

1975

**SUMMARY OF  
GENERAL  
LEGISLATION**

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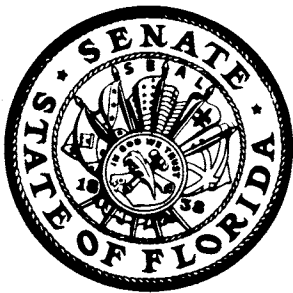
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REGULAR SESSION APRIL 8 - JUNE 5

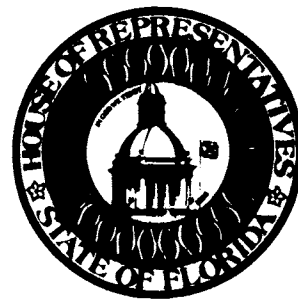
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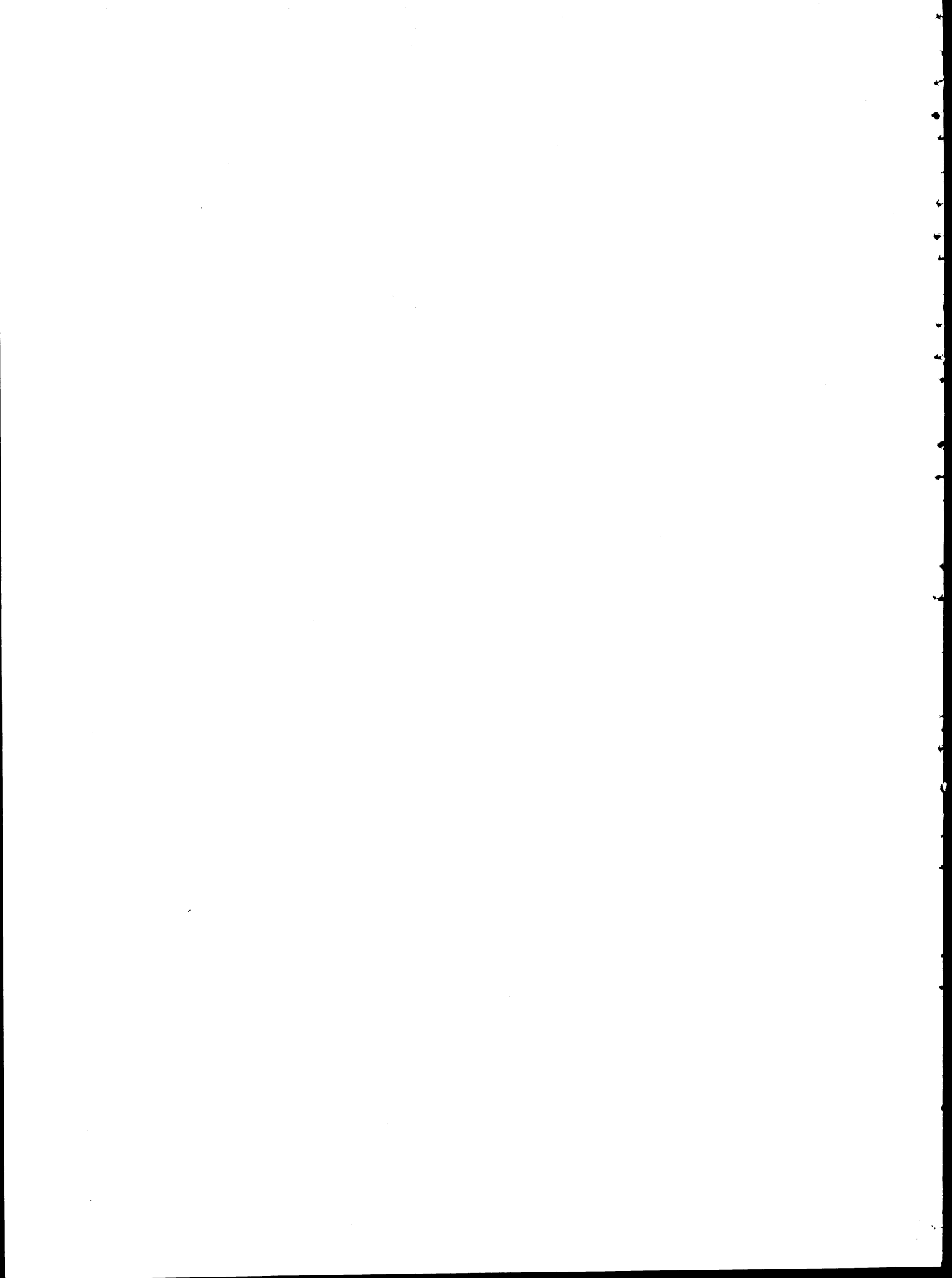


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GENERAL  
LEGISLATION**

**FLORIDA LEGISLATURE**

**REGULAR SESSION APRIL 8 - JUNE 5**

**TALLAHASSEE**





DEMPSEY J. BARRON

DONALD L. TUCKER  
Speaker



THE FLORIDA LEGISLATURE  
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Representative Dick Clark  
Representative William James

Room 95, Holland Building  
Tallahassee, Florida 32304  
Telephone (904) 488-2194

August 18, 1975

Honorable Dempsey Barron  
President, and Members of  
the Senate

Honorable Donald Tucker  
Speaker, and Members of  
the House of Representatives

Gentlemen:

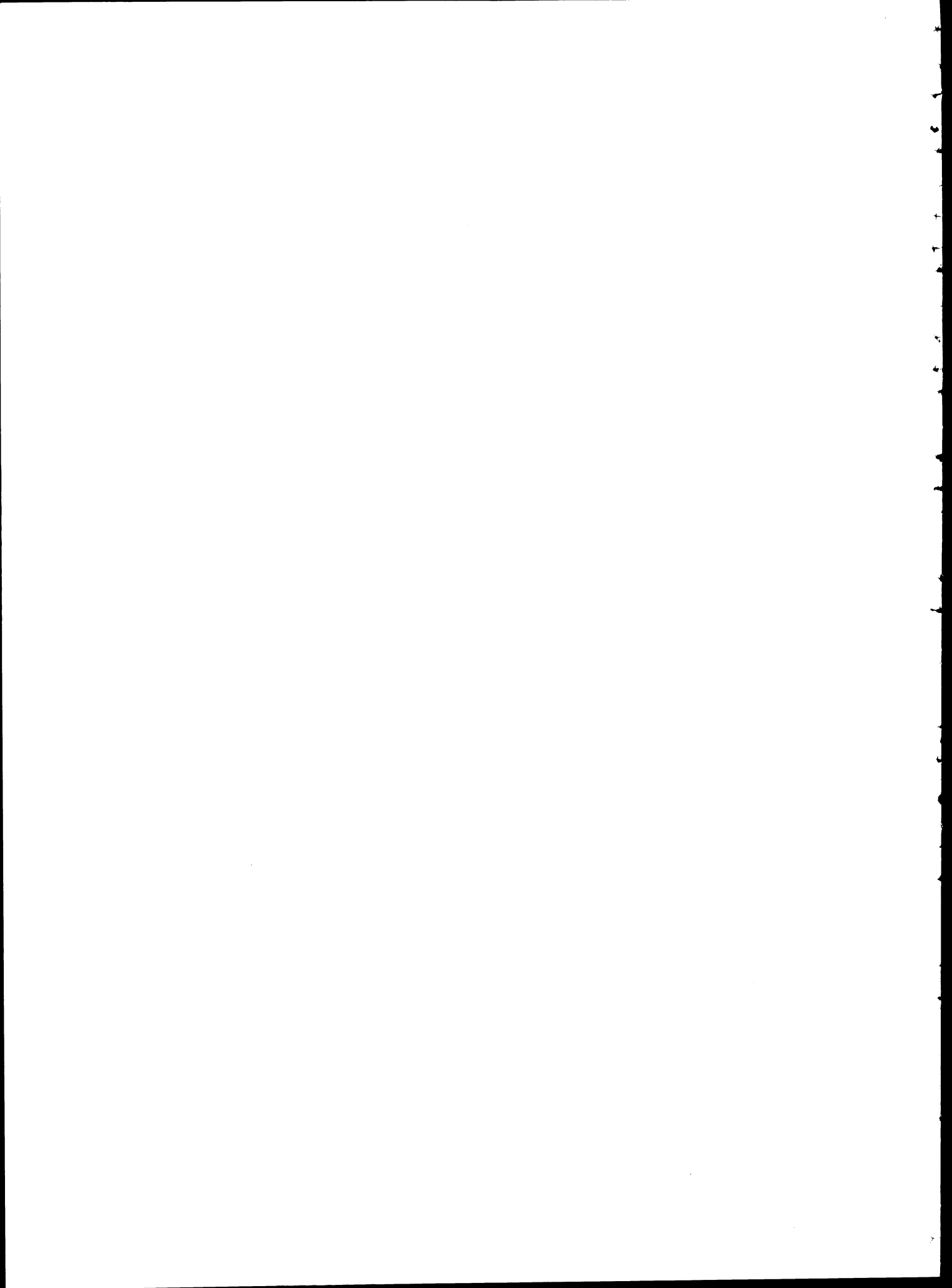
I am pleased to furnish you herewith the Summary of General Legislation, 1975, prepared under the supervision and coordination of the Division of Library Services, with the assistance of members of the legislative staff.

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 that reads "John L. Ryals".

John L. Ryals, Chairman  
Joint Legislative Management Committee





DEMPSEY J. BARRON  
President



DONALD L. TUCKER  
Speaker



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August 15, 1975

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## FOREWORD

This book highlights, within broad subject areas, the general laws enacted and constitutional amendments proposed by the 1975 Regular Session of the Florida Legislature. Essentially, it is a revision of the preliminary summary articles mailed to Legislators and other interested persons in recent weeks.

Enactments of the 1975 Session reflect issues of particular concern to the people of Florida which include: governmental reorganization in the fields of environmental controls, corrections and social services; medical malpractice insurance; growth planning at the local government level; refinement of the standards of conduct for public officers and employees; additional safeguards for persons involuntarily committed as mentally ill and a "Bill of Rights" for the mentally retarded.

Those offices, committees and individuals who initially prepared the articles are identified respectively with each article. This division is responsible for the final editing and organization of the material. The critique of certain preliminary articles by the staff of the House Commerce Committee is appreciated. Finally, gratitude is directed to our sister Division of Legislative Information for this office's utilization of that division's subject index and legislative statistics.

A handwritten signature in cursive script that reads "B. Gene Baker".

B. Gene Baker

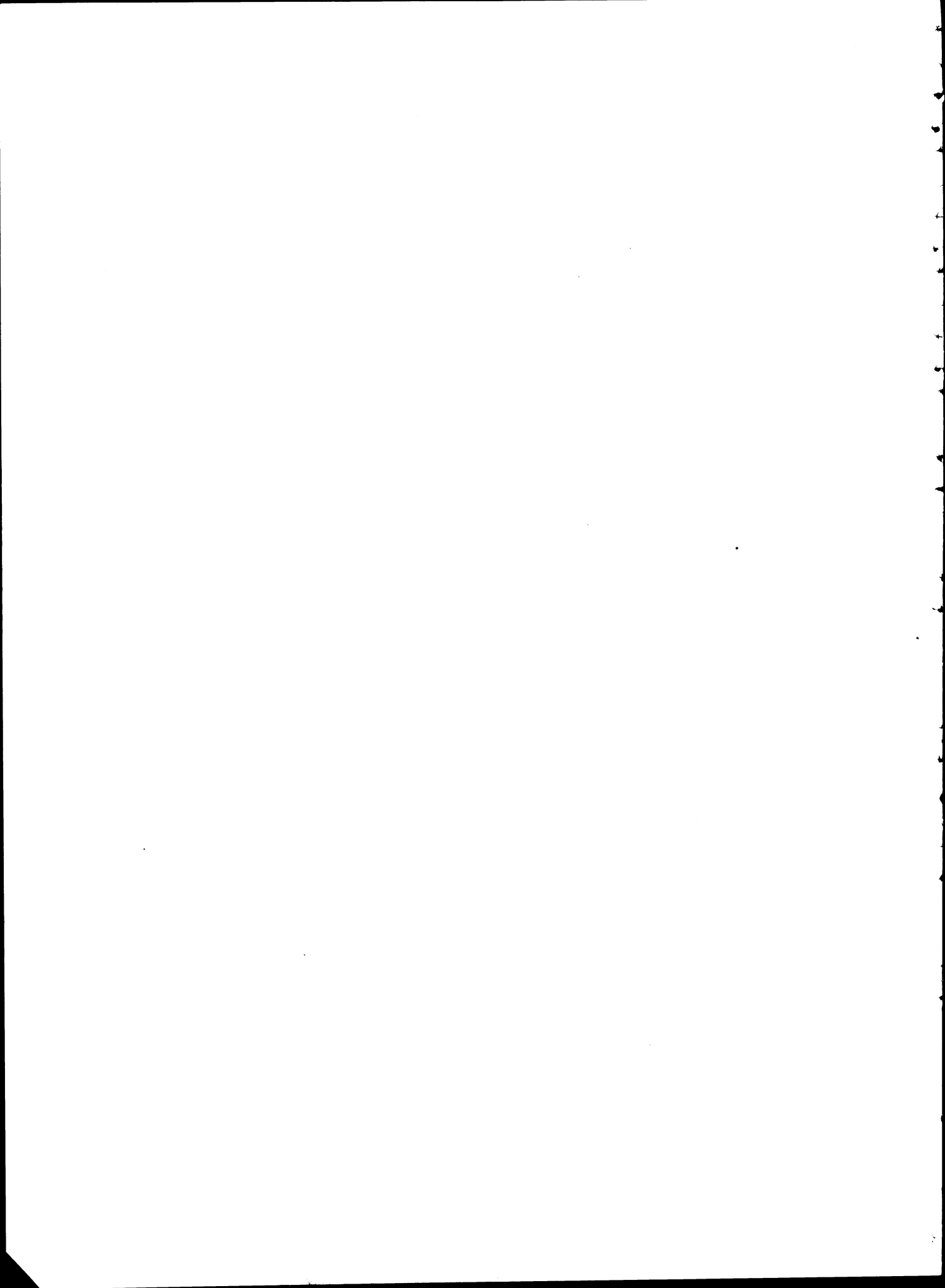
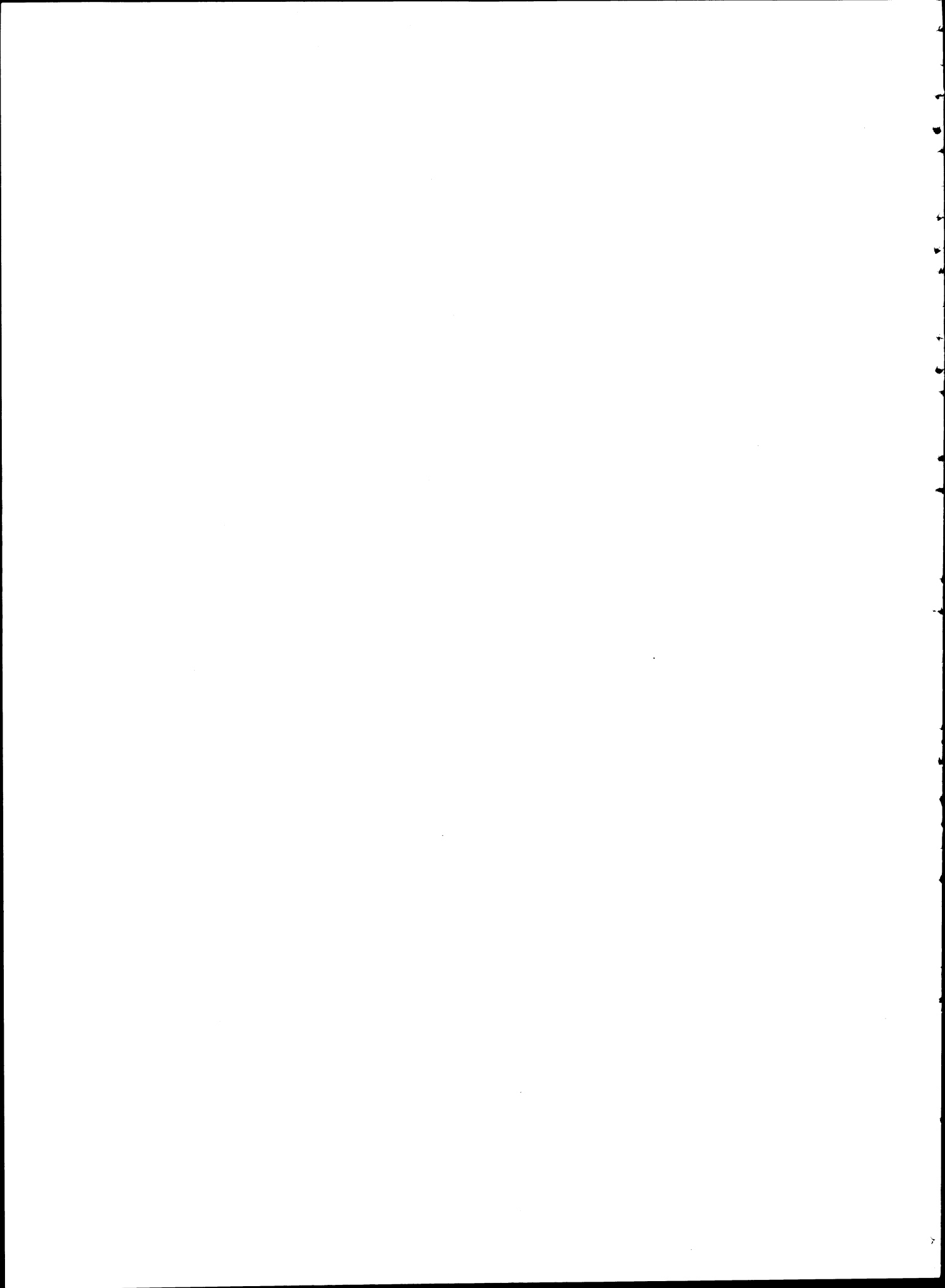




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AGRICULTURE

The 1975 Legislature produced varied legislation pertaining to the duties and responsibilities of the Commissioner of Agriculture including inspection of vehicles transporting agricultural, horticultural and livestock products; control and eradication of plant diseases; packaging of citrus, milk and other food products; and prevention of fires in hazardous drought areas. Other agricultural enactments provided for changes in regulations pertaining to marking, branding and sale of livestock; assessments on marketing orders for flue-cured tobacco; labeling of commercial poultry feed; compensation to beekeepers for destruction of diseased honeybee colonies; and inclusion of mangoes within the coverage of the Florida Avocado and Lime Sales Law.

Departmental Organization and Powers

House Bill 386 (Chapter 75-252) eliminates statutory provisions for assignment of three Attorneys General by the Department of Legal Affairs to the Department of Agriculture and Consumer Services, and permits a staff of attorneys within the Department of Agriculture and Consumer Services. Provisions relating to the removal and compensation of such staff are removed. The "chief counsel" is renamed "general counsel," and the provision for employment of a part-time attorney as counsel for the Division of Plant Industry is deleted.

The membership of the Pesticide Application Council is

expanded to include two commercial applicators, one of whom must be an aerial applicator, by provisions of Senate Bill 363 (Chapter 75-35). Both are to be appointed by the Department.

The procedures whereby the Governor may proclaim a drought emergency area to exist within the State, and (if subsequent conditions warrant) an extraordinary fire hazard area, are altered by House Bill 968 (Chapter 75-264), as well as the method for issuing orders of revocation for such proclamations. The act makes it unlawful to cause fires to be set in areas where emergency drought or extraordinary fire hazard conditions exist, and provides that the Commissioner of Agriculture, upon advice of the proper authorities is to notify the Governor when such conditions exist. All functions of the Department of Pollution Control relating to the regulation of open burning connected with rural land clearing, agricultural, or forestry operations (except fires for cold or frost protection) are transferred to the Department of Agriculture and Consumer Services by authority of Committee Substitute for Committee Substitute for Senate Bill 123 (Chapter 75-22), the summary of which is contained in the Article on CONSERVATION AND NATURAL RESOURCES.

House Bill 1222 (Chapter 75-215) authorizes the Department of Agriculture and Consumer Services to appoint road guard inspection special officers to assist agricultural road guard inspectors and prescribes their powers, duties and authority. Inspectors and special officers are authorized to search without warrant certain vehicles involved in transporting agricultural, horticultural or livestock products. Failure of trucks, truck



trailers or motor vehicle trailers to stop for inspection at official road guard inspection stations is made a misdemeanor.

#### Plant Disease Control

Under the provisions of House Bill 1224 (Chapter 75-165) the Department is permitted to enter into cooperative arrangements with other entities in the development and distribution of methods of plant disease control and to accept for its services royalties or other remuneration which are to be deposited in the Nursery Inspection Fee Fund. The sum of \$350,000 is appropriated to the Department from the Citrus Inspection Fees Trust Fund for the construction of fumigation chambers to treat and control larvae of the Caribbean Fruit Fly on citrus bound for foreign countries or to other states which require fumigation.

Committee Substitute for Senate Bill 708 (Chapter 75-178) provides appropriations for Fiscal Year 1976 to several state agencies for the purpose of combatting the coconut palm disease of "lethal yellowing." The Institute of Food and Agricultural Sciences of the University of Florida is allocated \$200,000 for research and development of a resistant stock to replace diseased palms; the Division of Plant Industry of the Department of Agriculture and Consumer Services is allotted \$300,000 for the purchase of an acceptable serum for the treatment of infected trees; and the Division of Forestry of the Department is to receive \$153,255 to finance a replacement program for diseased coconut palms. The Plant Industry Technical Council of the Department is to review government and private

research, treatment, eradication and replanting programs relating to lethal yellowing, and to tender an interim funding recommendation report to the Department and to the Division of Universities of the Department of Education on or before October 1, 1975. The Council is further directed to submit a comprehensive report on public and private efforts against lethal yellowing to the Department, the Division, and the Legislature on or before March 1, 1976. Antibiotic, oxytetracycline hydrochloride (when used to control lethal yellowing) is exempted from operation of the Pest Control Act and Pesticide Application Act of 1974.

#### Citrus Industry and Products

House Bill 1893 (Chapter 75-102) redefines the types of citrus which are to be excluded from consideration in determining the amount of the licensing bond of any citrus fruit dealer; and House Bill 1447 (Chapter 75-11) removes the one gallon minimum size on retail or institutional containers for sweetened frozen concentrated orange juice or sweetened concentrated orange juice for manufacturing. Such juices may be packed in "bulk" containers of one gallon size or larger as the act removes the five gallon maximum size. Packing permits are to be issued by the Department of Citrus with the approval of the Citrus Commission. The Commission is authorized to suspend temporarily, and after notice and hearing may revoke, the permit of any citrus fruit dealer violating provisions of the Florida Citrus Code (Chapter 601, Florida Statutes), in addition to any disciplinary action which may be taken by the Department of Agriculture and Consumer Services. The term "regulations" is changed to "rules" to conform with the

revised Administrative Procedures Act (Chapter 120, Florida Statutes, 1974 Supplement).

Mangoes are defined and included in the provisions of the Florida Avocado and Lime Sales Law (Section 570.55, Florida Statutes) by House Bill 1243 (Chapter 75-267), and "limes" are redefined to include "Citrus latifolia." Enforcement authority for the law is extended to include police officers, sheriffs and deputy sheriffs.

#### Livestock and Poultry

House Bill 2341 (Chapter 75-212) limits the requirement that collection for livestock sold at a livestock market be on the date of sale to certain buyers, and provides the date of sale to producers and farmers be the date of delivery of the livestock. The recording, certified copy, and transfer of ownership fees for livestock marks and brands are increased by Senate Bill 316 (Chapter 75-37); provisions for renewal of mark or brand are revised; a \$5.00 fee is established; and a phase-in schedule for the new system is provided.

House Bill 1084 (Chapter 75-140) identifies those animals to which the term "commercial feed" applies within the scope of the Florida Commercial Feed Law (Chapter 580, Florida Statutes) and permits the Commissioner of Agriculture to allow by regulation the use on labels of collective terms for a group of ingredients which perform a similar function for commercial poultry feed.

#### Milk and Dairy Products

The statutory definition of milk is expanded to include

milk in final package form for beverage use by Senate Bill 132 (Chapter 75-14); and the use of sorbates (potassium sorbate or sorbic acid potassium salt used to inhibit mold and yeast growth in food) and its salts is authorized in the preparation of cottage cheese by House Bill 1914 (Chapter 75-25). This act also permits addition of safe and suitable ingredients to improve texture, prevent syneresis (separation) or extend the shelf life of cultured milk products in compliance with present federal regulations.

#### Miscellaneous

The Department is authorized by House Bill 1223 (Chapter 75-127) to assess 10 cents per 100 pounds of flue-cured tobacco produced, as an alternative to assessment by acreage, to pay for the formulation, issuance, administration and enforcement of marketing orders.

Maximum compensation payable to any resident beekeeper by the Department for the destruction of diseased honeybee colonies is set at \$20 per colony by House Bill 429 (Chapter 75-213)

APPROPRIATIONS

The national economic recession was reflected in Florida by a "shortfall" of \$232.2 million in estimated General Revenue Fund receipts for the Fiscal Year ended June 30, 1975. The Administration Commission (the Governor and Cabinet acting in their capacity to redistribute state monies) used the mandatory reserves and the Working Capital Fund to overcome this deficit.

The Legislature provides total appropriations of \$4,674,101,233 for Fiscal 1976 of which almost \$4.5 billion is authorized by the General Appropriations Act, Conference Committee Report on House Bill 2100 (Chapter 75-280). This figure breaks down as follows: General Revenue and Working Capital Funds, \$2,234,005,685; Federal Revenue Sharing Fund, \$75,000,000; Trust Funds, \$2,365,095,548; and compares with total authorizations of \$4,819,127,677 for Fiscal Year 1975.

In spite of the distressed economy, two areas of government operations receive increased shares of total spending. Education is allocated 63.6% of all appropriations and health and rehabilitative services 21.2%. For 1974-75 the apportionments were 60% and 17.7% respectively.

A more detailed analysis of appropriations enactments is contained in the tables which follow, extracted with permission from Fiscal Analysis in Brief; Based on 1975 Passed Legislation, prepared by the staff of the Senate Ways and Means Committee.

SUMMARY OF 1975 APPROPRIATIONS

	General Revenue Fund	Fed. Revenue Sharing Fund	Trust Fund	Total
General Appropriations Act	\$ 2,225,898,299	\$ 75,000,000	\$ 2,199,169,871	\$ 4,500,068,170
Less Contingency Items Not Passed	(73,391)			(73,391)
Gen. Appropriations Act (Adjusted)	2,225,824,908	75,000,000	2,199,169,871	4,499,994,779
Higher Education Capital Outlay			164,492,080	164,492,080
Claims Bills (Excluding those from Local Funds)	65,126		983,351	1,048,477
Other Special Acts	8,115,651		450,246	8,565,897
Total Appropriations Acts	<u>\$2,234,005,685*</u>	<u>\$ 75,000,000</u>	<u>\$2,365,095,548</u>	<u>\$4,674,101,233</u>

NOTE: \* Includes \$2,232,853,552 Appropriated from the General Revenue Fund and \$1,152,133 from the Working Capital Fund.

GENERAL REVENUE, WORKING CAPITAL AND FEDERAL REVENUE SHARING FUNDS  
SUMMARY OF 1975 APPROPRIATIONS

Purpose	General Approp. Act		Spc. Approp. Acts		Total Appropriations	
	Amount	% of Total	Amount	% of Total	Amount	% or Total
<u>Operations</u>	<u>2,272,071,492</u>	<u>98.8</u>	<u>8,115,651</u>	<u>99.2</u>	<u>2,280,187,143</u>	<u>98.7</u>
Education	1,469,066,083	63.9	200,000	2.4	1,469,266,083	63.6
Health & Rehab. Services	490,321,704	21.3	200,000	2.4	490,521,704	21.2
Judicial Branch	66,683,297	2.9	472,896	5.8	67,156,193	2.9
Legislative Branch	26,583,782	1.2			26,583,782	1.2
All Other Agencies	219,416,626	9.5	7,242,755	88.6	226,659,381	9.8
<u>Fixed Capital Outlay</u>	<u>28,753,416</u>	<u>1.2</u>			<u>28,753,416</u>	<u>1.3</u>
<u>Claims Bills</u>			<u>65,126</u>	<u>.8</u>	<u>65,126</u>	<u>.0</u>
Total Adjusted Approp.	2,300,824,908	100.0	<u>8,180,777**</u>	<u>100.0</u>	<u>2,309,005,685*</u>	<u>100.0</u>
Plus: Contingency Items Not Enacted	<u>73,391</u>					
TOTAL - Conference Report (HB 2100)	<u>2,300,898,299</u>					
Current Appropriations Repealed	<u>20,700,000</u>					

Note: \* Includes \$2,232,853,552 from the General Revenue Fund, \$75,000,000 from the Federal Revenue Sharing Fund, and \$1,152,133 from the Working Capital Fund.

\*\* Excludes Duplicate Appropriation \$25,000 (Item 442A and SB 777)

AVAILABLE FUNDS AND APPROPRIATIONS, 1974-75 and 1975-76  
General Revenue, Working Capital, Federal Revenue Sharing Funds

<u>Funds Available, 1974-75</u>	<u>Federal Revenue Sharing</u>	<u>Working Capital</u>	<u>General Revenue</u>
Balance Forward, 7-1-74	\$ 10,032,480	\$ 105,104,350	\$ 208,925,457
Revenue Receipts (Jan. 75 Estimate)	69,640,582	-	2,089,800,000
Mid-Year Reversions, 12-31-74	-	-	2,473,656
Transfer Working Capital to General Revenue, June 1975	-	(105,104,350)	105,104,350
Total Available, 1974-75	<u>79,673,062</u>	<u>-0-</u>	<u>2,406,303,463</u>
<u>Expenditures, 1974-75</u>			
Appropriations:			
State Operations	-	-	1,031,516,782
Aid to Local Governments	75,200,000	-	1,302,118,827
Fixed Capital Outlay	-	-	190,022,804
Less: 1973 & 1974 Appropriations Repealed	-	-	(20,700,000)
Less: Mandatory Reserves	-	-	(119,597,628)
Total Appropriations Available for Expenditure	<u>75,200,000</u>	<u>-</u>	<u>2,383,360,785</u>
Balances Available, 6-30-75	<u>4,473,062</u>	<u>-</u>	<u>22,942,678</u>
<u>Funds Available, 1975-76</u>			
Balance Forward, 7-1-75	4,473,062	22,942,678	-0-
Revenue Receipts (Jan. 75 Estimate)	70,526,938	-	2,195,000,000
Mid-Year Reversions, 12-31-75	-	-	400,000
Revenue Law Changes, 1975 Session	-	-	(1,830,000)
Repayment of Pollution Control Loans (Governor's Estimate, Mar. 75)	-	-	24,600,000
Transfer Working Capital to General Revenue	-	(21,790,545)	21,790,545
Total Available, 1975-76	<u>75,000,000</u>	<u>1,152,133</u>	<u>2,239,960,545</u>
<u>Expenditures, 1975-76</u>			
Appropriations:			
State Operations	75,000,000	1,152,133	1,022,146,955
Aid to Local Governments	-	-	1,181,953,181
Fixed Capital Outlay	-	-	28,753,416
Total Appropriations Available for Expenditure	<u>75,000,000</u>	<u>1,152,133</u>	<u>2,232,853,552</u>
Balances Available, 6-30-76	<u>-0-</u>	<u>-0-</u>	<u>7,106,993</u>



OTHER SPECIAL APPROPRIATIONS ACTS, 1975

<u>Chapter No.</u>	<u>Bill No.</u>	<u>Subject</u>	<u>General Revenue</u>	<u>Trust Funds</u>
75-230	SB 245 (CS)	Investigative Agencies	\$ 140,000	\$
75-62	SB 309	Condominiums & Cooperatives	125,000	
75-178	SB 708 (CS)	Lethal Yellowing	653,255	
75-233	SB 777	Nursing Homes	200,000	
75-188	SB 804	Tampa-Hillsborough Preservation Board*		
75-124	SB 868 (CS)	Circuit Judges	472,896	
75-242	SB 1127	Retirement Benefits - \$10 Monthly	1,200,000e	
75-236	SB 1134	Cross and Sword Pageant	15,000	
75-164	HB 1140 (CS)	Marriage and Family Study	5,000a	
75-131	HB 1519 (CS)	Inter-American Authority	5,187,500a	
75-291	HB 1902	Retirement-Vending Stand Operators	117,000	
75-248	HB 182	State Retirement Commission		80,000e
75-165	HB 1224	Plant Disease Control		350,000
75-316	HB 1248	Award-Norris		246
75-285	HB 1283	Multi-Mode Transportation Advisory Board		20,000
75-292	HB 1909	Education Capital Outlay Projects		164,492,080
		Totals	<u>\$8,115,651</u>	<u>\$164,942,326</u>

Notes:                   \* Appropriates \$50,000 from Tampa and Hillsborough County funds  
                               e Estimate of "amounts necessary"  
                               a Effective upon becoming law; other measures are effective 7-1-75 or 10-1-75

GENERAL REVENUE FUND

Revenue Collections, 1972-73 to 1975-76

<u>Source</u>	<u>Actual 1972-73</u>	<u>Actual 1973-74</u>	<u>Estimated 1974-75</u>	<u>Estimated 1975-76</u>
Sales Tax	\$1,041,300,000	\$1,196,600,000	\$1,214,500,000	\$1,312,200,000
Beverage Tax & Licenses (a)	160,500,000	174,800,000	179,500,000	190,800,000
Corporation Income Tax	147,700,000	188,800,000	177,000,000	180,400,000
Motor Vehicle Licenses (b)	108,800,000	100,800,000	105,800,000	114,800,000
Documentary Stamp Tax (c)	81,400,000	84,300,000	63,300,000	73,200,000
All Other (d)	283,200,000	341,300,000	349,700,000	323,600,000
Legislative Changes - 1975	-	-	-	(1,800,000)
Total - Net Revenue (d)	<u>1,822,900,000</u>	<u>2,086,600,000</u>	<u>2,089,800,000</u>	<u>2,193,200,000</u>

- Notes:
- (a) Excludes county and city portion of Beverage Licenses
  - (b) Excludes School Tag Fees and Mobile Home Licenses distributed to local governments
  - (c) Excludes Documentary Surtax, which goes to Land Acquisition Trust Fund
  - (d) Tax Refunds have been deducted

**MEASURES AFFECTING REVENUES, 1975-76**

**Estimated Increases and (Decreases)**

<u>Session Law</u>	<u>Bill Number</u>	<u>Description</u>	<u>General Rev.</u> \$	<u>Trust Fund</u> \$
75-124	CS/SB 868	Court Fees - Fee Increases in Supreme, Appellate, Circuit Courts	600,000	
75-228	SB 124	Driver Licenses - Special Examination Fees for 2-Yr. Licensees Re-examination	500,000	
75-294	HB 2146	Hotel and Restaurant Fees - Fee Increase for Hospitality Program	65,000	
		<u>Motor Vehicle Licenses:</u>		
75-229	SB 126	Prestige Tags for Motorcyclists	6,000	
75-66	SB 49	Refunds under "Alpha-numeric" Plan	(750,000)	
75-203	CS/HB 1778	Recreational Vehicle Dealers Reclassified for Licensing	minimal	
75-286	CS/HB 1430	Motor Fuel Tax - Special Fuel Dealer Licenses	65,000	
		<u>Racing Tax:</u>		
75-42	CS/HB 2004	Increased "Take-out"	4,800,000	
75-43	CS/HB 2005	Special Winter Common Purse Pool, Summer Allowance, Extended Dates	(2,666,000)	
		<u>Sales Tax:</u>		
75-65	HB 611	Guide Dog Exemption	minimal	
75-40	HB 1147	Severance Tax - Solid Minerals - Mandatory Reclamation	minimal	
75-280	HB 2100	Repayment of Loans - FSU Stadium Loan of 1964 - Repayment of Balance Due	**	
		<u>Other Taxes, Licenses, Fees:</u>		
75-230	SB 245	Watchmen, Guards, etc. - Licenses	n.e.	
75-56	SB 388	Bad Check Service Charges	25,000	25,000
75-233	SB 777	Home Health Care Agencies - Licenses	n.e.	
75-214	HB 771	Private Employment Agencies - Licenses	n.e.	
75-250	HB 1395	Corporations - Code Revision - Report Filing Fee	25,000	
75-29	SB 31	County Medicaid Reimbursement Adjustment	#	
75-280	HB 2100	Medical & Hospital Fees (GAA Sec. 15) - Earmarked	(4,500,000)	4,500,000
		<b>TOTAL</b>	<u><b>\$(1,830,000)</b></u>	<u><b>\$4,525,000</b></u>

Note: \*\* Net result of total transaction will be off-setting increase and decrease of same amount.

# This measure forgives \$5,100,000 that would have been payable by counties between May 1, 1974 and June 30, 1975 plus \$4,900,000 estimated to become payable during 1975-76 fiscal year. Revenue estimates, being based on the concept of cash flow to the Treasury, have already discounted this measure, hence require no further adjustment for SB 31 (Ch. 75-29).

<u>Vetoed Measures That Would Have Affected Revenues</u>		<u>General Rev.</u>
CS/SB 42	Motor Vehicle Licenses - Refunds	\$(1,400,000)
CS/SB 251	Sales Tax - Out-of-State Sales of Mtr. Vehs.	(1,500,000)
SB 440	Sales Tax - Out-of-State Sales of Boats	(500,000)
HB 746	Sales Tax - Pollution Control Facilities	(5,000,000)
HB 974	Sales Tax - Commercial Fishing Fuel	(400,000)
	<b>TOTAL</b>	<u><b>\$(8,800,000)*</b></u>

Note: \*Estimates included in veto messages.

Vetoed measures affecting the beverage law (SB 107, HB 1428, HB 1429, HB 1799) would have had minimum financial effect, if any.

## FIXED CAPITAL OUTLAY

The Legislature provided \$32,063,316 in appropriations for fixed capital outlay for 1975-76. 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 House Bill 2100, the General Appropriations Act. Following are major highlights:

### Health & Rehabilitative Services

Planning & Land Acquisition - Two 300 Bed Correctional Facilities	\$ 3,000,000
Kitchen & Dining Facilities	1,600,000
Expansion of Hillsborough Youthful First Offender Institution	400,000
Expansion of 50 Beds for Dade Co. Institution	400,000
New 300 Bed Correctional Institution at Avon Park	4,716,000
Additional Facilities for 825 Inmates at Existing Correc. Institutions	11,701,882
Improvements to the Utility Systems at Florida State Hospital	1,118,000
Major Renovation & Repairs for Mental Hospitals	1,068,000
Other Institutional Repairs, Renovations, Minor Additions	4,012,000

### Natural Resources

Land Acquisition & Development for Parks	2,500,000
Game & Fresh Water Fish Land and Facilities	543,774

### Other

Miscellaneous Smaller Projects for Various Agencies	1,003,660
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The Legislature also made several changes to the State procedures for fixed capital outlay projects, which include Senate Bills 158, 524, and 572, House Bill 1909, and provisions of House Bill 2100. In addition to providing better management and control over fixed capital outlay projects, the various bills are designed to place emphasis on planning prior to an appropriation, reduce the time required to move a project to the construction stage, fix responsibility for purchase of land, streamline the professional services selection process and to reduce duplication in review of projects. The bills also give full authority and responsibility to district school boards for all decisions regarding school construction contracts and payments, provide the Department of Administration with the authority to make departmental transfers in order to better manage funds appropriated for fixed capital outlay and establish a fund for cash advances for projects financed from bonds.

The Legislature also appropriated fixed capital outlay projects for education from the utilities gross receipts tax and bond proceeds in House Bill 1909 as follows:

Division of Public Schools	\$92,000,000
Division of Community Colleges	24,900,000
Division of Vocational Education	19,500,000
Division of Universities	26,100,000
Board of Regents - Training Center for Environmental Occupations	1,348,280
Board of Trustees of the Fla. School for the Deaf & Blind - Repairs, Replacement & Maintenance	643,800

(In the General Appropriations Act, \$10,000,000 is appropriated to the University of Florida - School of Veterinary Medicine and \$3,000,000 to the Division of Universities, Fixed Capital Outlay - Renovations from the utilities gross receipts tax trust fund to replace general revenue appropriations made in prior years and repealed by the 1975 Legislature.)

House Bill 1909 also made the following changes or additions to statutes related to the funding and construction of public educational facilities:

1. Requires that all requests from the various divisions of the Department of Education for educational facilities construction and fixed capital outlay funds be submitted as an integrated comprehensive request and directs the Commissioner of Education to recommend priorities for the expenditure of funds among the various levels of education.
2. Establishes an educational facilities working capital trust fund to be administered by the Commissioner of Education for the purpose of providing for the temporary advance of funds to the various boards and institutions to finance the planning and actual construction costs of educational facilities.

