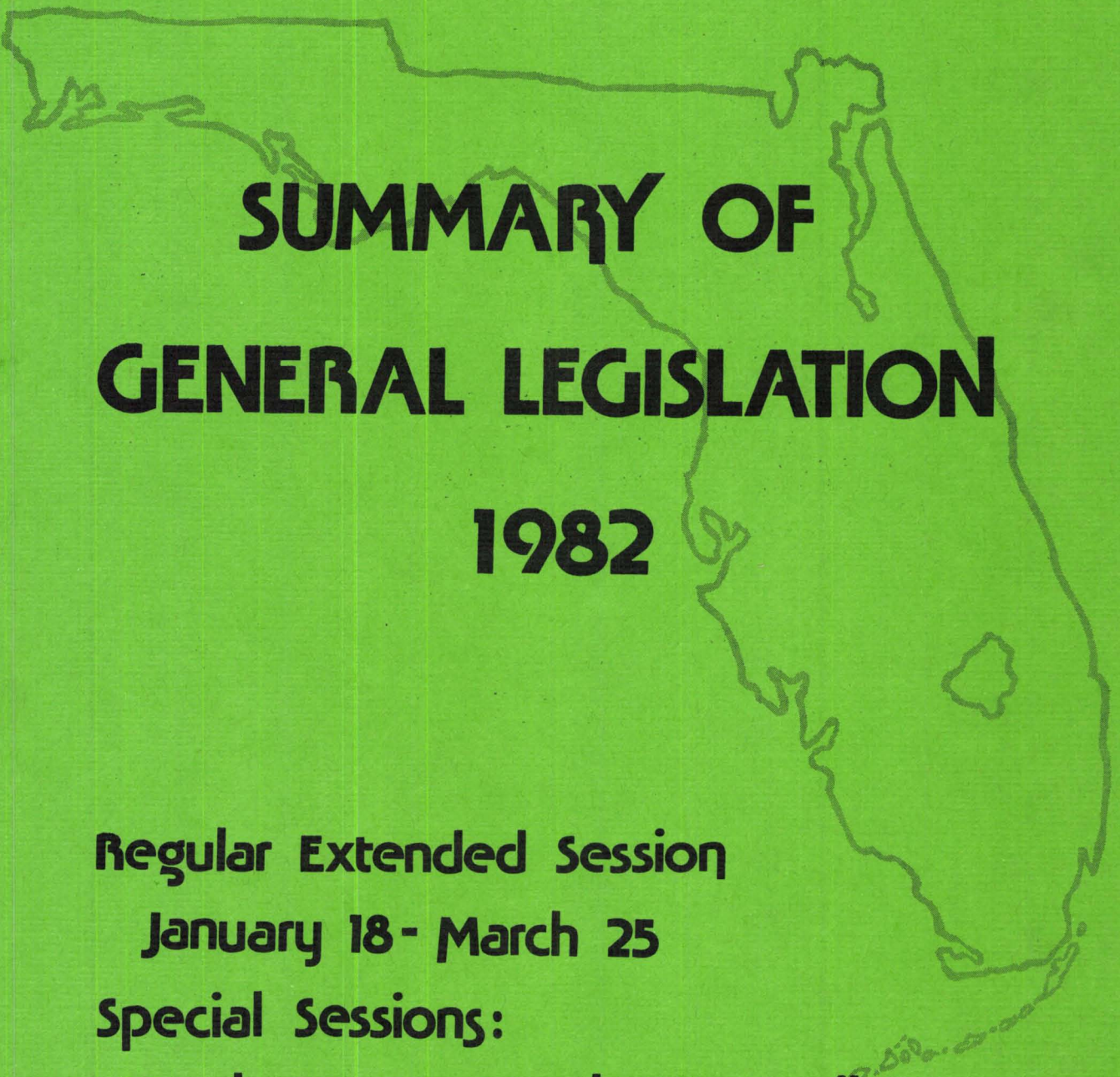


# **FLORIDA LEGISLATURE**

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## **SUMMARY OF GENERAL LEGISLATION 1982**

**Regular Extended Session**

**January 18 - March 25**

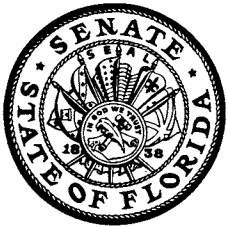
**Special Sessions:**

**March 26-29, March 29- April 7,  
and May 21**

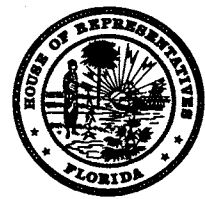




W. D. CHILDERS  
President



RALPH H. HABEN, JR.  
Speaker



THE FLORIDA LEGISLATURE  
JOINT LEGISLATIVE MANAGEMENT COMMITTEE

THOMAS L. WADE III, EXECUTIVE DIRECTOR

Senator John A. Hill, Chairman  
Representative Lawrence F. Shackelford, Vice-Chairman  
Senator Mattox S. Hair  
Senator Thomas J. Tobiassen  
Representative Peter M. Dunbar  
Representative H. Lee Moffitt

Room 827, Capitol  
Tallahassee, Florida 32301  
Telephone (904) 488-2194

June 28, 1982

Honorable W. D. Childers  
President, and Members  
of the Senate

Honorable Ralph H. Haben, Jr.  
Speaker, and Members  
of the House of Representatives

Dear Members:

I am pleased to furnish you herewith the Summary of General Legislation, 1982, prepared under the supervision and coordination of the Division of Library Services, Joint Legislative Management Committee, with the assistance of members of the Legislative staff.

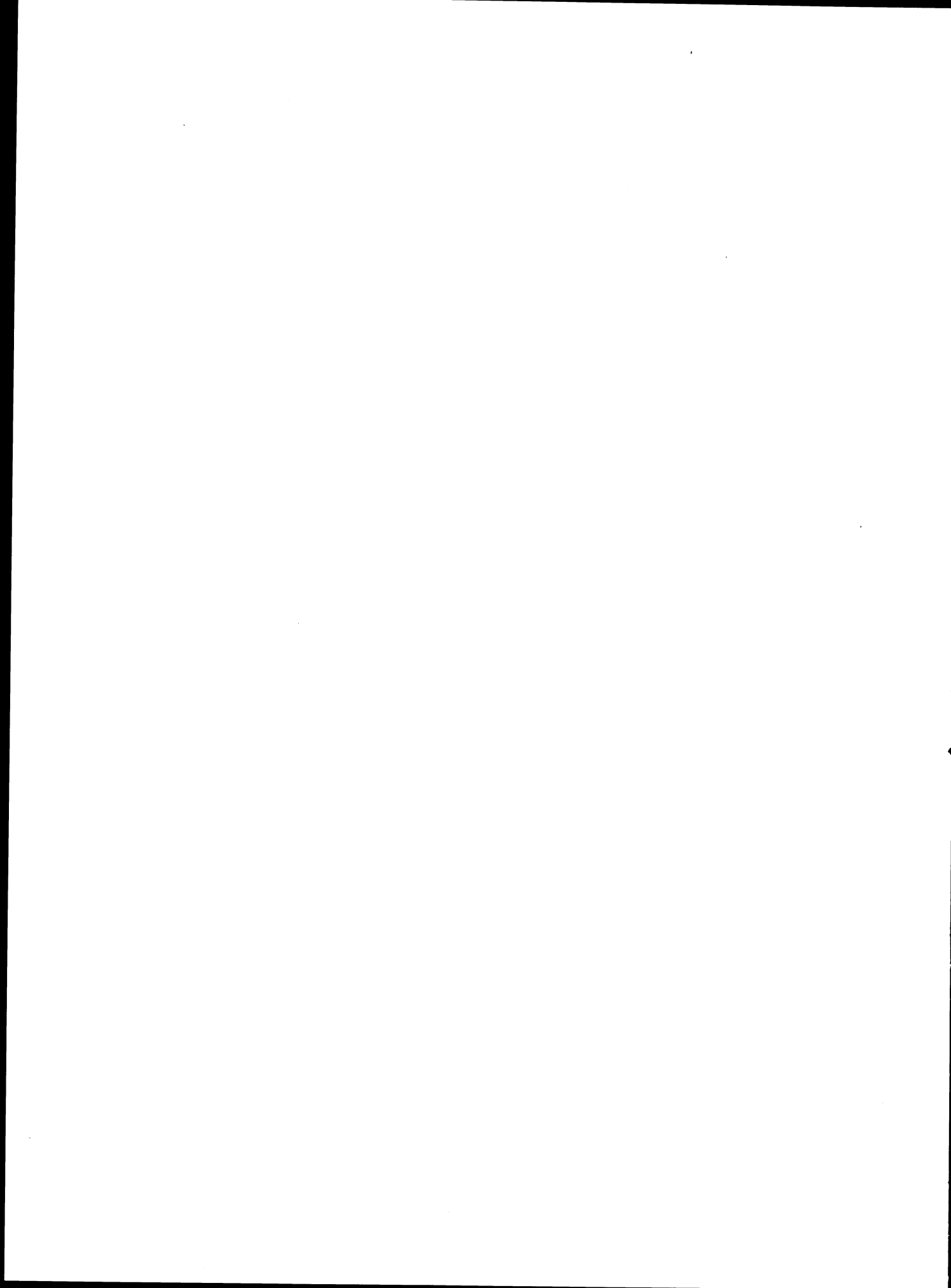
The information in these articles is presented so as to reflect generally the areas in which the legislative interests were centered during the session.

Sincerely,

A handwritten signature in dark ink, appearing to read "John A. Hill".

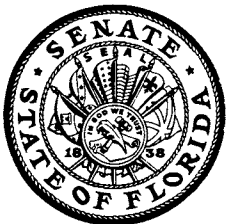
Senator John A. Hill  
Chairman

Joint Legislative Management Committee

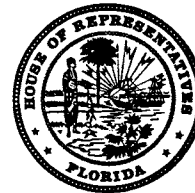




W. D. CHILDERS  
President



RALPH H. HABEN, JR.  
Speaker



THE FLORIDA LEGISLATURE  
JOINT LEGISLATIVE MANAGEMENT COMMITTEE

THOMAS L. WADE III, EXECUTIVE DIRECTOR

DIVISION OF LEGISLATIVE LIBRARY SERVICES

June 14, 1982

Senator John A. Hill, Chairman  
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Senator Mattox S. Hair  
Senator Thomas J. Tobiassen  
Representative Peter M. Dunbar  
Representative H. Lee Moffitt

B. GENE BAKER, DIRECTOR  
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Telephone (904) 488-2812

FOREWORD

This book highlights, within broad subject areas, the general laws enacted during the 1982 Regular Extended Session of the Florida Legislature and the five special sessions held between March 25th and May 21st.

The 1982 Florida Legislature authorized an increase of 13% in spending for the year ending June 30, 1983 in the face of continuing debate in Washington over federal spending levels. As might be expected, the question of legislative apportionment and congressional redistricting provoked bruising battles during the regular session and resulted in separate special sessions to produce the necessary legislation. However the lawmakers were also able to create a new statutory chapter covering limited liability companies; revise the laws covering financial institutions; provide procedural safeguards for mentally ill penal inmates; enact a new insurance code; treat the issue of concealed weapons in private vehicles and increase the sales tax in an election year.

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. Staff comments and cross-references are enclosed in parentheses. In preparing the subject index to this SUMMARY OF GENERAL LEGISLATION, this office adapted the index prepared by the Legislative Information Division.

The Legislative Library wishes to thank the personnel from the Legislative Systems & Data Processing Division and the Legislative Information Division for making possible the utilization of the legislative computer in the preparation of the SUMMARY.

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

B. Gene Baker

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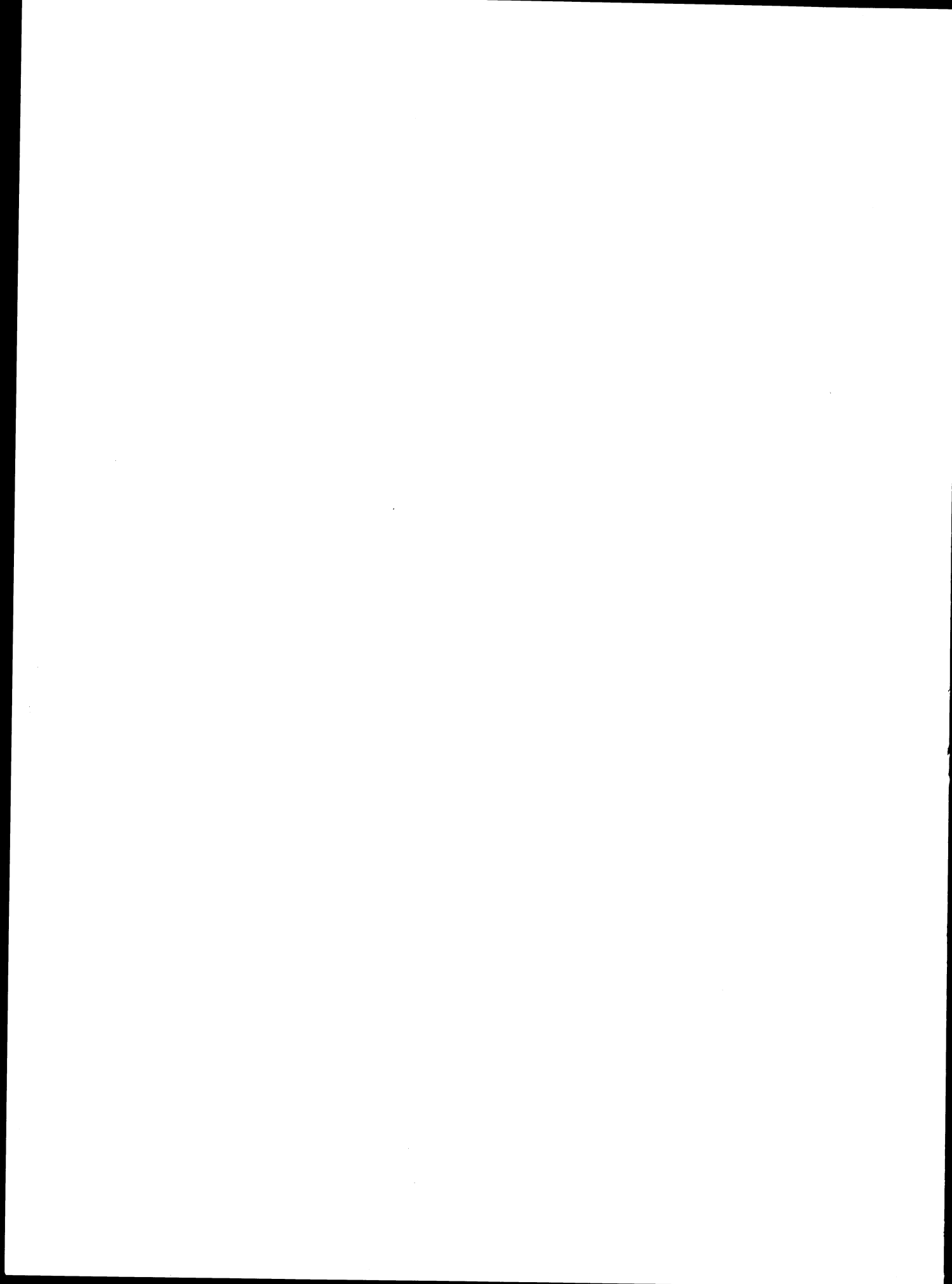
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AGRICULTURE\*

In its 1982 Regular Session the Legislature addressed the subject of agriculture generally by the passage of the "Florida Right to Farm Act," expansion of the community gardening program statewide, and enactment of provisions concerning agricultural research. Sunset review of the "Florida Pesticide Application Act of 1974" was accomplished and requirements concerning quality control of fertilizer manufacturing were amended. Finally, portions of the "Florida Citrus Code" dealing with authorized expenditures of citrus excise taxes, the licensing of citrus fruit dealers, and the confidentiality of industry data were altered.

