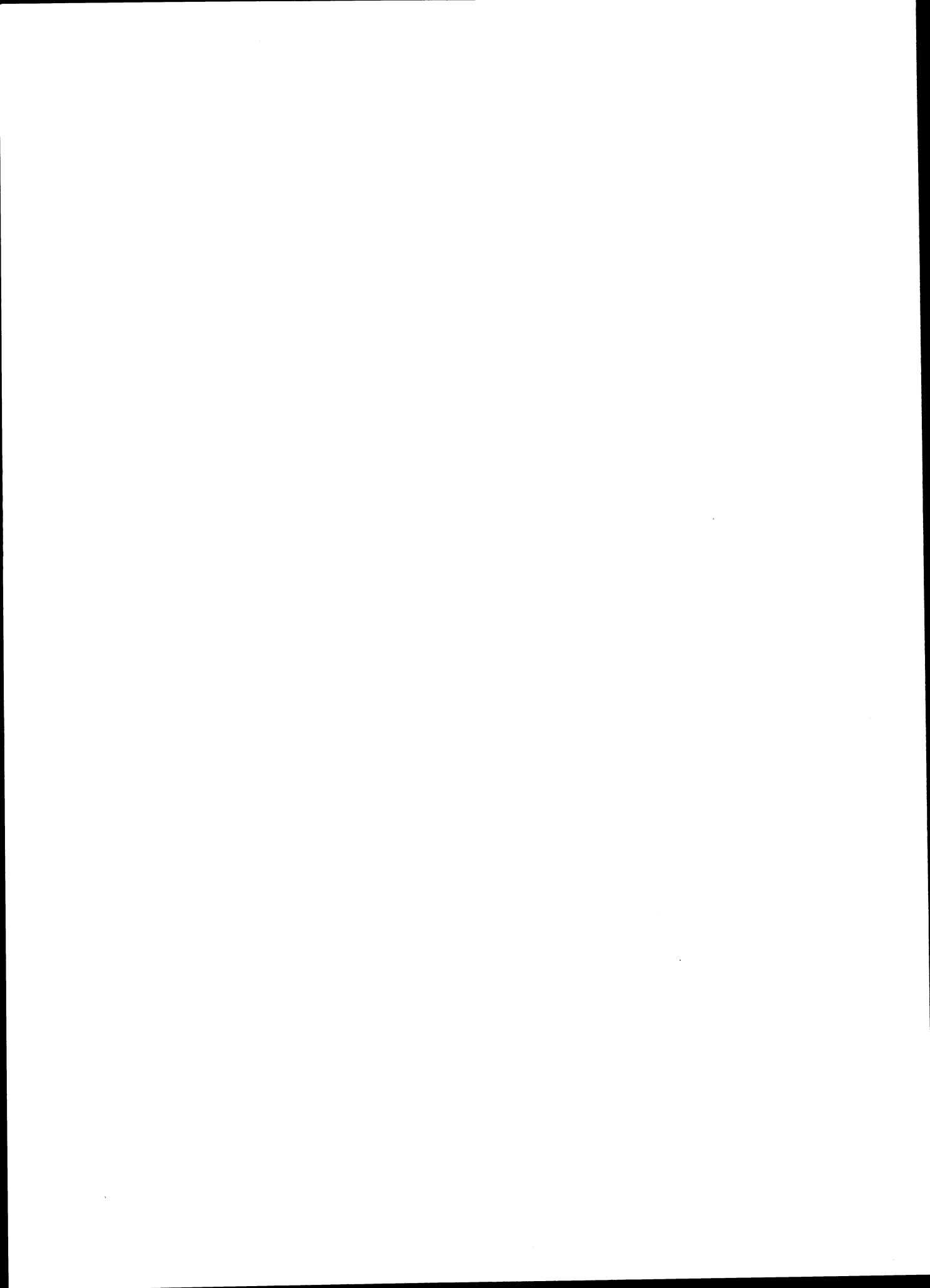
Municipal Utility Tax

Committee Substitute for House Bills 3113 and 2747 (Chapter 74-109) exempts from the municipal utility tax the fuel oil adjustment charges made since October 1, 1973, and requires that this part be stated separately. The exemption applies to only those bills rendered after July 1, 1974.

A license tag tax reimbursement is provided publicly-owned transit systems by House Bill 3962 (Chapter 74-393) which is summarized in LOCAL GOVERNMENT.

Occupational License Tax

Senate Bill 86 (Chapter 74-271) exempts from occupational licenses the selling of farm, grove, horticultural or tropical fish or products manufactured therefrom (except alcoholic beverages), and authorizes wholesale farmers' markets to pay a \$200 license in lieu of individual occupational licenses for all stall tenants.