Fixed Capital Outlay (Continued)

3. Authorizes the Office of Educational Facilities Construction of the Department of Education to delegate its review and approval process to a district school board under certain conditions and circumstances.
4. Authorizes school districts, community colleges, or state universities to submit to the Department of Education a request to construct a community facility for the benefit of the submitting institution and a noneducational governmental agency. Requires a commitment by the latter agency to participate in the use and funding of the facility.
5. Changed the collection of the gross receipts tax from an annual to a semiannual basis, with the first semiannual report and tax payment to be made not later than July 31, 1975, for the six months ending June 30, 1975.
6. Permits local operating funds allocated by a district school board for fixed capital outlay to be considered as reducing unmet needs of the district, but only after such funds have been encumbered; requires that the allocation of fixed capital outlay to district school boards be based on data relating to the determination of unmet needs of the fiscal year immediately preceding that for which the funds are appropriated; and permits school districts to use up to two-tenths of an annual allocation to finance improvements and major alterations to school facilities.
7. Implements the provisions of Subsection a(2) of Section 9 of Article XII of the State Constitution, as amended, relating to the issuance of Public Education Bonds.
8. Authorizes a public education authority to arrange for the construction of a project on a day labor basis provided the cost is \$50,000 or less.

BUSINESS REGULATION AND COMMERCE\*

The area of professional and occupational regulatory law saw much revision at the 1975 legislative session as well as did related business regulation areas. Following is a brief analysis of these measures.

PROFESSIONS, OCCUPATIONS AND BUSINESS REGULATION

Foreign Licensees

Senate Bill 623 (Chapter 75-177) requires any board or commission within the Department of Professional and Occupational Regulation to offer continuing education courses to foreign licensees in the licensees' native languages and to give written examinations in the licensees' native languages upon the request of 15 rather than five applicants; and authorizes any such board or commission to establish a program for granting licenses to foreign professionals as long as such program is, in the opinion of the Department of Education, equivalent to certain statutory requirements.

House Bill 435 (Chapter 75-154) provides that a graduate of a foreign medical school making application to the Board of Medical Examiners for a license to practice medicine in Florida need not present the certificate issued by the Educational Council for Foreign Medical Graduates, nor pass the American examination for foreign medical graduates, if the applicant has: (1) completed undergraduate work in an accredited United States college

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\* Prepared by House Bill Drafting Office

or university; (2) studied at a medical school which is recognized by the World Health Organization; (3) completed all formal requirements of a foreign medical school, except internship or social service requirements, and has passed Part I of the National Board of Medical Examiners examination or the ECFMG equivalent; (4) completed an academic year of supervised clinical training in a hospital affiliated with a medical school approved by the A.M.A. Council on Medical Education, and upon completion has passed Part II of the National Board of Medical Examiners examination or the ECFMG equivalent; and (5) been a Florida resident for one year.

#### Real Estate Licenses

The Real Estate License Law was revised by the Legislature in four laws which passed the 1975 legislative session. Senate Bill 294 (Chapter 75-112) provides for the retention on a nonactive basis of registration of persons enrolled under the Real Estate License Law upon their becoming nonresidents of the state. Provision is made for an examiner, notice and venue for suspension or revocation of nonresidents' registration. Authorization for per diem and compensation is deleted for examiners or reporters who are not members of the Commission.

Senate Bill 937 (Chapter 75-117) provides that courses taken at an accredited college, university, or community college or registered real estate school may satisfy specified real estate registration requirements.

Senate Bill 15 (Chapter 75-106) eliminates the current



provisions relating to apprenticeship as a registered real estate salesman with respect to the issuance of a real estate broker's license, and provides that no person shall be registered as a broker unless he shall have held an active real estate salesman's registration certificate in the office of one or more registered real estate brokers for at least 12 months during the preceding five years.

Senate Bill 290 (Chapter 75-184) authorizes the publication and sale of a handbook on the Florida Real Estate License Law by the Florida Real Estate Commission, and permits real estate license registrants to renew registration and obtain certificates at any time during a 12-month rather than 6-month period, subsequent to an unexpired license or suspension period. Provisions relating to the continuance of practice by registrants who have made application for renewal are amended. (The provisions of this act relative to the creation of a Hotel and Restaurant Trust Fund and the increase in license fees for public lodging establishments and public food service establishments are summarized in this Section under the heading, "Hotels and Restaurants.")

#### Landscape Architects

The subject of landscape architecture was dealt with by the Legislature in Senate Bill 154 (Chapter 75-170). The law changes the name of the Florida State Board of Landscape Architecture to the Florida Board of Landscape Architects and authorizes the Board to employ necessary personnel. It also provides for

temporary registration certificates for out-of-state architects; raises application fees for examination and registration and makes such fees nonrefundable; changes the requirements for applicants who desire to be registered as landscape architects; and changes the annual renewal date for registration from June 1 to September 1.

The inclusion of landscape architecture within the definition of "professional services" in the Consultants Competitive Negotiation Act (Section 287.055, Florida Statutes) was effected by passage of Senate Bill 572 (Chapter 75-281) discussed in the Summary Article on STATE GOVERNMENT, in the Section on "State Buildings, Facilities and Property."

#### Professional Engineers

Senate Bill 122 (Chapter 75-36) changes the term "engineer-in-training" with respect to Chapter 471, Florida Statutes, (Professional Engineers) to "engineer intern" and eliminates the 12-year period of validity of a certificate of enrollment as an engineer-in-training.

#### Dentists

Exemption from the operation of Chapter 466, Florida Statutes, which regulates Dentistry, Dental Hygiene and Dental Laboratories, is expanded to include full time dental instructors at the School of Medicine, University of Miami, by provisions of Committee Substitute for Senate Bill 899 (Chapter 75-181).

### Optometrists

Senate Bill 451 (Chapter 75-239) creates a study commission to conduct a study of the use of drugs by optometrists and report its findings and recommendations to the 1976 session of the Legislature.

### Chiropractors

House Bill 1355 (Chapter 75-52) requires hospitals to adopt rules which provide for reasonable access to licensed chiropractors of the reports of diagnostic X-ray and laboratory tests in the same manner as licensed physicians currently enjoy access to such materials.

### Psychological Practice

Senate Bill 336 (Chapter 75-173) increases to \$100 the examination fee for applicants for examination as psychologists and sets a limit of \$50 on the fee for renewal of such a license.

### Occupational Therapy

Senate Bill 824 (Chapter 75-179) creates the "Occupational Therapy Practice Act" which requires persons who practice occupational therapy, as defined in the act, to be licensed and provides for licensure. Provision is made for the suspension, revocation and renewal of licenses. The measure creates an Occupational Therapist Council under the supervision of the State Board of Medical Examiners. Any person found in violation of the act is guilty of a second degree misdemeanor.

### Masseurs

Senate Bill 352 (Chapter 75-28) exempts athletic trainers

employed by or on behalf of any professional athletic team located or training within this state from the provisions of Chapter 480, Florida Statutes, which regulates the practice of masseurs and masseuses.

### Podiatry

Podiatry was the subject of three bills which survived the 1975 session. House Bill 549 (Chapter 75-156) increased membership on the Board of Podiatry Examiners from three to five, provided for staggered terms for Board members, increased the length of terms for members and eliminated the Secretary of the State Board of Medical Examiners as an ex-officio executive officer of the Board. House Bill 548 (Chapter 75-155) requires the Board of Podiatry Examiners to comply with the provisions of the Administrative Procedures Act (Chapter 120, Florida Statutes) with respect to hearings in regard to suspension or revocation of licenses, and changes the voting procedure for license suspension or revocation by the Board to a simple majority vote.

Committee Substitute for House Bill 545 (Chapter 75-138) provides that, with respect to the chapter in the Florida Statutes dealing with podiatry, the term "code of ethics" refers to the code of ethics of the Board of Podiatry Examiners. The act provides ceilings for renewal fees and delinquency fees with respect to the renewal of licenses to practice podiatry, and sets out procedures for assessment and payment of delinquent fees. Requirements are also provided with respect to continuing

professional education courses as prerequisites to the continued practice of podiatry, beginning January 1977.

### Nursing

The Florida Nursing law was substantially revised by the Legislature in the form of House Bill 1829 (Chapter 75-273) which, in addition to other provisions:

(1) Redefines the terms "practice of professional nursing" and "practice of practical nursing," as such terms relate to regulation of the practice of nursing. Changes references to "registered nurses" in Chapter 464, Florida Statutes, relating to the practice of nursing, to "registered professional nurses." Adds a member of the public to the Florida State Board of Nursing.

(2) Authorizes the Board to employ an executive director and to adopt rules for the licensure of applicants for nurses and for hearing procedures. Provides compensation for the members of the Board. Authorizes the Board to examine certain nursing records. Provides new qualifications for applicants for licensure as registered professional nurses.

(3) Provides that only registered professional nurses use the title "Registered Nurse," authorizes certain persons to use the title "Graduate Nurse," and limits use of the title "Graduate Practical Nurse." Grandfathers in registered professional nurses and practical nurses licensed on or before July 1, 1975. The act also provides for licensed practical nurses (L.P.N.) and graduate practical nurses (G.P.N.).

(4) Authorizes the Board to give professional approval of new programs at schools of nursing. Requires the Board to survey all programs which prepare nurses for licensure. Authorizes the Board to discipline persons it temporarily authorizes to practice nursing. Authorizes the discipline of applicants and license holders who engage in the possession, sale or distribution of controlled substances for other than legitimate purposes or for causing an undue risk of harm to others.

(5) Rewords certain provisions relating to the power of the Board to subpoena documents and witnesses. Authorizes the Board to petition the Circuit Court where the person resides if the person refuses to comply with a subpoena. Deletes provisions authorizing the Board to take certain action against a licensee found guilty of charges brought against him or her.

(6) Increases the penalty for violations of Chapter 464, Florida Statutes, relating to nursing, from a misdemeanor of the second degree to a misdemeanor of the first degree. Certain violations are redefined and others are added.

#### Pharmacists

House Bill 1393 (Chapter 75-129) requires applicants who desire to operate a community pharmacy to designate a registered and licensed pharmacist as the manager of the prescription department who shall maintain all drug records as required by law, in addition to other duties. Termination of employment of such manager shall be reported to the State Board of Pharmacy within 10 days.

House Bill 1322 (Chapter 75-128) prohibits the distribution of samples of complimentary packages of medicinal drugs except upon written request by authorized persons, and directs the Florida Board of Pharmacy to promulgate rules providing for the disposition of certain drugs which are unsuitable for dispensation.

Senate Bill 470 (Chapter 75-18), discussed in the Article on PUBLIC HEALTH AND REHABILITATIVE SERVICES, provides that the printed full name and address of the prescribing practitioner, and the initials of the pharmacist filling the prescription, shall be required items of information for the prescription or written record on controlled substances. Only prescriptions for controlled substances of the same schedule may be issued on the same prescription blank, and the combining of controlled substances with other drugs on one prescription is forbidden.

#### Barbers

Senate Bill 781 (Chapter 75-119) increases fees generally with respect to barbers, apprentice barbers, enrollment in barber school and barbershop businesses. The act also permits registered barber intern teachers to qualify to be registered teachers after 12 months of interning. An apprentice may be certified as a barber after six months supervised practice instead of 18 months. House Bill 1601 (Chapter 75-219) provides for the registration of barbers' assistants without attainment of educational requirements, lowers the age requirement from 17 to 16 years, provides for annual registration and fees, and for transfer of registration upon changing employers, as well as requiring presentation of a health



certificate and X-ray as a condition precedent to registration.

### Hotels and Restaurants

Hotels and restaurants were the subject of four measures which passed the 1975 legislative session. House Bill 2146 (Chapter 75-294) designates a program, which the Advisory Council for Industrial Education of the Division of Hotels and Restaurants of the Department of Business Regulation, is charged with developing, as the Hospitality Education Program. All public lodging establishments and all public food service establishments licensed under Chapter 509, Florida Statutes (Hotels and Restaurants), are required to pay an additional one dollar fee to fund the program.

Senate Bill 290 (Chapter 75-184) creates the Hotel and Restaurant Trust Fund for the administration and operation of the Division, and designates it as a trust fund which must contribute an estimated pro rata share of the cost of general government to the General Revenue Fund. License fees are increased for public lodging establishments and additional license fees are increased for public food service establishments. Elevator construction, inspection and licensing fees are to be paid into the Hotel and Restaurant Trust Fund, and such fees are increased. (The other provisions of this act relating to real estate are summarized in this Section under the heading, "Real Estate.")

House Bill 1287 (Chapter 75-216) includes enterprises doing business as restaurants which are licensed by the Division of Hotels and Restaurants of the Department of Business Regulation

within the bulk transfer provisions of the Uniform Commercial Code (Chapter 676, Florida Statutes).

#### Private Employment Agencies

House Bill 771 (Chapter 75-214) exempts certain management consultant businesses from the provisions of Chapter 449, Florida Statutes, relating to the regulation of private employment agencies. The act provides a \$25 application fee to accompany each application for license to operate a private employment agency, and clarifies the bonding requirement for each agency license.

#### Private Investigative Agencies

Private investigative agencies, watchmen, and guards were the subject of Committee Substitute for Senate Bill 245 (Chapter 75-230). In addition to lowering the age qualification to 18 years and increasing the civil penalty assessable against licensees, the act: (1) Requires unarmed watchmen, guards, and patrolmen to be licensed in their own right (class "F" license), but provides authorization to do business only as the employee of another person or business; (2) Creates a class "G" license which is a statewide gun permit for qualified applicants; (3) Specifies the type of investigation which the Department of State shall make with regard to applicants for licensure as watchmen, guards, or patrolmen; (4) Requires licensees to have specified amounts of insurance; (5) Establishes criteria for the issuance of statewide gun permits; and (6) Provides that Part I of Chapter 493, Florida Statutes, (licensing and regulation of Private Investigative Agencies, Patrol Agencies, Etc.) shall not apply to unarmed special agents, detectives, or private investigators or to unarmed watchmen, guards, or

patrolmen employed exclusively on the premises and in connection with the affairs of that employer when there is an employer-employee relationship. An appropriation of \$140,000 is made from the General Revenue Fund to carry out the provisions of this act.

#### Pilots and Stevedores

Pilots and stevedores were the subject of two bills which passed this session. Committee Substitute for House Bill 1358 (Chapter 75-201) repeals Chapters 310, 311, and 312, Florida Statutes, relating to pilots and stevedores, and creates a new Chapter 310, Florida Statutes, relating to same. The bill: (1) Establishes the State Board of Pilot Commissioners within the Division of Professions of the Department of Professional and Occupational Regulation, and provides for the membership and organization of the board; (2) Establishes quotas of licensed state pilots; (3) Specifies procedures for the examination, licensing, and certification of state pilots and deputy pilots; (4) Authorizes the board to discipline or suspend or revoke the license of pilots and deputy pilots upon certain grounds; (5) Requires the board to make rules specifying procedures for casualty investigating and reporting; (6) Requires the board to investigate all casualties involving loss of life; (7) Specifies license and certificate fees for pilots and deputies; (8) Provides for the board to receive a percentage of gross pilotage; (9) Specifies which vessels are subject to pilotage; (10) Authorizes the board to fix rates of pilotage; (11) Provides that piloting without a license is punishable as a second degree misdemeanor; (12) Authorizes pilots to incorporate; (13) Authorizes port authorities to license stevedores; (14) Transfers the

functions, activities, records, and property of port wardens and pilot commissioners to the Board of Pilot Commissioners; and (15) Provides for the appointment and removal of harbor masters.

Senate Bill 1389 (Chapter 75-238) exempts vessels drawing less than seven feet of water from the requirement of having a licensed pilot or certified deputy pilot on board when leaving or entering ports in the State.

#### Apprenticeship Programs

Apprenticeship with respect to trades, occupations, and professions was the subject of House Bill 1579 (Chapter 75-287). The act, which applies to state, county, or municipal contracts, requires contractors to hire a certain number of apprentices when performing public contracts rather than merely requiring contractors to make a diligent effort to hire apprentices. In the event that a contractor is unable to hire the requisite number of apprentices, the law provides for certification of this fact upon application to the Bureau of Apprenticeship. Contracts for the construction, repair or maintenance of public roads are excluded from application of the act. Public bridges, lighting and traffic control devices are not excluded.

#### Junk Dealers

Committee Substitute for Senate Bill 609 (Chapter 75-118) defines junk dealers, scrap metal processors, persons dealing in secondhand goods, and foundaries, and requires them to keep a record containing specified information of all metals purchased. With certain exceptions, records of purchases of utility copper

wire and railroad track and accessories are to be submitted to the sheriff of the county where the business is located. The act also makes it unlawful for anyone to purchase any object used to commemorate a deceased person, or placed in memory of such a person, unless the same is sold by an authorized representative of the deceased or of the cemetery where such object is located.

## FINANCIAL AFFAIRS

### Banks and Trust Companies

One of the most controversial laws of the 1975 legislative session was House Bill 1357 (Chapter 75-217) which authorizes the establishment of as many as two branch banks per calendar year within the county in which the parent bank, as defined, is located, and also authorizes branch banks by merger with other banks within the county. The act requires a showing of public convenience and necessity for the establishment of a branch bank upon application to and approval by the Department of Banking and Finance. It also allows the establishment, upon approval of the Department, of trust company branches, without limitation as to the number, within the limits of the county in which the parent trust company, as defined, is located. A trust company may also maintain one or more trust service offices at the location of any bank organized under the laws of Florida or the United States with its principal place of doing business in Florida, subsequent to securing the consent of a majority of the stockholders and board of directors of the bank at which a trust service office is proposed to be maintained, and subject to

issuance of a certificate of authorization by the Department. The provisions of this act do not become effective until January 1, 1977.

House Bill 861 (Chapter 75-162) requires the Department of Banking and Finance to examine the condition of each state bank at least two times in each 18 months, rather than twice in each year and requires each state bank and trust company to perform an internal audit annually, rather than in each 18-month period. The enactment also increases examination fees, assessments, and various application fees which each state bank or trust company must pay the Department.

Committee Substitute for Senate Bill 280 (Chapter 75-134) enables banks to establish remote financial service units (units which, by means of electronic impulses, may accomplish banking transactions with one or more persons).

The act permits banks to use remote financial service units which do not have to be physically connected to the main bank and provides that the bank does not have to be the legal owner of the remote facility. Thirty days' written notice must be given to the Department before such a unit may be used. The law permits owners of a remote service terminal to share the use of the terminal with one or more banks, one or more savings and loan associations, or one or more credit unions, and provides that the Department shall ignore the existence of remote service terminals in considering applications for authority to establish a banking facility in any given area.

The benefits of the measure are not available to any bank which does not have its principal office and place of business in this state. All banks (except Federal Reserve Banks) not so located in this state are prohibited from using in this state any remote financial service unit. The act requires unit owners and banks and savings and loan associations to take steps to safeguard such units and requires annual reports to the Legislature by all persons using such units for a period of five years after passage of the act. Banks and savings and loan associations are required to maintain reasonable procedures to minimize losses to their customers from unauthorized withdrawals by use of a remote financial service unit. A remote financial service card holder's federal social security number shall not be used as his personal identification number to activate the unit.

Although summarized in the LAW ENFORCEMENT AND CRIMINAL JUSTICE Article, it should be mentioned here that Senate Bill 1030 (Chapter 75-189) provides certain notice requirements and penalty regarding worthless checks; and further provides that when a check is drawn on a bank in which the maker has no account, it is presumed that the check was issued with intent to defraud and the notice requirement is waived.

#### Credit Unions

Senate Bill 162 (Chapter 75-171) requires residents of the state who desire to form a credit union to represent a potential membership of at least 200 persons having a common bond before such a union may be formed. The law adds more powers to the list of powers of a credit union, including the authority to purchase reasonable disability insurance for directors and credit committee members, the authority to reimburse directors and credit committee



members for reasonable expenses incurred in the performance of their duties, and the authority to amend the union's bylaws to accept into membership individuals of a similar common bond of a liquidating credit union. The act revises the surety bond requirement of a credit union which has assets of over \$1,000,000. The measure also provides that credit unions may invest in the capital stock of credit union service corporations, in shares and other savings accounts of the United States Central Credit Union and may purchase the assets of liquidating credit unions within the state. A definition is provided for the term "central credit union" and its powers are prescribed. The activities of licensed insurance agents or solicitors who are employees or officers of a credit union are limited.

Credit unions may share remote financial service units which permit electronic banking transactions with banks or savings and loan associations by authority of Committee Substitute for Senate Bill 280 (Chapter 75-134).

#### Uniform Commercial Code

Senate Bill 289 (Chapter 75-73) includes electronically recorded, stored, or transmitted messages for the payment of money within the definition of the term "item" in the bank deposits and collections chapter of the Uniform Commercial Code (Part I of Chapter 674, Florida Statutes).

House Bill 1287 (Chapter 75-216) includes enterprises doing business as restaurants which are licensed by the Division of Hotels and Restaurants of the Department of Business Regulation within the bulk transfer provisions of the Uniform Commercial Code (Chapter 676, Florida Statutes).

## CORPORATIONS AND COMMERCIAL REGULATIONS

### Corporations and Partnerships

Corporate law was completely rewritten in the 1975 legislative session in the form of House Bill 1395 (Chapter 75-250), the "Florida General Corporation Act," which repealed Chapter 608 (Corporations Generally) and Chapter 613 (Foreign Corporations), Florida Statutes, and replaced existing law in toto. Actual substantive changes in corporate law were few although much case law was incorporated into statute law. Among other changes, the act: (1) deals specifically with conflicts of interest involving corporate directors; (2) provides specific authorization for stock rights and options and sets out requirements for instruments evidencing such rights; (3) deals with the power to purchase treasury shares and the accounting consequences of such purchases; (4) codifies legal principles in the area of stock proxies; (5) addresses the subject of voting trusts; (6) requires more information in state filings with regard to changes in the capital structures of corporations; and (7) requires corporations to provide more information to shareholders.

A general partner in a limited partnership is to have all rights and powers and be subject to all the restrictions and liabilities of a general partner in a partnership without limited partners by provision of Senate Bill 252 (Chapter 75-53).

### Fair Trade Law

Senate Bill 166 (Chapter 75-15) repeals Chapter 541, Florida Statutes (the Florida Fair Trade Law), which permits maintenance of minimum resale prices of certain trade-marked, branded or named commodities. The effective date of this act is October 1, 1975.

## ALCOHOLIC BEVERAGES

The area of alcoholic beverages received quite a bit of attention in 1975. House Bill 2092 (Chapter 75-96) changes the terms "intoxicating liquors," "beverages," and "spirituous beverages" to "distilled spirits" with respect to the purchase of alcoholic beverages by clubs licensed by the Division of Beverage of the Department of Business Regulation and with respect to the limitations on the size container any distributor or vendor may use to sell such spirits. The act provides for the sale of distilled spirits in containers of metric measure, rather than English standard measures, and prohibits clubs licensed for the sale of distilled spirits to purchase distilled spirits in individual containers larger than 1.00 litre or smaller than 0.75 litre. The law also prohibits any distributor or vendor from selling or distributing distilled spirits in any size container larger than 1.00 litre. The Division is authorized to make the necessary rules governing the standards of fill.

House Bill 2242 (Chapter 75-278) prohibits the sale of alcoholic beverages in parking lots and authorizes golf club alcoholic beverage license holders to operate service bars or portable or temporary bars on the grounds contiguous to their licensed premises upon payment of a \$100 fee for a certified copy of the club license which must be posted on any such bar. The measure also authorizes holders of golf club alcoholic beverage licenses to sell alcoholic beverages to persons other than members and their nonresident guests on days when the

club is open to the public, upon application and approval of a \$50 extension permit for each day of service to such nonmembers. The enactment limits the extension periods permitted to one per year per club not to exceed five consecutive days.

The "tied house evil" law (Section 561.42, Florida Statutes), which prohibits financial aid and assistance to an alcoholic beverage vendor by an alcoholic beverage manufacturer or distributor was revised under the provisions of House Bill 2093 (Chapter 75-97). This act provides that when a distributor receives payment for beverages in the 3-day period following the 10th day succeeding the calendar week in which the sale was made, the distributor need not notify, if he has not already notified, the Division of Beverage that the vendor who purchased the beverages has failed to pay within the 10-day period currently provided by law. Thus payments made within this 3-day reporting period do not constitute a violation of this statute.

Beer and malt beverages were specifically exempted from the "tied house evil" law by House Bill 1731 (Chapter 75-143) which authorizes distributors of such beverages to provide in-store servicing of the beverages. The act defines the term "in-store servicing" to mean quality control procedures, including rotation of malt beverages on the vendor's shelves, rotation and placing of malt beverages in vendor's coolers, proper stacking and maintenance of appearance and display, as well as price stamping of malt beverages in the vendor's licensed premises.

Under the provisions of Committee Substitute for House Bills 609 and 1511 (Chapter 75-195), discussed more fully in the

"Labor" Section of this article, persons 17 years of age or younger are prohibited from working in certain places where alcoholic beverages are sold at retail.

The problem of alcoholic beverage pricing was addressed by the Legislature in House Bill 639 (Chapter 75-89) which requires each manufacturer or other person authorized to sell distilled spirits to licensed distributors in Florida to submit to the Division each six months an affirmation that the net prices charged for such distilled spirits are no higher than the lowest net prices charged to any distributor in any other state during the same 6-month period. Net price is defined for purposes of the law. The act specifically excludes transactions between distributors licensed in Florida. In addition to providing a misdemeanor penalty for violation of these provisions, the Division of Beverage is authorized to seek injunctive relief.

#### PARI-MUTUEL WAGERING, RACING AND JAI ALAI

##### Pari-Mutuel Wagering

The general area of pari-mutuel wagering was addressed by the 1975 session of the Legislature in three enactments. House Bill 2101 (Chapter 75-46) permits licensed harness track operators to withhold an additional 4/10 of one percent from all pari-mutuel pools, to be retained by the track at a rate of \$1,500 per race per day not to exceed a maximum of \$250,000 in any one racing season, for use solely and exclusively for daily operational expenses of the track. The law also requires that such percentage be paid prior to any deduction permitted by

current law relating to additional purses and prizes. The law expires July 1, 1977.

Committee Substitute for House Bill 2004 (Chapter 75-42) increases by 4/10 of one percent the required commission on pari-mutuel pools with respect to running horse races, dog races, and jai alai and requires licensees of such races to withhold the additional percentage and pay it to the State Treasurer to the credit of the General Revenue Fund.

In order to more accurately gather information on pari-mutuel wagering permittees (including jai alai frontons), House Bill 2073 (Chapter 75-45) provides for a uniform reporting system whereby pari-mutuel permittees, including jai alai frontons as well as racetracks, are to submit to the Division of Pari-Mutuel Wagering of the Department of Business Regulation uniform operational and financial data and an appraisal of the fair value of the plant and the properties used in the conduct and operation of the business of the pari-mutuel permittee. The act provides a schedule for all such reports and requires updated reports at 4-year intervals.

Also related to the subject of pari-mutuel wagering in Florida is House Bill 1289 (Chapter 75-298), discussed in the Article on LAW ENFORCEMENT AND CRIMINAL JUSTICE. This act amends the Criminal Code to increase the penalty classification to a third degree felony for persons accepting more than five bets in any one day, receiving bets of more than \$500, or engaging in a common bookmaking scheme with three or more persons. Subsequent convictions are made second degree felonies. However, these

provisions are not applicable to authorized pari-mutuel wagering.

#### Racing and Jai Alai

House Bill 2072 (Chapter 75-44) establishes a joint interim legislative and executive study committee composed of two members of the House, two members of the Senate and three persons appointed by the Governor for the purpose of conducting a study of the legal and economic feasibility of creating a Horse Racing Trust of Florida with power to acquire, own, operate and maintain existing facilities for horse racing in the state. The law requires the committee to report its findings and determinations of feasibility to the Legislature and the Governor no later than February 1, 1976 at which time the committee shall cease to exist.

House Bill 2005 (Chapter 75-43) represents the most significant legislation in the field of thoroughbred horse racing for the 1975 legislative session by establishing a special winter common purse pool to be administered by the Division of Pari-Mutuel Wagering where there are three permittees authorized to conduct winter thoroughbred horse races located within a 35-mile radius of each other. The law provides that the pool shall be funded from deductions from admission and pool contribution taxes [levied pursuant to Section 550.09(1), Florida Statutes], and old age assistance taxes [levied pursuant to Section 550.16(8), Florida Statutes], which are imposed upon the permittees; and requires the funds in the pool to be distributed among the three permittees exclusively for the payment of additional overnight purses. Permittees operating charity and scholarship days are also authorized to deduct a certain amount for such purposes, and racetracks

which hold permits to operate during the summer season may deduct a certain amount from license, breakage, admission, and occupational license taxes [levied pursuant to Section 550.42, Florida Statutes] for the payment of additional overnight purses.

The measure authorizes permittees with average daily handles of less than \$400,000 to deduct a certain amount from license fees for the payment of additional overnight purses and authorizes permittees with average daily handles of more than \$400,000 to deduct a certain amount from various taxes for the payment of daily operational expenses as determined by the Division.

The enactment substantially changes the allocation of horse racing periods of operation by providing that when three winter horse racing permittees are within a 35-mile radius of each other, instead of 100 air miles, the season shall be allocated into three periods. The season is increased from 120 to 144 days plus charity and scholarship days. Permittees shall request in writing to the Board of Business Regulation which period they desire.

In cases where, for certain reasons, a track is prevented from operating during the period allocated to it, the act provides that the remainder of the period shall be allocated between the remaining permittees and deletes provisions which require the Division to allocate and set racing dates for the following season based on revenue generated during the last full season.

In addition, the law requires each winter thoroughbred licensee to pay a portion of the commission it withholds from



the pool and each race for purses during the racing period, and also provides beginning and ending dates for the summer thoroughbred racing season. The act expires July 1, 1977.

House Bill 1603 (Chapter 75-142) removes a limitation of three daily races permitted as quarter horse races when such races are comprised of thoroughbred horses registered with the Jockey Club.

Senate Bill 722 (Chapter 75-241) authorizes an additional charity day of operation at the Palm Beach Jai Alai Fronton, the proceeds of which are to be paid to the Harry-Anna Crippled Children's Hospital in Eustis; an additional day of racing during the summer thoroughbred racing period in which all profits are to be paid to the Juvenile Diabetics Research Foundation; and an additional day of summer thoroughbred racing, the proceeds of which shall be paid to Boys' Town of Florida for its use and benefit.

## CONDOMINIUMS, COOPERATIVES AND MOBILE HOMES

### Condominiums and Cooperatives

Condominiums and cooperative apartments were the subject of four measures which passed the 1975 legislative session. House Bill 1087 (Chapter 75-224) was in the nature of a general revisors bill aimed at eliminating inconsistencies in the law (Chapter 711, Florida Statutes) in this area. Among other things, the act: (1) Requires that the declaration which creates a condominium include an accurate representation of the location and dimension of each unit and common elements; (2) Prohibits any one person from holding more than five proxies for any purpose, unless the condominium has been registered with the Securities and Exchange Commission;

(3) Provides that if the person in control of the condominium or cooperative apartment association's books denies access to such books, any person, prevailing in an action for enforcement of the provision allowing inspection of the books, shall be entitled to attorney's fees from the party refusing access; (4) Provides that funds for the payment of common expenses shall be assessed against unit owners in proportion of ownership of the common elements and the common surplus shall be shared in the same proportion; (5) Eliminates certain fees and lease requirements with respect to condominium and cooperative apartments where the lessor is the United States or the State of Florida or any political subdivision thereof; (6) Provides that 50 percent of the condominium or cooperative apartment units must be sold before unit owners are entitled to elect at least a majority of the members of the board of administration of the association; and (7) Provides that certain legal proceedings with respect to condominium and cooperative apartments may be summary proceedings.

Senate Bill 309 (Chapter 75-62) renames the Division of Florida Land Sales of the Department of Business Regulation as the Division of Florida Land Sales and Condominiums and gives consumers a governmental agency to regulate condominiums and residential cooperative units. The law requires that copies of certain documents which must be given to purchasers or lessees be on file with the Division at least 30 days before units are available for purchase and requires developers to pay a filing fee of \$10 per unit to the Division for each unit unsold as of October 1, 1975. The act authorizes the Division to receive and investigate complaints

including disputes arising out of the internal affairs and management of condominiums and cooperative associations, and also authorizes the Division to institute enforcement proceedings. The Division is further authorized to disseminate information and promulgate rules and regulations. A seven-member advisory board is created to assist the Division in problem solving and arbitration. The sum of \$125,000 is appropriated to the Division from the General Revenue Fund for enforcement of this act.

Senate Bill 112 (Chapter 75-61) provides that the inclusion or enforcement of escalation clauses in leases for recreational facilities or other commonly used facilities with respect to condominiums and cooperative apartments are void for public policy. An escalation clause is defined as any clause which provides that the rental under the lease or fee under the contract shall increase at the same percentage rate as any nationally recognized and conveniently available commodity or consumer price index.

House Bill 877 (Chapter 75-92) directs the Florida Law Revision Council to study and review Chapter 711, Florida Statutes, (Condominiums and Cooperative Apartments) and to prepare a draft revising Chapter 711 on or before March 1, 1976.

#### Mobile Homes

Mobile homes was the subject of Senate Bill 260 (Chapter 75-27) which requires disclosure in writing by the seller to the buyer of a mobile home when the coupling mechanism is included in the overall length of the mobile home.

State licensing and regulatory laws concerning mobile home manufacturers and dealers are revised and expanded to include

recreational vehicle manufacturers and dealers through enactment of Committee Substitute for House Bill 1778 (Chapter 75-203) which is discussed at length in the MOTOR VEHICLES AND TRANSPORTATION Article.

## PUBLIC SERVICE COMMISSION AND UTILITIES

### Public Service Commission

The Florida Public Service Commission was the subject of two pieces of legislation which passed during the 1975 session of the Legislature. Senate Bill 148 (Chapter 75-109) exempts each Public Service Commissioner's personal assistant, the Deputy Executive Director of the Commission, the Commission Clerk, the official reporters, and directors of the departments within the Commission from the State Career Service System. The law authorizes commissioners to employ clerical, technical, and professional personnel reasonably necessary for the performance of Commission duties. The Commission is required to have offices in the vicinity of Tallahassee and is authorized to employ one or more official reporters capable of stenographic court reporting. The Commission is required, upon request, to provide transcript copies of testimony to the governing body of a municipality or county upon payment of costs. When necessary, the Commission may engage supplementary reporters and is required to make available to Public Counsel the original copy of all transcripts for use and study in the Commission's offices. The act specifies who may obtain copies of transcripts and what charges may be made by the Commission for such copies. The effective date of this measure is January 1, 1976.

House Bill 1372 (Chapter 75-300) requires the issuance, assignment or transfer of transportation brokerage licenses by the Public Service Commission to be based on public convenience and necessity, rather than public interest. The measure also provides that the Commission shall consider the effect of the proposed service on existing facilities in the area concerned, and provides for denial of applications where a need for the proposed service is not shown.

The administrative responsibility of the Public Service Commission relating to the aircraft industry is clarified and extended in the provisions of House Bill 1889 (Chapter 75-290) which is discussed in the Article on MOTOR VEHICLES AND TRANSPORTATION. The Commission now has the authority to approve flight schedules of air carriers and to adopt certain procedural rules covering the revocation or suspension of certificates and the enjoinder of violators of the law or rules.

#### Public Utilities

Electrical power generation was the subject of two bills which passed the 1975 legislative session. House Bill 1329 (Chapter 75-200), cited as the Joint Power Act, authorizes publicly and privately owned electric utilities, including rural electric cooperatives, to jointly engage in electric supply projects for the generation or transmission of electrical energy. The act permits participating utilities to: be involved in any project within or without the state; exercise the power of eminent domain; and purchase capacity or energy from any project in which the purchaser has an ownership interest. The act also

permits all publicly owned electric utilities to issue bonds for the costs of financing or refinancing any such projects.

House Bill 1436 (Chapter 75-4) provides that three rather than five percent of all members, present in person, shall constitute a quorum for the transaction of business at all meetings of the members of rural electric cooperatives unless bylaws provide otherwise.

With regard to liquefied petroleum gas, Committee Substitute for Senate Bill 791 (Chapter 75-83) provides for the regulation of the transportation, storage, and handling of liquefied petroleum gas by pipeline. The Department of Insurance is to adopt certain federal regulations and a civil penalty as well as equitable relief is provided for violations.

#### TOURISM

House Bill 2142 (Chapter 75-276) dealt with the subject of tourism in Florida. This act: (1) Changes the qualifications of the two "at-large members" of the Florida Tourism Commission of the Department of Commerce to require that they be actively engaged in the tourism industry rather than engaged in certain specified industries; (2) Requires that the members of the Tourism Advisory Council of the Division of Tourism of the Department be, or have been, actively engaged in the tourism industry or a related industry; (3) Authorizes the Division to contribute to events outside the state which beneficially publicize the state; (4) Authorizes the Division to provide, arrange, and make expenditures for transportation, lodging, meals, and other reasonable items and services for persons

performing promotional and other duties of the Division;

(5) Authorizes the Division to sell, at cost, publications, materials, and services which in its judgment should not be furnished gratis to those requesting the information, research, handling, material, publication, or other services; and (6) Authorizes the Division to charge and collect registration fees at conferences, seminars and other meetings conducted by the Division; provides for the use of such funds collected for the expenses of the conference, seminar, or meeting for which they were collected, and provides for the deposit of any unexpended balance into the General Revenue Fund.

## MANPOWER AND LABOR

### Manpower Services

House Bill 2124 (Chapter 75-210) retitles the State Manpower Services Council Act as the State Manpower Planning Act and provides for state comprehensive planning regions, rather than regional manpower planning districts, to be defined by the Department of Administration and to be headed by regional manpower planning advisory boards recognized by the State Manpower Services Council. The act also:

(1) Increases from 9 to 12 the number of at-large members on the State Manpower Services Council and requires that three, rather than five, of such members be from business and industry and three be from labor.

(2) Reorganizes the duties of the State Manpower Services Council to provide that certain of the Council's functions are to be only advisory; requires the Council to

advise the Governor on certain specified matters; and requires the Council to carry out the duties assigned to it under Title I of the federal Comprehensive Employment and Training Act of 1973, including reviewing the plans of each prime sponsor and the plans of state agencies, making recommendations to such state agencies and prime sponsors for the more effective coordination of efforts to meet overall manpower needs, monitoring the operation of programs conducted by prime sponsors and making recommendations on the effectiveness thereof, and making an annual report to the Governor.

(3) Establishes the Balance of the State Prime Sponsor Advisory Council to conform with the Comprehensive Employment and Training Act of 1973, as amended, Title I, Section 104.

(4) Requires the Council to advise the Governor on the utilization of funds authorized by the Comprehensive Employment and Training Act of 1973 for the balance of the State.

(5) Creates Balance of the State Prime Sponsor District Advisory Boards.

(6) Creates the Office of Manpower Planning to staff the state prime sponsor, the State Manpower Services Council and the Balance of the State Prime Sponsor Advisory Council, and to carry out the duties assigned to the state prime sponsor.

The powers, duties and functions of the State Manpower Services Council are transferred from the Department of Commerce to the Department of Community Affairs.



## Labor

Committee Substitute for House Bills 609 and 1511 (Chapter 75-195) amends the Child Labor Law (Part I, Chapter 450, Florida Statutes) to better define exemptions of street trade and farm work, redefines and sets new limitations as to minimum age, and eliminates the requirements as to the difference in minimum age between girls and boys working in street trades. The act further provides that 14 and 15 year old workers may drive tractors under supervision of their parents or in the course of their employment after having completed a training course for operation of same. A child 17 years of age or younger is allowed to work when it is considered in that child's best interest to be so employed. (Previously, the child could work when it was shown to the satisfaction of the Division of Labor of the Department of Commerce that it was necessary for such minor to work because of his economic condition.) Provisions are set for a child receiving a work permit after being able to show that he has an economic need to work, and the Department of Education is authorized to waive the health certificate or to require additional ones before issuing employment certificates if it deems same necessary for the protection of the child.

## MISCELLANEOUS

### Industrial Relations Commission

Senate Bill 1249 (Chapter 75-237) deals with the Industrial Relations Commission and authorizes the Chairman of the Commission, with the approval of the Governor, to appoint associate commissioners to serve as temporary members

of the Commission; provides specified powers of the Commission; provides for compensation of the members of the Commission and expenditures, fees, offices, seal, and disposition of records with regard to the Commission; and exempts the Commission from control, supervision or direction by the Department of Commerce in matters relating to workmen's and unemployment compensation.