Right to Farm Act

COMMITTEE SUBSTITUTE FOR SENATE BILL 547 (CHAPTER 82-24) amends Section 823.14, F. S., to create the "Florida Right to Farm Act" which provides legislative findings and purpose that no farm operation which has been in existence more than one year from its established date of operation, and was not at that date a nuisance, shall be considered a public or private nuisance, if following generally accepted farming and

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\*Prepared by staff of the Senate Committee on Agriculture

management practices unless the existence of certain enumerated conditions demonstrate it is a nuisance. Nor, given the same circumstances, shall any farm operation become a public nuisance through changes in ownership, type of farm product or conditions in or around the farm, but such farm operation may not become more "excessive" without regard to effect of noise, odor, dust or fumes on adjacent homesteads or businesses. The terms "farm," "farm operation," "farm product," and "established date of operation" are defined for purposes of the act.

#### Noncommercial Gardening

HOUSE BILL 628 (CHAPTER 82-173) the "Florida Community Gardening Program of 1982," makes permanent the concept originating with the two-year pilot program in CHAPTER 80-395. Vacant public lands owned by the state or participating county or municipality may be used by any county resident to grow garden produce not for sale upon application to the Commissioner of Agriculture or his designee for the appropriate permit. The Commissioner or his designee is to actively encourage participation in the program by governmental entities and execute letters of agreement for use of the vacant land. Cities and counties may exempt themselves from participation by notifying the Commissioner. Private owners may contract with the Department of Agriculture and Consumer Services for such use of their land. Immunity from liability is provided public and private owners participating in the program.



### Agricultural Research

HOUSE BILL 306 (CHAPTER 82-34) amends Section 581.083, F. S., to prohibit the introduction into the state of any organism which might directly or indirectly affect Florida plant life as a pest, parasite or predator unless such organism is part of a research project approved by the Department of Agriculture and Consumer Services, and deemed not likely to become a pest by the Department based on findings of the Department of Natural Resources and the USDA.

HOUSE BILL 89 (CHAPTER 82-109) amends Section 791.07, F. S., to permit the use of "fireworks" rather than simply "firecrackers" in frightening birds from agricultural works and fish hatcheries.

### Pesticide Regulation

COMMITTEE SUBSTITUTE FOR SENATE BILL 983 (CHAPTER 82-167) defines "dealer," "distributor," and "transportation of pesticides in bulk" for purposes of the "Florida Pesticide Law" (Chapter 487, F. S.), and increases to 19 the membership of the Pesticide Technical Council, thereby expanding the groups represented on the Council.

Provisions of the "Florida Pesticide Application Act of 1974" (Sections 487.151-487.166, F. S.) are addressed pursuant to the Regulatory Sunset Act, Section 11.61, F. S., which requires scheduled legislative review of regulatory statutes and effects automatic repeal of such statutes on a date certain unless the Legislature reenacts them. An age requirement is

added to the definition of "certified applicator" and "mixer-loader" is defined for purposes of the Pesticide Act. Recommendations of the Pesticide Technical Council are to be considered in adopting the formulation of rules by the Department of Agriculture and Consumer Services. The Pesticide Act's provisions relating to the licensing, classification, certification, examination, regulatory fees, bonding requirements, reciprocal agreements for nonresident licensees and supervisory responsibilities of pesticide applicators are amended. Exemption from fees heretofore accorded governmental agencies is deleted. Renewal license fee requirements are changed and provision is made for recertification. The concept of disciplinary action is established and a list of grounds for such action is provided. Provisions for claiming damage are expanded to include damage or injury to property, animal or man. Damage reporting requirements are strengthened to permit establishment of a pesticide incident monitoring system within the Department and record-keeping requirements are expanded in scope and are to include specific information. The Department is required to compile an annual statewide report on restricted use pesticides. Section 487.061, F. S., relating to the Pesticide Technical Council is scheduled for "sundown" repeal on October 1, 1992, and the "Florida Pesticide Application Act of 1974" is set for "sunset" repeal on the same date.

COMMITTEE SUBSTITUTE FOR SENATE BILL 902 (CHAPTER 82-106) defines the terms "batch," "lot," and "ineffective," and redefines the terms "pest" and "pesticide," for purposes of



Chapter 487, F. S. The Department of Agriculture and Consumer Services is granted specific authorization to assess penalties for deficient pesticides and ineffective or short measure products, and such penalties are established. Remedies are provided for failure to pay penalties. Provisions relating to the analysis of pesticide samples are revised to require that a true copy of the certificate of analysis be mailed to the registrant of a sampled pesticide, the dealer or agent, and the consumer. Procedures are set out for the use of referee chemists in disputes between the Department and registrants.

#### Fertilizer Regulation

SENATE BILL 674 (CHAPTER 82-103) amends Section 576.011, F. S., to redefine the terms "coning," "deconing," "deficiency," and "mixed fertilizer," as used in Chapter 576, F. S., which relates to agricultural fertilizers. Moreover, the act provides that the state chemist's certificate of analysis of a fertilizer shall be final and binding unless demand is made for a second referee chemist. Finally, subsection cross references are corrected.

SENATE BILL 729 (CHAPTER 82-105) amends Subsection 576.051(7), F. S., to delete the requirement that the methods and terminology of the Association of Official Analytical Chemists (AOAC) be used by the Department of Agriculture and Consumer Services in drawing samples and in making analyses relating to fertilizer unless such methods and terminology are not applicable, and instead authorizes the Department to

promulgate appropriate rules using the recommendations of such recognized authorities as the AOAC.

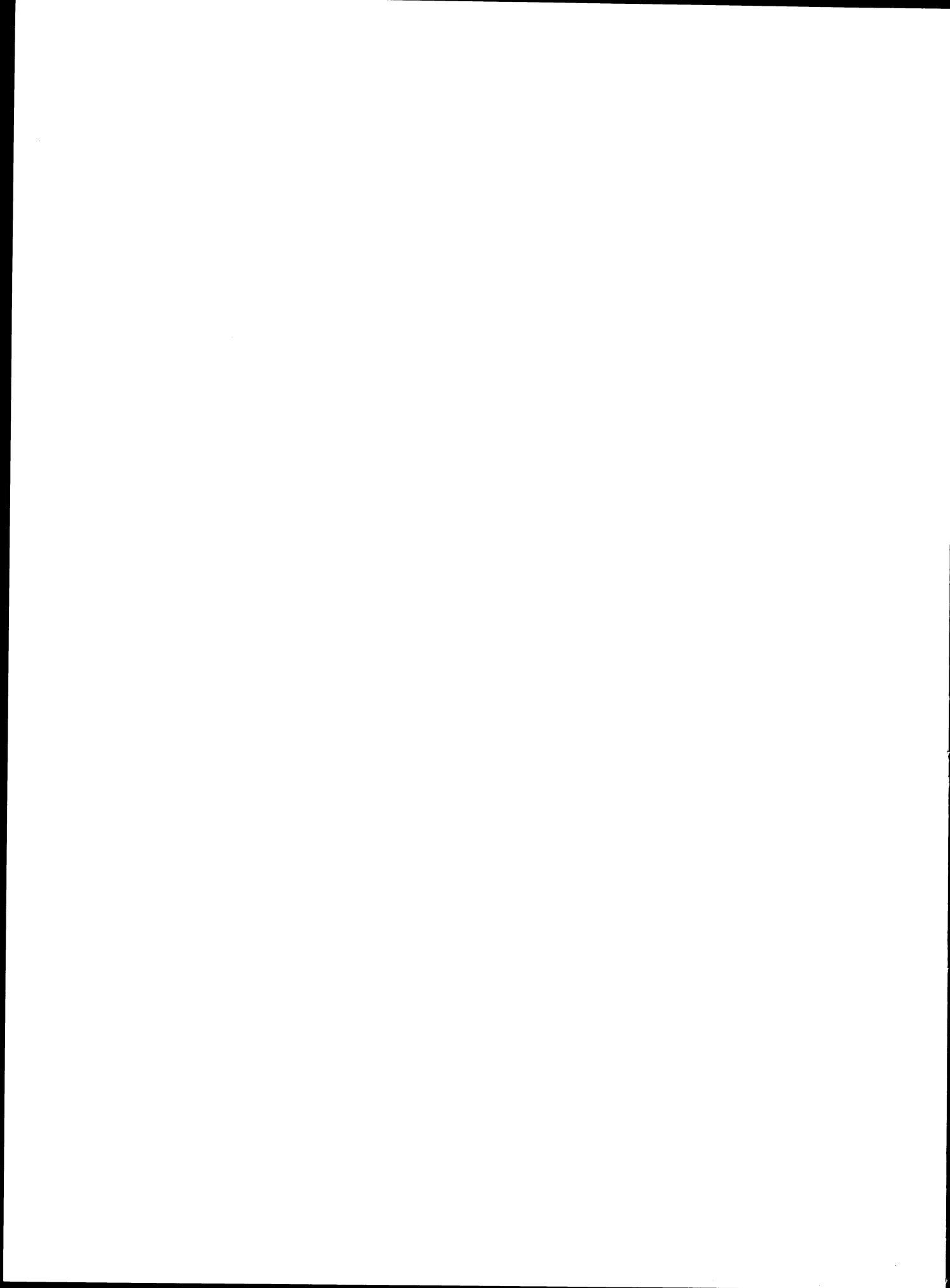
### Citrus Industry

HOUSE BILL 93 (CHAPTER 82-29) amends several sections of Chapter 601, F. S., "The Florida Citrus Code of 1949." Paragraph 601.15(9)(b), F. S., is altered to authorize the Department of Citrus to collect any excise citrus tax levied and assessed under Chapter 601, F. S. A cross reference to a section of Chapter 205, F. S., "Local Occupational License Taxes," which was repealed in 1972, is deleted. The term "repeat" application for a citrus fruit dealer license replaces "renewal" application in Section 601.55, F. S., and the concept of "delinquent renewal application" is eliminated. A license application may not be denied for owed taxes or fees if such taxes or fees are under review by the Department or being contested in appropriate administrative agency or court. Provisions concerning conditional licenses are clarified. Application approval or disapproval procedures are reworded to include temporary and conditional licenses. Failure to pay an administrative fine levied by the Department of Agriculture and Consumer Services warrants the immediate suspension of a citrus dealer's license for a period not to exceed 60 days. Expiration of the license during the suspension period does not terminate the suspension. A "sunset" repeal date of October 1, 1985, is established for the statutory provisions relating to citrus dealers which are amended by this act.

HOUSE BILL 393 (CHAPTER 82-35) amends Paragraph 601.15(7)(f), F. S., to remove the three-year limitation on the authority of the Florida Citrus Commission to expend up to 10 percent of citrus excise taxes on noncommodity advertising and promotional activities. However, the Commission may spend up to 10 percent of such monies for domestic noncommodity advertising and promotional activities in foreign countries.

SENATE BILL 838 (CHAPTER 82-165) amends Subsection 570.48(2), F. S., to establish the confidentiality of certain commercial information gathered by the Bureau of Citrus Inspection, Division of Fruit and Vegetable Inspection, Department of Agriculture and Consumer Services. However, such data may be disclosed for enforcement purposes, released to other governmental agencies, and included in published statistics so long as the source is not publicly identified.





APPORTIONMENT AND REDISTRICTING\*

State Legislative Apportionment

Following the procedures provided in Article III, Section 16, of the Florida Constitution, the Legislature passed Senate Joint Resolution 1-E in a Special Apportionment Session held April 7, 1982, which provided for a House of Representatives of 120 members and for a Senate of 40 members. Although the Legislature had adopted an identical resolution (SENATE JOINT RESOLUTION 2-D) in the Special Session of March 29 - April 7, the scope of this session went beyond apportionment of the Legislature and thereby posed a question as to the constitutional validity of SJR 2-D. This point was explained in briefs to the Supreme Court which accompanied SJR 1-E.

For purposes of representation in the House of Representatives, the State would be apportioned into 120 single-member districts. The "ideal district population" is 81,219 persons, based on the amended counts provided to the State of Florida by the Bureau of the Census in accordance with Public Law 94-171. Overall deviation from the "ideal" is

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\*Prepared by the House Select Committee on Reapportionment

.4654% or 378 persons from the largest to the smallest district. District 8 is +173 persons or +.2130%. District 10 is -205 persons or -.2524%. The average deviation from the "ideal" among all districts is 58 persons or .0709%.

