1977 SUMMARY OF GENERAL LEGISLATION

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

August 30, 1977

Honorable Lew Brantley President, and Members of the Senate

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

Gentlemen:

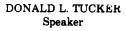
I am pleased to furnish you herewith the Summary of General <u>Legislation, 1977</u>, prepared under the supervision and coordination of the Division of Library Services, with the assistance of members of the legislative staff.

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

Sincerely,

John Ryals, Chairman Joint Legislative Management Committee

LEW BRANTLEY President





Senator Tom Gallen

Senator Kenneth A. Plante Representative John A. Hill

Representative William James

Representative John Ryals, Chairman

Senator Sherman S. Winn, Vice Chairman

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FOREWORD

This book highlights, within broad subject areas, the general laws enacted by the 1977 Regular Session of the Florida Legislature and the two special sessions immediately following. Essentially it is a re-editing of the preliminary summary articles mailed in recent weeks to Legislators and other interested persons. General laws of local application and special and local acts are specifically excluded. Moreover, the 1977 Legislature adopted no proposed constitutional amendments (joint resolutions) in recognition of the recently formed Constitution Revision Commission.

Important 1977 enactments include: permitting the creation of international banking corporations in the state; the Small Business Assistance Act; the Florida Safe Drinking Water Act; the Florida Crimes Compensation Act; the Florida Compensatory Education Act; a general revision of the Florida Election Code; the Adult Protective Services Act; the Florida Insurance and Tort Reform Act; an act to combat child pornography; creation of the State Mobile Home Tenant-Landlord Commission; reclassification of the state road system; the return to a biennial budget cycle for the state; the local option tourist development tax; tax increment financing for correction of urban blight; and the increase of cigarette, alcoholic beverage and severance taxes.

Those offices and committees which initially prepared the articles are identified respectively with each article. This division is responsible for the final editing and organization of the material. In preparing the subject index to this SUMMARY OF GENERAL LEGISLATION, this office utilized the indexes prepared by the Legislative Information Division and the Division of Statutory Revision and Indexing.

. Gene Baker

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Summary of General Legislation, 1977 ... Florida Legislature

AGRICULTURE*

Agriculture related bills enacted into law by the 1977 Legislature deal predominately with the subject of citrus and citrus products. Other measures include acts which provide for administrative duties of the Department of Agriculture and Consumer Services; regulate the purchase of beef products; provide for vaccination of dairy breeding animals, disposition of impounded animals, administration of drugs to horses; and increase conservation and protection of plants. Brief summaries of these 22 measures are presented below.

Department of Agriculture and Consumer Services

Senate Bill 1243 (Chapter 77-289) conforms the Department of Agriculture and Consumer Services' organization into eleven divisions as authorized by the 1969 Reorganization Act, adding the Division of Consumer Services and the Division of Forestry. It also reorganizes the Division of Administration of that Department into six well-defined bureaus: (1) Accounting and Budgeting, (2) Personnel Management and Employee Relations, (3) Information, Education and Research Services, (4) Management Systems, (5) General Services, and (6) Public Fairs and Expositions.

House Bill 1618 (Chapter 77-71) adds one additional member to the State Agricultural Advisory Council to be

*Prepared by Senate Committee on Agriculture

appointed by the Commissioner of Agriculture to represent the <u>turfgrass industry</u>. This member shall also serve on the Plant Industry Technical Council, thereby increasing its membership by one.

Senate Bill 1001 (Chapter 77-216) gives the Department of Agriculture and Consumer Services authority to incur expenses for <u>framing</u> certificates authorized by law and presented for outstanding service.

Senate Bill 1174 (Chapter 77-217) requires the Department of Agriculture and Consumer Services, Division of Standards, to test and calibrate devices used for measuring the moisture content of corn, soybeans, and grains offered for sale, sold, purchased or in the process of being purchased.

Regulation of Animal Industry

House Bill 577 (Chapter 77-61) provides that no agency of the State, or of any municipality, political subdivision, school district, or special district in this State, shall purchase or cause to be purchased for distribution or consumption in Florida any fresh or frozen beef which does not comply with the standards set by the United States Department of Agriculture and the Florida Department of Agriculture and Consumer Services, and which has not been or will not be inspected by one of these agencies. Purchase bid invitations shall specify only domestic or imported beef which complies with such requirements, and the supplier or vendor shall certify on the invoice that the fresh or frozen beef complies with these requirements. The effective date of this act is October 1, 1977.

Committee Substitute for Senate Bill 989 (Chapter 77-202), relating to brucellosis of cattle, requires any female calf used for dairy breeding purposes, born in Florida after July 1, 1977, to be vaccinated under the supervision of an approved veterinarian with brucella abortus vaccine approved and produced under the authority of the United States Department of Agriculture. The calves shall be vaccinated between the ages of two to six months and shall be permanently identified according to certain procedures prescribed by law. Duplicate reports covering such vaccination shall be furnished to the Florida Department of Agriculture and Consumer Services, the regulatory agency.

Senate Bill 861 (Chapter 77-200) includes apparently neglected livestock found on public roads in the definition of "running at large" or "straying," and thus subject to impoundment under Chapter 588, F. S.; the definition of "public roads" is expanded to include all those roads maintained by the State, a political subdivision of the State, or a municipality, except those maintained by and expressly exempt from provisions of said chapter by ordinance of the county or municipality having jurisdiction; and the county animal control center, as well as law enforcement officers, is given the authority to impound, care for, and dispose of animals found running at large. The act further provides that the sheriff may offer such livestock for adoption when unable to sell them, as an alternative to destroying such livestock.

House Bill 1594 (Chapter 77-213) prohibits administration of certain drugs to horses prior to or during horse shows or

sales, except under specified conditions and unless they are administered by a veterinarian. Use of forbidden substances will require that the horse be withdrawn from the show or sale for at least 24 hours. The horse show or sale management must be notified of such drug use. A veterinarian representing the Department of Agriculture and Consumer Services is permitted to test any horse entered in any show or sale; and the Department has access to stables, tack rooms, cars, vans, or similar places for inspection purposes and to confiscate containers suspected of containing reserpine. The Department is also authorized to promulgate any rules necessary to carry out the provisions of this act.

Plants: Conservation and Protection

House Bill 671 (Chapter 77-271) makes additions and deletions to the list of Florida's protected plants to conform the list with current conditions. It authorizes the Department of Agriculture and Consumer Services to create an endangered plant species list to be composed of those species which may be threatened by such things as land development, predators, or over utilization by commercial interests. Once placed on this endangered list, a plant species would have the same protection as those protected plants listed by statute.

House Bill 174 (Chapter 77-17) defines "wild land" and authorizes the Division of Forestry, at the request of the governing body of a county, to control burn any area of wild land in said county which is reasonably determined to be in danger of conflagration if any open and uncontrolled fire were

to occur in the area, as long as the landowner does not object and notice of intention to conduct such a burn is properly given.

Senate Bill 541 (Chapter 77-98) prohibits entry into Florida of any plant, plant product or other thing under guarantine by the Department of Agriculture and Consumer Services. It provides that after July 1, 1977, any such item moved, sold or otherwise disposed of in Florida shall be declared contraband and subject to confiscation and destruction by the Department without compensation. Any new citrus variety brought into the State after July 1, 1977, or propagated from unindexed budwood is required to be indexed by the Florida Department of Agriculture before it can be sold or used for propagation material for sale. Otherwise such trees are to be confiscated and lestroyed by the Department. House Bill 1619 (Chapter 77-386) plovides the same restrictions on new citrus varieties and propagation from unindexed trees as Senate Bill 541 (Chapter 77-98) discussed immediately above. This act also gives the Department of Agriculture and Consumer Services additional powers to supervise the treatment or destruction of plants and related articles to control plant pests.

Citrus and Citrus Products

In addition to the restrictions relating to now citrus varieties mentioned in the summary of Senate Bill 541 and House Bill 1619 under the <u>Plants</u> section above, the Legislaure enacted ten laws dealing specifically with the citrus industry in Florida.

Senate Bill 277 (Chapter 77-2) repeals specific rulemaking procedures of the Department of Citrus which were made obsolete by the 1974 enactment of Chapter 120, F. S., the Administrative Procedures Act, under which the Department currently conducts agency rulemaking. House Bill 751 (Chapter 77-27) authorizes the Department to prepare and maintain a citrus grower mailing list for Department referendum and official use, with such mailing list kept available as a public record and not subject to statutory purging requirements. For purposes of investigation of citrus fruit dealer license application, House Bill 756 (Chapter 77-8) gives not more than three Department of Citrus employees access to the Criminal Justice information system.

Senate Bill 278 (Chapter 77-3) provides for grapefruit, tangerines and regulated citrus hybrids grown in Florida to be included in the Orange Stabilization Act which is redesignated the "Citrus Stabilization Act of Florida." It will allow marketing orders to be adopted based on present and future supply of citrus rather than just current surplus, and for subsidizing development or expansion of all markets rather than just new or secondary. It provides that excess funds denied pursuant to a marketing order may be transferred to the Florida Citrus Advertising Trust Fund for advertising and promotion, including brand advertising rebate promotions, for the particular product covered by the marketing order, or the excess funds may be transferred to any other marketing order for the same product. No such transfer can be made without public hearing and subsequent referendum. The act further provides that bloc voting by

cooperatives is eliminated.

House Bill 759 (Chapter 77-28) expands the definition of "advertising" for the purposes of brand advertising rebates and special promotion of <u>fresh citrus fruit</u> to include other promotional activities approved by the Florida Citrus Commission; and House Bill 760 (Chapter 77-29) makes the same provisions for processed grapefruit products.

House Bill 754 (Chapter 77-4) amends the Citrus Code by requiring fruit for consumption in fresh form to be graded in a registered packinghouse and that a stamp which identifies the grade be marked upon the fruit, or upon the container which such fruit is being packed in a closed container. House Bill 755 (Chapter 77-5) makes similar provisions for all processed citrus products by requiring that they be inspected for grade in a registered processing plant and that the grade of such products be designated on the immediate container. Registration of labels is to be provided for by the Department of Citrus, but certain intrastate shipments of processed citrus products are excluded from these grade labeling requirements.

House Bill 758 (Chapter 77-7) defines a relatively new citrus product, <u>high density</u> frozen concentrated orange juice. It provides for standards, labeling requirements, and inspection of the product. The Department of Citrus is given rulemaking authority as to the composition of this high density product sold in bulk containers. Authority is also granted to the Department to define by rule retail, institutional, and bulk size containers for high density frozen concentrated orange juice.

House Bill 757 (Chapter 77-6) increases to 47 degrees the maximum Brix level for frozen concentrated orange juice and deletes obsolete references to institutional size containers for such frozen concentrate.

APPROPRIATIONS

In 1977, as in the year immediately preceding, the predominant funding controversy was the determination of an education appropriation. The debate between the two chambers of the Legislature was so intense as to the level and method of financing this governmental function as to necessitate the calling of two special sessions.

In the first or "A" session, held June 8-16, a General Appropriations Act was passed. The Conference Committee Report on House Bill 10-A (Chapter 77-465) provides \$5,692,698,635. This figure, together with special appropriations acts (several of which were enacted during the "B" special session of June 22-24) and claim awards, amounts to \$5,711,693,883 for all legislative appropriations in Fiscal 1978. Deducting contingent, reserve and vetoed items leaves \$5,645,720,124 in "effective appropriations" for the year ending June 30, 1978. The major source categories break down as follows: General Revenue, \$2,681,444,571; Federal Revenue Sharing, \$73,000,000; and Trust Funds, \$2,891,275,553. This compares with \$2,428,386,060 \$69,200,000; and \$2,657,802,161 respectively for the prior fiscal year.

The educational function received 60.5% of all 1977 appropriated funds, excluding trust funds. General Revenue Funds earmarked for this area are \$1,592,543,925, up \$64,808,955 from the prior year.

In the "B" special session the "tax package" of bills necessary to supply adequate monies for general appropriations were enacted.

The following pages are selected from <u>Fiscal Analysis in</u> <u>Brief; Based on 1977 Legislation</u>, prepared jointly by the Senate and House Appropriations Committees, and show in greater detail the spending plans of the state for the 1977-78 Fiscal Year.

SUMMARY OF 1977 APPROPRIATIONS

	General <u>Revenue Fund</u> \$	Fed. Revenue Sharing Fund \$	Trust Funds \$	Total Funds \$
General Appropriations Act				
Operations:				
Education HRS Criminal Justice	1,592,543,925 492,595,177 209,644,611	73,000,000	683,244,525 592,557,494 27,727,157	2,348,788,450 1,085,152,671 237,371,768
Natural Resources & Environment Legislative Branch Transportation All Other Agencies	45,961,267 31,317,028 64,600,000 242,740,868*		45,895,710 816,020 610,045,930 740,396,778	91,856,977 32,133,048 674,645,930 983,137,646
Fixed Capital Outlay	65,047,060		14,565,085 160,000,000	79,612,145 160,000,000
Public Education Capital Outlay		· · · · · · · · · · · · · · · · · · ·		
Total General Approp. Act.	\$2,744,449,936	\$73,000,000	\$2,875,248,699	\$5,692,698,635
Special Approp. Acts.	2,863,843		16,029,954**	18,893,797
Claims Bills (Excluding those from local funds)	43,792#	L	57,659	101,451
Total Appropriations	\$2,747,357,571	\$73,000,000	\$2,891,336,312	\$5,711,693,883
Less: Contingent & Reserve Items	(63,400,000))		(63,400,000)
Vetoed Items	(2,513,000))	(60,759)*	
Effective Appropriations:	\$2,681,444,571	\$73,000,000	\$2,891,275,553	\$5,645,720,124

Includes \$650,000 Working Capital Fund.

** Includes portion of Motor Vehicle Tag monies dedicated to DOT pursuant to SB 32-B but not appropriated in the General Appropriations Act.

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*** Includes \$13,759 in vetoed claims bill.

\$4,351 of this amount was disbursed from funds available in FY 1976-77.

OUTLOOK

AVAILABLE FUNDS AND APPROPRIATIONS, 1976-77 AND 1977-78 (Trust Funds Not Included) Millions of Dollars

Funds Available 1976-77	General Revenue Fund		Federal Revenue Sharing	Total All <u>Funds</u>	Total Recurring <u>Funds</u>	Total Non- Recurring <u>Funds</u>
Balance Forward 7/1/76 Transfer to Working Capital Fund Estimated Revenue (June 1977 Est.) Midyear Reversions 12/31/76 Counter Cyclical Grants Repayment of Sewage Treatment Loans Coastal Protection 7 Days to Deposit Sales Tax Extensions Motor Vehicle License Speedup Motor Vehicle License Speedup (June	\$ 18.8 (18.8) 2,326.3 1.2 52.0 1.9 6.5 8.8 31.4	\$ 0.0 18.8 - - - - - - -	\$ 4.0 68.7 20.1	\$ 22.8 0.0 2,395.0 1.2 20.1 52.0 1.9 6.5 8.8 31.4	\$ 9.8 2,395.0 1.2 20.1 - - -	\$13.0 - - 52.0 1.9 6.5 8.8 31.4
Collections)	29.0	<u> </u>		29.0	<u> </u>	29.0
Total Available 1976-77	2,457.1	18.8	92.8	2,568.7	2,426.1	142.6
Appropriated 1976-77						
Operations Fixed Capital Outlay Aid to Local Government Unused Appropriations	1,084.7 76.9 1,239.8 (6.0)	8.8	18.6	1,112.1 76.9 1,309.0 (6.0)	1,112.1 1,309.0 (6.0)	76.9
Total Appropriations	2,395.4	8.8	87.8	2,492.0	2,415.1	76.9
Carried Forward to 1977-78	<u> </u>	<u>10.0</u>	<u> 5.0</u>	76.7	11.0	65.7
Funds Available 1977-78						
Balance Forward 7/1/77 Transfer to Working Capital Fund Estimated Revenues (June 1977 Est.) Midyear Reversions 12/31/77 Counter Cyclical Grants Repayment of Sewage Treatment Loans Reappropriation of 1976-77 FCO Item Tax Increase Measures Tax Decrease Measures	\$ 61.7 (61.7) 2,508.7 1.2 20.7 6.7 131.1 (73.9)	\$10.0 61.7 - - -	\$ 5.0 69.5 23.7	\$ 76.7 0.0 2,578.2 1.2 23.7 20.7 6.7 131.1 (73.9)	\$ 11.0 2,578.2 1.2 23.7 - 131.1 (73.9)	\$65.7
Total Available 1977-78	2,594.5	71.7	98.2	2,764.4	2,671.3	93.1
Appropriated 1977-78**						
Section 1 - General Act Sections 2 & 3 - General Act Special Acts Claims Bills	2,519.1 65.0 2.9	71.7	98.2#	2,689.0 65.0 2.9	2,686.2	2.8 65.0 0.4
Total Appropriations	2,587.0	71,7	98.2	2,756.9	2,688.7	68.2
Unappropriated Balance	7.5	-0-	-0-	7.5	(17.4)	24.9
Vetoed Items##	0.3		-	0.3	0.3	-
Estimated Surplus (Deficit)	7.8	-0-	-0-	7.8	(17.1)	24.9

*

\$43,791.93 in General Revenue Claims Bills Excludes contingency items which did not become effective and reserved items: \$63.4 Federal Revenue Sharing \$73.0; Counter Cyclical Grant \$25.2 Includes vetoed tax and appropriation measures ** #

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OTHER SPECIAL APPROPRIATIONS ACTS, 1977

Session Law	Bill Number	Subject	General Revenue	Trust Funds \$
77-464	SB 256	Retirement-State Officers' Class	55,080	
77-185	SB 744	Industrial Relations Commission		130,562
77-321	SB 866	Probation	360,000	
77-404	SB 936	Restoration of Kissimmee River Valley & Taylor Creek	400,100	
77-340	SB 1069	Advisory Council on Inter- governmental Relations		185,892
77-368	SB 1296	Courts: Additional Circuit Judges	527,643	
77-406	SB 5B	Phosphate Land Reclamation Study Commission	•	150,000
77-416	SB 32B	Transportation: Motor Vehicle Licenses		15,563,500*
77-436	НВ 922	Law Enforcement	1,521,020	·
	TOTALS	· · · · ·	\$2,863,843	\$16,029,954

* The amount shown is the difference between the full estimate of funds dedicated to DOT as a result of SB 32-B (\$63.8 Million) and the portion of that amount specifically appropriated in the General Appropriations Act (HB 10-A, items 1180 to 1188).

THREE YEAR COMPARISON - BEFORE 1977 TAX MEASURES

RECURRING GENERAL REVENUE (Millions of Dollars)

	Actual 1975-76	1976-77 Estimate (6/3/77)	Annual Growth Rate	1977-78 Estimate (6/3/77)	Annual Growth <u>Rate</u>	Increase Over 1976-77
Sales Tax	\$1,254.1	\$1,388.6	10.7%	\$1,535.0	10.5%	\$146.4
Beverage Tax & Lic.	186.6	194.3	4.1	198.2	2.0	3.9
Motor Vehicle Lic.	106.0	114.1	7.6	111.4	(2.4)	(2.7)
Corp. Income Tax	180.7	193.6	18.3	206.0	6.4	12.4
Doc. Stamp Tax	68.8	81.4		87.0	6.9	5.6
Cigarette Tax	30.9	32.2		32.7	1.6	0.5
Ins. Prem. Tax & Lic.	42.5	50.2	9.1	53.9	7.4	3.7
Racing Tax	48.3	52.7		53.1	0.8	0.4
Intangibles Tax	32.1	38.8		41.0	5.7	2.2
Estate Tax	37.9	50.3		51.7	2.8	1.4
Interest	36.6	26.8		28.6	6.7	1.8
Pub. Safe. Lic. & Fees	22.5	23.9		21.5	(10.0)	(2.4)
Med. & Hosp. Fees	14.0	14.6	4.3	15.6	6.8	1.0
Auto Tit. & Lien Fees	8.7	8.6	(1.1)	9.0	4.7	0:4
Severance Taxes	31.7	31.6	(0.3)	31.9	0.9	0.3
Charter Tax Securities Tax E.D.P. Fees	1.5 .9 4.4	2.2 1.0 1.1		2 1 1.0 5.7	(4.5) _ 418.2	(0.1)
Service Charges	19.5	21.5	10.3	22.9	6.5	1.4
Other Tax, Lic. & Fees		24.8	<u>9.3</u>	25.0	<u>0.8</u>	0.2
Total	\$2,150.4	\$2,352.3	9.48	\$2,533.3	7.78	\$181.0
Less Refunds	26.9	26.0	(3.3)	24.6	(5.4)	(1.4)
Net Recurring General Revenue Collections	\$2,123.5	\$2,326.3	9.6%	\$2,508.7	7.8%	\$182.4

OTHER RECURRING REVENUE (Trust Funds Not Included)

Federal Revenue Sharing Counter Cyclical Grants Balance Fwd. of F.R.S. Balance Fwd. of C.C.G. Mid-Year Reversions	\$ 72.8 4.4 - 7.4	\$ 68.7 20.1 4.0 - 1.2	(5.6%) (9.1) - (83.8)	\$ 69.5 23.7 3.5 1.5 1.2	1.2% 17.9 (12.5)	\$ 0.8 3.6 (0.5) 1.5
End-of-Year Reversions	<u> </u>	5.8		6.0	3.4	0.2
Total Other Rec. Rev.	\$ 84.6	<u>\$ 99.8</u>	18.0%	<u>\$ 105.4</u>	5.68	<u>\$ 5.6</u>
Total Recurring Rev. (Excluding Trust Funds)	\$2,208.1	\$2,426.1	9.98	<u>\$2,614.1</u>	7.78	<u>\$188.0</u>

TWO YEAR COMPARISON - BEFORE AND AFTER 1977 TAX MEASURES

RECURRING GENERAL REVENUE (Millions of Dollars)

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\$ 5.6

\$245.5

	1976-77 Revenue <u>Estimate</u>	Before Tax 1977-78 Revenue Estimate	Increases Annual Growth Rate	Tax Measures <u>Passed</u>	After Tax I 1977-78 Revised Estimate	Annual Growth Rate	Total Increase Over 1976-77
Sales Tax Beverage Tax & Lic. Motor Vehicle Lic.	\$1,388.6 194.3 114.1	\$1,535.0 198.2 111.4	10.5% 2.0 (2.4)	\$ 2.6* 45.6 (63.7)	\$1,537.6 243.8 47.7	10.7% 25.5 (58.2)	\$149.0 49.5 (66.4)
.orp. Income Tax Doc. Stamp Tax Cigarette Tax	193.6 81.4 32.2	206.0 87.0 32.7	6.4 6.9 1.6	5.5 41.6	206.0 92.5 74.3	6.4 13.6 130.7	12.4 11.1 42.1
Ins. Prem. Tax & Lic. Racing Tax Intangibles Tax	50.2 52.7 38.8	53.9 53.1 41.0	7.4 0.8 5.7	(3.3) 1.3	53.9 49.8 42.3	7.4 (5.5) 9.0	3.7 (2.9) 3.5
Estate Tax Interest Pub. Safe. Lic. & Fees	50.3 26.8 23.9	51.7 28.6 21.5	2.8 6.7 (10.0)	3.0	54.7 28.6 21.5	8.7 6.7 (10.0)	4.4 1.8 (2.4)
Med. & Hosp. Fees Auto Tit. & Lien Fees Severance Taxes	14.6 8.6 31.6	15.6 9.0 31.9	6.8 4.7 0.9	- 29.2	15.6 9.0 61.1	6.8 4.7 93.4	1.0 0.4 29.5
Charter Tax Securities Tax E.D.P. Fees	2.2 1.0 1.1	2.1 1.0 5.7	(4.5) 418.2	(4.8)	2.1 1.0 0.9	(4.5) (18.2)	(0.1) (0.2)
Service Charges Other Tax, Lic.& Fees	21.5 24.8	22.9 25.0	6.5 0.8	0.5	22.9 25. <u>5</u>	6.5 2.8	1.4
Total	\$2,352.3	\$2,533.3	7.7%	\$57.5	\$2,590.8	10.1%	\$238.5
Less Refunds	26.0	24.6	(5.4)	-	24.6	(5.4)	(1.4)
Net Recurring General Revenue Collections	\$2,326.3	\$2,508.7	<u>7.8</u> %	<u>\$57.5</u>	\$2,566.2	<u>10.3</u> %	\$239.9
			R RECURRING R t Funds Not I				
Federal Revenue Sharing Counter Cyclical Grants Balance Fwd. of F.R.S.	68.7 20.1 4.0	\$ 69.5 23.7 3.5	1.2% 17.9 (12.5)	-	\$ 69.5 23.7 3.5	1.2% 17.9 (12.5)	\$ 0.8 3.6 (0.5)
Balance Fwd. of C.C.G. Mid-Year Reversions End-of-Year Reversions	1.2	1.5 1.2 6.0			1.5 1.2 6.0		1.5 0.2

Total Other Rec. Rev.\$ 99.8\$ 105.45.6x\$ -0-\$ 105.45.6xTotal Recurring Rev.
(Excluding Trust
Funds)\$2,426.1\$2,614.17.7x\$57.5\$2,671.610.1x

* Excludes SB 1091 vetoed by Governer: \$(0.3)

MEASURES AFFECTING REVENUE, 1977-78

ESTIMATED INCREASES AND (DECREASES)

SESSION LAW	BILL NUMBER	DESCRIPTION	GENERAL Revenue	TRUST FUND
		Ad Valorem Tax	.	•
77-301 77-248	SB 95 SB 938	Homestead Property Tax Deferral Millage Certification by Certain		**(a) *(a)
77-363 77-448	SB 1003 HB 30-A	Taxing Units Determination of Just Value Charitable Exemption: 5-Year Residency Requirement for		*(a)
77-476 77-459	SB 1-B SB 27-B	Homes for the Aged Inventory Assessment Reduction Labor Organization and Nonprofit Sewer and Water Company	(b)	**(a)
77-299	SB 675	Exemption Mobile and Modular Homes: Homest Exemption Provision	ead	**(a) **(a)
		Beverage Tax and Licenses		
77-192 77-474 77-407	CS/HB 575 HB 6-A CS/SB 6-B	Additional Special Licenses	(300,000) ** 45,900,000	(300,000)(a) **(a)
		Documentary Stamp Tax		
77-281	SB 157	Penalties for Failure to Pay Tax; Fraud	(500,000)	
77-463	CS/SB 254	Exemption for Persons Residing Outside of the U.S.	(300,000)	
77-414 77-465	SB 15-B HB 10-A	Recordation Situs Increase Due to Additional Audit Positions	6,000,000 300,000	
		Motor Vehicle Licenses		
77-125 77-357	SB 13 SB 535	Prestige License Plates Alphanumeric License Plates	100,000	
77 - 395 77-68	SB 612 HB 156	and Staggered Renewals Three-tier License Tags Handicapped, "DV", and National Guard License Plate Provisions	*, * *	
77-180	HB 651	"RV" Length and Fifth Wheel	*	
77-14	HB 155	Trailer I.D. Cards for Persons with	*	
77-415	SB 23-B	No Valid License Removal of the Transfer Fee and	**	
77-416	SB 32-B	Refunds on Certain Vehicles Redistribution of the Collections to DOT	(63,800,000)	63,800,000
		<u>Racing Tax</u>		
77-43	HB 258	Appraisal of Value of Plant,	*	
77-472	HB 1089	Property and Business Gadsden County Jai-Alai Fronton: Two Additional Charity Days for FAMU		**

MEASURES AFFECTING REVENUE, 1977-78

(CONTINUED)

SESSION LAW	BILL NUMBER	DESCRIPTION GENERAL \$	TRUST <u>FUND</u> \$
		Racing Tax(Continued)	
77-166 77-167 77-176 77-177	HB 2234 HB 2235 HB 2269 HB 2270	Tax Increase on Certain Pari- Mutuel Industries; Purse Allowance Subsidies Increase to Certain Pari-Mutuel Indus- tries; and Daily License Fee Reduction for Summer Quarter- Horse Racing	
77-168	HB 8-A	Denial, Suspension & Revocation *	
77-449	HB 12-B	Dog Racing: Daily Expense ** Allowance **	
		Sales and Use Tax	
77-194	SB 221	Definition of Prosthetic & Orthopedic; Rent Paid to Merchant Associations (100,000)	
77-193	HB 2217	Feminine Hygiene Product Exemption: Taxable Status of Certain Vessels (300,000)	
77-412 77-465	SB 12-B HB 10-A	Out-of-State Sales of Autos 2,000,000 Increase Due to Additional Audit 1,000,000	
		Other Taxes, Licenses and Fees	
77-234 77-221 77-84	SB 18 SB 40 CS/SB 200	Sheriffs' Fees Condominium Complaint Filing Fee Explosives: Manufacture, Distribution and Use	**(a) (7,500) 69,200
77-57	SB 116	Institutions of Higher Learning: Deferred Registration Fee	**
77-237 77-56	SB 269 SB 305	Insurance Premium Tax (c) Podiatrists: Fees & Educational Requirements	(c) *
77-354	SB 365	Clerks of Court: Fees From Judicial Sales	**(a)
77-284 77-149	SB 366 CS/SB 411	Clerks of Court: Fees & Service Chgs. Motor & Special Fuel Taxation: Local Government Licensing	**(a) *
77-356	SB 482	Banking & Finance Industry Examinations & Fees	(43,000)
77-251	SB 660	Municipal Utility Tax: Cable TV Tax Repeal	**(a)
77-1	HB 71	Game & Fresh Water Fish: Additional Penalties & Forfeiture of License	*
77-163	HB 410	Occupational License Taxes: Disabled Veterans' Exemptions	*(a)
77-402	HB 1046	Corporate Income Tax: Internal Revenue Code Redefined **	(-/
77-209	HB 2064	Local Option Tourist Development	**(a)
77-405	SB 17-A	Tax Game & Fresh Water Fish: Non- Resident Fees Increase	581,300
77-390	HB 16-A	Motor/Special Fuel Tax: County Use	*(a)
77-406	SB 5-B	of Additional one-cent tax Severance Tax: Phosphate Tax Increase 15,100,000	\-/
77-408	SB 7-B	Severance Tax: Oil Production	
77-409	SB 8-B	Cigarette Tax: Excise Tax In-	
77-410 77-411	SB 10-B SB 11-B	crease on Cigarettes 41,600,000 Corporation Filing Fee Increase 700,000 Estate Tax: Domicile of Decedent 3,000,000 16	

MEASURES AFFECTING REVENUE, 1977-78

(CONTINUED)

SESSION LAW	BILL NUMBER	DESCRIPTION	GENERAL Revenue	TRUST FUND
77-413	SB 14-B	Intangibles Tax: Accounts	\$	\$
77-470	HB 32-B	Receivable Water Vessel Pilots: Assess-	1,300,000	
77-421	HB 35-B	ment Increase Cigarette Tax: Permit Fee		**
		Increase, Division Name Change & Penalty Provisions	(33,000)	(67,000)(a)
77-264	SB 182	Public Defender Fees Judgement:	• • •	
77-196	SB 580	Redistribution to Counties Electrical Contractors: Regis-	(200,000)	200,000(a)
77-261	SB 734	tration & Fee Provisions Massage Establishments: Regis-		**
77-465	HB 10-A	tration & Fee Provisions EDP Fees: Transfer to Trust Fund	(4,800,000)	**
				4,800,000
77-55	SP 204	Other Measures Affecting Revenu	<u>1e</u>	
77-305	SB 204 CS/SB 313	Occupational License Tax Reports Tangible Personal Property:		*(a)
77-173	SB 967	Transshipment Osteopathic Physician's Assistant		*(a)
77-155	SB 1062	Program Treasurer: Investment of State		*
77-191	SB 1067	Funds Treasurer: Securities Pledged as	*	•
77-340	SB 1069	Collateral Advisory Council on Intergovern-	*	
77-351	SB 1350	mental Relations Act		(185,900)(a)
77-270		Bond Financing; Theme & Amusement Parks		*(a)
	HB 196	Board of Administration: Operati Budget and Charges for Services	ng *	
77-380	HB 1220	Insurance: Casualty Coverage to Political Subdivisions		**(a)
77-311	HB 1317	Game & Fresh Water Fish: Penalty Exemption for Landowner & Emplo		(a) *
77-385 77-434	HB 1455 CS/HB 786	Validation of Land Titles Motor Carriers		*
77-49 77-24	CS/SB 223 CS/SB 501	Mobile Home Parks Commission	(25,000)	(49,000) **
77-206	HB 1037	Ambulatory Surgical Center Act Oyster & Clam Shells; Property	**	
		of State		*
		•	<u>\$57,442,000</u>	68,798,100
	Vetoed	Measures That Would Have Affected	Revenues	
	HB 32-A	Tax Increase on Certain Pari- Mutuel Industries	*	
	HB 2287	Harness Racing: Daily Expense Allowance		
	SB 1091	Vessels Engaged in Interstate	**	
		or Foreign Commerce; Pro- ration by Common Carriers	(300,000)	
		TOTAL VETOED AMOUNT	(300,000)	-0-
* Insi	gnificant.			
(a) Loca	terminate. 1 Impact.			•
(b) No i	mpact until F	Y 1978-79. will prevent the 1982 repeal of th		•••••••••••••••
	r which the S ium tax.	tate currently levies a major port	ion of the i	authority nsurance
P. 01	TWO VEAT	17		

EDUCATION

Appropriated \$160,000,000 for Public Educational Facilities for the 1977-78 Fiscal Year, pursuant to the numerical order project priority lists submitted to the Legislature by the Commissioner of Education.

To school boards of the 67 school districts From Public Education Capital Outlay 66,989,779

From the above Capital Outlay Funds to be allocated by the State Board of Education to the school boards of the 67 school districts; (A) \$1,500,000 is for facilities for the Trainable Mentally Retarded, Severely Mentally Retarded, Deaf and Phys-ically Handicapped; (B) At least \$9,300,000 is for the High Priority Facilities Construction Account as provided in section 235.221, Florida Statutes; (C) \$757,000 is for the cooperative use of facilities as provided in Section 235.195, Florida Statutes; (D) \$3,750,000 for the Multi-County Englewood High School to serve Charlotte, Lee and Sarasota counties; However, any funds not needed to carry out the provisions of (A), (B), (C) and (D) above shall be allocated as provided by section 236.084, Florida Statutes.

Should moneys becoming available pursuant to the provisions of Section 9(A)(2), Article XII of the State Constitution, as amended, exceed \$160,000,000, the surplus shall be used to insure that none of the educational agencies lose their entitlement to the 1976 Appropriation because of advancing \$6,769,765 in accordance with State Board Rule 6AER76-7 for advance funding.

To Boards of Trustees of the Community Colleges From Public Education Capital Outlay Trust Fund	27,970,453
To the State Board of Education for Florida Public Broadcasting	
From Public Education Capital Outlay Trust Fund	1,109,988

Provides \$274,688 for Equipment Matching Funds and \$250,000 for the Satellite Up-Link and Down-Link Ground Station and \$583,300 for replacement of broadcasting equipment in the Capitol Technical Center. The Department of General Services shall take custody and control, and assume management responsibility for all equipment purchased for the Capitol Technical Center.

To school boards having Vocational-Technical Centers From Public Education Capital Outlay Trust Fund

To Board of Regents of the State University System From Public Education Capital Outlay Trust Fund

25,898,549

23,568,989

From the above Capital Outlay Funds to be allocated by the State Board of Education to the Board of Regents (A) \$315,432 is for planning of the Drinking Water Quality Research Center at FIU; (B) \$90,000 is for a Hyperbaric Oxygen Facility at Shands Teaching Hospital; (C) \$4,381,000 for the continuing Education Center at Florida State University; (D) \$202,402 for Planning and Design, Phase I Construction of Engineering Building at Florida Atlantic University; (E) \$85,000 for Florida State University Lighting; and (F) \$300,000 for Library Building Planning at the University of North Florida. Provided, that the continuing Education Building in Item (C) shall be located immediately west of the Civic Center.

Provided, however, no funds shall be allocated for planning of an extension or new campus sites not already established without specific legislative authorization.

Provided, however, no funds appropriated in Item AE shall be used to purchase new or existing residence for any employee of the State University System.

From funds appropriated above, it is legislative intent that the School of Business shall be accommodated in the space renovated in Perry Paige and/or Lee Hall at Florida A & M University.

AF Fixed Capital Outlay To Florida School for the Deaf and the Blind From Public Education Capital Outlay Trust Fund

For the completion of the Verle A. Pope Memorial Complex.

AG Fixed Capital Outlay To Office of Blind Services From Public Education Capital Outlay Trust Fund

For construction and shelving in the Regional Library for the Blind and Physically Handicapped. 1,912,262

467,406

	AH	Fixed Capital Outlay To the State Board of Education for WMFE - Orlando, Florida From Public Education Capital Outlay Trust Fund	1,314,300
	AI	Fixed Capital Outlay To the State Board of Education for WPBT - Miami, Florida	
		From Public Education Capital Outlay Trust Fund	768,274
	AJ	Fixed Capital Outlay Library Books - State University System	
		From Public Education Capital Outlay Trust Fund	10,000,000
Tł	ne a	above funds for library books shall be allocated to	the -

various universities in accordance with a formula based on justified need in terms of programs and enrollments, taking into account existing library holdings. None of these funds shall be used for salaries, other personal services, expenses or other equipment.

Total of section 04

160,000,000

GENERAL GOVERNMENT

In addition to fixed capital outlay for Education the legislature provided \$79,612,145 in appropriations for fixed capital outlay for general government activities, as shown below:

HEALTH AND REHABILITATIVE SERVICES

Evaluation and Treatment Center (Forensic) Phase I, South Florida - 300 Bed Facility Replacement Facilities for Non-Ambulatory Retarded	\$ 8,482,000
Individuals Air Conditioning - Mental Health Facilities, South	6,000,000
Florida State Hospital, North Florida State Hospital, and Florida State Hospital Renovation of ICF Cottages for 428 Clients, Sunland	2,840,000
Centers	827,200
Recreational Parks for Handicapped - Dade, Duval, and Santa Rosa Counties Services Building for Forensic Unit, South Florida	570,479
State Hospital	535,300
Sunland Recreation Park – Phase V, Port St. Joe Juvenile Detention Center, Broward – 93 Beds	500,400 1,636,500
Juvenile Detention Center, Lee - 52 Beds	930,400
Juvenile Detention Center, Polk - 52 Beds Other HRS Institutional Repairs, Renovations and	930,400
Minor Additions	4,640,797
TOTAL	\$27,893,476

OFFENDER REHABILITATION

JUDICIAL BRANCH

Restoration and Renovation, Whitfield Building Renovation and Improvement of Air Conditioning System, Supreme Court Building Renovation of Sub-Basement, Supreme Court Building Other Repairs and Renovations, Supreme Court Building Renovation and Repairs, Second District Appeals Court Addition and Repairs, Fourth District Appelas Court TOTAL	\$1,250,000 419,000 327,400 72,450 49,200 208,200 \$2,326,250
<u>Fixed Capital Outlay - GENERAL GOVERNMENT</u> (Continued)	
GAME AND FRESH WATER FISH COMMISSION	
Wildlife Management and Areas, Land Acquisition and Facilities	\$5,132,755
GENERAL SERVICES	
Purchase of State Office Buildings in Leon County	\$5,860,000
	•
NATURAL RESOURCES	
Replacement of Research Laboratory - St. Petersburg Land Acquisiiton, Development for Parks and Facilities	\$1,751,400 \$12,539,900
TRANSPORTATION	
Additional Facilities	\$1,036,500
	•
OTHER	
Miscellaneous Projects - Various Agencies	\$3,019,864

BUSINESS REGULATION*

The 1977 Legislature enacted several laws designed to bolster the pari-mutuel industry during its current recessed state. Lawmakers also visited the statutes relating to construction industry licensing, passed an "innkeeper's lien law" and amended beverage license laws.

The Pari-Mutuel Industry

House Bill 2235 (Chapter 77-167) repeals and replaces 1975 legislation enacted for two years with another two-year measure intended to ameliorate the depressed conditions at winter thoroughbred racetracks. This act once again alters the tax structure imposed on various pari-mutuel facilities and alters the percentages to be withheld and designated for breeders' awards, overnight purses and operational expenses.

The measure's most important sections will increase the total commission to be withheld by the track and the state to 17.6 percent of the pari-mutuel pool, two-tenths percent above the earlier relief measure and six-tenths percent above that formerly provided by law. The effect of this increase is to further reduce the percentage of the pari-mutuel pool returned to bettors.

Also, the law will reduce the amount of taxes paid to the state by permitholders from 7.5 percent (or 7.9 percent under the first temporary relief measure) to 5.6 percent of the pool. The maximum daily license fee paid in lieu of this figure by *Prepared by Senate Committee on Commerce

tracks having an average daily pool of less than \$400,000 is reduced from \$21,000 to \$11,000. The percentage tax paid by harness tracks is reduced from 7 percent to 5.3 percent.

The increase in the commissions together with the tax reductions will benefit the tracks by increasing the percentage of the pari-mutuel pools retained while decreasing the amounts paid to the state and returned to bettors.

House Bill 2234 (Chapter 77-166) repeals the 1975 act which authorized dogracing, horseracing and jai alai frontons to withhold an additional four-tenths of one percent commission from total contributions to the pari-mutuel pool and allows these permittees (excluding quarter horse racing licensees which are provided for in Chapter 77-177) to withhold an additional six-tenths of one percent from total contributions from the effective date of this act (June 9, 1977) until July 1, 1979. This additional takeout is to be deposited in the General Revenue Fund. Reports required by the uniform reporting system for parimutuel permitholders must be certified by Florida licensed public accountant.

House Bill 2270 (Chapter 77-177) increased the takeout from quarter horse racing pari-mutuel pools to 18% from the 17.4% provided in a 1975 two-year temporary relief measure and is a full one percent above that authorized prior to 1975. The takeout increase is to be deposited in the Quarter Horse Racing Promotion Trust Fund in the State Treasury and be administered by the Department of Agriculture and Consumer Services for supplementing and augmenting purses and prizes and for promoting the owning and breeding of racing quarter horses in Florida.