#### Electrical Code

Senate Bill 311 (Chapter 75-55) amends the Florida Electrical Code (Part II of Chapter 553, Florida Statutes) to adopt the current editions of certain national electric codes and standards with respect to building construction standards in the State.

CONSERVATION AND NATURAL RESOURCES\*

In 1975 the environment and the conservation of natural resources continued to be a topic of great public and legislative attention. The primary accomplishment was the reorganization of the State agencies which are primarily concerned with this area of interest. In addition, many other related subjects were addressed.

Environmental, Land and Water Management\*\*

Committee Substitute for Committee Substitute for Senate Bill 123 (Chapter 75-22) reorganizes the Department of Natural Resources, the Department of Pollution Control and the Board of Trustees of the Internal Improvement Trust Fund into two departments. They are the Department of Environmental Regulation and the Department of Natural Resources.

The Department of Environmental Regulation is created to handle all of the functions relating to the issuance of permits, licenses, exemptions and enforcement. The Department is authorized to establish environmental districts and subdistricts, to be collocated with the water management districts for the purpose of making services more accessible to the citizens of each district. The Department shall prepare a short form application and shall issue permits at the district centers for certain

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\*General Article prepared by House Bill Drafting Office.

\*\*Environmental Reorganization summary by John DuBose, Staff Director, Senate Committee on Natural Resources & Conservation.

enumerated activities. The act also provides that permits will not be required for activities associated with ten types of projects.

An Environmental Regulation Commission is created to set standards and to act as an adjudicatory body on all Department of Environmental Regulation actions, except: (a) Final action on standards more stringent than federal standards shall be taken by the Governor and Cabinet; (b) The Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund and as owners of state lands, shall hear and decide appeals of Department decisions affecting state lands; and (c) The Governor and Cabinet shall make decisions on power plant siting.

The Department of Pollution Control is transferred to the Department of Environmental Regulation except for the regulation of open burning (the responsibility for which is transferred to the Department of Agriculture and Consumer Services). The functions relating to water management districts and their supervision are transferred to the new Department.

The functions of the Bureau of Sanitary Engineering, Division of Health, Department of Health and Rehabilitative Services, except for the following, are transferred to the Department: (a) Sea Resource Section (to be regulated by the Department of Natural Resources); (b) Inspection of interstate common carrier water facilities; and services relating to public swimming pools and bathing places (both to remain under the

regulation of the Department of Health and Rehabilitative Services).

The Department of Environmental Regulation will perform the following duties: 1. The administration, coordination and supervision of programs relating to planning, grants, air quality, water quality and quantity, noise and solid waste management; 2. The issuance of permits for power plant site certifications and the processing of other classification of permits, licenses, certificates and exemptions at environmental district centers; 3. The field services and inspections required in support of the decisions of the department relating to the issuance of permits, licenses, certificates or exemptions; and 4. Entrance into interagency agreements with the Division of Health or county health units to act on behalf of the Department relative to the construction, operation and expansion, permitting, monitoring and surveillance, of public water supply and sewage treatment and disposal facilities and enforcement where applicable. Also to enter into interagency agreements with county or regional agencies to handle any or all of these functions other than water supply.

The Department of Natural Resources, under reorganization, will be responsible for all of our natural resources with the exception of the functions of the Water Management Districts and those functions dealing with water resources. The Board of Trustees is merged with the Department of Natural Resources. The Coastal Coordinating Council is abolished and its functions

are reassigned to the Department of Natural Resources.

The Department of Natural Resources is responsible for the following functions: 1. The conservation, protection and management of our marine resources and the enforcement of the laws relating thereto; 2. The preservation, management, regulation and protection of all park and recreational areas held by the state and the acquisition of additional park and recreational areas; 3. The plans and programs for coastal zone management; 4. The acquisition, preservation, management, protection, conservation and disposition of all lands owned by, or which may hereafter inure to, the state or any of its agencies; 5. The functions relating to oil and gas, land (mining) reclamation and geology; 6. The planning, coordination and supervision of navigation districts, waterway facilities or improvements and modifications to existing facilities; and 7. The function relating to research and control of aquatic plants.

The Department of Natural Resources is granted the authority to directly supervise, review and approve the Game and Fresh Water Fish Commission's exercise of executive powers in the area of budgeting.

The uncommitted fund balance of the Internal Improvement Trust Fund, as of July 1, 1975, and all revenues subsequently accruing from sources now designated by law for deposit in the Internal Improvement Trust Fund shall be deposited in the Land Acquisition Trust Fund created by Section 375.041, Florida Statutes, to be used in accordance with Chapter 375, Florida

Statutes (the Outdoor Recreation and Conservation Act of 1963).

Committee Substitute for Senate Bill 1280 (Chapter 75-125) delays until December 31, 1976 the realignment of the boundaries of the water management districts as set forth in Section 373.069(3), Florida Statutes. The tax millages currently authorized for the water management districts as now constituted, and existing water consumption permit agreements, are similarly extended.

The time by which the Department of Pollution Control (now the Department of Environmental Regulation) is to develop a state resource recovery and management program is extended to July 1, 1976 by Committee Substitute for Senate Bill 308 (Chapter 75-54). The new law also authorizes the Resource Recovery Council to contract with consultants for appropriate studies and to recommend an appropriate project or program in its interim report to the 1976 Legislature. The authority to issue bonds payable from the revenue derived from the operation of solid waste recycling facilities is extended to include funds which may be pledged under the constitutional bonding authority pertaining to pollution control and solid waste disposal facilities, as well as including any other legally available revenues. The Division of Bond Finance of the Department of General Services is given conditional authority to negotiate the sale of such revenue bonds.

The financing of pollution control facilities through the issuance of revenue bonds by counties is authorized by Committee Substitute for House Bill 1201 (Chapter 75-126). See the LOCAL GOVERNMENT Article for a fuller discussion of this law.

The "Florida Litter Law" (Section 403.413, Florida Statutes)

is amended by House Bill 1150 (Chapter 75-266) to provide that county and municipal park or recreation departments may designate any employee as a litter enforcement officer who shall be authorized to enforce the litter law in the same way as sheriffs, policemen, and other law enforcement officers. The Board of County Commissioners is to determine the training and qualifications of such employees.

Senate Bill 568 (Chapter 75-175) amends provisions relating to the donation by the State of areas to be included in the Big Cypress National Preserve to insure that the investment of federal funds in the acquisition of land and water areas for the preserve will not be less than the investment of State funds in the land and water areas donated.

#### Salt Water Conservation

In an attempt to continue protection of salt water fisheries now considered to be beyond the territorial boundaries of the State, the Legislature enacted Senate Bill 721 (Chapter 75-82) which provides that any person who embarks from or docks his vessel in a port within this State and who unlawfully lands saltwater life, whether or not landed outside the territorial waters, shall, for enforcement purposes, be considered a citizen of the State and subject to legal proceedings in the county nearest the site of the violation. The act also makes it unlawful to bring to port, sell or offer to sell any such saltwater life. Any violator who docks his vessel in a Florida port is deemed to have submitted himself to the jurisdiction of the courts of the State.

Senate Bill 1207 (Chapter 75-180) provides that the



executive director of the Department of Natural Resources, the director of the Division of Marine Resources, and other employees designated by the Department who meet specified police training requirements, are constituted as law enforcement officers with full power to investigate and arrest for any violation of the laws of the State. The previous title of "conservation officer" is deleted. The present authority of such officers relating to entry and search without a warrant is extended to include buildings and vehicles engaged in the storage of fish or fishery products.

House Bill 1577 (Chapter 75-95) allows wholesale seafood dealers the option of printing on their invoices or similar instruments required information relating to the transportation of individual containers of salt water products rather than obtaining a stamp from the Department of Natural Resources for use on each container.

Senate Bill 459 (Chapter 75-120) authorizes the harvesting of oysters by hand or by hand tongs without the required harvesting method license.

The law relating to the unlawful taking of marine corals and sea fans is amended by Senate Bill 629 (Chapter 75-38) to remove the exemption for specimens taken from waters outside the territorial waters of the State, and to add fire coral to the list of protected specimens, and generally to provide greater protection for corals and sea fans by providing specified limitations on their taking and possession.

Two acts of local application relating generally to the use of certain nets were enacted. House Bill 1803 (Chapter

75-272) restricts the use of gill nets, wing nets, or similar devices in the waters of Walton, Santa Rosa, Okaloosa, and Escambia Counties; and prohibits special laws and general laws of local application affecting the sale or purchase of speckled sea trout or weakfish in the State. House Bill 933 (Chapter 75-262) clarifies the restrictions upon the taking of shrimp by net in a described area near Cape San Blas; and provides for issuance of permits by the Department of Natural Resources for harvesting roe shrimp in pursuance of mariculture programs.

#### Game and Fish

Provisions are included in Committee Substitute for Committee Substitute for Senate Bill 123 (Chapter 75-22), discussed in the Section on "Environmental, Land and Water Management" above, for the Department of Natural Resources to have authority to directly supervise, review, and approve the Game and Fresh Water Fish Commission's exercise of executive powers in the area of budgeting.

Committee Substitute for House Bills 1139 and 1947 (Chapter 75-304) provides that the Game and Fresh Water Fish Commission may not convey, lease, or engage in other specified transactions relating to lands in the J. W. Corbett Wildlife Management Area or the Cecil M. Webb Wildlife Management area, except upon approval of the Board of Trustees of the Internal Improvement Trust Fund. Moneys recieved from the sale of lands within either area are to be used by the Commission for the acquisition of contiguous lands or lands of equal wildlife value. Such sales must be made directly to the State.

House Bill 308 (Chapter 75-153) repeals several provisions

of Chapter 372, Florida Statutes (Florida Game and Fresh Water Fish Law), which are generally obsolete or duplicative. They are provisions relating to the general powers and duties of the Commission and its authority to issue rules and order; power of the Commission to sell and trade Commission lands in Lake and Marion Counties; yearly audit report required by the Governor; payment of accounts by the Commission; prohibiting the catching, wounding or killing of carrier pigeons; right of county residents to fish in certain waters bounded by more than one county; requirements that persons renting boats to hunters and fishermen purchase licenses from the Commission; and requirement that hunters and trappers report the game and fur-bearing animals they have taken in the preceding session when applying for a new license.

#### Submerged Lands

The "Florida Aquatic Preserve Act of 1975" was created by Committee Substitute for Senate Bill 321 (Chapter 75-172). The act creates 31 specifically described aquatic preserves, collecting under one law those preserves which have previously been created. Provision is included for the establishment of additional preserves by the Board of Trustees of the Internal Improvement Trust Fund upon public notice and hearing and subject to legislative confirmation.

Generally, the preserves are state-owned lands and water bottoms, as well as such other public and private land within the boundaries of the preserve as are included by arrangement with the owner. The protection provided lands and water bottoms in the preserves is substantially the same as for

those preserves previously in existence, and includes restrictions on the sale, lease, or transfer of lands, the setting of bulkhead lines, dredging and filling, drilling of gas or oil wells, excavation of minerals, discharge of wastes, and erection of structures. In addition, the Board will by rule regulate human activity within each preserve in such a way as to be compatible with its preservation.

Committee Substitute for Senate Bill 454 (Chapter 75-76) addresses the subject of material dredged from state sovereign tidal and submerged bottom lands or on the spoil areas on which such dredged materials are placed, as follows:

1. The Board of Trustees of the Internal Improvement Trust Fund is restricted from levying a charge or attaching a lien on such material, when dredged by or on behalf of the United States or the local sponsor of certain navigation or port facility projects.

2. Such materials may be deposited on private lands only after determination has been made that it could not be placed on public lands or sold on a bid basis.

3. If public lands, on which such material has been deposited, are sold (or leased for more than 20 years) one-half the remuneration is to be remitted to the Trustees.

4. Any such material placed on public lands may be removed to private lands only after being advertised for bids.

The provisions of this act shall not affect any preexisting contract or permit in dredging of materials from State sovereign tidal and submerged bottom lands, nor to void any preexisting agreement or lien against the lands upon which dredged materials have been placed.

### Beaches and Shores

The financing provisions relating to the construction and maintenance of beach restoration projects are made more specific by the enactment of House Bill 1632 (Chapter 75-288). The bill provides that the local project sponsor is to assume full responsibility for all costs of federal aid projects in excess of the state-federal limitation. The bill also specifies the costs that are to be included in the 75 percent state share with regard to nonfederal aid projects. Project engineers will now be required to be selected on a competitive negotiation basis. The list of specified restoration projects in the statutes is deleted and the Department of Natural Resources is required to maintain a current project listing which may be revised in its discretion. Appropriated funds are to be placed in the Erosion Control Trust Fund Account.

The coastal construction setback line restrictions are amended by House Bill 10 (Chapter 75-87) to exempt the modification, maintenance, or repair of existing structures which are within the limits of the existing foundation, but not seawalls or additions below the first floor or lowest deck of an existing structure.

### Outdoor Recreation and Public Lands

Senate Bill 698 (Chapter 75-81) amends provisions of the Outdoor Recreation and Conservation Act of 1963 and the Florida Environmental Land and Water Management Act of 1972 to require the seller of land being acquired by the public under

these acts to disclose, by filing a statement with the Department of State, for the period since January 1, 1970, all financial transactions concerning the land, all parties in interest to the transaction, and the amount of the tax assessment thereon for each year.

Senate Bill 426 (Chapter 75-17) expands definition of "outdoor recreational purposes" to include motorcycling for purposes of limiting the liability of persons who let the public use their land without charge.

#### Miscellaneous

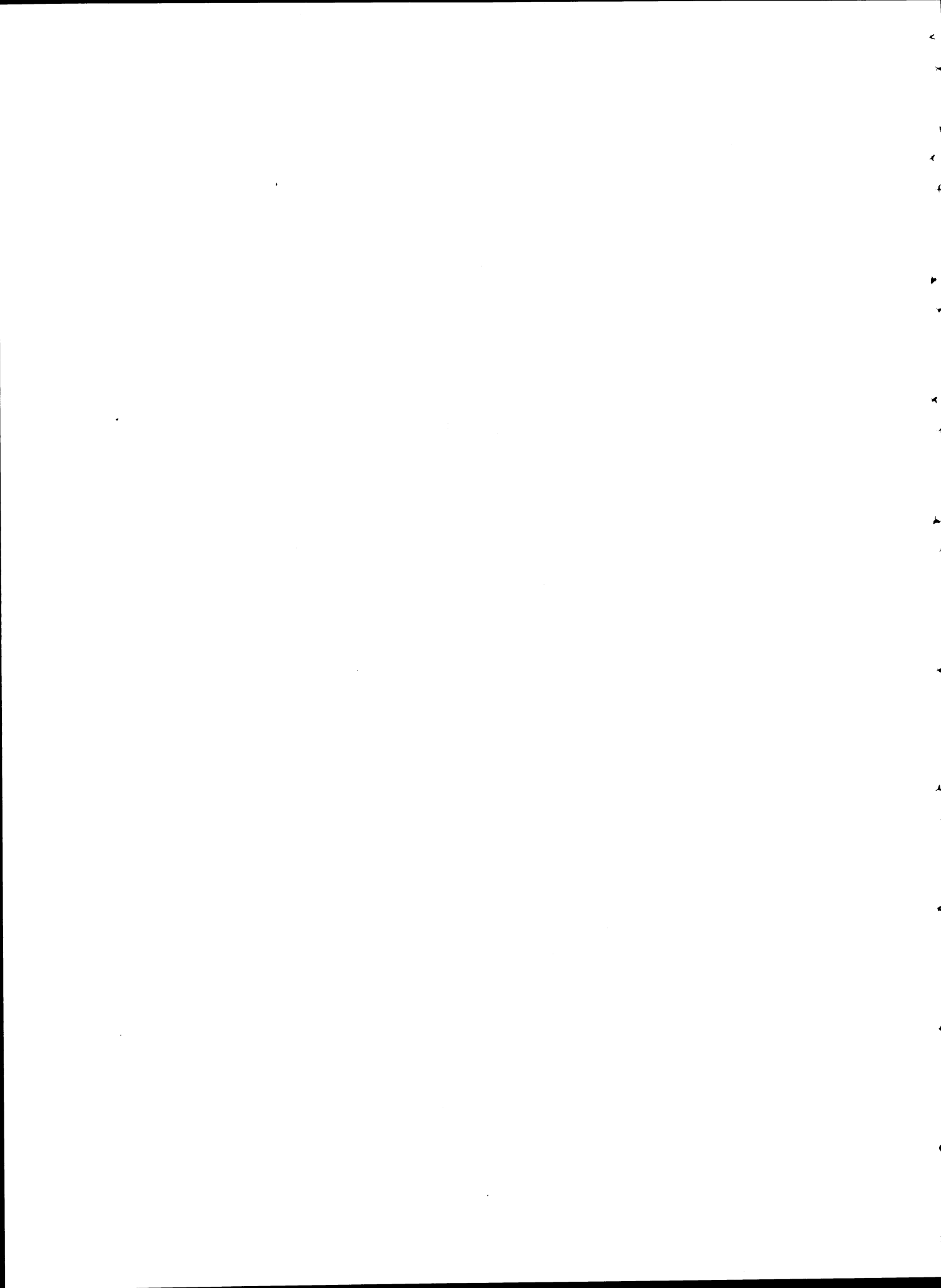
The Energy Data Center is removed from the Division of State Planning of the Department of Administration and placed directly under the Department by the provisions of House Bill 770 (Chapter 75-256). The act further provides for the Department to assume the State's role in petroleum allocation and conservation; designates the Department to perform certain functions consistent with the development of a state energy policy; and constitutes the Department as the state agency responsible for performing the functions of any federal program delegated to the state which relates to energy or petroleum supply, demand, and allocation. State employees are prohibited, with certain exceptions, from divulging proprietary information acquired under the act. The Department of Administration is to coordinate with the Department of Revenue and other relevant State agencies to provide for the long-range studies regarding the usage of petroleum in the State, and is to make an annual report to the Legislature

60 days prior to each regular session reflecting its activities and making recommendations of policies for improvement of the State's response to energy supply and demand and its effect on the health, safety and welfare of the people of Florida.

Chapter 74-188, Laws of Florida, is repealed, in effect abolishing the Florida Energy Committee as of the close of the 1975 legislative session.

House Bill 1524 (Chapter 75-269) deletes statutory requirements (Section 197.361, Florida Statutes) that the Board of Trustees of the Internal Improvement Trust Fund regularly publish a list of Murphy Act lands in each county; record such list in the office of the Clerk of the Circuit Court in each county where such lands are located; and proceed to quiet title to such lands to which parties other than the State have filed a claim.

House Bill 193 (Chapter 75-251) amends the Land Conservation Act of 1972 to empower the Governor and Cabinet, as head of the Department of Natural Resources, to authorize the acquisition by eminent domain of from 3,100 to 3,410 acres in the Volusia Recharge Area in Volusia County. Such authorization is not to affect any purchase priorities already established. Expenditures must not exceed the \$200 million authorized by statute for State capitol projects for environmentally endangered lands, and no eminent domain proceeding for the Volusia Recharge Area project may be started after July 1, 1977.





CONSTITUTIONAL AMENDMENTS

The 1975 Regular Session of the Florida Legislature adopted four joint resolutions proposing amendments to the State Constitution. Three will be submitted to the electorate at the 1976 General Election customarily held in November, and a special election is provided for one of these proposals in March of 1976. A brief description of these resolutions follows:

House Joint Resolution 1709 would amend Section 12, Article V of the Florida Constitution to make proceedings before the Judicial Qualifications Commission confidential until the filing of formal charges against a justice or judge with the clerk of the Supreme Court; to entitle the Commission to receive information from grand juries; to require the Commission to make available all information in its possession on request of the Speaker of the House of Representatives or the Governor for use in impeachment or suspension proceedings; to make it unnecessary to prove improper motive before removing a justice or judge from office when his conduct demonstrates present unfitness to hold office; and to require certain chief judges of the judicial circuits to sit in lieu of Supreme Court justices when the Commission is proceeding against a justice. The amendment is to be placed on the 1976 General Election ballot, and will take effect upon approval of the electorate.

House Joint Resolution 291 proposes the creation of

Section 14, Article X in the State Constitution to prohibit any increase in benefits, after January 1, 1977, in any government retirement or pension system unless prior or concurrent provision is made to fund the increase on a sound actuarial basis. This proposed amendment is to be placed on the 1976 General Election ballot.

Senate Joint Resolution 999 would create Section 10, Article IV in the Florida Constitution to permit the creation of a Capitol and Mansion Commission for the purpose of establishing and maintaining an historically and architecturally consistent basic plan to prescribe the furnishing, decorating and alteration of the Governor's mansion and the Capitol Building complex. Terms of the Commission members would be limited to nine years. This proposal is to appear on the 1976 General Election ballot.

Committee Substitute for Senate Joint Resolution 1061 would amend Section 9, Article VII of the State Constitution to limit local ad valorem taxes for water management purposes to .05 mill in the northwest portion of the State lying west of the line between Ranges Two and Three East and to 1.0 mill for the rest of the State. Senate Bill 223 (Chapter 75-245) provides for a special election to be held the second Tuesday in March 1976 (concurrent with the Presidential Preference Primary Election) on this proposed amendment.

COURTS AND CIVIL LAW\*

Courts

House Bill 963 (Chapter 75-163) changes the spring term of the Seventh Judicial Circuit in St. Johns County from the first Monday in June to the second Monday in May.

Committee Substitute for Senate Bill 868 (Chapter 75-124) increases the number of circuit judges in the Sixth, Eleventh, Twelfth, Fifteenth, Sixteenth and Twentieth Judicial Circuits. Certain amounts are appropriated to the judicial branch for salaries and benefits, expenses and printing reports. The fee for filing a certified copy of a notice of appeal or petition is increased from \$25 to \$75 in the Supreme Court and from \$25 to \$50 in each District Court of Appeal. The additional service charge for granting each severance is decreased from \$5 to \$2. An additional service charge of \$2 is required for each civil action filed which is to be deposited in the State General Revenue Fund.

House Joint Resolution 1709 would amend the Judicial Article of the Constitution with respect to the discipline and removal of justices or judges by the Judicial Qualifications Commission and is more fully discussed in the CONSTITUTIONAL AMENDMENTS Article.

Two bills were passed relating to jurors. Senate Bill 183 (Chapter 75-31) repeals the jury duty exemption for licensed

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\* Prepared by Senate Legislative Services

dentists, funeral directors and embalmers, and Senate Bill 624 (Chapter 75-78) changes the age qualification for jurors from over the age of 21 years to at least 18 years of age, and changes the exemption from jury duty of mothers with children under 18 years of age to mothers with children under 15 years of age.

Senate Bill 350 (Chapter 75-34) changes the minimum age for acceptance of service of process to some person of the family who is 15 years of age or older.

Senate Bill 131 (Chapter 75-183) provides that the court having jurisdiction over traffic offenses shall have jurisdiction of a juvenile who does not hold a driver's license and who is charged with a noncriminal traffic infraction under the Florida Uniform Traffic Control Law.

Senate Bill 577 (Chapter 75-176) provides that a clerk of a court or comptroller who accepts a check which is returned as uncollectable by the bank is personally liable unless, after due diligence to collect the same, he forwards the returned check to the state attorney of the circuit where the check was drawn for prosecution.

#### Discrimination

Senate Bill 582 (Chapter 75-232) concerning discrimination because of race, color, religion, sex or national origin, requires the Florida Commission on Human Relations of the Department of Community Affairs to be the deferral agency for the Federal Government and to comply with the necessary federal regulations.

#### Domestic Relations

Committee Substitute for Senate Bill 41 (Chapter 75-226)

is the Adoption Revision Act of 1975. Added to the list of persons who must consent to an adoption is the adoptive father of a minor or the acknowledged or established father of the minor if the father has provided the child with support. Intermediaries must report to the Division of Family Services of the Department of Health and Rehabilitative Services any intended placement of a minor for adoption with a person who is not a stepparent or is not related to the minor within the third degree, if the intermediary has knowledge of or participates in such placement. It is a felony to fail to make such a report or to charge fees in excess of \$500, excluding actual documented medical, court and hospital costs, without court approval. The investigative report of the Division must be filed within ninety days from the date of filing of the petition for adoption; however, the Division is not required to make an investigative report when placement for adoption is with a stepparent or relative within the third degree unless ordered to do so by the court.

For the protection of the privacy of the petitioner or the child, the petition for adoption may be filed in a county other than the county where the petitioner or child resides, and the names of the petitioner or child may be deleted from the notice of hearing and from the copy of the petition attached to the notice of hearing. Other revisions include: clarification of persons to whom notice of hearing must be given; changing the age at which an adoptive child may authorize the disclosure of the name or identity of either himself or an adoptive parent from

14 to 18 years; and prohibiting any person, except a licensed agency or the Division, from placing or trying to place a child out of state for adoption unless the placement is with a step-parent or relative within the third degree.

Committee Substitute for House Bill 222 (Chapter 75-99) outlines factors to be considered and evaluated by the courts in determining the best interests of the child for the purpose of determining custody of children following dissolution of marriage.

Senate Bill 1132 (Chapter 75-67) provides that the court has jurisdiction to determine the custody of a child not physically present within the State if it appears to the court the child was removed from the State primarily to avoid determination of custody. The act also provides as elements for consideration, in modification of child support orders and agreements, the fact that a child has reached 18 years of age and the financial ability of the child.

House Bill 1117 (Chapter 75-148) authorizes the chief judge of a circuit, with the approval of the governing body of the appropriate county, to create a central system for the enforcement of support, alimony or maintenance payments. Specifics relating to the appointment, qualification, term and duties of the administrator of such a system are set out. The funding required for the system is to be appropriated from county funds and may be supplemented by available federal financial assistance.

House Bill 1318 (Chapter 75-166) amends the statutes relating to dependent children in need of supervision to remove the term "illegitimate child" from statutory language relating to court powers respective of such children and replaces it

with the term "child born out of wedlock." The act further removes reference to legitimacy status in birth certificates and replaces same with marital status. It also removes the terms "legitimation" and "bastardy" from the statutes and replaces same with "determination of paternity." The Division of Statutory Revision and Indexing of the Joint Legislative Management Committee is directed to change the title of Chapter 742, Florida Statutes, from "Bastardy" to "Determination of Paternity."

Under the provisions of Committee Substitute for House Bill 823 (Chapter 75-159) an abandoned child (who was placed in a foster home) may be permanently committed by the court having jurisdiction to the Division of Family Services or a licensed child-placing agency for subsequent adoption. This action may be taken only after a year's diligent search has failed to locate a parent or relative.

Certain other powers and duties of the circuit court in the adoption and judicial treatment of juveniles are discussed in the PUBLIC HEALTH AND REHABILITATIVE SERVICES Article in the summaries of Senate Bill 370 (Chapter 75-114) and Committee Substitute for House Bill 971 (Chapter 75-198).

#### Guardianship

House Bill 2281 (Chapter 75-222) amends various provisions of the Florida Guardianship Law to provide clarification and to make some substantive changes. A definition is provided of corporate and nonprofit corporate guardianships. In the area of appointment of a guardian, the act provides that a surviving

parent may name by will the guardian for the property of a minor, and a nonresident who is related to an incompetent may be appointed guardian of the person or property of the incompetent. The court is required to consider the wishes of the incompetent in appointing a guardian under certain conditions. The bond of the guardian may be waived at the request of a petitioner in a voluntary proceeding, and banks and trust companies authorized to be guardians are not required to file bonds.

In the area of powers and duties of a guardian, the act includes a provision requiring the guardian to honor an adult ward's preferences regarding place and standard of living insofar as the request is reasonable. Also, a provision is included requiring the guardian to file an annual return. "Parent" is added to the list of persons for whom care and funeral expenses may be paid by the guardian from the ward's property. Authority is given to the guardian, after court approval, to hold security in the name of a nominee or in other form without disclosure of the interest of the ward, and the guardian is to be held liable for any act of said nominee in connection with the security so held. The guardian may dissent from a will or exercise other choices without court approval, but is prohibited from borrowing money from his ward. Provision is made for the payment of reasonable fees for serving as a guardian; however, a nonprofit corporate guardian is prohibited from receiving fees for services, but may be allowed its costs and attorney's fees.

Other changes in the guardianship law include a provision requiring the guardian to file a record of the property of the ward or of the guardianship before an order relieving the



guardian is entered. Notice of termination of guardianship must be published once a week for two weeks. The notice and virtual representation provisions of Part III of Chapter 731, Florida Statutes, are made applicable to guardianship law. Provision is made for the appointment of a visitor to interview and report on the well-being of a ward.

The effective date of the act is January 1, 1976. Substantive rights that have vested prior to the effective date are to be determined as provided in Chapters 744-746, Florida Statutes, as they exist prior to January 1, 1976 and procedures for enforcement shall be as provided in the act.

Changes in the statutes relating to responsibilities of the circuit court in the appointment of guardians in cases of child abuse are discussed in the PUBLIC HEALTH AND REHABILITATIVE SERVICES Article in the Section captioned, "Child Abuse." [See: Senate Bill 332 (Chapter 75-185) and Committee Substitute for House Bill 1102 (Chapter 75-101).]

Mental Patients and Mentally Retarded Persons - Involuntary Commitment & Rights

The courts' responsibilities in safeguarding the rights of mental patients in involuntary commitment procedures are outlined by Committee Substitute for House Bills 522 and 1192 (Chapter 75-305), summarized in the "Mental Health" Section of the PUBLIC HEALTH AND REHABILITATIVE SERVICES Article. The "Mental Retardation" Section of the same Article contains information on the bill of rights for retarded persons as established by Committee Substitute for House Bill 815 (Chapter

75-259) which provides for the right to writ of habeas corpus to persons involuntarily committed.

#### Landlord and Tenant

Senate Bill 44 (Chapter 75-133) amends the Florida Residential Landlord and Tenant Act to require the landlord to give written notice to the tenant of the name and address of the depository where the advance rent or a security deposit is being held and whether in a separate account or commingled and, if commingled, whether in an interest-bearing account in a Florida banking institution. If the landlord's depository procedure subsequently changes in any manner, he must notify the tenant within 30 days. The act provides that a renewal of an existing rental agreement is considered a new rental agreement and any security deposit carried forward shall be considered a new security deposit. It further provides a penalty of a fine, or suspension or revocation of a license by the Division of Hotels and Restaurants of the Department of Business Regulation, for certain licensees who fail to comply with the provisions of the act.

Senate Bill 255 (Chapter 75-147) requires the court, in an action by the landlord for possession based on nonpayment of rent, to direct, within its jurisdictional limitations, the entry of a money judgment in favor of the landlord for the amount owed, with costs, in addition to awarding possession of the premises to the landlord. No money judgment may be entered unless service of process has been effected as prescribed by law. The Department of Legal Affairs is given concurrent jurisdiction with the state attorney as an enforcing authority if the violation occurs

in or affects more than one judicial circuit, or if the state attorney fails to act within a reasonable period of time.

#### Legal and Official Advertisements

House Bill 1955 (Chapter 75-206) establishes a court docket fund in Broward, Dade and Duval Counties for the purpose of paying the cost of the publication of the fact of the filing of any civil case in the circuit court in those counties and of the calendar relating to such cases. Operational procedures for such fund are provided in the act. The boards of county commissioners are authorized to create a court docket fund by ordinance in the remaining counties. The publishers of any designated record newspaper receiving the court docket fund must, without charge, accept legal advertisement for the purpose of service of process by publication when such publication is required of persons authorized to proceed as insolvents and poverty-stricken persons.

Also, House Bill 1953 (Chapter 75-205) provides an exception, in those counties where notices of action are required to be published by designated record newspaper, to the requirement that the clerk of the court post such notices of certain proceedings by persons declared insolvent and poverty-stricken.

#### Liens

The Legislature, in Senate Bill 80 (Chapter 75-227), amends the "Mechanics' Lien Law" to provide that if the description of the property in the notice of commencement of improvement filed by the owner of the property is incorrect, and the error in such notice adversely affects any lienor, payments made on the direct

contract shall be held to be improperly paid unless the error is a clerical error and the description covers the property where the improvements are made.

The Legislature created Part III of Chapter 713, Florida Statutes, which provides for statutory oil and gas liens by passage of Committee Substitute for House Bill 583 (Chapter 75-51). Any person under contract with an oil or gas interest holder or operator, as defined in the act, who performs any labor or furnishes any material or service used, or furnished to be used, in the drilling or operation of any oil or gas well upon the land of the interest holder, or in the construction of any oil or gas pipeline, shall be entitled to a statutory lien for the amount due, but in no case for more than the contract price plus interest. The law prescribes the property subject to oil and gas liens, provides for subcontractors' liens, prescribes the date that such liens arise, provides the manner of perfecting such liens, and prescribes their duration. If such a lien is imposed on an assignment, farmout agreement, operating agreement, or other equitable interest or legal interest in land or in a leasehold estate, which interest is contingent upon the happening of a condition subsequent, such lien may be perfected and entered against such land or against the leasehold estate, notwithstanding the failure of such interest to ripen into legal title or the failure of such condition subsequent to be fulfilled. The law authorizes any lienee to release his property from an oil or gas

lien by filing a bond with the clerk of the circuit court.

### Negligence

CS/Senate Bill 98 (Chapter 75-108) creates the "Uniform Contribution Among Tortfeasors Act." The act provides that where two or more persons become jointly or severally liable in tort for the same injury to a person or property or for the same wrongful death, there is a right of contribution among them even though the judgment has not been recovered against all or any of them. This right of contribution exists only in favor of a tortfeasor who has paid more than his pro rata share of the common liability, and his total recovery is limited to the amount paid by him in excess of his pro rata share. There is no right of contribution in favor of any tortfeasor who has intentionally (willfully or wantonly) caused or contributed to the injury or wrongful death. A tortfeasor who enters into a settlement with a claimant is not entitled to recover contribution from another tortfeasor whose liability is not extinguished by the settlement nor for any amount paid in a settlement which is in excess of what was reasonable. The act provides that a liability insurer, who by payment has discharged in full or in part the liability of a tortfeasor and has thereby discharged in full its obligation as insurer, is subrogated to the tortfeasor's right of contribution to the extent of the amount it has paid in excess of the tortfeasor's pro rata share of the common liability. The act provides for enforcement of contribution and for the application

of a release not to sue. The act applies to all causes of action pending at the time of its passage wherein the rights of contribution among joint tortfeasors is involved as well as new cases.

#### Notaries Public

House Bill 855 (Chapter 75-161) amends the general law relating to notaries public by deleting the Florida residence requirement of one year and by increasing the application fee from \$10 to \$15 and the bond from \$500 to \$1,000. It is unlawful for a notary public to notarize his own signature. The act also clarifies certain language in the law and more fully prescribes the notary seal. The effective date is January 1, 1976.

#### Probate

House Bill 2279 (Chapter 75-220) amends numerous sections of the Florida Probate Code to provide clarification. The most important changes, additions or deletions are noted hereinafter.

The effective date of the Florida Probate Code is changed from July 1, 1975, to January 1, 1976. Probate proceedings are declared in rem proceedings (proceedings against the property rather than against individual claimants). Provisions are included pertaining to assets of nondomiciliaries. The rules of civil procedure are to be applied in any adversary proceeding in probate. Unless the Code provides otherwise, an interested party may waive any right given him by the Code and may dispense with the filing of any document required to be filed. Caveats

are authorized to be filed under certain circumstances. Provisions relating to notice to creditors are provided. Certain definitions are redefined and others are added. Notice requirements are restated. A person, including an administrator ad litem, may waive notice and consent to proceedings in writing. The decedent's death is declared the event that vests the heirs' rights to intestate property. Provisions relating to adopted persons and persons born out of wedlock are substantially reworded by this act. Provisions are repealed pertaining to election to take elective share, preexisting right to dower, and proceedings on the election. New elective share provisions are added. The "descent of homestead" section of the Florida Statutes is substantially reworded. The homestead is not subject to devise if the owner is survived by spouse or minor child, except that the homestead may be devised to the owner's spouse if there is no minor child.

Will provisions of the Code have also been revised. The two attesting witnesses must sign in the presence of each other and in the presence of the testator. A will in the testator's handwriting that has been executed properly is not to be considered a holographic will. The revocation of a codicil to a will does not revoke the will. A will may dispose of property by reference to acts and events which have significance apart from their effect upon the dispositions made by the will. A will is void if the execution is procured by fraud, duress, mistake or undue influence. The intention of the testator, as expressed in his will, controls the legal effect of his

dispositions. A will is construed to pass all property which the testator owns at his death. The section relating to charitable devises is substantially reworded.

Provisions prohibiting a personal representative from having the right to possession of, or any authority to deal with, personal property owned by the decedent at the time of his death are deleted from the Code. If a person, against whom a cause of action exists, dies before the expiration of the time limited for commencement of the action and the cause of action survives, claim must be filed on it. Any beneficiary, with certain exceptions, may, before final discharge of the personal representative, petition the court in which the will was admitted to probate, for revocation of probate. The "proof of wills" section is substantially reworded. Any interested person notified may oppose the probate of a notarial will or may petition for revocation of probate of such notarial will as in the case of original probate of a will in this state.

Provisions relating to administration are substantially reworded. No pleading seeking construction of a will may be maintained until the will has first been probated. Provisions relating to appointment of a personal representative are substantially revised. The fact that the personal representative is seeking reimbursement for claims against the decedent paid by the personal representative does not require appointment of an administrator ad litem. The act provides additional causes of removal of a personal representative. A personal representative



may properly employ persons to advise or assist him in the performance of his administrative duties; may act without independent investigation upon their recommendations; and, instead of acting personally, may employ one or more agents to perform any act of administration, whether or not discretionary. Provisions are created which relate to individual liability of a personal representative.

The order of payment of expenses and claims is changed by this act. The statute of limitations on filing a claim against an estate is changed from three years to one year. Provisions are added relating to the payment of devises. Nothing contained in the Code is to be construed to require the personal representative to pay any estate, inheritance or other death taxes levied or assessed by any foreign country unless specific directions to that effect are contained in the will. The personal representative is entitled, and it is his duty, to attempt to effect apportionment of tax. Changes and additions are made in the contents of a final accounting and a petition for discharge filed by a personal representative. The discharge of the personal representative releases him of the estate and bars any action against him as such, or individually and his surety.

Provisions pertaining to family administration are substantially reworded and a new section is created setting forth procedures on distribution of the assets. Some present provisions on family administration are repealed and some on summary administration are repealed or substantially reworded.

The joinder in or consent to a petition for summary administration is not required of an heir or beneficiary who will receive his full distributive share under the proposed distribution. The section on disposition without administration is substantially reworded.

CS/Senate Bill 171 (Chapter 75-71) amends the Uniform Anatomical Gift Act to authorize the Division of Driver Licenses, Department of Highway Safety and Motor Vehicles, to furnish a Uniform Donor Card when a person applies for a driver's license or renews his license. Necessary literature and material on anatomical gifts may be furnished and a small pouch may also be provided to enclose the license and card. Costs are to be borne by the Kidney Disease Section, Division of Health, Department of Health and Rehabilitative Services, through contributions from interested voluntary, nonprofit organizations.

#### Property

House Bill 1339 (Chapter 75-94) provides that rights and interests in land which are subject to being extinguished by marketable record title shall include rights of entry or of an easement, given or reserved in any conveyance or devise of realty, when given or reserved for the purpose of mining, drilling, exploring, or developing for oil or gas, minerals, or fissionable materials, unless those rights of entry or easement are excepted or not affected by the provisions of statutes relating to marketable record titles to real property. The provisions of this law, however, do not apply to interests

reserved or otherwise held by the State of Florida, or by any of its agencies, boards, or departments. The law allows any person claiming a right of entry or easement for such specified purposes to preserve and protect his right from extinguishment by the operation of this act by filing notice in the form and in accordance with the procedures set out in Chapter 712, Florida Statutes. The period for filing notice is extended to January 1, 1977. The act does not revive any right or interest extinguished by the marketable record title statute prior to the effective date of this new act.

#### Statute of Limitations

Senate Bill 954 (Chapter 75-234) provides that the last element constituting a cause of action on an obligation or liability founded on a written instrument payable on demand or after date with no specific maturity date specified in the instrument, and the last element constituting a cause of action against any endorser, guarantor or other person secondarily liable on any such obligation or liability is the first written demand for payment. The act also provides that the running of the time is tolled by the payment of any part of the principal or interest of any obligation or liability founded on a written instrument.

#### Trusts

House Bill 2280 (Chapter 75-221) revises the general law pertaining to trust administration (Chapter 737, Florida Statutes) to provide clarification. Some of the more important changes are discussed below.