Detailed statistics of the representative districts are shown below. Maps of the representative districts are available from the House Select Committee on Reapportionment.

#### PLAN SUMMARY - HOUSE OF REPRESENTATIVES

DISTRICT	NAME	NO. MEMBERS	POP.	DEVIATION	PER CENT
1	1	1	81172	-47	-.057
2	2	1	81161	-58	-.071
3	3	1	81149	-70	-.086
4	4	1	81236	17	.020
5	5	1	81292	73	.089
6	6	1	81157	-62	-.076
7	7	1	81272	53	.065
8	8	1	81392	173	.213
9	9	1	81028	-191	-.235
10	10	1	81014	-205	-.252
11	11	1	81219	0	0.000
12	12	1	81341	122	.150
13	13	1	81150	-69	-.085
14	14	1	81239	20	.024
15	15	1	81155	-64	-.078
16	16	1	81158	-61	-.075
17	17	1	81206	-13	-.016
18	18	1	81150	-69	-.085
19	19	1	81355	136	.167
20	20	1	81265	46	.056
21	21	1	81037	-182	-.224
22	22	1	81132	-87	-.107
23	23	1	81206	-13	-.016
24	24	1	81152	-67	-.082
25	25	1	81113	-106	-.130
26	26	1	81181	-38	-.045
27	27	1	81366	147	.181
28	28	1	81334	115	.141
29	29	1	81275	56	.068
30	30	1	81233	14	.017
31	31	1	81308	89	.109
32	32	1	81280	61	.075
33	33	1	81313	94	.115

4	34	1	81331	112	.1379
5	35	1	81185	-33	-.0406
6	36	1	81185	-34	-.0419
7	37	1	81330	111	.1367
8	38	1	81264	45	.0554
9	39	1	81230	11	.0135
0	40	1	81261	42	.0517
1	41	1	81225	6	.0074
2	42	1	81301	82	.1010
3	43	1	81296	77	.0948
4	44	1	81179	-40	-.0492
5	45	1	81109	-110	-.1354
6	46	1	81181	-38	-.0468
7	47	1	81152	-87	-.1071
8	48	1	81240	21	.0259
9	49	1	81247	28	.0345
0	50	1	81216	-3	-.0037
1	51	1	81275	56	.0589
2	52	1	81235	16	.0197
3	53	1	81183	-36	-.0443
4	54	1	81182	-37	-.0456
5	55	1	81217	-2	-.0025
6	56	1	81240	21	.0259
7	57	1	81185	-34	-.0419
8	58	1	81243	29	.0357
9	59	1	81185	-34	-.0419
0	60	1	81158	-51	-.0628
1	61	1	81240	21	.0259
2	62	1	81180	-39	-.0480
3	63	1	81256	37	.0456
4	64	1	81280	61	.0751
5	65	1	81173	-46	-.0566
6	66	1	81215	-4	-.0049
7	67	1	81283	64	.0788
8	68	1	81265	46	.0566
9	69	1	81227	8	.0098
0	70	1	81178	-41	-.0505
1	71	1	81253	34	.0419
2	72	1	81146	-73	-.0899
3	73	1	81197	-22	-.0271
4	74	1	81326	107	.1317
5	75	1	81251	32	.0394
6	76	1	81037	-182	-.2241
7	77	1	81305	86	.1059
8	78	1	81216	-3	-.0037
9	79	1	81296	77	.0948
0	80	1	81150	-69	-.0850
1	81	1	81332	113	.1391
2	82	1	81225	7	.0086
3	83	1	81026	-193	-.2376
4	84	1	81333	114	.1404
5	85	1	81333	114	.1404

86	86	1	81337	118	.14
87	87	1	81026	-193	-.23
88	88	1	81275	56	.06
89	89	1	81130	-89	-.10
90	90	1	81302	83	.10
91	91	1	81267	48	.05
92	92	1	81169	-50	-.06
93	93	1	81211	-8	-.00
94	94	1	81183	-31	-.03
95	95	1	81199	-20	-.02
96	96	1	81135	-84	-.10
97	97	1	81271	52	.06
98	98	1	81175	-44	-.05
99	99	1	81310	91	.11
100	100	1	81173	-46	-.05
101	101	1	81229	10	.01
102	102	1	81204	-15	-.01
103	103	1	81249	30	.03
104	104	1	81175	-44	-.05
105	105	1	81273	54	.06
106	106	1	81193	-26	-.03
107	107	1	81191	-28	-.03
108	108	1	81123	-96	-.11
109	109	1	81225	6	.00
110	110	1	81234	15	.01
111	111	1	81228	9	.01
112	112	1	81220	1	.00
113	113	1	81209	-10	-.01
114	114	1	81247	28	.03
115	115	1	81229	10	.01
116	116	1	81236	17	.02
117	117	1	81268	49	.06
118	118	1	81226	7	.00
119	119	1	81219	0	0.00
120	120	1	81182	-37	-.04

	DEVIATION	PERCENT
HIGH	173	.2130
LOW	-205	-.2524
AVG(ABSOLUTE)	58	.0709

For purposes of representation in the Senate, the State would be apportioned into 40 single-member districts. The "ideal" district population is 243,658, based on the amended counts provided to the State of Florida by the Bureau of the Census in accordance with Public Law 94-171. Overall deviation from the "ideal" is 1.0531% or 2566 persons from the largest to



the smallest district. District 35 is +1287 persons or +.5282%. District 22 is -1279 persons or -.5249%. The average deviation from the "ideal" among all districts is 669 persons or .2745%.

Detailed statistics of the senatorial districts are shown below. Maps of the senatorial districts are available from the Senate Committee on Apportionment.

#### PLAN SUMMARY - SENATE

DISTRICT	NAME	NO. MEMBERS	POP.	DEVIATION	PER CENT
1	1	1	243255	-403	-.1654
2	2	1	242861	-797	-.3271
3	3	1	244046	388	.1592
4	4	1	244137	479	.1966
5	5	1	244000	342	.1404
6	6	1	242604	-1054	-.4326
7	7	1	243936	278	.1141
8	8	1	244837	1179	.4839
9	9	1	244392	734	.3012
10	10	1	244780	1122	.4605
11	11	1	244323	665	.2729
12	12	1	243953	295	.1211
13	13	1	242710	-948	-.3891
14	14	1	244255	597	.2450
15	15	1	243605	-53	-.0218
16	16	1	244503	845	.3468
17	17	1	244013	355	.1457
18	18	1	243067	-591	-.2426
19	19	1	242782	-876	-.3595
20	20	1	242682	-976	-.4006
21	21	1	244159	501	.2056
22	22	1	242379	-1279	-.5249
23	23	1	243329	-329	-.1350
24	24	1	242831	-827	-.3394
25	25	1	243136	-522	-.2142
26	26	1	244689	1031	.4231
27	27	1	244743	1085	.4453
28	28	1	243994	336	.1379
29	29	1	244586	928	.3809
30	30	1	242638	-1020	-.4186
31	31	1	243244	-414	-.1699
32	32	1	244443	785	.3222

33	33	1	243805	147	.060
34	34	1	243444	-214	-.037
35	35	1	244945	1287	.528
36	36	1	242793	-865	-.355
37	37	1	243022	-636	-.261
38	38	1	243329	-329	-.135
39	39	1	242572	-1086	-.445
40	40	1	243502	-156	-.064

	DEVIATION	PERCENT
HIGH	1287	.5282
LOW	-1279	-.5249
AVG (ABSOLUTE)	669	.2745

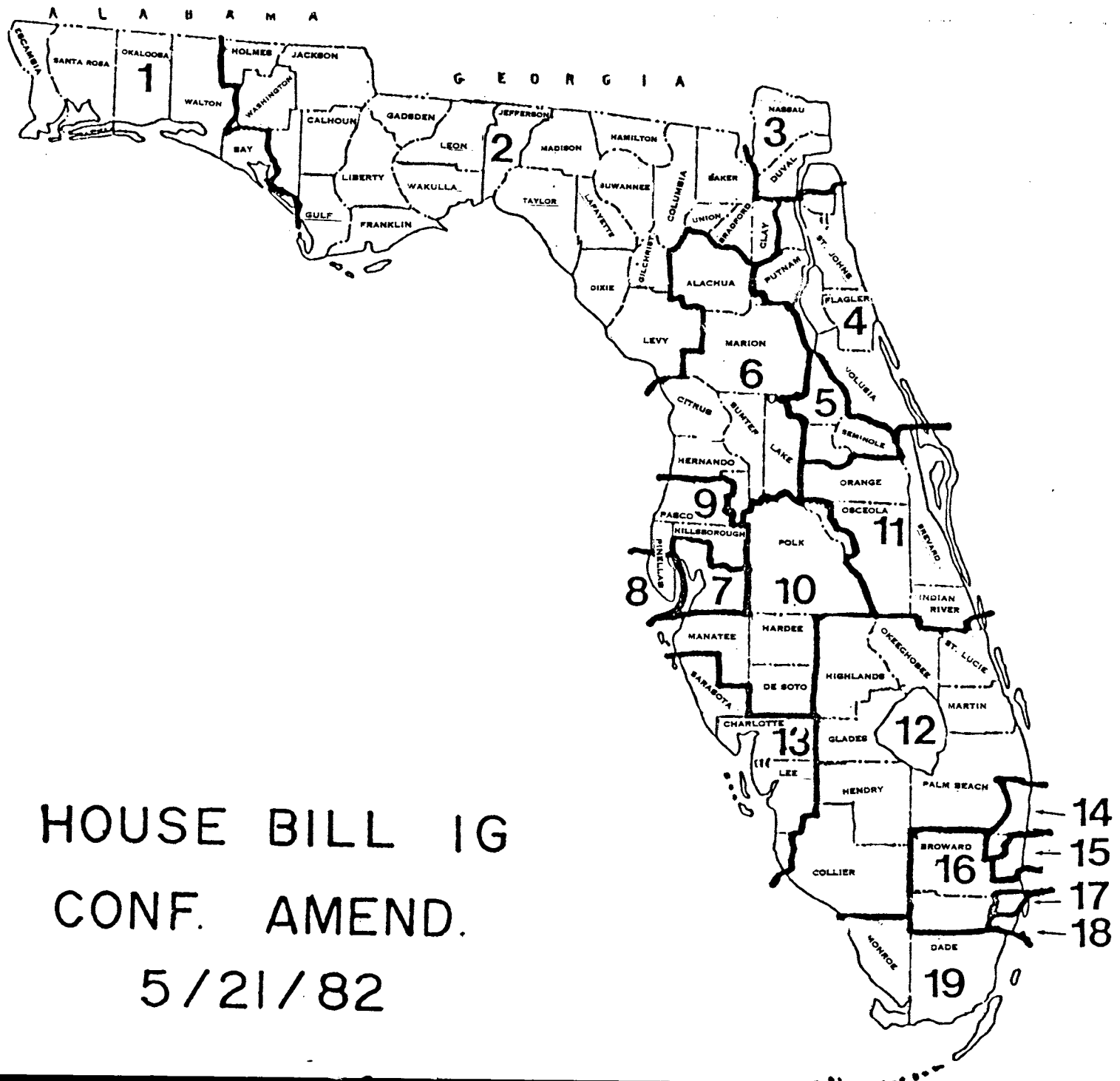
Following adjournment of the Special Apportionment Session sine die, the Attorney General, pursuant to the automatic review provisions of the State Constitution, petitioned the Florida Supreme Court for a declaratory judgment as to the validity of Senate Joint Resolution 1-E. On May 12, 1982, the Supreme Court held that the plan was valid, but that since the boundaries of all senate districts were redrawn, elections must be held in 1982 for all seats in the upper chamber. See In re: Apportionment Law Appearing as Senate Joint Resolution 1E, 1982 Special Apportionment Session, No. 61,933 (Fla. May 12, 1982).

#### Congressional Redistricting

In compliance with Title 2, Section 2c, U. S. Code, the state was divided into 19 single-member congressional districts by HOUSE BILL 1-G (CHAPTER 82-384). Detailed statistics of the districts are shown below and a map follows.

# PLAN SUMMARY - CONGRESSIONAL DISTRICTS

DISTRICT	NAME	NO. MEMBERS	POP.	DEVIATION	PER CENT
1	1	1	512821	-143	-.0279
2	2	1	513127	163	.0318
3	3	1	512692	-272	-.0530
4	4	1	512672	-292	-.0569
5	5	1	513005	41	.0080
6	6	1	512950	-14	-.0027
7	7	1	512905	-59	-.0115
8	8	1	512909	-55	-.0107
9	9	1	513191	227	.0443
10	10	1	512890	-74	-.0144
11	11	1	512691	-273	-.0532
12	12	1	513121	157	.0306
13	13	1	513048	84	.0164
14	14	1	512803	-161	-.0314
15	15	1	512976	12	.0023
16	16	1	513339	375	.0731
17	17	1	513048	84	.0164
18	18	1	513250	286	.0558
19	19	1	512886	-78	-.0152



HOUSE BILL 1G  
 CONF. AMEND.  
 5/21/82

APPROPRIATIONS\*

It is not uncommon for each chamber of the Legislature to have different spending priorities. This situation coupled with the decennial tasks of legislative apportionment and congressional redistricting prevented the enactment of the general appropriations authorization, CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3-D (CHAPTER 82-215), until the Special Session of March 29 - April 7. Although \$10.819 billion was voted by members, deductions in contingent and reserve items and gubernatorial vetoes left \$10.790 billion in effective appropriations for Fiscal 1983. This represents a 13% increase above the 1982 total of \$9.537 billion. (Action by the Legislature in the Special Session of May 21 provided an additional \$2.2 million.) More than four-fifths of moneys appropriated from all funds are accounted for by three governmental functions: Education 39.3%; Health and Rehabilitative Services 22% and General Government 21.1%.