House Bill 2269 (Chapter 77-176) lowers the daily license fee for summer quarter horse racing meets to assist in revitalizing the industry. Quarter horse meets are deleted from the summer fee schedule for harness and thoroughbred meets and a new daily scale is created ranging from \$1,000 for pools less than \$200,000 to \$6,000 for those over \$400,000.

House Bill 1089 (Chapter 77-472) authorizes the Board of Business Regulation to allow two additional charity days at the Big Bend Jai Alai Fronton. The act specifies that the revenue generated during these days shall be allocated to Florida A & M University.

House Bill 258 (Chapter 77-43) authorizes any member of a nationally recognized professional appraisal society or association to prepare the business, plant and property appraisal required of pari-mutuel permittees under the uniform reporting system rather than requiring that it be prepared by a member of the American Institute of Real Estate Appraisers. New permittees must submit the appraisal within 180 days after they start operating.

The Construction Industry

Senate Bill 1232 (Chapter 77-145) amends various provisions of the statutes relating to the licensing of the construction industry. The law clarifies the definition of "contractor" to ensure that the contractor is qualified and responsible for the entire project for which he has contracted. A contractor must comply with local requirements in lieu of a state certificate of competency. Special registration for subcontractors, specialty

contractors not otherwise covered, is mandated and conspicuous display of this state certification and registration is required.

Clear experience and education standards are spelled out for applicants for the optional state certification exam and the Construction Industry Licensing Board is required to explain in writing its grounds for denial of permission to any applicant to take the exam. The applicant must furnish evidence of financial responsibility, credit and business reputation of either himself or the business entity he wishes to qualify, including a credit report. Initial application fees for a certificate of competency or registration without examination are doubled. The enactment provides for biennial renewals of certificates and registration and conforms fees to a biennium. Abandonment of a construction site or making a material false statement on an application for certification, registration or renewal are made additional grounds for revocation or suspension of certificates or registration. Provision is made for the appointment of six alternate members to the Board. The sale or installation of prefabricated swimming pools with a capacity in excess of 500 gallons are no longer exempted from construction industry licensing requirements.

Lodging Establishments

Senate Bill 1426 (Chapter 77-249) creates an "innkeeper's lien law" which provides remedies to innkeepers faced with nonpaying guests. First it allows an innkeeper to "lock out" a guest with a large outstanding account in order to arrange payment. Second it allows an innkeeper to recover the premises

of a guest who vacates his premises without paying his account. Upon recovery of the premises, the innkeeper is required to make an itemized inventory of the guest's property in the presence of at least one neutral person. Third, if a guest vacates without notice or refuses to make payments, the innkeeper is permitted to prosecute a writ of distress against the guest. Procedures are set out for this. Grounds for granting a prejudgment writ of distress are specified in the act, and exemptions and costs are provided.

The Beverage Industry

Committee Substitute for House Bill 575 (Chapter 77-192) reduces the transfer fee for beverage quota licenses from an amount equal to the annual license tax to the percent (10%) of the annual license tax or \$100, whichever is greater. The law also permits wine distributors to provide in-store servicing of their products by arranging and maintaining displays in the vendor's licensed premises.

House Bill 198 (Chapter 77-471) provides that law enforcement officers may own certain beverage company related securities which are traded on the major stock exchanges. In license suspension or revocation proceedings, the Beverage Division may now consider evidence of a criminal conviction insofar as permitted by Chapter 92, Florida Statutes, or the rules of evidence. Finally, the act provides for the issuance of a beverage license to chartered or incorporated racquetball clubs which maintain at least ten courts and clubhouse facilities.

Senate Bill 1196 (Chapter 77-252) authorizes the Beverage

Division of the Department of Business Regulation to issue a liquor license to the Florida State Fair Authority. The act intends the license to be the property of the Authority subject to its transfer, from time to time, to enable the concessionaire under the contract with the Authority to furnish alcoholic beverages within the Exposition Building, the Exhibition Building, or Old MacDonald's Farm under restrictions enumerated in the act.

COMMERCE*

In 1977, the Legislature sought to make banking operations more open by removing the confidential nature of certain records such as bank and trust company shareholder lists and credit union membership lists. By permitting the creation of international banking corporations within the state, lawmakers hoped to broaden Florida's economic base. Regulatory laws concerning mortgages secured by vacant land were enacted. The Small Business Assistance Act, administered by the Division of Economic Development of the Department of Commerce, was created to encourage and strengthen firms employing less than 25 persons. Confidentiality was provided for dealings between the state and businesses considering locating here.

Statutes regarding the handling of workmen's compensation claims and qualification for unemployment compensation benefits were tightened. The Human Rights Act was amended to reduce the membership of the Human Relations Commission and give it authority to prohibit specific acts. Procedures for the handling of abandoned property by the state were changed to facilitate such activity. Consumer protection enactments include: the creation of a licensing law for home warranty contractors; the Investor Protection Act; and establishing "statements of satisfaction" to be executed by buyers under certain conditions.

*Prepared by Senate Committee on Commerce.

Banking Industry

Committee Substitute for House Bill 1250 (Chapter 77-157) allows an international banking corporation through an international bank agency, both of which are defined in the act, to conduct an international banking business in this state after obtaining a license, renewable annually, and complying with certain other requirements. No international bank agency is allowed to receive deposits or exercise fiduciary powers. An international bank can establish a representative office to serve as a liaison with its customers and to generate new loans for itself.

An international banking corporation's assets must exceed its liabilities by at least \$25,000,000 in order to qualify for a license. No license may be issued unless the corporation's home country provides for reciprocity with banks having their principal place of business in Florida. The corporation is required to hold a minimum amount of securities at its Florida office and make certain financial certifications and reports to the Department of Banking and Finance.

Fees are established for annual licenses and renewals for international banking agencies and representative offices as well as minimum examination fee. Provision is made for the suspension or revocation of licenses and an international banking corporation must supply notice of its dissolution to the Department.

Senate Bill 656 (Chapter 77-94) requires shareholder lists, which must be kept by every state bank and trust company and which show each shareholder's name, residence and shares held, to be open and available to other shareholders and state tax assessment

officers during banking business hours and to Department of Banking and Finance Examiners upon request. The Department may not make the list or any part of it public. Procedures are established to protect the confidentiality of records produced in response to orders of courts or hearing officers or legislative subpoenas. Confidentiality is accorded: personal financial statements, investigatory records and reports of examinations or operations of banks and trust companies when prepared for any state or federal agency responsible for the regulation or suspension of such financial institutions. Exemption from operation of the Public Records Law is provided for them. Unlawful disclosure of confidential information described in the act is made a third degree felony. The right to examine shareholder lists is given specifically to minority stockholders.

Senate Bill 1193 (Chapter 77-156) requires that the records of the Department of Banking and Finance relating to all credit union applications and related information be open to the public. Provision is made to protect the confidential nature of records produced on order of courts, hearing officers or in response to legislative subpoenas. Unlawful disclosure is a third degree felony.

Records of the Department regarding personal financial information; investigatory records compiled for law enforcement purposes; and reports of examination or information on the operations or conditions of a credit union when prepared for any state or federal agency responsible for the regulation or supervision of these companies would be confidential. The Public Records Law does not apply to these documents. The act prohibits

the Department from disclosing all or any part of membership lists. However, the lists would be made available to the members and other authorized state officials.

Committee Substitute for Senate Bill 593 (Chapter 77-160) authorizes the creation of the "convenience accounts" which is a demand deposit account in the name of one individual in which one or more other persons have been designated as agent with the right only to withdraw funds from or draw checks on such account. Only the principal in whose name the account appears may alter the contractural terms governing it and in the event of the death or declared incompetence of the principal, provision is made for payment of any balance in the account to any personal representative or guardian of the principal upon . presentation of effective written notice and proof of judicial appointment of such person by a court of competent jurisdiction. All rights, interest and claims in the account are those of the principal. Observance of these provisions by a bank provides a valid and sufficient release and discharge from all claims and the bank may set-off against the account if the principal is indebted to the bank.

House Bill 1008 (Chapter 77-296) authorizes employers to deposit wages directly into an employee's account at a financial institution designated in writing by the employee. The deposit can be by an electronic funds transfer system or other medium. No employer can terminate an employee for refusing to authorize direct deposit of his wages. If a law suit is instituted on these grounds, provision is made for award of attorney's fees to the employee if he is successful or to the employer if the suit is adjudged frivolous.

The number of required examinations of a loan maker's business by the Department of Banking and Finance under the Florida Consumer Finance Act is reduced from two to one a year by Senate Bill 482 (Chapter 77-356). However, the examination fee, which is based on the amount of outstanding loans, is increased.

Committee Substitute for Senate Bill 136 (Chapter 77-54) excludes notes payable on demand from accrual date provisions of "Uniform Commercial Code - Commercial Paper" and amends the appropriate section of the Limitations of Actions chapter to provide a cause of action on negotiable or nonnegotiable notes shall accrue on date of the first written demand for payment.

Interest Rates

Committee Substitute for Senate Bill 1406 (Chapter 77-371) establishes interest parity among licensed lenders for similar types of loans. So long as the statute under which a lender is licensed authorizes him to make a given type of loan, he may charge a rate of interest authorized for that type of loan by any other statute. The lender must indicate on the promissory note the specific statute which authorizes the rate being charged.

Senate Bill 1437 (Chapter 77-374) specifies the method to be used in determining the rate of interest on a loan when any advance payment or forbearance is spread over the term of the loan.

House Bill 2124 (Chapter 77-256) allows loans legally made in another state to a resident of that state to be enforced in

Florida even though the interest rate charged is greater than that allowed by the Florida Consumer Finance Act, if the other state has a similar consumer finance law. The act also eliminates the requirement that the Department of Banking and Finance find that the issuance of a license to a loan maker will promote the convenience and advantage of the community.

Branch Banking

House Bill 2192 (Chapter 77-389) removes the restriction in Section 659.06, Florida Statutes, that prevents the Department of Banking and Finance from acting upon an application for a branch bank until it has completed consideration of another bank's pending application if the proposed branch and the bank are located within one mile of each other.

House Bill 1387 (Chapter 77-384) provides that a branch or separate office of a bank is a separate bank for the purpose of determining the time in which and the place at which action may be taken or notice or orders must be given under the Commercial Paper and Bank Deposits and Collections articles of the Uniform Commercial Code, Chapters 673 and 674, Florida Statutes. Under this act notice of certain actions served at the main office or one branch office of a bank will not constitute notice to another branch office. Drive-in and walk-up facilities are to be considered separate offices. The law implements the 1962 official text of the Uniform Commercial Code on Bank Deposits and Collections.

House Bill 1421 (Chapter 77-383) specifically allows branch banks, with approval of the Department of Banking and

Finance, to offer customer service facilities located on property contiguous to the branch bank.

The Committee Substitute for House Bill 1422 (Chapter 77-376) converts to branch banks drive-in and walk-up facilities that are operated on the act's effective date and that are located within the county of the bank operating the facility. The measure also exempts the converted branch banks from the calendar year two-branch limit of existing law. This law repeals requirements relating to the physical location of drive-in and walk-up facilities and also requires the Department of Banking and Finance issue free of charge certificates authorizing the operation of the converted branch banks without prior investigation.

House Bill 888 (Chapter 77-42) permits banks and trust companies which are members of the same affiliated group as defined in Section 5104, Internal Revenue Code of 1954, to pool common trust funds for investment, but specifically states that no fiduciary obligations between an individual bank or trust company and its customer are changed.

Savings Associations Loans

House Bill 516 (Chapter 77-179) sets the simple interest rate which savings associations may charge on property improvement and mobile home loans at fourteen percent. The act also prohibits the precomputing of interest on such loans so that borrowers who repay their loans early will not suffer an interest penalty.

Mortgages

Senate Bill 663 (Chapter 77-397) establishes provisions to regulate the brokering of mortgages on land secured by land registered pursuant to the Florida Uniform Land Sales Practices

Law, Chapter 478, Florida Statutes, by requiring each mortgage offered by a broker or solicitor for a land developer shall be recorded as a first mortgage. Such mortgages must include a mortgagee's title insurance policy or opinion of title from an attorney licensed to practice in Florida. Contracts to purchase mortgage loans must state in bold type "This mortgage is secured by vacant land subject to development at a future time." The most current tax appraisal by the County Property Appraiser must be furnished to the investor to give some indication of property value and all mortgages are required to be recorded before delivery of the note and mortgage to the investor. In addition, all funds received must be deposited in trust until note and mortgage are executed and recorded.

The law further provides that a person who is not a citizen may be licensed as a mortgage broker or solicitor if he files a declaration of intent as is the case with certain other state licenses. Failure to keep funds in an escrow account until it can be established that fees are earned by the broker is grounds for suspension of a license. Additional grounds for suspension are provided.

The Department of Banking and Finance is authorized to issue and enforce cease and desist and refund orders under procedures established by the Administrative Procedures Act. Moreover, the Department may impose administrative fines of \$1,000 maximum. Examiner's worksheets and investigative reports are allowed to be placed into evidence of cease and desist orders on an emergency basis upon oath of the examiner. Provisions relating to fees, commissions and costs required of the

mortgagor are amended and new provisions are spelled out on fees and charges paid to a broker or solicitor which are not counted as interest or finance charges. Additional requirements relating to mortgages or instruments securing a note are set out.

"Mortgage loan" is redefined and definitions are provided for "principal mortgage broker" and "lender." A Mortgage Brokerage Guaranty Fund is created and conditions for recovery and procedures for payment from the Fund and limitations on investment of the Fund's monies are prescribed. New language is provided concerning liability in case of unlawful transaction, statutory or common-law remedies and prohibited practices. Certain violations of the Mortgage Brokerage Act are made third degree felonies.

Senate Bill 495 (Chapter 77-151) allows credit union loans to be secured by first and second mortgage liens on real property and authorizes the Department of Banking and Finance to adopt appropriate rules. The prior prohibition on liens on unimproved real estate and liens other than first liens on improved real estate is deleted together with any distinction between improved and unimproved property.

Senate Bill 595 (Chapter 77-318) allows any mortgage note which is silent on the right of prepayment to be prepaid in full by the obligor or his successor in interest without penalty.

Economic Development

Committee Substitute for Senate Bill 122 (Chapter 77-218) creates the Small Business Assistance Act which requires the

Division of Economic Development of the Department of Commerce to promote the establishment, preservation and strengthening of small businesses in Florida. Small businesses are defined as those operated independently of any other business and having no more than 25 employees or grossing more than \$500,000 annually.

The duties of the Division are stipulated and an annual report to the Governor and presiding officers of the Legislature with specified items of information is required on March 1st. Cooperation with federal agencies is mandated. The creation of a ten-member Small Business Advisory Council within the Division is authorized with enumerated duties. The Council is to be appointed by the Governor for staggered two-year terms and members serve without compensation but are entitled to traveling expenses. The Council must meet twice a year at the call of the Division Director and annually elect a chairman from among its members. The Division is to provide staff support.

Provision is made for a four-year comprehensive cost analysis report on all programs to be made March 1, 1981. Any program not continued by the Legislature at the next regular session or vetoed by the Governor is automatically repealed. If none of the programs are continued the act stands repealed July 1, 1981.

Because premature revelations of a business prospect's interest in Florida might stimulate land speculation or other activities detrimental to the area being considered, House Bill 592 (Chapter 77-75) provides that a private business may request that the Division of Economic Development treat as confidential any of the company's plans to locate, relocate or expand any of

its activities in Florida. If such a request is made, the plans may not be open to public inspection for 18 months, unless, on a showing of need, a court of competent jurisdiction orders the information released. This act also prohibits any public officer or employee from using this confidential information for his individual benefit until 90 days after the information is made public, and makes violation of the act by an employee of the Department of Commerce a second degree misdemeanor. Exemption to the inspection provisions of the Public Records Law is provided.

House Bill 451 (Chapter 77-18) authorizes the Commerce Department's Division of Economic Development and Division of Tourism to pay foreign travel costs at specified federal-level rates for state officers, state employees, and authorized persons. Actual travel, meal, lodging and related costs can be paid when the person is traveling with or to meet business prospects, with travel writers and tour brokers, or in connection with trade shows.

Labor

Currently there is duplication in the Federal and State enforcement of the Crew Leader Registration Law. Federal law provides that the U. S. Secretary of Labor may enter into agreements with State agencies whereby the Federal Government will pay the State to administer the Federal Act. Senate Bill 515 (Chapter 77-25) repeals Part III of Chapter 450, F. S., which is known as the Farm Labor Registration Law. Additionally, this law authorizes the Department of Commerce to enter into agreements with the U. S. Secretary of Labor to administer the provisions of the Federal Farm Labor Contractor Registration Act in Florida. Reappropriation of unexpended state funds to the Department will

not take place until 90 days after the Department enters into an agreement with the Federal Government.

Senate Bill 393 (Chapter 77-184) changes statutory references to clarify that labor unions and their business agents are regulated by the Division of Labor of the Department of Commerce rather than by the Division of General Regulation of the Department of Business Regulation and must be recognized by firms doing business in the state. The administrative transfer was effected by act of the 1974 Legislature. The Division of Labor is given the power to institute license suspension or revocation actions in accordance with the Administrative Procedures Act and the power of the Department of Legal Affairs to file such actions is repealed. The annual report required of each labor union must be made on or before December 31st. Several provisions regarding licensure of labor unions are changed: the residency requirement for licensees is deleted; the expiration date for licenses is changed; false application is made a ground for denial, suspension, or revocation of licenses; and information obtained pursuant to processing applicants' fingerprint cards is made confidential.

Senate Bill 368 (Chapter 77-182) authorizes the Division of Labor of the Department of Commerce to act as registration agent for federal apprenticeship registration purposes, but prohibits the Division from enforcing any federal apprenticeship requirement without first adopting the requirement as a rule.

Senate Bill 392 (Chapter 77-183) gives the Bureau of Apprenticeship of the Division of Labor the discretion to determine whether there is a need for additional apprenticeship programs before approving new apprenticeship sponsors. The law also

clarifies that a local apprenticeship sponsor may be a combination of employers and employees.

Senate Bill 68 (Chapter 77-250) would prohibit a person from knowingly employing or referring for employment an alien who is not federally authorized to work. The first violation is considered a noncriminal violation with a maximum fine of \$500 no matter how many aliens were involved. Subsequent violations will be treated as a second degree misdemeanor (up to \$500) and the hiring of each unauthorized alien will be considered a separate offense.

Workmen's Compensation

The major workmen's compensation measure passed by the 1977 Legislature was Senate Bill 343 (Chapter 77-290). The act amends the definitions section of the workmen's compensation law by expanding the meaning of the term "independent contractors" who are not covered by the law, to include real estate salesmen who are paid solely by commission and work without supervision. The law also incorporates in the workmen's compensation law definitions of certain phrases which were formerly found only in the Rules of the Industrial Relations Commission.

The measure removes the presumption now in the workmen's compensation law that intoxication was not the primary cause of an employee injury. Instead, if at the time of the injury there were 0.10 percent or more by weight of alcohol in the employee's blood, there is created a rebuttable presumption that the injury was occasioned primarily by the intoxication of the employee. The act also requires that medical reports relative to employees'

injuries be filed with the Bureau of Workmen's Compensation and provides that injured employees are entitled to the cost of transportation to and from the place of treatment.

The Division of Labor is given the authority to promulgate rules requiring an employee entitled to or claiming benefits for permanent total disability to report to the employer or carrier all earnings and social security income. The employee is also required to authorize the release of disability information by the Social Security Administration. Failure to report earnings or authorize the release of disability information removes employer/carrier liability to make benefit payments. There is also a provision designed to prevent "double-dipping," or the unauthorized simultaneous collection of unemployment compensation and workmen's compensation benefits.

The law provides that a claimant is deemed to have waived the right to the 10% penalty for non-payment of any installment if he concludes the prosecution of the claim before a judge of industrial claims without having specifically claimed the additional compensation.

On the joint petition of all interested parties for a lump sum settlement in which it is stipulated that the award shall not be subject to modification or review, the judge may request an investigation by the Rehabilitation Section of the bureau and must review the bureau file before entering any order.

Newly enacted language in the law provides that a judge may approve or order an advance payment to an injured employee, prior to an adjudication of his claim, of up to \$2,000, unless a greater amount is agreed to by the employer. If the employer's

carrier thereafter makes a payment to the claimant, the employer is entitled to be reimbursed for the advance payment, up to the amount paid by the carrier.

The costs of records on appeal are provided for and guidelines for attorney's fees are set. The penalty for willful misrepresentation in workmen's compensation cases is raised from a second degree misdemeanor to a first degree misdemeanor.

The act changes from 50% to 100% the possible recovery of an employer or carrier for workmen's compensation benefits paid when an injured employee is successful in a suit against a third person who caused the injury. It also makes it clear that adjudications of workmen's compensation claims do not fall within the definition of agency action for the purpose of the Administrative Procedures Act. The Department of Commerce is authorized to approve a joint underwriting plan for workmen's compensation.

Senate Bill 744 (Chapter 77-185) increases the total number of Commissioners on the Industrial Relations Commission from three to five. The Commissioners will sit in panels of three, and the concurrence of two will be necessary for a decision. The limitation on the number of commissioners who have previously been employee or employer representatives is deleted. The funding for the new positions is appropriated from the IRC Trust Fund.

Unemployment Compensation

Committee Substitute for Senate Bill 1262 (Chapter 77-399) amends various provisions of the Florida Unemployment Compensation

Law. The act imposes more stringent requirements on the methods by which benefits are paid and by which recipients register as being available for work. The Division of Employment Security of the Department of Commerce is required to establish by rule the criteria for determining "suitability" of a potential job, and suitable work must be that which pays the minimum wage and is at least 120 percent of the amount of unemployment benefits being drawn after regular benefits are exhausted.

"Misconduct" is defined for purposes of disqualification for benefits when an individual has been discharged for misconduct connected with his work. The disqualification can be terminated only if the individual becomes reemployed and earns wages at least equal to 10 times his weekly benefit amount. Additionally, the Division may require the disqualification to continue for up to one year from the time of discharge.

The law also creates a Board of Review to hear unemployment Compensation appeals presently heard, along with workmen's compensation appeals, by the Industrial Relations Commission. The Board will consist of a chairman and two members, all to be appointed by the Governor and to serve staggered 4-year terms. Only the chairman will be full-time and meet the qualifications of a circuit court judge. The two members will be paid \$100 a day when engaged in Board business.

This measure and House Bill 2123 (Chapter 77-424) contain similar provisions reducing unemployment compensation by the amount of retirement, pension, or annuity benefits received, regardless of the source of the contribution to the retirement, pension, or annuity program. The offset for Social Security

retirement benefits, which only applied in certain cases, is deleted.

This act and Senate Bill 148 (Chapter 77-393) allows governmental entities to elect the contributory method of financing unemployment benefits. A Public Employers Unemployment Compensation Benefit Account is established to be charged with benefits paid to public employees.

House Bill 2123 (Chapter 77-424) provides that benefits received under retirement, pension, or annuity programs are offset against the receipt of unemployment compensation benefits regardless of the source of the contribution to the retirement, pension, or annuity program. Social Security retirement benefits will not be offset against unemployment compensation benefits in any case.

Senate Bill 148 (Chapter 77-393) includes additional types and periods of service within the definition of "employment" for purposes of the Florida Unemployment Compensation Law. Governmental entities may elect the contribution (experience rating) method of financing unemployment compensation benefits in lieu of the reimbursement (dollar-for-dollar) method of financing. The chosen financing method must be retained for not less than two calendar years. A Public Employers Unemployment Compensation Benefit Account is created, chargeable with all benefits paid to public employees. Exceptions to the contributions provision of the Florida Unemployment Compensation Law for those governmental bodies who elect the contributory system of financing unemployment compensation benefits are provided.

Senate Bill 1231 (Chapter 77-262) is a comprehessive amendment to the Florida Unemployment Compensation Law. All of the various provisions reflect the minimum requirements necessary for continued compliance with federal unemployment compensation guidelines. Compliance with the federal standards is a precondition to continued federal funding for unemployment compensation. The specific provisions relate to the inclusion of certain agricultural, domestic, educational, and governmental workers; an increase in the taxable wage base from \$4,200 to \$6,000; a prohibition against pregnancy disqualification; an election of the contributory financing method by governmental entities; the denial of "between session" benefits for certain educational employees and professional athletes; and a recomputation of the trigger mechanism for extended benefits purposes.

Unlawful Discrimination

Senate Bill 1165 (Chapter 77-341) expands the Human Relations Commission's authority by declaring certain discriminatory acts unlawful and by authorizing the Commission to issue an order prohibiting the practice and providing affirmative relief. Such an order would follow an investigation by the entire Commission or a three-member panel finding cause. Either party would be entitled to appeal in accordance with the Administrative Procedures Act. This law is an effort to help Florida handle its own problems with discrimination rather than having the federal government handle them.

The Governor is made the appointing authority to the Commission rather than apportioning such power equally among the Chief Executive, President of the Senate and Speaker of the House.

The number of members is reduced from 19 to 12 and the Commission is to select its chairperson for a two-year term rather than having the Secretary of the Department of Community Affairs serve in that capacity ex-officio. The act provides for vacancies, suspension, quorum, compensation, and an executive director.

Senate Bill 265 (Chapter 77-9) makes it an unlawful trust or restraint of trade for a corporation lawfully operating in Florida to issue or accept a letter of credit or enter into a contract for goods or services if the document contains provisions requiring discrimination on the basis of sex, race, color, religion, ancestry, national origin or business association. Requesting or furnishing such information on persons or specific place of origin or manufacture of commodities in observance of a foreign boycott is prohibited. The act makes it unlawful to refuse to issue or accept such a document which does not contain such a discriminatory provision. It provides exemptions for certain business associations.

Deceptive Trade Practices

House Bill 1780 (Chapter 77-440) repeals all but one section of the chapter regulating business combinations which restrict the use of musical compositions, eliminating provisions related to antitrust prohibitions and sales of performance rights. Persons previously regulated by these provisions will still be subject to similar federal law, although they will cease paying the state 3% of their gross sales of performance rights in Florida.

The remaining section in the chapter deals with "pirated"

recordings and is substantially amended. It is presently illegal to make unauthorized copies of recordings when a sale is contemplated. This measure adds a prohibition making illegal any unauthorized copies of performances, whether live or transmitted via radio or TV, when a sale is contemplated. The penalty for these violations is raised to a felony of the third degree.

The act also prohibits the sale of unauthorized recordings, or the sale or possession of recordings that do not disclose the manufacturer and performer. Violation of these provisions is a second degree misdemeanor. Possession of five duplicate or 20 individual copies of any unauthorized recordings will create a rebuttable presumption that a sale is intended. Unauthorized recordings and the equipment used to produce them are subject to seizure, forfeiture, and destruction by law enforcement agencies. The measure does not apply to certain broadcasters or to copying in the home for personal use and without compensation.

Unclaimed Property

Senate Bill 133 (Chapter 77-236) reduces the period of dormancy under the Florida Disposition of Unclaimed Property Act from 15 to 10 years for banking and financial institutions organized or operated under state or federal law, and from 15 to 7 years for other entities such as fiduciaries, insurance companies and various governmental agencies, before the unclaimed items are turned over to the custody of the Comptroller's Office. However, the dormancy period for traveler's checks is fixed at 15 years.

Grounds for presumption of abandonment are extensively

amended and persons are permitted to petition the Department of Banking and Finance for an administrative declaration of abandonment rather than obtaining such declaration through a circuit court.

The original holder of the property must retain pertinent records on property delivered to the Department. A holder of a certificate of ownership in abandoned property is relieved of any liability upon delivery of a duplicate certificate to the Department within a time specified.

When the Department converts any income producing property which it holds to cash, it must provide the owner with any increments accruing to such property and such conversion must take place within one year of receipt. The Department is empowered to issue a proper instrument of sale. The Department may destroy or dispose of property it deems valueless with the written approval of the Department of State.

The maximum amount of proceeds derived from the sale of property and kept in a separate account to pay claims and administrative costs is increased to \$150,000. An amount equal to actual annual administrative costs is to be transferred from this separate account to the Department's Regulatory Trust Fund. Petition for review of a claim will be as provided in the Administrative Procedures Act. Violation of the act is a misdemeanor of the second degree.

Consumer Protection

Senate Bill 1034 (Chapter 77-339) sets up a licensing and regulatory scheme through the Department of Insurance for persons offering home warranty contracts. These contracts are basically prepaid indemnification contracts covering repair or replacement of structural parts and appliances in a home. The regulatory plan is essentially the same as that for insurance companies except the home warranty associations must post a deposit, bond or letter of credit worth \$50,000 and \$75,000 in succeeding calendar bienniums following the effective date of the act and \$100,000 thereafter. This is in lieu of the capitalization requirements for insurance companies. Regular insurance companies are not subject to licensure under this act, nor can home warranty associations, by complying with the act, be authorized to engage in other insurance business. Violation of the act is a second degree misdemeanor.

Committee Substitute for House Bill 647 (Chapter 77-432) requires contracts for the sale of health studio services to contain a penalty-free cancellation clause that permits cancellation within the first seven days of the contract. The act also requires the contracts to allow cancellation if the health studio moves its facilities from the location designated in the contract. Under the law, a health studio must give the buyer a written contract as well as a current copy of the studio's rules prior to entering the contract.

Senate Bill 666 (Chapter 77-245) provides that when insurance purchased pursuant to an installment sales contract on a motor vehicle or other goods or services is cancelled or

the premium adjusted, the unearned finance charges on the account by which the premium is reduced shall be credited to the final maturing installments on the loan or paid to the buyer at the option of the seller.

House Bill 1828 (Chapter 77-441) creates the Investor Protection Act. It provides for the regulation of tender offers under a scheme similar to federal securities law. The law requires offerors to make tender offers to all offerees on the same terms. Offerors are required to file with the Division of Securities a statement containing tender offer information. The act gives offerees a cause of action against an offeror who makes a tender offer without complying with the law or who makes the offer using an untrue statement of material fact.

House Bill 1627 (Chapter 77-304) repeals the statute which prohibited the advertising of former or comparative prices unless the alleged former price was actually in effect for 30 consecutive days within the four months immediately preceding the date of the advertisement or unless the date when the former price was effective was conspicuously posted. The act also clarifies that costs, including attorney's fees and punitive damages, can be awarded to persons prevailing in civil actions for violation of any subsection of the misleading advertising statute.

Senate Bill 722 (Chapter 77-346) provides for a "statement of satisfaction" which may be required or requested of any retail noncommercial buyer by a seller or his representative on goods to be delivered or delivered hidden from view by any

container or other covering. Such statement must be signed by the buyer on the date of attestation and contain a statement of buyer's rights as specified in the act. These rights include that of cancellation within five business days. Otherwise, the statement is null, void and of no force and effect.

Senate Bill 424 (Chapter 77-350) provides that consumer credit sales solicited by telephone are home solicitation sales and changes the law to include related expenses and charges in the minimum value of sales covered by the act. The act gives a buyer three business days to cancel such a contract. In addition, it directs businesses conducting such sales to present identification to buyers, prohibits any misrepresentation, and gives the Division of Consumer Services of the Department of Agriculture and Consumer Services the power to investigate violations and seek injunctive relief.

Senate Bill 930 (Chapter 77-228) repeals Section 501.125, Florida Statutes, which requires passenger vehicles sold in the state after September 1, 1974, to be subject to a manufacturer's warranty or certification that the vehicle is equipped with an energy absorption system which would prevent damage if the vehicle is driven into a barrier at a speed of five miles per hour.

Senate Bill 200 (Chapter 77-84) substantially rewrites statutes relating to the manufacture, distribution and use of explosives to create a regulatory framework for all purchases, possessions, and storage of explosives by a permittee and to regulate the technical qualifications of all individuals using explosives. The act is to be enforced by the Division of State

Fire Marshal of the Department of Insurance. The law implements the philosophy that making it more difficult to obtain explosive materials will make criminal activity using these materials more difficult to accomplish. Additional definitions are provided.

Manufacturer-distributors who sell to users are not required to secure a dealer's license, but manufacturerdistributors, dealers, users and blasters dealing in two-component explosives must have appropriate licenses. License and permit fees are increased substantially. The provisions for license and permit application forms are restated and competency examinations are established. The information to be contained in each license and permit is specified as are restrictions on the issuance of them. Persons under the supervision and control of a blaster are no longer exempted from licensing requirements.

Record-keeping requirements are tightened on manufacturerdistributors and users as well as reporting provisions following losses, unexplained shortages or thefts. The Division must oversee investigations of such incidents. Labeling of explosives is required.

Standards of the Institute of Makers of Explosives are no longer adopted by reference. Initial notice to violators is no longer required and the Division is authorized to levy administrative fines in addition to cease and desist orders. The maximum fine for each offense is increased fourfold to \$1,000. All hearings and review of orders are to adhere to the Administrative Procedures Act. The Division is empowered to confiscate explosives owned by violators immediately and store or destroy them. New statutes are created to regulate storage of explosives

and inspection of places of storage. Penalties are enumerated for specific offenses and additional limited exemptions to the act are provided. License, permit and examination fees are to be deposited in the Insurance Commissioner's Regulatory Trust Fund.

Senate Bill 885 (Chapter 77-323) rewrites statutes relating to agreements to provide care for life or for a term of years. The law expands the definition of the terms "continuing care" or "care" to include nursing care whether or not the care is provided in a nursing home. The act also provides that fees charged under continuing care contracts can be variable or paid in any type of remuneration rather than just paid by fixed fee. The application and renewal fees for certificates of authority are raised from \$5 to \$75 and fees are provided for late renewal, provisional certificates of authority and investigations. This enactment requires Department of Insurance approval of all contract forms rather than allowing life care providers to use unapproved forms.

In addition, statutes are created for: Issuance of provisional certificates of authority for providers; reserve requirements and investment of reserves by providers; resident associations in continuing care facilities; sales literature offered by providers; time allowance for providers to comply with regulatory rules or standards; procedure for handling requests for inspections of provider records and creation of an advisory council on continuing care facilities to the Department of Insurance. Operators of nursing homes and adult congregate living facilities who offer continuing care agreements

must show proof of a certificate of authority as required by this act.

Committee Substitute for House Bill 1641 (Chapter 77-438) includes persons who engage in the preneed sale of burial supplies within provisions regulating preneed burial supplies and funeral service contracts which are defined, if such persons are not licensed under provisions regulating cemeteries. Additionally, several of the preneed regulatory provisions are amended to include preneed burial supply contracts. The requirement of posting a \$50,000 deposit with application for original certificate of authority is repealed and the renewal fee is doubled to \$50. The trust fund required for paid-in contract money can be any trust agreement approved by the Department of Insurance. The income from or appreciation of trust funds will be periodically returned to the seller of the contract. Upon termination by cancellation or default of a preneed burial service or supply contract all funds paid on the contract will be returned to the beneficiary plus 6 percent interest. Solicitation of preneed contracts is allowed via advertisement. Sellers of preneed contracts must notify purchasers in writing that the burial merchandise will be accepted in the cemetery of the purchaser's choice, or else the preneed contract is deemed a nullity and the moneys paid returned. The Department is authorized to institute revocation of licensure proceedings under stated conditions.

Senate Bill 337 (Chapter 77-96) requires a bail bondsman to successfully complete a basic certification course in the criminal justice system before being licensed. The course

requirement is in addition to other qualifications. The course must be approved by the Department of Insurance and consist of at least 80 hours. Persons holding a license on October 1, 1977, the effective date of the act, are exempt from the certification course requirement.

Miscellaneous

Committee Substitute for Senate Bill 645 (Chapter 77-153) requires owners of gas pipelines to file their names, addresses, and telephone numbers in the local circuit court and then requires excavators to obtain this information from owners or utility notification centers and notify owners at least 48 hours before starting excavation. It also requires owners to mark pipelines upon notice of planned excavation. Excavators will still be liable for any damages if pipelines are located as indicated by their owners.

House Bill 2156 (Chapter 77-445) specifically exempts federally administered or regulated housing assistance programs under the National Housing Act from the security deposit regulations of the Florida Landlord and Tenant Act.

Senate Bill 508 (Chapter 77-275) exempts from the definition of slot machine and, therefore, from application of the gambling statutes, those coin operated machines designed for amusement purposes and limited to 15 free replays as long as the free games are issued in connection with a paid game and the device doesn't make a permanent record of the free replays. Those games or devices required by the Internal Revenue Code to have a federal gambling tax stamp are not exempted.

CONSERVATION AND NATURAL RESOURCES*

The keynote in the 1977 legislative enactments dealing with conservation and natural resources can be found in the phrase "planned growth." Since Florida is a microcosm of the nation, having both areas of great urban concentration and rural areas with little population, the nation's recent energy problems, water shortages and maldistribution of needed natural resources has underlined the state's need to take a hard look at the future of the state's natural resources. Planning and management have become the watchwords describing the state's view of conservation and natural resources and the 1977 session has endeavored to plan for Florida's future population projection through the orderly regulation and development of natural resources.

Planning and Management

Endeavoring to tighten legislative control over statewide planning, the legislature adopted Senate Bill 589 (Chapter 77-306) which requires legislative approval of all state comprehensive plans or parts or revisions thereof. The act provides that any such plans submitted to the 1977 regular session of the legislature shall not become effective as state policy until after the close of the 1978 regular session, transfers the Bureau of Coastal Zone Planning of the Division of Resource Management of the Department of Natural Resources to the Department

^{*}Prepared by House Bill Drafting

of Environmental Regulation, and provides that the proposed state coastal zone management plan shall be a part of the state comprehensive plan and shall specifically delineate the role of state, regional and local agencies in implementing the plan.

Committee Substitute for Senate Bill 569 (Chapter 77-215) grants the state land planning agency the power of supervision, rulemaking and the authority to enter agreements with landowners in order to effectuate "The Florida Environmental Land and Water Management Act of 1972." The act provides that any modifications to the initial developments of regional impact guidelines recommended to the Administration Commission by the state planning agency and any modifications of standards prescribed shall only apply prospectively, and provides procedures whereby a local government may require further review of a development of regional impact which has been approved, without waiving rights to injunctive relief where a developer proposes a change.

Criteria are set out for determination of whether a proposed substantial change to a development of regional impact divests rights previously vested in the development. The act further provides that where a proposed development is planned for development over an extended period of time, the developer may file an application for master development approval of the project and agree to present subsequent increments of the development for preconstruction review. The act also provides that regional planning agencies shall be subject to rules adopted by the state land planning agency.

Water management districts, basins and taxing authorities were the subject of Senate Bill 1138 (Chapter 77-367) which

provides that all such authorities subject to the provisions of the Florida Water Resources Act of 1972 are required to make provision for independent performance audits of their financial accounts and activities in order that a complete performance audit shall be conducted for each three-year period and directs the Department of Environmental Regulation to determine the year in which such triennial audits are to be made.

House Bill 253 (Chapter 77-21) directs the Department of Environmental Regulation to establish a permit system for spoil site approval as may be requested and required by local governmental agencies or mosquito control districts to aid these agencies in providing spoil sites for the deposit of spoil from maintenance dredging of navigation channels, port harbors, turning basins and harbor berths as part of a federal project. The act provides that such spoil site approval granted to an agency shall remain in effect for 10 years.

Committee Substitute for House Bill 1142 (Chapter 77-170) authorizes the Department of Environmental Regulation to establish, by rule, a method for determining the landward extent of the waters of the state for regulatory purposes by using plant indicators so that the landward extent shall be defined by species of plants or soils which are characteristic of those areas subject to regular and periodic inundation by the waters of the state. The act also requires that such a method be consistent with plant and soil indicators adopted by the Legislature.

The "Florida Public Land Survey Restoration and Perpetuation Act" is created in Senate Bill 793 (Chapter 77-361) to provide the means for the identification, restoration and preservation of the

controlling corner monuments established during the original cadastral surveys. The act provides that the Department of Natural Resources is the state agency charged with such duty and provides for a state cadastral surveyor. The department, in addition to its other duties is charged with establishing an incentive program with land surveyors for their participation in the location and remonumenting of such corners, with providing for the extension and densification of federally initiated precise geodedic horizontal and vertical control networks, with providing for entering into agreements and contracts for the planning and execution of contracts within the scope of the act and acting as a repository of survey corner information. The act additionally establishes an advisory board to the department; provides for the exchange between the department and other state and local agencies of records relating to lands and for the furnishing of such records to the public; requires the state cadastral surveyor to complete a validated corner record for every public land survey or corner or corner accessory identified, recovered, reestablished, remonumented or restored; and requires land surveyors, not under contract to the department, to file certified corner records containing specified information. The act makes it a first degree misdemeanor to willfully modify, deface, disturb, remove or destroy any monument or reference monument placed or corner record filed under the act without the permission of the department.

Environmental Regulation

The 1977 legislative session saw the enactment of several important pieces of legislation which may not have an immediate

effect upon the population at large but will have a long term salutary effect upon Florida's environment.

Senate Bill 56 (Chapter 77-126) amends various provisions of the "State Wilderness System Act" to redefine the term "wilderness area"; to provide for the administration of the act by the Department of Natural Resources; to redefine the permissible uses of wilderness areas; to provide that land owned by government agencies may be designated as wilderness areas; to authorize the department to lease private lands to be included in the wilderness system; to revise the duties of the Interagency Advisory Committee; to provide guidelines for improvements allowed in wilderness areas; and to provide for a hearing in affected counties when lands are to be withdrawn from the wilderness system.

In an effort to retain Florida's naturally wooded habitat House Bill 400 (Chapter 77-101) provides that all state lands shall have a portion of the land designated for indigenous trees to be established and maintained by the using agency with the assistance of the Division of Forestry of the Department of Agriculture and Consumer Services unless the land is unsuitable for such a purpose.

House Bill 671 (Chapter 77-271) authorizes the Department of Agriculture and Consumer Services to promulgate an endangered plant list using the best data available and consulting with interested parties and to place on such list any species of plant which is in danger of disappearing from the wild within the forseeable future because of the present or threatened destruction, modification or curtailment of the range of the species, because

of overutilization of the species for commercial, scientific or educational purposes, disease or predation and because of any other natural or man-made factor affecting the continued existence of the species. The act also includes and deletes specific plants from the present statutory protected plant list.