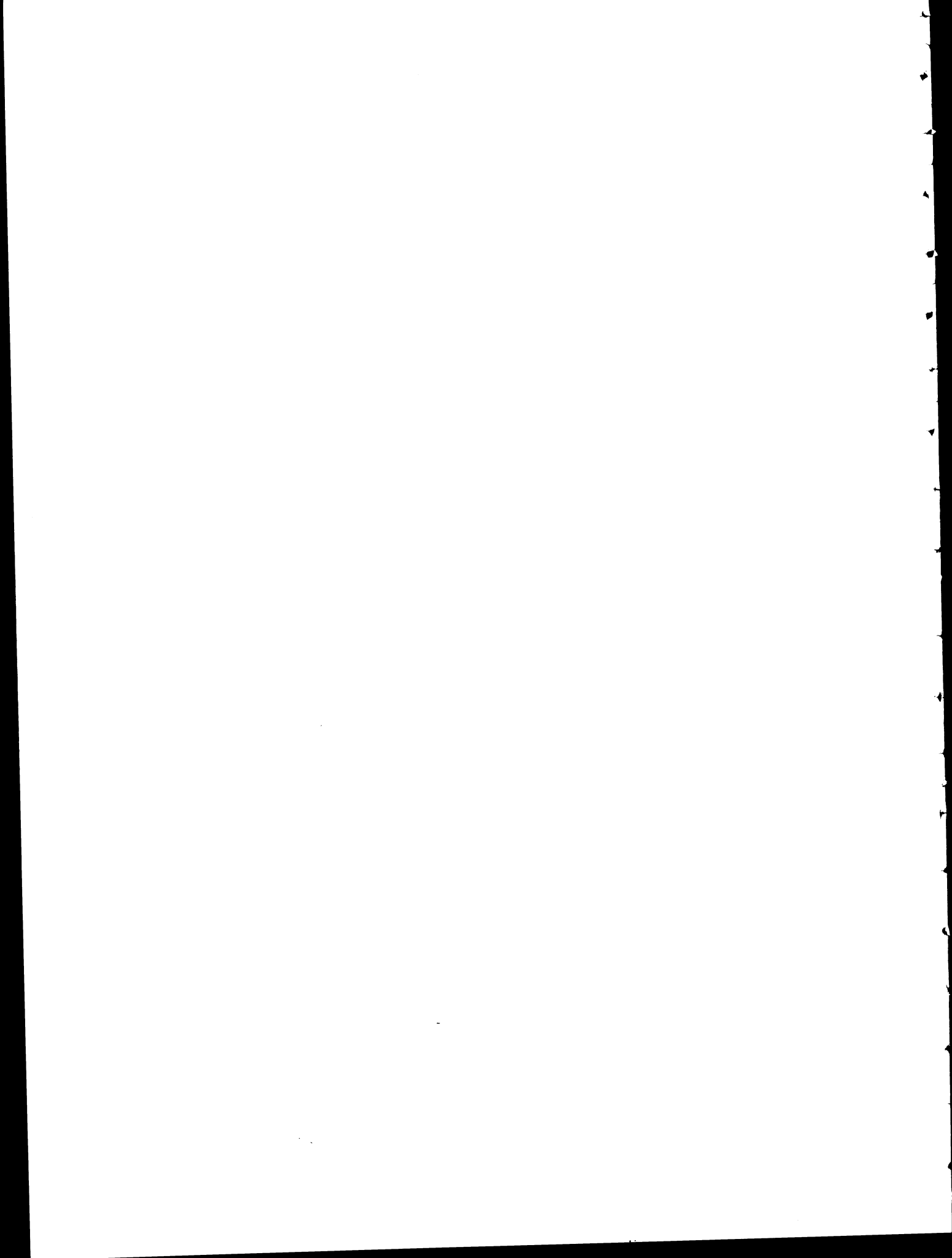
The trustee of a trust is required to register the trust with the clerk of the circuit court in the county of the principal place of administration if directed by the grantor or requested by any beneficiary in writing. Registration is required to be accomplished by recording a signed statement entitled "Trust Registration." Process of a proceeding is required to be served on the trustee as provided by law. Proceedings concerning trusts are to be commenced by filing a complaint and are to be governed by the Rules of Civil Procedure. The "prudent man" test is changed to the "prudent trustee" test to determine the trustee's standard of care and performance. A trustee is personally liable on contracts for the attorney's fee. A trustee bank is authorized to deposit trust funds in another department of the same entity, or in a bank that is affiliated with the trustee bank.

Provisions relating to principal and income are transferred to a new chapter of the Florida Statutes (Chapter 738, Florida Statutes) and amended for clarification. The date is changed from July 1, 1975, to January 1, 1976, as it relates to allocation of receipts by a trustee holding an asset of depletable property of a type specified in the law. The provisions relating to principal and income apply to any receipt or expense received or incurred after January 1, 1976, by any trust or decedent's estate.

All trustees are to submit a final accounting to be approved by the court within one year from January 1, 1976, the effective date of this act, for the purposes of concluding the

accounting of trusts being administered under The Trust Accounting Law.

Senate Bill 387 (Chapter 75-74) clarifies provisions relating to inter vivos trusts to provide that certain types of trusts are not to be held invalid or an attempted testamentary disposition for any one or more of certain enumerated reasons. The requirement of conformity with the formalities for the execution of wills is not to be imposed on any trust executed prior to July 1, 1969. The act also stipulates a devise to a trustee shall not be invalid because the trust only consists of death benefits which include insurance policies, employee trusts or annuity and endowment contracts.



EDUCATION\*

The 1975 session continued the tradition of passing late in the session education measures containing the substance of what had been introduced as many separate bills. By one count three bills (House Bills 984, 1909 and 1972) contained the substance of almost 20 other complete bills and portions of still others. The three omnibus education acts dealt with legislative priorities for the public school system and the funding of those priorities; capital outlay for all levels of education in the state; and a number of significant revisions to the school code.

Basic Skills and the Florida Education Funding Program

Committee Substitute for Committee Substitute for House Bill 984 (Chapter 75-284) was designated the Public Education Act of 1975. It made a number of significant revisions in the Florida statutes dealing with education. It states that the first priority of the public schools shall be that all Floridians, to the extent of their capacities, shall master the basic skills, including reading, writing, language arts, arithmetic, measurement and problem solving. It requires that districts put emphasis on basic skills into the early childhood development programs mandated last year by Chapter 74-238 (Sections 230.2311, 232.01, Florida Statutes, 1974 Supplement). The programs are to include an increase in the number of adults assisting in kindergarten through grade three as one means of adding more direct individual and

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\* Prepared by the Staff of the Committee  
on Education, Florida House of Representatives

small group instruction in reading and computation skills. Teachers in the primary grades are to be trained in the use of aides and other volunteers and in the recognition of language arts and computational skills. Starting July 1, 1976 such training shall be a condition of continued certification.

Gifted students are to be included in the category of exceptional students; the age of children and the educational purpose are to be considered in selecting textbooks; and the use of any material containing hard core pornography is prohibited in public schools. Special laws and general laws of local application pertaining to the assessment or collection of taxes for school purposes (insofar as they affect the distribution of state funds) are prohibited, and the Department of Education is directed to recover any funds that may have been allocated as a result of such laws subsequent to June 30, 1973.

A major portion of this act concerns amendments to the Florida Education Finance Program. The base student cost is set at \$745. Several program cost factors were changed: grades kindergarten through three increased from 1.20 to 1.234; grade 10 increased from 1.0 to 1.10 to conform with the cost factor for grades 11-12; adult basic education and adult high school decreased from 1.60 to 1.28; and community service decreased from 1.30 to 0.675. Caps for exceptional and vocational programs are designated as follows: 185,055 weighted full-time equivalent students for exceptional programs; 302,203 for special vocational-technical education programs; and 30,149 for special adult general education programs. Maximums are to



be set by the district boards for district contracts with private schools serving exceptional students.

The district cost differentials are amended for 1975-76. The required local effort is set at \$543,000,000. A new funding supplement, the sparsity factor, is included in the Florida Education Finance Program but is not funded for the 1975-76 fiscal year. The act also requires that at least 80 percent of the funds generated in grades K-3 be expended at that level and it continues the escalating reporting and expenditure requirements contained in the FEFP. It is made clear, however, that expenses for art, music and physical education may be included in percentages required for basic programs. A proviso contained in the appropriations act is repeated in this act, mandating that no school district can increase the administrator-teacher ratio for 1975-76 above that of 1974-75.

The Commissioner of Education is authorized to utilize up to \$100,000 of school transportation dollars to fund three pilot projects coordinating public school bus use for students and for the elderly, the handicapped and other needy segments of society. Urban mass transit systems are declared eligible to transport students and to receive student transportation funds. In addition, school buses under certain circumstances are authorized to transport persons other than students within the county with the express consent of the school board. School boards are directed to survey annually hazardous conditions for pupils walking to school and to report these conditions to the appropriate municipal or county authority or the Department of Transportation for possible corrective action.

The advertising requirements for school boards in relation to millage increases are revised to reduce duplication, especially as related to tax levies required to participate in the Florida Educational Finance Program.

The district school boards are directed to develop and maintain a method of evaluating their comprehensive plans and to report the results to the Commissioner. Evaluations shall include certain specified student performance indicators. The Commissioner is to review the plans and evaluations and is to assist districts in correcting any deficiencies. The Commissioner is also directed to develop and implement an integrated information system for public school educational management. In addition, this act specifies a number of areas in which the Commissioner shall examine district procedures and the accuracy of district records. If districts have not followed approved criteria and procedures and consequently, have received excess funds, the excess is to be deducted from subsequent allocations.

The driver education program is revised by this measure. It repeals the requirement that persons under 18 years of age must have successfully completed a driver education course before being issued a license. School boards are to make driver education available to any secondary school student but no longer are required to have a program in every secondary school. School boards may contract with commercial driving schools in making such course available.

Finally, the act sets the minimum allocation per district for the career education program at \$10,000 and includes the School for the Deaf and Blind in the community school grant program.

## Capital Outlay Allocations and Procedures

House Bill 1909 (Chapter 75-292) was the final result of a number of Senate and House bills related to capital outlay for educational facilities. It appropriates the following amounts for the several levels of education: public schools, \$92 million; community colleges, \$24.9 million; vocational-technical centers, \$19.5 million; state universities, \$26.1 million; environmental training center, \$1,348,280; school for the deaf and blind, \$643,800.

It also directs that all requests for educational capital outlay funds be integrated into a single comprehensive request and specified that the Office of Educational Facilities Construction (OEFC) of the Department of Education is responsible for assisting the Commissioner of Education in developing the request according to specific guidelines established by this act. The OEFC is authorized to delegate its review and approval powers to district school boards which have met certain conditions.

An educational facilities working capital trust fund is created and procedures established for its use. The concept of a community educational facility is established and the Commissioner is directed to provide the Legislature with appropriate recommendations for joint funding of projects involving both educational and non-educational governmental agencies.

The collection of the gross receipts tax is changed from an annual to a semi-annual interval. The procedures for calculating district allocations for school construction are revised so that locally raised funds are not counted until actually encumbered or spent for capital construction purposes. The

mandated priorities for use of funds are revised to expand the eligibility of student stations and to allow up to two-tenths of a district's annual allocation to be expended on projects not directly related to increasing student stations. In addition, the dollar limit on projects which can be erected on a day labor basis is raised from \$20,000 to \$50,000.

The procedures for calculating bond capacity are established and the Division of Bond Finance of the Department of General Services is designated as the agent of the State Board of Education pursuant to the State Bond Act.

#### Florida School Code Revisions

House Bill 1972 (Chapter 75-302) amends and creates various sections of the School Code as follows:

The Division of Elementary and Secondary Education is renamed the Division of Public Schools.

The appointive procedure for division directors is clarified to reflect more accurately the fact that (with the exception of the Regents) division directors are appointed by the Commissioner of Education subject to the approval of the State Board.

The Commissioner is required to establish and coordinate a common course designation and numbering system for the community college and state university systems. The common course numbering system may not encourage or require course content prescription or standardization and taxonomies are to be maintained by appropriate faculty committees.

The Bureau of Environmental Education within the Division of Elementary and Secondary Education is changed to an Office

of Environmental Education under the Deputy Commissioner for Education Management, and additional duties are set out including the estimation of manpower needs in environmental protection. The Commissioner is directed to appoint a twenty member Environmental Education Advisory Council to oversee environmental education and formulate state-wide policy in this area.

The Professional Practices Commission Trust Fund is redesignated the Professional Practices Advisory Council Trust Fund and the amount of each regular certificate fee deposited in such Fund is increased from \$5.00 to \$7.00.

The Florida Regents Scholar certificate is to be given each year a new scholarship is awarded.

The Florida Student Financial Aid Advisory Council is re-created with membership composed of practicing financial aid administrators from public and private institutions of higher learning and appointive power is given the Commissioner rather than the Governor.

A Projects, Contracts and Grants Trust Fund is created in the Department of Education.

University and community college "direct-support organizations" (nonprofit corporations) are given authority to use university or college personnel and facilities. In addition, an auditor's report of the financial records of such entities must be submitted to the Board of Regents, on behalf of state universities; or the Board of Trustees of the College and the Auditor General, on behalf of the community college.

The Board of Regents is permitted to enter into lease

agreements for buildings and land in order to construct facilities deemed necessary in the state university system.

The loan program of the Student Financial Aid Fund is terminated June 30, 1975 insofar as new loans are concerned except for short term loans to students of state universities and public community colleges who have applied for but not received a Florida insured student loan by the first day of registration of the term for which the loan applies. Allocations for such loans shall be made to institutions, one-half in proportion to each institution's total Florida insured loans and one-half according to enrollment, with a minimum allocation of \$1,000 to each eligible institution. The Department of Education is given new authority to facilitate the collection of delinquent accounts.

The Florida Post-Secondary Education Finance Committee is established to act in an advisory capacity to the Commissioner in making recommendations about post-secondary funding, program costs and duplicative programs. Its report to the State Planning Council for Post High School Education is due March 1, 1976 at which time the Committee shall be abolished.

#### Board of Regents

House Bill 1280 (Chapter 75-149) is intended to facilitate close cooperation and joint planning between public and private institutions of higher learning in Florida. It authorizes the Board of Regents to contract with accredited private institutions to fulfill either program or facility needs shown to be present by the studies conducted by the Board of Regents.

Senate Bill 87 (Chapter 75-20) authorizes the Board of

Regents to coordinate administrative data processing in the state university system and requires that uniform data processing systems be used throughout the university system.

#### State Board of Education

Senate Bill 83 (Chapter 75-19) adds to the duties of the State Board of Education the responsibility for insuring coordination of academic calendars for universities, community colleges and public schools. It specifically mentions the Division of Universities as one of the Department's divisions over which the Board is to exercise general supervision.

#### Public Schools

House Bill 809 (Chapter 75-258) authorizes district school boards, county commissions, municipal boards and other agencies and boards of the State to spend public funds for maintenance and improvement of public school properties or facilities. Local variance from State law is prohibited in the levying of assessments for special benefits on school districts.

Committee Substitute for Senate Bill 340 (Chapter 75-130) requires each district school board to administer high school equivalency diploma examinations to candidates who are at least 16 years of age and to candidates with parental approval who are at least 14 years of age. Passage of the examination exempts a candidate from compulsory school attendance. The State Board of Education is required to prescribe performance standards and examinations for high school equivalency diplomas to be awarded by the Department.

House Bill 1521 (Chapter 75-306) allows district school

boards to authorize by policy a maximum of six paid legal holidays as a portion of the 196 days of service required of instructional personnel.

Committee Substitute for House Bill 470 (Chapter 75-282) amends present law by requiring that the mandated consumer education program in the public schools include a full explanation of the factors governing the free enterprise system and an orientation in other economic systems. It also renames the program the Free Enterprise and Consumer Education Program.

Senate Bill 589 (Chapter 75-244) requires that each school district develop a plan to provide a student services program which coordinates guidance services, psychological services, visiting teacher and school social work services, and occupational and placement services. The Department of Education is required to review district student services programs and make recommendations. The State Board of Education is authorized to adopt regulations to carry out the intent of the legislation. These regulations are to identify alternative student services personnel who do not meet traditional graduate school requirements but who may be used by the district boards to provide recommended guidance services.

Senate Bill 100 (Chapter 75-69) directs the Department of Education to establish two new regional diagnostic and resource centers for exceptional students, to be located in Brevard and Okaloosa Counties.

#### Private Post-Secondary Schools

Senate Bill 250 (Chapter 75-32) exempts any school or business approved, certified or regulated by the Federal

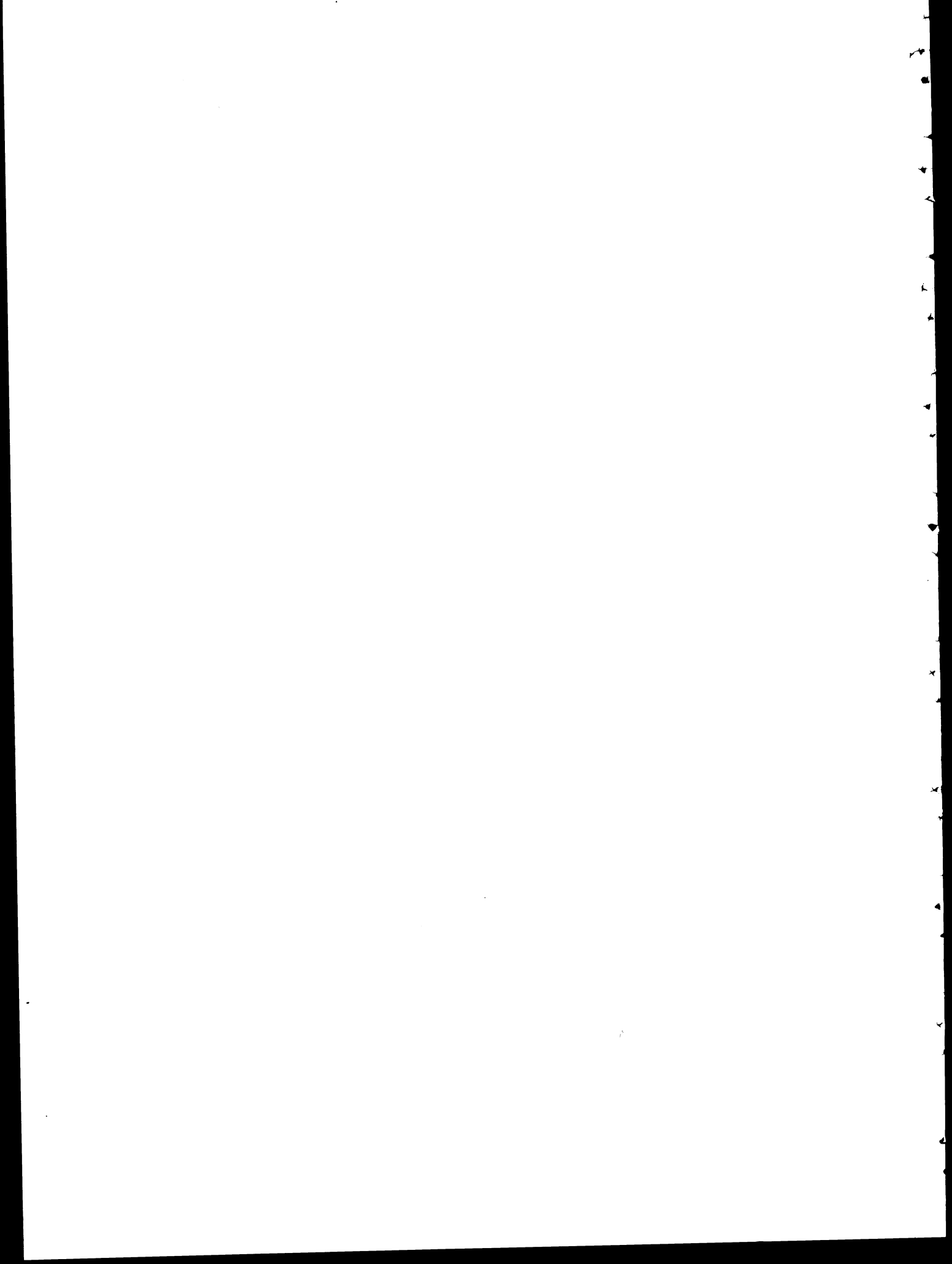


Aviation Administration from regulation by the State Board of Independent Post-secondary Vocational, Technical, Trade and Business Schools.

The bill also provides authorization to the same State Board to utilize State appropriations to carry out specified programs. The Board currently is supported by fees. Dale Carnegie programs are declared to be in compliance with the accreditation requirements. Schools licensed by the Board are exempted from surety bond and insurance requirements.

#### Equivalency Programs for Foreign Professionals

The Department of Education is the agency designated to determine equivalency programs for licensing foreign professionals under provisions of Senate Bill 623 (Chapter 75-177) which is summarized in BUSINESS REGULATION AND COMMERCE.



ELECTIONS\*

Chief Election Officer

House Bill 163 (Chapter 75-98) establishes the Secretary of State as the chief election officer of the state and provides his responsibilities with respect thereto.

Elections and Electors

Committee Substitute for House Bill 173 (Chapter 75-246) provides that the second primary election is to be held on the fourth, rather than the third, Tuesday after the first primary election, during the period July 1, 1978 through December 31, 1982. All other provisions of the act become effective immediately upon its becoming a law.

By deleting language permitting designee membership, it also provides that the Presidential Candidate Selection Committee is to consist of the Secretary of State, the Speaker of the House, the President of the Senate, House and Senate minority leaders, and the chairmen of political parties required to have presidential preference primaries.

The time for filing a list of presidential candidate delegates with the Department of State may be provided by party rule. The number of delegates who are to be elected from congressional districts is increased from 66 2/3 percent to 75 percent, and the maximum number of delegates who may be elected by a state executive committee of the party is increased

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\* Prepared by House Bill Drafting Office

from 10 percent to 25 percent. Delegates are to be allocated among the candidates either by the present method -- the presidential candidate receiving the highest number of statewide votes receives all delegate votes -- or, when provided by party rule, on the basis of the proportion of the number of votes each candidate receives, as such number relates to the total number of votes cast for candidates of the same party at the district or state level. Under party rule delegates need not be allocated to candidates receiving less than 15 percent of the votes cast for candidates of the same party. If delegates of any party are to be allocated proportionately pursuant to party rule, the words "No Preference" are to appear on the ballot after the names of the candidates of such political party.

#### Qualifying Fees

Both House Bill 183 (Chapter 75-247) and Senate Bill 675 (Chapter 75-123) provide that a candidate's qualifying fee shall be returned to a designated beneficiary if such candidate dies prior to an election and has not withdrawn before the last date to qualify.

#### Free Newspaper Space

House Bill 399 (Chapter 75-2) repealed, as of May 9, 1975, Section 104.38, Florida Statutes, which required any newspaper that assailed or attacked any candidate to offer free space to such candidate for the purpose of replying to such accusation.

#### Political Contributions

House Bill 894 (Chapter 75-261) permits public employees

of a city or county, or of the state, to suggest to any other such employee in a noncoercive manner that he or she may voluntarily contribute to a fund administered by a party, committee, organization, agency, person, labor union, or other employee organization for political purposes. This provision operates as an exception to the provision which prohibits any such employee from coercing, attempting to coerce, commanding, or advising any other such officer or employee to make such a contribution.

House Bill 1072 (Chapter 75-139) provides that any political committee which deposits all contributions received in a national depository from which the political committee receives funds to contribute to state and local candidates shall not be required to designate a campaign depository in the state. Any such political committee may file with the Secretary of State a copy of the list of contributions required by the Federal Election Campaign Act of 1971 in lieu of similar reports required by state law. Any contribution not required to be reported under the federal act must, however, be reported in accordance with state law.

Committee Substitute for Senate Bill 105 (Chapter 75-8) provides that, beginning on the 40th day preceding election, regular reports of all contributions received and all expenditures made by or on behalf of candidates or political committees shall be filed by the campaign treasurer thereof: (1) not later than 5 p.m. on the Monday preceding the election in the case of candidates who are unopposed; (2) not later than 5 p.m. on Monday

of each week preceding the election for candidates who are opposed for statewide office or for political committees supporting such candidates or issues to be decided on a statewide basis; or (3) not later than 5 p.m. on the first and third Mondays, and on the Monday immediately preceding the election, for candidates who are opposed for less than statewide office, for political committees supporting or opposing such candidates or issues to be decided on less than a statewide basis, or for committees of continuous existence. Reports postmarked no later than midnight of the preceding Friday will be considered timely filed.

On the 45th day after an election in which a candidate is eliminated, a report of all contributions received and expenditures made shall be filed. If such report shows an unexpended balance of contributions, the campaign treasurer shall file a supplemental statement of contributions and expenditures on the first Monday of each calendar quarter until the account shows no unexpended balance of contributions. The requirement for such reports may be waived in any reporting period during which a candidate, political committee, or committee of continuous existence has not received funds, made any contributions, or expended any reportable funds. Notice must be given that no report is being filed and the next report submitted must cover the entire period for which no report was submitted.

#### Voting Machines

House Bill 2284 (Chapter 75-60) grants authority to the

several boards of county commissioners to permit public agencies, private organizations, and others to use county-owned voting machines on a rental basis, upon such terms and conditions as each such board may determine.

Polling Places, Ballots, etc.

Senate Bill 513 (Chapter 75-174) provides that the supervisor of elections, or his deputy, is allowed in polling places. In addition, the requirement for publication of a sample ballot at least seven days prior to election is removed. Instead, such sample ballot need simply be published some time prior to the day of election. Similarly, the requirement is removed which provided that instruction of the members of the board of elections in those counties using voting machines must be given not more than 21 days prior to the date of election and, instead, such instruction must simply be given some time prior to the first primary and general election.

With regard to absentee ballots, the act provides that an application for an absentee ballot need not be made on a blank furnished by the supervisor of elections to be valid, and that one application is sufficient to receive absentee ballots for the following regular primaries and general election, provided the applicant desires such and so indicates. Further, such application may be made by telephone or written request, as long as the necessary information is submitted to adequately identify the elector making the request. Substantial changes are made in the form of the application blank, the elector's certificate, the instructions to absent electors enclosed with

each ballot, and canvassing procedures. Such changes are intended, basically, to conform language, procedures, and instructions to the intent of the act. Subsection (3) of Section 101.65, Florida Statutes, which prescribed persons before whom an absentee elector must execute an affidavit, is repealed.



INSURANCE\*

Medical Malpractice

House Bill 1267 (Chapter 75-9) represents a comprehensive effort of the 1975 Legislature to ease the medical malpractice problem. The act designated "The Medical Malpractice Reform Act of 1975," contains several features to meet the problem, the most important of which are:

1. The creation of a joint underwriting association plan, the limitation of liability of hospitals and certain medical personnel, and the creation of the Florida Patient's Compensation Fund to pay that portion of medical malpractice claims over \$100,000.

2. The requirement that all medical malpractice claims be filed with a medical liability mediation panel prior to being filed in any court.

3. The creation of a medical consent law which defines informed consent.

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\* Prepared by House Bill Drafting Office

4. The creation of the Florida Medical Liability Insurance Commission to develop a plan to ease the medical malpractice problem.

5. The authorization of groups or associations of health care facilities as well as physicians to self-insure against medical malpractice claims and deletes prior existence requirement.

6. The authorization of the Board of Medical Examiners to discipline physicians for certain additional reasons, including being found liable for medical malpractice, and the authorization of the medical staff of licensed hospitals to discipline physicians.

The details of these features are as follows:

1. The Department of Insurance, in conjunction with casualty insurers and medical malpractice self-insurers, is required to adopt a joint underwriting plan to last a maximum of three years which will provide professional liability or malpractice coverage to licensed hospitals, physicians, osteopaths, podiatrists, dentists, nurses, nursing homes, and professional associations of such persons. Such insurers and self-insurers are required to be members of the Temporary Joint Underwriting Association which is to operate subject to

the approval of a board of governors chaired by the Insurance Commissioner or his representative.

If there is any underwriting deficit at the end of any year the plan is in effect, each policyholder must pay the association a premium contingency assessment not to exceed one-third of the annual premium payment paid by such policyholder, and the companies participating in the plan must bear any deficit not met by such assessments.

No licensed hospital, physician, physician's assistant, osteopath, or podiatrist shall be liable for more than \$100,000 in any medical malpractice action if the person or hospital has posted bond, proved financial responsibility, or obtained insurance in the amount of \$100,000, and has paid his assessment fee to the "Florida Patient's Compensation Fund." The fund is created for the purpose of paying that portion of any medical malpractice claim that is in excess of \$100,000. The fund shall be administered by the Joint Underwriting Association even after the termination of the temporary joint underwriting plan. All licensed physicians, physician's assistants, osteopaths, and podiatrists must pay a \$1,000 deposit into the fund by July 1, 1975, for the first year and \$500 annually thereafter. Licensed hospitals must pay \$300 per bed each year. Additional fees shall be assessed, based upon certain risk and experience considerations, and all fees shall be set by the Insurance Commissioner after

consultation with the Association. The Commissioner may levy deficit assessments against all participants in the fund if necessary to satisfy claims, even if the person or hospital withdraws from participating in the fund. The fund must be maintained at not more than \$25,000,000.

Any person who files a medical malpractice claim and seeks to recover against the fund must name the fund as a defendant. The fund must defend itself if it believes the claimant may be awarded damages in excess of \$100,000. No settlement exceeding \$100,000 may be made without the approval of the Joint Underwriting Association.

2. The chief judge of each judicial circuit must prepare a list of persons to serve on medical liability mediation panels. Each panel will be composed of a circuit judge who shall be the judicial referee and head of the panel, an attorney, and a licensed physician. Any person or his representative claiming damages for alleged malpractice by any physician, hospital, or health maintenance organization, must submit his claim to a mediation panel before the claim may be filed in any court in the state. The parties must request the type of medical specialist to serve on the panel, and, in the event of disagreement, the judicial referee is to make the determination. A procedure is set forth by which the parties may select from lists of five each, the attorney and the physician who will serve on the panel. The parties may challenge any name appearing on either list.

Unless for good cause shown, a hearing on the claim by the panel must be held within 120 days of the filing of the claim. If no hearing on the merits is held within 10 months of the filing of the claim, the parties may proceed to the courts of the State. The filing of a claim with a panel tolls the applicable statute of limitations until the jurisdiction of the panel terminates. At the conclusion of the hearings the panel must find for the plaintiff or defendant, and if the panel finds the defendant liable, it may continue mediation for the purpose of assisting the parties in reaching a settlement. The panel may not determine any punitive damages.

Either party may reject the finding of the panel as to liability and proceed in court where such finding is admissible. However, no finding of damages is admissible in court, nor is any finding of fact by the panel, or any mention of insurance, or the joinder in the suit of an insurer or co-defendant.

No provision in the act relating to mediation panels is applicable to any formal suit instituted prior to July 1, 1975.

The statute of limitations for medical malpractice actions is changed to a period of two years from the date the incident occurred which gave rise to the action, or from the date the cause of the action was or should have been discovered.

In no case, however, may the period be more than four years. An exception is made to this limitation only in the event that fraud, concealment, or intentional misrepresentation of fact prevented discovery within the four-year period, in which case the statute of limitations is extended for 7 years from date of injury.

The complaint for any action brought in circuit court, after the effective date of the act for personal injury or wrongful death may not include the amount of general damages, but special damages may be specifically pled together with the requisite jurisdictional amount.

No action may be brought to charge any health care provider upon any guarantee or assurance as to the results of any medical procedure performed by a licensed physician, osteopath, chiropractor, podiatrist, or dentist unless the provider agreed in writing to be so charged.

3. The act also includes the "Florida Medical Consent Law" which covers any medical treatment activity not covered by the "Good Samaritan Act" (Section 768.13, Florida Statutes). The new consent law provides that no action based on the absence of informed consent shall be brought against a licensed physician, osteopath, chiropractor, podiatrist, or dentist for treatment, examination, or operation on a patient, if:

(a) The consent given was in accordance with accepted medical standards;

(b) A reasonable person would have a general understanding of the procedure and its alternatives and risks from the information provided the patient; or

(c) The patient would reasonably have undergone the treatment or procedure if he had been advised in accordance with (a) and (b).

The presumption that a written consent is a valid informed consent may be rebutted by evidence of fraudulent misrepresentation of a material fact. A person who signs the consent must be physically and mentally competent to consent.

4. The act creates the Florida Medical Liability Insurance Commission whose membership includes the Insurance Commissioner who shall serve as chairman, and the Secretary of the Department of Health and Rehabilitative Services. In addition, the Governor, President of the Senate, and Speaker of the House of Representatives shall each appoint four members to the commission who shall represent the legal profession, health services, the lay public, and the insurance industry.

The Commission is required to submit to the Governor and the Legislature, by January 1, 1976, a report with recommendations of a medical liability insurance system. The recommendations are to include a plan by which the system may be underwritten by private insurers, if possible; or, in the alternative, by the creation of a viable market

for medical liability insurance; or by self-insurance. The recommendations are also to include ways to reduce medical injuries, lower the cost of malpractice claims, and limit the time period in which claims may be brought.

Every licensed hospital having in excess of 300 beds is required to establish an internal risk management program which includes the investigation and analysis of incidents causing injuries to patients, the development of measures to reduce the risk of injuries to patients, and the analysis of patient grievances.

5. Groups or associations of physicians are authorized to self-insure against medical malpractice claims, without the former restrictions which prohibited their organization for purposes of the purchase of medical malpractice insurance and which required the existence of the organization for 2 years. Health care facilities, composed of any number of members, are authorized to self-insure against such claims subject to the same conditions which apply to groups or associations of physicians.

6. The Board of Medical Examiners is authorized to deny an application for licensure or to discipline a licensed physician for incompetence, negligence, or willful misconduct. Unprofessional conduct is limited to a departure from or failure to conform to standards of acceptable medical practice in the physician's area of expertise when committed in the



course of his practice. The Board is further authorized to take such action if the physician is found liable for medical malpractice, or if the applicant or physician is disciplined by his peers in any medical body or by a licensed hospital or the medical staff of the hospital. Any body which disciplines a physician must report it to the board within 30 days or be subject to a fine of up to \$500.

The board is authorized to appoint physicians to investigate the conduct or competence of a physician. The types of discipline which the board is authorized to impose are expanded to include license restrictions and suspensions for less than five years, indefinite revocations, and required participation in educational and practice programs. The board is required annually to report to the Legislature its disciplinary actions.

The medical staff of any licensed hospital may discipline any staff member for good cause which includes incompetence, negligence, habitual use of drugs, and being found liable for medical malpractice. The hospital or its staff is exempt from liability for any disciplinary action taken without malice.

#### General Insurance

Senate Bill 664 (Chapter 75-279) prohibits any life or disability insurer from refusing to renew, sell, or issue a life or disability insurance policy solely on the grounds that

the applicant or policyholder suffers from a severe disability. The insurer is also prohibited from charging a discriminatory or unfair premium or rate solely on such grounds. The term "severe disability" is defined to include injuries resulting in permanent or total disability, spinal cord diseases, and certain permanent visual disabilities.

No insurer may cancel or terminate an insurance contract or require the execution of a consent to rate endorsement during the term of the contract for the purpose of issuing a similar or identical contract at an increased premium.

Changes were also made in the insurance risk apportionment plan for insurers that issue windstorm coverage. The liability of such insurers will be based upon a ratio of each insurer's Florida direct written property insurance premiums for the preceding year to the insurer's total countrywide direct written premiums for all lines of insurance. Presently the formula is not limited to property lines of insurance.

The act also deals with the replacement or termination of group, blanket, or franchise disability insurance. Upon replacement or termination of such a disability insurance policy or contract, the prior insurer will remain liable only to the extent of its accrued liability and extensions of benefits. This replaces provisions which required the succeeding insurer to assume coverage of all certificate holders covered under the insurance contract being replaced.

The extent of liability of the succeeding insurer is provided. Each person who is eligible for coverage by the succeeding insurer must be covered under the insurer's plan of benefits. For those not eligible, the succeeding insurer must provide its minimum level of benefits less any benefits payable by the prior plan until the ineligible person either becomes eligible or until the prior coverage expires, whichever occurs first. Separate provision is made for ineligible persons who were totally disabled immediately prior to the date the succeeding insurer's coverage became effective. To be covered by the succeeding insurer, the ineligible person must have been validly covered by the prior plan and must be a member of a class eligible for coverage under the new plan. Provision is made for a determination of the level of benefits under the succeeding insurer's plan if the plan contains a preexisting conditions clause.

Every group, blanket, or franchise policy delivered or whose benefits are changed after October 1, 1975, must provide reasonable provision for the extension of benefits in the event of total disability at the date of discontinuance of the policy even if the group policyholder secures replacement coverage from a new insurer or foregoes the coverage. Reasonable provision for extension of coverage includes extension of at least 12 months of major medical and comprehensive medical coverage. Discontinuance of a policy while a policyholder is

confined in a hospital will not affect benefits payable during the confinement.

House Bill 27 (Chapter 75-10) includes licensed Health Maintenance Organizations within the list of special groups which are eligible to purchase blanket disability insurance for their individual members.

CS/House Bill 1504 (Chapter 75-141) permits a group life insurance policy which covers members of an association to contain a provision requiring evidence of insurability of individual members if part of the premium is paid from funds contributed by the members specifically for their insurance. The measure removes, however, provisions which previously allowed such a policy to exempt from its coverage any member whose individual insurability was not satisfactory if no part of the premium was derived from individual members specifically for their insurance.

Senate Bill 356 (Chapter 75-186) provides that the earnings from the investment of all premium dollars collected under the state officers and employees group insurance program shall be deposited in a trust fund designated in the State Treasury instead of in the General Revenue Fund, unallocated. Such earnings are to be used for increased benefits or reduced premiums for the participants. Any refunds paid the state by the insurance carrier from its premium reserves must also be paid into the trust fund.

Senate Bill 657 (Chapter 75-58) requires insurers who issue single premium credit life insurance policies to maintain reserves in an amount equal to at least the value of the risk as computed on the basis of 130 percent of the Commissioner's 1958 Standard Ordinary Mortality Table and 3.5 percent interest.

Senate Bill 1029 (Chapter 75-235) includes the Commissioner's 1958 Standard Ordinary Mortality Table and 1961 Standard Industrial Table within the list of tables which may be used to compute reserves for purposes of the valuation of fraternal benefit society insurance certificates. Any fraternal benefit society may value its certificate by any valuation standard authorized by the laws of this state for the valuation of policies issued by life insurance companies.

#### Unemployment and Workmen's Compensation

House Bill 1286 (Chapter 75-39) excludes from unemployment compensation coverage the service performed by any person on a federal, state, or local unemployment work relief project, or the service performed by any person employed under contract for a definite length of time by any municipality or county provided the person completes his contractual period of employment. The term "contract" is defined to include an appointment by a school board or other employer to a position of employment, the record of which is spread upon the minutes record of the employer and notice

of which is given to the employee in writing.

No employee, with written notice of contract for the ensuing year with any public school, community college, or specialized educational institution within the state public education system, shall be entitled to unemployment compensation during the period between two successive academic or school years, or between two regular terms (whether or not successive), or during any period of paid sabbatical leave provided for in the employment contract. Employees designated as "temporary" or "substitute" are not entitled to such benefits; and no benefits shall be paid to any individual for unemployment during any vacation period beginning and ending during an academic year, provided the vacation period is regularly scheduled and announced by the employer prior to or at the beginning of the academic year.

The second act relating to unemployment compensation is Senate Bill 554 (Chapter 75-121) which increases an individual's maximum weekly benefit amount from \$74 to \$82, effective July 1, 1975. The penalty for any person who knowingly makes a false statement or knowingly fails to disclose a material fact in order to obtain an increase in unemployment compensation benefits is increased from a misdemeanor of the first degree to a felony of the third degree.

The subject of workmen's compensation was addressed by the provisions of House Bill 2071 (Chapter 75-209) which

revises and amends the Florida Workmen's Compensation Law (Chapter 440, Florida Statutes) to clarify the proper responsibilities of the Judges of Industrial Claims, the Industrial Relations Commission, the Division of Labor of the Department of Commerce and the Bureau of Workmen's Compensation under said Division, with regard to various aspects of administration of the law, and to bring Chapter 440 into conformance with how these responsibilities are actually being assumed by these various entities. Included among the many changes effected by this act are provisions which remove the requirement for a Judge of Industrial Claims for each judicial circuit; making provision for review of the conduct of such judges by the Judicial Nominating Commission in the principal appellate district of said judge before confirming reappointment; and provisions for travel expenses for such judges and employees of the Industrial Relations Commission.

A change of coverage in workmen's compensation claims is brought about by providing that no compensation is payable if the injury was occasioned by influence of narcotic drugs, barbituates, or other stimulants not prescribed by a licensed physician. The Division of Labor is directed to make a continuous project of its study of occupational diseases and the ways and means for their control and prevention, and comparative negligence as a defense in certain cases is disallowed.