Selected pages follow from the 1982 Fiscal Analysis in Brief prepared jointly by the Appropriations Committees of each chamber.

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\*Prepared by staff of the Legislative Library



SUMMARY OF 1982-83  
TOTAL EFFECTIVE APPROPRIATIONS  
(In Millions of Dollars)

	General Revenue Fund \$	Working Capital Fund \$	Trust Funds \$	Total Funds \$
General Appropriations Act				
<u>Operations (Section 01):</u>				
Education	3,186.8	13.3*	908.4	4,108.5
HRS	1,026.1	0.0	1,260.8	2,286.9
Criminal Justice	453.6	0.0	41.7	495.3
Natural Resources & Environmental Reg.	46.9	0.0	73.3	120.2
Legislative Branch	51.7	0.0	2.9	54.6
Transportation	135.7	0.0	904.2	1,039.9
All Other Agencies(a)	443.2	0.0	1,600.3	2,043.5
<u>Fixed Capital Outlay (Sections 02 and 03):</u>	<u>95.1</u>	<u>0.0</u>	<u>64.0</u>	<u>159.1</u>
Total General Appropriations Act (b)	5,439.1	13.3	4,855.6	10,308.0
Special Appropriations Bills	12.3	0.0	499.2	511.5
Claims Bills (Excluding Those from Local Funds)	<u>(c)</u>	<u>0.0</u>	<u>(c)</u>	<u>(c)</u>
Total Appropriations	5,451.4	13.3	5,354.8	10,819.5
Less:				
Contingent and Reserve Items	.8	0.0	3.5	4.3
Vetoed Items	<u>23.0</u>	<u>0.0</u>	<u>0.0</u>	<u>23.0</u>
Total Effective Appropriations	\$ 5,427.6 =====	\$ 13.3 =====	\$ 5,351.3 =====	\$ 10,792.2 =====

(a) Includes \$.7 million from sections 21 and 33.

(b) The General Appropriations Bill contained a General  
Revenue appropriation of \$250,000 for fiscal year 1981-82  
which has been deducted from this total.

(c) Less than \$50,000.

\* Proviso after Specific Appropriation 329

HOUSE BILL 3-D

Vetoed Appropriations \*

1982-83

Item No.	Item	General Revenue		Trust
		Recurring	Non-Rec.	
		\$	\$	\$
<u>SECTION 01</u>				
69	Ozona Model Matching Grants		100,000	
29	Federal Cuban/Haitian Impact Aid		13,333,333	
33A	Fine Arts Award Program	10,000		
92A	Center for Employee Relations and Law	65,000		
37B	Lake County Juvenile Detention Center	209,144		
39	Flagler County Health Clinic		45,000	
39A	Construction/Renovation County Health Unit Facilities		1,000,000	
95	Debt Service from Land Acquisition Trust Fund			3,500,000
<u>SECTION 02</u>				
5A	Mental Health Treatment Facility		6,500,000	
2G	Acquisition and Renovation of Pensacola City Hall		1,750,000	
TOTAL VETOES		\$ 284,144	\$22,728,333	\$ 3,500,000
		=====	=====	=====

Includes only vetoes sustained by Legislature.

**GENERAL FUNDS OUTLOOK**  
1981-82 and 1982-83  
**GENERAL REVENUE and WORKING CAPITAL FUNDS**  
(Millions of Dollars)

	GENERAL REVENUE FUND	WORKING CAPITAL FUND	TOTAL ALL FUNDS	RE- CURRING FUNDS	NON- RECURRING FUNDS
<b>FUNDS AVAILABLE 1981-82</b>					
Balance Forward	\$ 301.6	\$ 299.7	\$ 601.3	\$ 0.0	\$ 601.3
Transfers to Working Capital Fund	(122.6)	122.6	0.0	0.0	0.0
Midyear Reversions (12/31/81)	4.0	0.0	4.0	0.0	4.0
FCO Reversions (4/1/82)	13.3	0.0	13.3	0.0	13.3
Estimated Revenues/Feb. Rec (a)	4,377.6	0.0	4,377.6	4,370.4	7.2
Working Capital Fund Interest	60.7	0.0	60.7	0.0	60.7
Cancellation of Warrants	.2	0.0	.2	0.0	.2
Repay of Ad Valorem Deficit (b)	6.4	0.0	6.4	0.0	6.4
Local Government TF Surplus Trans	2.2	0.0	2.2	0.0	2.2
Transfer from WCF to GR/12-81	21.7	(21.7)	0.0	0.0	0.0
Transfer from WCF to GR/3-82	174.2	(174.2)	0.0	0.0	0.0
Sales Tax Increase June Collections	57.1	0.0	57.1	29.9	27.2
<b>T O T A L</b>	<b>\$4,896.4</b>	<b>\$ 226.4</b>	<b>\$5,122.8</b>	<b>\$ 4,400.3</b>	<b>\$ 722.5</b>
<b>EFFECTIVE APPROP. 1981-82</b>					
Operations	2,313.2	0.0	2,313.2	2,202.8	110.4
Aid to Local Governments	2,446.5	0.0	2,446.5	2,404.3	42.2
PECO Bill	7.5	0.0	7.5	0.0	7.5
Fixed Capital Outlay	94.3	0.0	94.3	0.0	94.3
Cuban Hold Harmless (c)	0.0	20.0	20.0	0.0	20.0
Tourism Emergency	1.0	0.0	1.0	0.0	1.0
Mandatory Holdbacks	(31.0)	0.0	(31.0)	(31.0)	0.0
Other Appropriations 1982 Session (d)	1.3	0.0	1.3	0.0	1.3
Housing Finance Auth. Loan SB 914/82	0.0	6.0	6.0	0.0	6.0
<b>T O T A L</b>	<b>\$4,832.8</b>	<b>\$ 26.0</b>	<b>\$4,858.8</b>	<b>\$ 4,576.1</b>	<b>\$ 282.7</b>
<b>RESERVES AVAILABLE 1981-82</b>					
	\$ 63.6	\$ 200.4	\$ 264.0	\$ (175.8)	\$ 439.8
<b>OBLIGATIONS AND ENCUMBRANCES</b>					
Completion of Shands Addition	0.0	7.7	7.7	0.0	7.7
Skyway Bridge Pledge	0.0	95.0	95.0	0.0	95.0
PECO Loan (e)	0.0	26.8	26.8	0.0	26.8
<b>UNENCUMBERED RESERVE</b>	<b>\$ 63.6</b>	<b>\$ 70.9</b>	<b>\$ 134.5</b>	<b>\$ 0.0</b>	<b>\$ 134.5</b>
<b>FUNDS AVAILABLE 1982-83</b>					
Balance Forward from 81-82	63.6	200.4	264.0	0.0	264.0
Midyear Reversions 12/31/82	1.2	0.0	1.2	0.0	1.2
FCO Reversions 4/1/83	5.0	0.0	5.0	0.0	5.0
Est 81-82 Unused Appropriations (f)	46.1	10.3	56.4	0.0	56.4
Estimated Revenues/Feb REC	4,761.1	0.0	4,761.1	4,761.1	0.0
Working Capital Fund Interest	0.0	28.1	28.1	0.0	28.1
Cancellation of Warrants	0.2	0.0	0.2	0.0	0.2
Sales Tax Increase HB 2-D	482.4	0.0	482.4	397.6	84.8
Additional Revenue Increases (g)	14.4	0.0	14.4	14.4	0.0
Additional Revenue Decreases (h)	(16.7)	0.0	(16.7)	(5.7)	(11.0)
Corporate Piggy Back HB 3-F	(13.3)	0.0	(13.3)	(8.7)	(4.6)
Cancer Center HB 4-D	(8.3)	0.0	(8.3)	(8.3)	0.0
HRS Delay of Drawdown (i)	(0.4)	0.0	(0.4)	(0.4)	0.0
Transfer from WCF Sec. 19 HB 3-D	92.3	(92.3)	0.0	0.0	0.0
<b>T O T A L</b>	<b>\$5,427.6</b>	<b>\$ 146.5</b>	<b>\$5,574.1</b>	<b>\$ 5,150.0</b>	<b>\$ 424.1</b>
<b>EFFECTIVE APPROP. 1982-83</b>					
Salaries and Benefits	1,000.7	0.0	1,000.7	1,000.6	0.1
Other Personal Services	25.5	0.0	25.5	25.5	0.0
Expenses	254.9	0.0	254.9	254.8	0.1
Aid to Local Governments (j)	2,766.5	0.0	2,766.5	2,731.6	34.9
Operating Capital Outlay	23.8	0.0	23.8	21.1	2.7
Food Products	26.1	0.0	26.1	26.1	0.0
Fixed Capital Outlay(j)	86.8	0.0	86.8	0.0	86.8
Lump Sum (j)	209.3	0.0	209.3	105.1	104.2
Special Categories (j)	873.7	0.0	873.7	828.2	45.5
Financial Assistance Payments	107.2	0.0	107.2	107.2	0.0
Debt Service	11.9	0.0	11.9	11.9	0.0
Data Processing Services	25.3	0.0	25.3	25.3	0.0
Other	3.0	0.0	3.0	3.0	0.0
PECO Bill HB 4-D	8.9	0.0	8.9	0.0	8.9
Other Appropriations (k)	1.5	0.0	1.5	0.5	1.0
Cuban Hold Harmless (c)	0.0	13.3	13.3	0.0	13.3
Local Gov Sales Tax Boost HB 2-D	2.5	0.0	2.5	2.5	0.0
<b>T O T A L</b>	<b>\$5,427.6</b>	<b>\$ 13.3</b>	<b>\$5,440.9</b>	<b>\$5,143.4</b>	<b>\$ 297.5</b>
<b>RESERVES AVAILABLE</b>	<b>0.0</b>	<b>133.2</b>	<b>133.2</b>	<b>6.6</b>	<b>126.6</b>
<b>UNENCUMBERED RESERVES</b>	<b>\$ 0.0</b>	<b>\$ 133.2</b>	<b>\$ 133.2</b>	<b>\$ 6.6</b>	<b>\$ 126.6</b>

GENERAL FUNDS OUTLOOK  
\*\*\*\*\*FOOTNOTES\*\*\*\*\*

- a) The non-recurring portion of this number includes --  
    \$1.7 Million in PSC Retroactive Rent Payments  
    \$2.0 Million in Beverage License Monies  
    (\$0.2) Million in Transfers per HB 518 (1981)  
    \$3.7 Million in Transfers per HB 324 (1981)
- b) In fiscal year 1980-81 the state paid \$51.4 million from the Working Capital Fund to 9 school districts which levied taxes based on interim assessment rolls. The courts have ruled that only 4 of these counties must reconcile their tax rolls. As a result, the state will receive only about \$6.4 million in repayments from the 9 school districts.
- c) Proviso language limits the state's liability to \$20 million in fiscal year 1981-82 and \$13.3 million in fiscal year 1982-83 for the purpose of compensating school districts for reductions in federal funds for certain programs.
- d) The following 1981-82 appropriations were passed during the 1982 regular and special sessions --
- |        |                                 |            |    |
|--------|---------------------------------|------------|----|
| SB 424 | DNR Litigation Fund             | \$ 800,000 | NR |
| SB 417 | World Tourism Convention        | 250,000    | NR |
| SB 450 | High Intensity Crime Prevention | 171,000    | NR |
| HB 681 | Dept. of Prof. Reg.             | 20,000     | NR |
| HB 3-D | Sales Tax Implementation        | 250,000    | NR |
| HB 3-D | Repealed Appropriation Sec. 33  | (150,000)  | NR |
- e) The \$26.8 million is an interfund loan from the Working Capital Fund to the PECO Fund which must be repaid by June 30, 1982.
- f) This line includes \$29.2 million in unused appropriations, \$16.9 million for the Winewood reversion, and \$10.3 million in unused Cuban hold harmless for 1981-82.
- g) These bills resulted in an increase in revenue of \$14.4 million --
- |         |                              |                |
|---------|------------------------------|----------------|
| HB 3D   | Additional Auditors          | \$ 3.8 million |
| HB 971  | Severance Tax Extension      | 4.0            |
| HB 28-D | Utility Tax Exemption Repeal | 5.1            |
| HB 424  | Estate Tax Change            | 0.1            |
| HB 4-F  | Insurance Licenses           | 1.4            |
- h) These bills resulted in a revenue decrease of \$16.7 million --
- |         |                                     |            |
|---------|-------------------------------------|------------|
| HB 502  | Environmental Permit Fees to Trust  | \$ 250,000 |
| SB 29   | Sales Tax Exemption of Admissions   | 100,000    |
| SB 46   | Sales Tax Exemption/Non-profit Org. | 500,000    |
| SB 641  | Intangibles Tax/Delinquent Returns  | 312,000    |
| SB 704  | Cigarette Sample Tax Reduction      | 100,000    |
| SB 14-D | R & D Sales Tax Exemption           | 4,400,000  |
| SB 5-G  | Refunds for Existing Contracts      | 11,000,000 |
- i) There will be a loss of interest of \$350,000 on funds received from the Federal Government to cover the federal share of the state's AFDC and Medicaid payments under the new "delay-of-drawdown letter of credit plan" being implemented by the Department of HHS. There will likely be a further impact of \$5 - \$25 million which will take place at the end of the 1982-83 fiscal year. Proviso language in the 1982 GAA allows DHRS to draw the required amount from the Working Capital Fund. The issue could also be addressed during the 1983 session when the actual amount needed would be known with more accuracy.
- j) The following vetoes by the Governor have been sustained by the Legislature --
- AID TO LOCAL GOVERNMENT
- |       |                               |           |    |
|-------|-------------------------------|-----------|----|
| #689  | Flagler County Health Clinic  | \$ 45,000 | NR |
| #689A | County Health Unit Renovation | 1,000,000 | NR |
- FIXED CAPITAL OUTLAY
- |      |                                  |           |    |
|------|----------------------------------|-----------|----|
| #15A | Mental Health Treatment Facility | 6,500,000 | NR |
| #22G | T. T. Wentworth Museum           | 1,750,000 | NR |
- LUMP SUM
- |       |                               |         |
|-------|-------------------------------|---------|
| #637B | Proviso Language/24 Positions | 209,144 |
|-------|-------------------------------|---------|
- SPECIAL CATEGORIES
- |       |                               |            |    |
|-------|-------------------------------|------------|----|
| #259  | Ozona Matching Grants         | 100,000    | NR |
| #329  | Cuban Hold Harmless           | 13,333,333 | NR |
| #333A | Fine Arts Awards              | 10,000     |    |
| #392A | Center for employee relations | 65,000     |    |
- k) These bills resulted in additional appropriations of \$1.5 million --
- |         |   |            |    |
|---------|---|------------|----|
| HB 6    | Workfare Pilot Project                  | \$ 100,000 | NR |
| HB 322  | Claims Bill                             | 30,000     | NR |
| HB 1066 | Hazardous Waste                         | 132,200    | NR |
| HB 3-D  | Tourism Emergency Sec. 21               | 500,000    | NR |
| HB 3-D  | Union Bank Sec. 33                      | 150,000    | NR |
| HB 3-F  | Additional Auditors                     | 545,203    |    |
| HB 13-G | Florida Commission on Veterans' Affairs | 75,000     | NR |