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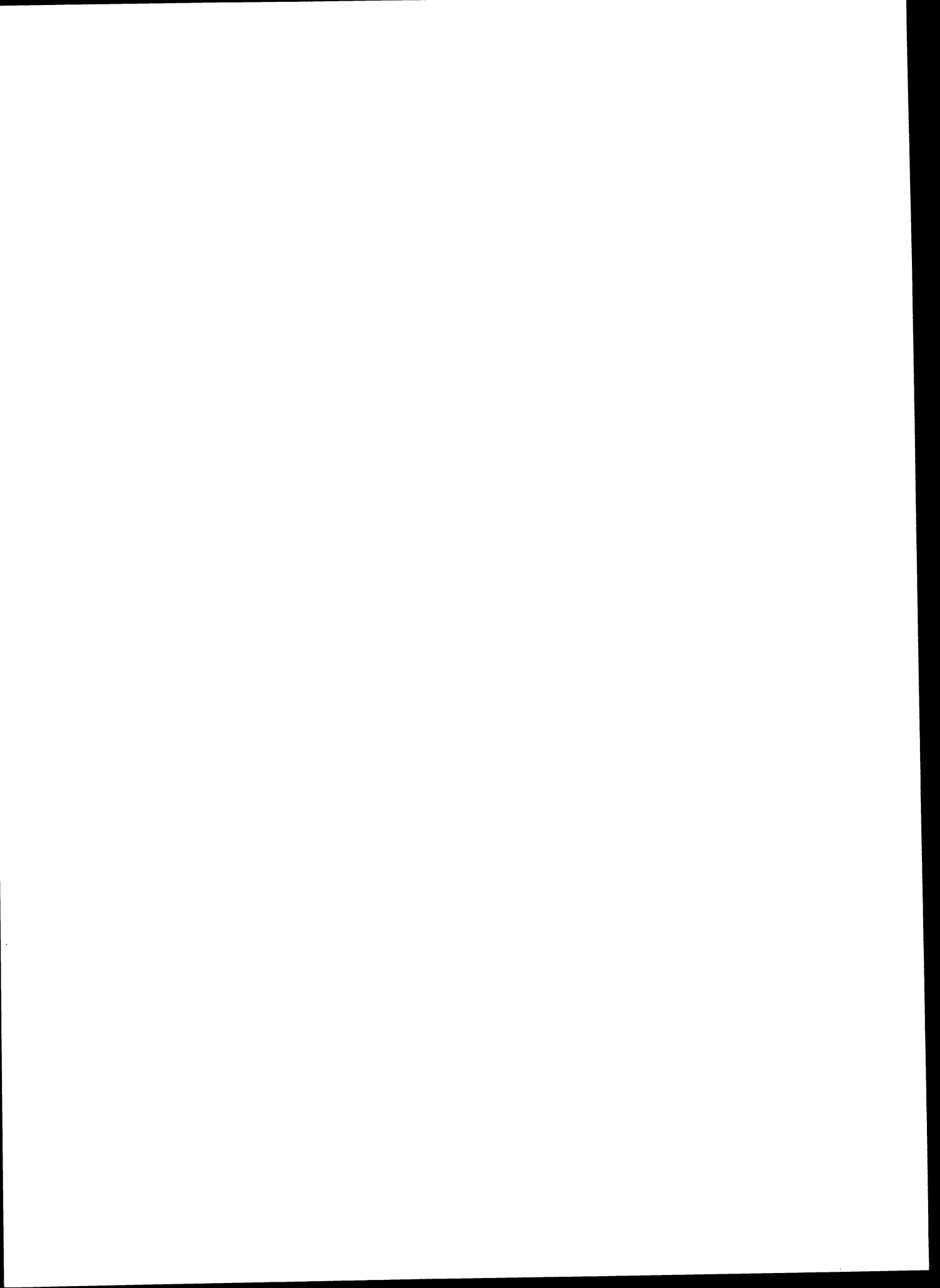
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- SB 395 - Vetoed July 3, 1974
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- HB 840 - Vetoed May 9, 1974
- HB 1078 - Vetoed June 26, 1974
- HB 1955 - Vetoed June 26, 1974
- HB 2745 - Vetoed June 18, 1974
- HB 2909 - Vetoed June 26, 1974
- HB 2939 - Vetoed June 27, 1974
- HB 3093 - Vetoed May 24, 1974
- HB 3169 - Vetoed June 12, 1974
- HB 3608 - Vetoed June 27, 1974

*This list excludes local bills
vetoed by the Governor.