House Bill 1408 (Chapter 77-70) authorizes special officers appointed by the Governor as forest investigators and rangers to enforce litter and game and freshwater fish laws while Senate Bill 27 (Chapter 77-82) redefines the term "litter" with respect to the Florida Litter Law of 1971 to include paper, any lighted or unlighted cigarette or cigar or any flaming or glowing material so as to eliminate some of the most dangerous litter in the state and to provide law enforcement with more authority to arrest litter law violators.

Water Resources

Readily available water for recreation and for consumption is certain to become one of Florida's most troublesome future problems if projected state population and development figures are at all accurate. In an effort to insure the future availability of uncontaminated and abundant water resources in our state in the upcoming decade several legislative planning and regulatory bills passed the 1977 session.

Senate Bill 575 (Chapter 77-337) now provides for the "Florida Safe Drinking Water Act" and addresses several of the state's water problems prior to an emergency situation. The law directs the Department of Environmental Regulation to adopt and enforce primary and secondary drinking water standards in

the state. Public water systems are exempt from requirements with respect to maximum contaminent levels and treatment techniques under specified circumstances. The act authorizes the Department to take emergency action where any water system appears to be contaminated in order to protect the public health and, in cooperation with the Department of Health and Rehabilitative Services the act authorizes a plan for the emergency provision of water in affected areas.

In order to ensure the fulfillment of the state's policy of providing safe drinking water to all citizens the act provides for the inspection of public water systems by the Department of Health and Rehabilitative Services; prescribes prohibited activities; provides penalties and remedies, provides for cooperation between the Department of Environmental Regulation and the Department of Health and Rehabilitative Services; sets forth each department's responsibilities and requires a state public water supply laboratory certification program and a public water supply accounting program. The act additionally directs the Department of Health and Rehabilitative Services to supervise certain water and sewage systems. The Department of Environmental Regulation is to establish qualifications for, to examine and to certify all water and waste water treatment plant operators.

Senate Bill 1298 (Chapter 77-369) deals with recreational usage of water in the state and creates the "Water Resources Restoration and Preservation Act." Combining funds available from the General Revenue Fund, the Pollution Recovery Fund and available federal moneys, the act directs the Department of Environmental Regulation to establish a program to assist in

the restoration and preservation of bodies of water within the state. Funds which are available for the purposes of the act may be allocated by the department based upon such criteria as the degree of water quality degradation; the degree of pollution; public usage; ecological value; and local governmental effort. The act additionally creates a Water Resources Restoration and Preservation Trust Fund to receive, pending disbursement, monies available from the Pollution Recovery Fund and federal governmenta.

Three bills dealing with local water resource problems passed during the 1977 legislative session. Committee Substitute for Senate Bill 936 (Chapter 77-404) directs the Department of Environmental Regulation, in conjunction with the South Florida Water Management District, to seek appropriate authorization by the Congress of the United States for a restudy of the Kissimmee River Valley and Taylor Creek-Nubbin Slough Basin Area and appropriates \$400,100 to be allocated during the fiscal year 1977-1978 in a specified manner.

Senate Bill 63 (Chapter 77-72) provides that one of the members of the governing board of the Suwannee River Water Management District be from the Aucilla River Basin hydrologic unit while House Bill 1303 (Chapter 77-382) provides that the remainder of the St. Johns River Water Management District not covered by an existing basin shall be included within a subdistrict or basin known as the Greater St. Johns River Basin and that the district's governing board shall also sit as the governing board of the basin.

Energy Resources

In an effort to articulate the state's policy on the conservation of energy two bills passed the 1977 legislative session. House Bill 868 (Chapter 77-333) provides for a uniform state energy policy for the purpose of promoting effective energy use in the state; developing energy management programs in the state; encouraging local government to include energy consideration of the energy needs of each economic sector; promoting energy education and the public dissemination of information on encouraging research and development of alternative energy resources; encouraging the consideration of the social, economic and environmental impact of energy related activities in decision making; and developing and maintaining energy emergency preparedness plans to minimize the effects of future energy shortages in the state.

In keeping with the state's newly expressed energy policy Senate Bill 428 (Chapter 77-316) extends the stated purposes of the Division of Purchasing of the Department of General Services to include the conservation of energy. The act provides that it is the policy of the state to consider the life cycle cost of commodities purchased by the state prior to such purchase, where a life cycle cost analysis is applicable and feasible as determined by the Division.

Conservation, Game and Freshwater Fish and Regulation of Salt Water Resources

The watchword in this area of legislative interest is "conservation" and several bills passed the 1977 legislative session which attempted to control, regulate and conserve the

state's natural resources in fresh and saltwater and throughout the state's acres of forest land.

Committee Substitute for House Bill 1299 (Chapter 77-375) created the "Florida Endangered and Threatened Species Act of 1977" which provided for the creation of an Endangered and Threatened Species Advisory Council established by the Director of the Game and Fresh Water Fish Commission for the purpose of providing a communications liaison between council representatives and the staffs of the Game and Fresh Water Fish Commission and the Department of Natural Resources for inventorying, reviewing and supporting endangered and threatened species and to recommend rules. The act requires interagency cooperation for the development of a public education program and the annual submission of an overall management and conservation plan, jointly developed by the Commission and the Department, to the Legislature, Governor and Cabinet.

House Bill 1157 (Chapter 77-379) includes biological monitoring costs, revegetation costs and costs of monitoring post-construction shoreline changes within the non-federal construction and maintenance costs of which up to 75 percent may be paid by the Department of Natural Resources on projects authorized for construction by Congress. The requirement that local interests pay at least 25 percent of the costs of such projects is deleted. These same costs are included and local payment requirement deleted with respect to non-federal aid projects. In the case of navigation channel construction or maintenance dredging projects the department is authorized by the act to pay up to 75% of the additional project costs,

involved in placing suitable sand material on nearby beaches, instead of dumping such sand out to sea and, if the sand is placed on beaches upon which the state is the upland owner, the department is authorized to pay 100 percent of such costs. The act further authorizes the department to pay 100 percent of the costs of studies and research as it deems necessary for the state erosion control program.

Senate Bill 487 (Chapter 77-65) provides that it is unlawful to import or possess any marine plant or marine animal, not indigenous to the state, which may endanger or infect the marine resources of the state or which may pose a human health hazard and eliminates permitting procedures. The act lists a specific series of species which may not be imported or possessed.

House Bill 71 (Chapter 77-1) provides that the first violation of law or rules regulating the taking or possession of deer or wild turkey during the closed season shall result in the forfeiture of any permit or license for a period of 3 years and that no permit or license shall be issued following a subsequent violation. The act also provides that the first violation of law or rules regulating the taking or possession during open season of doe deer, fawn or baby deer or any deer male or female, which does not have one or more antlers at least 5 inches in length shall result in the forfeiture of any permit or license for 3 years and provides that no permit or license shall be issued after a subsequent violation.

House Bill 1317 (Chapter 77-311) exempts the owner of land or his employee when patrolling or inspecting the land of the owner from provisions of law relating to prima facie evidence of

intent to violate the law prohibiting the taking or killing of any deer or wild turkey during closed season. Any person who cultivates agricultural land may be issued a limited permit to take or kill deer on the land after satisfactory demonstration to the Game and Fresh Water Fish Commission of damage to his crops caused by deer.

Several pieces of legislation passed during the 1977 session which regulated saltwater fisheries. House Bill 1531 (Chapter 77-181) provides that property and products which are seized as a result of an arrest and a conviction for the illegal taking or attempted taking, sale, possession or transportation of saltwater fish or other saltwater products may be forfeited (prior law required forfeiture) to the Division of Marine Resources of the Department of Natural Resources.

House Bill 1037 (Chapter 77-206) provides that all oysters and clam shells shucked commercially in the state, except for oysters used directly in the half shell trade, shall be the property of the Division of Marine Resources and that any moneys derived from the sale of said shells shall be deposited into the General Revenue Fund, rather than into the Oyster and Clam Rehabilitation Trust Fund. The act provides that the Division must publish notice each year, in a newspaper serving the county, of its intention to collect said shells and shall notify, by certified mail, each shucking establishment from which shells are to be collected as to time and purpose of the collection.

Senate Bill 594 (Chapter 77-197) permits the relaying (transferring) of clams (as is currently the case for oysters) so long as, in the opinion of the Division of Marine Resources,

the public health will not be endangered. The act provides for application to and a permit from the Division for such relaying and provides that relayed oysters or clams shall not be subsequently harvested for any reason without the written permission of or public notice from the Division if oysters or clams were relayed from areas not approved by the Division as shellfish harvesting areas.

House Bill 1391 (Chapter 77-207) directs the Department of Natural Resources to revoke the permit of any permitholder authorized to take stone crabs who violates the stone crab closed season provisions of law for a period of one year from the date of conviction for such a violation and prohibits the violator from catching or having in his possession any stone crab for his own use or to sell or offer to sell, whether or not the violator is accompanied by the holder of a valid permit.

House Bill 1241 (Chapter 77-381) provides that the possession, in the water, of a spear, gig, or lance by a person swimming at or below the surface of the water in an area where spearfishing is prohibited is prima facie evidence of a violation of spearfishing prohibition.

Senate Bill 26 (Chapter 77-95) prohibits the taking, possession, buying, offering for sale, selling or unnecessary destruction of any grouper of less than 12 inches in length with respect to specified species (Red Grouper, Jewfish, Nassau Grouper, Black Grouper and Gag).

House Bill 95 (Chapter 77-12) provides that it is now a second degree misdemeanor to drive a vehicle upon or damage sand dunes or the vegetation thereon growing seaward of established

setback lines.

Committee Substitute for Senate Bill 592 (Chapter 77-142) permits the use of biodegradable tops or throats on traps used for crawfish; makes it a third degree felony for anyone to willfully molest any traps, lines, or buoys used for crawfishing; permits the possession of a certain number of undersized crawfish by licensed persons upon the posting of a \$250 bond payable to the Florida Saltwater Products Promotion Trust Fund where such undersized shrimp are used exclusively for luring or decoying noncaptive crawfish into traps; provides for inspections without search warrants of boats using such shrimp; and provides that the closed season for crawfish is now April 1 through July 25 of each year. Possession of shrimp which are of legal size prior to grading, but exceed the "shrimp count" after grading is not unlawful.

A few bills passed the 1977 legislative session which regulated saltwater fishing in specific areas in the state. Committee Substitute for House Bill 1767 (Chapter 77-92) provides a special 3-month oyster season (June 1, 1977 - September 1, 1977) in a portion of the waters of Franklin County and limits any oyster harvested during such a special season to oysters of 3 inches or greater in size.

House Bill 1867 (Chapter 77-208) includes Franklin County in a list of counties in which it is unlawful to set, lay out or fish any gill net, wing net or similar device unattended in any county waters and authorizes the Department of Natural Resources to issue permits for the use of such nets or similar devices for research in Franklin County.

House Bill 1035 (Chapter 77-310) permits the use of seine nets from the beaches of St. Johns County provided that the seines meet size requirements (no seine in excess of 1300 feet in length or with a mesh less than 2 and 1/2 inches) and are restricted to designated areas and times and provides that the person, firm or corporation desiring to fish with such seine nets must obtain a \$250 permit or be subject to a second degree misdemeanor penalty.

Senate Bill 843 (Chapter 77-186) revises current law with respect to shrimp fishing in Clay, Duval, Nassau, Putnam, Flagler, and St. Johns Counties (on the St. Johns River) to provide:

1. That live bait shrimp producers may only use a roller trawl or an otter trawl not to exceed 20 feet in width; must be equipped to keep shrimp alive; or must sell the catch to persons equipped to keep shrimp alive; and must keep specified records.

2. That dead shrimp producers must pay at least \$250 for a permit per vessel used in trawling and may not purchase shrimp for consumption from any seller who has caught shrimp in the St. Johns River unless the seller produces his dead shrimp producer's license.

3. That any person may harvest shrimp in the river for his own use (noncommercial) by obtaining a noncommercial trawling permit from the local Marine Patrol Office of the Department of Natural Resources and any such trawling must be done with a trawl which measures no more than 15 feet from door to door and no shrimp caught with such a permit may be sold.

Summary of General Legislation, 1977 ... Florida Legislature

CORRECTIONS*

Legislative action by the 1977 Session of the Florida Legislature in the general area of corrections and rehabilitation reflects growing concern for justice on behalf of the victims of crime; for financial restitution by those who are responsible for such crimes; and for damages and expenses resulting from other infractions of the law. Measures passed provide for the creation of the "Florida Crimes Compensation Act," and for other supportive legislation dealing with restitution from proceeds of work release programs and from earnings of the probationer or parolee. Court costs and attorneys' fees are also considered as the responsibility of the guilty parties and procedures are established for collection of same. Other measures include functional changes and added duties of the Department of Offender Rehabilitation and the Parole and Probation Commission, and with the financing of correctional work programs. Brief summaries of these acts are given below.

Department of Offender Rehabilitation: Functional Changes and Duties

House Bill 1129 (Chapter 77-210) allows correctional officers hired by the Department of Offender Rehabilitation up to 12 months to complete the correctional officer training program and provides that such employees cannot become permanent state employees until they have received a certificate of compliance for such training. Employees hired between July 1, *Prepared by Senate Committee on Corrections

1974, and July 1, 1976, will not be required to receive training unless they wish to be eligible for promotion.

Senate Bill 1192 (Chapter 77-300) requires the Department of Offender Rehabilitation to seek to procure motor vehicles needed for Department use from those vehicles renovated through its correctional work programs prior to purchasing new vehicles.

Senate Bill 363 (Chapter 77-189) relates to the regulation of executions, providing who may be present and shifting the responsibility for approving rules relating to the presence of the news media at executions from the Cabinet, as head of the Department of General Services, to the Secretary of the Department of Offender Rehabilitation. The act also changes terminology regarding "ministers of the gospel" to "ministers of religion" and "wardens" to "superintendents."

Compensation for Crime Victims

Committee Substitute for Senate Bill 175 (Chapter 77-452) authorizes the compensation of innocent victims of violent crimes by creating the "Florida Crimes Compensation Act," designated Chapter 897, Florida Statutes. Under this act the Crimes Compensation Commission created within the Department of Health and Rehabilitative Services would function as a factfinder and arbiter of monetary awards to be paid to crime victims. Membership, terms of service, compensation, powers and duties of the Commission are provided for, and the Department of Legal Affairs designated as its legal advisor. The act establishes the Crimes Compensation Trust Fund and provides for certain expenses and claims to be

paid out of the Fund which will consist of all money appropriated by the Legislature for the purpose of compensating the victims of crimes, moneys recovered on behalf of the Commission by subrogation or other action, moneys recovered through restitution, and moneys received from the federal government, from additional court cost, from fines, or from any other public or private source. A five percent surcharge on all fines, civil penalties and forfeitures authorized by statute or ordinance is created to be collected by the courts and deposited in the Fund. The court and/or the Parole and Probation Commission may require restitution of debts due and owing the State as a condition of parole.

House Bill 286 (Chapter 77-45) creates a lien in favor of the State and prior in dignity to all other liens upon royalties, commissions or proceeds payable to a convicted felon or person on his behalf from any literary, cinematic, or other account of the crime for which he was convicted. Twenty-five percent of the proceeds shall be distributed to the felon's dependents; twentyfive percent to the victims or to their dependents to the extent of their damages; the amount equal to the court costs and costs of imprisonment to the General Revenue Fund; and the remainder to the felon upon his release, parole or expiration. The Department of Offender Rehabilitation is directed to report the existence of circumstances covered by this act to the Attorney General whose duty it will be to enforce the lien.

Correctional Work Programs and Restitution

Senate Bill 525 (Chapter 77-317) amends present law to increase from \$1.5 million to \$5 million the amount of earned

surplus that may be retained by the Department of Offender Rehabilitation in the Correctional Work Program Trust Fund for the expansion and improvement of correctional work programs. One-half of any funds in excess of this amount are to be deposited in the General Revenue Fund.

House Bill 1103 (Chapter 77-303) changes from <u>ten</u> to <u>seven</u> days the notice required to be given by the Parole and Probation Commission to the sheriff and state's attorney concerning the anticipated release on parole of an inmate to that community. The Department of Offender Rehabilitation is also required to notify the local sheriff and state's attorney at least seven days prior to transferring an inmate to a community work release program.

House Bill 346 (Chapter 77-428) allows the collection of from \$10 to \$50 a month from parolees or probationers for the cost of their supervision and provides that failure to pay shall constitute grounds for revocation. The law also authorizes the Department of Offender Rehabilitation to waive the payment by the offender under certain conditions. Persons under supervision through the interstate compact of the Parole and Probation Law are exempted from such payments.

Committee Substitute for Senate Bill 866 (Chapter 77-321) substitutes the Department of Offender Rehabilitation for the Parole and Probation Commission in provisions authorizing authority to exempt persons from payment for cost of supervision and rehabilitation while on probation or parole. It also requires the Department to contribute a maximum of \$6 per month for each probationer who pays the cost of supervision to any public or private entity providing supervision or rehabilitation services

for the probationer. In addition, the law provides for a contract specifying the services to be rendered and for a monthly report documenting acceptance of each probationer placed under its supervision, documenting receipt of the required contribution from each offender, and notifying the Department of the offenders for whom supervision or rehabilitation is about to be terminated. The act further provides that the supervisory records of the public or private entity be open for inspection by the Department. A \$360,000 appropriation is provided.

Juveniles who are ordered by the court or who volunteer to participate in work programs in order to make restitution are covered by the Workmen's Compensation Law under the provisions of Senate Bill 132 (Chapter 77-313), which specifies that such juveniles will be covered except for purposes of disability compensation. Another measure relating to restitution, Senate Bill 414 (Chapter 77-150), authorizes the court to order a defendant to make restitution to the aggrieved party for the damage or loss caused by the defendant's offense and provides guidelines to the court. The court is also authorized to order the defendant to perform a specified public service in addition to any punishment. The act authorizes the Parole and Probation Commission to make the payment of restitution a condition of parole, and the Department of Offender Rehabilitation to require an inmate in a work release program to provide restitution from the money he earns.

Court Costs and Attorneys' Fees

Senate Bill 182 (Chapter 77-264) authorizes the court to assess attorney's fees and costs against any defendant who has been determined to be guilty and who has received the services of the public defender or an appointed private attorney. The act also authorizes the payment of these fees as a condition of probation or suspension of sentence, and provides that all funds collected shall be for the benefit of the fine and forfeiture fund of the county wherein the defendant-recipient was tried to be used to defray expenses incurred by the county in defense of criminal prosecutions.

Attorneys appointed to represent a defendant at executive clemency hearings will be provided reasonable compensation not to exceed \$1,000 from funds budgeted to the Department of Offender Rehabilitation, according to provisions of Senate Bill 461 (Chapter 77-243). This act also provides that the trial court which rendered the judgment imposing the death penalty may appoint the public defender or an attorney to represent the indigent defendant who has applied for executive clemency.

Courts assessing fines for criminal offenses, according to Senate Bill 389 (Chapter 77-97) will be permitted to defer payment of the fines until a date certain for defendants who are unable to pay the fine immediately, rather than by installment payments.

COURTS AND CIVIL LAW*

Acts becoming law at the 1977 legislative session relating to Florida Courts and Civil Law are discussed below in alphabetical arrangement according to the subject matters contained These changes in statutory law are included under the therein. general topics: Adoption, Attorney's Fees and Court Costs, Child Support, Condominiums and Cooperatives, Corporations, Court Clerks' Fees, Dead Bodies, Deeds and Conveyances, Eminent Domain, Estates and Trusts, Executions of Judgments, Guardianship, Judgments, Judicial Nominating Commission, Juries, Jurisdiction, Justices and Judges, Liens, Marriage, Notes, Parents' Liability, Powers of Attorney, Public Buildings and Works, Restraints on Alienation of Property, and Sheriffs' Fees. When an act contains provisions affecting more than one topic, the appropriate portion of the act is summarized under the topic to which it pertains.

Abatement of Nuisances

See Senate Bill 920 under Attorney's Fees and Court Costs.

Adoption

Senate Bill 354 (Chapter 77-140) prohibits adoptions by homosexuals. This law also requires the court to specify the reasons for dismissal of a petition for adoption and allows a petitioner in any proceeding for adoption to make public the reasons for a denial of the petition.

*Prepared by Senate Legislative Services

Attorney's Fees and Court Costs

House Bill 680 (Chapter 77-76) provides that, in the absence of expressed contrary intent, any provision of statute or of contract entered after October 1, 1977, which provides for the payment of attorney's fees to the prevailing party, shall be construed to include the payment of attorney's fees to such party on appeal.

In actions for abatement of nuisance brought by the Attorney General, State Attorney, or other officer or agency of state government, costs and reasonable attorney fees are required by Senate Bill 920 (Chapter 77-268) to be taxed against the state, if the court can find no reasonable ground for the action and judgment is rendered for the defendant. (See also: House Bill 1728 (Chapter 77-387) and Committee Substitute for Senate Bill 24 under Liens, and Senate Bill 1122 (Chapter 77-366) under <u>Parents' Liability</u>.)

Child Custody

See House Bill 650 (Chapter 77-433) under Jurisdiction.

Child Support

Pursuant to House Bill 93 (Chapter 77-26), a court may issue a continuing writ of garnishment to enforce the periodic payment of child support.

Condominiums and Cooperatives

Senate Bill 94 (Chapter 77-222) amends the Condominium Act and the Cooperative Act, both of which were enacted in 1976, by requiring associations to adopt reasonable rules

regulating the use of common elements and recreational facilities, but such rules may not unreasonably restrict any unit owner's right to peaceably assemble or right to invite public officers or candidates to speak in any such place. A unit owner is given the right to seek injunctive relief to enforce these rights. The law also provides that the statute of limitations for any action a condominium or cooperative association may have does not begin to run until a majority of the members of the board of administration have been elected by the unit owners.

The Condominium Act is further amended by Senate Bill 94 by provisions authorizing the by-laws of an association to set the number of unit owners constituting a quorum for meetings; limiting the liability of a unit owner for acts or omissions of the association to the value of his unit; authorizing the merger of condominiums within a single complex upon the approval of 80 percent of the unit owners of each condominium and of all of the record owners of liens, and upon the recording of new or amended articles of incorporation, declaration, and by-laws; requiring associations to furnish, upon request, unit owners and lien holders certificates showing the amount of unpaid assessments on condominium parcels; and requiring an insured warranty program to be for no less than 10 years in duration and to include certain components of the building and improvements.

Corporations

Senate Bill 489 (Chapter 77-134) permits a corporation organized under the Professional Service Corporation Act to use in its corporate name the last names of retired or deceased

former shareholders of the corporation or of its predecessor.

Court Clerks' Fees

Senate Bill 366 (Chapter 77-284) establishes rates of charges made by clerks of the circuit court for services rendered in recording documents and instruments and in performing the duties as prescribed in Section 28.24, Florida Statutes. Service charges in probate matters and filing charges for instituting civil actions and appellate proceedings are also set by this law. All postal charges incurred by the clerk of the county court in making service by mail on defendants or other parties shall be paid by the party at whose instance the same is served.

Senate Bill 365 (Chapter 77-354) increases the fees charged by clerks of the circuit court for services rendered in making judicial sales and lien transfers. It provides for the assessment of charges and mailing costs relating to recording satisfactions of judgments, preparing and mailing the tax certificate holder's notice to the owner when application for tax deed is made, mailing a notice of excess proceeds in a tax sale to the legal titleholder, and preparing a certificate of notice of a person claiming an interest in land, all in accordance with the fee schedule prescribed in Section 28.24, Florida Statutes. This law also allows the clerk to retain the total amount of excess proceeds of a tax sale if necessary to cover the service charge and mailing costs. (Other provisions of this act are included under the topid Judgments, below.)

Dead Bodies

Committee Substitute for Senate Bill 486 (Chapter 77-172) authorizes a district or associate medical examiner to remove a cornea from a dead body, upon which an autopsy is required under Section 406.11, Florida Statutes, in order to provide the cornea to an eye bank that has requested corneal tissue for transplant purposes, if the medical examiner does not know of any objection by the next of kin. Neither the medical examiner nor the eye bank can be held civilly or criminally liable for failure to obtain the consent of the next of kin.

Deeds and Conveyances

Senate Bill 309 (Chapter 77-138) provides that the title to property acquired by tax deed issued after the effective date of this law continues subject to an easement for the purpose of ingress and egress to and from other land if such easement is of record or is evidenced by a road or other visible occupation.

All conveyances and releases of interests in land held by the Board of Trustees of the Internal Improvement Trust Fund under Chapter 253, Florida Statutes, and made by the Board after June 30, 1975, and before July 1, 1977, are validated by House Bill 1455 (Chapter 77-385).

Eminent Domain

If the taking of property by eminent domain requires removal or relocation of a mobile home (other than a travel trailer) located on the property to be taken, Senate Bill 255 (Chapter 77-51) provides for compensation to the mobile home owner. The measure further provides that the compensation to

be paid is the reasonable removal or relocation expenses incurred by the mobile home owner, not to exceed the replacement value of the mobile home.

Estates and Trusts

Senate Bill 686 (Chapter 77-87) revises and clarifies various provisions of the Florida Probate Code. Of most significance, the Code is amended to:

(1) Repeal the provision which permits an interested party to waive any right under the Code and dispense with the filing of any document.

(2) Authorize any person (rather than any state agency which is a creditor of an estate or any beneficiary) who is apprehensive that an estate will be administered without his knowledge, or any person other than a creditor (rather than any beneficiary) who is apprehensive that a will may be admitted to probate without his knowledge, to file a caveat with the court; and to remove provisions which prohibits the court from admitting a will to probate or discharging the personal representative of an estate without notice to the caveator.

(3) Provide for a verified statement, rather than an affidavit, with respect to making proof of service of formal notice by mail or of making proof of service of informal notice by a person who is not an attorney.

(4) Authorize an interested person, or a holder of a power of revocation or appointment, to waive any right of notice and to consent to any action or proceeding under the Code.

(5) Provide that "heirs", rather than "issue", of a

decedent, conceived before his death but born thereafter, inherit his intestate property as if born in his lifetime.

(6) Provide that, for purposes of intestate succession, a person born out of wedlock whose paternity has been acknowledged in writing by his father is a lineal descendent of his father and is one of the natural kindred of all members of his father's family.

(7) Provide that the right of exemption of a surviving spouse or minor children of a decedent in the decedent's personal property takes priority over all claims against the estate other than a perfected security interest in an item of exempt property.

(8) Provide that a will or codicil, or any part of either, is revoked, not only by a subsequent inconsistent will, but also by a subsequent inconsistent codicil.

(9) Permit a beneficiary to disclaim his right to exempt property or to a family allowance.

(10) Require a disclaimer to be recorded if ordered by the court, and to provide that a disclaimer may be recorded at any time after the creation of the interest if all interested parties give written consent.

(11) Provide that in any collateral action or proceeding relating to devised property, the probate of a will in this state is conclusive that it was executed free of fraud, duress, mistake, or undue influence.

(12) Authorize any "interested person," not merely a "beneficiary," to petition for revocation of probate.

(13) Provide that mistaken noncompliance with certain requirements relating to issuance of letters (rather than the

failure to file certain items) is not jurisdictional.

(14) Establish a procedure for appointment of a successor personal representative to one who has resigned (as well as to one who has been removed).

(15) Require a personal representative to use his authority for the best interests of "interested persons," rather than just "beneficiaries."

(16) Increase, from 4 to 6 months, the period during which a personal representative is not required to pay interest after first publication of the notice of administration unless the claim founded on a written obligation of the decedent provided for interest.

(17) Provide that an estate will be liable for a cause of action if letters have been issued within 3 years after the death whether or not there has been any publication of notice to creditors or any claim of any creditor has been filed within such 3-year period.

(18) Provide that proceedings for compulsory payment of devises or distributive interests may not be brought if the property is required for the payment of the elective share of the surviving spouse.

(19) Permit, rather than require, the offset of a beneficiary's contingent indebtedness to the estate against his interest in the estate.

(20) Provide that, with the consent of all beneficiaries affected, the personal representative may distribute assets "non pro rata" among the beneficiaries.

(21) Establish a procedure to permit any person to petition

for entry of an order admitting a probated foreign will and codicils to record in the county where property of a nonresident decedent is located. If, after entry of the order, the petitioner publishes the required notice to persons having claims or demands against the estate, then no such claim or demand is binding unless presented within 3 months. If any claim is filed within such period, then a hearing is conducted to appoint an ancillary personal representative, who is given at least 30 days from his appointment in which to object to any claim filed. Any will or codicil admitted to record pursuant to such procedure is presumptive evidence of the authority of any person authorized by the will or codicil to convey or otherwise dispose of the decedent's property in this state.

(22) Permit a petition for summary administration to be filed any time during the administration of an estate at which time the estate qualifies.

(23) Require that any beneficiary who does not join in or consent to a petition for summary administration be given formal notice of the petition, rather than of the hearing on the petition.

Senate Bill 437 (Chapter 77-344) amends the law relating to trusts by eliminating the duty and authority to register a trust with the clerk of the county of the principal place of administration. The measure also requires a trustee, within 30 days after his acceptance of a trust, to inform the current income beneficiaries and vested remaindermen in writing of his acceptance of the trust and of his name and address. Another change is that the trustee is required to furnish only a "vested" beneficiary with relevant information about the assets of the trust and the particulars

relating to administration upon a reasonable request. In addition, a "vested" beneficiary is entitled to a statement of the accounts of the trust once a year and upon termination of the trust or upon change of the trustee. If the trustee is required to provide bond to secure performance of his duties, it must be filed in the clerk's office in the county where the trust has its principal place of business. Issues of liability between the trust estate and the trustee individually may be determined in a proceeding for accounting, surcharge, or indemnification, or in any other appropriate proceeding.

Several important changes in the provisions of Chapter 738, Florida Statutes, which regulates accounting for principal and income of estates and trusts, were made by Senate Bill 212 (Chapter 77-254) as follows:

(1) In the administration of a decedent's estate or an asset becoming subject to a trust by reason of a will, the proceeds from a qualified pension or profit-sharing plan which are received or paid in installments or annuity payments are declared to be principal, except to the extent of interest or income earned on such proceeds after the testator's death.

(2) A trustee of a testamentary trust is required to use as "inventory value," the cost of property purchased by the trustee and the market value of other property at the time it became subject to the trust, and may no longer use any value finally determined for the purposes of an estate or inheritance tax.

(3) The increment in value of bond or other obligation for the payment of money bearing no stated interest but payable at a future time in excess of the price at which it was issued

or purchased (if purchased after issuance) is distributable as income; and if the increment in value accrues and becomes payable pursuant to a fixed schedule of appreciation, it may be distributed to the beneficiary who was the income beneficiary at the time of the increment from the first principal cash available; or, if none is available, when realized by sale, redemption, or other disposition, with the principal to be reimbursed for the increment when realized.

(4) If the total principal of a trust does not in any year yield a net income of at least 3 percent of its market value (including as income the value of any beneficial use of the property by the income beneficiary), the trustee must pay (using the first cash available) the income beneficiary an amount equal to 3 percent of the market value of the principal as of the end of the calendar year. In the event of a termination or initiation of a trust, or the termination of a beneficial income interest of a trust, for a period of less than 12 months, the amount to be paid to the income beneficiary is to be prorated proportionately with the length of time of his interest in the trust. (See also: Restraints on Alienation of Property.)

Executions of Judgments

Senate Bill 675 (Chapter 77-299) entitles a person to claim, with respect to a mobile or modular home located on land he does not own, the homestead exemption from forced sale under the process of any court.

Senate Bill 127 (Chapter 77-462) requires a copy of the notice of sale under execution to be furnished by certified mail

to the judgment debtor's attorney of record or to the judgment debtor if he does not have an attorney of record. (Other provisions of this act are included under the topic <u>Liens</u>, below.)

In executing a writ, Senate Bill 18 (Chapter 77-234) allows a sheriff, upon request of the plaintiff or his attorney, to levy upon any property in the possession of the defendant which is described in instructions for levy or upon any property assessed against the defendant in the county or registered in his name under any law of the United States or of the state. (Other provisions of this act are included under the topic, Sheriffs' Fees, below.)

Garnishment

See House Bill 93 under Child Support.

Guardianship

The Guardianship Law is amended by Senate Bill 1213 (Chapter 77-328) to:

(1) Provide that when a petition for appointment of a guardian alleges that the person has been adjudicated incompetent, the court shall hear the petition without notice if it is filed at the conclusion of the adjudication hearing.

(2) Require the appointment of a guardian of the person for any person adjudicated mentally or physically incompetent.

(3) Provide that certain acts of a guardian which previously required court approval may be performed without such approval.

Senate Bill 687 (Chapter 77-190) expands the authority of the natural guardian of a child to collect, receive, manage,

and dispose of personal property distributed to the child from an estate or trust or from life insurance proceeds to include real property and any property owned by a child during minority. Such authority is still limited to property of a value of \$5,000.

Judgments

Senate Bill 365 (Chapter 77-354) provides that judgments rendered in circuit court bear interest at the rate of 8 percent a year unless a written contract or obligation involved prescribes a lesser rate. (Other provisions of this act are included under the topic Court Clerks' Fees, above.)

Judicial Nominating Commission

Members of the Judicial Nominating Commission are prohibited by House Bill 121 (Chapter 77-20) from being appointed for more than one consecutive term.

Juries

Municipal police officers are disqualified by House Bill 544 (Chapter 77-431) from serving as jurors. This act also increases the rate of payment for mileage traveled by jurors from 10 cents to 14 cents per mile.

Senate Bill 731 (Chapter 77-359) requires counties to pay jury commissioners an annual salary of at least \$100, with the provision that counties shall not be prohibited from paying more than this required amount.

Both House Bill 544 and Senate Bill 731 allow a county with an approved computerized jury selection system to abolish its jury commission and empower the court administrator to perform

the juror selection function, any special law or general law of local application notwithstanding.

Jurisdiction

For purposes of county court jurisdiction, Senate Bill 55 (Chapter 77-135) provides that attorney's fees shall be excluded in determining whether the matter in controversy exceeds \$2,500. In addition, this act requires the circuit court to resolve the demands of all parties in cases transferred from the county court pursuant to Rule 1.170(j), Florida Rules of Civil Procedure, or Rule 7.100(a), Florida Rules of Summary Procedure.

House Bill 650 (Chapter 77-433) enacts the "Uniform Child Custody Jurisdiction Act," which sets forth a procedure for determining whether a court of this state may assume jurisdiction in a child custody case. It requires that notice and an opportunity to be heard be afforded any person having an interest in a child custody proceeding. A procedure with respect to discovery of a simulataneous custody proceeding pending in another state is authorized. Florida courts are prohibited from excerising jurisdiction if such a proceeding is pending in a court of another state.

The act specifies a required list of information which parties in a custody proceeding are required to file under oath, requires the addition of parties to a custody proceeding, and provides for the appearance of any party as well as the child who is the subject of the custody proceeding before the court under certain circumstances.

It also provides for the binding force and res judicata

effect of custody decrees, provides for the legal recognition and modification of out-of-state custody decrees, and for the filing and enforcement of such decrees. The clerks of the circuit courts are required to keep a registry of out-of-state custody decrees and proceedings and are authorized to provide certified copies to certain courts and persons. Florida courts are required to render assistance to courts of other states regarding custody proceedings. Documents used in custody proceedings are required to be preserved until the child reaches 18 years of age.

In a proceeding for dissolution of marriage, the court is required to award custody and visitation rights of minor children in accordance with the best interests of the child and in accordance with the Uniform Child Custody Jurisdiction Act. In any action in which child custody is in issue, the court may request qualified staff of the court to make an investigation and social study concerning all pertinent details relating to the child and each parent.

Justices and Judges

Senate Bill 1296 (Chapter 77-368) increases by one the number of circuit judges in the First (from 13 to 14) and Thirteenth (from 22 to 23) Judicial Circuits, and increases from 10 to 13 the number of county judges in Broward County. The number of judges of the First, Second, and Third District Courts of Appeal is increased from six to seven. The act also provides an appropriation for salaries, support personnel and expenses for certain courts enumerated therein.

Committee Substitute for Senate Bill 301 (Chapter 77-282) sets compensation for retired justices of the Supreme Court or retired judges of district courts of appeal or circuit or county courts assigned to active judicial service at \$100 per day or portion thereof, while limiting such service to 100 calendar days per year. The law also allows payment of necessary travel expenses incident to the performance of such duties in accordance with general law.

Liens

House Bill 1728 (Chapter 77-387) permits a lienee to release his property from a lien by filing either a cash or surety bond payable to the person claiming the lien in the amount of the final bill and conditioned for the payment of any judgment which may be recovered on such lien, with costs. Any lienor who fails to release or return the property to the lienee upon posting of such bond by the lienee is guilty of a second degree misdemeanor, and a lienee who brings an action for the release of such property which has been wrongfully detained by a lienor, upon recovery, is entitled to damages, court costs, and attorney's fees.

Senate Bill 127 (Chapter 77-462) provides for the transfer of judgment liens on real property, by any person having an interest in the real property upon which the lien is imposed, to other security by depositing a sum of money in the clerk's office or by filing a surety bond. (Other provisions of this act are included under the topic Executions of Judgments, above.)

Committee Substitute for Senate Bill 24 (Chapter 77-353)

which will take effect July 1, 1978, amends the Mechanics' Lien Law. In addition to making changes for clarity, the bill makes the following changes: specifically includes "subsubcontractor" within the list of persons who qualify as lienors; requires subsubcontractors and materialmen to subcontractors to serve a copy of the notice to owner on the contractor, and requires materialmen to subsubcontractors to serve a copy of the notice to owner on the subcontractor of the subsubcontractor as a prerequisite to filing a lien; provides that failure of a lienor to serve a timely notice to owner is a complete defense to payment by any person other than the person with whom the lienor has a contract; increases the time period within which a claim of lien must be served to within 15 days after recording; provides that the continuation of a lien effected by the commencement of an action to enforce the lien is not good against creditors and subsequent purchasers unless a notice of lis pendens is recorded; provides the form for a contractor's payment bond; requires an owner who receives a notice to owner to give notice of the existence of a payment bond; entitles the prevailing party in an action to enforce a lien to recover reasonable attorney's fees for appeal as well as for trial; provides for a contractor's and subcontractor's right of action for actual and punitive damages occasioned by the filing of a fraudulent lien; requires that the notice of commencement include the name and address of any person making a loan for construction improvements; and requires that direct contracts between an owner and a contractor include a statement of the owner's right to require a payment bond.

Marriage

Senate Bill 352 (Chapter 77-139) and House Bill 112 (Chapter 77-19) each amend the marriage license laws. Senate Bill 352 prohibits the issuance of a marriage license unless one party is a male and the other party is a female. Both laws require the parties to be over the age of 18 years with certain exceptions. House Bill 112 additionally repeals the provision for the issuance of a marriage license to any male or female under 21 years of age when two applicants are parents or expectant parents. Both laws eliminate the requirement of posting a copy of the application for the marriage license at the county courthouse, in those counties having 75,000 or more residents. Senate Bill 352 limits the validity of a marriage license application to 30 days after receipt by an applicant.

Mobile Homes

See Senate Bill 255 under Eminant Domain and Senate Bill Bill 675 under Execution of Judgments.

Notes

Committee Substitute for Senate Bill 136 (Chapter 77-54) provides that a cause of action founded on a negotiable or nonnegotiable note which is payable on demand accrues upon the first written demand for payment, notwithstanding any separate writing evidencing secondary liability.

Parents' Liability

Senate Bill 1122 (Chapter 77-366) provides for civil actions and recovery against parents for the willful destruction or theft of property by their minor children. Recovery is

limited to \$2,500 in addition to taxable court costs.

Powers of Attorney

House Bill 1140 (Chapter 77-272) amends the law relating to durable powers of attorney by adding the brother and sister of a principal to the persons in whom the principal may create a durable power of attorney.

Public Buildings and Works

House Bill 264 (Chapter 77-40) provides for venue of suits against a contractor or surety on the bond of the contractor by persons supplying labor, material, or supplies to a contractor or subcontractor constructing or repairing a public building or public work in the county in which such building or work is being constructed or repaired. Actions instituted prior to the effective date of this act (May 17, 1977) are excluded from its provisions.

Restraints on Alienation of Property

Senate Bill 380 (Chapter 77-23) states the common law rule against perpetuities and the basis for determining the validity of an interest under the rule. The application of the rule, including its application to trusts with transferable certificates, is provided. The measure also provides limitations on leases to commence in the future or upon the happening of a future event and on options in gross. The effective date of this act is delayed until January 1, 1979.

Sheriffs' Fees

Senate Bill 18 (Chapter 77-234) permits the sheriff in each county to charge surfees, if levied by the governing authority

of the county, for services which are subject to the fee schedule imposed in Section 30.231, Florida Statutes; such surfees to be in addition to the fees charged thereunder. A schedule of surfee rates is provided, and the amounts so collected are to be paid monthly into the county fine and forfeiture fund. The law prescribes the procedure by which the county governing authority may levy any or all of such surfees. (Other provisions of this act are included under the topic Executions of Judgments, above.)

EDUCATION*

Legislation relating to education effected few changes in education during the 1977 regular session, as promised, in order to permit the system to continue adjusting to extensive legislation passed in recent years. Bills enacted address the following subjects:

Teacher Certification

Senate Bill 506 (Chapter 77-129) includes institutions of higher learning accredited by a member association of the Council on Postsecondary Accreditation as "standard teachertraining institutions of higher learning." Graduates of such institutions shall be eligible to receive Florida teaching certificates upon meeting all other gualifications.

School Discipline

Senate Bill 308 (Chapter 77-274) amends definitions for the Florida School Code. The measure extends the period of time for which a student may be expelled to a period of time and under conditions set by the school board, provided that no expulsion shall exceed the remainder of a term or school year plus one additional school year. This act also amends the definition of corporal punishment to stipulate that any reasonable force used by a teacher or principal to protect themselves or

^{*}Prepared by House Education Committee

other students from disruptive students shall not be considered corporal punishment.