GENERAL APPROPRIATION ACT FOR 1982-83

CONTINGENCY ITEMS

<u>Item</u>	<u>Appropriation</u> \$	<u>Contingency</u>	<u>Legislative Action</u>
SECTION 01:			
172A	313,415	HB 572 or Similar Legislation	SB 634 Passed
445	515,000	CS/HB 502 or Similar Legislation	CS/HB 502 Passed
524A	78,234	SB 942 or Similar Legislation	SB 154 Passed
574, 576, and 578	109,071	HB 1003 or Similiar Legislation	HB 26D Passed
788A	300,000	CS/CS/HB 607 or Similar Legislation	HB 4F Passed
812A	60,921	HB 1137 or Similar Legislation	HB 1137 Passed
817A	20,000	HB 42 or Similar Legislation	HB 42 Died in Committee
845	208,663	CS/SB 415 or Similar Legislation	HB 8D Passed
859	2,463,140	SB 715 or Similar Legislation	HB 9D Passed
860	1,497,106	HB 1056 or Similar Legislation	SB 10D Passed
1031	3,000	HB 80 or Similar Legislation	HB 80 Died in Committee
1045	200,000	CS/CS/HB 607 or Similar Legislation	HB 4F Passed
1067B	42,509	HB 1096 or Similar Legislation	HB 1096 Passed
1095	3,500,000	Concurrent Resolution Authorizing Sale of Bonds	Died in Committee
1137A	264,000	HB 1134 or Similar Legislation	HB 2D Passed
1148	1,090,407	HB 3-F or Similar Legislation not passing	HB 3-F Passed
1346, 1348, 1350 and 1353	206,624	CS/SB 777 or Similar Legislation	HB 24D Passed



SPECIAL APPROPRIATION BILLS

Session Law	Bill Number	Subject	General Revenue		Trust Fund
			Recurring	Non- Recurring	
			\$	\$	\$
<u>Senate Bills</u>					
vetoed	SB 68	Florida Council for the Hearing Impaired		10,000	
2-192	SB 166	Crimes Compensation			501,000
2-245	SB 417	ASTA World Travel Congress (1)		250,000	
2-244	SB 424	Department of Natural Resources (1)		800,000	
2-11	SB 450	Crime Prevention Task Force (1)		171,000	
2-86	SB 914	Florida Housing Finance Agency (2)		6,000,000	
<u>House Bills</u>					
2-154	HB 2D	Local Government Half-cent Sales Tax	2,500,000		279,700,000
2-232	HB 3F	Corporate Income Tax Update	545,203		
2-211	CS/HB 6	Pilot Workfare Project (3)		100,000	
2-254	HB 119	Relief of the City of Inglis			1,400
2-255	HB 238	Relief of Florida Public Utilities (1)		2,442	
2-366	HB 322	Relief of Freeman Williams		30,000	
2-179	HB 681	Professional Regulation (1)		20,000	
2-182	CS/HB 931	Hospital Cost Containment			150,000
2-186	HB 1066	Hazardous Waste Treatment		132,200	
2-240	HB 4D	Public Education Capital Outlay (4)		8,943,775	218,705,893
2-226	HB 21D	Assessment Review Trust Fund (5)			85,836
2-387	HB 13G	Florida Commission on Veterans' Affairs		75,000	
2-388	HB 14G	Computerized Property Appraisal System			100,000
Fiscal Year 1981-82			\$ 0	\$ 7,243,442	\$ 0
Fiscal Year 1982-83			3,045,203	9,280,975	499,158,293
TOTALS (excluding vetoes and double appropriations)			\$ 3,045,203	\$ 16,524,417	\$499,158,293

- ) Effective in fiscal year 1981-82.
- ) Working Capital Fund Appropriation for fiscal year 1981-82.
- ) Contingent upon federal participation.
- ) The P.E.C.O. bill also appropriates \$25,020,000 for fiscal year 1983-84 and \$11,250,000 for fiscal year 1984-85.
- ) This amount was also appropriated in HB 3-D and is not included in the total.

MEASURES AFFECTING REVENUES AND TAX ADMINISTRATION  
ESTIMATED REVENUE INCREASES/(DECREASES) 1982-83  
(Millions of Dollars)

Session Law	Bill Number	Description	General Revenue		Trust Fund	Local Impact
			Recurring	Non- Recurring		
			\$	\$	\$	\$
<u>Senate Bills</u>						
82-207	SB 29	Sales Tax Exemption--Carnivals & Fairs	(.1)	---	---	---
82-206	SB 46	Sales Tax Exemption-- State Theaters & Factory-built Buildings	(.5)	---	---	---
82-70	SB 49	Installment Sales License Fee	---	---	.2	---
82-14	SB 56	Special Assessments/Water & Sewer Districts	---	---	---	*
Vetoed	SB 68	Nonresident Tuition Fees	---	---	---	**
82-155	CS/SB 69	DWI Fines	---	---	---	**
82-89	CS/SB 89	Florida Crime Prevention Training Institute Revolving Trust Fund	---	---	*	---
82-72	SB 92	Local Occupational Licenses	---	---	---	**
82-45	CS/SB 129	State Board of Administration-- Investment Practices	---	---	**	---
82-133	SB 136	Additional Homestead Exemption-- Homes for the Aged	---	---	---	---
82-90	CS/SB 140	Regulation of Railroads--Trust Fund	---	---	.2	---
82-17	SB 150	Motor Vehicle Licenses-- Nonresident Military Exemption	---	---	---	*
82-192	CS/SB 166	Marriage Licenses	---	---	.6	---
82-75	SB 281	Sales Tax Administration-- Revenue Laws	**	---	---	---
82-58	CS/SB 298 & 101	Child Restraints--Fines	---	---	---	*
82-94	SB 306	Highway Tolls	---	---	(.1)	---
82-195	SB 340	Bond Sale Administration--Local	---	---	---	**
82-50	SB 386	Motor Vehicle Licenses--Prestige Plates	---	---	.1	---
82-96	SB 439	Circuit Court Fees-- Dissolution of Marriage	---	---	---	**
82-60	CS/SB 490	Trauma Center--Inspection Fees	---	---	*	---
82-97	SB 511	Motor Vehicle Licenses	---	---	*	---
82-198	SB 590	Municipal Special Assessments-- Mass Transit Provisions	---	---	---	**
82-82	SB 604	Receptive Tour Operators--Fees	---	---	*	---
82-246	CS/SB 620	DOT--Toll Charges in Dade County	---	---	---	1.1
82-99	CS/SB 630	Mid-Wife Licensure	*	---	---	---
82-83	SB 641	Intangible Personal Property Tax-- Future Advances & Delinquent Returns	(.3)	---	(.2)	---
82-148	CS/SB 684	Nursing Home Licenses--Pro-rated	---	---	*	---
82-84	CS/SB 686	Hospitality Education Fees	---	---	.1	---
82-85	CS/SB 704	Cigarette Sampling	(.1)	---	(.2)	---
82-208	SB 706	Property Tax Administration-- Property Appraisal Adjustment Board	---	---	---	---
82-57	CS/SB 800	Education Finance	---	---	---	**
82-149	SB 832	Pari-Mutuel Tax Administration	---	---	**	---
82-201	CS/SB 833	Fingerprint Cost Recovery	---	---	1.1	---
82-202	CS/SB 834	Supervisor of Elections Budgets	---	---	---	---
82-203	CS/SB 860	Private Institutions/Higher Learning--Fees	*	---	---	---
82-51	CS/SB 868	Telephone Companies-- Interim Rates & Refunds	---	---	*	---
82-166	CS/SB 869	Adoption Fees	---	---	.5	---
82-25	CS/SB 879	Utility Companies--Interim Rates & Refunds	---	---	*	---
82-205	CS/SB 881	County Clerks--Service Charges	---	---	---	**
82-106	CS/SB 902	Pesticides--Penalty Fines	---	---	*	---
82-139	SB 922	Motor Fuel Tax--DOR Refund Claims	---	---	(.1)	---
82-167	CS/SB 983	Pesticides--License Fees	---	---	**	---
82-219	SB 14D	Sales Tax Exemption-- Research & Development Machinery & Equipment	(4.4)	---	---	---
82-239	SB 18D	Forfeiture & Investigative Support Trust Fund	---	---	**	---
Vetoed	SB 24D	Beverage Tax--Seven-Ounce Containers and Military Base Exemption	(.1)	---	---	---
82-389	SB 5G	Sales Tax Exemption-- Contractors' Refund	---	(11.0)	(5.6)	---

(Continued on Next Page)

MEASURES AFFECTING REVENUES AND TAX ADMINISTRATION  
ESTIMATED REVENUE INCREASES/(DECREASES) 1982-83 (Continued)  
(Millions of Dollars)

Session Law	Bill Number	Description	General Revenue		Trust Fund	Local Impact
			Recurring	Non- Recurring		
			\$	\$	\$	\$
<u>House Bills</u>						
82-177	HB 43	Limited Liability Comp. Filing Fees & CIT	**	---	*	---
82-28	HB 69	Road & Bridge Funds	---	---	---	*
		Transferred to County Funds	---	---	---	---
82-29	HB 93	Citrus Code Tax Administration	---	---	---	---
82-112	HB 196	Motor Vehicle Registration & Licenses-- Students Exempted	---	---	**	---
82-33	HB 256	County Budget Administration	---	---	---	---
82-214	CS/HB 287	Financial Institutions-- Filing Fees and Branch Fees	---	---	*	---
82-116	HB 328	Cruelty to Animals--Fines	---	---	---	**
82-117	HB 346	County Clerks--10% Interest on Investments	---	---	---	3.0
82-119	CS/HB 387	Florida Enterprise Zone Act	*	---	---	---
82-120	HB 405	State Board of Administration-- 2nd Gas Tax Administration	---	---	---	---
			---	(1)	---	---
82-37	CS/HB 421	Local Code Enforcement Boards	---	---	---	*
82-38	HB 424	Estate Tax	.1	---	---	---
82-122	CS/HB 502	Permit Fees--Environmental Control	(.3)	---	.7	---
82-40	HB 515	Motor Fuel Taxes--Refund of 9¢ Local Gas Tax	---	---	---	*
82-172	CS/HB 615	Acupuncture--Certification Fees	---	---	**	---
82-41	HB 640	DOT--Penalties & Incentives for Contract Completions	---	**	---	---
82-179	CS/SB 681	Department of Professional Regulation--Fees	---	---	**	---
82-181	HB 783	Vessel (Boat) Registration-- Renewal Dates	---	---	*	---
82-257	HB 823	Liquor Licenses-- Florida State University	*	---	---	*
82-128	HB 858	Motor Vehicle Licenses-- Drivers Education License Plates	---	---	*	---
82-44	HB 930	Application Fees-- Environmental Control Certificates	---	---	*	---
82-182	CS/HB 931	Fees and Inspection Fees for Hospitals-- Health Care Cost Containment Program	---	---	**	---
82-129	HB 937	Motor Vehicle Licenses-- Bond Required of Tax Collectors	---	---	.1	---
82-184	CS/HB 971	Severance Tax--Phosphate	4.0	---	(8.0)	4.0
82-185	HB 1016	Internal Improvement Trust Fund-- Transfer from Land Acquisition Trust Fund	---	---	---	---
82-130	HB 1054	Highway Safety and Motor Vehicles-- Copying Fees and Procedures Manual	---	---	---	---
82-186	HB 1066	Hazardous Waste Treatment Fee	---	---	**	---
82-142	HB 1094	Municipal Resort Tax--2% to 3%	---	---	---	**
82-188	HB 1129	Hunting & Fishing Fees-- Disabled Definition Changed	*	---	---	---
82-175	HB 1137	Bondsmen-- Fees for Licenses	---	---	*	---
82-189	HB 1144	Fire College Publications Revolving Trust Fund--Created	---	---	*	---
82-154	HB 2D	Sales Tax	397.6	141.9 (2)	279.7	---
82-215	HB 3D	Appropriations Act--Auditors	3.8	---	---	---
82-240	HB 4D	PECO	(8.3)	---	8.3	---
82-226	HB 21D	Property Tax Administration	---	---	---	1.3
82-230	HB 28D	Municipal Utility Tax	5.1	---	---	**
82-231	HB 30D	Local Sales Tax--Sports Stadiums	---	---	---	**
82-232	HB 3F	Corporate Income Tax--Piggyback (Update)	(8.7)	(4.6)	---	---
82-243	HB 4F	Insurance Code Revision	1.4	---	1.9	---
82-385	HB 9G	Corporate Income Tax-- Piggyback (Revision)	**	---	---	---
82-388	HB 14G	Property Tax Administration	---	---	---	---
TOTALS (House and Senate Bills-- excluding vetoed bills)			\$389.3 =====	\$126.3 =====	\$279.3 =====	\$ 9.4 =====

1) Effective Date is July 1, 1983

2) \$57.1 million will be collected in fiscal year 1981-82 and carried forward into  
1982-83 as non-recurring General Revenue.