A new section is created consolidating the requirements and procedures for notice of injury or death, and penalties for violation of same.

Senate Bill 1249 (Chapter 75-237) summarized in the Article on BUSINESS REGULATION AND COMMERCE, exempts the Industrial Relations Commission from supervision or control by the Department of Commerce in any matters relating to unemployment or workmen's compensation; and provides for the appointment of associate commissioners, outlines their duties and provides for their compensation.

#### Fire Insurance

Two measures were enacted relating to fire insurance, the most important of which was Senate Bill 551 (Chapter 75-240). The act exempts licensed plumbing contractors from being required to be certified by the State Fire Marshal in order to install standpipe systems and items related thereto such as fire hydrants. The previous exemption from licensure and permits provided persons engaged in servicing and inspecting water sprinkler and spray systems and foam sprinkler and spray systems is removed.

Requirements for the installation of fire protective equipment are provided including provisions that contractors of fire safety and fire protective equipment required by the State Fire Marshal must be licensed by the State Fire Marshal. The equipment must be approved and installed in accordance with national standards.



The Florida Fire Safety Board is created to act in an advisory capacity to the State Fire Marshal, particularly in the adoption of rules to carry out the provisions of the act.

The requirements for certification as a contractor of fire prevention equipment are provided including payment of a \$150 fee, passage of an examination, and the submission of satisfactory evidence that the applicant has obtained public liability and property damage insurance or is a self-insurer. A certificate holder need only show his current certificate and pay necessary fees in order to be entitled to obtain a local occupational license or building permit. Certificates may be issued either to individuals or businesses but at least one member of the business must be himself certified. Procedures are provided by which the business may retain its certificate if such member leaves the business. Certificates must be renewed annually during the month of June for a fee of \$75. Any person who engages in the business of a contractor of fire prevention equipment without a certificate is guilty of a misdemeanor of the second degree. Persons presently engaged in such business must register with the State Fire Marshal by July 1, 1976, and pay a \$75 registration fee and \$50 annual renewal fee. The State Fire Marshal may investigate illegal action by contractors and take disciplinary action.

The act is not intended to limit local power to regulate the quality and character of work to be performed

by contractors.

House Bill 2082 (Chapter 75-303) exempts applicants for licensure as industrial fire insurance agents from the 1-year residency requirement for insurance agents if they are bona fide residents of the state.

#### Automobile Insurance

House Bill 1824 (Chapter 75-218) requires any automobile liability or physical damage policy to contain a summary of its major coverages, conditions, exclusions, and limitations on the front page of the policy. Such summary shall state that the issued policy should be referred to for the actual contractual governing provisions. An insurance company may provide a readable policy in lieu of the summary. This act does not become effective until January 1, 1977.

LAW ENFORCEMENT\*  
AND  
CRIMINAL JUSTICE

The intensive updating and revision of the Criminal Code, which began in 1971 with the adoption of a uniform classification for penalties, appears to have been completed in 1975 with the 1974 and 1975 acts becoming effective October 1, 1975. Other major changes in the criminal laws involve prescribing minimum sentences for habitual offenders and those convicted of specified vicious crimes; and the enactment of numerous amendments to sections of the Florida Criminal Code relating to crimes.

CRIMINAL JUSTICE - PERSONNEL AND DUTIES

Law Enforcement and Correctional Officers

The membership of the Correctional Standards Council was increased by House Bill 1744 (Chapter 75-271) from nine to eleven members. The two new members are to be sheriffs appointed by the Governor.

A chief of police is excepted by House Bill 686 (Chapter 75-41) from the definition of "law enforcement officer" in the act specifying the rights of law enforcement officers under disciplinary investigations.

House Bill 210 (Chapter 75-64) removes the prohibition against the use of deadly force by a law enforcement officer, or a person directed to assist him, when he reasonably believes

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\* Prepared by Senate Legislative Services

it necessary to defend himself or another from bodily harm while making an arrest or when necessarily committed in retaking escaped felons or in arresting felons fleeing from justice.

Committee Substitute for House Bills 868, 1027 and 1159 (Chapter 75-100) authorizes Boards of County Commissioners to accept a blanket surety bond in the sum of \$1,000, payable to the Governor and conditioned upon the faithful performance of the duties of deputy sheriffs appointed by the sheriff. If accepted, the cost will be borne by the sheriff's office and individual bonds will no longer be required.

#### State Attorneys

House Bill 85 (Chapter 75-193) provides that any exchange or assignment of a state attorney to another circuit, or for a specified matter, expires six months from the date of issuance of the executive order, unless upon application of the Governor showing good and sufficient cause, the Supreme Court by order extends the exchange or assignment. If the Governor so provides in his executive order for exchange, assignment or the giving of assistance to a state attorney, the executive order, or any portion designated, together with the application, the Supreme Court order and all proceedings shall be confidential and exempt from the inspection provisions of the public records law. However, the Governor is required to report annually to the President of the Senate and the Speaker of the House of Representatives all assignments

or exchanges and the reasons therefor, but he may also designate all or portions of the report as confidential.

#### Parole and Probation Commission

When a vacancy occurs on the Parole and Probation Commission, House Bill 2034 (Chapter 75-207) provides that it is the Parole and Probation Commission Qualifications Committee, rather than the Governor and Cabinet, which will advertise, receive applications and devise a plan for evaluating the qualifications of the applicants, including their character, habits and philosophy. However, the Governor and Cabinet have the discretion to fill a vacancy created by the expiration of a member's term by reappointment of the incumbent member.

House Bill 1806 (Chapter 75-301) limits the Parole and Probation Commission's supervision of pretrial intervention programs to those persons charged with a crime in the circuit court. The Commission's duties of making a presentence investigation report, and of making an investigation, recommendation or report on the issue of probation or bail are limited to criminal cases in the Circuit Court. The Commission is required to cooperate with the Circuit Courts by supervising probationers and prisoners upon whom the pronouncing of sentence has been deferred. County Court Judges are authorized to levy a \$10 per month charge upon prisoners participating in the work-release program, and the Board of County Commissioners may pay the Parole and Probation Commission for performing supervision duties under the program from funds so collected instead of the county's Fine and Forfeiture Fund.

Committee Substitute for Senate Bill 169 (Chapter 75-49), summarized in the Article on STATE GOVERNMENT, transferred certain powers, duties and functions relating to the field staff and other services and resources of the Parole and Probation Commission, not necessary for the immediate support of the Commissioners, to the newly created Department of Offender Rehabilitation.

#### Minimum Sentence

Senate Bill 55 (Chapter 75-7) provides that a person who is convicted of murder, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, breaking and entering with intent to commit a felony, aircraft piracy, or any attempt to commit one of the aforementioned crimes, and who had in his possession a firearm or destructive device shall be sentenced to a minimum term of imprisonment of three years. In such cases adjudication of guilt or imposition of sentence shall not be suspended, deferred or withheld, nor shall the defendant be eligible for parole prior to serving the minimum sentence.

[These same provisions are also included in the amendments to the Florida Criminal Code effected by passage of House Bill 1289 (Chapter 75-298) which is summarized in the Section on "Criminal Code Revision" in this Article.]

#### Sentencing Habitual Offenders

The two sections in the Florida Statutes relating to "subsequent offenders" has by Senate Bill 505 (Chapter 75-116) been combined into one section. Subsequent offenders are redesignated as "habitual felony offenders" and "habitual misdemeanants." The criteria for imposing an extended term of imprisonment is retained with one exception: an habitual felony offender must

either have previously been convicted of a felony, or twice convicted of a first degree misdemeanor or another qualified offense for which he was convicted after his 18th birthday. The major change is to provide the procedure for a separate proceeding for determining if it is necessary for the protection of the public to sentence the defendant to an extended term. The court is required to obtain and consider a presentence investigation for both classes of habitual offenders; to give timely written notice to the defendant and his attorney; to have all evidence, except the presentence investigation, presented in open court with full right of confrontation, cross-examination and representation by counsel; to make its findings for such sentence upon a preponderance of the evidence, which findings shall be appealable to the extent normally applicable to similar findings; and to fingerprint the defendant.

#### Judgment

House Bill 121 (Chapter 75-23) requires that every judgment of guilty or not guilty of a felony shall be in writing, signed by the judge and recorded by the clerk. All judgments of guilty of a felony shall have affixed thereto in open court the fingerprints of the defendant and a certificate of the court. Such judgment or a certified copy is admissible in evidence as prima facie proof that the fingerprints are those of the defendant against whom the judgment was rendered.

#### Criminal Code Revision

House Bill 1288 (Chapter 75-24) changes the effective

date of Chapter 74-383, Laws of Florida, the Florida Criminal Code to October 1, 1975, the same effective date as House Bill 1289 (Chapter 75-298), the 1975 act which amends the Florida Criminal Code. The latter act amends numerous sections relating to crimes to designate the specific statutory sections prescribing the punishment which may be imposed upon conviction and thus deleting the general reference to Chapter 775, Florida Statutes, which reference precluded the court from imposing a fine in lieu of imprisonment. The direction given in Section 64 of Chapter 74-383, Laws of Florida, to convert all such section references to a chapter reference is repealed. The authority of the court to sentence under the subsequent felony offenders statute was changed from permissive to mandatory if the court finds the existence of all required criteria. The crime of aggravated battery was amended to include the carrying of a weapon or firearm during the commission of the felony; and a minimum sentence of three years imprisonment is imposed for conviction of certain felonies involving the use of a firearm or destructive device. Involuntary sexual battery was substituted for the obsolete references to rape and sodomy in the definition of "forcible felony" and in the proscription of murder of all three degrees. The larceny section was amended to make the stealing of a fire extinguisher, without regard to value, grand larceny and the receiving of a stolen fire extinguisher a felony of the third degree. The crime of unlawful compensation for official behavior was amended to cover the giving or offering to a public servant or the



soliciting or accepting by a public servant of unlawful benefits for present or future exertion of influence upon another public servant, or for present or future performance, nonperformance or violation of any act within the official discretion of the public servant.

Ten sections of the Florida Statutes which prescribe public nuisances (and which were repealed in 1974 by Chapter 74-383, Laws of Florida) are reenacted. Included are those nuisances which involve annoying the community or injuring the health of citizens, the building of bonfires, failure to have doors that do not open outward on public buildings, maintaining places for illegal use or storage of controlled substances, and unlawful abandonment of refrigerators or other airtight units. Also reenacted was the crime of unlawfully exposing poison.

The crime of tampering with witnesses was broadened to include inducing a witness to testify falsely or to withhold information knowing that a criminal trial, and official proceeding or investigation by a duly constituted prosecuting authority, law enforcement agency, grand jury, legislative committee or the Judicial Qualifications Commission, is pending or about to be instituted.

The use of deadly force is justifiable when a person is resisting any attempt to murder him, or to commit a felony upon him, or upon or in a dwelling house in which such person shall be. Section 776.021, Florida Statutes, 1974 Supplement,

relating to the use of force in defense of a dwelling, is repealed.

The section relating to the crime of bookmaking is amended to increase the classification to a third degree felony for persons engaging in bookmaking in any one day to the extent of accepting more than five bets, receiving bets of more than \$500 or engaging in a common bookmaking scheme with three or more persons. Subsequent offenses are second degree felonies.

#### OTHER CRIMES

##### Worthless Checks

Senate Bill 1030 (Chapter 75-189) provides that in a prosecution for a worthless check, the making or delivery of a check, payment of which is refused by the drawee for insufficient funds, shall be prima facie evidence of intent to defraud unless the maker or drawer (or someone for him) shall have paid the holder the amount of the check together with a service charge not to exceed \$5 or 5 percent of the face amount of the check, whichever is greater, within 20 days after receiving written notice that the check has not been paid. The form and manner of giving the notice is prescribed, and immunity from civil liability is granted to the holder for the giving of the notice. When a check is drawn on a bank in which the maker has no account, it is presumed that the check was issued with intent to defraud and the notice requirement is waived. To establish prima facie evidence of

the identity of the party issuing the check and that such person was a party authorized to draw upon the named account, the party accepting the check shall witness and initial the signature or endorsement of the party presenting same and shall record upon the check certain specified identifying information, or may record the number of a check cashing identification card issued by the accepting party if the identifying information has been placed on file.

#### Retail Theft

The shoplifting law was amended by House Bill 960 (Chapter 75-144) to designate the group of crimes as "retail theft." It adds a new crime which provides that an individual who resists the reasonable effort of a peace officer, merchant or a merchant's employee to recover merchandise for which he had probable cause to believe the individual had concealed or removed from its place of display, is guilty of a first degree misdemeanor if the individual is subsequently found guilty of larceny of such merchandise, unless such person did not know or have reason to know that the person seeking to recover the merchandise was a peace officer, merchant or merchant's employee.

#### Children

Senate Bill 380 (Chapter 75-135) authorizes the court upon adjudicating a child to be delinquent, to order, as part of a total treatment plan, the child to make restitution for the damage caused by his offense in a reasonable amount or

manner. The Division of Youth Services counselor will implement the plan and the clerk of the circuit court may be the receiving and dispensing agent.

Senate Bill 66 (Chapter 75-13) deletes from excusable homicide the specific reference to a homicide committed by accident and misfortune in lawfully correcting a child or servant.

#### Cruelty to Children and Animals

The authority of an agent, who has been appointed by a society or association for the prevention of cruelty to children or animals, to make arrests and to prosecute any person guilty of an act of cruelty was deleted by Committee Substitute for House Bill 228 (Chapter 75-223), and the authority of such agents was limited to the making of investigations of violations. However, such an agent, as well as a law enforcement officer, may take into custody a neglected or cruelly treated animal and petition the County Court Judge for a hearing to determine if the owner is able to provide for the animal and is fit to have custody. The officer or agent is required to give notice to the owner and to provide for the animal until the hearing. If the Court finds the owner unable or unfit to provide for the animal, it may order the animal sold at public auction, grant custody to a person or agent, or order the animal destroyed. Proceeds from the sale are to be applied first to the cost of the sale, secondly to the cost of interim care for the animal, and finally the balance paid to the owner, if known, otherwise to the court.

LOCAL GOVERNMENT\*

The 1975 Florida Legislature passed three general laws of considerable importance relating to local government, summarized below: The Local Government Comprehensive Planning Act of 1975; the New Communities Act of 1975; and an act setting forth new municipal annexation procedures. Other general laws relating to local government are also summarized.

House Bill 782 (Chapter 75-257), known as the "Local Government Comprehensive Planning Act of 1975," mandates units of local government to adopt a comprehensive plan. The purpose of this act is to utilize and strengthen the existing role, processes and powers of local governments in Florida in the establishment and implementation of comprehensive planning programs to guide and control future development. It is the intent of the act to encourage and assure cooperation between and among municipalities and counties and to encourage and assure coordination of planning and development activities of units of local government with the planning activities of regional agencies and state government. All public and private development must conform with comprehensive plans. On or before July 1, 1979, each county, each

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\* Prepared by Senate Legislative Services

municipality and the Reedy Creek Improvement District (Walt Disney World) are required to prepare and adopt a comprehensive plan. The act provides detailed procedures for the preparation and adoption of such a plan. Local governing bodies are required to designate and establish a local planning agency. Required and optional elements of a comprehensive plan are enumerated. The planning program is to be a continuous and ongoing process.

Also passed was Committee Substitute for Committee Substitute for House Bill 1780 (Chapter 75-204), known as the "New Communities Act of 1975". The intent of the Legislature in passing this act is to provide local general purpose government with the first opportunity to provide governmental services and to promote private initiative and voluntary participation in planned urbanization by authorizing new community districts in those areas of the state and for those services where local general purpose government has determined it presently cannot directly respond. With certain exceptions enumerated, the act constitutes the sole authorization for the future establishment of independent special districts having the power to provide the capital improvements for sewer, road, water management and supply, solid waste and erosion control systems and community facilities for development of lands. This act does not affect the existence or authority of special districts existing on October 1, 1975, unless such

districts are included by procedures prescribed in the act. Detailed procedures are set forth for the establishment of such a new community district. The governing body of a district is called a board of supervisors. Powers and duties of a district board and of a new community district are set forth in the act. A district has special assessment and taxation powers and may borrow money, contract loans and issue bonds to finance the undertaking of any capital or other project. The act also prohibits special laws pertaining to the future creation of independent special districts for any of the purposes set forth in the act.

Under the provisions of Committee Substitute for Senate Bill 230 (Chapter 75-16), summarized in the following Article on MOTOR VEHICLES AND TRANSPORTATION, local governments are mandated to adopt airport zoning regulations which control the height of structures in airport hazard areas. Such regulations must be adopted by October 1, 1977, and any variance must be approved by the Department of Transportation.

Concerning municipal annexation, Committee Substitute for House Bill 1231 (Chapter 75-297) provides a new definition of "contiguous" territory and replaces present annexation procedures with new procedures. The detailed annexation procedures require a separate vote of the "registered electors" of the annexing municipality and of the area proposed to be annexed. The act establishes certain requirements concerning the referendum on annexation. An improved parcel of land must be annexed in its entirety and as a whole; except when such annexation has been effected under municipal law prior to the effective date of this act, or provided the owner of such property has waived the

requirements of this act and does not desire all of his tract or parcel included in said annexation. The annexation procedure as set forth in this act constitutes a uniform procedure and repeals all existing provisions of special laws which establish municipal annexation procedures with certain exceptions. A method of voluntary annexation is also provided for in this act. Voluntary annexation resulting in the creation of enclaves (areas completely surrounded by foreign territory) is prohibited. By specifically repealing Section 171.04, Florida Statutes, 1974 Supplement, this act negates the effect of House Bill 2182 (Chapter 75-277) relating to the exemption of certain counties from the statutory requirements for the extension of territorial limits.

House Bill 1007 (Chapter 75-93) requires the Department of Administration to produce population estimates of local governments as of July 1 of each year, which estimates shall apply to any revenue-sharing formula with local governments under the provisions of the "Florida Revenue Sharing Act of 1972" (Sections 218.20 - 218.26, Florida Statutes). For municipal annexations or consolidations occurring for the period July 1 through May 31, the Department of Administration is to determine the population count of the annexed areas as of July 1 and include such in its certification to the Department of Revenue for the annual revenue sharing calculation.

Committee Substitute for House Bill 1201 (Chapter 75-126) relates to pollution control by local government. This act facilitates the financing of capital projects for industrial or manufacturing plants and pollution control facilities within the state and facilitates and encourages the planning and development



of these capital projects without regard to the boundaries between counties, municipalities, special districts and other local governmental bodies or agencies through the authorization of the issuance of revenue bonds. The word "project" is redefined to include any pollution control facility. A county is empowered and authorized to issue revenue bonds for the purpose of financing and providing funds to pay the cost of pollution control facilities or devices; or to provide facilities for the furnishing of water or sewerage or solid waste disposal.

Under the provisions of Senate Bill 746 (Chapter 75-137), summarized in the Article on MOTOR VEHICLES AND TRANSPORTATION, the political subdivision having jurisdiction over each bridge is responsible for its periodic inspection and for the forwarding of its reports to the Department of Transportation on a format designed by the Department. Data on newly completed structures, or any modification of existing structures which would change previously recorded information, must be reported within 90 days. The act requires the use of qualified bridge inspectors.

Senate Bill 388 (Chapter 75-56) requires a state officer or agency to levy a \$5 service fee for any check, draft or other order for the payment of money dishonored by a payor and stipulates that such fee be retained by any county or municipal officer or agency collecting on behalf of the state.

According to Senate Bill 237 (Chapter 75-110), a tax collector or other county officer may invest funds, which are surplus to the current needs of his office or awaiting distribution to another state or local officer, in bonds, notes or other obligations of the United States or those guaranteed by the

United States or for which the credit of the United States is pledged for the payment of the principal and interest or dividends. The earnings from such investments are to be reasonably apportioned and allocated to the appropriate office.

Senate Bill 19 (Chapter 75-26) reenacts a section of the Florida statutes to provide a form for deeds of conveyance of land, the title to which is held by any county or in the name of its board of county commissioners. Such deed of conveyance is not required to be witnessed or acknowledged. The act validates, ratifies and confirms conveyances executed after May 5, 1971, and before October 1, 1975, and the recording thereof.

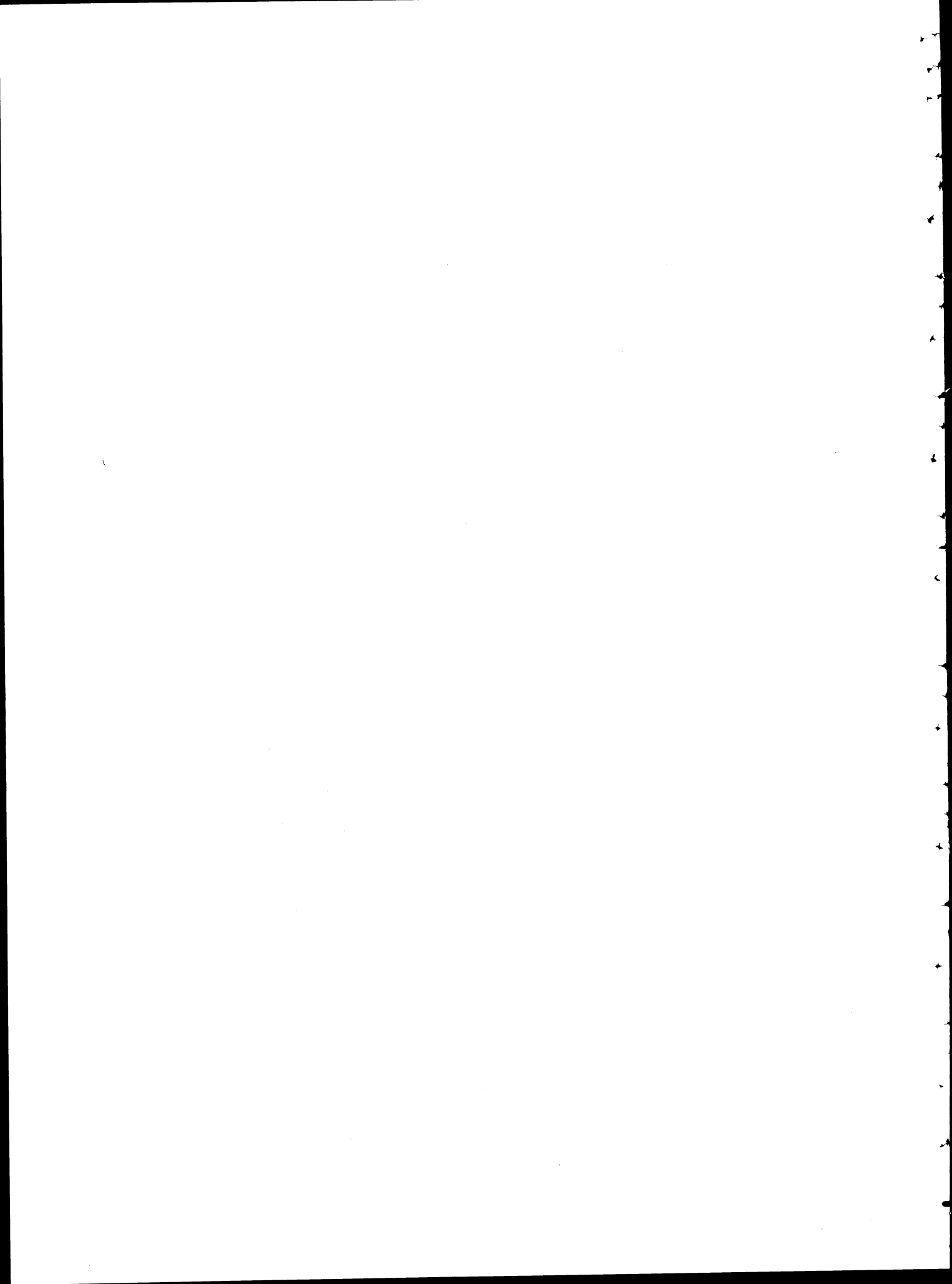
Senate Bill 561 (Chapter 75-122) empowers all agencies, other than state agencies, and district school boards and district boards of trustees of a community college, to have a performance audit or postaudit of their accounts and records by an independent certified public accountant retained by them and paid from their public funds.

Three general acts relate to historic preservation boards. Senate Bill 804 (Chapter 75-188) creates the Historic Tampa/Hillsborough County Preservation Board of Trustees. The act provides for appointment of a nine-member board by the Governor subject to Senate confirmation. The Board is empowered to draft an historical plan of development for Hillsborough County and is authorized to recommend to the governing bodies of the County and the Cities of Tampa, Temple Terrace and Plant City the creation of historical districts. Other historic preservation powers of the Board are enumerated in the act as are powers of the governing bodies of Tampa, Temple Terrace and Plant City. Such municipal

governing bodies are also authorized to name an architectural review board whose membership, terms, powers and expenditures are provided for in the act. The Ybor City Historic District is created with the City of Tampa and the Barrio Latino Commission is re-created to serve as the architectural review board for such district. Prior special acts relating to the Barrio Latino Commission and its duties are repealed. House Bill 819 (Chapter 75-90) amends the general law relating to the Historic Boca Raton Preservation Board of Commissioners to change the manner of appointment and terms of office of board members. Senate Bill 1134 (Chapter 75-236) appropriates \$15,000 from the General Revenue Fund to the Historic St. Augustine Preservation Board of Trustees to be used for the annual Cross and Sword Pageant in fiscal year 1975-1976.

The time period for filing a petition with the board of county commissioners as a candidate for the office of member of the board of commissioners of a mosquito control district was changed by House Bill 659 (Chapter 75-255) from not less than 10 days before the election to not less than 45 days before the election.

Senate Bill 577 (Chapter 75-176) provides that a clerk of a court or comptroller who accepts a check which is returned as uncollectable by the bank is personally liable unless, after due diligence to collect the same, he forwards the returned check to the state attorney of the circuit where the check was drawn for prosecution.



MOTOR VEHICLES AND TRANSPORTATION\*

The 1975 session of the Florida Legislature enacted two measures which affect every motorist in this state. Senate Bill 49 (Chapter 75-66) institutes an alphanumeric system for motor vehicle license plate designation and provides for the issuance of such plates every four years beginning July 1, 1977. The two year driver license is phased out by the passage of Senate Bill 124 (Chapter 75-228). In addition to several amendments to the Uniform Traffic Control Law, the Legislature mandated the enactment of airport zoning regulations by local jurisdictions to conform with federal obstruction standards for structures in airport hazard areas.

MOTOR VEHICLES

License Tags

The 1975 Legislature passed perhaps the most significant and far reaching revision of the license plate law in many years culminating three years of research. Senate Bill 49 (Chapter 75-66) establishes probably the most progressive law on motor vehicle license plates in the nation: It extends the life of the current three-year plate by up to 11 months; provides that four-year plates be issued thereafter; replaces the county identification number with the county name sticker on the plate; provides for the alphanumeric system of license plate identification; requires applicants

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\* Prepared by the House Committee on Transportation

to renew their registration on or 30 days prior to their birthday beginning July 1976, instead of the current registration period of July 1 to August 20 of each year; provides that prior to the alphanumeric plates being issued in July 1977, certain of the current plates may be transferred from one vehicle to another without the plate being exchanged for one of the appropriate class (however, the owner and driver will be held liable for any such plate that has not been properly transferred to the replacement vehicle); provides for rebates of \$3 or more on the unused portion of a license plate; removes the requirement that the surviving spouse get court authority to transfer the registration of a vehicle to the survivor's name; increases the delinquent fee from \$1 to \$10 where titles are not transferred within the allotted 10 day time period; requires the full name, date of birth and sex as additional data on the certified application for registration before it is issued; requires the motor vehicle inspection stations to check for a current registration prior to issuing an inspection certificate; provides that county tax collectors may sell temporary tags for the convenience of those buyers of privately owned vehicles; and further requires the Department of Highway Safety and Motor Vehicles, within three years of the effective date of this act, to consolidate their filing systems into one filing system.

Statutory provisions providing for the issuance of personalized prestige license plates to automobile owners are amended to permit the issuance of such plates to the owners of motorcycles by

Senate Bill 126 (Chapter 75-229). The law stipulates a maximum of seven digits for motorcycle plates as compared with 18 digits for car and applications for both types of plates must be received by the Department of Highway Safety and Motor Vehicles no later than 60 days prior to the first day of the applicant's registration period.

#### Individual Registration

Senate Bill 89 (Chapter 75-57) more specifically prescribes the name and address information required on the application for motor vehicle registration than certain provisions of Senate Bill 49 (Chapter 75-66), discussed above. The effective date of this act is January 1, 1976.

#### Driver Licenses

House Bill 1857 (Chapter 75-289) provides for a Medical Advisory Board to advise the Department of Highway Safety and Motor Vehicles on certain medical criteria relating to the physical condition of applicants for driver licenses. The Board has been operating as an advisor to the Department since 1952, but as volunteers from the Florida Medical Association. This act establishes a twelve-member Board and requires the Department, with the assistance of the Board, to define mental or physical disabilities affecting the ability of a person to operate safely a motor vehicle. Confidential reports are to be made to the Department to be used only in determining the qualifications of any driver to be licensed.

When the system of issuing driver licenses for multi-years was started in 1971, applicants had a choice of a two-year or four-year driver license. Since reexamination occurs every four years there was no need for the two-year license. Senate Bill 124 (Chapter 75-228) eliminates the optional two-year license as soon as the cycle of those already issued expires and provides for a four-year license for all applicants. Heretofore, licenses have expired on the last day of the licensee's birth month. However, beginning January 1, 1976, licenses will be renewable every four years on or 30 days prior to the licensee's birthday. The statutory provisions relating to fractional year licenses for nonresidents is repealed.

When any person applies for a driver's license or renews his present license, the Division of Driver Licenses, Department of Highway Safety and Motor Vehicles, is authorized by Committee Substitute for Senate Bill 171 (Chapter 75-71) to furnish that person a form for the gift of all or a part of the donor's body upon the donor's death. Literature and material on anatomical gifts and a Uniform Donor Card may also be furnished the applicant, with a small pouch in which to enclose both the driver license and the donor card.

Senate Bill 330 (Chapter 75-113) authorizes the Department of Highway Safety and Motor Vehicles to issue temporary restricted driving permits to certain persons convicted of first offense of driving with an unlawful blood alcohol level, or of driving while under the influence of alcoholic beverages. The licensee shall, in addition to presenting the court order for reinstatement of



limited driving privilege, make a written request for a hearing before the Department. The examination fee for driver licenses is \$15 following suspension and \$35 following revocation.

Senate Bill 131 (Chapter 75-183) provides that the court having jurisdiction over traffic offenses shall have jurisdiction of a juvenile who does not hold a driver's license and who is charged with a noncriminal traffic infraction under the Florida Uniform Traffic Control Law.

Under the provisions of Committee Substitute for Committee Substitute for House Bill 984 (Chapter 75-284), summarized in the Article on EDUCATION, the requirement that persons under 18 years of age must have successfully completed a driver education course before being issued a license is repealed. School boards are now required to make driver education courses available to any secondary school student, but are no longer required to have a program in each such school. Boards are also authorized to contract with commercial driving schools in making such courses available.

#### RV Manufacturers and Dealers

Committee Substitute for House Bill 1778 (Chapter 75-203) includes dealers in recreational vehicles in the definition of mobile home dealers and requires such dealers to acquire the same license, keep the same records and be subject to the same procedures as mobile home dealers. A differential schedule of surety bonding for mobile home dealers and recreational vehicle dealers is provided. The act updates a uniform construction standards code for mobile homes and establishes such a code

for recreational vehicles. As previously required for mobile homes, the recreational vehicles are now required to bear a seal and certification issued by the Department of Highway Safety and Motor Vehicles, signifying that the recreational vehicle was manufactured in conformance with the code prior to sale; or if a used vehicle, that it has been brought up to or otherwise meets the requirements of the code. Reciprocity is provided for other states having manufacturing codes at least equal to Florida's.

The mobile home on-site inspection provisions are amended by providing that the Department of Highway Safety and Motor Vehicles shall be the enforcing agency of all provisions and regulations adopted pursuant to the inspection law; and reserving specifically and entirely to local jurisdiction the requirements and regulations relating to: local land use and zoning, fire zones, building set backs, side and rear yard requirements, site development and property line requirements, subdivision control, on-site installation requirements, and review and regulation of architectural and aesthetic requirements. Such local regulations are to be reasonably and uniformly applied and enforced for all types of housing.

#### TRAFFIC CONTROL

##### Accidents

Senate Bill 189 (Chapter 75-72) provides that any stop made by a vehicle involved in an accident resulting in personal injury or death shall be made without obstructing traffic more

than is necessary; and if a damaged vehicle is obstructing traffic the driver of such vehicle is required to make every reasonable effort to move the vehicle or have it moved so as to facilitate the normal flow of traffic. If the driver fails to do so he is subject to a fine of not more than \$100 or imprisonment of up to 10 days for a first conviction.

#### Bicycle Trails and Footpaths

Senate Bill 662 (Chapter 75-79) prohibits the operation of motor vehicles on a bicycle trail or footpath established under statutory authority, except upon a permanent or duly authorized temporary driveway.

#### Motorcycles

Senate Bill 426 (Chapter 75-17) includes motorcycling within the definition of outdoor recreational purposes in order to limit the liability of persons permitting others to ride motorcycles on their land for recreational purposes, and for which no charge is made.

#### Parking Spaces for Disabled Persons

Effective July 1, 1976, those persons who are totally and permanently disabled and who must use wheelchairs for mobility will be able to park in the immediate vicinity of state, county and municipal public buildings and facilities as a result of passage of Senate Bill 2 (Chapter 75-105). A schedule is provided as to the number and design of such spaces, and provision is made for such spaces to be identified by a sign approved by the Department of Transportation.

### Gross Vehicle Weight

The Federal-aid Highway Amendments of 1974 (P.L. 93-643) increased the maximum gross vehicle weight permissible on the Interstate System from 73,280 pounds to 80,000 pounds, single axle weight from 18,000 pounds to 20,000 and tandem axle weight from 32,000 pounds to 34,000 pounds. Congress included a bridge formula requiring an incremental increase in distance between axles as gross weight permitted increases. The federal legislation allows the states to increase their maximum gross vehicle weight to 80,000 pounds, including all tolerances, in accordance with the bridge formula. House Bill 1383 (Chapter 75-47) increases Florida's maximum gross vehicle weight from the present 73,271 pounds (statutory schedule maximum plus 10% scale tolerance) to 80,000 pounds (including tolerance). The law provides that Florida's weight law remains unchanged up to 73,271 pounds and adopts the federal formula between 73,271 pounds to 80,000 pounds.

### Reflective Windows

Committee Substitute for House Bills 188 and 190 (Chapter 75-249) prohibits the sale or operation of any motor vehicle on which the windshield, sidewings or sidewindows (forward of or adjacent to the operator's seat) are composed of, covered by, or treated with any material which has the effect of making these windows non-transparent or producing a highly reflective or mirrored appearance having a total solar reflectance greater than 35 percent in the visible light range. The same restrictions apply to rear windows, except that such windows may be non-transparent provided the vehicle is equipped with proper side

mirrors. Sale of material that would cause a vehicle to be in noncompliance with this law is prohibited after July 1, 1975. Manufacturer's tinting of motor vehicle windows, and certificates required by law to be displayed, are exempted. The penalty for violation of these provisions is a second degree misdemeanor.

#### Rights-of-Way

Senate Bill 60 (Chapter 75-132) requires drivers to yield right-of-way to pedestrian maintenance and construction workers and flagmen whenever notified of their presence by a flagman and warning sign or device.

### TRANSPORTATION

#### Administration

Committee Substitute for House Bill 738 (Chapter 75-283) requires the Department of Transportation, prior to January 1, 1976, to submit to the Legislature for its consideration a plan for the revision of the existing transportation district boundaries in order to improve operational efficiency, economy, and effectiveness. The act also changes the deadline for repayment of any general revenue funds appropriated to the Department of Transportation for interstate highway purposes from June 30, 1983, to such time as the Interstate System in Florida is completed.

House Bill 459 (Chapter 75-3) extends the exclusion of certain budget items from the filing requirements of Chapter 216, Florida Statutes, to include right-of-way expenditures and all grants and aids of the Department of Transportation. These

items are to be set forth only in total in the legislative budget, with the detail to be included in the annual program budget of the Department. This information shall be submitted to the Legislature no less than thirty days prior to the start of each regular legislative session.

#### State Highway System

House Bill 588 (Chapter 75-157) delineates the Department of Transportation's responsibility and authority to regulate connections to the state highway system. Connections are defined as driveways, streets, turnouts, or other means of providing for movement of vehicles to or from roads in the state highway system. The act requires a permit from the Department prior to construction or alteration of any connection, and the Department is authorized to deny access or require the redesign of a proposed connection or existing connection if it would result in undue safety hazards or traffic congestion.

#### Contract Change Orders

House Bill 461 (Chapter 75-6) provides for the use of written change orders by the Department of Transportation to cover minor changes in certain specified portions of contracts at prices established in the original contract, but such change orders shall not extend the physical limits of the work. Combinations of change orders shall not increase a contract by more than \$25,000 or one percent of the original contract price, whichever is greater.

### Bridge Inspection

Senate Bill 746 (Chapter 75-137) expands the requirement for bridge inspection from bridges on state-maintained roads at a maximum interval of five years to bridges on public highways, roads and streets at a maximum interval of two years. The first such inspection is to take place prior to October 1, 1977. The political subdivision having jurisdiction over each bridge is responsible for its inspection and for the forwarding of its reports to the Department of Transportation, which is required to maintain the inspection reports and a bridge inventory. Reports are to be submitted on a format designed by the Department and data on newly completed structures, or any modification of existing structures which would change previously recorded information, shall be reported within 90 days by the jurisdictional authority or owner. The act requires the use of qualified bridge inspectors and specifies their qualifications.

### Financing

Senate Bill 115 (Chapter 75-146) authorizes the Department of Transportation to use available funds for the preparation of preliminary engineering plans with valid cost estimates for all revenue producing transportation projects, and requires that such plans be completed prior to the issuance of any bonds. Reimbursement shall be made to the Department from proceeds of the bond issue for costs incurred in preparing such plans. The Department is prohibited from using or pledging the proceeds of the first gas tax on any revenue producing transportation project without legislative approval.

## Transportation of Students and Needy Persons

Committee Substitute for Committee Substitute for House Bill 984 (Chapter 75-284), designated the Public Education Act of 1975 and discussed in the Article on EDUCATION above, makes some important provisions in the area of transportation. Under this act the Commissioner of Education is authorized to expend up to \$100,000 of school transportation funds to finance three pilot projects coordinating public school bus use for students and for the elderly, the handicapped and other needy persons. Urban mass transit systems are declared eligible to transport students and to receive student transportation funds. School boards are to make an annual survey of hazardous conditions of pupils walking to school, and to report these conditions to the appropriate local authority or to the Department of Transportation for possible corrective action.

### TRANSPORTATION CORRIDOR SYSTEMS

House Bill 1283 (Chapter 75-285) authorizes Florida's participation as a member of the Multi-Mode Transportation Corridor Advisory Board which is charged with the responsibility of developing a transportation corridor connecting the Midwest States and the Southeast Atlantic Coast. The corridor is to include a well-planned limited access highway, a high-speed rail transit line, electric power generating and transmission stations, and pipelines for the transport of fuels and freight items. Member states (Florida is the seventh) have equal representation and voting powers. The sum of \$20,000 is appropriated from the Department of Transportation Working Capital Trust Fund for the purpose of paying Florida's share of the costs of operations.



Senate Bill 64 (Chapter 75-30) requires the Department of Transportation to submit to the Legislature by March 1, 1976 a detailed final report consisting of alternative suggested proposals for a balanced system of transportation between the general areas of Tampa Bay and Volusia County (Central Florida Corridor), with emphasis on modal systems capable of being implemented by 1980. Future studies and planning for the Central Florida Corridor are to be coordinated with the legislative transportation committees, local government, and technical advisory committees.

#### AIRCRAFT INDUSTRY

Committee Substitute for Senate Bill 230 (Chapter 75-16) makes it mandatory rather than optional for local governments to adopt airport zoning regulations which control the height of structures in airport hazard areas. Such zoning regulations must be adopted by October 1, 1977 and must as a minimum require a variance for the erection, alteration or modification of any structure the result of which would exceed the federal obstruction standards as contained in 14 CFR ss 77.21, 77.23 and 77.25 (revised March 4, 1972). Where an airport is located in more than one political subdivision, regulation is implemented by a joint airport zoning board or by an interlocal agreement. Technical assistance, copies of federal obstruction standards, and airport zoning maps for all airports are to be furnished to the local governments by the Florida Department of Transportation. From the effective date of the law (May 20, 1975) application for a permit must be made to the Florida Department of Transportation for the erection, modification or alteration of any structure the result of which would exceed the federal obstruction standards within prescribed radii (dependent

on the type of airport) of the geographical center of airports in political subdivisions which have not adopted airport zoning regulations. The Department of Transportation is given the authority to issue and regulate such permits until the adoption of proper regulations by the appropriate local government. The Department also is given authority to institute civil action for injunctive relief to prevent violation. Responsibility for the administration of this act is transferred from the Division of Planning and Programming to the Division of Mass Transit Operations.