The Committee Substitute for House Bills 406 and 491 (Chapter 77-425) substantially rewords Section 228.091, Florida Statutes, relating to trespass upon grounds or facilities of public schools. This act provides that any persons, other than students who are not under suspension or expulsion, their parents or guardians, or school employees, who enter school grounds, disrupt school activities, or refuse to leave school grounds when so requested by the chief administrator of the school or his agent, are guilty of trespass, which is a second degree misdemeanor. The law also authorizes peace officers to arrest such trespassers on or off the premises without a warrant and without rendering the peace officer criminally or civilly liable for false arrest, imprisonment, or unlawful detention.

School Curricula

The Committee Substitute for House Bill 434 (Chapter 77-430) provides for funding of student development services as a general categorical program of the Florida Education Finance Program (FEFP) and deletes funding provisions for elementary school counselors, occupational and placement specialists, and career education as transitional categorical programs. Student development services may include any or all of the following: career education, elementary guidance counselors, and occupational and placement specialists. This statutory change allows school boards to establish priorities for the funding of these three programs in accordance with local needs. The severely and profoundly retarded program is expanded to include the profoundly

handicapped. The Department of Education is required to allocate funds to each district in the same ratio as the prioryear full-time equivalent student membership established under the FEFP program categories. Special adult general education programs are excluded.

House Bill 20 (Chapter 77-427) requires the Department of Education to develop a plan and necessary rules by December 1978 for implementing the metric system in public schools by 1980. School boards are authorized to proceed with the plan upon adoption.

Instructional Materials

The Conference Committee Report for Senate Bill 598 (Chapter 77-358) increases the term of adoption for instructional materials from four to six years. It further permits a cost escalation contract clause providing for a price increase at the end of the third year to the publisher's then-current lowest wholesale price at which the materials are being offered to any state or school district in the United States. This increase shall not, however, exceed 10 percent of the original price. The law reduces the sampling requirements for publishers of nonprint media submitted for adoption, permitting written descriptions or representative samples, rather than specimen copies, to be delivered to the State Instructional Materials Council and permitting sample copies of printed media to be loaned, rather than provided to districts participating in preadoption evaluations. In lieu of loaning such copies to participating districts, publishers of non-print media may loan written descriptions or

representative selections therefrom.

House Bill 421 (Chapter 77-91) requires publishers selling instructional materials to Florida public schools to grant permission to the Department of Education for the reproduction of materials in Braille, large print, or sound recordings, for use by visually handicapped students as a prerequisite to providing instructional materials to the state. The granting of this permission is to be automatic and without prior written request for any material for which the publisher holds the copyright.

House Eill 120 (Chapter 77-36) authorizes the instructional materials center for the visually handicapped, established by the Division of Public Schools, Department of Education, to extend services, currently available only to the blind and partially sighted, to other exceptional students who might benefit from the center's services.

School Term

House Bill 1428 (Chapter 77-80) allows public schools to operate for fewer than the 180 days of instruction currently required by law for each school year, if the State Board of Education determines that it is not feasible to make up lost days caused by a bona fide emergency. Strikes by employees of a school district are not to be considered an emergency.

School Boards

House Bill 114 (Chapter 77-35) deletes the provision that meetings of district school boards be held at the county seat, to allow the Board to meet in the office of the superintendent or in

a regularly designated school board meeting room convenient to the superintendent's office or any appropriate public place in the county.

House Bill 300 (Chapter 77-276) requires that residence areas for the nomination and election of district school board members be at least five in number and be based on population rather than on number of qualified electors. Districts which have seven school board members may choose, by resolution of the board, to be divided into five school board member residence areas with two members elected at large or into seven school board member residence areas, as long as all areas in either case are equal in population.

No school board is required to change the boundaries of its school board member residence areas prior to July 1, 1981.

School Finance and Taxation

Senate Bill 1249 (Chapter 77-329) prescribes the instances in which the assessed value of property is to be excluded from the nonexempt assessed valuation for the purpose of computing the district required local effort under the Florida Education Finance Program. Specifically, the assessed value of the property in contest shall be excluded from the nonexempt assessed valuation if there is litigation either attacking the authority of the property appraiser to include certain property on the assessment roll as taxable property or contesting the assessed value of certain property on the tax assessment roll, and if the assessed value of the property in contest involves more than ten percent of the total nonexempt assessment roll. Deleted from the

requirement of exclusion is the instance in which the tax collector has been directed by the court not to collect taxes on certain property or not to disburse such taxes to the taxlevying authorities.

State University and Community College Governing Boards

House Bill 2050 (Chapter 77-442) provides for an additional member of the Board of Regents, who shall be a full-time student in the State University System and shall serve as a nonvoting member for a term of one year.

Senate Bill 42 (Chapter 77-332) requires the chairman of each community college board of trustees to notify the Governor in writing whenever a board member fails to attend three consecutive board meetings which absences may constitute grounds for dismissal. It deletes language requiring the Division of Community Colleges of the Department of Education to approve an appointment made by the board of trustees in filling a vacancy in the presidency of any such institution and further gives the boards the power to act without a recommendation from the president and to require the president to deliver to the board all data and information required by the board in the performance of its duties.

Senate Bill 849 (Chapter 77-131) extends to community college campuses the power which the universities currently have to sell lost or abandoned property if it remains unclaimed for 30 days. All monies derived from this sale are to be used solely for student scholarship and loan purposes.

University Personnel

House Bill 1259 (Chapter 77-211) authorizes the Board of Regents to make rules necessary for the establishment and maintenance of a personnel exchange program whereby instructional and research faculty and administrative and professional staff of the State University System may be exchanged with persons in like positions in institutions of higher education which are not under the jurisdiction of the Board of Regents, in units of government within or without the state, or in private industry.

While the duties and responsibilities of an individual participating in the exchange program shall be the same as those of the person he replaces, the individual employed by the state or its university system shall be granted creditable and continuous state service during the participation period. Additionally, the salary and benefits of such participating personnel shall be continued throughout the participation period. The salary and benefits of persons employed by organizations not under the jurisdiction of the Board of Regents shall be paid by the participant's originating employer.

Committee Substitute for Senate Bills 454 and 1119 (Chapter 77-309) adds students, faculty, and professional practitioners at universities to the list of persons and entities for whom the Board of Regents is authorized to provide comprehensive general liability insurance. It also provides for the inclusion of professional liability insurance within the meaning of comprehensive general liability insurance and deletes the requirement that the Department of General Services approve rules of the Board for a self-insurance program. The Board is

authorized and empowered to promulgate rules and regulations in order to carry out the provisions of the act, including the power to delegate other than rule-making authority. The act also authorizes the Board to settle, as well as charge off, accounts which prove to be uncollectible.

House Bill 1503 (Chapter 77-473) authorizes and directs the Institute of Food and Agricultural Sciences at the University of Florida to pay the employer's share of premiums for federal health insurance for any cooperative extension employee of the Institute having both state and federal appointments and participating in the Federal Civil Service Retirement System.

Student Assistance

The Committee Substitute for Senate Bill 869 (Chapter 77-338) creates the Florida Student Financial Assistance Commission within the Department of Education. The Commission consists of 9 members appointed by the Governor to serve staggered three-year terms from fields including finance and education and is to administer a comprehensive program of student grants, scholarships, loans, and loan guarantees. Funding duties of the Commission include the making of funding requests to the Legislature, payments, and the administration of a Student Loan Guaranty Reserve Fund. The act further sets out the financial and legal requirements of the Commission and requires the adoption of rules relating to the deferral of student fees by the State Board of Education. The maximum outstanding amount of student loan revenue bonds allowed is increased from 65 million to 80 million dollars.

Senate Bill 116 (Chapter 77-57) provides that students who present a certificate of eligibility to receive veterans' educational benefits for programs within the State University System or community college system shall receive, upon request, one 60-day deferment of tuition per year for the first term of enrollment or the first term after a break in receipt of benefits. Students receiving such a deferment are required to execute a promissory note conditioned for payment upon expiration of the period of deferment. Such promissory notes are exempted from documentary stamp requirements. Certain information required on the application form is set out. Participating institutions are permitted to enforce collection of delinquent deferral notes. Such institutions are also permitted to grant deferments for subsequent school terms.

Senate Bill 342 (Chapter 77-214) amends statutes relating to Vietnam veterans' preference for admission to a vocational training center, vocational-technical school, or a vocational program to require that a veteran be given admission preference only if his enrollment is related to his present employment or to his securing employment.

Senate Bill 425 (Chapter 77-298) removes the requirement that the use of credit cards in the State University System be limited to the purchase of goods and services offered only by the System and not in competition with private enterprise. This act also requires a study by the Florida Post-Secondary Education Commission to determine the feasibility of establishing a centralized admissions system and census of student enrollment for use at all levels of undergraduate postsecondary education

in Florida. The results of this study must be reported to the Commissioner of Education, the Florida House of Representatives, and the Florida Senate ninety days prior to the 1978 regular legislative session.

Institutional Discipline and Traffic Control

Senate Bill 271 (Chapter 77-59) gives statutory authority to the community college boards of trustees and the Board of Regents to adopt, and promulgate by rule, a uniform code of penalties for violations of rules by students and employees. The Board of Regents' rules shall be administered by the President of each university. The penalties, unless otherwise provided by law, may include fines, the withholding of diplomas or transcripts pending compliance with rules or payment of fines, and the imposition of probation, suspension, or dismissal.

Senate Bill 235 (Chapter 77-58) substantially revises statutory sections relating to the jurisdiction of the Board of Regents concerning traffic regulations within the State University System. Definitions of terms used in these sections are clarified, new definitions created, and existing language is amended to authorize each institution within the State University System to adopt rules governing traffic and prescribing penalties for the violation of such rules, provided that these rules and penalties do not conflict with statutory provisions concerning the State Uniform Traffic Code. All ordinances of any adjacent municipality which do not conflict with the institution's traffic rules shall also apply on campus and these municipal ordinances shall be in addition to the provisions of the state traffic code.

Violations of the state code are to be handled as provided by the code. The law further states that university traffic rules must be posted, filed with city and county officials, and made generally available. Provisions are also made for the appointment of university traffic authorities, adjudication procedures, and the disposition of parking assessments and infraction fines.

Access to Educational Records

Senate Bill 359 (Chapter 77-60) gives to the parent or guardian of a pupil or student attending any public school, area vocational-technical center, community college, or state university, or the pupil or student himself if he is 18 years of age or is attending a post-secondary institution, rights of access, rights of waiver of access, rights of challenge and hearing, and rights of privacy with respect to records and reports, relating to such pupil or student, created, maintained, and used by public educational institutions of the state. The act further provides that rules shall be established by the State Board of Education for the exercise of these rights. The transfer of records to enumerated institutions and individuals such as officials of other educational institutions to which students seek admission and to financial aid agencies is authorized. Should an education official or employee refuse to comply with the provisions of this act, injunctive relief shall be provided the aggrieved student, or his parents or guardians, including the awarding of attorney's fees and court costs to students, parents, or guardians whose rights are vindicated. The law also exempts such pupil and student records from provisions generally relating to the inspection and examination of public records.

In order to facilitate access to academic records by former students of nonpublic schools which cease operation, Senate Bill 931 (Chapter 77-133) requires nonpublic schools which become defunct, or cease operating, to transfer all permanent student records to the superintendent of schools in the district in which the nonpublic school was located. It further requires defunct nonpublic schools to notify the Management Information Service of the Department of Education of the transfer and requires the Department to act as a clearinghouse and maintain a registry of such records. Student records and permanent and temporary information are defined. Permanent information includes only verified information of clear educational importance such as courses taken and record of achievement while temporary information includes verified information subject to change such as standardized test scores and teacher comments.

Nonpublic Educational and Training Institutions and the Florida Education Council

House Bill 18 (Chapter 77-426) prohibits nonpublic colleges from causing to be published any advertisement soliciting students or offering a diploma or degree if such a college does not have a valid state license to operate or if such college is under injunction against operating, soliciting students, or offering a diploma or degree. The license fees for nonpublic colleges, to be deposited in the state General Revenue Fund, are changed to the following amounts: \$300 for an original application for a license to operate a college chartered in Florida; \$500 for an original application for a license to operate a branch of an outof-state college; \$150 for the renewal of a license for either

type college, \$100 for a supplementary application for the approval of any additional field or course of instruction for either type college; \$25 for agents representing in-state colleges; and \$50 for agents representing out-of-state colleges. Each original license shall be permanent subject to an annual review and renewal by the State Board of Independent Colleges and Universities. All fees, donations, and other moneys collected by the State Board of Independent Post-secondary Vocational, Technical, Trade, and Business Schools are to be deposited in the General Revenue Fund.

The State Board of Education, acting on the recommendation of the State Board of Independent Post-secondary Vocational, Technical, Trade, and Business Schools, shall adopt minimum standards and rules for the licensing of such schools and agents and specifies the minimum acceptable standards. Each original license issued to an independent post-secondary vocational, technical, trade, and business school shall be effective for a maximum period of one year from the date of issuance and be subject to annual renewal and an amendment to the application is necessary if such a school seeks to expand its educational program and degrees. Prior to the discontinuance of operation, a licensed school must convey all student records to the State Board of Independent Post-secondary Vocational, Technical, Trade and Business Schools or to another location designated by the Board.

The membership of the Florida Education Council is expanded to include Florida members of the Education Commission of the States, six members appointed by the Governor, two members appointed by the President of the Senate, and two members appointed

by the Speaker of the House. The length of the terms and qualifications of appointees is specified and initial appointments are to be staggered so that, after the initial appointments have been made, one-third of the membership shall be appointed annually. The Council may consider any matter relating to the Education Commission of the States and state issues on which Florida may receive technical assistance from the Commission. The activities of the Council shall be supported through existing resources of the Department of Education.

ELECTIONS*

The efforts of the 1977 legislative session to improve election practices in Florida is concentrated mainly in a single piece of legislation (Conference Committee Report for Senate Bill 563) which amends and revises the State Election Code pertaining to such areas as elector registration, qualification of candidates, campaign contributions and handling of expenditures, and procedures for elections. Also passed were two acts amending the Code relative to signing of petitions and authorizing alternate procedures for identifying electors at the polls. Another measure repealed the statute which had prohibited election districts being situated in more than one county commissioner's district.

Petition Signing

House Bill 385 (Chapter 77-178) makes unlawful and provides a penalty of a first degree misdemeanor if any person knowingly signs a petition or petitions for a particular candidate or issue more than one time. The penalty was necessary following the 1976 enactment of the random sampling signature verification method. The effective date of this act is January 1, 1978.

Election Districts

Senate Bill 82 (Chapter 77-136) repeals Section 124.04, Florida Statutes, which prohibited election districts from being *Prepared by House Committee on Elections

located or altered so as to lie partly in one county commissioner's district and partly in another. Prior law prevented supervisors of elections from combining election districts (precincts), except in cases where there were less than twenty-five registered electors of the only political party having candidates on the ballot. (See Section 98.031(2), Florida Statutes.)

Precinct Register

Committee Substitute for Senate Bill 781 (Chapter 77-267) establishes procedures and guidelines for the use of computer printouts as an alternative to the registration books. The precinct register may be used in lieu of the registration books for the purpose of identifying the elector at the polls prior to allowing him to vote. The election boards, under this alternative, will use a driver's license, voter ID card, or other form approved by the Secretary of State for verification of the voter's identity.

Municipal Recall

Committee Substitute for House Bill 1159 (Chapter 77-279) provides that in the absence of resignation, the chief judge of the judicial circuit in which the municipality is located will designate the day for holding a recall election for removal of an elected municipal official from office.

Straw Ballots

House Bill 37 (Chapter 77-33) authorizes county legislative and governing bodies, when agreed to by a majority of the membership, to place questions or propositions on the ballot of any primary, general election or special election to obtain the sentiment of the electors on an issue. No special election may be called solely for the purpose of conducting a straw ballot.

Election Code Revision

The Conference Committee Report for Senate Bill 563 (Chapter 77-175) amended the ten chapters of the Florida Statutes referred to as the Florida Election Code, i. e. Chapters 97-106, F. S. The following is a chapter-bychapter summary of the changes made in the law.

CHAPTER 97

Places the definition of election, nonpartisan office, electronic or electromechanical devices, candidate and newspaper of general circulation in the definition section of Chapter 97.

Allows any person who will become 18 years of age on or before an election to preregister at least 180 days prior to his birthday with the Supervisor of Elections when the registration books are open.

Provides a new procedure for those electors requiring assistance at the polls. The Supervisor of Elections will make a notation on the registration books or records which are delivered to the polls indicating that the elector is eligible for assistance in voting. Such elector is entitled to receive assistance from two election officials or some other person of his own choice who has not assisted more than one other person during the election.

Allows application for absentee registration to be witnessed either by a notary or other official authorized to administer oaths or by two registered electors of the county from which the application is requested.

Allows a person who has moved from the precinct in the county in which registered, to vote in the precinct in which he has moved his residence if such elector furnishes, at the polls, proof of his residence and executes an affidavit under oath.

CHAPTER 98

Clarifies the existing regulations regarding the time the office of the Supervisor of Elections and branch offices are to be open and which services will be provided during certain periods.

Conforms the state and county registration book closing with the 30-day federal book closing.

Provides a purge of the voter registration list each odd-numbered year of those voters who did not exercise their

franchise in the preceding four year period. Requires the Supervisor of Elections to provide a copy of the purge list to the chairman of the county executive committee of any political party, upon request, and provides that the Supervisor may charge the actual cost of duplicating the list.

Limits access to the registration lists and limits the information to only those persons who certify that the list is to be used solely for political purposes and not for commercial purposes.

Requires the qualifying officer (Supervisor of Elections or Department of State) to submit to each successful candidate a certificate of election as proof of the election of such person.

CHAPTER 99

Requires <u>all</u> candidates to qualify for office during the same time period. Deletes all provisions relating to write-in candidates.

Establishes a time frame for the issuance of the petition forms by the qualifying officer and the submission of the petitions for signature verification by the petitioner, and mandates a 3% signature requirement. Clarifies the computing of the annual salary upon which qualifying fees are based and excludes any special qualification pay.

CHAPTER 100

Requires the Department of State to publish in any year in which a general election is to be held, a notice of the offices to be filled at such general election. The publication is

required during the month of June and shall be published twice in a newspaper of general circulation.

Provides the procedures for filling vacancies, calling special elections and special primary elections, and allows for bond elections to be held in conjunction with other elections.

Provides a penalty of a first degree misdemeanor if a person votes in a freeholder's election and is not a freeholder.

Provides a percentage and petition signature requirement for municipalities with populations of less than 500 registered voters and greater than 25,000 registered voters; and provides that a petition of recall may be filed after the elected official has served one-fourth of his term in office.

CHAPTER 101

Allows each candidate and each political party to designate in writing to the Supervisor of Elections a list of poll watchers for each precinct prior to noon of the 10th day preceding the election.

Allows the Supervisor of Elections to mail a sample ballot to each household in which there is a registered elector.

Makes the list of those who have voted and the poll list at each precinct accessible to the poll watchers during regular voting hours, provided the poll watchers do not interfere with the orderly operation of the polling place.

Prescribes the form of the general election ballot to accommodate merit retention judges.

Requires the board of county commissioners, in counties which use voting machines, to purchase one machine for each 350 (instead of 400) registered voters if 25% or more of the

registered voters are 60 years of age or older.

Requires the reexamination and prior approval of any electronic or electromechanical system by the Department of State, prior to the system being purchased by a governing body of a county. Allows for suspension of any sales if the equipment or system does not comply with statutory requirements.

Eliminates the application for an absentee ballot and allows the Supervisor to accept a request for an absentee ballot by mail, telephone, or in person by the elector or by a person designated by such elector. The Supervisor will not be required to send an absentee ballot to an elector overseas if his request is received after the Friday before the election. A notice acknowledging receipt of his request and the reason the ballot was not sent must be forwarded to the elector.

Simplifies the procedures and instructions for absentee voting and prohibits the mailing of campaign literature along with an absentee ballot.

Provides a procedure for challenged absentee ballots based on any defect on the voter's certificate. The voter's certificate will appear on the back of the mailing envelope and the challenge has to be made prior to the ballot being removed from the envelope.

Requires that each polling place be conspicuously identified by a sign on or near the polling place.

CHAPTER 102

Transfers those administrative responsibilities relating to elections, which were previously under the control of the Clerk of the Court and the Board of County Commissioners, to

the Supervisor of Elections. Fiscal approval will still remain with the County Commissioners, but the appointment of inspectors and clerks (poll workers) is now the responsibility of the Supervisor.

Provides for the substitution of a member of the canvassing board who is a candidate with opposition in the election being canvassed. If the Supervisor of Elections has opposition, he shall not serve as a member of the canvassing board but shall serve in an advisory capacity to the canvassing board.

Rewords the process of protesting and contesting of elections to clarify existing law. An immediate hearing is provided for, and the Circuit Judge before whom the protest is presented will have authority to issue orders as necessary. Requires an automatic recount when a candidate wins by .5 of 1% or less; the recount can be waived, however, by the losing candidate.

CHAPTER 103

Eliminates unnecessary sections that were handled by party rules and served no useful purpose in the statutes. Transfers and condenses sections relating to various political parties to a single section. Includes independent presidential candidates as those to appear on the ballot.

In the Presidential Preference Primary law, amends the candidate selection section so as to speed up the process; allows for the ballot to be prepared at an earlier date.

Transfers from Chapter 104 to this chapter the sections relating to the unlawful expenditure, misappropriation of funds, or false or improper accounting of political committee funds by a state or county chairman or treasurer.

CHAPTER 104

Rewords sections so as to clarify existing meaning; reduces from a third degree felony to a first degree misdemeanor any person who makes a false declaration for assistance in voting. Eliminates sections or portions of them that were obsolete, and transfers Sections 104.37, 104.371, and 104.373 to Chapter 106 since they relate to candidates (renumbered Sections 106.143, 106.142, and 106.144).

Repeals the Section (§104.35) that prohibits the distribution of literature against a candidate on election day.

Changes the penalty for charges, known by the candidate making such charge to be false or malicious, from a first degree misdemeanor to a third degree felony.

Testimony of witnesses to violations shall not be used in any prosecution or criminal proceeding against the person so testifying, except in a prosecution for perjury.

CHAPTER 105

Provides for the implementation of merit retention of judicial officers as required by the 1976 constitutional amendment. It relates to the judicial offices of Justice of the Supreme Court and Judge of the District Court of Appeal. Candidates for these two judicial offices follow the provisions of this Chapter and Chapter 106 (but do not have opponents).

All candidates for judicial office will now qualify by paying a 3% filing fee (no party assessment) or by using the alternate method (petitioning), and all judicial officers will now be elected at the general election.

The judicial candidate's qualifying oath has been reworded so as to conform as much as possible with the regular candidate's oath.

CHAPTER 106

Complies with the <u>Buckley v. Valeo</u> Supreme Court decision by providing for independent expenditures and repealing the section (§106.10) on limitations of campaign expenditures.

Requires persons who seek to qualify by means of the petitioning process to designate a depository and appoint a campaign treasurer. For all candidates, at the time a depository is designated and a treasurer appointed, the office being sought shall be listed, but can be changed at any time prior to qualifying. Acceptance of an appointment, removal or resignation of a campaign treasurer, must be in writing.

Testimonial affairs are now subject to the provisions of Chapter 106. Those held for the purpose of raising campaign funds must follow the Chapter 106 reporting requirements. The notice of intent shall state that it is a campaign fund raiser and any tickets or advertisements must contain such a statement. All transactions must be made through the campaign depository.

Testimonials for public officials shall be held only for the purpose of honoring or on behalf of the official. A treasurer must be appointed and a notice of intent filed stating the purpose for which the funds are to be used. The proceeds after payment of expenses shall be disposed of either by donation to a charity stated in the notice of intent, returned pro rata to each person who purchased a ticket or gave money, or given to a governmental entity within 90 days from the date of the testimonial. These

funds cannot be used in a campaign.

With respect to campaign accounts, the existing forms have been simplified and the voucher system has been eliminated. Candidates and political committees will set up regular bank accounts, using regular bank checks, deposit slips and forms, but the account has to be separate from any personal or other bank account. All cancelled checks, deposit slips, and account records will now be returned directly to the treasurer, allowing for immediate reconciliation with the treasurer's records.

Prohibits cash contributions or contributions in the form of a cashier's check in excess of \$100.

Petty cash will now be allowed prior to qualifying: \$500 per calendar quarter reporting period for candidates and political committees. Following qualifying the amounts will be: \$500 per week for statewide candidates and \$100 per week for all other candidates and all political committees.

Candidates must now dispose of surplus campaign funds within 90 days of withdrawing or being eliminated as a candidate or being elected to office. Those funds which have not been used in a campaign for public office within two years from the date the campaign account was established, shall dispose of such funds within 90 days of the second anniversary date of the account. Surplus funds can be disposed of either by returning pro rata to each contributor, or giving them to the general fund of the governmental entity from which he ran. Prior to disposing of the funds, a candidate elected to office may retain a certain portion of those surplus funds for legitimate expenses in connection with his public office in the following amounts:

\$6,000 statewide and Supreme Court; \$3,000 legislative/multicounty and District Court of Appeal; and \$1,500 countywide or less and County Court or Circuit Court Judge. No funds shall be retained by a public official upon leaving office and the remaining funds shall be given to the general revenue fund of the governmental entity.

Sections relating to political advertisements and endorsements are now in this Chapter, transferred from Chapter 104. The media is no longer required to charge candidates the lowest rate available; they cannot, however, charge one candidate rates that are in excess of those charged another candidate.

The membership of the Florida Elections Commission shall consist of no more than four members of the same political party at any one time. The proceedings, investigation, reports, and all material with respect to an alleged violation shall be confidential until an order disposing of the case is entered by the Commission. The order shall be made public promptly and shall contain a finding of violation or no violation. The Commission is now empowered to impose civil penalties not to exceed \$1,000 per count, alleviating the referral to the State Attorney of minor violations.

The act will take effect January 1, 1978, allowing the Division of Elections of the Department of State and the county Supervisors of Elections time to prepare and properly implement the new provisions of the Elections Code.

HEALTH AND REHABILITATIVE SERVICES*

Legislation passed during the 1977 Session, which relates to health and rehabilitative services, reflects a broad range of issues. Deinstitutionalization was re-emphasized with major pieces of legislation in the area of retardation and adult protective services. A program which expands the neonatal program into a perinatal program received not only a statutory base, but also additional funding. Problems in the juvenile justice system are addressed by several acts. Although legislation relieving doctors of liability in the administration of laetrile captured the media attention, other significant health issues were addressed this Session. Concern over problems in the mental health forensic programs around the State is reflected in several acts. Finally, a reviser's bill, conforming all related statutes to the 1975 HRS Reorganization Act, by its passage ensures greater clarity and consistency in those sections affecting the Department of Health and Rehabilitative Services.

Mental Health

The funding of community mental health programs is addressed in Senate Bill 1425 (Chapter 77-372). This act adjusts the cap on administrative District Mental Health Boards and limits the expenditure of state funds for this purpose. District Mental Health Boards are also required to incorporate as non-profit corporations

^{*}Prepared by House Committee on Health & Rehabilitative Services

pursuant to Chapter 617, Florida Statutes. The six-year needs assessment cycle mandated by current law is reduced to three years. In addition, the three-to-one state/local matching formula for funding community mental health programs is established. The implementation date for a purchase of services funding system for community mental health programs is extended for one year, but the Department of Health and Rehabilitative Services (DHRS) is required to submit periodically plans and reports to the Legislature on the progress of implementing the purchase of service system.

House Bill 35 (Chapter 77-312) makes significant changes in the law affecting mental health forensic patients. The issues of insanity and guilt when a defendant pleads not guilty by reason of insanity are separated at the trial. Certain procedures are required with respect to notification of the State Attorney prior to release of a patient committed to the DHRS who has been found to be not guilty by reason of insanity. Admission and release procedures are clarified for forensic patients, particularly those determined to be incompetent to stand trial. As of October 1, 1977, the act repeals Rule 3.210, Florida Rules of Criminal Procedure, as amended. A significant provision completely revises the mentally disordered sex offender statute. Key provisions of Chapters 801 and 917 are combined. Commitment and discharge procedures are clarified and the specific responsibilities of the circuit courts and the DHRS are defined. The act further provides that certain expenditures of 100% of all third-party payments and fees for non-inpatient services shall be considered as eligible for determining the state's share of financial

participation.

Two acts speak to the concern over safety felt by communities in close physical proximity to state mental health forensic hospitals:

Committee Substitute for House Bill 106 (Chapter 77-31) authorizes the use of certain chemical weapons (mace) in state mental health facility forensic units in the event of an emergency situation. The act defines the terms "chemical weapon," "institutional security officer," and "forensic unit," and stipulates that only the security officer may use the chemical weapon upon authorization of the administrator of the forensic unit or his designee when he is not present. Additionally, all chemical weapons are required to be placed in secure storage when not in use.

Committee Substitute for House Bill 334 (Chapter 77-90) requires the establishment of separate and secure facilities within the DHRS to house certain forensic patients who are dangerous to themselves and others or are likely to escape. The effective date of this act is delayed until July 1, 1980.

Retardation

The Retardation Prevention and Community Services Act, Committee Substitute for Senate Bill 176 (Chapter 77-335), substantially revises Chapter 393, Florida Statutes, and authorizes programs for the retarded and other developmentally disabled persons to be administered by the DHRS. Emphasis is placed upon prevention and community-based services programs. Various types of residential care facilities are specified, including foster

care, group homes, residential habilitation centers, intermediate care facilities and Sunland Centers. The act also specifies the community-based services which are to be provided. The DHRS is directed to conduct a combination demonstration project and evaluation study of a family placement program and to submit to the Legislature by January, 1978, a five-year plan for the provision of services to the retarded, same to be updated and resubmitted by January 31 each year through 1982. With respect to involuntary admissions to residential services, the Act requires that the burden of proof be by clear and convincing evidence and that the examining commission document the degree of retardation, the purpose to be served by residential care, and specify the least restrictive placement for the person. The act also establishes a procedure for discharging clients presently receiving services who have not been adjudicated incompetent and who have reached their 18th birthday. The State Board of Education is required to provide advice and supervision to the DHRS relative to standards and requirements of education programs in state schools and institutions.

<u>Health</u> (See also acts summarized under the topic <u>Administrative</u> Procedures - Corrective Legislation, below)

Committee Substitute for Senate Bill 394 (Chapter 77-171) amends Chapter 383, Florida Statutes, by expanding the neonatal program to include prenatal care for mothers with high risk pregnancies. Priority is given to the existing neonatal care centers in the establishment of perinatal centers. Membership terms on the Perinatal Advisory Council are staggered and members are to serve without compensation. Not more than 5% of the

funding for perinatal care is to be used for supervision and evaluation of the regional center programs.

House Bill 667 (Chapter 77-16) permits, rather than directs, the DHRS to provide pouches for donor cards, supplies, forms and accessories for the anatomical gifts program. The limitation that only private contributions can be used to fund the program is removed and the DHRS is permitted to use funds appropriated from general revenue.

Committee Substitute for House Bill 768 (Chapter 77-30) addresses an issue receiving national attention - the prescription and administration of laetrile. This act removes the liability of the physician, health facility or hospital with respect to the administration or prescription of laetrile. Hospitals or health facilities and the State Boards of Medical Examiners and Osteopathic Medical Examiners are restricted from interfering with or imposing penalties on a physician who administers laetrile to a patient who requests it, unless the Boards determine that the substance is harmful in a hearing conducted under the Administrative Procedure Act. Physicians are required to inform the patient that there are other forms of treatment and that laetrile is not approved by the U. S. Food and Drug Administration. After such disclosure, the patient is mandated to sign a waiver of liability for the physician and any applicable hospital or health facility.

The labeling of human blood to indicate whether it was "purchased" or "voluntarily donated" was mandated in Senate Bill 647 (Chapter 77-307). Certain blood and blood components are exempted from the labeling requirements if used for industrial purposes. The DHRS is authorized to administer the provisions

of the act, including inspection and the collection, labeling and storage procedures of the collection facilities. Penalties for violation of the act are provided and the DHRS is given injunctive power to insure compliance.

Senate Bill 900 (Chapter 77-308) provides that residential subdivisions with a public water system may use individual sewage disposal facilities, provided that there are no more than two lots per acre, and all related public health requirements are met. In addition, it allows all undeveloped residential lots platted prior to 1972 (if public sewage disposal facilities are not available) to be developed with a minimum distance of 75 feet between any private well and an individual sewage disposal system, under the condition that other health requirements are met and proper notification is made to the county health department.

Regulation of Health Facilities and Cost Control

The control of health care costs was an issue of continuing concern to the 1977 Florida Legislature. Closely related to health care costs is the question of ensuring quality care to the health care consumer through regulation. A series of bills addressing these issues were enacted into law:

Senate Bill 6 (Chapter 77-46) requires the Department of Insurance to prescribe a standard health claim form for hospitals, physicians and pharmacists which would be acceptable to insurers and the DHRS. The act exempts from its provisions those claims submitted by electronic or electromechanical means. The effective date is January 1, 1978.

The purpose of Committee Substitute for Senate Bill 218

(Chapter 77-188) is to expedite the review of health facilities plans by the DHRS. It provides for a 60-day time limitation for the review of hospital and nursing home construction plans. If the plans are not acted upon within the time limitation, they are automatically deemed approved, unless the Secretary of the DHRS grants a 15-day extension. The Department is authorized to delegate to qualified counties and municipalities the authority to review and approve plans and specifications based upon certain statewide standards. Fees to cover the expenses associated with the review of the plans are authorized.

Committee Substitute for House Bill 371 (Chapter 77-48) creates Part II of Chapter 483, Florida Statutes, to be cited as "The Florida Multiphasic Health Testing Center Law." It provides that all multiphasic health testing centers are required to possess a license to operate. A "multiphasic health testing center" is defined as a fixed or mobile facility where specimens are taken from the human body for delivery to registered clinical labs for analyses and where certain measurements, such as height and weight determination, blood pressure determination, limited auto-visual tests and electrocardiograms are made. Among the duties of the DHRS is the requirement that the Department adopt procedures and standards for such centers, including the fees to be paid, the standards for clinical performance, construction, sanitary conditions, equipment, and personnel. A temporary advisory council is created for the purpose of advising the DHRS in the development of rules. Each center is required to employ a medical director and to meet certain requirements for advertising. Procedures are established for enjoining a center from

operating without a license.

Ambulatory surgical centers were also brought to the State's licensing authority by the enactment of Committee Substitute for Senate Bill 501 (Chapter 77-24). Ambulatory surgical centers are included under certain hospital licensing provisions and are required to pay licensure fees. Such a center is defined as a facility with the primary purpose of providing elective surgical care and in which the patient is admitted to and discharged from said facility in the same working day and is not part of a hospital. Excluded are abortion clinics, and doctors and dentists' offices. The act requires establishment of minimum standards for acceptance of clinical lab and diagnostic x-ray results as a requirement for licensure. Ambulatory surgical centers are required to be licensed by the DHRS by January 1, 1978. The operation of an ambulatory surgical center in Florida without a license is unlawful and subject to penalty. Centers in operation at the time rules are adopted are given one year to comply. Health insurance policies or contracts are required to include reimbursement for ambulatory surgical centers if the same services covered would be reimbursed by the policy or contract when performed in a hospital as an inpatient service.

Senate Bill 875 (Chapter 77-455) creates "The Florida Health Care Responsibility Act." According to this Act, a "local agency" under the health facilities authorities law is redefined to include municipalities as well as counties, thereby authorizing municipalities to create such authorities. Under its health care responsibility provisions, a policy is established that counties shall be responsible for the cost of hospital services provided

to their indigent residents, when delivered in hospitals located in other counties. The charges for these hospital services may not exceed 12 days of services per admission, not to exceed 45 days per annum at rates of payments allowed under the Florida Medicaid program. When the treatment provided under these conditions is available in the county in which the indigent resides, the county resident is not liable for the costs of treatment, except under certain emergency conditions. The DHRS is authorized and directed to adopt rules establishing statewide standards and procedures for certification of indigency. Hospitals accepting the procedures set forth in the act are required to admit residents certified as indigents when indicated. Disputes between hospitals and counties are to be resolved under the provisions of Chapter 120, the Administrative Procedures Act.

When a county does not pay for the out-of-county hospital services provided to one of its indigents, the hospital may certify the amount due to the Comptroller who is directed to forward the delinquent payment to the hospital from the tax sharing or revenue sharing funds designated for such county. A final provision requires that, except in emergencies, no indigent shall be treated or admitted unless the board of county commissioners notifies the hospital that the patient is certified as an indigent and approved for treatment.

House Bill 2236 (Chapter 77-400) amends the "Health Facilities Planning Act," which requires a certificate of need for certain expansion or conversion projects by hospitals, nursing homes and ambulatory surgical centers, to make it the "Health Facilities and Health Services Planning Act." The act has two

main objectives: To amend those sections of the current Florida Statutes which, by omission or nonfulfillment of legislative intent, hinder effective health planning and cost containment, and to conform the statutes to requirements adopted by the U. S. Department of HEW under Public Law 93-641. The principal policy change includes a broadening of the act to encompass home health agencies, intermediate care facilities, health maintenance organizations, and free standing hemodialysis centers. Further specified are: the entities and services subject to review and approval under the certificate of need program, the channels through which applications for certificates of need are to proceed, the authorization for partial approval of capital expenditures, automatic denial of certificates of need by the DHRS under certain circumstances, and changes in a section of the home health agency licensing law to conform to certificate of need requirements.

Juveniles

Although no major revisions of the juvenile statutes were enacted into law, three acts did pass which attempted to correct problems in the juvenile justice system:

Committee Substitute for House Bill 402 (Chapter 77-429) responds to a recent Florida Supreme Court decision which declared unconstitutional the criminal penalty for child abuse. The act makes more specific the definition of physical and mental injury which is subject to a criminal penalty. It includes financial ability of the parent and significant impairment to the child as necessary criteria for determining negligent treatment of children. It provides for the taking of a child into protective custody and

for the confidentiality of certain records. In addition, the act provides for the expunging of records which are unfounded. It requires that a report be made to the local medical examiner when there is suspicion that a child has died as a result of abuse. Photographs and x-rays may be taken of the child, and the DHRS is instructed to conduct education, training and publicity programs on child abuse throughout the State.

Senate Bill 520 (Chapter 77-287) responds to an identified need in the State for services to emotionally disturbed children by providing for the payment of part of the costs of residential care of psychotic or severely emotionally disturbed children.

Community arbitration programs for juveniles are authorized by Committee Substitute for House Bill 849 (Chapter 77-435). Counties may establish community arbitration programs to informally hear allegations as to the commission of certain offenses committed by children. The act defines the qualifications for members of the panels and for their selection. Procedures for initiating cases, hearings, and disposition of cases are outlined. Funding for the act is to be provided through federal grants or through any county appropriation.

Adoption

Two acts relating to the special needs adoption program of the DHRS received legislative attention during the 1977 Session: Senate Bill 158 (Chapter 77-159) authorizes the DHRS to continue providing medical and surgical services to crippled children who are adopted after or during the course of such services without having to re-determine the child's eligibility for the services.

The letter of intent of the Appropriations Act (House Bill 10-A, Chapter 77-465) makes it clear that funding provided for this program is to be directed to children adopted through the special needs adoption program. Senate Bill 1357 (Chapter 77-293) expands the definition of a "special needs child" as used in the subsidized adoption act to incude children who are to be adopted as a sibling group.

House Bill 2227 (Chapter 77-446) addresses two issues relating to adoptions: first, the question of disclosure of adoption records; and second, the question of agency consent in lieu of parental consent at the final adoption hearing. Under this act, a licensed child-placing agency or the DHRS is allowed to consent to an adoption if the child to be adopted has been permanently committed to the agency. It specifies that access to the original birth certificate may be obtained only under a court order.

Adult Protective Services and Home Care for the Elderly

Although the 1977 Session did not see a major thrust in the area of programs for the aging, a significant piece of legislation passed which provides new protections for dependent adults and an innovative program to help maintain the elderly in their own homes or with their families.

Senate Bill 178 (Chapter 77-336) creates the "Adult Protective Services Act" which authorizes the DHRS to provide protective services to a person suffering from the infirmities of aging. It allows a departmental representative, accompanied by a law enforcement officer and under the authority of a court

order, to enter forcibly a premises upon probable cause to believe that an individual is being abused, maltreated or neglected. Further, upon probable cause to believe that such a person is likely to incur a substantial risk of life threatening physical harm or deterioration if not immediately removed, the DHRS may, when authorized by court order, involuntarily remove the individual to an appropriate medical or protective services facility. Upon such removal, the act requires that within 48 hours a preliminary hearing be held to establish grounds for temporary protective placement up to an additional 4 days. Records of persons protected under this act may not be disclosed publicly.

The act also requires that the DHRS establish and implement a program of subsidy payments to individuals providing familytype care for the elderly in a private home. Subsidy payments are to range from \$53 to \$240 per month. \$500,000 is provided in the Appropriations Act to implement the program of subsidy payments.

Management Fellows Program

House Bill 1270 (Chapter 77-212) encourages the development of skilled managers through the establishment of a management fellows program in the DHRS. This act will enable the district administrators and assistant secretaries to identify and reward career service personnel with a high level of management potential, who with training, would qualify for key administrative positions within the Department. The program is to be implemented within existing resources.

Vital Statistics

Senate Bill 768 (Chapter 77-319) substantially amends the vital statistics chapter of the Florida Statutes. It decreases the time period from 10 to 5 days within which a birth certificate must be filed. The act also removes the responsibility of the doctor or midwife attending the birth for filing the certificate when the birth occurs within an institution, places the responsibility on the administrator of the institution, and specifies alternative persons who may file the certificate when a birth occurs outside an institution. In addition, there is established a procedure for determining the surname of the child based on the marital status of the parents unless otherwise determined by court order. The act repeals a section of the statutes prohibiting the issuance of a copy of the birth certificate without a court order if the child is born out-of-wedlock.