\* Insignificant  
\* Indeterminant

Updated for Legislative actions  
during "G" session.

THREE YEAR COMPARISON - BEFORE AND AFTER 1982 TAX MEASURES

GENERAL REVENUE COLLECTIONS

(Millions of Dollars)

	1980-81 Actual Revenue	1981-82 Revenue Estimate*	Legis- lative Changes	Revised 1981-82 Rev Est *	Annual Growth Rate	1982-83 Revenue Estimate*	Legis- lative Changes	Revised 1982-83 Rev Est	Annual Growth Rate
Sales Tax	\$2,544.3	\$2,787.0	\$ 57.1	\$2,844.1	11.8%	\$3,081.3	\$486.3	\$3,567.6	25
Corporate Income Tax and Emergency Excise Tax	402.5	446.0	-0-	446.0	10.8	500.0	(13.9)	486.1	9
Documentary Stamp Tax	174.4	143.6	-0-	143.6	(17.7)	169.2	-0-	169.2	17
Intangibles Tax	14.0	45.4	-0-	45.4	224.3	68.8	(.3)	68.5	50
Estate Tax	70.6	72.0	-0-	72.0	2.0	68.0	.1	68.1	(5)
Severance Tax	138.0	106.1	-0-	106.1	(23.1)	91.5	4.0	95.5	(10)
Insurance Prem. Tax & Lic.	69.3	72.3	-0-	72.3	4.3	77.9	2.0	79.9	10
Beverage Tax & Lic.	307.7	321.9	-0-	321.9	4.6	338.7	-0-	338.7	5
Cigarette Tax	86.5	89.4	-0-	89.4	3.4	93.2	(8.4)	84.8	(5)
Pari-mutuel Tax	73.4	71.1	-0-	71.1	(3.1)	73.5	-0-	73.5	3
Motor Vehicle Lic.	68.7	-0-	-0-	-0-	(100.0)	-0-	-0-	-0-	-0
Public Safety/Lic. & Fees	30.4	27.3	-0-	27.3	(10.2)	26.2	-0-	26.2	(4)
Auto Title & Lic. Fees	10.6	10.3	-0-	10.3	(2.8)	10.6	-0-	10.6	2
Interest Earnings	138.0	140.7	-0-	140.7	2.0	112.7	-0-	112.7	(19)
Medical & Hosp. Fees	25.8	27.4	-0-	27.4	6.2	30.8	-0-	30.8	12
Service Charges	26.5	26.0	-0-	26.0	(1.9)	26.8	-0-	26.8	3
Other Taxes, Lic. & Fees	43.2	41.1	-0-	41.1	(4.9)	43.3	(.3)	43.0	4
Total Receipts	4,223.9	4,427.6	57.1	4,484.7	6.2	4,812.5	469.5	5,282.0	17
Less Refunds	41.1	57.2	-0-	57.2	39.2	51.4	11.0	62.4	9
Net General Revenue Collections	\$4,182.8	\$4,370.4	\$ 57.1	\$4,427.5	5.9%	\$4,761.1	\$458.5	\$5,219.6	17

\* Based on the February 11, 1982 Revenue Estimating Conference.

BUSINESS REGULATION\*

The 1982 Legislature enacted several laws affecting the regulation of business entities in the State of Florida, most of which are administered by the Department of Business Regulation. These include changes in the statutes relating to pari-mutuel wagering, public utilities, public lodging and food service establishments, elevators, cemeteries, and liquefied petroleum gas. The changes and additions to the laws regulating these business interests are discussed below.

Changes in laws relating to professions and occupations which are administered by the Department of Professional Regulation are discussed in the SUMMARY article on PROFESSIONAL REGULATION.

Pari-mutuel Wagering

SENATE BILL 832 (CHAPTER 82-149) was utilized as a vehicle for various proposals relating to the pari-mutuel industry. The Division of Pari-mutuel Wagering of the Department of Business Regulation is authorized to exclude from pari-mutuel facilities any person who has been ejected from a Florida pari-mutuel facility or who has been excluded from any

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\*Prepared by House Committee on Regulated Industries & Licensing

pari-mutuel facility in another state by the regulating agency in that state, or to allow such persons to attend pari-mutuel facilities in Florida if the Division finds that it would not be adverse to the public interest or to the integrity of the sport or industry. The act preserves the common law right of a permitholder to absolutely exclude a patron. The Division's power to exclude is also applicable to any person whose occupational license to work at a facility has been suspended or revoked, or who has been declared ineligible to hold a license, or whose license application has been denied. The exclusion period cannot exceed the period of suspension, revocation, or ineligibility. The Division is also authorized to bring administrative charges against a former occupational license holder, who does not hold a current occupational license, for violations of statutes or rules which occurred at a time during which the person held a valid occupational license. As a penalty the Division may declare the person ineligible to hold a license for a time period.

A "no medication" policy is embodied in Section 550.241, F. S., which was enacted in 1980 (Chapter 80-270). An exception to this policy is provided in SENATE BILL 832 (CHAPTER 82-149). If the Division first determines that use of two medications (furosemide and phenylbutazone) is in the best interest of horse racing, it may promulgate rules allowing use of them. The act sets minimum standards for time of administering the drug (not within three hours of post time for furosemide, and not within 24 hours of post time for



phenylbutazone), and establishes a maximum level of phenylbutazone (not exceeding 165 micrograms per milliliter of urine or its equivalent in other bodily (sic) fluids based on either pre-race or post-race tests).

Another provision of the act allows dogracing and jai alai permitholders to withhold money for capital debt and capital improvements on "pic-six" type wagers. (This relatively new form of wagering has become popular since withholding for capital improvements was legislated in 1980.) Previously, a lessee of a racetrack or fronton could not withhold money for capital improvements, but with passage of this 1982 act lessees are authorized to withhold funds for capital improvements to the leased facility upon mutual agreement between the lessor and the lessee.

Charity days of racing are restructured by the act. All permitholders will have available five days of operation, in addition to the statutory number of regular days, to benefit charitable causes. Permitholders choose recipients from an authorized list on file with the Division of Pari-mutuel Wagering. Charities qualify for the list by complying with the provisions of Chapter 496, F. S. (Solicitation of Charitable Funds Act), and having a tax exempt status with the Internal Revenue Service. Automatic qualifiers for the authorized list of charities include the Racing Scholarship Trust Fund (Board of Regents Scholarships), the Historic Preservation Trust Fund, major state and private institutions of higher learning, and Florida community colleges. Permitholders may not run more

than three days for the benefit of charities other than the Racing Scholarship Trust Fund, major state and private institutions of higher learning, and Florida community colleges. Payments to beneficiaries must be made by permitholders within 120 days after the end of the permitholder's fiscal year or, if the fiscal year ends during the conduct of the race meet, within 120 days of the end of the meet. If a permitholder conducts charity days for another permitholder, distribution to the charity must be made within 30 days after actual receipt of the funds. The computation of profits from charity days is modified to exclude daily license fees paid to the Division, the breaks taxes for horse racing which are earmarked for promotional trust funds, and funds withheld for capital improvements pursuant to statute. The permitholder is allowed to deduct from charity day revenue the prorated share of operating expenses (based on total performances during the race meet) and such expenses shall include those reported in the uniform reporting system and which are income tax deductible (state or federal), but no deductions are allowed for officer and director compensation, interest on capital debt, legal fees, real estate taxes, bad debts, contributions or donations, or overhead expenses charged by a parent organization that are not directly related to the charity day performance. The minimum amount going to the beneficiary cannot be less than the amount which would be paid to the state as taxes if the charity racing performance had been conducted as a regular racing performance.

The act also requires promoters of horse shows recognized by The American Horse Show Association, Inc. (AHSA), and offering prize money in excess of \$7,000, to file with the Division of Pari-mutuel Wagering a financial statement of operations within 90 days of the end of each show. Promoters of such shows must obtain an annual occupational license from the Division. To be eligible for a license, applicants must be at least 19 years old and be of good moral character (no felony convictions within 15 years). The Division is to set a license fee in an amount not to exceed \$75.

State regulatory agencies which are authorized to take fingerprints may collect the actual cost of processing those prints from applicants under another provision of the act. Those charges include processing costs by the Florida Department of Law Enforcement and agencies and branches of the federal government. Each affected state agency is authorized to adopt rules to provide for the collection of such fees which are to be deposited into the appropriate trust fund account to be designated by the Executive Office of the Governor.

The final portion of this act amends Sections 943.11, 943.12, 943.14 and 943.145, F. S., relating to the Criminal Justice Standards and Training Commission. A discussion of the provisions effected by these amendments is included in the SUMMARY article on CORRECTIONS.

#### Public Utilities

A potpourri of issues relating to utilities is contained

in COMMITTEE SUBSTITUTE FOR SENATE BILL 879 (CHAPTER 82-25), which amends Chapter 366, F. S. (Public Utilities Regulation), and Chapter 367, F. S. (Water and Sewer System Regulatory Law), to extend and modify several facets of the Public Service Commission's regulatory authority over these utility services. While no utility is currently required to furnish electricity or gas for resale, a public utility may be required to furnish gas for containerized resale under the act. The Public Service Commission (PSC) is authorized to impose a penalty of up to \$5,000 on any entity subject to its jurisdiction including rural electric associations and municipally owned utilities. The PSC is given a statutory lien on the real and personal property of the entity to enforce the penalty, and additionally may amend, suspend or revoke any certificate for violations of lawful rules and orders of the PSC or violations of Chapter 366, F. S. The PSC is granted reasonable access to all records of public utilities, including water and sewer systems. Such records which are shown to be "proprietary confidential business information" are exempt from disclosure under the Public Records Law (Subsection 119.07(1), F. S.), and may be protected by an order of the Commission limiting discovery in any docket or proceeding. The act delineates the types of information which fall into such a classification.

The act also provides a new method for setting interim rates or revenues subject to refund by requiring the Commission to calculate the difference between a public utility's "achieved rate of return" and its "required rate of return,"

applied to an average investment rate base or an end of period investment rate base. Terms are defined and procedures provided for the calculations. This method also applies to water and sewer systems.

The Commission is authorized to change energy efficiency goals and reset the time periods set to achieve those goals. The act removes from the Commission's jurisdiction the issuance and sale by water and sewer utilities of securities maturing more than 12 months after date of issue, and clarifies that the Commission does not have jurisdiction over containerized compressed natural gas. Instead of being mandated, the act gives the PSC the discretion to establish a rate base when a utility is sold, assigned, or transferred, and when a county subjects its water and sewer utilities to the provisions of Chapter 367, F. S. Likewise, in place of annually ordering a minimal rate of return on common equity, the Commission can order a leverage scale that reasonably reflects a range of return on common equity, and may do so more often than once a year. And a utility, in lieu of presenting evidence on its rate of return on common equity, may ask the PSC to adopt the range of rates thus established. Rate requests may be put into effect by a utility pending final decision by the PSC, but the utility must file the appropriate tariffs in addition to posting a bond or corporate undertaking.

Provisions relating to the gross receipts tax are modified to conform to Section 350.113, F. S. Privately owned

gas piping systems (beyond the last meter) are exempted from PSC jurisdiction.

Each section of Chapters 366 and 367, F. S., which is added or amended by this act is repealed on October 1, 1989, subject to legislative review under the Regulatory Sunset Act.

COMMITTEE SUBSTITUTE FOR SENATE BILL 868 (CHAPTER 82-51) creates and amends several sections of Chapter 364, F. S., relating to telephone companies. The PSC is granted reasonable access to all company records. Such records which are shown to be "proprietary confidential business information" are exempt from disclosure under the Public Records Law (see Subsection 119.07(1), F. S.), and may be protected by an order of the Commission limiting discovery in any docket or proceeding before the Commission. Proprietary confidential business information includes trade secrets, internal auditing controls and reports of internal auditors, security measures, systems and procedures, bidding information and other contractual data, and certain employee personnel information.

The act also provides a new method for setting interim rates or revenues subject to refund by requiring the Commission to calculate the difference between a telephone company's achieved rate of return and its required rate of return applied to an average investment rate base or an end of period investment rate base. "Achieved rate of return" and "required rate of return" are defined and procedures for calculating them set out so as to provide up-to-date data.

The act allows competition in the delivery of telephone company services except for local exchange services. In allowing duplication or competition of services, the Commission may exempt a company from any or all statutory requirements, or prescribe different requirements than normally prescribed if it is in the public interest to do so. The Commission is required to consider certain standards in determining if such actions are consistent with the public interest, including the number of firms providing the service, the geographic availability of the service from other firms, the quality of service available from alternative suppliers, and the effect on rates.

Provision is made for repeal on October 1, 1989, of the changes to Chapter 364, F. S., effected by this act subject to review pursuant to the Regulatory Sunset Act.

#### Public Lodging and Food Service Establishments

COMMITTEE SUBSTITUTE FOR SENATE BILL 686 (CHAPTER 82-84) addresses three issues relating to public lodging and food service establishments which are licensed and regulated by the Division of Hotels and Restaurants of the Department of Business Regulation, pursuant to Chapter 509, F. S. When a current licenseholder of a public lodging establishment or a public food service establishment has been notified that revocation or suspension proceedings have been or will be brought against him for gambling, narcotics or prostitution related charges, a subsequent purchaser is not entitled to the issuance of a new license except in the discretion of the

Division director. The fee assessed to all establishments for the Hospitality Education Program is increased to \$3 from the current \$1. Sanitary regulations are strengthened and expanded to prohibit the employment of any person suffering from any communicable disease considered hazardous to the public's health in any public lodging or food service establishment, state-owned or state-operated institution, or public and nonpublic school food service, when such employment calls for the preparation or serving of food or drink, the handling of dishes, towels, and linens, and other similar duties when disease may be transmitted to guests or tenants. The Division is to adopt rules, in consultation with the Department of Health and Rehabilitative Services, to accomplish the intent of the expanded regulations, including: requiring employers to have on file documentation regarding employee's negative x-rays or skin tests for tuberculosis; prohibiting employees with fever, eruptive skin conditions or diarrhea from conducting the previously described services, unless certified by a physician not to be a public health threat; requiring employees to wash their hands thoroughly after using toilet facilities; and providing for penalties. These new rules will be applicable only to employees who begin employment after July 1, 1982. Repeal of the provisions of this act is set for October 1, 1990, subject to legislative review under the Sunset Act.