House Bill 1889 (Chapter 75-290) corrects administrative problems encountered by the Public Service Commission in enforcing Florida law regulating air carriers. "Class I aircraft" is redefined to lower from 100 to 99 passengers the minimum seating requirements; the definition of "airport" is clarified as any area of land designed, rather than used, for the landing and takeoff of aircraft; and the 50 mile radius airport "area" term is eliminated. The authority of the Commission is extended to approval of flight schedules and the adoption of certain procedural rules covering the revocation or suspension of certificates and the enjoinder of violators of the law or applicable rules, decisions, requirements and orders. Provisions are made for the extension, transfer, modification, revocation and suspension of certificates of public convenience and necessity; hearing procedures are clarified; procedures for filing of rates and subsequent changes and variations are established; and appropriate fees and penalties are provided. Certificate renewal fees are

reduced from \$1,000 to a maximum of \$500 per year.

## MISCELLANEOUS

### Motor Vehicle Inspection

House Bill 1004 (Chapter 75-265) exempts current motor vehicle inspection station license holders from any departmental rule increasing the minimum area requirements for inspection stations until such time as the station changes ownership or location, or is replaced or enlarged with a new facility.

### Motor Vehicle Noise

House Bill 1908 (Chapter 75-59) brought Florida law into compliance with the United States Environmental Protection Act noise standards for medium and heavy duty trucks. Heretofore, any motor vehicle with a GVWR (Gross Vehicle Weight Rating) over 10,000 pounds, and manufactured during certain periods, had to reduce the sound level limit of 86 db A down to 75 db A by 1981. This date was delayed until 1983 with corresponding delays for each sound level limit based on date of manufacture of the vehicle. Required written certification to the Department of Pollution Control (now the Department of Environmental Regulation) by the manufacturer, distributor or importer, stating that replacement parts sold in the state comply with the standard, was delayed from July 1, 1975 to July 1, 1977.

### Outdoor Advertising

House Bill 1384 (Chapter 75-202) is in response to the Federal-aid Highway Amendments of 1974 (P.L. 93-643). It prohibits signs beyond 660 feet of the edge of the right-of-way

of Interstate and Federal-aid Primary Highways outside of urban areas with the following exceptions: directional and official signs and notices, signs advertising the sale or lease of property and on-premise business signs are allowed. Just compensation shall be paid for the removal of signs now prohibited in this zone in the same manner as signs lawfully erected within 660 feet of the edge of the right-of-way prior to July 1, 1971. The Department of Transportation may establish a fee schedule for placing general motorist service signs on the right-of-way of limited access highways outside of urban areas.

PUBLIC HEALTH AND REHABILITATIVE SERVICES\*

The 1975 session of the Florida Legislature provided significant enactments in health and rehabilitative services. The Department itself was reorganized to clarify responsibilities and enhance the delivery of services. A new Department of Offender Rehabilitation was created in a comprehensive effort to improve the operation and effect of the Florida prison system. Several laws were enacted to provide better accountability to consumers by health care facilities through the strengthening of licensing and billing standards. Important acts affecting the judicial treatment and adoption of juveniles were approved, and measures establishing a "bill of rights" and group home program for the mentally retarded were passed. Although summarized in the INSURANCE Article, it should be mentioned here that the Florida Legislature reacted to the national crisis in medical malpractice insurance by passing House Bill 1267 (Chapter 75-9) "The Medical Malpractice Reform Act of 1975."

Departmental Reorganization

Committee Substitute for Senate Bill 165 (Chapter 75-48) reorganizes the Department of Health and Rehabilitative Services. The intent of this act is to insure the maximum integration of client services, eliminate duplication of services, maintain program identity, pinpoint responsibility for program operations and policy development, and decentralize service delivery by creating common districts for all departmental programs.

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\* Prepared by the House Committee on  
Health and Rehabilitative Services

Administratively, the Department is headed by a Secretary appointed by the Governor subject to confirmation by the Senate. Directly under the Secretary is a Deputy Secretary and three Assistant Secretaries. The current divisional structure is abolished and the functions of the divisions are reassigned to the Assistant Secretaries. The Assistant Secretary for Administrative Services has authority over all management, budget and administrative services. The Assistant Secretary for Operations has authority over the districts and service delivery, and the Assistant Secretary for Program Planning and Development oversees the eight program offices which are responsible for program planning and development, monitoring, identification of client needs, staff development and similar duties.

At the state level, there will be a program office for the following areas: Children's Medical Services, Social and Economic Services, Health, Retardation, Vocational Rehabilitation, Aging and Adult Services, Youth Services, and Mental Health. The law specifies service districts each headed by a District Administrator appointed by the Secretary.

The enactment further provides for district advisory councils, both state and district human rights advocacy committees, the development of a departmental budget, a comprehensive program evaluation system, the development of an information system, the consolidation of eligibility requirements and encouragement of purchase of service programs. Before January 1, 1976, the Department is directed to establish its headquarters

in Tallahassee. The current number of positions in Jacksonville, however, will not be reduced by more than 100. Reorganization is to be accomplished within current appropriations and monthly reports during the fiscal year 1975-76 are to be submitted to the Legislature and the Department of Administration on the progress of reorganization. After July 1, 1976, an annual report shall be made to the Legislature and the Governor reflecting the activities of the Department and making recommendations for improvement of its services.

An essential part of the reorganization plan is the provisions which eliminate Children in Need of Supervision from Chapter 39, expand the definition of dependency to include runaway and truant children and provide for treatment of ungovernable children. The law provides for mandatory detention under certain circumstances for children twice previously adjudicated delinquent, and provides for mandatory waiver to the circuit court for criminal prosecution of children previously adjudicated delinquent for a violent crime and currently charged with such offense.

Committee Substitute for Senate Bill 169 (Chapter 75-49), the "Correctional Organization Act of 1975," creates the Department of Offender Rehabilitation comprised of the Division of Corrections of the Department of Health and Rehabilitative Services and the field staff and other services and resources of the Parole and Probation Commission which are not necessary for the immediate

support of the Commissioners. It is the intent of the Legislature that this Department integrate the delivery of all offender rehabilitation and incarceration services deemed necessary for the rehabilitation of offenders and the protection of society.

All departmentwide functions in the area of management services, financial services, and management analysis will be centralized under the Assistant Secretary for the Office of Management and Budget. The Assistant Secretary for Operations will have authority over the regions and the regional administration of programs.

#### Health Care Facilities

House Bill 1361 (Chapter 75-167) renames "area planning council" as "health systems agency." Ambulatory surgical centers are defined and made subject to the provisions of the Health Facilities Planning Act (Sections 381.493 - 381.497, Florida Statutes). A definition is provided for "State Health Coordinating Council." Nursing homes which convert from one level of care (skilled or intermediate) to another must receive a certificate of need prior to such conversion. The act removes the exemption from certificate of need study for facilities and equipment which do not presently exist in the designated area of a health systems agency. A letter must be submitted



by the applicant for a certificate of need indicating the intent to file an application, and simultaneous applications must be filed with the Bureau of Community Medical Facilities Planning and the health systems agency. Additional criteria for review are provided to be used by health systems agencies when evaluating certificate of need applications. An appeal of certificate of need decisions by way of the Administrative Procedures Act is permitted. The Division of Health may not issue a license to a facility or part of a facility which fails to receive a certificate of need. Any proposed hospital which has a designed capacity of not more than 100 beds is exempt from the provisions of Section 380.06, Florida Statutes, relating to developments of regional impact, and ambulatory surgical centers constructed or in operation by January 1, 1976, are exempt from operation of the Health Facilities Planning Act.

Senate Bill 556 (Chapter 75-187) requires that hospitals and nursing homes provide patients or their representatives with an itemized statement which details specific charges incurred by the patient in language comprehensible to the layman. The ownership status of the facility (whether for profit, not for profit, or public) must appear on the statement. The patient or his representative may request more specific enumeration of charges for services which shall include unit price data on rates which the Department of Health and Rehabilitative Services may prescribe. Concerning third party

fees, no physician, dentist, hospital or nursing home may add to the price charged by a third party except for a service or handling charge actually incurred, and this additional charge is to be specified in the patient's statement.

Senate Bill 567 (Chapter 75-231) requires hospitals and nursing homes to establish minimum standards of acceptance for clinical laboratory tests and diagnostic x-ray done outside the facility. Such minimum standards shall require at least the licensure (or standards and procedures comparable to licensure requirements) of clinical laboratories, and the licensure or registration of the source of ionization radiation in x-rays. The law requires hospitals and nursing homes to accept these tests and x-rays in lieu of routine tests made upon the admission of a patient.

Senate Bill 777 (Chapter 75-233) creates the "Adult Congregate Living Facilities Act," a state nursing home ombudsman committee system, and the "Home Health Services Act." The adult congregate living portion of the law coordinates the licensing procedures for all residential and institutional facilities for adults requiring personal care, other than hospitals and nursing homes. It does so by eliminating overlapping licensing jurisdictions now shared by the Department of Business Regulation and the Department of Health and Rehabilitative Services, and transfers all licensing responsibilities for these facilities to the Department of Health and Rehabilitative Services.

Under this act, strong emphasis is placed on the rights of the resident by requiring a written contract which specifically sets forth the services to be provided, the rates or charges, including the refund policy, and other matters which the parties deem appropriate. Moreover, no facility or its employee shall act as a guardian or trustee for any resident. A facility is required to keep records of all funds or personal effects it holds for a resident, and must give at least 30 days notice to the residents prior to closing. Licensing standards are to include not only health, safety, and sanitation, but also standards for personal services.

The home health care provisions in the act move the state into a new area of licensing. After January 1, 1976, no home health care agency may operate unless it is in compliance with the minimum standards set by the Department of Health and Rehabilitative Services and obtains a license from the Department.

The nursing home ombudsman provisions of this measure provide a mechanism for receiving, investigating, and resolving complaints made by a patient or a patient's representative against a nursing home. This law provides for the establishment of a seven-member state nursing home ombudsman committee with membership to be appointed by the Governor. In addition, there is to be a regional nursing home ombudsman committee in each region of the Department of Health and Rehabilitative Services. The State Ombudsman Committee is charged with serving

primarily as an appellate forum for unresolved complaints referred by a regional committee. The regional committee is responsible for receiving, investigating and resolving complaints at the regional level. The law outlines actions which may be taken by either the state or regional committee if a nursing home fails to respond to the recommendations of the committee.

Committee Substitute for Senate Bill 1215 (Chapter 75-182) provides that hospitals which offer emergency room services may arrange for the rendering of appropriate medical attention and treatment to victims of sexual assault. Such medical attention and treatment may include medical and psychological care, tests and analyses required by law enforcement personnel for purposes of investigation and prosecution, training of medical support personnel, protection of the victims anonymity, and encouraging the victim to notify and cooperate with law enforcement personnel.

#### Cost of Services

Senate Bill 1059 (Chapter 75-190) authorizes the Department of Health and Rehabilitative Services to charge fees for any service provided by the Department reasonably related to the cost of the service unless otherwise provided. Annually, the Department is to determine the cost of providing services and the criteria for determining ability to pay. Persons who receive payments from third party payors are liable

to pay fees consistent with their ability to do so and parents of minors receiving services shall be liable to pay fees consistent with their ability unless the service was provided without parental consent. The Department is to assist clients in securing third party benefits. Payment of charges is not to be a prerequisite for treatment or care. The act is to be in effect until July 1, 1976, at which time it is to be repealed.

Maximum county contributions to the Medicaid program for inpatient hospitalization exceeding twelve days and nursing home or intermediate facility care payments over \$170 per month are set at \$55 per month per person by Senate Bill 31 (Chapter 75-29) and made retroactive to May 1, 1974.

#### Mental Health

Committee Substitute for House Bills 522 and 1192 (Chapter 75-305) provides additional safeguards to the patient in the involuntary commitment procedures. The patient, as well as the administrator of the facility in which the patient is hospitalized, is to receive notice of the commitment hearing. The notice must specify the basis for detention; the names of the examining physicians and other persons testifying in support of continued detention; and the substance of the proposed testimony. The patient's counsel will have a right of access to hospital records and personnel, and the patient or his guardian or representative must be informed of his right to an examination by an independent expert who shall be appointed

by the court if the patient cannot afford his own.

A release procedure is spelled out for patients committed to a state hospital because of a court finding of acquittal by reason of insanity. The committing court retains jurisdiction in the case and an administrator must not release such a patient without notifying the appropriate state attorney 30 days in advance. The state attorney may request a hearing within 15 days before a hearing examiner. An appeal may be made in the form of a new hearing before the appropriate circuit court where either party may request a finding by a jury. Procedures are set out for hearings and criteria on which the jury (or judge) should make its decision. The court hearing must be held within 60 days of the notice of appeal; otherwise, the patient is to be released in accordance with the order of the hearing examiner.

House Bill 541 (Chapter 75-253) forbids the introduction or removal of contraband defined as intoxicating beverages, controlled substances defined in Chapter 893, Florida Statutes (Florida Comprehensive Drug Abuse Prevention and Control Act), and unauthorized firearms or deadly weapons, to or from state mental hospitals, except as authorized by law or by the person in charge of the hospital. Such unauthorized activity is declared to be a third degree felony.

House Bill 658 (Chapter 75-254) establishes a cemetery for the burial of the unclaimed bodies of deceased patients of

Northeast Florida State Hospital, Macclenny, Baker County, and provides that such unclaimed bodies be cremated or properly buried at state expense in the cemetery created by the act.

#### Mental Retardation

Committee Substitute for House Bill 815 (Chapter 75-259) creates "The Bill of Rights of Retarded Persons" and establishes these basic rights of those persons receiving services from the Division of Retardation of the Department of Health and Rehabilitative Services: (1) right to dignity, privacy and humane care; (2) right to religious freedom and practice; (3) right to unrestricted communication; (4) right to possession and use of personal property; (5) right to education and training; (6) right to medical treatment; (7) right to opportunities for leisure time activities, including social interaction; (8) right to appropriate physical exercise; (9) right to humane discipline; (10) right to be free from noxious or painful stimuli; (11) right to fair and just compensation for labor; (12) right to be free from physical restraint except in emergency situations to prevent injury to self or to others; and (13) right to a confidential central record.

Persons who violate the rights of clients (persons admitted to the Division for services) are made liable for damages as determined by law. The Department is to furnish a copy of this act to each client or his parent or guardian. Representative resident governments must be set up in all residential facilities.

The right to a writ of habeas corpus is provided to persons involuntarily committed.

The Division is to prescribe an individual habilitation plan for each person certified to be mentally incompetent and in need of the Division's services. Such plans are to be reassessed not less than once each year.

The Department of Health and Rehabilitative Services is authorized to begin implementation of the provisions of this law based on a multi-year phase-in plan developed by the Division. Contents of the plan are set forth in the act.

Committee Substitute for House Bill 794 (Chapter 75-197) defines group living home for mentally retarded, autistic or developmentally disabled persons, and creates the Group Living Home Trust Fund in the State Treasury to be used by the Department of Health and Rehabilitative Services in granting loans to cover costs of development of such homes. A formula is provided for computing the maximum lump sum loan to each home and such loan is separate and distinct from maintenance and care payments. A procedure is stipulated for satisfaction of the loan in the event of default by the home.

#### Juveniles - Adoption and Judicial Treatment

With the enactment of Senate Bill 370 (Chapter 75-114), the circuit court may require the parents or legal guardian of a child adjudicated dependent, delinquent, or in need of supervision to participate in family counseling and other



professional counseling services deemed necessary for the rehabilitation of the child.

Committee Substitute for House Bill 971 (Chapter 75-198) permits the circuit court to release a child taken into custody to an adult appearing on a list of persons approved by the court as agents of the Department of Health and Rehabilitative Services authorized to receive children for temporary placement, and requires the court to review and approve such placement within 48 hours.

Committee Substitute for House Bill 823 (Chapter 75-159) permits the court having jurisdiction to commit permanently to the Division of Family Services or a licensed child-placing agency, for subsequent adoption, an abandoned child who was placed in a foster home, if after one year a diligent search has failed to locate a parent or relative.

Committee Substitute for Senate Bill 41 (Chapter 75-226) amends the "Florida Adoption Act" (Chapter 63, Florida Statutes), in order to eliminate the abuses in independent adoptions and to clarify the consent and notice provisions. The maximum fee which an intermediary may charge without court approval in an independent adoption is limited to \$500 excluding documented hospital, medical, and court costs. Out-of-state non-relative placements may be performed only through a licensed child placing agency or the Division of Family Services. The consent and notice provisions of the present law are revised to specify

under what conditions the consent of the father, particularly the unwed father, is required.

Other provisions in the act include: a change of venue in filing the petition if the privacy of the petitioner or the child is threatened; deleting certain names from the notice to protect the privacy of the petitioner and child; deleting the requirement that the original birth certificate be attached to the petition; and clarifying the penalty section by deleting language declared unconstitutional by the courts and specifying what actions are unlawful. (Other responsibilities of the courts in regard to adoption and custody of minors are discussed in the "Domestic Relations" and "Guardianship" Sections of the COURTS AND CIVIL LAW Article.)

#### Child Abuse

Senate Bill 332 (Chapter 75-185) provides for the detection and correction through the provision of rehabilitative and ameliorative services of the abuse or maltreatment of children who are unable to protect themselves. "Child" is redefined as a person under the age of 18 years, and the definition of child abuse is altered to include any willful or negligent acts which result in neglect, malnutrition, sexual abuse, unreasonable physical injury, material endangerment of mental health or failure to provide sustenance, clothing, shelter or medical attention. The act includes a proviso which specifies that if medical care is not provided solely because of the legitimate practice of well-recognized religious beliefs neglect shall not be assumed; however, under such circumstances a child may be ordered by a court to receive treatment if his health

requires it. Any person who has reason to believe that a child has been subject to abuse shall report such information to the Department of Health and Rehabilitative Services. If the Department has reason to believe that a child has been criminally abused, it shall immediately and orally notify the state attorney who shall assist local law enforcement officials in the investigation of the case. The Department is to secure the cooperation of appropriate government officials and agencies providing human services. Any report which alleges that an employee of the Department acting in an official capacity, has committed an act of child abuse is to be investigated by the state attorney in whose circuit the alleged act of child abuse took place. All information maintained in the child abuse registry and all reports and records concerning known or suspected instances of child abuse shall be confidential. The names of persons reporting abuse are not to be released to any person, other than employees of the Department involved in the investigation of reports of abuse, without the written consent of the person reporting. The Department is required to send immediately a report of suspected criminal abuse of a child to the appropriate state attorney as well as the circuit court of the county where the incident occurred. A guardian ad litem may be appointed to represent the child in any child abuse case.

Committee Substitute for House Bill 1102 (Chapter 75-101) provides that any person who willfully or knowingly makes public

or discloses any information in the child abuse registry (except as provided by law) may be held personally liable. Any person injured or aggrieved by such disclosure shall be entitled to damages. (See also the "Domestic Relations" and "Guardianship" Sections of the COURTS AND CIVIL LAW Article.)

#### Drug Abuse Prevention and Control

Senate Bill 470 (Chapter 75-18) provides only prescriptions for controlled substances of the same schedule may be issued on the same prescription blank and forbids the combining of controlled substances with other drugs on one prescription blank. The required items of information for the prescription or written record on controlled substances are to include the printed full name and address of the prescribing practitioner and the initials rather than the signature of the pharmacist filling the prescription.

#### Marriage and the Family Unit

Committee Substitute for House Bill 1140 (Chapter 75-164) creates the Florida Task Force on Marriage and the Family Unit, a temporary study committee to be composed of executive and legislative representatives which is to reassess and evaluate existing laws and programs pertaining to marriage and the family unit in order to assure that state government contributes to the strengthening of the family unit, marriage and the home and to provide information and recommendations for changing any existing constitutional, statutory, or regulatory authority in these areas. The task force is made up of 11 members including the chairpersons

or their designees of the Senate and House Committees on Education, Health and Rehabilitative Services, and Judiciary, the minority leaders of each House of their designees, and three members appointed by the Governor. Duties and operations of the task force are outlined and provision is made for appointment of advisory persons and groups throughout the State.

The task force shall secure staff assistance from existing executive agencies in consultation and coordination with legislative staff. Five thousand dollars is appropriated for the work of the task force which shall, by March 1, 1976, present a report to the Legislature setting out its findings and to make such recommendations in the form of proposed legislation as are deemed necessary. Members shall serve until the convening of the regular session of the Legislature in 1976, at which time the task force shall be terminated.

#### Medical Practitioners - Registration

The statutory requirement that physicians, osteopathic physicians, chiropractors, podiatrists, naturopaths and physical therapists register annually with the Division of Health of the Department of Health and Rehabilitative Services is repealed by House Bill 494 (Chapter 75-88) and Committee Substitute for House Bill 794 (Chapter 75-197).

#### Sewage Disposal Facilities

Committee Substitute for House Bill 1259 (Chapter 75-145) provides for the installation of individual sewage disposal

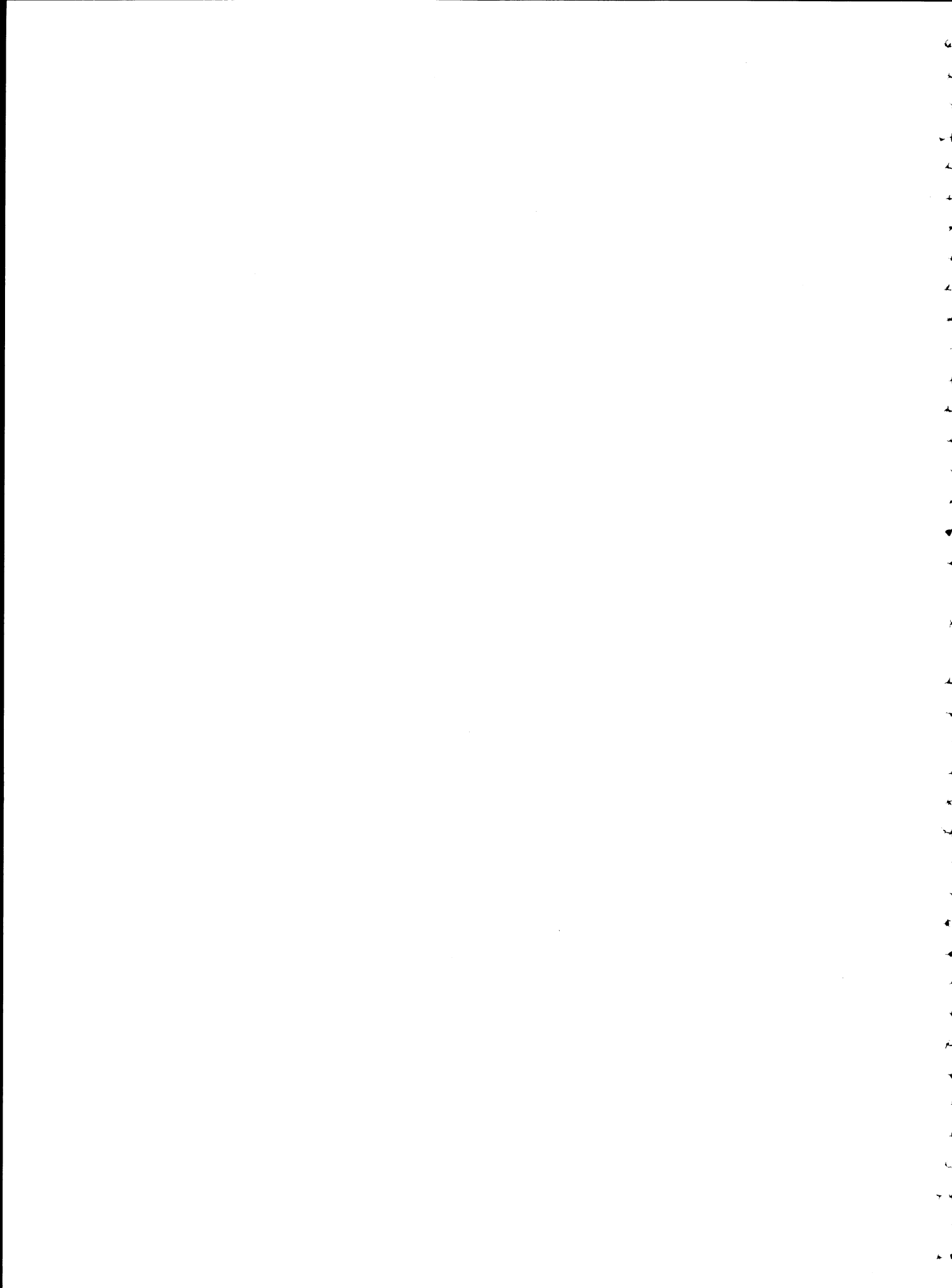
facilities in certain subdivisions and outlines the conditions under which such installations may be made. The lot size requirements are established relating to the placement of septic tanks. Subdivisions of 50 or fewer lots, each lot having a minimum of at least one-half acre and a minimum dimension of 100 feet, may be developed with a private well and individual sewage disposal; and subdivisions of 100 lots or fewer, each lot having a minimum of at least one-third acre and a minimum dimension of 75 feet, may be developed with a public water system and individual sewage disposal. Requirements including soil conditions and water table elevation must be met. Sequential development of contiguous subdivisions under single ownership is prohibited. The act does not apply where sewerage systems are available, and the lots developed under this act are required to connect to sewerage systems when one becomes available. The Division of Health, Department of Health and Rehabilitative Services, is allowed to adopt variances in hardship cases.

#### Vocational Rehabilitation

House Bill 1827 (Chapter 75-168) requires that any spinal cord injury or disease resulting in a permanent or total disability be reported, immediately upon identification, by all health and social agencies and attending physicians to the central registry maintained by the Department of Health and Rehabilitative Services for the severely disabled.

### Anatomical Gifts

Under the provisions of Committee Substitute for Senate Bill 171 (Chapter 75-71) the Kidney Disease Section, Division of Health, Department of Health and Rehabilitative Services, is charged with the responsibility of providing necessary supplies, pouches, forms and other accessories required for the Division of Driver Licenses, Department of Highway Safety and Motor Vehicles, to furnish driver license applicants with information and donor cards to carry out the anatomical gifts program; and to cooperate with that agency in promulgating rules and regulations to implement the program.





PUBLIC OFFICERS AND EMPLOYEES

Significant 1975 legislation relating to public officers and employees includes a deferred compensation plan, and revision and clarification of the statutes relating to: the Commission on Ethics; standards of conduct; financial disclosure; and the creation of a State Retirement Commission as a hearing body for applications and reexamination of retirement system members. The monthly cost adjustment factors for members of the retirement system 65 years of age and over were also revised.

Public Employment

Senate Bill 356 (Chapter 75-186) requires earnings on premium investments and refunds on the state group insurance program to be deposited in a trust fund to be designated in the State Treasury and used for increased benefits or reduced premiums for the participants.

House Bill 1291 (Chapter 75-299) extends the exemption from the State Career Service System to include personal secretaries to: elected officials; elective office appointees; and secretaries and directors of state departments. Also exempted are the chief administrative officers of all boards and commissions under the Department of State. The Department of Administration is to fix the salary for these positions unless they are otherwise fixed by law. Similar positions within the Public Service Commission are exempted from career service under provisions of Senate Bill 148 (Chapter 75-109) summarized in the Article on BUSINESS REGULATION AND COMMERCE.

House Bill 1606 (Chapter 75-150) permits state attorneys

and public defenders to receive extra compensation from an educational appropriation for one course of instruction per academic year with proper approval.

Senate Bill 339 (Chapter 75-33) makes optional to an agency head the privilege of requesting a signed statement from the supervisor of a public officer or employee, prior to any travel by such person, attesting to the fact that the intended travel is on official state business.

Committee Substitute for House Bill 256 (Chapter 75-295) creates the "Government Employees Deferred Compensation Act" which authorizes public employees, whether state, county or municipal, to contract with their employer to defer any part or all of their compensation by payroll deduction, and for the employer to contract for the investment of the deferred compensation. Any such plan shall be supplemental to existing retirement pension or benefit programs, and the deferred compensation is not to be included for the purposes of computation of any income taxes withheld on behalf of any employee. The State Treasurer is authorized to act for state employees and a local official for other public employees.

House Bill 215 (Chapter 75-194) lengthens the terms of members of the State Officers Compensation Commission appointed after July 1, 1975; requires their report on salaries and expense allowances to be made by March 1 annually, beginning in 1976; and extends report coverage to judges of county courts.

Standards of Conduct, Etc.

Committee Substitute for House Bill 1100 (Chapter 75-199) amends the membership of the Commission on Ethics, requiring one to be a former city or county official, instead of a retired judge. Members are limited to two successive terms and can be removed for cause by majority vote of the Governor, President of the Senate, Speaker of the House and Chief Justice of the Supreme Court. The Commission's advisory opinion authority was extended to public employees, their supervisors, and to candidates for office. The Commission's investigative authority was expanded and clarified, to be based on sworn complaints; and it is authorized to make preliminary investigations to determine whether probable cause of a violation exists, and to dismiss a petition if such cause does not exist. If the Commission finds such cause does exist, it may permit or require a hearing. When it finds a violation has taken place, it is to report same to the appropriate authority along with its recommendations as to the penalty. Judicial review of the Commission's actions is authorized, and defenses not raised in the judicial review are barred from subsequent action on the civil penalty. The provision on penalties is greatly expanded and made specific for the status of the person involved.

House Bill 2099 (Chapter 75-208) extensively revised the statutory provisions as to conflicts of interest for public officers and employees, effective October 1, 1975. The standards of legislative employees are revised and the policy statement expanded to express a duty of public officers and employees to

promote the public interest and maintain the respect of the people in their government. The applicable definitions are clarified and expanded, as are the various relationships characterized as representing a conflict of interest. Voting conflicts of public officials are addressed. Contracts made in violation of the law are made voidable with enforcement vested in the Attorney General or any materially affected resident citizen.

House Bill 1861 (Chapter 75-5) extended to July 15, 1975, the filing date for 1975 statements of financial disclosure required of candidates for nomination or election to public office. [Committee Substitute for House Bill 660 (Chapter 75-196), summarized below, makes July 15 the annual filing date.]

Committee Substitute for House Bill 660 (Chapter 75-196) revises the financial disclosure provisions for public officers and employees, effective January 1, 1976. The definitions are amended [See also House Bill 2099 (Chapter 75-208)]; and categories of "local officer," "state officer," and "specified employee" are provided with respect to financial disclosure. Candidates for office are required to file their disclosure statement at the same time as their qualifying papers. The matters to be reported are substantially clarified, including information concerning sources of income, gifts, debts, and names of clients represented for a fee before governmental agencies.

#### Retirement

House Bill 182 (Chapter 75-248) creates a State Retirement

Commission within the Department of Administration for the purpose of hearing proceedings respecting applications for disability retirement, reexamination of retired members receiving disability benefits, and applications for special risk membership in the retirement system. The Commission is to consist of seven members serving staggered terms and appointed by the Governor subject to Senate conformation: one member to be a retiree under one of the state supported retirement systems; two members from different occupational background to be active members in a state supported retirement system; and four members to have no connection with the systems. No person may serve as a member who holds an elective public office in the state or who is an officer or an agent of a political party. Members must have been citizens of the state for three years prior to their appointment. Legal counsel, staff and compensation are provided to the Commission.

A member of a retirement system administered by the Division of Retirement who does not accept the decision of the Administrator as to his rights in the above areas may appeal to the State Retirement Commission for a hearing. Decisions of the Commission on appeals are subject to review by the First District Court of Appeal (the appellate district where the Division of Retirement maintains its headquarters). The act also: makes it clear that the necessary rules are to be adopted by the Department through the Division of Retirement; and amends the definition of "special risk member" as needed in view of the appeal to the

Retirement Commission, instead of to the Career Service Commission (on which the former is patterned). Funds necessary for not more than five positions to implement the provisions of this act are appropriated from the Florida Retirement System Trust Fund to the Department of Administration.

Several other acts concerning the Florida Retirement System became law. House Bill 290 (Chapter 75-152) extends through December 31, 1979, or until fully insured for disability benefits under the Social Security Act, whichever is the earlier, the right of transferees from the Teachers' Retirement System to receive survivor benefits.

House Bill 970 (Chapter 75-296) authorizes members of the elected state officers' class to purchase credit for prior service as judge of a court of record, judge of a criminal or civil court of record, or as a county court judge. This act also authorizes eligible officers to transfer to the elected officers' class during the period October 1, 1975, through December 30, 1975. The provisions are repealed which provided that the benefits and terms of the comprehensive retirement act shall be available to members of the Judicial Retirement System at their option.

In conformance with the revision in 1974 of statutes relating to bribery, Senate Bill 1102 (Chapter 75-86) provides that any member of the Florida Retirement System who is found guilty by verdict of a jury, or by the court trying the case without a jury; or on a plea of guilty, or a plea of nolo contendere,

of any felony specified in Chapter 838, Florida Statutes, shall forfeit all rights in the Florida Retirement System except for the return of his accumulated contributions. The same penalty is provided for any elected official who is convicted by the Senate of an impeachable offense.

Retirement system members who are reemployed on or after December 1, 1970, may claim prior service as creditable service after one year, rather than three, of continuous employment and payment of required contributions to the proper retirement trust fund, according to House Bill 857 (Chapter 75-260). This requirement may be waived under certain circumstances. The same period of continuous employment applies for the purchase of prior service between December 1, 1970, and the date a system becomes noncontributory, and for prior service after the date a system becomes noncontributory.

The purchase of time of suspension by a member who is suspended and reinstated is authorized by House Bill 838 (Chapter 75-160).

House Bill 1902 (Chapter 75-291) appropriates \$117,000 to the Vending Stand Section, Bureau of Blind Services, Division of Vocational Rehabilitation, Department of Health and Rehabilitative Services, for the purpose of including blind vending stand operators within the Florida Retirement System during fiscal year 1975-76.

House Bill 1581 (Chapter 75-270) authorizes a monthly allowance for incapacitated teachers over 70 years of age. Those with ten to fifteen years of service will receive \$75 per month,

and those with fifteen to twenty years service will receive \$100 per month. No person who was ever eligible to become a member of the Teachers' Retirement System is eligible for such allowance.

The \$8.00 per month per year of creditable service minimum retirement benefit is amended by Senate Bill 1127 (Chapter 75-242) to provide the \$8.00 minimum for those retirees over 65 years of age with not less than 10 and not more than 15 years of creditable service. Retirees under a state supported plan not integrated with social security, who are over 65 years of age and have more than 15 years of creditable service, will receive a minimum allowance equal to \$8.00 multiplied by the first 15 years of creditable service, and \$10.00 multiplied by each additional year of creditable service thereafter. The additional cost of the \$10.00 minimum is appropriated from the General Revenue Fund. Further amendments authorize the recomputation of benefits of retirees over 65 years of age, or their surviving spouse or beneficiary, under the provisions of this section. No present retirement benefits shall be reduced under this computation. The allocation of cost of the adjustment factors is specified.

To assure future sound funding of the state retirement and pension plans, the 1975 Legislature adopted House Joint Resolution 291 (summarized in the above Article on CONSTITUTIONAL AMENDMENTS) which proposes a constitutional amendment to prohibit any increase in benefits, after January 1, 1977, unless provision is made to fund the increase on a sound actuarial basis. This proposed amendment is to be placed on the 1976 General Election ballot.



STATE GOVERNMENT\*

Administrative Rule-Making and Adjudicative Procedures

The Legislature revised the "Administrative Procedure Act" which was passed in the 1974 session of the Legislature. The changes made by Senate Bill 1320 (Chapter 75-191) will require agenda for special meetings of district school boards to be prepared upon the calling of the meeting, but not less than 48 hours prior to such meeting. Also, prior to the adoption, amendment, or repeal of any rule, each agency is required to set forth an estimate of the economic impact of the proposed rule on all persons affected by it, unless such a statement is not possible, in which case the agency shall set forth the reasons why the costs of the proposed rule cannot be estimated. The economic impact statement, or the explanation for the inability of the agency to determine the economic impact, shall be included in the notice by the agency of its intended action, together with a statement as to the location where the text of the proposed rule can be obtained if such text is not included in the notice.

Notice of intent by a school district, community college district, the Florida School for the Deaf and Blind,

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\* Prepared by Senate Legislative Services

and any unit of the state university system other than the Board of Regents, to adopt, amend, or repeal any rule shall be made by publication in a newspaper of general circulation in the affected area, by mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule, and by posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified. The director of the Division of Administrative Hearings, within 10 days after receiving a petition challenging a proposed rule on the ground that the proposed rule is an invalid exercise of validly delegated legislative authority, or that the proposed rule is an exercise of invalidly delegated legislative authority, is required to assign a hearing officer to conduct the hearing within 30 days unless the petition is withdrawn.

The law requires rules of procedure adopted by an agency to be in substantial compliance with the model rules promulgated by the Administration Commission. The Administrative Procedures Committee will review proposed rules to determine whether the rule is in proper form and whether the notice of intention to adopt the rule is adequate notice of the effect of the rule. If the Administrative Procedures Committee disapproves a proposed rule and the agency does not modify the rule, the committee's notice of disapproval

shall be published in the "Florida Administrative Weekly" by the Department of State which shall also publish a reference to the committee's disapproval and to the issue of the "Florida Administrative Weekly" in which a full text appears, as a history note to the rule when it is published in the Florida Administrative Code. The law prescribes additional information to be published in the "Florida Administrative Weekly," and provides that copies of such publication, on an annual subscription basis, be made available for no more than \$5 per year.

All requests for a hearing under the formal hearing procedures must be granted or denied within 15 days. The law provides for the payment of fees and mileage for witnesses appearing pursuant to a subpoena, and for per diem and travel for any state employee required to travel away from his headquarters. The authority of the Division of Administrative Hearings to contract for hearing officers is removed, but if the Division cannot furnish a hearing officer promptly in response to an agency's request, the director is allowed to designate a full-time employee of another agency as a hearing officer. If the director designates a person who is not an attorney as a hearing officer, he shall assign a full-time hearing officer of the Division to assist such designated hearing officer in the conduct of the hearing, to rule upon proffers of proof, questions of evidence, disposition of procedural requests and similar matters.

Senate Bill 95 (Chapter 75-107) requires the Department of State and each agency to cite, in the published rules, the specific rule-making authority pursuant to which each rule was adopted.

#### Building Codes

The Legislature revisited the "Florida Building Codes Act of 1974" and amended that act in Committee Substitute for Senate Bill 242 (Chapter 75-111) to provide that the "State Minimum Building Codes" shall not contain a housing code or rule which intends post-construction regulation of structures. The amendments prohibit the state from interposing in the area of local housing codes, except upon request from an enforcement district or local enforcement agency; allow each enforcement district or local enforcement agency to exempt from the "State Minimum Building Codes" the addition, alteration, or repair of a single family residence by the owner of such residence if the addition or alteration does not exceed 1,000 square feet or the square footage of the primary structure, whichever is less; and exempt the addition, alteration, or repair of a single family residence by a nonowner within a specific cost limitation set by rule, but not to exceed \$5,000 within any 12-month period. The new law also removes the present requirement that the rules of the Department of Community Affairs and of the Board of Building Codes and Standards cover the use or occupancy of buildings.

Senate Bill 950 (Chapter 75-85) deletes the provision of law which exempts certain buildings, such as hotels and motels, from the requirement to provide more than 10 percent of certain accessibility features for handicapped persons. The law also requires the inclusion, by October 1, 1975, of the provisions of Part V of Chapter 553, Florida Statutes, relating to accessibility by the handicapped, in local interim building codes and in the "Interim State Building Code." The law also requires the rules of the Department of Community Affairs and of the Board of Building Codes and Standards, which shall comprise the "State Minimum Building Codes," to cover the administration and enforcement of Part V of Chapter 553, Florida Statutes, relating to accessibility by handicapped persons.

#### Planning, Budgeting and Miscellaneous Financial Matters

Senate Bill 524 (Chapter 75-243) requires the legislative budgets submitted by state agencies for fixed capital outlay to contain a complete development plan of all proposed fixed capital outlay projects, including proposed operational standards related to programs and utilization, site criteria including acquisition cost and utilities, estimated construction and equipment costs, continuing operating costs and such other data as the Department of Administration deems necessary to analyze the relationship of agency needs and program requirements to construction requirements. The plan is to

include the availability and suitability of privately constructed and owned buildings and facilities to the needs and program requirements of the agency. The estimate of amounts needed for fixed capital outlay expenditures, which is currently required to be included in the submitted legislative budget, shall include a detailed statement of program needs, estimated construction costs and square footage.