Administrative Procedures - Corrective Legislation

Six bills passed into law which resulted from the work of the Administrative Procedures Committee. The Committee, in its review of the rules of the DHRS, determined that in some cases, the Department had assumed by rule, authority not granted by statute. These six bills correct this discrepancy by clarifying the statute to provide the authority assumed by rule.

Committee Substitute for Senate Bill 585 (Chapter 77-257) requires an applicant for an emergency medical technician certificate to have taken and passed an exam, and to hold a valid American Heart Association Cardiopulmonary Resuscitation course card or its equivalent; and an applicant for emergency ambulance driver's

certificate must hold a valid American Red Cross Standard First Aid and Personal Safety course card or its equivalent.

The authority of the Department over the control of certain diseased animals is clarified by Senate Bill 617 (Chapter 77-288).

Senate Bill 727 (Chapter 77-291) provides for the issuance of a provisional license to new hospitals or to hospitals which are in substantial compliance with the provisions of Chapter 395, Florida Statutes. Such provisional licenses are not to exceed a period of more than one year.

Senate Bill 804 (Chapter 77-258) restricts the Department from requiring permits or licenses unless clearly specified by law.

Senate Bill 810 (Chapter 77-225) provides that exemptions from the provisions of the Florida Clinical Laboratory Law shall apply only to laboratories operated by five or less licensed practitioners dealing exclusively with the diagnosis and treatment of their own patients.

Finally, departmental authority over regulations relating to vehicles and trailers used in pest control is authorized by Senate Bill 844 (Chapter 77-161). This act provides that the Department shall promulgate regulations requiring that vehicles and trailers used in pest control be permanently marked for identification with the name that is registered with the Department and that written contracts be required for control of termite and other wood-destroying organisms.

HMO Eligibility for Medicaid Recipients

Senate Bill 1145 (Chapter 77-326) authorizes the DHRS to contract with health maintenance organizations to provide medical services to persons eligible for Medicaid.

INSURANCE*

The 1977 Regular Session of the Florida Legislature addressed the issue of rapidly rising automobile insurance premiums by enacting the Florida Insurance and Tort Reform Act of 1977, and sought to cure the unconstitutionality of the Medical Malpractice Law by repealing selected sections and reenacting others. Regulatory statutes were strengthened concerning the manufacture, distribution and use of explosives; providers of care for life contracts; and persons who sell preneed burial supplies and funeral service contracts.

Insurance, Generally

Senate Bill 500 (Chapter 77-227) amends the Florida Insurance Guaranty Association Act to exclude surplus lines and ocean marine insurance from application of the act. The law codifies a 1974 resolution of the FIGA Board of Directors which prevents FIGA from having to pay insolvent members' subrogation claims and also defines the term "insolvent insurer" to apply to Florida licensed insurers rather than any insurer named in an approved list. The act prevents the assessment of penalties and interest against FIGA. The measure also allows FIGA to stay proceedings involving an insolvent insurer before a quasi-judicial body or administrative board, rather than only in court. This law allows an insured to recover attorney fees only if FIGA denied a covered claim by affirmative action other *Prepared by Senate Committee on Commerce

than delay rather than allowing recovery whenever the insured prevails in court. The Department of Insurance must give reasonable written notice to FIGA of a member insurer's insolvency hearing. "Expenses in handling claims" is defined. Suit on a covered claim may be entered against either the insured of an insolvent insurer or the FIGA within one year of the filing deadline in order to prevent barring of the claim against the Association.

Committee Substitute for House Bill 86 (Chapter 77-100) provides for early disbursement of marshalled assets of an insolvent insurance company. The Department of Insurance, as receiver of insolvent insurance companies, would present a proposal for early disbursement to a court of competent jurisdiction for approval. The disbursement would be to the Florida Insurance Guaranty Association, Inc. (FIGA) and similar associations existing in other states if those other states have reciprocal agreements to allow early disbursement to FIGA. The proposal must be presented to the court within 120 days of a final determination of insolvency. The minimum provisions of the proposal are set out as is the method of disbursement. The Department is required to give notice of application for disbursement to appropriate associations and commissioners of insurance prior to court action.

Senate Bill 269 (Chapter 77-237) exempts those statutes relating to the collection of insurance premium taxes and license fees from automatic repeal under the "Regulatory Reform Act of 1976" (Chapter 76-168) which schedules repeal of the Florida Insurance Code effective July 1, 1982 unless

reestablished by the Legislature.

House Bill 217 (Chapter 77-13) authorizes a domestic stock or mutual insurer to pay up to 10 percent simple interest per year on money borrowed under an agreement that repayment shall be made only from the insurer's surplus. The previous limitation on interest for these purposes was 8 percent.

Automobile Insurance

The 1977 Regular Session produced major changes in the realm of automobile insurance. Committee Substitute for Senate Bills 1181, 925 and 792 (Chapter 77-468), "The Florida Insurance and Tort Reform Act of 1977," is a substantial rewrite of both insurance company regulation and required automobile insurance coverage. The purpose of the legislation was to reduce skyrocketing insurance premiums while still maintaining adequate protection for the drivers of this state.

The law has five major areas: (1) insurance company regulation; (2) required insurance coverage; (3) fraud; (4) tort reform; and (5) good driver fund and rate cap.

In the area of insurance company regulation, the act attempts to give the Insurance Commissioner the tools necessary to assure that insurance companies doing business in this state are financially sound and are making adequate but not excessive profits. Each company will now have to supply certified financial statements at the request of the commissioner; the ceiling on discretionary deposit requirements is raised from \$250,000 to \$1,000,000; and the investment portfolio of an insurer applying for an initial certificate will be valued at

current market value.

The measure also makes changes in insurance coverage requirements. Proof of financial responsibility is required only after a driver has been convicted of certain traffic violations (driving under the influence or leaving the scene of an accident resulting in bodily injury or death) or has had a judgment, arising out of a motor vehicle accident, rendered against him. Such proof may be established by automobile liability insurance policy, bond or certificate of self-insurance. Most persons choose the insurance policy method. The reinstatement fee for owner registration or operator's license is tripled to \$15. Required personal injury protection (PIP) coverage remains at \$5,000 but deductibles are authorized up to \$4,000. In addition, the insured can elect other specified deductibles in order to prevent duplication of coverage. The payout for PIP benefits is reduced from 100% of medical expenses and loss of gross income to 80% of each. References to the term "Department" in the Financial Responsibility Law are made to conform with the transfer of administrative responsibility from the Department of Insurance to the Department of Highway Safety and Motor Vehicles as dictated by 1976 act.

One of the causes of soaring insurance rates is fraud. This law strengthens existing fraud provisions and broadens fraud coverage. The fraud penalties are expanded to include all persons involved in the auto claims process. Acting as a "runner" (soliciting motor vehicle tort claims) is made a third degree felony. Insurers damaged as a result of a violation of the fraud provisions shall have a cause of action to recover compensatory damages.

A fourth area of change involves tort reform. Collateral sources paid before trial are admissible into evidence in all automobile tort actions. Claims for punitive damages are prohibited in any action brought against an automobile liability insurer for damages in excess of its policy limits. Other tort reforms include mandatory joinder of derivative claims, non joinder of any liability insurer (not limited to automobile liability insurers), and provisions for remittitur and additur.

The last major area of change deals directly with the amount of money paid by the driver. A Good Drivers' Incentive Fund is created. It is funded by assessing an additional fine on those drivers who have been convicted of certain traffic violations. The money assessed will be distributed annually by the Department of Highway Safety and Motor Vehicles to those drivers licensed in Florida who carry liability insurance and who have not had a moving traffic or traffic accident violation within the previous 12 months. The other area of possible savings is a 6-month rate cap on premiums for coverage of bodily injury, uninsured motorist and PIP. This rate cap does not apply to those rates charged by the automobile Joint Underwriting Association.

The Joint Legislative Management Committee is required to hire an actuary who is a Fellow of the Casualty Actuarial Society at the request of the House or Senate committee handling insurance measures to assist in developing automobile insurance legislation.

Senate Bill 37 (Chapter 77-158) prohibits automobile insurers from imposing surcharges or refusing to renew policies

solely because the insured is convicted of traffic violations which do not involve accidents or cause revocation or driving privileges <u>unless</u> there is proof of a direct demonstrable, objective relationship between the violations and the increased risk of highway accidents. Cancellation of policies which have been in effect for 5 years or more solely on account of a single traffic accident is also prohibited by the act.

Malpractice and Health Insurance

In 1976, the Circuit Court for Leon County declared that portion of the medical malpractice law relating to medical incident committees unconstitutional. Committee Substitute for Senate Bill 475 (Chapter 77-64) addressed the constitutional problems by repealing the sections relating to medical incident committees and reenacting the other provisions of Chapter 76-260, Laws of Florida, that relate to medical malpractice. This enactment amends various reenacted provisions as follows:

> Nursing homes are excluded and certain abortion clinics are included under the provisions requiring the establishment of internal risk management programs under rules promulgated by the Department of Health and Rehabilitative Services after consultation with the Department of Insurance.

> The Florida Patient's Compensation Fund is not required to defend a claim until the medical mediation panel has had an opportunity to function. Provisions are made for disqualification of either the physician or attorney mediation panelist. An attorney is not

allowed to defend both the fund and the JUA. Provisions are made for receiving service of process.

For purposes of recovering damages and indemnification from collateral sources, both "health care provider" and "ambulatory surgical center" are defined. If a claimant receives his damage award in periodic payments and he lives longer than his actuarial chart, the payments will be continued for the remainder of his life.

House Bill 1286 (Chapter 77-297) addresses the issue of professional liability insurance coverage for attorneys to require insurers providing such coverage for attorneys to report malpractice claims or actions resulting in a final judgment, settlement or disposition to the Department of Insurance. It authorizes groups of attorneys who are not able to procure coverage through the available market to self-insure against claims. Requirements for self-insuring are establishment of a risk management trust fund and employment of professional risk management consultants. The Department of Insurance must adopt rules to implement the self-insurance provisions and guarantee the maintenance of sufficient reserves in each trust fund.

Committee Substitute for Senate Bill 946 (Chapter 77-162) extends the presently mandated newborn children health insurance requirement to group certificates issued to Florida residents under out-of-state group policies. The coverage encompasses treatment of an injury or sickness from the moment of birth including a congenital defect, birth abnormality, or prematurity.

Senate Bill 92 (Chapter 77-32) prohibits an insurer from denying a claim for payment of a crippled child's medical treatment in a licensed, nonprofit hospital for the physically handicapped solely because the hospital does not have facilities for the major surgery or because treatment there is primarily of a charitable nature. The prohibition applies only to policies issued or renewed on or after October 1, 1977.

Senate Bill 6 (Chapter 77-46) requires the Department of Insurance to prescribe standardized health insurance claim forms to be used by all hospitals, physicians, and pharmacists. The claim forms are required to be in a format which permits the use of generally accepted coding system by providers and must be accepted by all insurers and the Department of Health and Rehabilitative Services. Claims submitted by electronic or electromechanical means such as computer billing tie-ins between some hospitals and insurers are excluded from the requirements of the law.

Public Employee Insurance

House Bill 482 (Chapter 77-295) includes the granting of annuity contracts within the definition of life insurance. The act also permits a government agency, which has by written agreement between the agency and an employee, reduced the contract salary of the employee for tax purposes, to pay an amount equal to the reduction to a custodial account to be invested in regulated investment company stock and held in the custodial account. In addition, the law requires any insurance annuity, savings or investment products established pursuant to Section 403(b) of the United States Internal Revenue Code be underwritten

and offered in compliance with applicable federal and state laws and regulations, by persons who are duly authorized by applicable state and federal authorities.

Committee Substitute for House Bill 42 (Chapter 77-89) includes volunteer firemen, law enforcement agents and emergency service personnel within the present authorization to provide group insurance for public officers and employees. The act specifically provides that the insurance provided to the volunteer personnel shall not be used in the computation of workmen's compensation benefits nor in the determination of employee status for the purpose of collective bargaining. The benefits are not to exceed those provided full-time law enforcement officers and firemen. The Department of Administration is authorized to begin and supervise a group insurance program for the Florida Highway Patrol Auxiliary effective July 1, 1978. The Department of Insurance and Division of Purchasing of the Department of General Services are to assist.

House Bill 1220 (Chapter 77-380) provides relief to political subdivisions which have not been able to procure casualty insurance through the voluntary market; it authorizes the Department of Insurance to adopt a joint underwriting plan for the equitable apportionment of such insurance by all casualty insurers. Minimum provisions of the plan are prescribed. Although the Legislature's 1973 waiver of sovereign immunity specifically limited potential liability under the act to \$50,000 per person and \$100,000 per incident, many cities had had difficulty in obtaining insurance coverage because of ambiguity in the language of the waiver and an Attorney General Opinion

(076-41) which stated that liability was not so limited for municipalities.

Life Insurance

Senate Bill 891 (Chapter 77-324) increases from 6% to 8% the maximum interest rate an insurer may charge policyholders who borrow against the cash surrender value of their life insurance policies. In order to charge an interest rate over 6%, an insurer must furnish assurances requested by the Insurance Commissioner that the interest rate is reasonably related to interest rates for similar loans and that the interest rate will cause policyholders to receive higher dividends or lower premiums or both. The act also provides that for policies issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six rather than three years younger than the insured's actual age.

Senate Bill 778 (Chapter 77-246) increases from \$10,000 to \$20,000 the maximum amount of individual credit life insurance on the life of an individual debtor with respect to a single creditor on loans exceeding one year and increases from \$10,000 to \$20,000 the maximum amount of individual credit life insurance which an insurer can write on the life of a particular debtor with respect to loans of less than one year duration. The act also increases from \$5,000 to \$20,000 the maximum amount of group credit life insurance which can be written on the life of a debtor with respect to a single creditor on a loan to exceed one year and raises increases from \$10,000 to \$20,000 the maximum amount of group credit life insurance that a single insurer can

write on the life of a particular debtor with respect to loans of less than one year. The maximum amount of credit life insurance which an agent principally engaged in the sale of life insurance can write is increased from \$10,000 to \$20,000. This law requires a creditor to inform a borrower of his option to assign other insurance policies to secure the loan.

Miscellaneous

Committee Substitute for House Bill 182 (Chapter 77-93) repeals the 1976 law which required eligible state windstorm coverage risks to be insured under the National Flood Insurance Program before they can be covered under the state risk apportionment pool.

Committee Substitute for Senate Bill 995 (Chapter 77-292) authorizes the Department of Insurance to provide a second examination to an applicant applying for an industrial fire agent license and to issue a new temporary license to the applicant for a period not to exceed 90 days. Should the applicant fail to pass the second examination, the temporary license would be immediately terminated. The Department is also authorized to issue a new temporary license to an applicant for an industrial life or ordinary combination life insurance agent's license pending a second examination.

LAW ENFORCEMENT AND CRIMINAL JUSTICE*

The main thrust of the 1977 Legislature in the area of law enforcement and criminal justice resulted in enactments aimed at combatting organized crime within the State of Florida and prosecution for involvement in legitimate activities financed by such racketeering; and with measures to prevent and punish crimes against the elderly, minors, spouses, and those committed to institutions or confined to jails. Other acts include provisions for clarifying and strengthening laws relating to larceny, fraudulent practices, theft, trespass, pornography, employment of aliens, bail bond forfeiture, inquests of the dead, and responsibility of parents to pay court costs for representation on behalf of minor children.

Organized Crime

Senate Bill 109 (Chapter 77-403) creates in the Office of the Governor, the Office of Prosecution Coordination, the primary duties of which are to coordinate the activities of the statewide grand jury, the various state attorneys and the Council for the Prosecution of Organized Crime. The act also creates in the Office of the Governor, the Council for the Prosecution of Organized Crime to be composed of five state attorneys to be appointed by and serve at the pleasure of the Governor. One of the five members is to be designated chairman of the Council and another member is to be designated legal advisor to the *Prepared by the Senate Committee on Judiciary-Criminal

statewide grand jury. The act exempts the Council from the public records act, and the requirements of the Administrative Procedures Act. Meetings of the Council relative to criminal investigations are exempt from the requirement that they be public. The bill permits other members of the council to attend sessions of the statewide grand jury and assist the legal advisor.

House Bill 2127 (Chapter 77-334) creates the "Florida Racketeer Influenced and Corruption Act" which prohibits the use of funds derived from a pattern of racketeering activity or from the collection of an unlawful debt to acquire or maintain any title to, or right in, any enterprise or real property within the State. Criminal penalties provide that the prohibited conduct is to be punished as a first degree felony. Whenever applicable, provisions are made to protect the rights of innocent persons. Civil remedies provide that any state agency having jurisdiction over the alleged racketeering activity or any person who is, or may be injured by a violation of the provisions of this act may institute proceedings. The court may enjoin violations by issuing appropriate orders and judgments. Once convicted in a criminal proceeding, the defendant is prevented from denying the essential allegations of the criminal offense in a subsequent civil proceeding. The subject matter jurisdiction of the statewide grand jury is extended to include violations of this act.

Crimes Against the Elderly

Under Senate Bill 311 (Chapter 77-315) the Department of Administration's Bureau of Criminal Justice Planning, in conjunction with the Department of Health and Rehabilitative Services, shall

prepare yearly plans and a comprehensive 5-year plan for programs designed to prevent crime against the elderly and to reduce the fear of crime in the elderly. The Department of Criminal Law Enforcement shall collect statistical data on the characteristics of victims of crime. The information on crimes against the elderly shall be compiled and analyzed by the Bureau by type and geography. The Bureau's plans shall include these statistics, population identification and projection for preventive programs, an inventory evaluation and cost effective analysis of existing prevention efforts, and a listing of potential programs and their estimated cost and benefit. The yearly plans shall be submitted annually to the Governor for submittal to the Senate President and House Speaker. The comprehensive plan shall be submitted to same by March 1, 1982. All funding sources, including reallocated LEAA funds, shall be considered for the program.

Child Abuse

Committee Substitute for House Bill 218 (Chapter 77-73) provides that any person who causes or encourages any minor under 18 years of age to become or remain a delinquent or dependent child is guilty of a first degree misdemeanor. It is not necessary that the child actually be adjudicated dependent or delinquent in order to prosecute a parent or any other person for a violation of this act.

Assault and Battery

House Bill 62 (Chapter 77-67) authorizes an officer to arrest upon probable cause and without a warrant, any person whom he believes to have committed a battery upon such person's spouse.

If there is visible evidence of bodily harm, or the officer reasonably believes that there is danger of further violence to such person's spouse if the person who committed the battery is not arrested immediately, he may make an arrest.

Committee Substitute for House Bill 490 (Chapter 77-41) makes assult and battery committed in a county or municipal jail or detention facility a felony of the second degree.

Crimes Against Property

Senate Bill 1047 (Chapter 77-348) prohibits schemes to defraud property and provides penalties for such acts. A scheme in which the intent was to defraud or obtain property from more than one person is punishable as a first degree misdemeanor. A scheme in which the intent was to defraud or obtain property from ten or more persons is punishable as a third degree felony. Proof of the identity of at least one person from whom property was obtained is required in any prosecution, but the identity of intended victims need not be proved.

House Bill 1730 (Chapter 77-62) amends Section 812.021, Florida Statutes, relating to larceny. "Conversion" is made an act of larceny when committed by specified persons having custody or possession of another's property. "Lessee" is specifically designated as a person who commits larceny by converting or appropriating property to his own or to another's use.

Prima facie evidence of intent to commit larceny is established by a failure to return leased or rented personal property at the expiration of the lease or rental agreement and within 10 days after receiving notice from the lessor or renter

demanding its return, or by the presentation of false identification to the lessor or renter. If the leased or rented property is a motor vehicle, aircraft, boat, or boat motor, failure to return it within 72 hours of the agreed upon time, unless the lessor or renter is notified of the reason for delay, is prima facie evidence of intent to commit larceny.

An affirmative defense is available to those persons who lawfully failed to return property or who reasonably believed their failure to return property was lawful.

Senate Bill 1431 (Chapter 77-342) creates the "Florida Anti-Fencing Act." Several sections of the larceny statutes are repealed and a version of the model theft and anti-fencing act is substituted. The act creates the statutory crime of theft and provides a three-level penalty structure for such crime. Theft of property valued at \$20,000 or more is grand theft of the first degree punishable as a second degree felony; theft of specified property or of property valued at \$100 or more, but less than \$20,000, is grand theft of the second degree and a third degree felony; and petit theft remains a second degree misdemeanor if the value of the stolen property is less than \$100. The act provides a penalty of misdemeanor of the first degree for possession of altered property by a dealer. Dealing in stolen property is prohibited. It is a felony of the second degree to traffic in stolen property; and a felony of the first degree to initiate, organize, plan, finance, direct, manage, or supervise a theft and traffic in stolen property. Proof of elements of the offense of theft or dealing in stolen property gives rise to inferences of intent to commit theft or of knowledge

that the property had been stolen. Theft and dealing in stolen property may be charged in a single indictment under proper circumstances. The act precludes certain defenses. Provisions are made for a supplemental fine and for civil remedies. The subject matter jurisdiction of the statewide grand jury is expanded to include violations of the provisions of this act, and any such violation is made a proper subject upon which to base an authorization to wiretap.

Senate Bill 906 (Chapter 77-132) adds the requirement to Section 810.08, Florida Statutes, relating to trespass in structure or conveyance, that the owner, lessee, or any person authorized by the owner or lessee, must warn a person to depart from the premises before that person is deemed to have committed trespass.

Senate Bill 928 (Chapter 77-362) provides that drafts given in payment at livestock auction markets for livestock purchases are not extensions of credit to the buyer, and they do not prevent the creation of liens on the animal or its products and proceeds. The act makes it unlawful for the livestock purchaser to delay payment on the draft. Violations are made a second degree misdemeanor.

Pornography

House Bill 1108 (Chapter 77-103) makes it unlawful for any person to knowingly produce, conduct, direct, perform or participate in any photograph, motion picture, exhibition, show, representation or other presentation involving a minor which depicts sexual conduct or excitement, or sadomasochistic abuse.

It is also unlawful for any person to knowingly aid, abet, counsel, hire, or procure a minor for such activities. A violation is a second degree felony. The bill makes it unlawful to knowingly exhibit, sell, lend, give away, distribute, transmit, transmute or advertise in any manner such depicted activities. A violation of this provision is a third degree felony. Definitions of the above activities are provided. Circuit courts have jurisdiction to enjoin such unlawful activity upon complaint filed by the State Attorney. Proceedings for the granting of injunctive relief are provided. Persons in possession of the material depicting such activities are charged with the knowledge of the contents thereof.

House Bill 721 (Chapter 77-220) requires that an exhibitor of motion pictures who shows other than G-rated previews with a G-rated feature must advertise the preview to the same extent as the feature or be guilty of a misdemeanor of the second degree. The intent of the legislation is to require exhibitors to warn the public that potentially violent or offense previews are being shown with G-rated movies.

Costs of Criminal Representation

Senate Bill 596 (Chapter 77-99) amends Section 27.52, Florida Statutes, dealing with the determination of insolvency of any accused person at any stage of the proceeding. The bill requires that a person seeking a determination of insolvency for the appointment of counsel, file an affidavit on a form promulgated by the Department of Legal Services. The bill also provides that a lien for costs of representation may be imposed against parents of a minor child who uses the services of a public defender.

The lien is enforceable by contempt proceedings.

House Bill 447 (Chapter 77-378) provides that parents of minors represented by public defenders or special assistant public defenders (private attorneys available to the public defender for special assignments) are liable for the costs of representation up to \$750, and to provide procedures in the form of liens in order to collect such costs.

House Bill 545 (Chapter 77-164) permits a county or municipality to appropriate or contribute funds to pay the salary of one assistant state attorney whose sole function is to prosecute violations of special laws and ordinances of the county or municipality.

Miscellaneous

House Bill 850 (Chapter 77-77) changes the effective date for the Florida Evidence Code from July 1, 1977 to July 1, 1978.

House Bill 1745 (Chapter 77-388) requires the court to notify the surety agent and surety company in writing within 72 hours of a bail bond forfeiture. It also provides that a forfeiture may be discharged within 30 days upon a determination that the defendant was adjudicated insane and confined in an institution or hospital, or confined in a prison or jail at the time of the required appearance.

House Bill 372 (Chapter 77-294) substantially revised procedures relating to inquests of the dead. The functions of the coroner and medical examiner are consolidated into one office - the medical examiner; the state attorney may petition the county court to hold an inquest; the county judge is designated

to schedule inquests; coroners' juries are eliminated, and in lieu thereof the presiding judge is vested with the responsibility of rendering the verdict as to the agency of death and as to the persons believed to be responsible.

Senate Bill 68 (Chapter 77-250) makes it unlawful for any person to knowingly employ, hire, recruit, or refer aliens for employment within the State of Florida who are not authorized to work by the immigration laws or the United States Attorney General. The first violation shall be a noncriminal violation, punishable by a civil fine of not more than \$500 regardless of the number of aliens involved in the violation.

Any person previously convicted of a noncriminal violation under this act and who thereafter commits a second offense shall be guilty of a misdemeanor of the second degree. Any such subsequent violation of this act shall constitute a separate offense with respect to each unauthorized alien.

LOCAL GOVERNMENT*

The Legislature here addresses the controversial subjects of rent increases in mobile home parks, condominium warranties and recreational leases. The State Mobile Home Tenant-Landlord Commission is created to provide administrative adjudication of rent disputes. More specific applicability of condominium warranties is provided and criteria for demonstrating a rebuttable presumption of unconscionability in a recreational lease are enumerated. In keeping with the continued national concern over energy supply, the lawmakers created the Florida Thermal Efficiency Code and Florida Lighting Efficiency Code which will apply selectively to new residential and non-residential buildings in terms of heating and lighting design. Bond financing provisions for local governmental jurisdictions were changed, and the Investment of Local Government Surplus Funds Act was passed to maximize the net interest earnings on funds of government below the state level.

State Mobile Home Tenant-Landlord Commission

This act applies to mobile home parks containing 100 or more dwelling units, but does not include a park established by an employer solely for the occupancy and use of its employees.

Committee Substitute for Senate Bill 223 (Chapter 77-49) creates a seven-member State Mobile Home Tenant-Landlord

^{*}Prepared by Senate Economic, Community & Consumers Affairs Committee

Commission consisting of two park owners, two park tenants and three members from the general public to be appointed by the Governor. Commissioners will serve staggered four-year terms, will be eligible for reappointment and will be compensated for travel and per diem expenses to meetings.

The Commission is authorized to maintain an office in St. Petersburg; employ and set compensation of personnel; meet and exercise powers; adopt, promulgate, amend and rescind rules; receive, investigate, hold hearings and rule on petitions; make studies; and, present an annual report to the Governor and Legislature. The Commission is authorized to examine past increases which took effect January 1, 1977, or later. Certain reasonable and justified increases are provided for.

Mobile home park owners are required to notify in writing, as of November 1 each year, every tenant to whom a rental or service charge increase will apply in the succeeding year. A petition to the Commission must be submitted within 60 days of this notification. Upon petition of 51% of tenants in a mobile home park, who receive rental increases in excess of the net U. S. Department of Labor Consumer Price Index increases since the last rental increase, the Commission is authorized to hold hearings and resolve differences. Either party who is not satisfied with a Commission ruling has the right to appeal to the circuit court of the judicial circuit where the park is located. Methods of handling funds involved in increases during appeal are specified. Recourse in the courts is provided for in the case of non-compliance to Commission rulings.

A State Mobile Home Tenant-Landlord Trust Fund is created to finance duties and functions of the Commission. Every mobile home park which contains 100 or more dwelling units must register by January 1 of each year with the Commission and pay a \$1 fee per dwelling unit which may be charged the tenants. These fees will constitute the Trust Fund. Original registration will be November 1, 1977.

Condominiums

The Condominium Act is substantially changed by Senate Bill 40 (Chapter 77-221).

The warranties section is amended to specify that this section will not apply to residential condominiums which are covered for a minimum of ten years by an insured warranty program covering roof, electrical and structural components, and improvements on a building excluding mechanical elements serving only one unit. The fee for filing a complaint with the Division of Florida Land Sales and Condominiums is reduced from \$25 to \$10.

This act establishes criteria for rebuttal of presumptive unconscionability on a lease pertaining to recreational or other common facilities, irrespective of the date the lease was signed. Unless otherwise provided in the bylaws, a majority of unit owners will constitute a quorum and decisions will be made by a majority of the quorum present. Notice of annual meetings will be sent by mail and the postal certificate will be retained as proof of mailing. A unit owner may be personally liable, on a pro rata basis not to exceed the value of his unit, for acts or ommissions of the association with regard to the use of

common elements.

During the transfer of association control, the developer may elect at least one association board member as long as the developer holds for sale at least 5% in a condominium with less than 500 units, and 2% in a condominium in excess of 500 units operated by the association.

Unless otherwise provided in the original declaration, specified changes may not be made to a unit unless an amendment to the declaration is executed by the owner and lienholders with the amendment approved by all unit owners.

Upon approval of 80% of all unit owners in each condominium, and 100% of all lienholders, two or more independent condominiums of a single complex may merge the declarations, bylaws and common elements to form a single condominium. A unit owner may require a certificate showing unpaid assessments on his unit from the association. A mortgage or lien holder is granted the same privilege.

Land Use, Platting and Zoning

House Bill 833 (Chapter 77-331) includes county or municipal resolutions which rezone real property within the procedures for the adoption of like ordinances and further stipulates that such ordinances or resolutions may be adopted immediately upon conclusion of the required public hearing called for such purpose. The respective procedures for the adoption of a local comprehensive plan or a future land use element of such a plan are substantially reworded for clarification and the amendatory process for a plan or element is the same as the adoptive process for each.

Senate Bill 270 (Chapter 77-223) clarifies the Local Government Comprehensive Planning Act by specifying that a local planning agency which has been established by special act has the same authority as other local planning agencies which are established by local governing bodies. The tax exempt status of agricultural lands meeting specified criteria (Florida Greenbelt Law) cannot be affected by a comprehensive plan adopted under this act.

House Bill 2155 (Chapter 77-278) provides where a plat lies within boundaries of more than one governing body, two plats will be prepared and each governing body will have exclusive jurisdiction to approve the plat within its boundaries, unless the governing bodies agree that one plat is mutually acceptable. Any provision in a county charter or code of ordinances of a county chartered under Section 6(e), Article VIII of the Florida Constitution will prevail over this law in the event of any inconsistency.

Senate Bill 651 (Chapter 77-152) specifies that provisions in ordinances of a county chartered pursuant to Section 6(e), Article VIII of the Florida Constitution shall prevail over statutory procedures for the approval of plats by local governing bodies.

Price and Rent Control Ordinances

Committee Substitute for Senate Bill 403 (Chapter 77-50) prohibits local government entities from passing a price control ordinance on lawful business activity which is not franchised by,

owned by, or under contract with the governmental agency unless specifically provided by general law. Rent control ordinances are specifically prohibited unless such controls are necessary to eliminate a grave housing emergency. In that event, prior to imposing rent controls, a local governing body must:

- Establish in fact the existence of a grave housing emergency and the necessity of such controls to eliminate the emergency;
- 2. Adopt necessary measures in accordance with all local, state, and federal law; and
- 3. Have voter approval within the local government entity.

Any such existing law, ordinance, rule or measure which has the effect of imposing rent controls will terminate within one year. No rent controls may be imposed on seasonal residential property or tourist unit, a second housing unit, or on luxury apartment buildings. The last is defined as one where existing leases or rent exceeds \$250 monthly per unit.

Uniform Pistol Licensing Policy

House Bill 924 (Chapter 77-302) provides that county commissioners of the respective counties may adopt by ordinance a uniform policy and procedure to issue licenses to carry concealed pistols on the person for a period of two years to applicants who are over 18 years of age, who are of good moral character and who post a bond in the amount of \$100 to the Governor. Criteria for establishing a uniform policy are established.

Full-time investigators employed by public defenders who are on official duty within their judicial circuit and who meet the official training standards are exempted. These investigators must be individually designated by an affidavit signed by the employing public defender and filed with the clerk of the circuit court.

Financing Service Facilities

Senate Bill 1035 (Chapter 77-269) amends that portion of the Florida Industrial Development Financing Act which provides that a county shall have the power and authority to issue revenue bonds to finance the cost of pollution-control facilities or devices or to provide water, sewerage or solid waste disposal for projects within or partially within a county.

This act requires the owner or user of the project to maintain the principal place of business within boundaries of the county issuing the revenue bonds. A county may request the Board of County Commissioners or the Industrial Development Authority for the county or counties in which the project is located to determine if statutory requirements have been met for issuance of bonds; this determination to be final and conclusive. Revenue refunding bonds may be issued at any time on or prior to the date of maturity of the original bonds.

Senate Bill 1350 (Chapter 77-351) redefines "project" for the purposes of the Revenue Bond Act of 1953 to include theme and amusement parks. Local governments are thus authorized to issue revenue bonds to finance acquisition or construction of such parks.

Senate Bill 83 (Chapter 77-187) amends the County and Water System and Sanitary Sewer Financing Law, authorizing counties to acquire privately held corporate sewer and water facilities by purchase or gift of the stock of such corporate owner. Revenues from the facilities may be pledged as security for the purchase price of the stock. A county may choose to operate the facilities through the acquired corporation, or dissolve the corporation, and operate the facilities in any other manner authorized by law.

Investment of Surplus Funds

Senate Bill 572 (Chapter 77-394) makes it mandatory instead of elective for boards of county commissioners, tax collectors and county officers, and governing bodies of municipalities and special districts to invest surplus public funds in obligations of or obligations guaranteed by the U. S. government at prevailing market prices, and they are required to comply with all other laws relating to legal investment of counties, municipalities and special districts.

This act creates the "Investment of Local Government Surplus Funds Act" to assist local government units in realizing maximum net interest earnings on invested surplus funds. The Local Government Surplus Funds Trust Fund, created under the act, will be administered by the State Board of Administration and participation by local governmental entities is required unless contrary to the investment requirements of a law or ordinance. Investment procedures are set out for each entity with particular reference to the county tax collector. When

requested to do so, the Board is authorized to assist local governments in investing surplus funds, to inform them of investment opportunities, and to provide them with technical assistance.

Tax Administration

Committee Substitute for Senate Bill 411 (Chapter 77-149) provides that municipalities, counties, school boards and special districts licensed as dealers under the motor fuel and special fuel tax law will not be required to post a bond. Public funds will no longer be encumbered indefinitely for the bond required to be a licensed dealer.

Senate Bill 204 (Chapter 77-55) repeals two requirements applicable to counties or municipalities levying occupational license taxes: (1) the requirement of making monthly reports to the Department of Revenue, and (2) the requirement of filing with the Department the resolution or ordinance authorizing the tax.

Senate Bill 660 (Chapter 77-251) removes the authority of municipalities to levy a tax on the purchase of cable television service. It allows continuance of the tax by municipalities to the extent necessary to meet obligation of bonds or certificates issued before May 4, 1977.

The Property Appraisal Adjustment Board in each county consists of three members of the county commission as elected from its membership and two members of the school board as elected from its membership. House Bill 1068 (Chapter 77-69) provides that a member of this Board may be temporarily replaced by other members of the commission or school board when appointed by their respective chairpersons.

Miscellaneous

House Bill 42 (Chapter 77-89) authorizes each local government, at its discretion, to provide group insurance for volunteer or auxiliary firefighters, volunteer or auxiliary law enforcement officers, and volunteer or auxiliary ambulance or emergency service personnel within its jurisdiction. The Department of Administration will initiate and supervise a group insurance program providing death and disability benefits for active members of the Florida Highway Patrol Auxiliary, with coverage beginning July 1, 1978.

MOTOR VEHICLES AND TRANSPORTATION*

The most important enactments of the 1977 Legislature in the realm of motor vehicles and transportation include: a general reclassification program for the road network in the state; fairer treatment for nonresidents ticketed for traffic violations through the creation of the "Florida Nonresident Violator Compact"; and a general reworking of statutes covering the regulation of motor vehicles, with particular emphasis on the issuance of license plates and the inclusion of the recreational vehicle industry within the regulatory framework of Florida law. Statutory provisions relative to the regulation of motor carriers by the Public Service Commission are extensively restructured and revised.

Florida Road Classification and Financing

Committee Substitute for House Bill 803 (Chapter 77-165) is the major transportation policy act of the Session. It functionally reclassifies the road system and returns the administration of the 5th and 6th cents gas tax to the counties. <u>The 5th and 6th cents provisions of this law are summarized as</u> <u>follows</u>:

> Counties receive full administrative control over all uses of the second gas tax by the end of a three year transition period.

* Prepared by House Committee on Transportation

- 2. A separate county transportation trust fund is created for related revenues and expenditures. Requirements for the utilization of these funds are provided and audits by the Auditor General required.
- 3. The measure provides for an Annual Transportation Report to the Legislature by the Department of Transportation which includes information from counties and municipalities as well as the state.
- 4. The D.O.T. is authorized to continue to utilize up to \$22.5 million of secondary funds to fund the Working Capital Trust Fund until July 1, 1983, by which time all secondary funds so utilized shall be replaced by D.O.T. funds.
- 5. D.O.T. no longer controls or approves secondary expenditures. D.O.T. serves as a banker for secondary funds and transfers funds to counties upon request within certain guidelines. The D.O.T. is prohibited from charging for this service or allocating any overhead.
- 6. Counties are authorized to utilize county forces to construct and reconstruct roads and bridges in emergency situations and up to five percent of their 80 percent portion of the second gas tax or \$50,000, whichever is greater. All other projects financed from the 80 percent portion of the second gas tax shall be subject to competitive bidding.
- 7. All secondary maintenance to be performed by the counties.
- 8. Certification of compliance with minimum maintenance, construction and design standards is provided.

9. Provides for a connected system of county roads.

The Functional Classification portion of the bill is summarized as follows:

10. All public roads are grouped into four systems based on maintenance responsibility:

> State Highway System State Park Road System County Road Systems City Street Systems

- 11. All public roads are classified by function (arterial, collector and local) and assigned to one of the four systems according to that functional classification, except for urban minor arterials which are divided between the state system and county system.
- 12. A review mechanism is provided to insure that road classifications will continue to be current and that transfers between systems will occur on a continuing basis in order to avoid a future need for massive realignment.
- 13. The D.O.T. is directed to conduct public hearings and adopt a classification plan by October 1, 1977, and begin its implementation by January 1, 1978, to be completed by July 1, 1982.
- 14. All roads being transferred from the state to local governments are to be in good condition.
- 15. D.O.T. to continue to have administrative responsibility for all aspects of federal aid and shall match federal aid on county road and city street systems until July 1, 1982, at which time the cities and counties will have

to provide the federal aid matching funds for any projects on their systems. (However, this provision was deleted in Senate Bill 32-B, Chapter 77-416.)

House Bill 2141 (Chapter 77-260) amends Chapter 555, Florida Statutes, which relates to outdoor theaters, to revise the terminology contained therein relating to roads in accordance with functional reclassification. The act provides that after October 1, 1977, qualifying certificates for outdoor theaters will be issued by the agency maintaining the road which provides access to the theater rather than the Division of Road Operations of the Department of Transportation. Operators of outdoor theaters must submit proof of compliance with the applicable provisions of Chapter 555, Florida Statutes, and the regulations of the agency maintaining the access road, in applying to the county tax collector for an occupational license. Department of Transportation regulations for state-maintained roads will constitute the minimum prescribed by the maintaining agency for meeting requirements for qualifying certificate. New certificates are to be issued only when changes have been made in these regulations. In addition, the issuing agency may perform inspections of theaters as it deems necessary, and shall have the authority to revoke a qualifying certificate for noncompliance with the provisions of this act and the regulations of the agency maintaining the access road.

House Bill 1116 (Chapter 77-491) designates certain roads in Dade County as a state historical highway and prohibits the use of state funds to remove certain trees or to alter certain physical features. The act allows for bicycle paths and appropriate recreational facilities under specified conditions.

Ordinary maintenance and repair of the road or structures are allowed under certain conditions but preservation of the appearance of the road is given priority over traffic management considerations. Sign regulations are provided and the acquisition of historical easements are authorized. In addition, provision is made for consideration by the property appraiser of any restriction placed on the use of property as a result of an historic easement.

Administrative Functions and Duties

House Bill 1747 (Chapter 77-44) deletes the statutory assignment to the Division of Administration of the Department of Transportation of departmental functions relative to condemnation proceedings, acquisition of right-of-way and the acquisition of land, buildings and other improvements. Such assignment of functions to the Department's Division of Road Operations concerning the disposal of land, buildings and other improvements and accounting for sales by consecutively numbered receipts is also deleted.

House Bill 1853 (Chapter 77-273) changes the name of the Division of Mass Transit Operations of the Department of Transportation to the Division of Public Transportation Operations. The term "mass transit" is construed by most people as having to do with moving masses of people by urban bus systems. However, the Division's responsibilities encompass all modes of transportation other than highways and this change of name is an effort to make the name of the Division more descriptive of its responsibilities.

Senate Bill 584 (Chapter 77-244) provides that the Department of Transportation may convey surplus property to units of local government for a public purpose at no charge. In

addition, surplus borrow pits may be sold to the owner of the parcel of abutting land from which the borrow pit was originally acquired for not less than fair market value as determined by an independent appraisal paid for by the buyer.

House Bill 2122 (Chapter 77-443) extends the application of the record retention schedules established under the Public Records Law to cover documents generated by the Department of Highway Safety and Motor Vehicles in the exercise of its statutory duties concerning motor vehicle title certificates, registration, license fees, license plates and licensure of manufacturers and dealers. The act also authorizes the Department to destroy, dispose of and photographically reproduce covered records in compliance with the schedules.