#### Tour Operators

"Receptive tour operators" are required to register with



the Division of Hotels and Restaurants under the provisions of SENATE BILL 604 (CHAPTER 82-82). A receptive tour operator is defined as any person or business who contracts with a foreign travel agency to provide prearranged tourist related services. Hotels and motels which are already registered with the Division are exempt from registration under the act. Registration consists of supplying the business name and address, and the names, addresses and social security numbers of all owners and employees, and proof of purchase of a performance bond in an amount set by the Division but not less than \$25,000. A certificate showing proof of registration, which the Division will issue, must be prominently displayed in the registrant's primary place of business. The registration fee is to be set by the Division to cover its administrative costs, but not to exceed \$300 annually.

The Division has authority to suspend or revoke certificates for violations of the act or rules of the Division. Violations include operating without a certificate, failure to purchase a performance bond, and knowingly making false statements or representations in applications or registration forms. The Division is given authority to impose civil fines of up to \$5,000. Violators are liable to the state for damages and civil penalties, and the Division is empowered to institute a civil action to recover such penalties and damages as well as to seek injunctive relief.

The act, along with other provisions of Chapter 509, F. S., is subject to review by the Legislature prior to

October 1, 1990, pursuant to the Regulatory Sunset Act, Section 11.61, F. S.

#### Elevators

HOUSE BILL .969 (CHAPTER 82-183) exempts certain semiprivate elevators from the requirement of Chapter 399, F. S., that elevators be accessible to physically handicapped persons. The act also requires at least a 32-inch door opening in 1,500-pound capacity passenger elevators in buildings of three or fewer stories. These provisions are subject to repeal on October 1, 1983, pursuant to legislative review under the Sunset Act.

#### Cemeteries

HOUSE BILL 53 (CHAPTER 82-7) exempts a nonprofit cemetery corporation, which is incorporated and has engaged in the cemetery business continuously since and prior to 1915 and whose current trust assets exceed \$2 million, from designating a corporate trustee to manage a "care and maintenance trust fund" and a "merchandise trust fund," as otherwise required by Sections 559.41 and 559.441, F. S. Repeal of these provisions is set for October 1, 1990, subject to legislative review under the Sunset Act.

#### Liquefied Petroleum Gas

Two laws enacted during the 1981 session (Chapters 81-175 and 81-318) provided conflicting dates for a sunset review of Chapter 527, F. S., relating to liquefied petroleum gas.

HOUSE BILL 182 (CHAPTER 82-6) resolves the conflict by setting the date of repeal as October 1, 1987, and providing for legislative review pursuant to Section 11.61, F. S., the Regulatory Sunset Act.



COMMERCE\*

The 1982 Legislature passed a variety of legislation amending or adding to the laws regulating commerce in the State of Florida. More specifically, the following subjects were addressed: apprenticeships; cemeteries; corporations and limited liability companies; financial institutions; interest rates; motor fuels; retail installment sales; tourism and economic development; unemployment compensation; and public deposits.

Summaries of the legislation affecting these subject areas are presented in this article.

Apprenticeship

HOUSE BILL 194 (CHAPTER 82-52) repeals Section 446.101, F. S., which requires contractors to hire a certain percentage of apprentices on most government construction jobs. With the exception of contracts for construction, repair or maintenance of public roads, highways and bridges, all contractors heretofore had to agree to hire the statutory ratio of apprentices to journeymen as a condition for entering into a public works contract.

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\*Prepared by staff of House Commerce Committee

This act establishes legislative intent that in the event of voluntary employment of apprentices, all other pertinent apprenticeship statutes would continue to apply. One such statute relative to administrative rule and minimum standards and policies promulgation by the Division of Labor, Department of Labor and Employment Security, is reestablished by this law which creates Section 446.032, F. S. (formerly Subsection 446.031(2), F. S., repealed in 1981 pursuant to the Sundown Act).

COMMITTEE SUBSTITUTE FOR SENATE BILL 75 (CHAPTER 82-55) reestablishes the State Apprenticeship Council but provides for several changes from the previous law. Abolished pursuant to Sundown in 1981, the Council served as an advisory body to the Division of Labor of the Department of Labor and Employment Security. The new Council will serve in the same capacity but will have a different composition, be subject to stricter gubernatorial scrutiny, and will deviate from the former meeting schedule.

The Council will be comprised of five members who represent non-union management and five members who represent union labor. These members will be selected by the Governor from lists submitted by two nominating committees, one representing non-union management and one representing union labor. As in previous law, the administrator of industrial education of the Department of Education will be a non-voting member and the director of the Division of Labor will serve as ex-officio chairman.

Council meetings will be held twice a year in a government building. Special meetings can be held at the call of the chairman. Additionally, twice a year labor members and management members will meet separately. All members will be accountable to the Governor and can be removed for cause. Although there is no compensation for services, members will be entitled to per diem and travel expenses. There is a provision for Sundown review and repeal of the Council in 1988.

The act also establishes the rule-making authority of the Division of Labor for Council procedures, and reestablishes Division authority to promulgate minimum standards and policies for apprenticeship programs and agreements, contrasting with similar language in CHAPTER 82-52 summarized above, which makes no reference to the Council.

#### Cemeteries

HOUSE BILL 53 (CHAPTER 82-7) amends Section 559.41, F. S., and Paragraph 559.441(3)(a), F. S., by exempting from having to designate a corporate trustee pursuant to care and maintenance and merchandise trust funds, any non-profit cemetery corporation incorporated and engaged in the cemetery business continuously since and prior to 1915, whose current trust assets exceed \$2 million. (The law reinstates exemptions inadvertently deleted by the 1980 Sunset revision (CHAPTER 80-238).)

#### Corporations and Limited Liability Companies

HOUSE BILL 43 (CHAPTER 82-177) amends Chapter 617,

F. S., and creates Chapter 606, F. S. The amendments to Chapter 671, F. S., achieve two discrete purposes: First, the act repeals Part II of Chapter 617, F. S., which established scholarship funds to help students go to college. Because of a ruling by the federal Securities and Exchange Commission, this program did not prove to be feasible.

The second set of amendments to Chapter 617, F. S., is intended to update the corporations not for profit laws. The law relating to incorporation, the filing and amendments of the articles of incorporation, the beginning of corporate existence, the requirement of registered offices, and the rights and responsibilities of the members of the entity is amended to resemble the language found in "Florida's General Corporation Act," Chapter 607, F. S.

The enactment of Chapter 606, F. S., allows the creation of a new type of business organization: a limited liability company. As with any type of legislation authorizing the creation of a business entity, this chapter establishes the standards and procedures for the incorporation and dissolution of the entity, the procedures to file and amend the articles of incorporation, the entity's powers, the members' contributions and liability, the transferability of a member's interest, the state's responsibilities and the required fees. Additionally, several provisions in Chapter 220, F. S., are amended to ensure that the income of the limited liability company is taxable by the state.



SENATE BILL 591 (CHAPTER 82-147) amends Chapter 617, F. S., which regulates corporations not for profit, to allow such a corporation to be organized by the issuance of stock. No dividends, however, may be paid on the stock, nor corporate income distributed to shareholders. The corporation may reasonably compensate its officers and provide appropriate shareholder benefits. Also, the act allows any county, district or municipal hospital to convert into a non-profit Florida corporation and enter into contracts with non-profit Florida corporations to provide management services to the hospital. Such hospitals must qualify as tax exempt under 26 U.S.C. 501(c)(3).

#### Financial Institutions

COMMITTEE SUBSTITUTE FOR HOUSE BILL 287 (CHAPTER 82-214) is a comprehensive revision of the financial institutions codes, Chapters 655-665, F. S., enacted two years ago pursuant to the Regulatory Reform Act.

Among the act's many provisions, a major substantive element is the creation of a new Part II of Chapter 655, F. S., establishing procedures for conversions, mergers and acquisitions among different types of financial institutions. Under these procedures, for example, a savings and loan association could convert to a bank, or a bank and a savings and loan could merge and become one institution, or one could acquire the other as a subsidiary when permitted under federal

law. These organizational options are also made available to trust companies, credit unions and industrial savings banks.

The act also makes some major changes in the Savings Association Act, Chapter 665, F. S. Investment powers are broadened and limitations are relaxed so that savings and loans (S&Ls) may now invest in most of the same types of assets in which banks may invest. Additionally, S&Ls may invest up to 10 percent of their total assets in corporate stock and in income-producing property without restriction on the location of the property. The percentage of non-liquid assets which must be invested in residential property mortgages is lowered from 60 to 50. Finally, savings and loan holding company provisions as well as the restrictions on acquisitions, including the prohibition on control by an out-of-state holding company, are repealed.

(In the midst of a vigorous debate over the merits or demerits of interstate banking, prompted by the pending application of Continental Illinois Corporation for an industrial savings bank charter, the bill was amended in committee to include a one-year moratorium on new charters for industrial savings banks.)

Among the numerous technical changes included in the law are provisions which:

- 1) restore the authority of the Department of Banking and Finance to seek an injunction to restrain violations of the financial institutions codes;

2) make clarifications in the credit union chapter authorizing credit unions to receive deposits from other credit unions and to merge with federal credit unions;

3) repeal the fingerprint requirement in connection with applications to establish or acquire control of a bank or savings association;

4) require a fee of \$1,000 with applications for the relocation of a branch office of a bank or savings association;

5) authorize bank service corporations to provide services to all types of financial institutions;

6) revise the net worth requirement for applications for an international bank agency or representative office license;

7) clarify the provision concerning confidentiality of a savings association's records;

8) repeal the required notice of intent to organize a bank, trust company or industrial savings bank; and

9) permit all types of financial institutions to invest in the stock of other financial institutions.

The compounding of interest on loans secured by mortgage is authorized provided the effective yield does not exceed the legal rate of interest. Finally, provisions relating to failure of a trust service office to open, qualifications of S&L directors, and restrictions on the acquisition of control of S&Ls by business organizations and holding companies are repealed.

SENATE BILL 271 (CHAPTER 82-194) removes from Subsection 658.67(6), F. S., the requirement that to permit investment the

subsidiary corporation of a bank must be wholly owned by the bank. (This will allow several banks to join in creating and running a subsidiary corporation to provide services to the banks' customers.) A Sunset repeal date of October 1, 1991, is provided.

#### Interest Rates

HOUSE BILL 751 (CHAPTER 82-42) raises the legal rate of interest from 6 percent per annum to 12 percent in all cases where interest accrues on an obligation without any rate being specified. This amendment to Section 687.01, F. S., does not impair the ability of the parties to contract for a lesser or greater rate as heretofore provided.

(The former rate of 6 percent had been in effect since 1844. At 12 percent, the legal rate of interest is now the same as the rate applicable to final judgments established in Subsection 55.03(1), F. S.)

#### Motor Fuels

SENATE BILL 477 (CHAPTER 82-26) amends Subsection 526.121(2), F. S., to allow a service station operator to offer to consumers a price discount if the consumer purchases his gasoline for cash. (This would be an express exception to the prohibition in Subsection 526.121(1), F. S., which does not allow a different price for the same grade of gasoline dispensed at more than one pump from a common storage tank.)

### Public Deposits

HOUSE BILL 1078 (CHAPTER 82-67) adds a new section to Chapter 280, F. S., "The Florida Security for Public Deposits Act." This new section authorizes the State Treasurer to require a qualified public depository to deposit additional collateral if federal law should prohibit the depository from participating in the contingent liability agreement required under the Act; or, if the number of depositories participating in the contingent liability pool is inadequate to protect the security of public deposits, all such depositories could be required to deposit additional collateral. In either case, the total collateral required of the depository would be an amount equal in value to 110 percent of the uninsured public deposits held by the depository, making certain provisions for payment of losses inapplicable..

### Retail Installment Sales

SENATE BILL 49 (CHAPTER 82-70) increases the license and examination fees charged to retail installment sellers licensed under Chapter 520, F. S. The annual license fees are raised, on the average, by about \$25. The various license fees under Chapter 520, F. S., will now range from \$25-\$50 per year. The examination fees are increased from \$50 to \$100 per examiner day. (The increase in fees is intended to insure that receipts from licensees are adequate to cover the costs incurred by the Division of Finance in regulating retail installment sellers.)

A provision of the act amends Section 520.125, F. S., which provides for variable interest rates on installment sales of mobile homes. This section permits interest rates on such contracts to be adjusted, within limits, in accordance with fluctuations in a specified index and allows the accumulation of changes in the index which may then be translated into adjustments in the interest rate at some later date. (This provision is intended to keep changes in the contract rate parallel with changes in the index.)

Finally, this measure includes three technical amendments to Chapter 520, F. S., specifically to exempt savings and loan associations from the licensing requirements applicable to sales finance companies. Banks were already exempt from these requirements.

SENATE BILL 320 (CHAPTER 82-77) amends Section 520.31, F. S., to broaden the purview of what constitutes a credit transaction under the Retail Installment Sales Act to include those transactions between buyers and third parties operating under concession from a retailer. (Therefore, for example, if a company such as H&R Block (third party) leases space in a Sears building, it is now permitted to accept a Sears credit card as payment for the services it is providing. This accords statutory recognition to a current retailing trend.)

#### Tourism and Economic Development

HOUSE BILL 294 (CHAPTER 82-115) amends Section 288.012, F. S., relating to offices established in foreign countries by

the Department of Commerce to promote tourism and economic development in the state. The Department was previously granted exemptions from certain state purchasing requirements to accommodate local laws and business practices in foreign countries where such offices are established. This law expands those exemptions to include an exemption from compliance with all statutory provisions relating to employment of personnel.