In addition to submitting the fixed capital outlay budget to the Department of Administration, each agency shall submit a copy to the Department of General Services, which agency may in turn advise the Department of Administration and the Legislature regarding alternatives to the proposed fixed capital outlay project, and may make recommendations relating to the construction requirements of the building or facility. The law grants the Department of Administration the authority to approve the program plan of fixed capital outlay projects, but allows review of issues by the Administration Commission for any department, under the direct supervision of a member of the Cabinet or of a board consisting of the Governor and members of the Cabinet, which contends that the determination by the Department of Administration is contrary to the orderly implementation of legislative authorization. The Department of General Services has the sole authority to purchase or accept a donation of land for any state board, commission, department, division or bureau

which land contains or is to be used to construct a building or other facility. The Department of General Services is mandated to adopt rules for public notice concerning land acquisitions, for determining qualifications and responsibility of bidders, for negotiations for and modifications to construction contracts; and to prescribe, by rule, a procedure for delegating to state agencies the supervisory authority of the Division of Building Construction and Maintenance as it relates to the repair, alteration and construction of fixed capital outlay projects.

The unexpended balance of any appropriation for fixed capital outlay, subject to but not under the terms of a general construction contract prior to April 1 of the second fiscal year of the appropriation, shall revert on April 1 of such year to the fund from which appropriated and shall be available for reappropriation.

House Bill 862 (Chapter 75-91) prohibits state agencies from establishing a clearing account outside the State treasury unless approved by the Department of Administration during each fiscal year.

CS/Senate Bill 410 (Chapter 75-115) provides that if a personal check cashed by the State Treasurer is dishonored or a state warrant is forged, and the State Treasurer has made diligent but unsuccessful effort to collect and has forwarded the returned check for prosecution by the appropriate

state attorney, then such amounts may be included in his budget request to be considered during the next legislative session.

Senate Bill 388 (Chapter 75-56) provides that whenever a check, draft or other order for the payment of money is returned by the State Treasurer to a state officer or agency for collection, the officer or agency shall add a \$5 service fee to the amount due. When a county or municipal official or agency collects on behalf of a state official or agency, the \$5 service fee shall be retained by the collector of the fee. The governing bodies of counties or municipalities are authorized to adopt a service fee up to \$5 for collection of a dishonored check, draft or other order for payment of money to the county or municipality.

#### Public Documents and Public Records

In the area of public records the Legislature, in House Bill 2040 (Chapter 75-225), has exempted investigative reports, made or received by a board or an agency in or representing the Department of Professional and Occupational Regulation, from the provisions of law which require custodians of public records to permit such records to be examined by the public unless the board or agency has found probable cause to commence formal action. The act provides that if public funds are expended by an agency in the payment of dues or membership contributions to any person, corporation,



foundation, trust, association, group or other organization, then all of the financial, business and membership records pertaining to the public agency from which or on whose behalf the payments are made, or the person, corporation, foundation, trust, association, group, or organization to whom such payments are made shall be public records and open to public inspection. The custodian of public records is required to furnish copies or certified copies of such records on request, upon payment of fees as prescribed by law, or if fees are not prescribed by law, then upon payment of the actual cost of duplicating the copies.

The law provides that examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure, certification or employment need not be made available for public inspection. It also provides that when actions are brought in court to enforce the provisions of Chapter 119, Florida Statutes, relating to public records, the court shall set an immediate hearing giving the case priority over other pending cases, and requires an agency to comply within 48 hours with any court order requiring that agency to open its records for inspection. Courts are authorized to award attorneys' fees in any case in which an agency has unreasonably refused to permit public records to be inspected.

Senate Bill 878 (Chapter 75-84) requires state agencies,

which distribute printed material to the public without charge on a periodic basis, to purge their mailing lists annually.

House Bill 85 (Chapter 75-193) permits the Governor to make confidential all or portions of executive orders providing for assignment of state attorneys to other circuits as well as all or portions of the annual report to the Legislature covering such assignments.

#### State Buildings, Facilities and Property

Senate Bill 138 (Chapter 75-70) renames the Division of Building Construction and Maintenance within the Department of General Services as the Division of Building Construction and Property Management. The Division is given the responsibility and authority for the custodial and preventative maintenance, repair, security, and allocation of space of all state-owned office buildings and the grounds located adjacent thereto, except for: district or area offices established for field operations where law enforcement, military, inspections, road operations or tourist welcoming functions are performed; educational facilities and institutions under the supervision of the Department of Education; custodial facilities and institutions used primarily for the care, custody or treatment of wards of the state; buildings or spaces used for legislative activities; and buildings purchased or constructed from agricultural or citrus trust funds.

The Division is required to promulgate rules which, among other things, prescribe procedures for soliciting and accepting competitive proposals for leased space of 5,000 square feet or more in privately-owned buildings; a standard

method for determining square footage or any other measurement used as the basis for lease payments or other charges; maximum rental rates, by geographic areas or by county, for leasing privately-owned space; and a standard method for the assessment of rent to state agencies and other authorized occupants of state-owned office space. The rules of the Division shall also provide for full disclosure of the names and the extent of interest of the owners holding four percent or more interest in any privately-owned property leased to the state, and for full disclosure of the names of all public officials, agents or employees holding any interest in any privately-owned property leased to the state and the nature and extent of their interests. The law will allow a lease to include an option to purchase or an option to renew the lease, or both, upon terms and conditions established by the Division, subject to final approval by the Governor and Cabinet as the head of the Department of General Services. The law also requires any lease by a state agency for the use of 5,000 square feet or more in a privately-owned building to be entered only upon advertisement for and receipt of competitive bids and award to the lowest and best bidder; and provides that subject to exceptions, privately-owned space shall not be leased when suitable space is available in state-owned buildings.

Duties of the Division relative to compliance with fire safety standards in the construction or renovation of

any state-owned or state-leased building are provided in CS for Senate Bill 157 (Chapter 75-151) which is summarized in the following section of this article entitled "Fire Prevention and Control."

House Bill 937 (Chapter 75-263) requires the Department of General Services, by rule, to adopt a fee schedule for the rental of space occupied by state agencies and other authorized occupants in office buildings owned by the state. All office buildings owned by the state, including any in which the state is the purchaser under a lease-purchase agreement, are to be included in the fee schedule and are subject to the requirements of this law, except those at state hospitals, educational and custodial institutions, and those specifically excluded from the fee schedule as approved and adopted. Beginning July 1, 1976, the rental fees prescribed shall be assessed and collected from all state agencies and other authorized occupants. The income derived from the rental fees shall be collected by the Division of Building Construction and Maintenance and deposited in a trust fund for the payment of debt service obligations, costs of operation, security, maintenance, repair, renovation or further construction of such office buildings, pursuant to appropriations by the Legislature for such purposes.

Senate Joint Resolution 999 would create Section 10, Article IV in the Florida Constitution to permit the creation of a Capitol and Mansion Commission for the purpose of

establishing and maintaining an historically and architecturally consistent basic plan to prescribe the furnishing, decorating and alteration of the Governor's mansion and the Capitol Building complex. This proposal is to appear on the 1976 General Election ballot.

Senate Bill 572 (Chapter 75-281) amends the "Consultants' Competitive Negotiation Act" to require the state, any state agency, municipality, political subdivision, any school district or school board which purchases any professional services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered land surveying to publicly announce each occasion when professional services are required to be purchased for a project, the basic construction cost of which is estimated by the agency to be more than \$100,000, or for a planning or study activity for which the fee for professional services exceeds \$5,000. Previously each agency was required to publicly announce such purchases regardless of the cost of the project or study, except in cases of valid public emergencies or for professional service contracts of \$5,000 or less. The law also exempts from the competitive selection requirements those professional service contracts for projects the basic construction cost of which is estimated by the agency to be \$100,000 or less, and those for a planning or study activity for which the fee for professional services is \$5,000 or less. The law provides that there shall be no public notice requirement or utilization of the selection process for projects in which the agency is able to reuse existing plans from a prior project. The statutory provisions of Sections 235.211 and 235.31, Florida

Statutes, relating to awarding of contracts for school construction are exempted from this act.

Fire Prevention and Control

CS/Senate Bill 157 (Chapter 75-151) renames the Firefighters Standards Council as the Firefighters Standards and Training Council, and transfers the Council from the Department of Community Affairs to the Division of State Fire Marshal of the Department of Insurance. The Advisory Council of the Florida State Fire College is transferred to the Firefighters Standards and Training Council, and the Division of Training and Professional Development of the Department of Community Affairs is transferred to the Department of Insurance and assigned to the Division of State Fire Marshal. Members of the Firefighters Standards and Training Council will be appointed by the State Fire Marshal rather than by the Governor.

The law prescribes the duties of the Division of State Fire Marshal and requires the Division, among other things, to establish uniform minimum standards for the employment and training of firefighters; to establish minimum curriculum requirements for schools operated by or for any employing agency for the specific purpose of training firefighters and firefighter recruits; to approve institutions and facilities for school operation by or for any employing agency for the specific purpose of training firefighters and firefighter recruits; to issue certificates of competency to persons who are especially qualified for particular aspects

or classes of firefighter duties; to establish minimum training qualifications for persons serving as fire safety coordinators for their respective departments of state government and to certify all persons who satisfy such qualifications; and to establish a uniform lesson plan to be followed by fire safety instructors in the training of state employees in fire safety and emergency evacuation procedures.

The Division of Building Construction and Maintenance of the Department of General Services, before construction or renovation of any state-owned or state-leased building is commenced, must ascertain that the proposed construction or renovation complies with the fire safety standards of the "State Building Code," and then to monitor the project to assure compliance with the approved plans. A fire safety coordinator is required in each department of state government to inspect and insure compliance with the fire safety standards, and an inter-agency advisory council and fire safety instructors are provided for in this act.

#### State Fish and Water Mammals

Committee Substitute for Senate Bill 429 (Chapter 75-75) designates the Manatee (commonly known as the Sea Cow) as the Florida state marine mammal and the Porpoise (commonly known as the Dolphin) as the Florida state salt water mammal. Committee Substitute for House Bill 84 and House Concurrent Resolution 105 (Chapter 75-1) designates the Florida Largemouth

Bass as the official Florida state freshwater fish and the Atlantic Sailfish as the official Florida state saltwater fish.

State Theater of Florida

House Bill 1860 (Chapter 75-274) reconstitutes the membership of the board of trustees of the State Theater of Florida to consist of the Dean of the School of Theater of Florida State University, an administrative official of Florida State University appointed by the President of the University, and the President of the Asolo Theater Festival Association. In addition, one member of the Board of Trustees of the Ringling Museum of Art, and one member of the public at large, are retained.

Bicentennial Commission of Florida

House Bill 1386 (Chapter 75-268) provides that 10 members of the Bicentennial Commission of Florida shall constitute a quorum for the purpose of holding meetings or conducting business, and Senate Bill 678 (Chapter 75-80) authorizes the Bicentennial Commission to conduct a program of grants-in-aid to any department or agency of state government, any unit of county, municipal or other local government, any nonprofit corporation or any other recognized nonprofit organization in furtherance of the purposes of the Commission.

Inter-American Center Authority

Committee Substitute for House Bill 1519 (Chapter 75-131)



abolishes the Inter-American Center Authority and transfers the real and personal property owned by the Authority and all of the liabilities of the Authority to the Board of Trustees of the Internal Improvement Trust Fund. The Board in turn is authorized to lease certain land, which was held by the Authority, to Dade County, provided the county meets specified conditions. The act further provides for transfer of a certain contract to the Board of Regents, and for restrictions on use of certain lands formerly under the jurisdiction of the Authority.

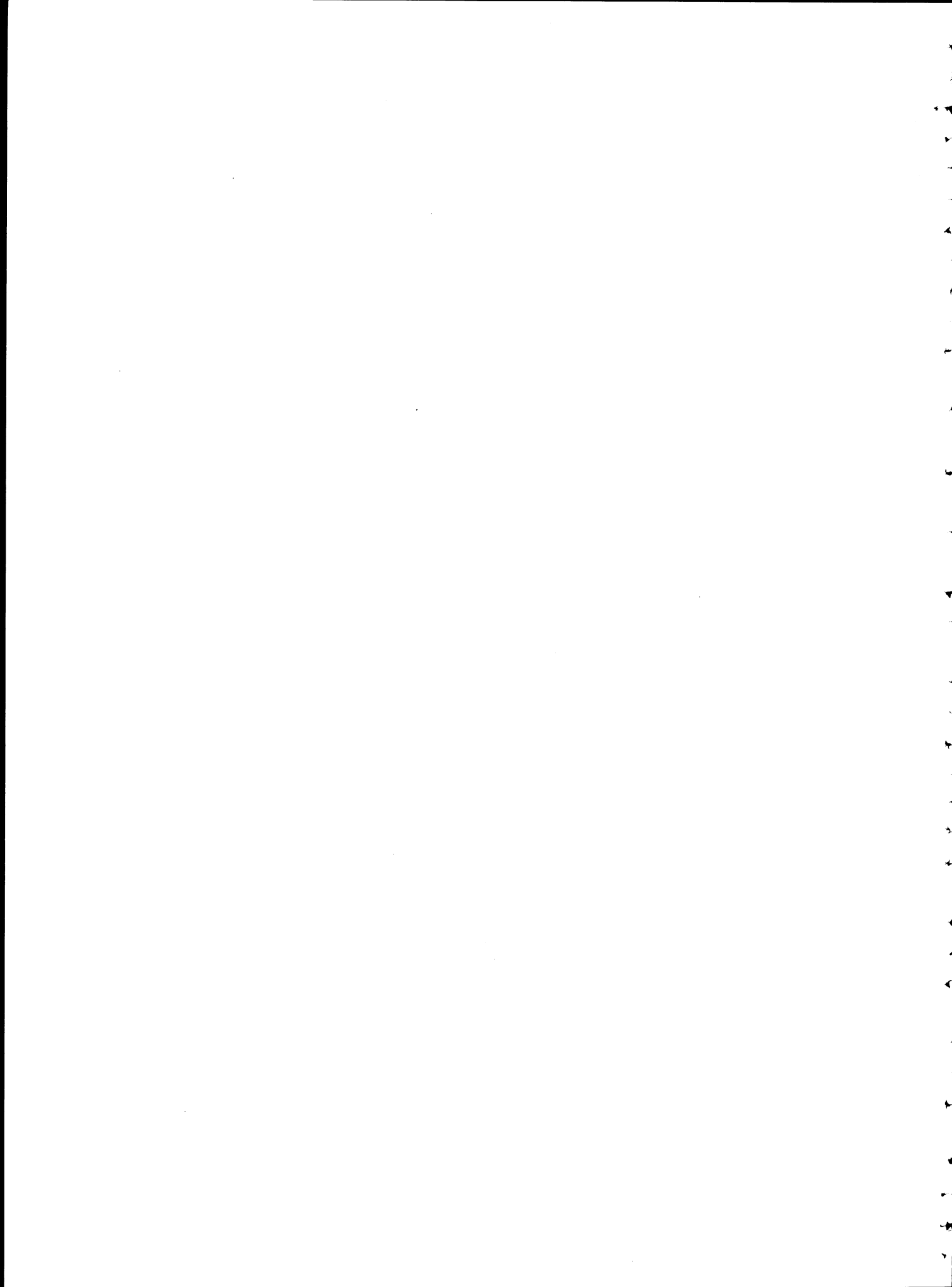
#### Miscellaneous

In addition to the foregoing, the Legislature enacted the following measures which relate to state government.

House Bill 1975 (Chapter 75-275) allows the Governor to assign the Lieutenant Governor, without Senate confirmation, to serve as head of any one department, the head of which is a secretary appointed by the Governor; notwithstanding any qualifications therefor.

House Bill 798 (Chapter 75-158) designates Lincoln's birthday (February 12) a public holiday.

House Bill 2151 (Chapter 75-169) adopts the 1975 Florida Statutes, and designates portions thereof that are to constitute official law of the State of Florida.



TAXATION\*

There were no important revenue raising measures in 1975, the result of a generally depressed economy in the State of Florida. Likewise, few tax benefits were granted to the State's taxpayers, although exemptions from sales and use taxes for purchase of motor vehicles for out-of-state use and of industrial pollution control equipment were passed by the Legislature, but did not become law because of veto by the Governor. The levy of county taxes for county purposes or for the furnishing of municipal services was made easier, and numerous provisions relating to property assessment and tax administration were changed or adjusted. Major legislation included a required program of restoration and reclamation of land disturbed by the severance of solid minerals, to be paid for out of severance tax proceeds, and transfer of the Assessment Ratio Division from the Auditor General's office to the Department of Revenue.

STATE TAXATION

Corporation Income Tax

The Florida Income Tax Code (Chapter 220, Florida Statutes) is amended by House Bill 2039 (Chapter 75-293) to accomplish several relatively technical purposes: reference to the United States Internal Revenue Code is updated; and rental income is included within the term "sales," for purposes of determining apportionment of adjusted federal income as applied to Florida

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\*Prepared by House Bill Drafting Office

corporate income tax, whenever a significant portion of the taxpayer's business consists of leasing or renting real property.

Administration of designated nonproperty taxes is changed by amendment of Chapter 214, Florida Statutes, to name the United States Secretary of the Treasury, rather than Secretary of State, as the federal official to whom the Department of Revenue may make available information received by the Department in the administration of the tax.

#### Sales and Use Tax

Two measures enacted in 1975 concerning sales and use taxes relate to administration of the tax. House Bill 379 (Chapter 75-50) requires the Department of Revenue to accept dealer returns postmarked on or before the 20th day of the month as an exception to a previous requirement that the return be made on or before the 20th day of the month. House Bill 611 (Chapter 75-65) provides for issuance of a consumer's certificate of exemption, in lieu of the current refund procedure, for purposes of the exemption granted to blind persons for the rental or purchase of guide dogs and food and other items for guide dogs.

#### Severance Taxes

House Bill 1147 (Chapter 75-40) requires severance taxpayers to institute and complete reclamation and restoration programs upon sites disturbed by the severance of solid minerals on or after July 1, 1975. "Taxable year" is defined as "calendar

year." Requests by taxpayers that the Department of Natural Resources accept a portion of a site are permitted as a part of, rather than as an alternative to, a program of reclamation and restoration. The act provides for payment from the Land Reclamation Trust Fund, upon compliance with the foregoing, of 100 percent of the cost of the program or, if a portion of a site is transferred to the state, 100 percent of the fair market value of the land conveyed. The amount of such reimbursement is limited to 50 percent of the severance taxes paid by the taxpayer and a formula is provided for determination of completion hold back on unfinished projects. Claims for refunds are required to be filed within 60 days after payment of the tax and such a claim may include costs incurred for the period July 1, 1971, through December 31 of the preceding taxable year. Taxes credited to the Trust Fund are made available for a maximum period of 5 years from the date the tax is paid, provided that work on a project is continued after notice by the Department of Natural Resources of abandonment. The Department is authorized to seek civil relief for violations. The act further provides that severance tax returns state the site of severance and number of acres in the site, and eliminates the requirement for reporting the site of the production unit and quality of the minerals severed.

#### Taxation of Motor and Other Fuels

Two bills were enacted in 1975 which relate to motor and other fuels.

Committee Substitute for House Bill 1430 (Chapter 75-286) exempts from taxation: the sale of motor fuel for export from the state if both the seller and the exporter of the motor fuel are duly licensed distributors of motor fuel; and the sale of special fuel for export from the state if both the seller and the exporter are duly licensed as dealers of special fuel. The act limits exemptions from special fuel tax on sales made by dealers for home, industrial, commercial, agricultural, and marine purposes or on sales of not more than 110 gallons, to sales conducted by a person who is the holder of a valid license as a dealer of special fuels. The Department of Revenue is authorized to cancel licenses of dealers of special fuel and provision is made for allocation of special fuels tax receipts in the same manner as provided for city transit refunds and distribution of the additional eighth cent tax on motor fuel.

House Bill 670 (Chapter 75-21) provides that dealers of special fuel need not post a bond with the Department of Revenue if the sum of three times the dealer's average monthly tax is less than \$50.

#### Cigarette Tax

House Bill 2230 (Chapter 75-104) redefines cigarettes for purposes of excise taxes, as follows: small cigarettes - weighing not more than 3 lbs. per 1000, rather than cigarettes of 4 inches or less; large cigarettes - weighing more than 3 lbs. per 1000 and not more than 6 inches long, rather than cigarettes

4 to 6 inches long; and, large cigarettes - weighing more than 3 lbs. per 1000 and more than 6 inches long, rather than cigarettes more than 6 inches long. The tax rate is unchanged from existing law.

## PROPERTY TAXATION

### Property Assessment and Review

One of the major pieces of tax legislation in 1975 is House Bill 2250 (Chapter 75-211) which transfers the Auditor General's Assessment Ratio Division to the Division of Ad Valorem Tax of the Department of Revenue, and provides for continuation of ratio studies by that Division. The act further provides for review on a 4-year basis, rather than audit, of assessment rolls by the Division, rather than by the Auditor General. Property appraisers are required to supply all data necessary for such studies to the Division and reimbursable costs are to be borne by the Division. The Auditor General is authorized to perform postaudits and performance audits of the administration of the ad valorem tax laws and programs.

Senate Bill 13 (Chapter 75-12) mandates the property appraisers' manual to instruct that the mere recordation of a plat on previously unplatted acreage shall not be construed as evidence of sufficient change in the character of the land to require reassessment until such time as development is begun on the platted acreage.

Senate Bill 494 (Chapter 75-77) provides that members of

each county Board of Tax Adjustment may be replaced from time to time by other members of their respective boards on appointment by their respective chairmen, rather than serving a fixed term as previously prescribed by law.

#### Property Tax Administration

Four pieces of 1975 legislation affect property tax administration.

House Bill 2006 (Chapter 75-103) provides that escrow deposits of tax on property transferred by any means except condemnation to exempt governmental units during a year are to be in an amount equal to the current taxes prorated to the date of transfer, rather than in an amount equal to 120 percent of the previous year's tax bill. Any additional taxpayer liability is canceled. The maximum interest rate upon tax certificates is increased from 12 percent to 18 percent, and bids are authorized on such certificates in even increments and in fractional rates of .25 percent. Special assessment liens on special districts are required to be collected in the same manner as ad valorem taxes. Taxes are extended to lands upon which taxes have been sold to a county, and tax collectors are required to remit interest on tax certificates to the general fund of the taxing unit. The act further repeals Section 197.036, Florida Statutes, which requires delinquent taxes levied on real property and all tax sale certificates on real property to be paid or redeemed prior to acceptance by the tax collector of current taxes levied



on the same real property if the county holds a tax certificate against the property.

Senate Bill 749 (Chapter 75-63) provides that no referendum is required for the levy by a county of ad valorem taxes for county purposes or for the furnishing of municipal services within any municipal service taxing unit.

House Bill 74 (Chapter 75-192) requires the Clerk of the Circuit Court to send notice of application for a tax deed by certified mail with return receipt requested to persons entitled to such notice.

Senate Bill 65 (Chapter 75-68) revises technical requirements for printing notice of tax increases and permits such notices to appear in newspapers of general paid circulation in the county, published at least 5, rather than 6, days a week, unless the only newspaper in the county is published less than 5 days a week. These requirements need not be met when the total millage levied does not exceed the district required local effort under the Florida Education Finance Program (Chapter 236, Florida Statutes).

Committee Substitute for Senate Joint Resolution 1061, summarized in the above Article on CONSTITUTIONAL AMENDMENTS, would amend the State Constitution to limit local ad valorem taxes for water management purposes, and would specify the millages for same. Senate Bill 223 (Chapter 75-245) provides for a special election to be held the second Tuesday in March 1976 (concurrent with the Presidential Preference Primary Election) on this proposed amendment.

## Personal Property Taxation

Senate Bill 553 (Chapter 75-136) requires a tax collector to apply to the circuit court for an order directing levy upon and seizure of personal property for unpaid taxes. A procedure is set forth for continuing notice to the holder or mortgagee of an unsatisfied mortgage or lein upon personal property concerning any delinquent taxes appearing on the current tax roll for such property. The tax collector is required to prepare a list of unpaid taxes prior to, rather than beginning May 1, and a procedure for issuance of court orders for seizure is mandated.

LISTING OF 1975 GENERAL LAWS BY SESSION LAW CHAPTER  
NUMBER WITH CORRESPONDING LEGISLATIVE BILL NUMBER

75-1 (CS/HB 84 & HCR 105)	75-35 (SB 363)	75-69 (SB 100)
75-2 (HB 399)	75-36 (SB 122)	75-70 (SB 138)
75-3 (HB 459)	75-37 (SB 316)	75-71 (CS/SB 171)
75-4 (HB 1436)	75-38 (SB 629)	75-72 (SB 189)
75-5 (HB 1861)	75-39 (HB 1286)	75-73 (SB 289)
75-6 (HB 461)	75-40 (HB 1147)	75-74 (SB 387)
75-7 (SB 55)	75-41 (HB 686)	75-75 (CS/SB 429)
75-8 (CS/SB 105)	75-42 (CS/HB 2004)	75-76 (CS/SB 454)
75-9 (HB 1267)	75-43 (CS/HB 2005)	75-77 (SB 494)
75-10 (HB 27)	75-44 (HB 2072)	75-78 (SB 624)
75-11 (HB 1447)	75-45 (HB 2073)	75-79 (SB 662)
75-12 (SB 13)	75-46 (HB 2101)	75-80 (SB 678)
75-13 (SB 66)	75-47 (HB 1383)	75-81 (SB 698)
75-14 (SB 132)	75-48 (CS/SB 165)	75-82 (SB 721)
75-15 (SB 166)	75-49 (CS/SB 169)	75-83 (CS/SB 791)
75-16 (CS/SB 230)	75-50 (HB 379)	75-84 (SB 878)
75-17 (SB 426)	75-51 (CS/HB 583)	75-85 (SB 950)
75-18 (SB 470)	75-52 (HB 1355)	75-86 (SB 1102)
75-19 (SB 83)	75-53 (SB 252)	75-87 (HB 10)
75-20 (SB 87)	75-54 (CS/SB 308)	75-88 (HB 494)
75-21 (HB 670)	75-55 (SB 311)	75-89 (HB 639)
75-22 (CS/CS/SB 123)	75-56 (SB 388)	75-90 (HB 819)
75-23 (HB 121)	75-57 (SB 89)	75-91 (HB 862)
75-24 (HB 1288)	75-58 (SB 657)	75-92 (HB 877)
75-25 (HB 1914)	75-59 (HB 1908)	75-93 (HB 1007)
75-26 (SB 19)	75-60 (HB 2284)	75-94 (HB 1339)
75-27 (SB 260)	75-61 (SB 112)	75-95 (HB 1577)
75-28 (SB 352)	75-62 (SB 309)	75-96 (HB 2092)
75-29 (SB 31)	75-63 (SB 749)	75-97 (HB 2093)
75-30 (SB 64)	75-64 (HB 210)	75-98 (HB 163)
75-31 (SB 183)	75-65 (HB 611)	75-99 (CS/HB 222)
75-32 (SB 250)	75-66 (SB 49)	75-100 (CS/HB 868, 1027 & 1159)
75-33 (SB 339)	75-67 (SB 1132)	75-101 (CS/HB 1102)
75-34 (SB 350)	75-68 (SB 65)	

See Bill listing for Summary  
page number references.

Listing of 1975 General Laws by Session Law  
Chapter Number & Corresponding Bill Number (Continued)

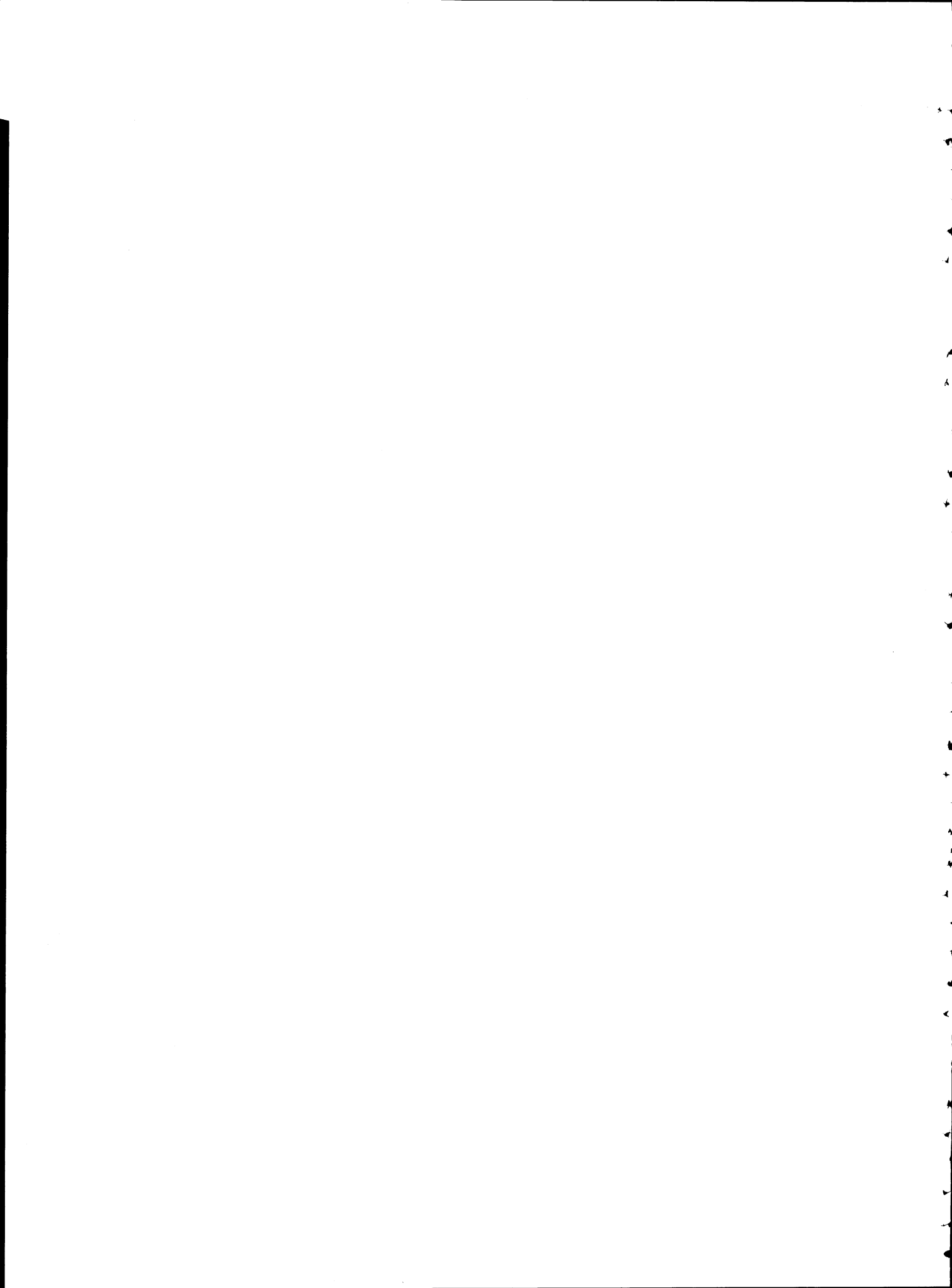
75-102 (HB 1893)	75-137 (SB 746)	75-172 (CS/SB 321)
75-103 (HB 2006)	75-138 (CS/HB 545)	75-173 (SB 336)
75-104 (HB 2230)	75-139 (HB 1072)	75-174 (SB 513)
75-105 (SB 2)	75-140 (HB 1084)	75-175 (SB 568)
75-106 (SB 15)	75-141 (CS/HB 1504)	75-176 (SB 577)
75-107 (SB 95)	75-142 (HB 1603)	75-177 (SB 623)
75-108 (CS/SB 98)	75-143 (HB 1731)	75-178 (CS/SB 708)
75-109 (SB 148)	75-144 (HB 960)	75-179 (SB 824)
75-110 (SB 237)	75-145 (CS/HB 1259)	75-180 (SB 1207)
75-111 (CS/SB 242)	75-146 (SB 115)	75-181 (CS/SB 899)
75-112 (SB 294)	75-147 (SB 255)	75-182 (CS/SB 1215)
75-113 (SB 330)	75-148 (HB 1117)	75-183 (SB 131)
75-114 (SB 370)	75-149 (HB 1280)	75-184 (SB 290)
75-115 (CS/SB 410)	75-150 (HB 1606)	75-185 (SB 332)
75-116 (SB 505)	75-151 (CS/SB 157)	75-186 (SB 356)
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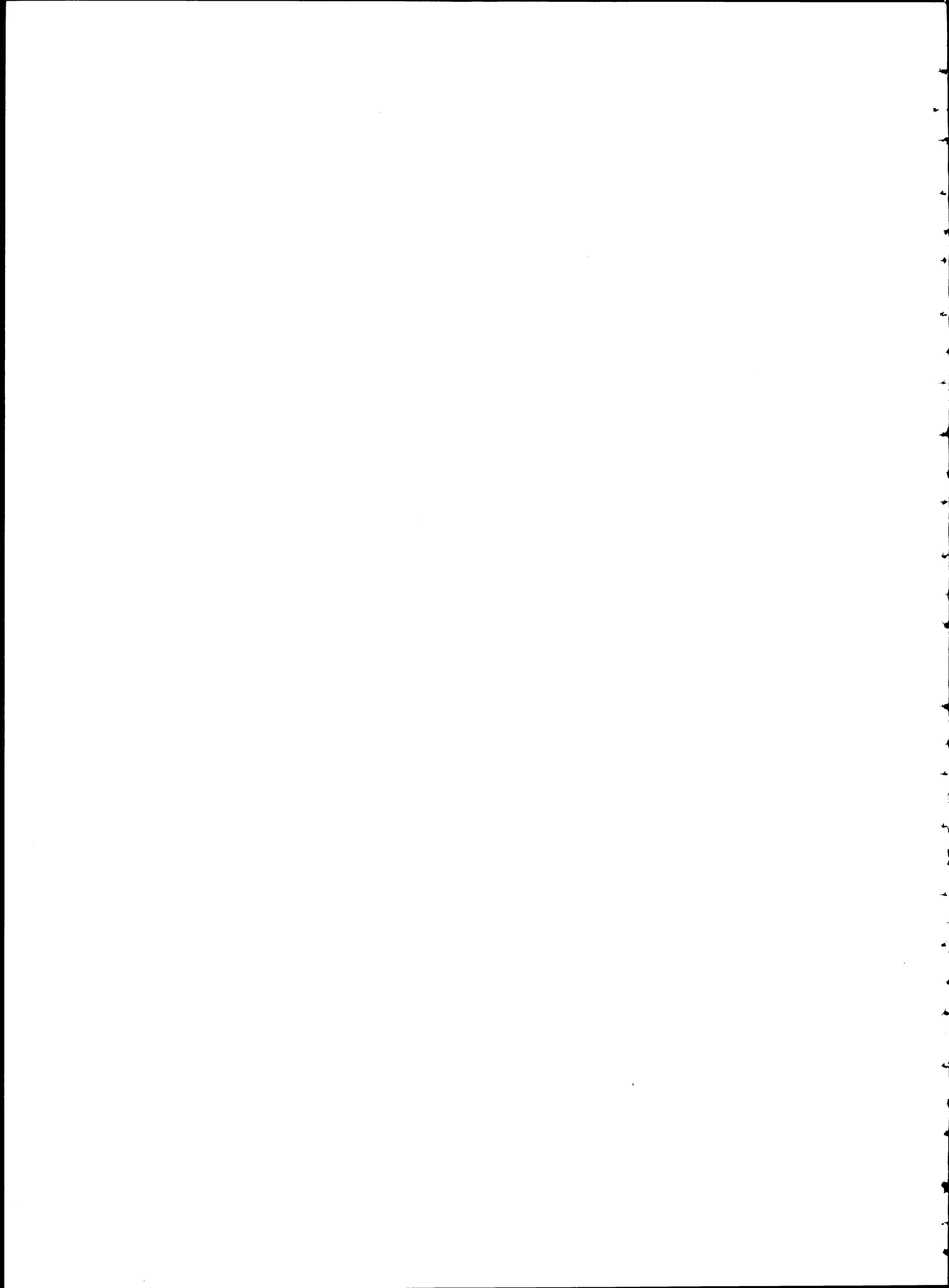
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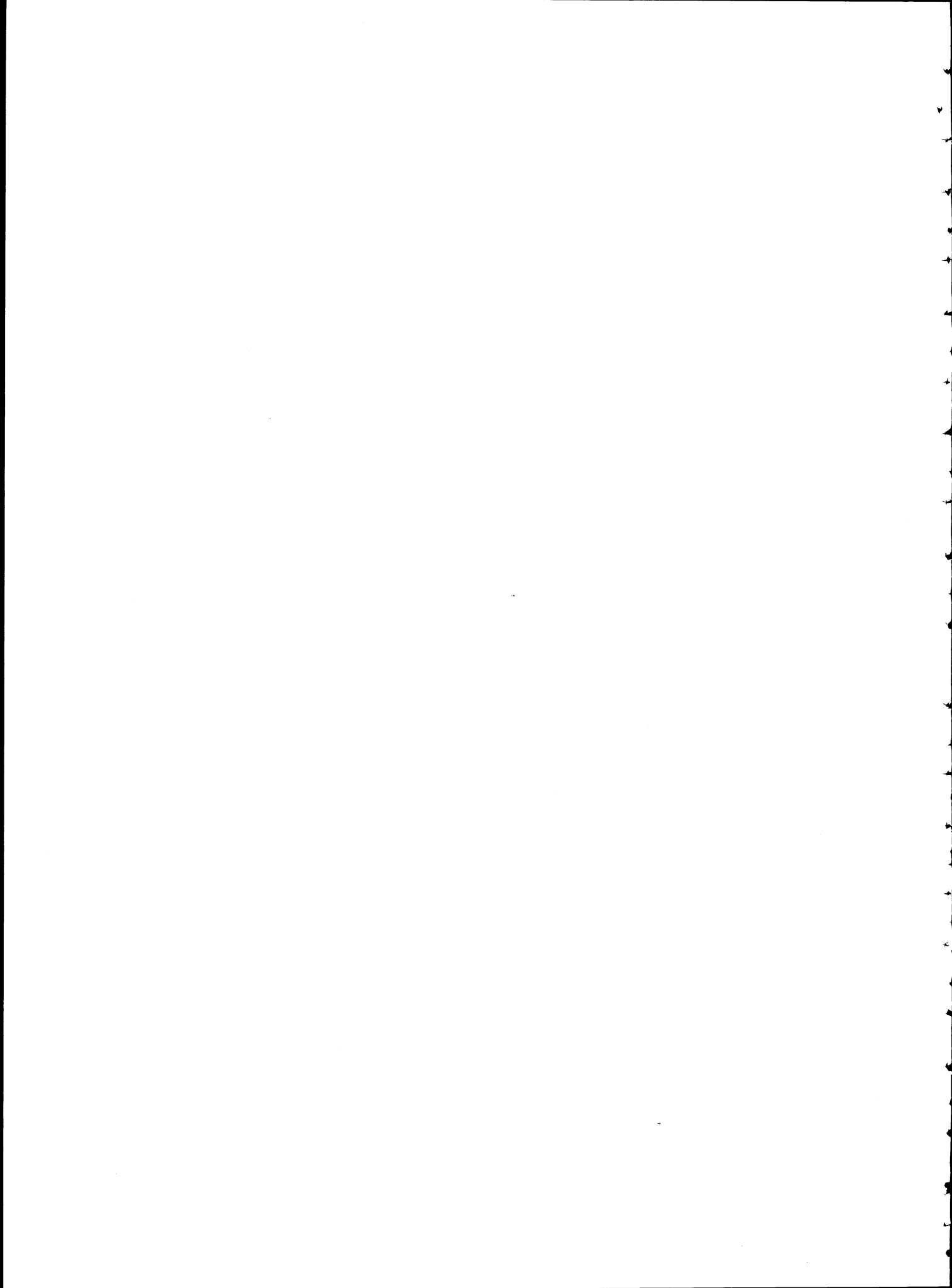
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IMPACT

Economic Impact Disclosure Act.....CS/HB 874-Vetoed  
Fuels; environmental & economic study re use.....CS/SB 174-Vetoed  
Health care facilities; construction.....HB 1361  
State agencies/ regulations; estimate of economic  
impact required.....SB 1320

IMPEACHMENT OR SUSPENSION

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procedures.....HJR 1709

INDEPENDENT POSTSECONDARY VOCATIONAL, TECH., TRADE & BUS. SCHOOLS

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Powers & duties revised.....SB 1249

INSURANCE

Agents, industrial fire ins.; limited licenses;  
residency requirement removed.....HB 2082  
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\*See Bill listing for Summary page number references.