Road Construction Projects

House Bill 1405 (Chapter 77-79) clarifies the terms "dispute" or "pending claim" as they relate to payment of Department of Transportation contracts and removes the designation "Form 21-A" from the statutes. Legal opinion held that the fact that a specific form number was quoted in the statutes made the contents of that form statutory and thus not subject to revision without legislative action. Previously, a contractor could not receive final payment except within a specified period after filing a Form 21-A which displays all debts and includes a certification by the contractor that all debts have been paid. In many cases the contractor may not have sufficient cash flow to complete payment of all debts without the final payment from the contract and must either perjure himself on the Form 21-A

certificate or delay the filing of the Form 21-A until such time as his cash flow would enable him to complete payment of all debts on the contract. This delay complicates the contract administration process within the Department of Transportation, delays receipt of final payment by the contractor and delays payment of material and labor suppliers. This act provides that a consent by the contractor's surety for release of retainage and the final payment to the contractor is to be filed rather than the Form 21-A. This allows the Department of Transportation to pay the contractor and close out the contract while still being protected by the contractor's bond and allows the contractor to pay his suppliers on a more timely basis.

Senate Bill 1093 (Chapter 77-226) implements statutory authority for the Department of Transportation to covenant to complete with not more than \$115 million of state expressway bonds, the extension of the South Crosstown Expressway in Tampa if the current bond proceeds and other available funds should prove insufficient. No bonds shall be sold until the Tampa-Hillsborough County Expressway Authority and Department have made updated cost estimates and determined that total project costs will not exceed available funds excluding proceeds of the first gas tax. Project additions require legislative approval and may be funded only if the Department certifies sufficient monies exist for the completion of the original project. In the lease-purchase agreement, the Department shall provide for the expeditious reimbursement by the Authority of all operating and maintenance costs. Operating costs are to be reimbursed annually to the Department from funds available to the county or from state transportation (Primary) funds allocated

the Department's first district for the county. Utilization of the latter method will require the Department to begin allocating funds to specific counties as opposed to the current policy of allocating by districts.

Like implementation of authority is found in Committee Substitute for House Bill 1558 (Chapter 77-377) to permit the Department of Transportation to covenant to complete, with not more than \$160 million of state expressway funds, the Dame Point Bridge and Expressway of Jacksonville if current bond proceeds and other available funds should prove insufficient. No bonds shall be sold until bids have been received on the bridge portion of the project with updated cost estimates for the remainder of the project to determine that the total project costs will not exceed projected available funds, excluding first gas tax funds.

House Bill 77 (Chapter 77-34) abolishes the Pinellas County Transportation Authority which was created to develop plans for and construct a toll highway. After completion of a study on the proposed "Pinellas Parkway," the proposal was defeated in a referendum held June 8, 1976, and the members of the Authority requested repeal of the enabling law.

Special Road and Bridge Districts

Abolition of special road and bridge districts by a majority vote of the Board of County Commissioners, after 8 years or completion of all improvements for which the district was originally created, whichever shall occur first, is provided by Committee Substitute for Senate Bill 1175 (Chapter 77-327). Prior to this change, the board could not abolish a district until the expiration of 15 years, unless approved by property owners with a majority

of the vote in the district at any time after 10 years. The provision requiring the Commission to call an election, upon petition by persons having 25% of the vote in the district, is eliminated. Special assessments authorized such districts may bear interest at the rate allowed by law for special assessment bonds of the district. Such special assessments and special assessment bonds may be payable over a period not to exceed the life of the road and bridge systems or time permitted by law for general obligation bonds whichever is less. An additional method for retiring general obligation bonds by levying special assessments in lieu of or in combination with ad valorem taxes is included.

Urban service districts are made eligible by Senate Bill 139 (Chapter 77-451) to receive monies from one-half of the proceeds from the special road and bridge tax levied by a county on property in incorporated cities and towns for construction and maintenance of streets and highways.

The county must remit said funds to such cities, urban service districts and towns, in accordance with the schedule contained in Section 197.016, Florida Statutes.

Traffic Regulation

Under the provisions of Senate Bill 41 (Chapter 77-83) state agencies are prohibited from exacting any fee from any handicapped person for parking on the public streets or highways or in a metered parking space. The definition of handicapped person is expanded to include any "severely physically disabled individual with permanent mobility problems which substantially

impair his or her ability to ambulate." The physical disability must be certified by one physician or the Social Security or Veterans Administration.

To be exempt from the payment of parking fees, the handicapped person must have a Florida driver's license and the vehicle must bear a license plate imprinted with the designation "HP," "DV," or the wheelchair symbol. Additionally, the proper sticker reflecting such disability must be displayed upon the lower lefthand portion of the rear window. It is a noncriminal infraction to fraudulently obtain or use such stickers.

The number of parking spaces required for such handicapped persons in the immediate vicinity of public buildings, hospitals, etc., was increased from one space to three. A minimum of four parking spaces shall be provided at buildings where one goes for physical therapy. For all privately owned buildings whose occupants are licensed to do business with the general public, the number of parking spaces will be determined by the Standard Building Code. Such parking spaces shall be identified by both signs and pavement markings.

Under the provisions of the act, the use of any such specially designated parking space by an unauthorized person is a traffic infraction. In addition to issuing a ticket, a law enforcement officer is authorized to require that the vehicle be moved immediately or he may have it towed away at the owner's expense.

House Bill 2129 (Chapter 77-444) amends this last provision to require that a law enforcement officer take these steps.

Both acts authorize private businesses to provide specially

designated parking spaces for the handicapped which would be subject to the same limitations on use and enforcement procedures as are public spaces.

Finally, Senate Bill 41 (Chapter 77-83) provides that in order to qualify for a license plate stamped with the wheelchair symbol, the owner must possess a valid Florida driver's license and be permanently confined to a wheelchair.

House Bill 46 (Chapter 77-229) provides a right-of-way procedure for 4-way stop intersections so that when two or more vehicles approach a 4-way stop intersection the vehicle which stops first has the right-of-way to proceed first. If more than one vehicle stop simultaneously, the vehicle on the right has the right-of-way. The act further provides that the procedure for approaching a stop intersection is to be followed by a driver approaching an inoperative light at an intersection at which the traffic lights are wholly or partially inoperative.

House Bill 779 (Chapter 77-146) amends Section 316.131(3), Florida Statutes, which presently requires all traffic signals to comply with national uniform signal standards by January 1, 1977. This date has passed and all signals are not in compliance. This noncompliance created an adverse liability situation for the Department of Transportation, cities, and counties which this act relieves by extending the deadline for compliance to January 1, 1980.

House Bill 301 (Chapter 77-74) directs district school boards to establish school bus stops as necessary at the most reasonably safe locations available. The Department of Transportation is directed to place signs at bus stops where unusual traffic hazards exist on roads maintained by the state outside of

municipalities. These signs are to warn motorists of the location of the bus stops, and are to be placed in concurrence and cooperation with, and upon request of the district school boards.

Senate Bill 235 (Chapter 77-58) provides that each individual university or agency under the jurisdiction of the Board of Regents shall have the authority to promulgate its own traffic rules to be effective on the grounds of the institution, in addition to the traffic regulations of Chapter 316, Florida Statutes. All ordinances of the adjacent municipality relating to traffic, which are not in conflict or inconsistent with the traffic rules adopted by the individual institution, shall also extend and be applicable to the grounds of the institution. A violation of any of those rules adopted by the individual institution is a university traffic infraction. The head of each institution may appoint a university authority to adjudicate these infractions. Money collected from parking assessments and infraction fines shall be used to defray the administrative and operating costs of the traffic and parking programs, additional parking facilities, or for student loans.

Senate Bill 958 (Chapter 77-456) sets out the liability for the payment of parking tickets by making the owner of the motor vehicle responsible for payment of all parking tickets except in those cases where the owner furnishes evidence that the vehicle, at the time the violation occurred, was in the care, custody, or control of another person. Car rental companies could likewise be absolved of responsibility. Additionally, the offense of willful failure to obey a police officer or fireman

at the scene of a fire is changed from an infraction to a misdemeanor of the second degree.

Senate Bill 1427 (Chapter 77-373) creates the Florida Nonresident Violator Compact. Under prior law, a nonresident motorist who is arrested for a traffic violation must either post bond to secure appearance for trial at some later date, or, if he is unable to post bond, he is taken into custody until such bond is posted or taken directly to court for trial to be held. The Compact provides that law enforcement officers may issue citations to nonresident violators whose home states are members of the Compact and permit them to continue on their way. Upon returning to their home state such drivers must satisfy the terms of that citation. If the citation is not satisfied, the issuing state notifies the home state which will suspend the license of the violator. The act further provides that either the father, mother or guardian may sign the application for a driver license of a person under the age of 18 years. Heretofore, both parents were required to sign the application.

Senate Bill 1176 (Chapter 77-219) establishes the procedure for reinstatement of the driving privilege to drivers who have been convicted of driving under the influence of alcohol, model glue or certain controlled substances; or convicted as a habitual offender; or drivers whose license has been suspended under the point system. In addition to passing the complete driver's license examination, such drivers must present to the Department of Highway Safety and Motor Vehicles proof of enrollment in a Department-approved driver training or alcohol education course. The Department must cancel a reinstated license if the driver

fails to complete the required coursework within 90 days of the reinstatement.

Senate Bill 540 (Chapter 77-265) provides that whenever a motor vehicle damages a fence or other structure used to contain livestock, the law enforcement officer on the scene or receiving a driver's report is required to make a reasonable effort to notify the structure's owner, occupant or agent of the damage.

House Bill 155 (Chapter 77-14) allows the Department of Highway Safety and Motor Vehicles to issue identification cards to anyone 15 years of age or older who does not have a valid driver's license. Previously the age was 18 or older.

Motor Vehicle Regulation

Senate Bill 535 (Chapter 77-357) deletes obsolete definitions and language from statutes concerning the registration and licensing of motor vehicles and related activities. The definition of "registration period" was clarified and "renewal period" was defined, in part, as the 30 day period ending at midnight of the vehicle owner's birthday for certain motorcycles, automobiles, semitrailers, trailers and recreational vehicles. References to trailer or semitrailer are deleted in provisions concerning motor vehicle registration and the requirement that the Department maintain a motor vehicle registration book or index is removed.

As a result of a recent court decision, the authority of the Department of Highway Safety and Motor Vehicles, i.e., the Director of its Division of Motor Vehicles, to conduct hearings and issue and cancel motor vehicle dealer licenses was nullfied. This act reinstates that authority and names the director as the

hearing officer. Department rule-making and administrative authority is extended to cover the Financial Responsibility Law.

Alphanumeric license plates issued from July 1, 1977 to owners of new or used motor vehicles who do not have a valid plate or need a replacement are to bear a graphic symbol (picture), but the issuance of such plates to all other owners will not commence until July 1, 1979 and must be completed by June 30, 1980. These new plates are to be issued for an indefinite period, but are expected to have a life of seven to ten years. Provision is made for the replacement of plates deemed unsatisfactory by any motor vehicle inspector or law enforcement officer. The Department may effect mass reissuance of plates on six months' notice every eighth year if essential to public safety.

Each plate is to be issued with two decals or stickers: one showing the owner's birth month or, if the owner is nonnatural, appropriate renewal period, and the second showing the year of expiration and carrying a serial number. The birth month decal is to be placed in the upper left hand corner of the plate. Plates are to have the word "Florida" at the top and the county where sold at the bottom except for personalized prestige plates which are to have the word "Florida" in small letters across the bottom.

The normal registration period is to be 12 months, but a 15 month period may be realized through advance registration at any time during the three months preceding the expiration of the registration period.

Trucks up to 5,000 pounds and recreational vehicles may carry personalized prestige plates or special plates for amateur radio operators, handicapped persons, Seminole Indians and the

National Guard, but persons may no longer obtain a license plate with specially selected number through payment of one dollar premium.

Motor vehicle dealer application fees and annual license renewal fees are increased from \$25 to \$100 and \$10 to \$25, respectively. The fee for a supplemental license is also increased from \$5 to \$10. In the past, motor vehicle dealer applicants were required to file a condensed balance sheet with the department prior to receiving their license to do business in the state. This law requires the applicant-dealer of new and used motor vehicles to file a surety bond with the Department in favor of any retail customer who shall suffer any loss by his doing business with the dealer.

The Department currently has the authority to enforce the motor vehicle laws of the state. However, it may now delegate some of that authority to the various tax collectors who wish to enforce the registration provisions of Chapter 320, Florida Statutes, regarding mobile homes. Moreover, the Department rather than the Governor is to appoint its license inspector and supervisors and the statutory limit to such agents is removed.

Regulatory statutes relating to mobile home manufacturers and dealers, both resident and nonresident, are extended to cover recreational vehicle manufacturers and dealers. Each used mobile home or recreational vehicle manufactured after January 1, 1968 and sold in Florida must meet the standards of the Used Mobile Home or Recreational Vehicle Code and all new and used mobile home and recreational vehicles must have a seal showing it meets the appropriate code. Mobile home warranty requirements are

extended to recreational vehicles which dealers and manufacturers must also post surety bonds for the protection of their retail customers.

Senate Bill 612 (Chapter 77-395) eliminates certain fees and refunds relating to license plate transfer in the disposition by sale, trade or transfer of certain automobiles held for private use and trucks weighing not more than 3,000 pounds. Also eliminated is the transfer fee formerly required of a surviving spouse of a deceased registered motor vehicle owner. The license fee structure of certain automobiles for private use and trucks is altered to increase the fees. Payment of the registration license tax is required of owners of certain private use automobiles when the replacement vehicle to which a personalized prestige license plate is to be transferred is of a <u>different</u> (rather than <u>greater</u>) weight classification.

Senate Bill 13 (Chapter 77-125) amends Section 320.0805, Florida Statutes, to extend the authorization for prestige license plates to recreational vehicles and trucks under 5,000 pounds in addition to the present authorization for passenger automobiles and motorcycles. Special license plates for members of Congress, the United States Senate, the State House of Representatives and the State Senate are shifted from Section 320.72, Florida Statutes, to this section with substantially the same provisions, except that the fee is increased from the regular fee for the vehicle involved to the regular fee plus \$12.50 in the same manner as all other prestige license plates. Section 320.13, Florida Statutes, is amended to allow the use of dealer plates on motor vehicles being operated in connection with a dealer's business in addition to those in inventory and for sale.

House Bill 156 (Chapter 77-68) amends Florida Statute Sections 320.0806(2) relating to "HP" (handicapped persons) license plates, 320.0843 relating to wheelchair user license plates, 320.083 relating to special license plates for amateur radio operators, and 320.089 relating to special tags for members of the National Guard, to authorize the use of these plates on recreational vehicles and trucks under 5,000 pounds in addition to automobiles. This act also amends Section 320.084, Florida Statutes, to alter the residency requirement for receipt of a free disabled veteran "DV" license plate from simple residency to having been a resident of Florida continuously for the preceding five years or having established domicile in this state as provided by Section 222.17(1), (2) or (3), Florida Statutes. In addition, the veteran must surrender the DV plate when he is no longer a resident of the state.

Committee Substitute for Senate Bills 758 and 945 (Chapter 77-454) allows volunteer firemen to use the flashing red lights presently authorized on their private vehicles while enroute to the fire station in order to proceed to scenes of fires as well as to other emergencies. The act also provides for a distinctive permanent license plate for vehicles owned and operated by volunteer fire departments. The exemption of such vehicles from license taxes and additional fees (provided for in Section 320.10(1)(f), Florida Statutes) is repealed.

House Bill 651 (Chapter 77-180) amends the recreational vehicle portion of the definition of motor vehicle in Section 320.01, Florida Statutes, to increase the allowable body length of travel trailers from 32 feet to 35 feet. In addition, a new

classification of recreational vehicle, "Fifth Wheel Recreational Trailer," is included and provides that this trailer may be up to 35 feet in length with two axles and up to 40 feet with three axles. However, the trailer and the vehicle towing it may not exceed a maximum length of 55 feet. Such trailer is defined to be a vehiclular portable unit primarily designed and constructed to provide temporary living quarters for recreation, camping or travel use and to be connected for towing through the use of a fifth wheel device.

Senate Bill 5 (Chapter 77-11) prohibits the practice of updating motor vehicles for sale as the current year models. Updating is defined to mean modifying a motor vehicle so that it resembles in appearance the current year model or replacing the original identification number or chassis number which would reflect a change in the year it was manufactured. Reissuing a manufacturer's statement of origin changing the model year of manufacture is also prohibited.

Senate Bill 930 (Chapter 77-228) repeals the Florida law which duplicates federal requirements that private passenger automobile bumpers on cars manufactured after a certain date, withstand a five m.p.h. impact without damage to the vehicles.

Motor Carrier Regulation

Committee Substitute for House Bill 786 (Chapter 77-434) is a general revision of statutes providing for regulation of motor carriers by the Public Service Commission done for the primary purpose of making these laws more easily understood and thus more workable. Obsolete provisions have been removed;

related sections combined; and ambiguous sections rearranged and clarified in response to problems identified by the Administrative Procedures Committee.

Substantive changes include:

Additional definitions;

Doing away with mandatory hearings on applications for permits when no protest is filed and served;

Combining all classes of certificates of convenience into one procedural section;

Some fee changes;

Creation of a new section dealing with the granting of charter carriage authority;

Eliminating the "for-hire" concept and placing certain limited transportation services under a "permit" requirement;

Granting of master taxi permits;

Providing for the applicability of municipal ordinances to carriers operating wholly within a municipality and its suburban territory;

Providing for Commission authority to award full or partial exemption to a carrier from the requirement of filing a bond or insurance policy with demonstration of carrier's ability to selfinsure subject to reasonable requirements;

Criteria to be used by the Commission in fixing rates;

Listing of additional carriers exempt from such ratefixing authority; and

Provision for emergency or trip-lease cards instead of cab cards good for not more than 15 days.

An orderly, consolidated listing of fees and charges is provided and separate but similar treatment is given road taxes and enumeration of those carriers exempt from Commission regulation.

Summary of General Legislation, 1977 ... Florida Legislature

PROFESSIONAL AND OCCUPATIONAL REGULATION*

The 1977 legislative session saw the enactment of a number of bills dealing with professional and occupational regulation. The twenty-four measures which became law are summarized below.

General Regulation

Senate Bill 1238 (Chapter 77-457) amends the Regulatory Reform Act of 1976 to postpone the repeal of a number of regulatory statutes. Legislative committee review of licensing and regulatory function will begin two years prior to repeal rather than one year. A committee recommendation is to be made on or before January 1 prior to the repeal date. Review of regulatory provisions subsequently enacted by the Legislature shall begin within 4 years of enactment, rather than 5 years, with the recommendation due January 1 of the next odd-numbered year after review begins. Any such law would expire six months later unless reestablished by the Legislature.

Senate Bill 877 (Chapter 77-255) alters the procedures for licensing foreign applicants who have practiced in other countries. The law repeals the current provisions for the continuing education and licensing of foreign applicants, but directs the boards of the Department of Professional and Occupational Regulation to adopt and implement programs to

^{*}Prepared by Senate Committee on Economic, Community and Consumer Affairs

qualify Cuban nationals for examination. Any person who has completed or is currently enrolled in a program under the present statutory provision will be qualified for examination notwithstanding the repeal of the present statute. The examination will be administered in English unless 15 or more such applicants request reexamination in their native tongue. The costs of such reexamination will be borne by the foreign applicants.

Dentistry

House Bill 240 (Chapter 77-205) relating to dentistry, includes oral-maxillofacial surgery, together with accompanying physical evaluation, in the practice of dentistry. Dentists are thus authorized to perform surgery of the jaw and face.

Senate Bill 492 (Chapter 77-195) permits an applicant for a dental license to retake the examination three times. To qualify to take the practical, clinical and professional portions of the examination more than three times, an applicant must satisfy the Board of Dental Examiners that he has successfully completed courses designed to improve his clinical skills. Additionally, the act requires successful completion within the past 5 years of the National Board of Dental Examiners' examination for dental applicants and the National Board of Dental Hygiene examination for dental hygiene applicants.

Physicians and Pharmacists

Senate Bill 1236 (Chapter 77-398) deletes provisions which exempt persons employed as physicians, osteopathic physicians, and chiropractic physicians in state institutions

from licensure requirements. However, the Secretary of Health and Rehabilitative Services in conjunction with the appropriate licensing board may exempt from such licensure requirements up to ten percent of such persons presently so exempted during their continued employment in a state institution. Those not exempted will be required to be licensed by October 1, 1980 to continue their employment. The act also requires pharmacy applicants who fail the state board examination three times to make a showing of good cause to the Board of Pharmacy before being allowed to take a subsequent examination. The Board is authorized to impose appropriate conditions. Such reexamination must be completed within two years of the date of the first examination except upon showing of good cause. The law deletes the requirement that an applicant taking the pharmacy examination must complete four academic years of higher education not less than 3,000 hours, thus permitting graduates of accelerated programs to qualify.

Senate Bill 967 (Chapter 77-173) authorizes and establishes an osteopathic physician's assistant program under the State Board of Osteopathic Medical Examiners. The bill contains identical provisions to those contained in Section 458.135, Florida Statutes, pertaining to the present physician's assistant program under the Board of Medical Examiners.

Podiatrists

Senate Bill 305 (Chapter 77-56) makes several amendments to the existing law. First, the diploma requirement of four separate calendar years at an approved podiatry or chiropody school may be satisfied by a diploma obtained by the hourly

equivalent of four calendar years. Second, the licensing examination fee for podiatrists is increased from \$50 to \$100 as a result of a study by the House Regulated Industries Committee indicating that the cost of administering the examination has increased. Third, the law deletes the requirement that the use by podiatrists of any title or abbreviation must be accompanied by the designation "podiatrist, diseases of foot and leg." Fourth, the Board of Podiatry Examiners is authorized to waive the continuing education requirements for good cause shown.

Senate Bill 1014 (Chapter 77-364) authorizes the State Board of Podiatry Examiners to revoke, suspend, or annul the license of a podiatrist or reprimand such podiatrist who is unable to practice podiatry with reasonable skill and safety by reason of illness, excessive use of drugs or alcohol, or as a result of any mental or physical condition. Upon probable cause, the Board may compel a podiatrist to submit to a mental or physical examination by a licensed physician to determine such conditions. Refusal by the podiatrist to submit to the examination is deemed an admission of the allegations, unless such failure was due to circumstances beyond the podiatrists' control, in which case a default and final order may be entered. Provision is made for such podiatrist to subsequently demonstrate competency.

Psychologists

Senate Bill 800 (Chapter 77-247) clarifies the present statutory requirement that in order for an applicant to take the psychology examination, he must have at least two years of experience. The experience requirement may be met by work

performed on or off the premises of the supervising psychologist.

Naturopaths

Senate Bill 164 (Chapter 77-137) decreases from two to one the number of times the State Board of Naturopathic Examiners must meet each year.

Chiropractors

House Bill 871 (Chapter 77-230) authorizes the Florida State Board of Chiropractic Examiners to impose a fine, not to exceed \$500, for each violation of Chapter 460, Florida Statutes, or the rules promulgated pursuant thereto, in lieu of suspension or revocation of the license. The fine would provide an intermediate penalty for infractions that do not require suspension or revocation. The act also allows the board to require payment of the costs of the administrative proceeding.

Veterinarians

Senate Bill 690 (Chapter 77-144) provides for biennial rather than annual renewal of veterinary licenses. Additionally, failure to submit proof of completion of the required annual continuing education program is made cause for suspension or revocation of one's license. The law also requires that the premises where veterinary medicine is practiced be registered with the Board. Upon registration and payment of \$25, a permit shall be issued certifying that the premises meet Board standards on sanitary conditions and physical plant. The registration must set forth the name of the licensed veterinarian managing the premises. The prodedure for substitution by another licensed

veterinarian is provided. The Board may refuse to grant, suspend, or revoke the registration without a hearing if an inspection indicates the premises do not meet Board standards or if the license of the responsible veterinarian has been revoked. Operating without a premise permit subjects the owner or operator to a penalty not to exceed \$1,000 for each count. Payment of an additional fee of \$25 is required for reinstatement of a revoked or suspended license.

Paramedics

Committee Substitute for Senate Bill 1011 (Chapter 77-347) amends the Florida Emergency Medical Services Act of 1973 to provide for the administration of advanced life support techniques by paramedics. The law requires HRS to adopt minimum standards for advanced life support services vehicles, equipment, and staff, and for paramedic training and qualifications for certification.

Persons currently providing or seeking to provide advanced life support services are required to be certified by HRS. Emergency medical services systems using paramedics to perform advanced life support procedures are required to employ a licensed physician to supervise emergency medical technicians and paramedics.

The Department is required to adopt criteria for the certification of paramedics. Paramedics are exempted from liability for their actions while rendering emergency services under certain circumstances. Any uncertified person who holds himself out to be a paramedic is guilty of a misdemeanor of the second degree.

Dental Hygienists

Senate Bill 408 (Chapter 77-141) requires dental hygienists to complete 24 to 36 hours of approved continuing professional education biennially as a condition precedent to certificate renewal. The Board has the authority to make an exception in circumstances of emergency, pregnancy, or hardship.

Dispensing Opticians

Senate Bill 634 (Chapter 77-143) authorizes the State Board of Dispensing Opticians to reinstate the license of a licensee who has failed to renew his license, but who has applied for reinstatement within three years. Such person will be required to pay the renewal fee for each delinquent year, together with a reissuance fee of \$50. After the three years, the licensee must reapply in accordance with the procedures for initial application. Any person practicing optical dispensing after termination of the license will be subject to a misdemeanor penalty of the second degree.

The law removes the requirement that the secretarytreasurer of the Board execute a bond of \$2,000 to the State. Additionally, the law provides the payment of authorized expenditures upon presentation of vouchers approved by a designated representative of the Board in addition to vouchers approved by the chairman and secretary-treasurer. The secretarytreasurer will no longer be required to submit an annual financial statement to the Governor.

Senate Bill 715 (Chapter 77-198) amends the training and experience requirements for admission to examination for a

dispensing optician's license. Three years' active practice as a licensed dispensing optician in another state will satisfy the requirement, as will three years' experience as a registered apprentice.

Cosmetology

House Bill 1347 (Chapter 77-232) excludes from the definition of the practice of cosmetology those cosmetic practices which, although they are done for payment, are nevertheless done solely for the possible sale of merchandise.

Senate Bill 927 (Chapter 77-325) authorizes the State Board of Cosmetology to establish and maintain its main office at a location other than Tallahassee.

Masseurs

Senate Bill 734 (Chapter 77-261) rewrites Chapter 480, Florida Statutes, relating to the practice of massage. The law provides for the Florida Board of Massage, for registration of massage establishments and schools, for certification of masseurs, for promulgation of rules and regulations, for a fee schedule, for disciplinary action, for exemptions, and for penalties and injunctions when provisions of the chapter are violated.

Real Estate Brokers and Salesmen

Senate Bill 358 (Chapter 77-238) provides that the Florida Real Estate Commission may require satisfactory completion of a maximum of 51 or 48 classroom hours of educational courses as a prerequisite to the initial registration of real estate salesmen or brokers, respectively. A "classroom hour" is defined to

be a 50 minute period. As a condition precedent to the renewal of one's certificate, the Commission may also require up to 14 hours of post-licensing instruction during the preceding four years.

The act also requires that every person, school, or institution, other than approved and accredited colleges and universities, which offers a real estate course prescribed by the Commission must obtain a permit before commencing the course.

Senate Bill 377 (Chapter 77-239) exempts from the Real Estate License Law employees of a public utility, a rural electric cooperative, a railroad, or Department of Transportation while acting within the scope of employment, without compensation in addition to regular salary, in buying or leasing real property for the use of his employer.

Senate Bill 404 (Chapter 77-355) clarifies the Florida Real Estate Commission's authority in several areas. The Commission is authorized to issue "broker-salesman" certificates to brokers who are operating as salesmen for other brokers. The Commission may also sell at cost optional certificates suitable for framing. The Commission may refund a prorated portion of application fees when the state was not entitled to the fees or when the application was not completely processed. The act requires every active broker to maintain a stationary office to assure his availability to his customers. The act also provides that when the certificate of a broker is revoked or suspensed, the certificates of salesmen employed by him are automatically cancelled rather than suspended. Finally, the act clarifies the provisions with respect to advance fees for the listing of real property and

specifies that persons renting mobile home or recreational vehicle lots are not required to hold a real estate license.

Construction Industry Licensing Board

Senate Bill 1232 (Chatper 77-145) amends various provisions relating to the licensing of the construction industry. The law clarifies the definition of "contractor" to ensure qualification and responsibility for the entire project for which he has contracted and also provides clear standards for education and experience to qualify for the certification examination. After completion of the examination, the applicant is required to furnish evidence of financial responsibility, credit and business reputation The act provides for use of the Board's records as evidence in hearings, for affixing the state license number to contracts and bids, for penalties for abandoning projects and making material false statements, for security of examinations, for administration of oral examinations, for special registration for contractors who do work in a limited phase of construction, for prominent display of the license, and for minor changes in the Board.

Florida Electrical Contractors' Licensing Board

Senate Bill 580 (Chapter 77-196) authorizes the Florida Electrical Contractors' Board to assess a fee of up to \$20 for initial registration and up to one-half that amount for renewal.

Summary of General Legislation, 1977 ... Florida Legislature

PUBLIC OFFICERS AND EMPLOYEES*

Although public officers and employees are the subject of considerable legislation, much of it concerns refinements in current law. Among the most significant enactments affecting public officers and employees is a measure which reduces the membership of the Public Employees Relation Commission from five part-time members to three full-time members and which revises the collective bargaining law. Other important legislation increases the membership of the Career Service Commission, increases the amount of per diem for travel in connection with employment, expands the salary incentive program for law enforcement officers to cover certain state employees, and prescribes the situations in which public offices are to be deemed vacant and revises the procedure for Senate confirmation of appointments to public office when required. Two of the major changes with respect to the retirement laws provide for 30-year retirement to be funded by employee contributions and provide for the assumption by the State of one-half of the contributions presently required of members of the Elected State Officers' Class of the Florida Retirement System other than legislators.

Career Service

Senate Bill 1364 (Chapter 77-370) increases the membership of the Career Service Commission, which is appointed by the

^{*}Prepared by Senate Legislative Services

Governor, from five to seven serving 4-year staggered terms. The Commission is authorized to elect a chairperson and other officers as are provided by its rules, to provide recognition to terminating members, to provide for meetings in panels, and to provide for the staff. The honorarium for Commission members is increased from \$25 to \$100 for each day spent on the work of the Commission. The Department of Administration is required to pay for legal counsel for the Commission whether provided by that Department or the Department of Legal Affairs. The law requires appeals of personnel actions be filed within 20 days from receipt of such notice by the employee. The new law also provides for de novo, fact-finding hearings pursuant to the Administrative Procedures Act for dismissed employees. The Commission is authorized to reduce the period of an employee's suspension or to reduce a dismissal to a suspension.

House Bill 261 (Chapter 77-38) provides that no minimum qualification or examination shall be used to deny employment in the career service system to any person unless the minimum qualification or examination is a valid predictor of job performance. The personnel officer of each executive department having more than 3,000 authorized positions is authorized to classify and reclassify positions without the prior approval of the Division of Personnel of the Department of Administration. Such actions are subject to postaudit by the Division of Personnel. The Department must prepare a plan for the delegation of classification and reclassification authority to all other executive departments for presentation to the next regular session of the Legislature.

Collective Bargaining

Senate Bill 1449 (Chapter 77-343) revises Part II of Chapter 447, Florida Statutes, and modifies provisions in Part I to conform to such revision. License fees for business agents of labor organizations are increased to \$25. Coercion or intimidation of public officials or their families is prohibited. Application of criminal penalties and civil remedies is limited to the general provisions of Part I of Chapter 447, Florida Statutes. The Governor is established as the "public employer" for state career service employees. The law redefines "managerial employees" and authorizes the designation of police officers and firefighters as such employees by the Public Employee Relations Commission. The definition of "strike" is expanded to include overt preparation, including but not limited to, the establishment of strike funds. "Good faith bargaining" is defined and examples of incidents indicative of bad faith are The term "student representative" is defined to allow listed. for student involvement in community college and university negotiations.

The new collective bargaining law reduces the number of Public Employee Relations Commissioners from five to three, provides for their full-time service, and sets their annual salary at \$36,000 (\$38,000 for the chairman). The Commission is made independent of the Department of Commerce and certain deliberations and workpapers are exempted from public meetings and records requirements. Commission proceedings are expressly required to be in accordance with the Administrative Procedures Act and the Commission is given subpoena and contempt powers.

Provisions relating to the deduction and collection of dues for employee organizations and the registration and certification of such organizations are clarified. Employee organizations are required to file annual financial reports. Intervention into the certification process by an employee organization is allowed upon a showing by 10 percent of employees in a proposed unit. If the certification requires an election, the cost of the election is to be shared equally by the parties. Conditions and terms of retirement benefits are excluded from the collective bargaining process.

The measure eliminates automatic impasse provisions, requires a party rejecting the special master's report to provide written notice of the reasons for rejection and requires the employee organization to submit recommendations to the legislative body and chief executive officer of a governmental entity for settlement of the impasse. The compensation of the mediator and special master, and all stenographic and other expenses, are to be borne equally by the parties. Records provided by request to the special master are to be made available to other parties upon written request.

Authority to award to the prevailing party costs of litigation and attorney's fees and witness fees is given to the Commission in proceedings involving charges of unfair labor practices. Judicial review of Commission action by district courts of appeal is clarified and the court is authorized to award costs of litigation and attorney's and witness fees.

The local option provision allowing any district school board or political subdivision of the state to establish a local

public employee relation commission is limited to such boards or subdivisions which have filed an application for certification of a local option by the state commission on or before June 1, 1977.

"Government in the sunshine" provisions as they relate to the chief executive officer of the public employer are extended to include the representative of such officer. Full-time employees or officers of a public employer or employee organization are authorized to represent their employer or any member of a bargaining unit in proceedings authorized by Part II of Chapter 447, Florida Statutes, except that lay persons may not provide such representation in a court of law.

Compensation and Travel

The compensation to be paid to a retired Justice of the Supreme Court or a retired judge who is assigned to active judicial service pursuant to the State Constitution was revised in Committee Substitute for Senate Bill 301 (Chapter 77-282). Under the new provisions, such a justice or judge shall be paid \$100 for each day or portion thereof that he is assigned to active judicial service plus necessary travel expenses incident to the duties required by assignment to active judicial service. The measure also provides that no retired justice or judge shall serve for more than 100 calendar days per year on temporary assignment.

Committee Substitute for House Bills 922 and 2272 (Chapter 77-436) expands the definition of "law enforcement officer" for purposes of the salary incentive program for law enforcement

officers to include any person elected, appointed, or employed full-time by a municipality, the state, or a political subdivision of the state, who is vested with authority to bear arms and make arrests, whose primary responsibility is the prevention and detection of crime or the enforcement of the criminal, traffic, or highway laws of the state, and who hold active certification from the Police Standards and Training Commission. Under the measure, no education incentive awards shall be made for any state law enforcement position for which the class specification requires the minimum of a 4-year degree or higher, and no contributions shall be required and no benefits shall be paid under the provisions of the Florida Retirement System with regard to any incentive award. The act is funded by an appropriation of \$1,485,000 from general revenue and an additional \$36,020 to cover program administrative costs to the Commission.

House Bill 45 (Chapter 77-66) allows any state employee holding a position, the salary of which has been specifically fixed or limited by law, rather than just state attorneys or public defenders, to receive additional compensation from an educational appropriation, such compensation not being computed as a part of the average final compensation for retirement purposes.

The Department of Administration is required by House Bill 1669 (Chapter 77-439) to consult with the Department of Banking and Finance before approving monthly or biweekly pay periods. The Department of Administration also is authorized to permit state officers and employees to participate in a health maintenance organization as an alternative to participation in the state health insurance plan.

House Bill 1213 (Chapter 77-231) raises from \$25 to \$35 the per diem for officers, employees, and authorized persons traveling, whether inside or outside the state, in order to conduct bona fide state business or to attend a convention or conference.

Senate Bill 836 (Chapter 77-154) exempts travel by sheriffs, when required to go out of Florida to bring back a prisoner, from the general provisions governing per diem and travel expenses of public officers.

Committee Substitute for House Bill 1375 (Chapter 77-437) clarifies that the Department of Banking and Finance has rule-making powers for travel by public officers and employees and repeals the requirement that travel agencies obtain an annual permit from the Department of Banking and Finance to do business with the state for transportation requests.

Retirement

The Legislature in Senate Bill 444 (Chapter 77-286) extended the disability retirement benefits provided pursuant to the Florida Retirement System for justices or judges retired under disability by order of the Supreme Court to apply to any member who is a Justice of the Supreme Court, a Judge of a District Court of Appeal, a Circuit Judge, or a Judge of a County Court who has 10 years or more service as an elected constitutional judicial officer, including service as a judicial officer in any court abolished pursuant to Article V of the State Constitution. In the same act, the Legislature eliminated the requirement that the person charged with the administration

of each local or municipal retirement system file an annual report with the Division of Retirement of the Department of Administration containing such information as the director of the Division may require and also file a copy of each actuarial survey made of such local or municipal retirement system. Also, the Legislature has mandated the Division of Retirement, commencing in 1980, to make a survey of the reqirement provisions and financial condition of locally-administered retirement systems and to update such survey every third year rather than annually. The Division is required to present its findings and conclusions resulting from such survey to the Legislature in each year in which the survey is conducted.

Committee Substitute for Senate Bill 66 (Chapter 77-467) redefines the term "normal retirement date" for purposes of the Florida Retirement System to include the first day of the month following the date a member, regardless of age, completes 30 years of creditable service, which may include a maximum of 4 years of military service credit so long as such credit is not claimed under any other system. To fund the provisions of this 30-year retirement plan, effective October 1, 1978, each employee will be required to contribute 1 percent of his gross compensation each pay period and each employer will be required to contribute an additional two-tenths of 1 percent of the gross compensation each pay period for each regular member. The measure prohibits any member of the Florida Retirement System who retires from joining any other state or local government supported retirement system in Florida and prohibits any political subdivision of the state from requiring as a condition

of employment that the employee join or participate in any pension or retirement plan or program if the employee is eligible or is receiving benefits under the Florida Retirement System. The new law also redefines the term "average final compensation" for purposes of the Florida Retirement System to mean the average annual compensation of the 5 best years of a career, if requested by the retiree.

Senate Bill 413 (Chapter 77-241) provides that any retired member of a state-supported retirement system who is receiving benefits recomputed pursuant to Section 112.362, Florida Statutes, by virtue of being 65 years of age, having at least 10 years of creditable service, and having retired under a plan or system which does not require its members to participate in social security, shall also receive the cost-of-living adjustment for the fiscal year beginning July 1, 1977, and for each year thereafter.

House Bill 43 (Chapter 77-469) expands the definition of "prior service" for purposes of the Florida Retirement System to permit the purchase of retirement credit for employment during which an employee was not a member of an existing system and did not make any contributions to a retirement system, and to permit purchase of retirement credit for service during which an employee did not make contributions to a retirement system due to the fact that the employee made a written rejection of the Florida Retirement System. A governmental entity is authorized to contribute up to 50 percent of the amount required to purchase such prior service. Additionally, any person who, prior to July 1, 1947, filed a written rejection of membership in a state retirement

system and who continues employment without participating in the Florida Retirement System may withdraw his rejection in writing and participate in the Florida Retirement System. The new law prescribes the conditions precedent and the rate of contributions and interest necessary for purchase of retirement credit for prior service. The law also provides for optional participation in the Elected State Officers' Class of the Florida Retirement System by any retiree under an existing system when such retiree serves in an office covered by the Elected State Officers' Class for at least 8 years. The definition of "military service" is also expanded to include wartime service in the Allied Forces.

Senate Bill 256 (Chapter 77-464) includes Public Defenders in the Elected State Officers' Class of the Florida Retirement System and provides that beginning October 1, 1977, the rate of contribution by a member of the class other than a legislator shall be reduced from 8 percent to 4 percent of the member's gross compensation and the employer's rate of contribution shall be increased from 8 percent to 12 percent. Any officer other than a legislator who is eligible for membership in the Elected State Officers' Class may elect, between July 1, 1977, and September 30, 1977, to transfer to the class effective October 1, 1977. A general revenue appropriation of \$55,080 is provided to cover payments required by this class.

Senate Bill 406 (Chapter 77-285) authorizes members of the Elected State Officers' Class of the Florida Retirement System to purchase additional retirement credit for service prior to January 1, 1973, as a small claims court judge or as a justice of the peace.

Miscellaneous

Senate Bill 1246 (Chapter 77-349) amends the law relating to the prohibition against a public officer and employee doing business with his own agency or holding an employment or contractual relationship which will create conflict between his private interests and public duties by providing for waiver of the prohibitions as they pertain to persons serving on advisory boards pursuant to certain procedures and by providing exceptions to the prohibition when: within a city or county, the business is transacted under a system of rotation among qualified suppliers; business is awarded on a system of sealed bidding; the purchase or sale is for legal advertising, utility services, or passage on common carriers; there is an emergency purchase or contract; the business entity involved is the only source of supply within the political subdivision; or the transaction is for less than \$500.

Committee Substitute for Senate Bill 53 (Chapter 77-235) amends Chapter 114, Florida Statutes, relating to vacancies in public offices. The new law provides a list of situations in which a public office shall be deemed vacant and provides for the absence of cabinet and noncabinet officers from the state under certain conditions without a vacancy occurring. Procedures are provided for gubernatorial appointment of officers to fill nonlegislative vacancies and for Senate confirmation when required. Failure of the Senate to act upon an appointment and upon a consecutive reappointment of the same person to the same office is deemed to constitute a rejection of the appointment. The previously-used procedure for confirmation of appointments

by the Senate is repealed.

The Legislature repealed in Senate Bill 65 (Chapter 77-127) the requirement that the Division of Law Enforcement of the Department of Criminal Law Enforcement provide personal security for state officers and members of the Legislature upon request of the President of the Senate, the Speaker of the House of Representatives, the Lieutenant Governor, or any member of the Cabinet.

STATE GOVERNMENT*

The product of the 1977 Legislature in the area of state government reflects the concern of that body with varied subjects including planning, budgeting and other expenditures of state funds; safety, convenience and proper use of public buildings and facilities; improvement in the coordination and cooperation of the various facets of government; improvement in services to veterans and to the handicapped; adjustments in the Administrative Procedure Act to provide more effective administration; and statutory limitations of governmental tort liability. These and other acts relating to the functions of state agencies and commissions are discussed below.

Administrative Procedures

Senate Bill 553 (Chapter 77-453) amends several provisions of Chapter 120, the Administrative Procedure Act, and also grants the Administrative Procedure Committee standing to seek review in state courts, on behalf of the Legislature or citizens, of the validity or invalidity of any administrative rule to which the Committee has voted objection and which has not been withdrawn, modified, repealed, or amended to meet the objection. However, prior to initiation of judicial action the Committee is required to notify the Governor and the concerned agency head and allow them a reasonable opportunity to consult with the Committee.

*Prepared by Senate Government Operations Committee

In the APA itself, the following adjustments were made. The definition of "rule" was amended to exclude the preparation or modification of curriculum by an educational unit from the term, thus excluding such actions from related applications of the Act. When an adopting agency files with the Committee a copy of each rule it proposes to adopt, it shall now also include a statement of the extent to which the proposed rule establishes standards more restrictive than federal standards, or that a federal rule on the same subject does not exist.

If the adopting agency is required to publish its rules in the Florida Administrative Code, it must file three certified copies of the rule it proposes to adopt, a summary of the rule, a summary of any hearings held on the rule, and a detailed written statement of the facts and circumstances justifying the rule with the Department of State.

Agencies which are not required to publish their rules in the Florida Administrative Code will now file one certified copy of the proposed rule and other related information in the office of the agency head rather than with the Department of State. Filings shall be made not less than 21 days nor more than 45 days after proper notice has been given if no public hearing is held. If a public hearing is held, the adopting agency shall file within 21 days after receipt of all material authorized to be submitted at the hearing or receipt of the transcript, if one is made, whichever is later. Rules not required to be filed with the Department of State will become effective when adopted by the agency head or on a later date specified by rule or statute.

The Department of State is required to publish the Florida Administrative Code, which is to contain all rules adopted by each agency. This enactment requires that the Code contain as history notes the Administrative Procedure Committee's objections to the rules found objectionable and which were not modified, amended, withdrawn or repealed. The Department is also to publish, at the beginning of the section of the Code dealing with an agency, any exemptions granted that agency by the Administration Commission, including the termination date of the exemption and whether the exemption can be renewed.

If an agency, operating under the formal proceedings provisions of the APA in which substantial interests are affected, enters an order which is reversed by a court, the court in its discretion may award attorney's fees and costs to the aggrieved prevailing party. Previously, the court had to find that the agency action was done in bad faith or maliciously.

Pursuant to the APA, all applications for license are generally to be approved or denied within 90 days after receipt of an application. Under this law, the 90-day period is to be tolled by the initiation of a formal proceeding under Section 120.57 (decisions which affect substantial interests) and shall resume 10 days after a recommended order is submitted to the agency and the parties. Applications for licenses not approved or denied within 45 days after the recommended order is submitted to the agency and the parties shall be deemed approved.

The Department of Banking and Finance has been subject to the licensing requirement procedures of the APA in the licensing of banks and related financial institutions. This

act allows an exemption for licensing or approving mergers under Title XXXVI (Banks and Banking) and Title XXXVII (Building and Loan Institution) from the procedures established in the APA which would normally control each issuance. The provision granting the exemption allows the agency to adopt rules of procedure, in accordance with certain stipulated criteria. Under this new provision every application for license is to be approved or denied within 180 days after receipt of the application therefor. Any application for such a license which is not approved or denied within the 180-day period or within 30 days after conclusion of a public hearing held on the application, whichever is latest, shall be deemed approved subject to the satisfactory completion of conditions required by statute as a prerequisite to license and approval of insurance of accounts by the related federal insurance corporation. These special provisions or exemptions are only to be operative until June 30, 1978, after which time they are void.

Certification of employee organizations as representatives for collective bargaining purposes is specifically exempted from these licensing procedures. The Administration Commission has the power to grant exemptions, from applications of the APA, to agencies. In an apparent effort to keep better track of exemptions which are granted or denied by the Administration Commission, this enactment requires that the Commission, through the Secretary of Administration, issue an order specifically granting or denying the exemption and specifying any processes or proceedings exempted and the extent of the exemption. The Commission shall transmit a copy of the petition and other materials to the Committee and the Department of State.

Any exemption granted by the Commission, and any alternative procedure prescribed, will now terminate 90 days following adjournment sine die of the current or next regular legislative session after issuance of the exemption, or upon the effective date of any subsequent legislation incorporating the exemption of any partial exemption related thereto, whichever is earlier. The exemption issued by the Commission shall be renewable upon the same or similar facts not more than once. Such renewal shall terminate as would an original exemption.

In House Bill 526 (Chapter 77-53) the Legislature exempted the Division of Pari-Mutuel Wagering of the Department of Business Regulation from the hearing and notice requirements of Section 120.57(1)(a) and (b), Florida Statutes, but only for stewards, judges and boards of judges when they hold a hearing to determine whether to impose a fine or suspension, pursuant to the Division's rules. This exemption does not extend to revocations of licenses or permits. (Section 120.57 of the Administrative Procedure Act, provides that parties whose substantial interests are determined by an agency are entitled to have the formal proceeding provisions of that section followed. This involves holding a formal hearing after reasonable notice of not less than 14 days.)

In providing this exemption the Legislature required that the Division adopt rules establishing alternative procedures, including a hearing upon reasonable notice, for the following violations: 1) Horse and harness riding, greyhound interference, and jai alai game actions in violation of Chapters 550 (Dogracing and Horseracing) and 551 (Frontons). 2) Application and usage

of drugs and medication to horses, greyhounds and jai alai players prohibited by Chapters 550 and 551. 3) Maintaining and possessing injection and infusion devices prohibited by Chapters 550 and 551. 4) Reciprocity suspension agreements with other states. 5) Assault or other violent crimes on licensed pari-mutuel wagering premises. 6) Pre-arranging the outcome of any race or game.

Senate Bill 277 (Chapter 77-2) repeals Section 601.12, Florida Statutes, which provided procedures for the Department of Citrus to follow with respect to promulgation of its rules and the publication, effectiveness, protest, hearings and judicial review thereof. The repeal of this language, which conflicts with the standards of the Administrative Procedure Act, will merely place the department in the position of having to conform with the Act in promulgating rules.

Planning, Budgeting, and Miscellaneous Financial Matters

Beginning July 1, 1978, state governmental agencies in Florida will operate on a biennial budget cycle, as Committee Substitute for Committee Substitute for Senate Bills 23, 372, 735, 1111 and 1376 (Chapter 77-352) dictates. Procedurally, the new biennial budget system will operate much as the one-year budget system does. By November 1, in each even-numbered year, agencies are required to submit their legislative budget requests to the Governor after consultation with the legislative appropriations committees. The Governor is required to submit his recommended budget to members of the Legislature at least 45 days (formerly 30) prior to scheduled annual legislative sessions

in each odd-numbered year. The Governor's recommended budget is to continue to be separated into the "operations" and "fixed capital outlay" categories, with each of these sections having a distinct computation for each fiscal year in the biennium. Although there is a two-year budget request and appropriation, there will continue to be annual fiscal years. The establishment of a biennial budget system will provide the Legislature with the necessary data to appropriate for a biennium in the oddnumbered years. Following appropriation, the Department of Administration will furnish the Comptroller with an annual plan for release of the appropriated funds, for each year of the biennium.

Any balance of any appropriation, except for fixed capital outlay, not expended or contracted to be expended at the end of each fiscal year, will revert to the fund from which appropriated and will be available for reappropriation by the Legislature. The Governor is to submit any recommended budget increases or decreases for supplemental appropriations at least 45 days prior to the annual legislative session in even-numbered year, and the Legislature may adjust the biennial appropriations act. Annual release plans may then be adjusted accordingly. Language was added to various sections of the statutes so as to provide that additional information be included in the Governor's recommended budget to allow for better legislative evaluation of his budget requests and the involved programs.

House Bill 790 (Chapter 77-10) mandates that by no later than July 1, 1980, all state agencies operate on the same accounting system. That accounting system, which has been

developed by the Auditor General, is designated the State of Florida Accounting System. The Department of Administration, in consultation with the Senate and House Appropriations Committees and the Auditor General, and utilizing the coding system of the State of Florida Accounting System, is to prescribe a budget system and reporting and evaluation systems to provide for continuous planning and programming. The Comptroller, as chief fiscal officer of the state, is directed to use this accounting system in performing all his constitutional and statutory duties for accounting purposes. The Comptroller, with the concurrence of the Auditor General, is to develop and implement a plan to install this accounting system in all state agencies. This plan is to be presented by the Comptroller to the Legislative Auditing Committee by August 31, 1977, followed by a revised plan and status report annually thereafter until August 31, 1980, at which time a final report will be issued. Until July 1, 1980, the Auditor General will control all changes and modifications to the system; following that time, authority to control modifications will rest with the Comptroller with notification of such changes sent to the Auditor General. Quarterly reports of funds expended in implementing the provisions of this act are to be submitted by the Comptroller to the Legislature.

Senate Bill 226 (Chapter 77-314) requires each state agency to submit to the Department of Administration and the legislative appropriations committees, by November 1, a statement of the number of salaried full-time and part-time employees for each pay grade and classification and the number of other personal service employees employed by that agency as of

September 30 of the year in which the agency submits its legislative budget request. The act deletes from the statutes the requirement that the Division of Personnel of the Department of Administration present a personnel listing each year to the President of the Senate and the Speaker of the House.

Senate Bill 382 (Chapter 77-240) creates a new Section 17.075, Florida Statutes, to allow the Comptroller to designate the form of state warrants, and, when authorized by the beneficiary of a warrant, to provide for a direct deposit in any financial institution designated in writing by the beneficiary. The written authorization of a beneficiary shall be filed with the Comptroller, and the deposits may be made electronically or by other medium approved by the Comptroller for such purpose.

House Bill 262 (Chapter 77-39) amends Section 216.345, Florida Statutes, to allow the various agency heads, rather than the Administration Commission, to approve the use of state funds to pay employee's dues for memberships in professional organizations. Approval shall not be granted, however, unless: such membership is necessary, the professional organization does not accept institutional memberships, or an individual membership is more economical. Agencies are required to promulgate specific criteria for approving payment of membership dues, and report such payments to the Comptroller, the Department of Administration, the Chairman of the Legislative Appropriations Committees, and the Auditor General by September 30 of each year.

House Bill 506 (Chapter 77-22) authorizes the Adjutant General to determine and approve the quarterly maintenance allowance to be paid to each National Guard Armory. These

allowances shall cover costs of operation, maintenance, repair and other necessary expenses. Payment will be from funds appropriated to the Department of Military Affairs. The maintenance allowance is to be computed as of June 30 of each year, and excludes space utilized and maintained by federally funded activities. The Adjutant General is authorized to prescribe the rules governing the allowances which are to be treated as public moneys, and to re-distribute the allowances in the event insufficient funds are appropriated, or other sufficient reasons arise.

Investments of State Funds

The State Board of Administration, which is composed of the Governor, as chairman, the State Treasurer and the State Comptroller, has the responsibility of investing all trust funds and all agency funds of each state agency to the fullest extent that is consistent with the cash requirements and investment objectives of the particular trust fund or agency fund. Prior to passage of House Bill 196 (Chapter 77-270) the Board covered its operating expenses by pro-rating them among certain bonds which it administers. Beginning July 1, 1977, the operating expenses of the Board will be met by making reasonable charges for all investment services performed. The amount to be paid by each agency or fund is to be determined by the service rendered and is subject to review by the Department of Administration. In conjunction with this new method of funding the Board's operations, it is to prepare and approve an operating budget each fiscal year and submit this approved operating

budget to the legislative appropriations committees and the Department of Administration prior to July 1 of each year.

Senate Bill 1067 (Chapter 77-191) changes the law relating to securities pledged as collateral for state funds. Section 18.11(1), Florida Statutes, is amended to provide for additional types of securities that are acceptable for collateral. With the exception of United States bonds, or bonds guaranteed by the United States, any bonds or certificates shall be rated in one of the highest four classifications by two nationally recognized investment rating services. The amount of value shall be in such amount as may be examined and adjudged by the Treasurer to conform with standards agreed to by the Governor, Comptroller, and Treasurer. The State Treasurer is authorized to accept a telegram or telex from an approved bank, for a reasonable length of time not to exceed 15 business days, pending the actual receipt of a safekeeping receipt. The telegram or telex must clearly describe and define the securities being pledged, and must state that the securities are being held for and on behalf of the State Treasurer.

Senate Bill 1062 (Chapter 77-155) amends Section 18.10(2), Florida Statutes, to allow short-term investments (not more than 90 days) of state money in the United States treasury obligations by the State Board of Administration to be in book-entry form, and allows such investments to be under repurchase agreement.

Senate Bill 527 (Chapter 77-224) requires that nongovernmental organizations which sponsor programs financed in part by funds obtained from a state agency identify the State of Florida as a sponsor in publicity relating to the program.

The same size type which is used to identify the operating organization must also be used to identify the State of Florida as a sponsor.

Building Codes

Committee Substitute for Committee Substitute for Senate Bill 1072 (Chapter 77-365) requires that by January 1, 1978, local governments and state agencies which regulate building construction shall adopt and enforce one of several well-recognized building codes designated as the State Minimum Building Codes, which shall include existing provisions of state law relating to accessibility by handicapped persons. The act repeals the authority of the Board of Building Codes and Standards to make and enforce rules relating to construction of buildings, construction permits, or standards and requirements for buildings and construction. The net effect is to reduce the Board's role to that of an advisory body.

House Bill 2202 (Chapter 77-280) relates to flood plain management criteria for public educational facilities and stateowned building construction. The act requires the Office of Educational Facilities Construction to recommend and the State Board of Education to adopt federal flood plain management criteria as part of the State Uniform Building Code for public school construction. The Division of Building Construction and Property Management, Department of General Services, is directed to ascertain compliance with the criteria before commencement of construction or substantial improvement of any state-owned building, and is authorized to adopt any rules necessary to

compliance. The act also requires that flood insurance shall be provided to the extent necessary to meet self-insurance requirements of the National Flood Insurance Program. The federal criteria to which the law relates are found in the rules and regulations of the Department of Housing and Urban Development, 24 C.F.R., Parts 1909-1925, promulgated pursuant to federal law 42 U.S.C., Sections 4001-4128.

Committee Substitute for Senate Bill 321 (Chapter 77-128) creates the "Florida Thermal Efficiency Code" and establishes a statewide thermal efficiency policy requiring minimum standards in thermal design and operation of specified residential and non-residential buildings to comply with efficiency standards set by the construction industry and the federal government. Certain buildings are exempted.

New and renovated non-residential buildings for which building permits are obtained after December 31, 1978, would be required to meet standards no less stringent than Chapters 4-9 of Standard 90-75 promulgated by the American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE), or Appendix "J" of the Standard Building Code. New residential buildings for which permits are obtained after December 31, 1978, would be required to meet standards no less stringent than HUD Minimum Property Standards, or Appendix "J" of the Standard Building Code. Owners of these buildings must certify compliance to the designated local enforcement agency prior to receiving the construction or renovation permit and an inspection for compliance must be made by the agency before completion of such activities.

A uniform minimum standard for energy efficiency in lighting design and utilization for all public buildings in the state for which a building permit is obtained on or after December 31, 1978, is provided by Committee Substitute for Senate Bill 341 (Chapter 77-283), the "Florida Lighting Efficiency Code." Other provisions are similar to those in the Florida Thermal Efficiency Code (Chapter 77-128), but the applicable ASHRAE standard here is Section 9 of Standard 90-75.

Public Buildings, Facilities and Property

Committee Substitute for Senate Bill 25 (Chapter 77-81) amends Section 255.05, Florida Statutes, relating to the surety bond requirements of contractors constructing public buildings or prosecuting public works. The amendment clarifies the surety requirements, providing that contractors must execute a payment and performance bond with a surety insurer authorized to do business in Florida. The bond is required to be conditioned that the contractor perform the contract and promptly make payments to claimants whose claims derive directly or indirectly from the contract. Claimants shall have a right of action against the contractor and surety for amounts due, but such action shall not involve the public authority in any expense. Claimants, other than laborers, who are not in privity with the contractor must satisfy certain notice requirements as a prerequisite to having a right of action against the contractor and surety. A permissible form of the payment or performance bond is set forth in the law. The effective date of this act is delayed until January 1, 1978.

House Bill 925 (Chapter 77-78) amends Section 255.05(1),

Florida Statutes, relating to the surety bond requirements of contractors constructing public buildings, or prosecuting public works. The new law provides that the director of the Department of General Services, or the appropriate local official may, at his discretion, waive the required penal bond for contracts of \$25,000 or less.

Senate Bill 797 (Chapter 77-199) designates the Division of Building Construction and Property Management, Department of General Services, as the agency of state government solely and exclusively responsible for public announcement and qualification procedures, competitive selection, and competitive negotiation for professional architectural, engineering, landscape architectural, or land surveying services respecting all projects for which funds necessary to complete same are appropriated to DGS. Additionally, any agency of government may, with DGS approval, delegate authority to DGS to perform those functions, and such delegating agency may reserve the right to accept or reject a proposed contract.

Senate Bill 257 (Chapter 77-52) requires the supervisor or person in charge of each unit of government, located in a state-owned or leased building to establish rules on smoking for his area by January 1, 1978. The bill requires that the rules include: separate smoking and nonsmoking areas in conference rooms and auditoriums; limited smoking areas in medical care facilities; no limitation on smoking in corridors, lobbies and restrooms; and, designation of other nonsmoking areas as the facility's physical characteristics allow considering public health, welfare and comfort.

Senate Bill 427 (Chapter 77-242) allows businesses in the State to designate separate restrooms and dressing rooms for males and females. The businesses may also prohibit the use of restrooms and dressing rooms by the opposite sex from that designated for the room. If more than one restroom is provided in any building or facilities owned or operated by the State or any political subdivision of the State, restrooms for males shall be separate from restrooms for females and each shall be designated by an appropriate sign, if said restroom has occupant capacity of more than one person.

Committee Substitute for Senate Bill 653 (Chapter 77-396) exempts state-owned aircraft and motor vehicles, and associated maintenance facilities and equipment, used principally for law enforcement or fire control purposes, from those vehicles and facilities which the Division of Motor Pool of the Department of General Services may require state agencies to transfer to the Department.

Senate Bill 621 (Chapter 77-345) requires that all printing, duplicating and reproduction equipment and facilities purchased by state agencies be used for efficient and economical production of printed material directly related to state business.

House Bill 577 (Chapter 77-61) prohibits all state agencies, municipalities, political subdivisions, school districts or special districts from purchasing imported fresh or frozen beef for consumption in this state unless the imported beef complies with the standards of the United States Department of Agriculture (USDA) or the Florida Department of Agriculture and Consumer Services (FDACS) and has been inspected by either the USDA or

the FDACS. Bid invitations by the agencies listed above must specify that only domestic beef, or imported beef which complies with the USDA or FDACS regulations, will be accepted. Suppliers or vendors must certify compliance with these regulations on the invoice for the fresh or frozen imported or domestic beef. Persons who knowingly violate these provisions shall be personally liable to the affected public agency for any funds spent in violation of this law.

Senate Bill 682 (Chapter 77-130) exempts the lease of land acquired under the "Outdoor Recreation and Conservation Act" (Chapter 375, Florida Statutes) from the requirement of public notice and hearing when the land is being leased to a state agency or political subdivision of the state.

Sovereign Immunity and Governmental Liability

Committee Substitute for Senate Bill 396 (Chapter 77-86) amends Florida's Waiver of Sovereign Immunity Statute, Section 768.28, Florida Statutes. The changes provide that the statutory limitation of governmental tort liability (\$50,000 per person, \$100,000 per incident or occurrence) shall apply to all state agencies or political subdivisions of the state, whether or not any agency or subdivision possessed sovereign immunity prior to July 1, 1974. (The new law is in response to Attorney General Opinion 076-41, which stated, in substance, that the \$50,000/ \$100,000 liability limitation did not apply to municipal governments.) In addition, the act repeals the provision which extends tort liability beyond the \$50,000/\$100,000 ceilings to the extent that a government entity has insurance in excess of

those amounts. Therefore the ceilings shall apply regardless of how much insurance coverage exists. The state, its agencies and subdivisions are authorized to be self-insured, to enter into risk management programs, to purchase liability insurance for any coverage they choose, or to have any combination thereof for any claim, judgment, and claims bill which they may be liable to pay.

Legislature

Senate Bill 714 (Chapter 77-88) empowers the Joint Legislative Management Committee to fix subsistence rates for Florida legislators during the time the Legislature is in session, and deletes the specific listing of services for which a legislator may be reimbursed at the intradistrict level. The maximum amount for monthly intradistrict expense is increased from \$300 to \$500 for each member.

Senate Bill 636 (Chapter 77-266) provides for the adoption of Florida Statutes 1977 as the official statute law of the state with stipulations as to statutes repealed, laws not repealed, and rights reserved under repealed statutes. The revision, consolidation and compilation of the public statutes of 1975 is to be prepared by the Joint Legislative Management Committee as directed by Section 11.2421, Florida Statutes, is to be cited as "Florida Statutes 1977," and will become effective immediately upon publication.

Statutory requirements concerning the frequency and format of certain reports made to the Legislature are amended by Senate Bill 776 (Chapter 77-320). The Treasurer must submit an annual, rather than biennial, statement of balance in the treasury with

summary of receipts and payments. The Division of Personnel of the Department of Administration is no longer required to present an annual statewide listing of positions in state government to the Speaker and President, but the mandatory periodic report made to agency heads is to be organized by budget entity and made available to the presiding officers of the Legislature upon request. Annual reports to lawmakers by the Commissioner of Education concerning reading and language arts resource specialists and the projected school plant and debt service needs for each school district are no longer required. Obsolete provisions relating to sponsored research at state universities are deleted and the due date for the Board of Regents on such research to the legislative appropriations committees is set 90 days prior to the convening of each regular session rather than 60 days. The Capitol Center Planning Commission is to report to the Legislature every fifth year, rather than annually, with the next report due February 1, 1979. The Department of Insurance and Department of General Services are to make a joint annual analysis of the state insurance program rather than submitting a formal report to Governor and insurance committees of the Legislature. The Firefighters Standards and Training Council of the Department of Insurance is no longer required to report to the Legislature.

Selected reporting requirements to the Legislature and to certain state officials are repealed: Secretary of State on voting equipment and systems; Department of Insurance on Municipal Firemen's Pension Trust Fund and Municipal Police Officers' Retirement Trust Fund; Commissioner of Education on leadership identification and training, environmental education, overall

comprehensive health education and projects funded under the vocational improvement fund; Department of Education on extended school year implementation plan, occupational specialists training programs and accelerated degree programs; State Coordinator of Diagnostic and Resource Center Programs on programs and activities of the centers; State Council for Teacher Education Center on the annual reports of the several centers; school districts on their school safety programs; Department of Legal Affairs on the State Institutions Claims Fund; Council for the Purchase of Products and Services for the Blind or Other Severely Handicapped of the Department of General Services on Council activities; Division of Labor of the Department of Commerce on occupational diseases; and the Division of State Fire Marshal of the Department of Insurance on statewide fire protection.

State Agencies and Commissions

Senate Bill 210 (Chapter 77-253) amends Section 20.16, Florida Statutes, to permit the Department of Business Regulation to establish uniform application forms and certificates of license for use by the various divisions of the Department. The Department may not, however, vary the substantive requirements, duties, or eligibilities for licensure or certification which are set forth in the statutes.

By provisions of Senate Bill 1317 (Chapter 77-204), the Game and Fresh Water Fish Commission was specifically placed within Chapter 20, Florida Statutes, which deals with the executive branch of state government in Florida. Under that act the Legislature, while recognizing that the Commission is specifically provided for and authorized by the State Constitution, grants

rights and privileges to the Commission equal to those executive departments established in Chapter 20. The act further provides that the Commission retains its constitutional designation and title, and that the head of the Commission will continue to be the five-member Commission which is appointed by the Governor pursuant to Article IV, Section 9 of the State Constitution. These divisions are established within the Commission to perform in certain areas of responsibility: Division of Administrative Services, Division of Law Enforcement, Division of Fisheries, and Division of Wildlife. Section 20.25(4), Florida Statutes, relating to transfer of Commission functions to the Department of Natural Resources, is repealed.

Senate Bill 1135 (Chapter 77-203) abolishes the Bicentennial Commission of Florida on December 31, 1977, and authorizes the Department of Commerce to administer and enforce any grants and contracts which remain in effect thereafter.

Section 2 of Article XI of the 1968 Florida Constitution stipulates that in the tenth year following adoption of that version there shall be established a Constitution Revision Commission. The Commission is to review the existing constitution and propose revisions thereto which will be submitted to the electorate in the scheduled general election in 1978. The Florida Supreme Court has determined that the 37 member Commission is to be appointed following the 1977 legislative session. Senate Bill 919 (Chapter 77-201) authorizes the chairman of the Commission to employ personnel, incur expenses and to expend funds appropriated to the Commission to carry out its official duties. State and local agencies are authorized and directed to assist the Commission upon its request.

House Bill 256 (Chapter 77-37) changes the name of the Florida Law Revision Council to the Florida Legislative Law Revision Council which is to be composed of 12 members. The Governor will no longer appoint members to the Council. The terms of all present members will expire at midnight on June 30, 1977, with the new members' terms commencing on July 1, 1977. The new appointees will then include four members appointed by the President of the Senate, two of whom will be members of the Senate, and four members appointed by the Speaker of the House of Representatives, two of whom will be members of the House. The remaining four members will be appointed by the Board of Governors of the Florida Bar. All new members must be members of the Florida Bar or a faculty member of an accredited college of law in the state, and must have demonstrated interest in law Terms of service shall be two years for legislative reform. members, commencing on July 1 of each odd-numbered year, and four members for the other appointees, commencing on July 1, in the year of appointment.

New Programs

Senate Bill 1069 (Chapter 77-340) creates Part VI of Chapter 163, Florida Statutes, cited as the "Advisory Council on Intergovernmental Relations Act," for the purpose of improving the coordination and cooperation between the State of Florida and its local governments, other states, and the federal government. The act sets up the Advisory Council composed of 17 members to serve as a forum for discussion and study of intergovernmental problems, and to continuously study and evaluate governmental

inter-relationships towards improving organization, efficiency, and delivery of services. The Council is directed to coordinate and cooperate with the Department of Administration and other agencies or activities concerned with federal-state relationships, and its duties include the review and assessment of the work and recommendations of the Federal Advisory Commission on Intergovernmental Relations and the 'reporting of such assessments to that body. The Council shall issue annual reports of its findings and recommendations to the Governor, the House Speaker, and the Senate President. The act provides for a staff and an appropriation of \$185,892 to fund the Council's efforts. The Joint Legislative Management Committee is directed upon request to provide office space and equipment. The Council is expressly directed to give careful study to the issues of double taxation and the problems of local government debt management. Also, the Constitutional Revision Commission is to be furnished material prepared by the Council concerning the state's tax structure and other issues of an intergovernmental nature as they relate to the Constitution.

Senate Bill 206 (Chapter 77-148) requires each state agency which registers, licenses or regulates corporations, partnerships or other business entities to include the federal employer's identification number (FEIN) in its filing system by July 1, 1978. The purpose of this action is to provide a statewide crossreference identification base for exchange of information among the involved agencies which currently use different internal numbering systems for retrieval of information on regulated business entities. The act allows the agencies to retain their own internal numbering system, but requires information retrieval

capability by FEIN. The Division of Corporations of the Department of State is required to keep a registry of FEIN's of all business entities which it registers, and all state agencies will have use of the registry.

Senate Bill 773 (Chapter 77-360) creates a Motion Picture and Television Advisory Council within the Division of Economic Development of the Department of Commerce. The nineteen members of the Council, appointed by the director of the Division, are to be or have in the past been, actively engaged in the motion picture or television industry or a related area. The Council's responsibilities are: to hold meetings at least once each quarter with the Secretary of Commerce to offer views on the state of the industries and to recommend actions; to promote locations in the state for filming; to develop graphic presentations for promotional use; and to perform such duties and functions as are authorized by the Secretary of Commerce.

The physical fitness of Floridians was addressed in House Bill 887 (Chapter 77-169) which establishes an appointed non-paid 20-member Florida Governor's Council on Physical Fitness. The Council is to promote citizen physical fitness throughout the state, is to have a full-time executive director, and is authorized to carry out the following activities with respect to physical fitness: develop, foster and coordinate services and programs; sponsor workshops, clinics, conferences and other similar activities stimulate research; give recognization to outstanding developments and achievements; collect and disseminate information and initiate advertising; assist schools in developing programs for students; encourage local governments and communities to develop programs;

enlist support of individuals and groups to promote and improve physical fitness programs; and to accept grants, gifts and bequests and enter into contracts.

Cultural Affairs

In three measures concerning cultural affairs, the Legislature passed House Bill 644 (Chapter 77-15) and Senate Bill 883 (Chapter 77-322) each relating to the John and Mable Ringling Museum of Art, and Senate Bill 108 (Chapter 77-263) creating two additional historic preservation boards.

Senate Bill 883 (Chapter 77-322) which creates a new Section 265.261, Florida Statutes, defines a "direct support organization" of the museum as a nonprofit organization, approved by the Secretary of State, and organized and operated exclusively to raise funds, request and receive various grants, to receive, hold, invest and administer property, and make expenditures to or for the museum's benefit. Direct support organizations are to be operated in the best interests of the state and in a manner consistent with the goals of the museum.

The trustees of the museum may permit direct support organizations to use the museum's properties, facilities and personal services, subject to any rules or conditions the trustees may establish. No direct support organization may use museum property facilities or personal services unless it provides equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

Direct support organizations are required to undergo an annual postaudit by an independent certified public accountant.

Each audit report is to be submitted to the Auditor General and museum trustees for review. The reports, but not the records of the organization, shall be considered public records. The names of contributors to direct support organizations who desire to remain anonymous shall not be included in the audit report.

The other act relating to the John and Mable Ringling Museum of Art, House Bill 644 (Chapter 77-15), permits the museum to make temporary loans of art objects to museum chapters and other places in the state for educational purposes and removes the time limitation for such loans. Heretofore, the museum could loan art objects only to the Governor's Mansion, art museums, and educational institutions for a period not to exceed six months.

Senate Bill 108 (Chapter 77-263) creates two additional historic preservation boards of trustees: The Historic Broward County Preservation Board of Trustees and the Historic Volusia County and Flagler County Preservation Board of Trustees. The new boards (organized in a manner similar to the six previously established historic preservation boards) are created to acquire, restore, preserve and operate certain historic landmarks and locations for the public's recreational and educational use, and are under the direct control of the Secretary of State.

Veterans' Affairs

House Bill 636 (Chapter 77-330) conforms statutes related to the Division of Veterans' Affairs, Department of Community Affairs, with the provisions of the Governmental Reorganization Act of 1969, and removes existing duplication of many functions and duties by local governments and the Division.

The Director of the Division of Veterans' Affairs will replace the Adjutant General on the Interdepartmental Coordinating Council on Community Services of the Department of Community Affairs. Provisions are made for the selection of the Director of the Division of Veterans' Affairs and staffing of the Division. Counties and cities may have a veteran service officer whose salary and office expenses will be paid for by local government. The Division will provide required training and prescribe appropriate rules under which such service officers will function.

Semiannual reports will be made to the Governor, President of the Senate, and Speaker of the House showing expenses incurred, the number and nature of cases handled by the Division and local service officers, and amounts of benefits to veterans.

House Bill 2181 (Chapter 77-422) revises the statutes which provide employment, promotion and reinstatement preferences to veterans, disabled veterans, and spouses of such persons in positions with state agencies and political subdivisions. It requires the appointing or employing officer to file, in writing with the Director of the Division of Veterans' Affairs, the reasons that a non-veteran has been preferred over a veteran. If the Division determines, through its investigation, that an improper hiring has taken place it shall have power to seek relief through the Career Service Commission or the courts. Deserters and veterans who received less than an honorable discharge are exempt from the veteran's preference in hiring provisions.

Any person willfully violating the provisions of this act or rules adopted pursuant to its provisions, shall be guilty of a misdemeanor of the second degree. The convicted violator shall

also forfeit his position, if employed by the state, and shall not be eligible for appointment or employment in the State Career Service for five years.

The act further requires that written job announcements and advertisements used by employing agencies of the state and its political subdivisions must contain a notation that certain veterans and spouses of veterans receive preference and priority in employment by the state, and that such persons are encouraged to apply for the positions.

Handicapped Persons

The Legislature made meetings of boards or commissions of any agency or authority of the state, the counties, municipal corporations or other political subdivisions at which official acts are to be taken, accessible to the physically handicapped by House Bill 628 (Chapter 77-277). The act provides that if the chairperson or director of a board, commission, agency, or authority receives a written request from a handicapped person, at least seven days prior to the meeting, that chairperson or director must provide a manner by which such person may attend the meeting at the scheduled site or reschedule the meeting to a site accessible to the handicapped person.

In order to insure more equitable opportunities to blind and deaf persons, when they take examinations for positions within the State Career Service System or take the Florida Bar Exam, the state agencies which administer these examinations are statutorily directed by Committee Substitute for Senate Bill 249 (Chapter 77-63) to adapt these examinations to allow for more

equitable competitive circumstances. Specified in these modifications are: allowing these persons at least 50 percent more time per examination; provision of competent reader or interpreter services; adequate privacy to insure good testing conditions; exclusion of materials which are, per se, unfamilar to blind persons (graphs, charts, tables, or visual distance estimations); and allowing these persons to use necessary special equipment (low vision aids, note taking equipment and computational aids). Rules shall be jointly promulgated by the Division of Personnel of the Department of Administration and the Department of Education. Any state agency employee or agent who intentionally violates these provisions is to be guilty of a misdemeanor of the second degree punishable by a fine not to exceed \$500.00. The provisions of this act are to be effective January 1, 1978.

House Bill 247 (Chapter 77-259) amends various sections of the Florida Statutes to conform terminology to Chapter 75-48 which transferred the Blind Services Program from the Bureau of Blind Services of the Division of Vocational Rehabilitation, Department of Health and Rehabilitative Services to the Department of Education. The act provides for creation within the Department of Education of the Division of Blind Services, setting forth its duties and organization to insure the greatest possible efficiency and effectiveness of services to the blind. In addition to those duties assigned to the former "Office of Blind Services" of the Department of Education, the Division is to make braille and recorded copies of appropriate chapters of the Florida Statutes available to the blind, and to cooperate with the Division of Blind and Physically Handicapped of the Library of Congress. An

Advisory Council for the Blind is created to advise the director of the Division. The deaf are included with the blind as those who shall not be discriminated against in state and local government hiring when qualified, nor shall they be refused accommodations because of guide dogs.

Miscellaneous

Senate Bill 294 (Chapter 77-47) expands the Governor's emergency powers in the event of a disaster emergency. Section 252.36, Florida Statutes, is amended to provide that the Governor may authorize the use of forces (primarily The National Guard) already mobilized by executive order, regulation, or proclamation to assist citizens in clean-up and recovery operations during disaster emergencies. The emergency forces, however, must obtain the permission of the owner to enter into private property for this purpose.

House Bill 52 (Chapter 77-423) designated April 2 of each year as Pascua Florida Day, a legal and public holiday, and allows the Governor to designate March 27 to April 2 as Pascua Florida Week, a patriotic occasion. ("Pascua Florida," translated "Flowery Easter," was the name given to Florida by Juan Ponce de Leon when he first landed here during the Easter season of 1513.)

House Bill 1616 (Chapter 77-233) creates a Commission on the Spanish-speaking Populace of Florida within the Department of Community Affairs, with all 15 members to be appointed by the Governor. Commissioners are to receive per diem and travel expenses, but no compensation, and are to serve staggered four-year

terms. The Commission is directed to study the problems and needs of those citizens of Florida who are predominantly Spanish-speaking in such areas as education, social services, commerce, general culture and the arts. Annual reports, with specific recommendations, are to be submitted to the Governor, with copies to the Speaker of the House and President of the Senate.

TAXATION*

Although the type and amount of taxes needed to fund the state's budget was a major issue that was not resolved until the second special legislative session this year, the 1977 Regular Session also resulted in important legislation on the subject of taxation.

In the area of ad valorem taxation, the "Homestead Property Tax Deferral Act" allows deferral of payment of a portion of the ad valorem taxes levied on a homestead, a measure expected to particularly benefit older citizens of Florida. The Legislature in another act clarifies criteria used by the property appraiser to determine just valuation of property, in order to provide more uniform application of appraisal standards. The duties of local taxing authorities with regard to certification of millages, and temporary replacement of members of the property appraisal adjustment boards, are the subjects of two legislative acts. Also, quadriplegics are exempted from the residency requirement and income limitation with respect to qualification from the total tax exemption for the totally and permanently disabled.

Other measures dealt with tangible personal property tax exemption for "goods-in-transit," medical exemptions from the sales tax, the partial sales tax exemption for vessels engaged in interstate or foreign commerce, and with the excise tax on documents. On the local level, the "Local Option Tourist Development Act" allows counties or subcounty special districts to levy a 1 or 2 percent tax on hotel, motel, and similar rentals, after referendum approval. The proceeds may be used only for specific tourist development purposes. Other enactments removed the authority of municipalities to levy a tax on cable television service, and removed certain obligations of local boards and officials with regard to levy of occupational license taxes and qualification for licensing as a motor fuel distributor or special fuels dealer. The disabled veterans' occupational license tax exemption was also expanded by the 1977 Legislature.

Property Tax Deferral

The Homestead Property Tax Deferral Act (Senate Bill 95, Chapter 77-301), effective Decemeber 31, 1978, allows persons who are entitled to the homestead tax exemption to defer that portion of the ad valorem taxes levied on the homestead which exceeds 5 percent of the total household income of applicant for the prior calendar year. Application is to be made to the tax collector on or before December 31. The applicant must maintain fire and extended coverage insurance in an amount exceeding the total of all outstanding liens, deferred taxes, and interest, and no deferral will be granted if the total of all such liens, taxes and interest exceeds 85 percent of the assessed value of the homestead, or if the primary mortgage financing exceeds 70 percent of the assessed value of the homestead.

All deferred taxes and interest must be paid if the applicant loses his eligibility for homestead exemption or

fails to maintain required insurance; however, a surviving spouse eligible for homestead exemption may continue deferment of previously deferred taxes. At any time the total of deferred taxes, interest and liens exceeds 85 percent of the assessed value of the homestead, the amount of excess taxes and interest must be paid. All or part of deferred taxes and accrued interest may be paid at any time by the owner or his spouse, or by his next of kin, heir, or child, or any person with legal or equitable interest in the property, if the owner does not object.

If any person willfully files incorrect information with regard to the tax deferral, he must pay any taxes deferred, plus interest and a 25 percent penalty, and is disqualified from applying for deferral for 3 years. However, he may appeal the imposition of such penalties to the Property Appraisal Adjustment Board.

The act authorizes local governing boards to hold a separate deferred payment tax certificate sale at the same time and under the same procedures as tax certificates for unpaid taxes are sold. Any unsold certificates may be offered to the State Board of Administration, which must purchase them. Deferred taxes and interest and tax certificates earn interest at a rate equal to the semiannually compounded rate of one-half of 1 percent plus the average yield to maturity of the long-term fixed income portion of Florida Retirement System investments as of the quarter preceding the sale of the certificates. Deferred taxes and interest constitute a lien on the property.

Property Tax Assessment and Exemptions

Two bills provided definitions of basic terms relating to ad valorem taxation. Senate Bill 1003 (Chapter 77-363) amplifies two factors to be considered by the property appraiser in determining the just valuation of property. The act defines the present cash value of the property as that amount a willing purchaser would pay a willing seller, exclusive of reasonable fees and costs, in a transaction at arm's length. It also specifies that in determining the net proceeds of the sale of property, allowance be made for unconventional or atypical financing arrangements.

In the area of ad valorem tax exemptions, House Bill 2258 (Chapter 77-447) defines "real estate used and owned as a homestead" as real property to the extent described in constitutional provisions relating to exemption of homesteads from taxation and from forced sale, less any portion of the property used for commercial purposes. The law also exempts quadriplegics from the 5-year residency requirement and the \$8,200 income limitation with respect to qualification for the total tax exemption for totally and permanently disabled persons. It provides that, for purposes of the income limitation, Veterans Administration benefits shall be considered as part of gross income. In addition, it revises the form used for a physician's certification of total and permanent disability, which must be submitted to the property appraiser by a person seeking to qualify for the total tax exemption, to include a specific list of disabling conditions. The act applies beginning with the 1978 tax year.

Functions of local officials with regard to ad valorem property taxation were affected by two enactments. House Bill 1068 (Chapter 77-69) deals with the membership of property appraisal adjustment boards, which are composed of three members of the county governing board and two members of the school board. It provides that members may be temporarily replaced by other members of the appropriate board by appointment of that board's chairperson. Previously, such replacement was authorized "from time to time" and only in charter counties with a population over 1,000,000 (Dade County).

Senate Bill 938 (Chapter 77-248) directs district school boards, municipalities, and governing boards or authorities of special taxing districts or units whose taxes are assessed on the property appraiser's tax roll and for which the board of county commissioners is not required by law to levy taxes, to certify their millage rates to the county property appraiser within 30 days after the property appraisal adjustment board adjourns.

Tangible Personal Property

Committee Substitute for Senate Bill 313 (Chapter 77-305) provides that "goods-in-transit" shall not be considered to have acquired a taxable situs within a county even though temporarily halted or stored there. "Goods-in-transit" is defined as personal property manufactured or produced outside the state and brought into Florida only for transshipment out of the United States, or manufactured or produced outside the United States and brought into Florida for transshipment outside the state, for sale in the ordinary course of trade

or business. Personal property subjected to a manufacturing process in this state or used in this state in the production of other personal property is not considered goods-in-transit for purposes of the tax exemption. Individual packing units may be opened and goods may be repacked or relabeled only for inspection, transportation, or storage purposes, but such storage may not exceed 180 days. The act directs that appropriate records be kept for purposes of computing the inventory tax.