INSURANCE (Continued)

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issuance or increased rates prohibited.....SB 664  
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Group Insurance  
Health maintenance organizations; blanket  
coverage.....HB 27  
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& bus. schools; exemption.....SB 250  
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residency requirement removed.....HB 2082  
Insurers' reports; municipal fire depts. named.....SB 551  
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Medical malpractice coverage; \$100,000 required.....HB 1267  
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Inter-American cultural & trade center; abolished  
& property transferred..... CS/HB 1519

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Large business loans; 25% interest per annum.CS/HB 301 & 509-Vetoed  
Loans increased to \$15,000; interest 8%; rebates....HB 1923-Vetoed  
Tax revenue collections; apportionment of interest....SB 237

INTERNAL IMPROVEMENT TRUST FUND

Aquatic preserves; maintenance.....CS/SB 321  
Bulkhead lines, established; dredge permits.....CS/CS/SB 123  
Cecil M. Webb Wildlife Mgmt. Area; land  
disposition.....CS/HB 1139 & 1947  
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\*See Bill listing for Summary page number references.

INTERNAL IMPROVEMENT TRUST FUND (Continued)

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& tax assessment; disclosure.....SB 698  
Murphy Act lands; quiet title proceedings; attorneys'  
fees prohibited; publication of lists deleted.....HB 1524  
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\*See Bill listing for Summary page number references.

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- Architects, out-of-state; temporary registration certificates.....SB 154
- Professional service contracts; public notice & selection eliminated re certain projects.....SB 572

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- Name changed to Fla. Bd. of Landscape Architects; change in fees & registration requirements.....SB 154

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- Deputy sheriffs' blanket surety bond...CS/HB 868,1027 & 1159
- Fleeing felons, arrest; use of deadly force.....HB 210
- Litter enforcement officers, included in definition..HB 1150
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- Reports to Legislature by:
  - Admin. Dept./comprehensive energy conservation program.....HB 770
  - Agri. & Consumer Serv. Dept./palm lethal yellowing.....CS/SB 708
  - Banks & savings & loan assns./remote financial service unit operations.....CS/SB 280
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    - Educational facilities/5-yr. assessment of needs.....HB 1909
    - Integrated info system/ed. management.....CS/CS/HB 984
    - Postsecondary Education Finance Committee.....HB 1972
    - Student transportation pilot program.....CS/CS/HB 984
  - Education Dept.; public school finance, methods.....CS/CS/HB 984
  - Environmental Regulation Dept./reorganization plans.....CS/CS/SB 123
  - General Serv. Dept./state office bldgs., fee schedule.....HB 937
  - Governor/state attorney assignments.....HB 85
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  - Joint Interim Legislative & Executive Study Committee/re creating horse racing trust fund..HB 2072

\*See Bill listing for Summary page number references.

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    of nursing home residents.....SB 777  
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    Bridge inspections.....SB 746  
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\*See Bill listing for Summary page number references.

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- Historic preservations boards See: Headings beginning  
with HISTORIC
- Land planning agency established re future  
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- Local Govt. Comprehensive Planning Act of 1975.....HB 782
- Local housing codes; State interposition prohib....CS/SB 242
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- Revenue bonds; pollution control facilities.....CS/HB 1201
- Revenue sharing; population, annexed areas.....HB 1007
- Solid waste recycling projects or programs.....CS/SB 308
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- Livestock; recording fees increased.....SB 316

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- Task Force on Marriage & the Family Unit; created.CS/HB 1140

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- Athletic trainers, professional teams; exempt.....SB 352

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- Contracts, direct; procedure for proper payment SB 80

\*See Bill listing for Summary page number references.

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MEDICAL PRACTICE  
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\*See Bill listing for Summary page number references.



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- Juveniles; judicial treatment
  - Counseling of parents or legal guardians ..... SB 370
  - Damages; restitution ..... SB 380
  - "Dependent child"; redefined to include runaway & truant children ..... CS/SB 165
  - Detention hearings, within 24-hr. period.... CS/SB 165
  - Release to adult approved by court ..... CS/HB 971
  - Traffic offenses; filing circuit court; procedure .....CS/SB 559-Vetoed
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- Dealers & manufacturers; includes recreational vehicles ..... CS/HB 1778
- Home improvement loans; interest rates ..... HB 1921-Vetoed
- Length; determination ..... SB 260
- License plates & registration; tax refund ..... CS/SB 42-Vetoed
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- Weights; maximum 80,000 lbs..... HB 1383

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- Tax deed application; notice by certified mail.....HB 74

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- County commissioners; election petition; filing... HB 659

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- Dealers & distributors
  - Dealers, licenses; bond requirements ..... HB 670
  - Redefined; special fuels; tax refunds; allocation .....CS/HB 1430
- Transportation projects; 1st gas tax; legis. approval re funding ..... SB 115

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- Damaged; obstructing traffic; removal ..... SB 189
- Drivers' licenses
  - Anatomical gift cards.....CS/SB 171
  - Driver education course; made optional in secondary schools..... CS/CS/HB 984
  - Four-year license ..... SB 124
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- Inspection; current registration proof required ... SB 49
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  - Alphanumeric license plates; 4-year ..... SB 49

\*See Bill listing for Summary page number references.

MOTOR VEHICLES (Continued)

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\*See Bill listing for Summary page number references

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Injury/wrongful death; tortfeasors,  
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OFFENDER REHABILITATION; DEPT. OF

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\*See Bill listing for Summary page number references.

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\*See Bill listing for Summary page number references.

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\*See Bill listing for Summary page number references.

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\*See Bill listing for Summary page number references

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State attorneys assignment to other circuits.... HB 85  
Inspection within 48 hrs.; accelerated hearings  
to enforce ..... HB 2040  
Organization membership dues; public funds ..... HB 2040

PUBLIC SERVICE COMMISSION

Air carriers, aircraft; rates; schedules, etc.  
duties ..... HB 1889

\*See Bill listing for Summary page number references.



PUBLIC SERVICE COMMISSION (Continued)

Court reporters, salaries; transcripts of  
testimony; fees ..... SB 148  
Employees; types & exemption ..... SB 148  
Motor carriers, broker licenses; assignment or  
transfer ..... HB 1372

PUBLIC UTILITIES

Joint electric power supply project .....HB 1329  
Rural Electric Cooperatives; quorum requirements..HB 1436

RACING

Bookmaking; penalty ..... HB 1289  
Charity days, additional; proceeds for:  
Boys' Town of Florida ..... SB 722  
Harry-Anna Crippled Children's Hospital  
(Eustis).....SB 722  
Juvenile Diabetes Research Foundation ..... SB 722  
Dog racing; pari-mutuel pool, commission  
increased ..... CS/HB 2004  
Harness horse racing; additional take-out  
permitted ..... HB 2101  
Horse racing trust fund; feasibility study ..... HB 2072  
Jai alai frontons; pari-mutuel pool comm.  
increased ..... CS/HB 2004  
Pari-mutuel wagering; uniform reporting system... HB 2073  
Thoroughbred horse racing  
Pari-mutuel pool, commission increased .... CS/HB 2004  
Quarter horse; daily race restriction  
removed ..... HB 1603  
Special winter common purse pool; created...CS/HB 2005

RAPE

Victims; emergency medical treatment at  
hospitals .....CS/SB 1215

REAL ESTATE & REAL PROPERTY

Inter vivos trusts, settlors; applicability ..... SB 387

REAL ESTATE BROKERS & SALESMEN

Apprenticeship requirements ..... SB 15  
Registration  
Educational requirements changed .....SB 937  
Nonresidents; retention .....SB 294  
Qualifications ..... SB 15  
Renewals .....SB 290

REAL ESTATE COMMISSION

Chairman/members, compensation; travel & per diem..SB 293-Vetoed  
Examiners, license suspension/revocation hearings..SB 294  
Handbook, publication .....SB 290

\*See Bill listing for Summary page number references.

RECREATIONAL TRAILS

Motorcycling included in "Outdoor Recreational  
Purposes" ..... SB 426

RECREATIONAL VEHICLES

Dealers; standards; plumbing, electrical  
systems, etc.....CS/HB 1778

REGENTS, BD. OF (See also EDUCATION; SCHOOLS)

Data processing, state universities; uniform  
system .....SB 87  
Inter-American Center Authority transfer.....CS/HB 1519  
Private institutions; contract authority ..... HB 1280

REORGANIZATION OF STATE AGENCIES See

Specific Agencies

RESOURCE MANAGEMENT, DIV. OF

Created; duties re Coastal Coordinating  
Council.....CS/CS/SB 123

RESOURCE RECOVERY AND MANAGEMENT PROGRAM

Development time extended..... CS/SB 308

RETAILERS

"Shoplifting" changed to "retail theft" .....HB 960

RETARDATION, DIV. OF

Bill of Rights of retarded persons .....CS/HB 815  
Group living homes .....CS/HB 794  
Retardation program office in Dept. of  
Health & Rehab. Services .....CS/SB 165

RETIREMENT

Florida Retirement System  
Blind vending stand operators ..... HB 1902  
Elected officers' class; transfers and  
prior credit ..... HB 970  
Hearings re claims; retirement commission's  
duties ..... HB 182  
Judicial positions; purchase additional credit. HB 970  
Members convicted of felony or impeachable  
offense; forfeiture of benefits .....SB 1102  
Prior service, certain conditions; creditable  
service .....HB 857  
Recomputation of benefits; \$8 & \$10  
adjustment formula ..... SB 1127  
Suspended or reinstated; service credit ..... HB 838  
Teachers' Retirement Transferees;  
survivor benefits ..... HB 290  
Recomputation of benefits; \$8 & \$10 adjustment  
formula ..... SB 1127  
Retirement Commission; created ..... HB 182

\*See Bill listing for Summary page number references.

RETIREMENT (Continued)

Special risk members; prior service;  
entitlement ..... HB 857 & HB 182  
State retirement systems benefit changes;  
based on sound actuarial basis effective  
January 1, 1977 ..... HJR 291  
Teachers  
Incapacitated; age lowered, certain benefits...HB 1581  
Transferring to FRS; survivor benefits ..... HB 290

REVENUE, DEPT. OF

Assessment Ratio Div. transferred to Ad Valorem Tax  
Div..... HB 2250  
Dealers; tax returns; due date ..... HB 379  
Fuel allocation program, federal; data information.HB 770  
Secretary-Treas., U. S.; corporate income tax  
info. receiver ..... HB 2039  
Special fuel dealers'  
Bonds ..... HB 670  
Licenses ..... HB 1430

REVENUE SHARING

Population determination of annexed areas ..... HB 1007

ROADS & BRIDGES (See also TRANSPORTATION, DEPT. OF;  
TRAFFIC CONTROL)

Bridge inspection; standards ..... SB 746  
Construction workers & flagmen; right-of-way ..... SB 60  
Interstate highway system; federal loan  
reimbursement .....CS/HB 738  
Outdoor advertising; 660 ft. edge of right-of-way..HB 1384

RULES & REGULATIONS See: ADMINISTRATIVE PROCEDURE ACT

RURAL ELECTRIC COOPERATIVES

Joint electric power supply projects .....HB 1329  
Meetings; quorum requirements .....HB 1436

ST. JOHNS COUNTY

Spring term changed (7th Jud. Circuit) ..... HB 963

SALES TAX (See also TAXATION)

Blind persons; guide dogs, food & supplies;  
exemption ..... HB 611  
Boat sales; removed from state exempt ..... SB 440-Vetoed  
Commercial fishing; special fuels; refund..... HB 974-Vetoed  
Dealers' tax returns; due date ..... HB 379  
Motor vehicle sales, out-of-state residents;  
exemption ..... CS/SB 251-Vetoed  
Pollution control & abatement materials; exemption..HB 746-Vetoed

\*See Bill listing for Summary page number references.

SALTWATER FISHING

Commercial fishing/special fuels; sales  
tax refund ..... HB 974-Vetoed  
Coral; restrictions re taking certain specimens .. SB 629  
Gill nets, wing nets or similar devices; use  
restricted (Walton, Santa Rosa, Okaloosa &  
Escambia) ..... HB 1803  
Oysters, harvesting; certain license exemptions... SB 459  
Saltwater products unlawfully landed; sale  
prohibited ..... SB 721  
Seafood dealers, wholesale; invoices, bills of  
lading .....HB 1577  
Shrimp nets; type & size clarified ..... HB 933  
Territorial waters; venue re violations beyond  
limits ..... SB 721  
Weakfish; special & general laws re sale  
prohibited ..... HB 1803

SALTWATER MAMMAL, STATE See: STATE SALTWATER MAMMAL

SAVINGS & LOAN ASSOCIATIONS

Electronic transfers; remote financial service  
units ..... CS/SB 280  
Mobile home improvement loans; interest rates HB 1921-Vetoed

SCHOOLS (See also EDUCATION)

Academic calendars; coordination by Education Bd....SB 83  
Accreditation by Education Dept.; law  
repealed..... CS/CS/HB 984  
Administrative data processing; coordination..... SB 87  
Administrative Procedure Act; regulations..... SB 1320  
Bonds issued pursuant to State Bond Act ..... HB 1909  
Buses; color, use by elderly/handicapped/  
needy ..... CS/CS/HB 984  
Cost differentials & sparsity factors..... CS/CS/HB 984  
Counselors/student services act ..... SB 589  
Dale Carnegie Programs; accreditation ..... SB 250  
Driver education programs in secondary  
schools ..... CS/CS/HB 984  
Education finance program; required local  
effort ..... CS/CS/HB 984  
Educational facilities construction; funding .... HB 1909  
Environmental Education Advisory Council; created.HB 1972  
Exceptional students  
Diagnostic & resource centers (Brevard &  
Okaloosa) .....SB 100  
Redefined to include gifted children .... CS/CS/HB 984  
Federal Aviation Adm. regulated; exemptions..... SB 250  
Free enterprise & consumer ed. program;  
required ..... CS/HB 470  
Gifted children/exceptional children;  
definition ..... CS/CS/HB 984  
High school equivalency diplomas; procedure  
to acquire ..... CS/SB 340

\* See Bill listing for Summary page number references.

SCHOOLS (Continued)

- Independent postsecondary vocational, tech.,  
trade & bus. schools; certain exemptions ..... SB 250
- Personnel reduction; administrator-teacher  
ratio ..... CS/CS/HB 984
- Property & facilities; maintenance;  
expenditures ..... HB 809
- Resource centers, exceptional students  
(Brevard, Okaloosa) ..... SB 100
- School boards
  - Building constr.; contract payments.....CS/SB 158-Vetoed
  - Early childhood & basic skills development  
K-3 ..... CS/CS/HB 984
  - Educational facilities construction; duties... HB 1909
  - Paraprofessionals, teachers, parents & business  
representatives; guidance services..... SB 589
  - Performance audits & postaudits/financial  
records ..... SB 561
  - Transportation of school children; annual  
report ..... CS/CS/HB 984
- School districts
  - Assessment for special benefits; local variance  
from state law prohibited ..... HB 809
  - Comprehensive educational plans K-12 .... CS/CS/HB 984
  - Construction funds, estimate; notification ... HB 1909
  - Student services programs; development..... SB 589
- Students
  - Full-time equivalent; defined ..... CS/CS/HB 984
  - High school equivalency diplomas; conditions.CS/SB 340
  - Student services program ..... SB 589
  - Transportation; urban transit systems;  
funds ..... CS/CS/HB 984
- Teachers (Instructional Personnel)
  - Aides, K-3; teaching certificate  
not required ..... CS/CS/HB 984
  - Legal holidays; 6 maximum paid ..... HB 1521
- Vocational education courses; employment;  
lowered ..... CS/HB 609 & HB 1511

SEAFOOD DEALERS See: SALTWATER FISHING

SECONDHAND DEALERS

- Defined; goods sold/purchased; records; reports;  
filing ..... CS/SB 609

SECRETARY OF STATE

- Atlantic sailfish designated state  
saltwater fish ..... CS/HB 84 & HCR 105
- Chief election officer; duties ..... HB 163

\*See Bill listing for Summary page number references.

SECRETARY OF STATE (Continued)

Fla. large mouth bass designated state freshwater  
fish ..... CS/HB84 & HCR 105  
Manatee (Sea Cow) designated state marine  
mammal .....CS/SB 429  
Porpoise (Dolphin) designated state saltwater  
mammal ..... CS/SB 429

SECURITIES EXCHANGE COMMISSION

Condominiums; proxy powers registration..... HB 1087

SENTENCES

Capital felony; second jury/special juror present..HB 102-Vetoed  
Felonies using firearm/destructive device;  
sentences ..... SB 55 & HB 1289  
Felons, Committing crime while on bail;  
sentencing ..... HB 240-Vetoed  
Habitual felony offenders & misdemeanants;  
extended term.....SB 505

SEPTIC TANKS

Subdivisions; lot requirements ..... CS/HB 1259

SERVICE OF PROCESS

Acceptance age limit changed.....SB 350  
Publication of notices of action; insolvent &  
poverty-stricken persons ..... HB 1953

SEWAGE TREATMENT

Effluents; discharge in aquatic preserves  
prohibited..... CS/SB 321  
Plant operations; approval & treatment duties  
transferred to Health Div..... CS/CS/SB 123  
Resource recovery & solid waste disposal  
programs..... CS/SB 308

SEX OFFENSES

Rape victims; emergency medical services..... CS/SB 1215

SHERIFFS

Deputies; blanket bonds..... CS/HB 868,1027 & 1159

SHOPLIFTING

Changed to "retail theft" ..... HB 960

SPINAL CORD DISABILITIES

Required report ..... HB 1827

STATE AGENCIES

Capital outlay projects, alterations; supervisory  
authority ..... SB 524

\*See Bill listing for Summary page number references.

STATE AGENCIES (Continued)

Clearing accounts outside State Treasury;  
D.O.A. approval..... HB 862  
Mailing lists; annual purging ..... SB 878  
Mailing lists; biennial purging ..... HB 1263-Vetoed  
Office space; leasing ..... SB 138  
Rental space; fee schedule; assessment &  
collection ..... HB 937  
Reorganization See: Specific Agencies

STATE ATTORNEYS

Child abuse reports; duties ..... SB 332  
Educational instruction; compensation authorized..HB 1606  
Exchange or assignment order; 6-month  
expiration date ..... HB 85  
Juveniles, violent crimes; transfer for criminal  
prosecution ..... CS/SB 165  
Mental patients/insanity acquittal, release  
procedures ..... CS/HB 522 & 1192

STATE, DEPT. OF

Administrative code; rule-making authority  
citations ..... SB 95  
Career service system; exempt positions.....HB 1291  
Land sales to state; vendor financial  
transactions statement ..... SB 698  
Library Services Div.; state agencies to furnish  
list of public documents..... HB 1263-Vetoed

STATE FIRE MARSHAL, DIV. OF

Fire Fighters Standards Council transferred to..CS/SB 157  
Fire prevention equipment; Fire Safety Board ..... SB 551  
State Fire College; duties re .....CS/SB 157

STATE FISH

Atlantic sailfish, state saltwater fish.CS/HB84 & HCR 105  
Fla. large mouth bass, state freshwater  
fish .....CS/HB84 & HCR 105

STATE GOVERNMENT See: Specific agencies

STATE HOSPITALS

Contraband articles, removing certain; prohibited..HB 541  
N. E. Fla. Hospital; cemetery created;  
unclaimed bodies ..... HB 658

STATE MANPOWER PLANNING ACT

Revision ..... HB 2124

STATE MANPOWER SERVICES COUNCIL ACT

See STATE MANPOWER PLANNING ACT

STATE MARINE MAMMAL

Manatee (Sea Cow); designated as ..... CS/SB 429

\*See Bill listing for Summary page number references.

STATE OFFICERS & EMPLOYEES See: PUBLIC OFFICERS & EMPLOYEES

STATE OFFICERS' COMPENSATION COMMISSION  
Members; terms of subsequent appointees..... HB 215

STATE SALTWATER MAMMAL  
Porpoise (Dolphin) designated as ..... CS/SB 429

STATE THEATER  
Board of Trustees; membership changed..... HB 1860

STATE TREASURER See: TREASURER, STATE

STATE UNIVERSITIES  
Academic calendars; coordination by Education Bd....SB 83  
Administrative Procedure Act; regulations ..... SB 1320  
Data processing; uniform system .....SB 87  
Direct-support organizations; lease arrangements..HB 1972  
Educational facilities construction; funding..... HB 1909  
Private institutions; contract to fulfill needs.. HB 1280  
Student loans; renewals; short-term;  
requirements ..... HB 1972  
Theater, State; Bd. of Trustees membership  
changed ..... HB 1860  
Univ. of Fla.; palm tree lethal yellowing  
research .....CS/SB 708  
Univ. of Miami/School of Med.; full-time  
dental faculty..... CS/SB 899

STATE WARRANTS  
Forged; Treasurer's reimbursement ..... CS/SB 410

STATUTE OF LIMITATIONS See LIMITATIONS

SUBDIVISIONS  
Sewage disposal systems, individual;  
connections ..... CS/HB 1259

SUPREME COURT  
Clerks; filing fees increased ..... CS/SB 868  
State attorneys assigned other circuits;  
approval ..... HB 85

SURVEYORS  
Professional service contracts; public notice  
& selection eliminated re certain projects.....SB 572

TAXATION (See also SALES TAX & other specific headings)  
Ad valorem tax  
Governmental units/property rentals..... CS/HB 1759-Vetoed

\*See Bill listing for Summary page number references



TAXATION (Continued)

Ad valorem tax (Continued)

Local

Collection & administration ..... HB 2006  
Levy without referendum..... SB 749  
Water management purposes; 1-mill  
limitation ..... CS/SJR 1061 & SB 223  
Assessment, manual of instruction; revision ..... SB 13  
Board of tax adjustment; membership .....SB 494  
Cigarettes; redefined for tax purposes .....HB 2230  
Collectors  
Revenue collections; investment .....SB 237  
Special assessment liens; collection..... HB 2006  
Corporate income tax; information sharing  
and definitions ..... HB 2039  
Gross receipts tax, public service corps.;  
collection ..... HB 1909  
Land reclamation; refunds ..... HB 1147  
Millage increase; publication, manner & form ..... SB 65  
Motor fuel tax; redefinition & exemptions..... HB 1430  
Personal property tax; collection of delinquent....SB 553  
Property appraiser; manual of instruction;  
revision ..... SB 13  
Property assessment/ratio study; transferred  
to Revenue Dept..... HB 2250  
Sales & use tax  
Certificate of exemption for guide dog supplies.HB 611  
Dealer's returns filing date.....HB 379  
Severance taxpayers; reclamation &  
restoration programs.....HB 1147  
Special fuel dealers; bond requirements ..... HB 670  
Tax certificates, sale of; 18% interest rate  
yearly ..... HB 2006  
Tax deed applications, mortgagee's notice/  
certified mail .....HB 74

TENNIS CLUBS

Alcoholic beverages; special licenses..... HB 64-Vetoed

THEATER See: STATE THEATER

TIDAL LANDS See: PUBLIC LANDS

TOBACCO

Flue-cured; assessment basis ..... HB 1223

TORTS

Injury/wrongful death; tortfeasors, uniform  
contribution .....CS /SB 98

TOURISM, DIV. OF

Members-at-large & council members;  
qualifications ..... HB 2142

\*See Bill listing for Summary page number references.

TRADE

Fair trade law, repealed..... SB 166

TRAFFIC CONTROL

Aircraft/air carriers; airport hazard regulations ..... CS/SB 230  
 Gross vehicle weight; maximum increased..... HB 1383  
 Highway construction workers & flagmen; right-of-way .....SB 60  
 Juvenile traffic offenses; filing circuit ct.; procedure ..... CS/SB 559-Vetoed  
 Minors; unlicensed drivers, case disposition..... SB 131  
 Motor vehicles; nontransparent windshields prohibited .....CS/HB 188 & 190  
 Motor vehicles prohibited on bicycle trails or footpaths ..... SB 662  
 Parking spaces, disabled/handicapped; construction...SB 2  
 Traffic infraction officers .....CS/SB 559-Vetoed  
 Vehicles, damaged; obstructing traffic; removal... SB 189

TRANSPORTATION, DEPT. OF

Airports; tall bldgs.; permit to exceed fed. standards ..... CS/SB 230  
 Bridge inspections; duties ..... SB 746  
 Budgets, grants-in-aid, right-of-way funds filing procedure ..... HB 459  
 Central Fla. Corridor Transportation System ..... SB 64  
 Contracts; change orders; cost increase; ceiling...HB 461  
 Field operation districts; boundaries.....CS/HB 738  
 Highway construction workers & flagmen; right-of-way ..... SB 60  
 Highway system; connections; regulations ..... HB 588  
 Interstate highway system; federal loan reimbursement .....CS/HB 738  
 Mass transit operations division; created.....CS/SB 230  
 Multi-Mode Trans. Corridor ..... HB 1283  
 Outdoor advertising & service signs; restrictions.HB 1384  
 School children; annual survey, report on transportation..... CS/CS/HB 984  
 Transportation projects; funding ..... SB 115  
 Urban transit systems ..... CS/CS/HB 984

TREASURER, STATE

Deferred compensation plan; agent for state employees..... CS/HB 256  
 Dishonored personal checks, forged state warrants ..... CS/SB 410  
 Noncollectible checks or drafts; \$5 service fee... SB 388

TREASURY, STATE

Clearing accounts ..... HB 862  
 Group living home trust fund created ..... CS/HB 794  
 State officers and employees group insurance trust fund ..... SB 356

\*See Bill listing for Summary page number references.

TRUCKS & TRACTORS

- License plates & registrations, refund; lesser weight or length ..... CS/SB 42-Vetoed
- Vehicle noise limits; replacement equipment..... HB 1908
- Weights; maximum 80,000 lbs..... HB 1383
- Windshields, nontransparent or reflective; prohibited..... CS/HB 188 & 190

TRUST FUNDS

- Educational facilities working capital trust fund.HB 1909
- Erosion control trust fund.....HB 1632
- Group living home trust fund .....CS/HB 794
- Horse racing trust fund..... HB 2072
- Land reclamation trust fund ..... HB 1147
- Patient's compensation fund ..... HB 1267
- Professional practices advisory council trust fund.....HB 1972
- Projects, contracts & grants trust fund.....HB 1972
- Retirement system trust fund.....HB 838
- State employees insurance trust fund.....SB 356

TRUSTEES OF INTERNAL IMPROVEMENT TRUST FUND

See INTERNAL IMPROVEMENT TRUST FUND

TRUSTS & TRUSTEES

- Inter vivos, settlors; devises/bequests to trustees.....SB 387
- Trust accounting law; revision ..... HB 2280

UNEMPLOYMENT COMPENSATION

- Education system employees; certain excluded from benefits.....HB 1286
- Industrial relations comm.; duties re orders of appeals.....SB 1249
- Weekly benefits increased; certain penalties increased..... SB 554
- Work-relief project; political subdiv. employees excluded .....HB 1286

UNIFORM COMMERCIAL CODE See COMMERCIAL CODE

UNIVERSITIES, DIV. OF (See also EDUCATION; SCHOOLS; REGENTS, BD. OF)

- General supervision by State Bd. of Education..... SB 83

VESSELS

- Pilotage; certain exemptions..... SB 1389 & CS/HB 1358

VOCATIONAL REHABILITATION, DIV. OF

- Vocational Rehabilitation Program Office established in Dept. of Health & Rehab. Services ..... CS/SB 165

VOCATIONAL SCHOOLS

- Educational facilities construction; funding..... HB 1909

\*See Bill listing for Summary page number references

VOCATIONAL SCHOOLS (Continued)

Independent postsecondary vocational, tech.,  
trade & bus. schools; certain exemptions..... SB 250

VOLUSIA COUNTY

Volusia recharge area; acquisition, eminent  
domain ..... HB 193

WARRANTS

Road guard inspection special officers;  
arrest without.....HB 1222

WATER & SEWERAGE SYSTEMS

Sewage disposal systems, individuals;  
connections.....CS/HB 1259

WATER MANAGEMENT DISTRICTS

Ad val tax levy re dist. purposes & basin  
purposes ..... CS/SB 1061 & SB 223  
Boundaries, millages & water consumption  
permits ..... CS/SB 1280  
Environmental regulation dept.; duties..... CS/SB 123

WATER PURIFICATION & WASTE-WATER TREATMENT PLANTS

Regulations; certain exemptions..... CS/HB 1533-Vetoed

WEAPONS & FIREARMS

Felonies committed with; sentences..... SB 55 & HB 1289  
Watchmen, guard & patrol serv.; statewide gun  
permit..... CS/SB 245

WELFARE

Medical assistance programs; county contributions.. SB 31

WITNESSES

Tampering; additional types of proceedings..... HB 1289

WORKMEN'S COMPENSATION

General law revision..... HB 2071  
Industrial Relations Comm.; industrial claim  
orders; duties ..... SB 1249  
Judges of industrial claims; duties..... HB 2071

WORTHLESS CHECKS

Circuit court clerks; personal liability  
re acceptance..... SB 577  
Intent; identity; authorization to draw upon  
named account..... SB 1030  
State & local govts.; collection; service fees.... SB 388  
Uncollectible by Treasurer ..... CS/SB 410

YACHTS

Sales; removal from state; sales tax exemption.... SB 440-Vetoed

\*See Bill listing for Summary page number references.

YOUTH SERVICES, DIV. OF

Juvenile offenders; restitution re damages..... SB 380

Youth Services Program Office established in  
Dept. of Health & Rehab. Services ..... CS/SB 165

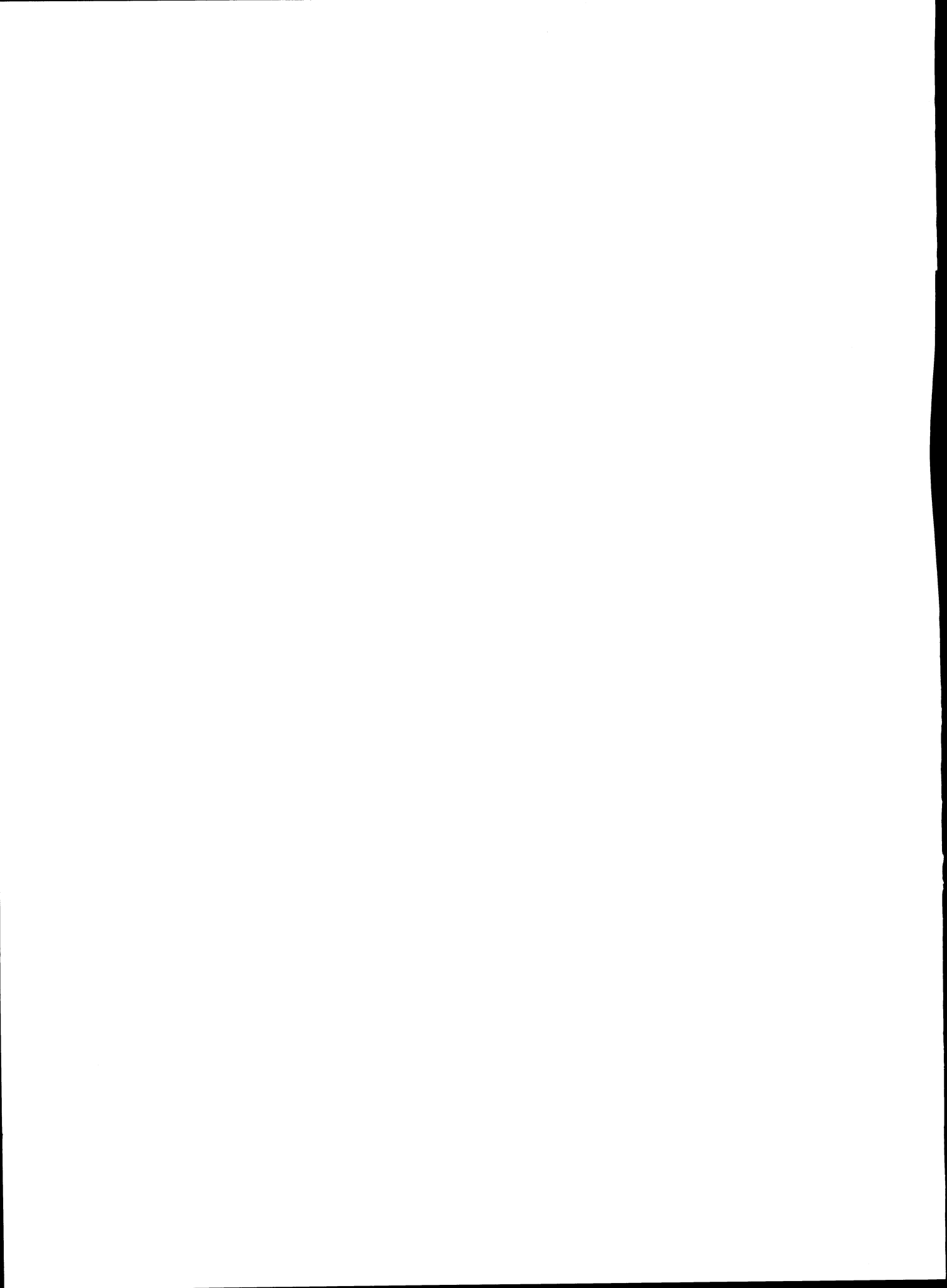
ZONING

Airport zoning regulations; local govt.

adoption..... CS/SB 230

Tax revenue collections; investment..... SB 237

\*See Bill listing for Summary page number references.

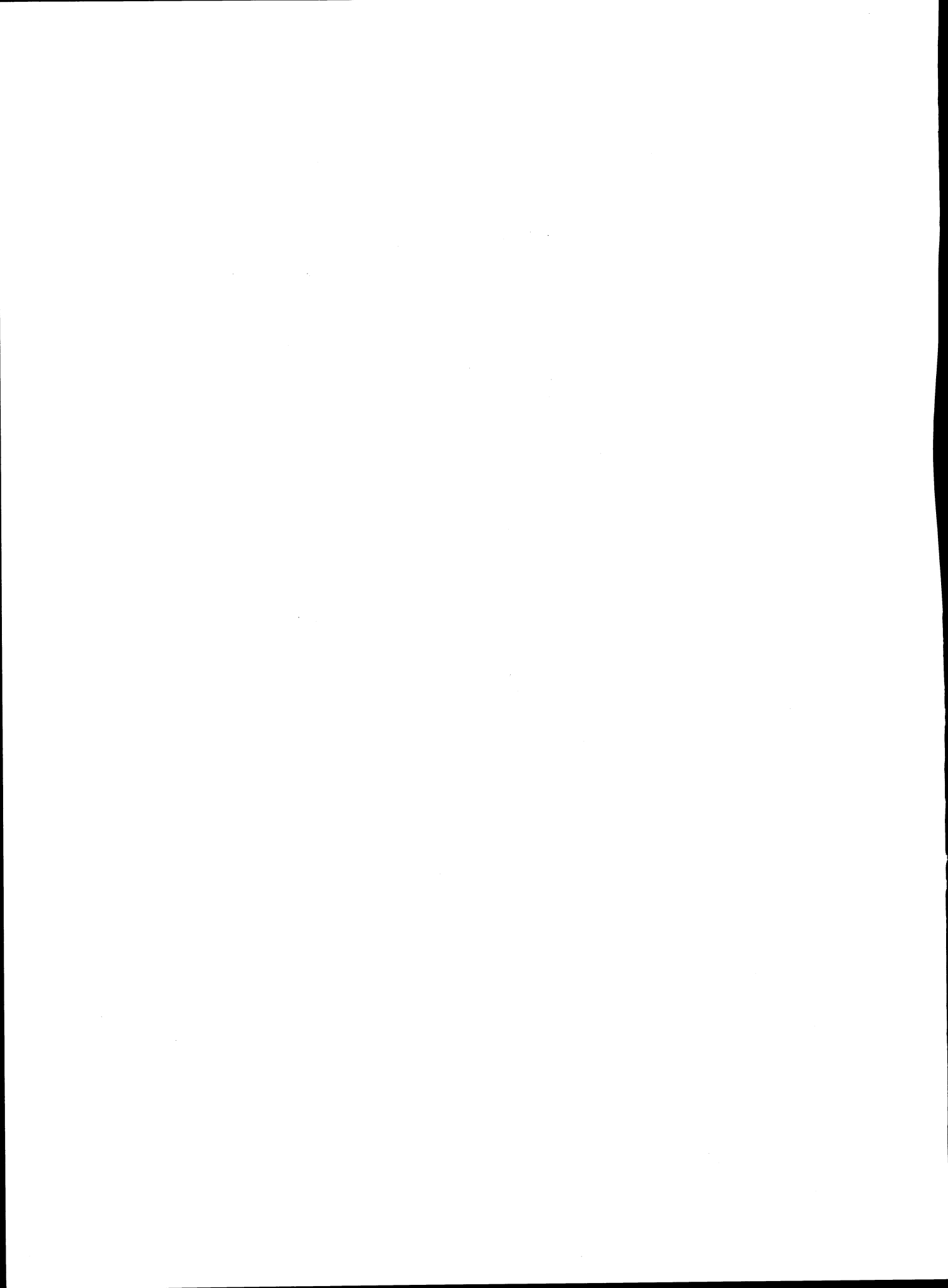


FLORIDA STATE LEGISLATIVE SYSTEM

1975 REGULAR SESSION -- STATISTICS

	SENATE		HOUSE		TOTAL	
	INTRODUCED	PASSED	INTRODUCED	PASSED	INTRODUCED	PASSED
CONCURRENT RESOLUTIONS	18	10	39	7	57	17
RESOLUTIONS	4	3	29	22	33	25
GENERAL BILLS	1246	147	1932	205	3178	352
LOCAL BILLS	70	39	213	160	283	199
GEN BILL/LOC APPLICATIONS	0	0	2	1	2	1
JOINT RESOLUTIONS	31	2	73	2	104	4
MEMORIALS	11	3	23	3	34	6
WITHDRAWN PRIOR TO INTRODUCTION	<u>9</u>		<u>37</u>		<u>46</u>	
TOTAL	1389	<u>204</u>	2348	<u>400</u>	3737	<u>604</u>
APPROVED BY GOVERNOR		132		188		320
BECAME LAW WITHOUT SIGNATURE		42		157		199
VETOED BY GOVERNOR		12		21		33
BILLS TO CONFERENCE COMMITTEE		3		3		6
BILLS AMENDED		134		309		443
COMMITTEE SUBSTITUTES SUBSTITUTED		46		69		115
FAILED TO PASS SENATE BY VOTE		0		2		2
FAILED TO PASS HOUSE BY VOTE		0		14		14
UNFAVOR COMMITTEE REPORT IN SENATE		52		1		53
UNFAVOR COMMITTEE REPORT IN HOUSE		4		124		128
DIED IN SENATE COMMITTEES		693		0		693
DIED IN HOUSE COMMITTEES		37		39		76
DIED ON SENATE CALENDAR		213		0		213
DIED ON HOUSE CALENDAR		8		1		9
DIED IN MESSAGES		7		0		7
AUTOMATICALLY PREFILED HOUSE BILLS		0		1387		1387

Compiled by  
Legislative Information Division





VETOED BILLS\*

Senate Bills:

SB 42 - Vetoed June 18, 1975  
SB 107 - Vetoed June 13, 1975  
CS/SB 158 - Vetoed June 19, 1975  
CS/SB 174 - Vetoed June 9, 1975  
SB 251 - Vetoed June 14, 1975  
SB 293 - Vetoed July 1, 1975  
SB 382 - Vetoed June 19, 1975  
SB 440 - Vetoed June 14, 1975  
SB 527 - Vetoed June 18, 1975  
CS/SB 559 - Vetoed June 27, 1975  
SB 682 - Vetoed June 26, 1975  
SB 1107 - Vetoed June 18, 1975

House Bills:

CS/HB 22, 62 & 116 - Vetoed July 3, 1975  
HB 64 - Vetoed June 18, 1975  
HB 102 - Vetoed July 3, 1975  
HB 240 - Vetoed July 3, 1975  
CS/HB 301 & 509 - Vetoed June 26, 1975  
HB 559 - Vetoed June 26, 1975  
HB 746 - Vetoed June 14, 1975  
CS/HB 874 - Vetoed June 27, 1975  
HB 974 - Vetoed June 14, 1975  
HB 1263 - Vetoed June 27, 1975  
CS/HB 1533 - Vetoed July 3, 1975  
HB 1759 - Vetoed June 20, 1975  
HB 1799 - Vetoed June 13, 1975  
HB 1921 - Vetoed June 26, 1975  
HB 1923 - Vetoed June 26, 1975  
HB 2110 - Vetoed June 26, 1975

\*This list excludes local and relief bills vetoed by the Governor.