Corporate Income Taxation

House Bill 1046 (Chapter 77-402) updates the definition of the United States Internal Revenue Code, for purposes of the state corporate income tax law, to include amendments to the Code made between January 1, 1976 and January 1, 1977.

Excise Tax on Documents

Additional exemptions from the excise tax on documents were created and penalties revised by two laws. Committee Substitute for Senate Bill 254 (Chapter 77-463) exempts from \checkmark the documentary stamp tax all promissory notes, nonnegotiable notes, or other written obligations dated on or after July 1, 1977, if the makers or obligors at the time of making or execution reside or are located outside the United States, unless the purpose of the note or obligation is to finance all or a part of the purchase of real estate located in Florida or personal property for use in Florida. The law also exempts drafts or bills of exchange drawn upon a bank with an office in Florida and accepted by the bank after July 1, 1977, if they

arise out of transactions involving the importation or exportation of goods or the storage of goods abroad, and drafts or bills of exchange drawn by banks in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange, if at the date of acceptance the drawer of the draft or bill of exchange or the person for whose benefit the financing is conducted resides or is located outside the United States. These exemptions do not apply to mortgages, trust deeds, security agreements or other evidences of indebtedness relating to the purchase or transfer of real property in Florida, or when a majority of the equity securities of a maker of an instrument or an obligor thereunder, or of any drawer or person for whose benefit the financing is conducted, is owned by a person or business organization located within the United States.

Senate Bill 157 (Chapter 77-281) reduces the penalty for failure to pay the documentary stamp tax from the full purchase price of the required stamps to 25 percent of that price; however, if it is determined by clear and convincing evidence that any part of the deficiency is due to fraud, the penalty is increased to the full purchase price. The measure also authorizes the Department of Revenue to comprise a penalty if it determines that the penalty would be too severe or unjust.

Sales and Use Taxation

Medical exemptions from the sales tax were the subject of two laws. House Bill 2217 (Chapter 77-193) provides an exemption for feminine hygiene products. Senate Bill 221 (Chapter 77-194) provides a definition of "prosthetic and orthopedic appliances" for purposes of the sales tax exemption.

Such appliances include any apparatus or device used to replace a missing part of the body, to alleivate the malfunction of a body part, or to facilitate a disabled person's mobility. The Department of Health and Rehabilitative Services is to prescribe and approve a list of such appliances, and to certify the list to the Department of Revenue, to be included in that department's rules.

Senate Bill 221 (Chapter 77-194) also specifies that money paid to a merchants' association by a lessee shall not be considered rent for purposes of the tax on the rental of real property, whether or not such payment is a condition of the lease. "Merchants' association" is defined as a nonprofit corporation organized for the sole purpose of promoting the business of a group of merchants.

The partial exemption for vessels engaged in interstate or foreign commerce was the subject of two enactments. House Bill 2217 (Chapter 77-193) (also described in part above) clarifies language with respect to the partial exemption for the sale or use of vessels or parts thereof engaged in interstate or foreign commerce and for fuels used by such vessels. In both cases the rate of taxation is based on the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous fiscal year. The law deletes references to licensing of such vessels as common carriers by the Interstate Commerce Commission.

Taxation of Motor Fuel and Special Fuels

Committee Substitute for Senate Bill 411 (Chapter 77-149)

relieves municipalities, counties, school boards and special districts of the obligation to post a bond in order to be licensed as a distributor of motor fuel or a dealer of special fuels.

Local Option Tourist Development Tax

House Bill 2064 (Chapter 77-209) authorizes counties to levy a tourist development tax at the rate of 1 or 2 percent on the rental or lease of accommodations in hotels, motels, apartments, tourist camps or condominiums for 6 months or less. The tax may be imposed throughout the county or in a subcounty special district that represents a significant contiguous portion of the county, subject to referendum approval.

The tax is to be remitted to the Department of Revenue in the same manner as sales tax collections, and, after deduction of administrative costs, the department will return the revenues to the county of collection on a monthly basis for deposit in a tourist development trust fund.

Revenues derived from the tax may be used only: to acquire, construct, improve and operate convention centers, sports stadiums and arenas, coliseums and auditoriums; to promote tourism within the state, nationally, and internationally; and to fund convention bureaus, tourist bureaus and information centers, and news bureaus. Tax revenues may be pledged to secure and liquidate revenue bonds for the acquisition, construction or repair of convention centers, stadiums, or similar facilities; however, upon retirement of the bonds the tax automatically expires.

Prior to levying the tax, the county governing board must establish a 9-member Tourist Development Council, and the council

must prepare a plan for tourist development which includes a statement of anticipated tax revenues and a priority list of uses for such revenues. The plan is to be adopted as a part of the ordinance levying the tax, and cannot be substantially amended after enactment of the ordinance except by a majority plus one of the governing board.

Subsequent to approval of the ordinance by the electors of the county or the subcounty district, 15 percent of the electors of the county or district may petition the county governing board to hold a referendum to repeal the tax.

Any person who fails or refuses to collect the tax is personally liable therefor and is also guilty of a second degree misdemeanor, and any person who offers to absorb or refund all or a part of the tax is guilty of a second degree misdemeanor.

Occupational License Tax

Two laws relating to occupational license taxes were enacted this year. Senate Bill 204 (Chapter 77-55) removes the requirement that a county or municipality levying an occupational license tax file the authorizing ordinance or resolution with the Department of Revenue and that the collector of the tax report monthly to the Department the amount of tax received and the apportionment between local governing authorities. House Bill 410 (Chapter 77-163) extends the \$50 occupational license tax exemption granted to disabled veterans who have served on active duty in the Army, National Guard, Navy, Coast Guard or Marine Corps, or the Reserves thereof, to include both men and women veterans and the unremarried surviving spouse of the veteran,

and also adds the Air Force and the Air Force Reserve to the list of armed forces included in the exemption.

Municipal Public Service Tax

Senate Bill 660 (Chapter 77-251) removes the authority of municipalities to levy a tax on the purchase of cable television service. However, municipalities imposing such a tax on May 4, 1977, may continue to levy the tax to the extent necessary to meet obligations of bonds or certificates issued prior to that date. The act takes effect October 1, 1977.

1977 SPECIAL SESSIONS

Immediately following the 1977 Regular Session of the Florida Legislature, the Governor called that body into special session to provide for passage of a General Appropriations Act (discussed in the <u>APPROPRIATIONS</u> article covering the Regular Session), and for adequate taxation to implement the appropriations. The first or "A" Session was convened on Wednesday, June 8, and adjourned on Thursday, June 16. A General Appropriations Act was enacted at this session (House Bill 10-A, Chapter 77-465), but the Legislature failed to provide adequate taxation measures to finance state spending as provided for in this act. Therefore, a second special session ("B") was called by the Governor and was convened on Wednesday, June 22, and adjourned on Friday, June 24. At the "B" Session taxation acts were passed to provide implementation for the Appropriations Act.

In addition to the crucial "tax package" other important enactments of the special sessions included the provision of impetus to local solid waste resource recovery and management programs, revision of educational facilities construction laws and the supplemental funding of remedial instruction in grades K-12, tax increment financing for redevelopment of blighted urban areas, authorization for the Department of Transportation to purchase all road rights-of-way in the state, and the creation of an office of State-Federal Relations to be located in Washington, D. C.

Bill numbers are identified by the session of introduction with the letter "A" or "B" immediately following the bill number.

BUSINESS REGULATION

The annual renewal fee for the permit of a cigarette wholesale dealer or exporter is increased twentyfold from \$5 to \$100 by House Bill 35-B (Chapter 77-421). This act makes acting as such a dealer or exporter without a permit a first degree misdemeanor. Prior law has been changed with respect to persons other than licensees possessing, removing, depositing or concealing unstamped cigarettes to provide such activities with 50 cartons or less is a second degree misdemeanor. In lieu of penalties, violators may pay the tax plus a penalty equal to the tax. If more than 50 cartons are involved, the violator is presumed to know the cigarettes have not been taxed and is guilty of a third degree felony. These penalties do not apply to persons who have three cartons or less which they can prove were legally purchased out-of-state. Conspiracy to commit a misdemeanor or felony violation of tax laws is guilty of a second degree misdemeanor and third degree felony, respectively. A definition is provided for the terms "unstamped package" or "unstamped cigarettes" to mean packages on which the Florida tax has not been paid whether or not such package bears the indicia of any other taxing authority to mean a package carrying a counterfeit indicia or stamp. This law also provides for the changing the name of the Division of Beverage to the Division of

Alcoholic Beverages and Tobacco, and directs the Division of Statutory Revision and Indexing of the Joint Legislative Management Committee to make the necessary editorial changes in the official Florida Statutes. Each stamping location designated by the Division is responsible for computing the discount due it, and such computations are to be retained for five years and be available to the Division.

The Division of Beverage of the Department of Business Regulation is authorized by House Bill 6-A (Chapter 77-474) to issue special beverage licenses to any county which has a population of at least one million persons according to the latest federal census and which owns and operates airport facilities pursuant to county government and airport statutes. Such licenses may be transferred to qualified applicants approved by the board of county commissioners and are valid only within the confines of the airport facilities. These licenses do not authorize package sales by the county or its transferee for offpremises consumption. Upon expiration or revocation, such licenses revert to the board of county commissioners.

House Bill 8-A (Chapter 77-168) rewrites statutes relating to the prohibition against convicted felons and bookmakers holding horseracing, dogracing or jai alai permits. The former statute has been held unconstitutional (See Circuit Court Order No. 74-25074 - 11th Judicial Circuit, Dade 2/7/75, West Flagler Associates, Ltd. v. Cooper). The act more adequately defines the grounds for which a permit may be denied, revoked or suspended, and lengthens the list of business relationships between the permitholder and the felon which require revocation or divestiture of the permit.

However, no person or corporation convicted of a felony is barred from holding a permit if his or its civil rights have been restored. The circuit courts are given jurisdiction to determine the terms upon which a convicted person's interest in the permit is to be divested when the parties holding the permit are unable to reach an agreement. The act also requires the prior approval of the Division of Pari-Mutuel Wagering before the transfer of 10 percent or more of the stock or other interest in a permitholder.

House Bill 12-B (Chapter 77-449) changes from 90 to 105 the number of days authorized for the daily "initial expense of operation" allowance at dog tracks, thus conforming same with the number of days authorized in a racing season.

The ceiling on the assessment which the State Board of Pilot Commissioners is authorized to levy against the gross amount of pilotage earned by licensed state [marine] pilots for deposit in the Board's State Treasury Trust Fund is increased from one percent to two percent by House Bill 32-B (Chapter 77-470).

COMMERCE

Senate Bill 48-B (Chapter 77-420) provides that for unemployment compensation claims filed on or after July 1, 1977, but prior to November 30, 1977, an individual need only to have been paid wages for insured work equal to 10 times (rather than 20 times) his average weekly wage during his base period in order to establish eligibility for benefits. The Department of Commerce is directed to monitor the amount of claims paid under this provision and to report the total to the Governor on or before

January 1, 1978. The Department is to include in its budget request in 1978 a request for the funds necessary to reimburse the Unemployment Compensation Trust Fund from the General Revenue Fund. The act to take effect with Committee Substitute for Senate Bill 1262 (Chapter 77-399) which amended the same statutory paragraph.

House Bill 29-B (Chapter 77-450) amends the definition of "exempt offer" for purposes of the "Investor Protection Act" (as enacted by House Bill 1828, Chapter 77-441, at the 1977 Regular Session) to remove from such definition an offer made by a corporation to acquire securities of a subsidiary which owns beneficially at least half of its voting securities, thus making the provisions of the Act applicable to such a transaction.

CONSERVATION AND NATURAL RESOURCES

House Bill 19-A (Chapter 77-466) amends existing statutes to require counties and municipalities, which generate sufficient solid waste to make local resource recovery and management programs economically feasible, to adopt such programs either through special act of the Legislature or interlocal agreement within three years after the Department of Environmental Regulation adopts the State Resource Recovery and Management Program. This act requires an implementation schedule with timetable for local programs and establishes criteria for such schedules. Failure to execute an interlocal agreement or secure passage of special legislation by December 1, 1978, providing administrative responsibility for a local program, will require the board of

county commissioners to assume such responsibility for the entire county including all municipalities. Review of local programs is required every three years and the Department of Environmental Regulation must review, at the same interval, exempted counties and municipalities to see if enough solid waste is being generated to justify local programs. Prior law has been changed to permit the Resource Recovery Council to select its chairman rather than having the Governor do so; and to permit the Council to review each local implementation program as it is submitted to the Department, and to recommend to the Department which exempt areas should be required to engage in local recycling or resource recovery programs because of sufficient generation of solid waste. Provision is made for abolition of the Council on September 30, 1979, with transfer of its records and property to the Department and reversion of any unspent funds to General Revenue.

In response to action taken by neighboring states, noncommercial freshwater fishing and hunting license fees are increased for nonresidents by Senate Bill 17-A (Chapter 77-405) as follows: Annual fishing fee from \$7.50 to \$10; fourteen day fishing fee from \$3 to \$7; five day fishing fee from \$2 to \$5; annual hunting fee from \$26 to \$50 with deletion of the provision that certain nonresident landowners and their wives might obtain such license for \$11; ten day hunting fee from \$11 to \$15. The Game and Fresh Water Fish Commission is authorized to reduce these fees to residents of any states agreeing to recriprocal fees.

EDUCATION

Senate Bill 29-A (Chapter 77-458) is a complete revision of Chapter 235, Florida Statutes, relating to "Educational Facilities." This enactment clarifies existing terminology, deletes obsolete provisions, provides definitions and updates the uniform building code.

This law also makes substantive changes. Originally this chapter was created for public school construction. This measure broadens the terminology to include community colleges, vocationaltechnical centers, Florida School for the Deaf and Blind and, in most sections, the State University System.

The act provides for a district to use available lease space to meet existing short-term needs; provides for guidelines for maintenance; and requires coordination of planning between local governing bodies and identification of hazards in vicinity of schools.

In the area of high-priority construction this law makes three changes in existing law: First, it deletes the five-year anticipated revenue stipulation; secondly, it allows an advance of seven times a district's annual allocation for use in high priority projects; and thirdly, it provides that the advance must be repaid in full.

The requirement of surveys for each district or campus is maintained, but an exception is permitted to the educational plant survey to be granted by the State Board of Education. The act also calls for a twenty percent off-the-top funding from the state for cooperative board projects.

In addition it provides for awarding, substance, and

payment of contracts, and exempts community colleges from the statutory requirements relating to the rate of payment for wages on public works. Expenditures for sidewalks and roadways near a new school site are provided, as well as a five-year construction management program to be used for planning purposes and implemented by a continuing annual appropriation to the Public Education Capital Outlay and Debt Sèrvice Trust Fund.

In the area of remodeling some very important changes were made. First, remodeling is made a top priority expenditure, rather than second priority, and is given the same weight as new construction. Secondly, an older structure can be declared an historic building and funds may be spent on remodeling up to an amount generated by the depreciation formula developed by the Office of Education Facilities Construction. Lastly, this law provides for a uniform system of determining educational plant needs and establishes new expenditure priorities.

Senate Bill 30-A (Chapter 77-392), the "Florida Compensatory Education Act of 1977," is to provide school districts with supplemental funds to be used solely for direct remedial instruction to those students in grades K-12 who are functioning below their grade level in the basic skills of reading, writing and mathematics. In order to receive funds, each district must describe its compensatory education program in writing which must include the following:

1. Enumeration of all remedial and compensatory instruction to be provided by the district from all fund sources.

2. A description of each compensatory education program

to be conducted at each separate school site or other location.

3. An estimation of the number of students, teachers, volunteers and any other persons who will participate in each program.

4. The estimated budget for each program.

All programs provided by funds received under this act must meet the following criteria:

1. Students participating in district programs will be deemed eligible based upon their performance on district assessment tests.

2. Programs must be based on specific performance objectives in the basic skills of reading, writing, and mathematics with services for the special needs of each participant.

3. Program evaluation will be based on the degree to which the stated performance objectives have been achieved, as determined by pretests and post-tests of each participating student.

4. State and local funds spent for this program must be accounted for separately from all other funds expended by the district and must be reported as a categorical program in the manner prescribed by the State Board of Education.

5. The district's program must be conducted in such a way as to allow instructional personnel participating in the program to be excluded from the comparability requirements of Title I of the federal Elementary and Secondary Education Act.

6. District applications for grants under this act must include an assurance that the use of these funds will in no way decrease the availability of other local, state or federal funds

for existing compensatory education programs, nor may these state funds be used to supplant other local, state or federal funds also available for compensatory education programs.

To the greatest extent possible, districts are to involve teachers in the development of their compensatory education programs. Funds are to be appropriated annually and allocated proportionately to districts based upon the number of students in each district in grades 3, 5, 8, and 11 who score at the 25th percentile or below on the statewide student assessment tests.

The state compensatory education program is to be administered by the Department of Education. Upon receipt of a district's application for state funds, the Commissioner must conduct a review of the application and, for those programs which are approved, forward funds to the districts within 60 days of receipt of the program. The Division of Public Schools of the Department will provide any technical assistance needed by the districts to plan and conduct their compensatory education programs and will assist the Department in reviewing and evaluating programs conducted under this act. The Commissioner must, on or before January 10 each year, prepare a report including information on the number of students participating in this program, the extent to which these students' performance improved as a result of their participation in the program, an analysis of the expenditure of funds by district, and an evaluation of the overall effectiveness of each district's program. Beginning with the 1978-79 school year, of those district programs which have been in operation for two or more years, state funding will be terminated for the five programs which are determined to be the least cost

effective each year. The State Board of Education is charged with the responsibility of adopting those rules which it deems necessary to carry out the intent of this act. Existing law relating to the computation of the compensatory education supplemental cost factor is repealed.

Senate Bill 34-B (Chapter 77-417) passed in conjunction with the "Florida Compensatory Education Act of 1977" (Senate Bill 30-A, Chapter 77-392, summarized above) states that the Legislature recognizes that the \$10,000,000 allocated by the General Appropriations Act (House Bill 10-A, Chapter 77-465) for compensatory education programs during the 1977-78 fiscal year represents a minimum level of funding required to implement the provisions of Chapter 77-392. This act further states that the Commissioner of Education, the Governor, and the House and Senate Appropriations Committees are to provide for at least a \$26,500,000 appropriation for compensatory education in their respective budget proposals for the 1978-79 fiscal year.

HEALTH AND REHABILITATIVE SERVICES

House Bill 53-A (Chapter 77-401) is a composite of three bills which were considered during the 1977 regular session. Part One of the act (formerly House Bill 349) encourages the development of geriatric outpatient clinics staffed by a nurse or a physician's assistant to provide routine health services to elderly patients at a minimal cost. The act authorizes nursing homes to establish such clinics and provide services to nonresidents of the home. For licensing purposes, the staff of the

clinic and persons attending the clinic shall not be considered a part of the nursing home's operation.

The second part of the act (formerly House Bill 1720) expands the state and district level Nursing Home Ombudsman Committees to include a dietitian and a licensed pharmacist on each panel. Three consumer advocates for nursing home residents are also added to the district committees. The act provides that district committee members may now be reimbursed for intracounty travel expenses.

The final part of the act (formerly House Bill 2361) was passed by the regular session but vetoed because one section was believed to be in conflict with federal regulations. The remainder of that bill, which is reenacted here without the objectionable section, postpones until July 1, 1978, the date by which the Department of Health and Rehabilitative Services must develop rating standards for nursing homes; and extends until March 1, 1979, the date on which medical assistance program reimbursements are to be related to ratings. The act also amends the cost report filing requirements for nursing homes providing for annual rather than semiannual reports.

For purposes of Florida's Medical Malpractice Law, Senate Bill 47-B (Chapter 77-461) specifies that the state or local professional society comprising a medical review committee must be a society of "health care providers," and further defines such providers to mean licensed physicians, osteopaths, podiatrists, dentists, chiropractors or pharmacists.

LOCAL GOVERNMENT

House Bill 36-A (Chapter 77-391) is a comprehensive amendment to Chapter 163, Part III, Florida Statutes, the Community Redevelopment Act, and provides for a system of "taxincrement financing" for redevelopment of blighted urban areas. Upon a determination of need by the governing body of a county or municipality, a community redevelopment agency may be established by the governing body, or the functions which would be exercised by such an agency may be conferred upon an existing agency (downtown development authority or other body to prevent slums and blight through community redevelopment plans, in existence on July 1, 1977) or retained by the governing body If established, such an agency would consist of five itself. commissioners appointed by the governing body to staggered fouryear terms. The agency would be empowered to employ necessary staff and would be required to file and make available for public inspection an annual financial report. The agency would have all the powers necessary to implement the purposes of the act except the authority to designate, acquire and redevelop slum areas, finally approve community redevelopment plans, and to issue revenue bonds. These powers would be retained by the governing body.

Under the provisions of the act, redevelopment plans must conform to the comprehensive plan for the county or municipality and must be submitted to the local planning agency for its review and recommendations. After approval of the redevelopment plan by the agency, the governing body must hold a public hearing and, thereafter, may approve the plan if it finds that suitable

relocation for displaced persons is feasible and that the plan makes adequate provision for park and recreational areas desirable for neighborhood improvement.

The act specifies the procedure by which the redevelopment plan can be modified; lists the details which must be included in the plan; seeks to prevent potential conflicts of interest on the part of public officials, and members and employees of the agency; and sets out powers which can be delegated to the agency by the governing body, including the power of eminent domain.

Provision is made for the sale or lease of property acquired by a redevelopment agency at not less than fair value to public or private developers who will rehabilitate the area in accordance with the plan. Such disposition of the property is permitted only after 30 days public notice and an opportunity to bid.

The governing body or, by its resolution or ordinance, the agency may issue revenue bonds in order to finance the redevelopment plan. These bonds are to be repaid from the redevelopment trust fund which must be established before the agency may exercise any of its powers. The trust fund is, in turn, to be funded by all the taxing authorities except school districts deriving revenues from ad valorem taxes on property within the redevelopment area. Their required contribution is determined by the application of the current tax rate to the increase in assessed valuation due to the redevelopment project. The obligation of each taxing authority to pay into the trust fund shall continue until all indebtedness of the agency has been paid.

Finally, the act deletes a former provision by which

redevelopment bonds were required to be guaranteed by the federal government.

Senate Bill 37-B (Chapter 77-460) prescribes the conditions under which a political subdivision of the state may bypass the competitive bid procedure in purchasing personal property and award a contract preference to a domestic bidder even though the lowest responsible bid has been submitted by an out-of-state bidder. Preferences to Florida bidders are only to be equal to the preference granted by the state or political subdivision thereof where the lowest responsible bidder has his principal place of business. Any out-of-state bidder responding to an invitation to bid which provides for such exceptional procedure must submit with his bid a written opinion of a lawyer licensed to practice in the bidder's state as to any preferences in the awarding of public contracts recognized by such state. Transportation projects for which federal funds are available are excluded from provisions of this act.

The board of county commissioners in each county may negotiate an airport operation or facility lease rather than awarding such a lease to the highest and best bidder under the provisions of House Bill 21-B (Chapter 77-475). The act also exempts the leasing of real property belonging to the county from the required two-week newspaper publication of bid notice in the selling of such property. Severability is established for each of the law's provisions.

MOTOR VEHICLES AND TRANSPORTATION

Senate Bill 32-B (Chapter 77-416) implements provisions included in the General Appropriations Act (House Bill 10-A, Chapter 77-465) for the Department of Transportation. It provides that 36.5% of the gross motor vehicle license fees (\$63.8 million), excluding mobile home license receipts, shall be transferred to the Department. The Department is required to purchase all rights-of-way for all state roads in the state highway system or interstate system, and is authorized to propose rights-of-way maps for new roads and any additions to existing facilities. Such maps, upon approval by the appropriate local authority, shall be filed in the public land records of the county by the circuit court clerk and thus establish certain setback requirements and restrictions on the issuance of building permits.

A procedure is provided whereby an affected property owner may appeal such property regulation under the Administrative Procedure Act and a finding in favor of the property owner requires the Department to acquire the property or initiate proceedings to do so within 90 days. Failure of the Department to act permits the local government authority to issue any building permit through regular channels.

All transfers of responsibility between the state and local governments pursuant to the road classification plan mandated by statute, which have not been effected by July 1, 1982, shall occur automatically at that time. The requirement that, upon completion of the transfers of responsibility, counties or cities provide matching funds to federal aid for county road and city street systems is deleted.

A municipality retains its powers over any public road or rightof-way within its boundaries which has been transferred to another governmental entity unless otherwise provided by law.

Senate Bill 36-B (Chapter 77-418) requires the Department of Transportation to pay the costs of relocating and replacing water supply facilities in the construction and reconstruction of the Florida Keys bridges up to an amount equal to federal funds received by the state which are earmarked for that purpose, or up to an amount received by Florida from federal nontransportation funds and used for state highway system projects.

Under the provisions of Senate Bill 612 (Chapter 77-395) and Senate Bill 23-B (Chapter 77-415) relating to motor vehicle license plates, both the \$4.50 transfer fee and the pro rata refund for the unexpired portion of the registration period are abolished for all private automobiles and for trucks weighing less than 5,000 pounds. Upon trading up or down within the weight classifications covered, no refunds will apply nor will any additional fee be charged for the current registration period.

Senate Bill 612 (enacted at the 1977 Regular Session) also revises the schedule of license fees for all passenger cars and for trucks under 5,000 pounds. There will now be only three price levels for all these vehicles: \$12.50, \$20.50 and \$30.50.

STATE GOVERNMENT

The Office of State-Federal Relations for the State of Florida is created within the Office of Governor, or his designee, by Senate Bill 43-B (Chapter 77-419) and is to be located in the nation's capital. The purpose of the Office is to provide

mechanisms through which the legislative and executive branches of Florida government may strengthen the state's relationship with its Congressional Delegation and federal agencies and to counterbalance federal legislative impact on the state. Operations of the new office are to be funded from the State-Federal Relations Trust Fund created within the Department of Administration to receive monies reimbursable to the state pursuant to the provisions of Federal Management Circular 74-4 and identified as reimbursable on the application form of each state agency applying for a federal grant or contract. Four staff positions for the Office are created within the Office of the Governor and five research, analytical and statistical support positions are provided within the Division of State Planning of the Department of Administration. Specific duties of the Office include: legislative and administrative liaison between the state, the federal executive branch and Congress; grantsmanship advice and assistance to state agencies; assistance in the development and implementation of the state's federal legislative and intergovernmental programs; and assistance to Florida officials in Washington, D. C. on official business. State agencies are required to coordinate appropriate activities with the Office and are encouraged to place within it any of their representatives located in the District of Columbia.

Senate Bill 10-B (Chapter 77-410) doubles the fee charged by the Department of State for filing the annual report of a corporation from \$5 to \$10, effective January 1, 1978.

TAXATION*

Financial matters occupied the Legislature through two special sessions this year; the first was necessary to pass a record budget and the second to increase taxes to help fund that budget. The result was the so-called "tax smorgasbord," the most noticeable elements of which were increased cigarette and alcoholic beverage taxes. Florida cigarette taxes went up from $17\note$ to $21\note$ a pack, among the highest rates in the nation. The tax on beer increased a penny per can, the tax on wine increased $12\note$ a fifth, and liquor taxes increased $20\note$ a fifth. The Legislature also doubled the phosphate severance tax and increased the oil severance tax from 5 to 8 percent.

In the area of tax reduction and exemptions, the inventory tax was reduced from 25 percent to 10 percent. Real property owned and used by a chartered labor organization and used for educational purposes was granted an ad valorem tax exemption, and qualifications for ad valorem tax exemption for water and sewer companies and for homes for the aged were modified. However, the sales tax exemption for motor vehicles sold to out-of-state residents was removed.

Other laws dealt with provisions relating to intangible personal property tax, estate tax, excise tax on documents, and the additional county 1¢ tax on motor fuel and special fuels.

Cigarette Tax

Senate Bill 8-B (Chapter 77-409) increases the excise tax on cigarettes from $17\not$ to $21\not$ a package for cigarettes of standard size, with corresponding increases from $34\not$ to $42\not$ for *Section prepared by House Bill Drafting

packages of cigarettes weighing more than 3 pounds per thousand and not more than 6 inches long, and from 68¢ to 84¢ for cigarettes weighing more than 3 pounds per thousand and more than 6 inches long. The increased revenues are to be deposited in the General Revenue Fund. The act specifies that the annual population estimate of local governmental units produced by the Department of Administration shall be used in determining distribution of cigarette tax revenues deposited in the Municipal Financial Assistance Trust Fund. This measure also provides for an increase in each fractional share of the distribution formula for dispensing cigarette tax revenues to local governmental entities.

Beverage Tax

Excise taxes on alcoholic beverages are increased by Committee Substitute for Senate Bill 6-B (Chapter 77-407). Taxes on malt beverages increased 25 percent, from $32\note$ to $40\note$ per gallon in bulk, and from $4\note$ to $5\note$ per pint in containers of less than a gallon.

Except for natural sparkling wines, taxes on wine increased at the rate of approximately 52 percent. Wine containing from 1 to 14 percent alcohol will be taxed at \$1.75 a gallon, rather than \$1.15; on such wine made from Florida-grown products, the tax increases from 57.5 cents a gallon to 87.5 cents. Tax on wine containing more than 14 percent alcohol is increased from \$1.60 to \$2.43 a gallon; on such wine made from Florida-grown products the tax increases from 80¢ to \$1.22 per gallon. The tax on natural sparkling wines increases from \$2.30 to \$3.50 per gallon; except on natural sparkling wine made from Florida-grown products on

which the tax increase is from \$1.07 to \$2.63 per gallon, a 146 percent increase. In addition, the act provides a 2.4 percent dealer's credit for the collection of taxes on wine.

Liquor taxes increased approximately 27 percent. Taxes on liquor containing 14 to 48 percent of alcohol are increased from \$3.75 to \$4.75 a gallon, and from \$1.885 to \$2.39 per gallon on such liquor made from Florida-grown products. On liquor containing more than 48 percent of alcohol, the tax increase is from \$7.52 to \$9.53 a gallon, and from \$3.75 to \$4.75 a gallon when such liquor is made from Florida-grown products.

Phosphate Severance Tax

The severance tax on phosphate was doubled (from 5 percent to 10 percent) by Senate Bill 5-B (Chapter 77-406). The law also revises the distribution of the tax, designating 75 percent for the General Revenue Fund and 25 percent for the Land Reclamation Trust Fund, in place of the former 50-50 split. The act provides that refunds from phosphate severance taxes levied on and after July 1, 1978, be paid only for reclamation of lands disturbed prior to July 1, 1975 (when reclamation became mandatory), or for lands included in a reclamation plan on file with the Department of Natural Resources on July 1, 1977.

In addition, the measure creates a 7-member Phosphate Land Reclamation Study Commission appointed by the Governor. The Department of Natural Resources is to provide necessary staff, and upon request of the Commission, economic advice is to be provided by the Division of Budget of the Department of Administration. The Commission is directed to study the reclamation of land

disturbed by the severance of phosphate rock, to inventory lands so disturbed prior to July 1, 1975, which have not been reclaimed, and to estimate present and future reclamation costs. The Commission is directed to report to the Governor, the Speaker of the House and the President of the Senate by March 1, 1978, and may recommend necessary legislation, including recommendations with respect to the restrictions on refunds mentioned above. An appropriation of \$150,000 is made to the Department of Natural Resources from the Land Reclamation Trust Fund, and three timelimited exempt positions created to assist the Commission.

The increased tax applies to the severance of phosphate rock after July 1, 1977. Taxes for the 1977 tax year will be due on April 1, 1978. Beginning with the 1978 tax year, taxpayers are required to file a declaration of estimated tax by the fifth month of the tax year, and to pay the estimated tax in four equal installments; on the date of filing the declaration, on the first day of the seventh and tenth months of the taxable year, and on the first day of the next taxable year. Any overpayment will be credited toward the next year's taxes. The difference between the last installment paid, and the amount which should have been paid if the estimate equaled 80 percent of the actual taxes due, is deemed to be an underpayment, and the taxpayer is liable for 12 percent per year interest and a 10 percent penalty for any such underpayment. However, no penalty is imposed if the total of installment payments equals either 80 percent of the taxes finally due, or an amount equal to the taxes paid for the preceding taxable year.

Oil Severance Tax

Senate Bill 7-B (Chapter 77-408) increases the oil severance tax from 5 to 8 percent of the gross value at the point of production, and specifies that seven-eighths or 87.5 percent, of the total tax be for the use of the state General Revenue Fund, with one eighth or 12.5 percent for the use of the counties. The former distribution rate, which still applies to the tax on gas production, was 80 percent for the state and 20 percent for the counties. However, a well producing less than 100 barrels of oil a day or oil produced by tertiary methods remains taxable at 5 percent, with the proceeds distributed in the same manner as the gas tax. The law also specifies that the value of any oil or gas production shall not include any wellhead or other production taxes imposed by the United States to the extent that such taxes do not provide a credit or deduction for the Florida oil or gas production tax.

Inventory Tax

Senate Bill 1-B (Chapter 77-476) reduces the rate of assessment of items of inventory from 25 percent to 10 percent of just valuation generally, and to 1 percent for goods in the process of manufacture and raw materials held for incorporation into goods to be sold.

The following provisions are effective July 1, 1978. After transfer of 55 percent of the total net intangible taxes collected to the Revenue Sharing Trust Fund for counties, as presently provided, the remainder is to be transferred to the Local Government Exemption Trust Fund (formerly the Local

Government Additional Homestead Exemption Trust Fund), rather than the General Revenue Fund. The act authorizes payments to be made from this Trust Fund to qualified local governments in order to replace the revenue lost through the reduction of the inventory assessment, in addition to the payments already made from the Trust Fund to replace revenue lost through the additional homestead exemptions for persons over 65 or totally and permanently disabled. At the end of each fiscal year, any funds not distributed from the Trust Fund shall revert to the General Revenue Fund.

Miscellaneous Exemptions

The sales tax exemption for new or used motor vehicles sold to residents of another state for use in that state, enacted in 1976, was removed by Senate Bill 12-B (Chapter 77-412). The measure provides that the tax on such vehicles be equal to the sales tax which would be imposed by the buyer's state of residence, but not exceeding the tax imposed under Florida law. The purchaser is required to execute a notarized statement of his intent to license the vehicle in his home state within 10 days, and of the fact of the payment of a sales tax in Florida, which must be submitted to the appropriate tax collection agency in his home state.

House Bill 30-A (Chapter 77-448) provides an exemption from the 5-year residency requirement which is imposed, along with minimum income requirements, on residents of homes for the aged seeking an ad valorem tax exemption as property used for charitable purposes. The law provides that the residence requirement not apply to non-profit housing projects which are

financed by a mortgage loan made or insured by the U. S. Department of Housing and Urban Development made under Section 202 of the Housing Act of 1959, as amended, or Section 236 or Section 221(d)(3) of the National Housing Act, as the same shall apply to nonprofit rental housing programs for lower income elderly and handicapped persons. The act also provides a severability clause for Sections 196.197(6) or (7) and 196.1975, Florida Statutes, relating to ad valorem tax exemption for homes for the aged, hospitals, nursing homes, and homes for special services. Former law provided that the provisions of those sections were nonseverable.

Senate Bill 27-B (Chapter 77-459) provides an ad valorem tax exemption for that portion of real property owned and used by a labor organization chartered by a state or national organization, and used predominantly by such organization for educational purposes, to the extent of such use. The law also expands one of the criteria which must be met by nonprofit sewer and water companies to qualify for exemption from ad valorem taxation, by including such companies whose rates are regulated by the Farmers Home Administration. It specifies that no such exemption shall be granted until the property appraiser has considered the proposed exemption and made a specific finding that the water and sewer company in question performs a public purpose, in the absence of which an expenditure of public funds would be required.

Intangible Personal Property Tax

For purposes of assessment of intangible personal property tax against bills, notes and obligations arising out of the sale

of tangible personal property, Senate Bill 14-B (Chapter 77-413) provides that such sales are in this state, and thus subject to taxation, if the property is delivered or shipped to a purchaser in Florida, regardless of the f.o.b. point or other conditions of the sale.

Estate Tax

Senate Bill 11-B (Chapter 77-411) provides that, for purposes of payment of estate taxes, a person shall be presumed to have died a resident of Florida if he dwelt in the state for the greater part of any 12 consecutive months during the 24 months preceding his death (regardless of whether or not he may have voted or been assessed for taxes in Florida), or if he was a resident sojourning outside the state. The burden of proof in an estate tax proceeding is on the person claiming exemption because of nonresidency. The law increases from 5 to 10 years the maximum period for the aggregate of extensions allowed for payment of estate taxes, and increases from 10 to 12 years the period for which a lien for unpaid taxes upon the gross estate of the decedent is valid. It increases the interest rate charged on deficient estate taxes from one-half of 1 percent to 1 percent per month, and removes the \$1 fee for issuance of a waiver releasing property from a lien for unpaid taxes. Finally, the enactment specifies that the interpretation of the Florida estate tax laws shall be based upon the interpretations and construction of the estate and inheritance tax laws of the United States, effective January 1, 1978.

Estate Tax on Documents

Senate Bill 15-B (Chapter 77-414) provides that the documentary stamp tax applies to documents recorded in the state. On mortgages, trust deeds, security agreements and other evidences of indebtedness filed or recorded in the state, the rate of tax is 15¢ per \$100 or fraction thereof of indebtedness or obligation evidenced thereby. Where there is both a mortgage, trust deed, or security agreement and a note, certificate of indebtedness, or obligation, the act directs that the tax be paid on the mortgage, trust deed or security agreement at the time of recordation, with a notation made on the note, certificate of indebtedness, or obligation to that effect and the proper stamps affixed. It removes a requirement that a notation be made on the mortgage when the stamps are placed on the notes.

Motor Fuel and Special Fuel

House Bill 16-A (Chapter 77-390) specifies that the additional 1¢ tax on motor fuel and special fuel authorized to be levied by the counties may be used for the establishment, operation and maintenance of facilities related to transportation systems and acquisition, construction, reconstruction and maintenance of roads and streets; and declares that such activities fulfill a county purpose and that payment of costs and expenses may be made from county general funds, special taxing district funds, or other funds authorized by law. County governing bodies are authorized to provide that the referendum on the adoption of the additional 1¢ tax be worded so as to limit the number of years the tax will remain in effect.

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TAXICABS TELEVISION Cable T.V.; municipal tax levy removed; exception . S660(77-251) Motion picture/T.V. Advisory Council; created . . . S773(77-360) TENANTS See: LANDLORD & TENANT THEATERS Outdoor theaters; regulations; road responsibility. H2141(77-260) THEFT Minors; parent liability; amount changed S1122(77-366) Personal property, leased/rented; illegal conversion TOILETS See: RESTROOMS TORTS Public offs./emps. Fed. court actions; defense . . . S1095-Vetoed State/county/municipality risk management program, liability or TOURISM Local option tourist development tax; levy/collection . . Promotional activities by state employees, foreign travel . . . Tourist development tax; subcounty special districts . . . TRADE Freeport; tangible personal property tax exemption . S313(77-305) TRAFFIC CONTROL See also: MOTOR VEHICLES; HIGHWAY SAFETY & MOTOR VEHICLES, DEPT. OF Accidents damaging fences containing livestock; owner Disabled/handicapped; free parking . . . H2129(77-444),S41(77-83) Four-way stop intersections; stopping/proceeding procedure . . . Parking See: PARKING Signals & devices; mandatory compliance date changed Traffic infractions Moving traffic violations; additional \$30 fine. . S1181(77-468) Police/firemen, lawful orders; noncompliance . . . S958(77-456) TRAILER PARKS See: MOBILE HOMES, Parks TRAILERS See under MOTOR VEHICLES TRANSPORTATION 1-cent motor/special fuels tax; use re transportation facilities Pinellas County Transportation Authority abolished . . H77(77-34)

*See Session Law Chapter Number listing for Summary page number references. TRANSPORTATION, DEPARTMENT OF Bus stops, permanent; established for school children/signs . Condemnation proceedings/right-of-way acquisition . .H1747(77-44) Construction contracts; dispute/pending claims . . . H1405(77-79) County road./bridge dist.; abolition; special assessments . . . County road/bridge tax; distribution to municipalities. Dame Point Expressway project (Jacksonville) . . . H1558(77-377) Eighth cent gas tax; transfer state trans. trust fund н803(77-165) Employees purchasing/leasing prop.; real estate license Hillsborough County Expressway System; completion funds Jax Expressway System, revenue producing project; covenant Keys bridges; relocating/replacing water supply facilities; funds Land conveyance, local governmental units S584(77-244) Mass Transit Operations Div. redesignated Public Transportation Motor vehicle licensing moneys; disposition S32-B(77-416) Outdoor theaters; regulations; road responsibility. H2141(77-260) Road Operations, Div. of; condemnation proceedings, authority . . 2nd gas tax funds; distribution formula; law revised н803(77-165) South Crosstown Expressway in Tampa; completion funds TRAPPING See: HUNTING/TRAPPING TRAVEL AGENCIES See: PLANTS/TREES/SHRUBS TREES TRESPASS Structure or conveyance; warning nonadherence . . . S906(77-132) TRUCKS & TRACTORS See under: MOTOR VEHICLES TRUST FUNDS Kissimmee River Valley/Lake Okeechobee restoration . S936(77-404)

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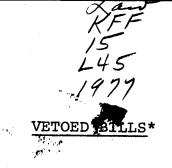
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S	в	1091	-	Vetoed	June	28,	1977
S	В	1095	-	Vetoed	June	24,	1977
S	В	1230	-	Vetoed	June	29,	1977

SB 1454 - Vetoed June 29, 1977

House Bills:

HB	388	-	Vetoed	June	22, 1977
HB	621	-	Vetoed	June	20, 1977
HB	676	-	Vetoed	June	24, 1977
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HB	1464	-	Vetoed	July	1, 1977
HB	1787	-	Vetoed	June	18, 1977
HB	1803	-	Vetoed	July	1, 1977
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*This list excludes local bills vetoed by the Governor.

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