#### Unemployment Compensation

HOUSE BILL 151 (CHAPTER 82-178) amends Section 443.151, F. S., to provide that in an administrative unemployment compensation proceeding, an employer or claimant may be represented by an authorized representative or counsel. Such representative will not be required to comply with any criteria for lay representation set forth in administrative rules, specifically Subsection 120.62(2), F. S. (Formerly, only claimants were entitled to be represented by someone other than an attorney.)

SENATE BILL 256 (CHAPTER 82-91) amends several provisions in Chapter 443, F. S., (Section 443.051, Paragraph 443.091(1)(c), Subsections 443.111(5) and 443.151(6)) to conform Florida's Unemployment Compensation Law to changes made in 1981 in the Federal Unemployment Compensation Tax Act (Title XXIV of P.L.97-35, the "Omnibus Budget Reconciliation Act of 1981").

Hereafter, only the state "on" indicator will be able to trigger an extended benefits period. Provisions relating to

national "on" and "off" indicators are deleted. Moreover, the previous triggering condition that the insured unemployment rate equal or exceed 4 percent is raised to 5 percent. The requirement that the rate will also have to equal or exceed 120 percent of the average of such rates for the corresponding 13 week period ending in each of the preceding two calendar years is retained.

Also changed is the method for computing the insured employment rate. Now, only the number of regular claims (rather than both regular and extended) will be used in the calculation. This amendment likewise enhances the improbability of the occurrence of an extended benefits period.

This act requires Florida law to address for the first time the relationship of the Trade Act of 1974 as amended (19 U.S.C. 2101 et seq.) to the Unemployment Compensation program. This federal act is designed to assist Americans adversely affected by foreign imports while attempting to foster agreements promoting free world trade. A recipient of a trade readjustment allowance (TRA) would remain eligible for regular and extended UC benefits while involved in a TRA training program, notwithstanding the fact that such recipient left an unsuitable job to enter the program. "Suitable" is defined as work which is of substantially equal or higher skill level than the worker's previous employment and pays wages of at least 80 percent of his average weekly wage.

It also places into state law the requirement that the number of weeks of eligible extended benefits be reduced by the



number of weeks of TRA benefits received during an extended benefits period. A method is provided for recovery of TRA overpayments by reducing by no more than 50 percent the amount of regular or extended UC benefits to which a recipient is entitled. (For 1981 TRA amendments see Title XXV of P.L. 97-35.)

Finally, the law provides an exception to the prohibition against alienation of UC benefits by allowing for the collection of child support payments. Any UC claimant who must disclose an obligation to pay child support to a local or state enforcement agency will have the amount of support owed deducted from the amount of UC benefits otherwise payable. The withheld amount is deemed to be UC benefits but is paid to the appropriate enforcing agency towards satisfaction of the child support debt. The administrative costs incurred by the Division of Employment Security, Department of Labor and Employment Security, will be reimbursed by the child support enforcement agency.

SENATE BILL 462 (CHAPTER 82-23) amends Section 443.111, F. S., to permit certification for and distribution of unemployment compensation benefits to be made by mail as well as through claims offices from July 1, 1982, to October 1, 1984, at which time the mail provisions expire and prior law is reenacted. Heretofore, mail claims have been authorized on an experimental basis.

SENATE BILL 474 (CHAPTER 82-81) amends Subparagraph 443.036(17)(e)2., F. S., to provide that contingent upon the

passage of pending federal legislation (HR 4961 or similar legislation), the exemption from the unemployment compensation law for alien agricultural workers in Florida will continue until January 1, 1984, and be retroactive to January 1, 1982.

(There are only 5 sugar companies in Florida that employ approximately 9,000 of these workers. Even if unemployment compensation taxes were paid, the workers would reap no benefit as they are prohibited by their home countries from receiving unemployment compensation benefits.)

CONSERVATION AND NATURAL RESOURCES\*

The effects of dramatic changes in the state's economy, energy resources and technological developments were all reflected in the 1982 Regular Session of the Legislature. The State of Florida is no longer preparing for changes in these areas, but is responding to the challenge of such changes. In the area of conservation and natural resources, the Legislature found itself involved with the regulation of industrial and domestic wastes, side effects of industrial growth and population expansion which despoil the environment. Subjects such as the management of radioactive wastes, the regulation of dredging and filling, and the protection of the water supply were all dealt with. As a result of the state's need to regulate the effects of changes to the economy, energy resources and technology, the 1982 Regular Session of the Legislature was far less concerned with the harvesting of game and fish and much more concerned with the regulation of threats to the environment in which game and fish survive.

Environmental Regulation

The Department of Environmental Regulation was the

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\*Prepared by the staff of House Bill Drafting

subject of several pieces of legislation which passed during the 1982 Regular Session.

HOUSE BILL 16 (CHAPTER 82-27) provides that the Department of Environmental Regulation, rather than the Board of Trustees of the Internal Improvement Trust Fund, the Department of Natural Resources or local governing authorities, is responsible for regulatory restrictions on dredging and filling land near the navigable waters of the state. The act directs the Department of Environmental Regulation, as well as the Department of Natural Resources, to conduct studies with respect to dredge and fill permits, and provides a procedure for consideration of such permits by local governments. Rules adopted pursuant to the "Florida Air and Water Pollution Control Act" shall not require dischargers of wastes to waters of the state to improve natural background conditions, nor may the Department of Environmental Regulation adopt standards relating to pollution which are more stringent than federal regulations except as provided by state law. The act further provides that moneys in the Hazardous Waste Management Trust Fund which are derived from the excise tax for the privilege of generating hazardous wastes shall not be expended in a manner inconsistent with the federal "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767. The Department of Environmental Regulation is prohibited from issuing a permit to any person for the purpose of engaging in the extraction of solid minerals taxable by the state, within any state or national park or forest when these

activities will degrade the ambient quality of the waters or air within those areas of the state. This prohibition is also the subject of COMMITTEE SUBSTITUTE FOR SENATE BILL 168 (CHAPTER 82-54). Provisions are revised relating to the Department's site inspection authority; the granting of variances to the pollution control law; available defenses for violators of resource recovery and management laws; and the time period for commencement of work under a departmental general construction permit.

SENATE BILL 255 (CHAPTER 82-144) excludes beach nourishment projects, resulting from inlet or navigation channel maintenance dredging projects not involving the construction of an authorized beach restoration project, from the legislative declaration of public policy that described boundary lines be fixed pursuant to beach nourishment projects. The act further provides that, prior to the construction of an authorized beach restoration project, the local sponsor shall establish the line of mean high water and that any additions to the upland property seaward of the mean high water line resulting from the nourishment project shall remain the property of the upland owner, subject to regulation by the Department of Natural Resources. The Department of Environmental Regulation is directed to notify the applicant for a proposed project within 10 days as to whether the Department intends to issue or deny the permit; beach nourishment on uplands fronting on the Atlantic Ocean and the Gulf of Mexico is exempted from a prohibition against

depositing dredged materials on private lands; placement of sand dredged from navigation channels on beaches fronting on those waters is exempted from a prohibition against public bodies adding to existing lands or islands without the consent of the riparian upland owner; and such placement of sand is exempted from the existing statutory prohibition against dredging. Lastly, the act creates the Division of Beaches and Shores within the Department of Natural Resources and assigns the Division described duties relating to beaches and shores previously performed by the Division of Marine Resources.

COMMITTEE SUBSTITUTE FOR SENATE BILL 395 (CHAPTER 82-79) authorizes the Department of Environmental Regulation in accordance with its duty to prohibit pollution of the state's waters to establish reasonable zones of mixing for discharges to waters. The act provides that certain areas in the state shall be excluded from such zones and shall be entitled to special protection. Such areas are to be referred to as "Outstanding Florida Waters" because of their natural attributes, and criteria are provided for establishing mixing zones in such waters. The act additionally provides for the tolling of the time period with respect to review of permits for hazardous waste treatment, storage and disposal facilities.

HOUSE BILL 502 (CHAPTER 82-122) authorizes the Department of Environmental Regulation to establish permit fees sufficient to cover the costs of services associated with the issuance of permits for installations expected to be sources of air or water pollution, based upon a sliding scale related to

the size and type of project. The measure provides limitations of \$100, \$500 and \$1,000, depending on the type of permit, and for the deposit of such fees and fees collected pursuant to Chapter 253, F.S. (State Lands), in the Florida Permit Fee Trust Fund created by the act. In addition, the act sets a temporary \$20 permit fee until such time as the Department adopts a fee schedule, and provides for the tolling of the time period for permit approvals for hazardous waste treatment, storage and disposal facilities while proof of publication is sent to the Department.

HOUSE BILL 930 (CHAPTER 82-44) directs the Department of Environmental Regulation, in assessing fees for examination and certification of operators of water purification plants and waste-water treatment plants, to adjust the fees as needed, within established limits, to insure that generated revenues from the certification process shall equal or exceed the cost of operation. The act also saves from Sunset review the provision of law with respect to the regulation of operators of water purification plants and waste-water treatment plants, and delays such review until October 1, 1992.

### Water

Four measures dealing with various aspects of water resources were enacted by the 1982 Regular Session of the Legislature.

HOUSE BILL 52 (CHAPTER 82-108) creates the "Water Conservation Act" which establishes standards with respect to

buildings constructed after September 1, 1983, relating to the maximum quantity of water flow allowable in flush toilets, showers and faucets. The act also applies to additions to or renovations of existing buildings if the cost of such addition or renovation exceeds 25 percent of the value of the building and will not require substantial modification of the existing plumbing system. Violators of the act are subject to a \$250 fine.

SENATE BILL 473 (CHAPTER 82-80) amends the "Florida Safe Drinking Water Act" (Part VI of Chapter 403, F. S.) to provide that a water system for a wilderness educational camp shall be a noncommunity water system. The act also amends the "Florida Air and Water Pollution Control Act" (Part I of Chapter 403, F. S.) to direct the Department of Environmental Regulation to establish special areas in the state, to be referred to as "Outstanding Florida Waters," which are worthy of special protection because of their natural attributes. The enactment also amends the "Florida Environmental Reorganization Act of 1975" (Part V of Chapter 403, F. S.) to exempt described docking facility installations and repairs from permitting requirements.

HOUSE BILL 319 (CHAPTER 82-64) reenacts and amends state law relating to the creation and functioning of the Greater St. Johns River Basin, encompassing all or parts of Alachua, Baker, Bradford, Brevard, Clay, Duval, Flagler, Indian River, Lake, Marion, Nassau, Okeechobee, Orange, Osceola, Putnam, St. Johns, Seminole and Volusia Counties. The act prescribes that powers,



duties, functions and responsibilities of the Basin shall be the same as are authorized for other subdistricts and basins of water management districts. Finally, the measure provides for the composition of the governing board of the Basin, confirms and ratifies past actions, and authorizes the utilization of all moneys levied by and paid to or on behalf of the Greater St. Johns River Basin subsequent to July 1, 1977.

COMMITTEE SUBSTITUTE FOR SENATE BILL 647 (CHAPTER 82-101) repeals provisions of law defining "closed system" as applied to the management and storage of surface waters, and repeals provisions of law relating to exemptions from obtaining surface water management permits for closed systems. The act limits the exemption for closed systems to management and storage of surface water within agricultural lands; allows districts to charge fees for certain real estate transactions; provides a temporary permit exemption in cases of emergency for temporary backpumping activities; redefines "domestic use" of water to delete the exemption from permitting for water used for heating purposes; directs districts to implement groundwater basin resource availability studies and provide the information to affected local governments; directs districts to provide technical assistance to local governments; directs all districts to implement selective consumptive use permitting by October 1, 1983; allows districts to sell certain district properties without offering them for public sale; provides liability for consumptive use permittees; directs districts to prepare water shortage plans to be submitted to the Speaker of

the House and the President of the Senate by October 31, 1983; deletes district performance audit requirements; requires district compliance with Chapter 280, F.S., relative to money deposits; and provides formal review by districts of solid waste disposal applications.

#### Radioactive Wastes

Florida is yet another state which has found it necessary to devise some safe method of dealing with radioactive wastes. The greater the state's dependence upon nuclear energy and related industries, the more pressing it becomes to deal with wastes from such industries.

HOUSE BILL 1066 (CHAPTER 82-186 ) makes Florida a party to the Southeast Interstate Low-Level Radioactive Waste Compact, provides for the creation of the Commission adjunct thereto, and amends various provisions of state law to refer to low-level radioactive wastes. The act authorizes the Department of Health and Rehabilitative Services to charge and collect fees from Department licensees and nuclear power plant licensees of the federal Nuclear Regulatory Commission who ship low-level radioactive wastes to commercial low-level radioactive waste management facilities. Vehicles transporting hazardous materials or wastes upon the roads of the state are subject to federal law enforceable by agents of the Florida Department of Transportation and members of the Florida Highway Patrol. The act authorizes the Department to assess administrative fines, and provide for the licensing and siting

of commercial low-level radioactive waste management facilities. An appropriation of \$132,000 is made to the Department to fund the initial program costs.

The Division of Public Safety Planning and Assistance of the Department of Veteran and Community Affairs must develop and implement as needed with the appropriate counties and affected operator, emergency response plans and preparedness requirements as may be imposed by the United States Nuclear Regulatory Commission or the Federal Emergency Management Agency as a requirement for obtaining or continuing the appropriate licenses for a commercial nuclear electric generating facility.

#### Acquisition of State Lands; Financial Matters

HOUSE BILL 1096 (CHAPTER 82-152) authorizes the use of funds in the Conservation and Recreation Lands Trust Fund for title work, appraisal fees and survey costs related to acquisition expenses for lands to be acquired, donated or exchanged. The act further provides that purchase negotiations for the acquisition of any land from the Conservation and Recreation Lands Trust Fund or the Land Acquisition Trust Fund must be initiated within six months of approval by the Department of Natural Resources, and that either title must be conveyed or a written agreement to transfer title must be executed within one year of the initiation of purchase negotiations. The Board of Trustees of the Internal Improvement Trust Fund is directed to adopt minimum criteria

for the selection of prequalified fee appraisers in order to solicit described proposals for appraisal services. Finally, the enactment provides that projects on the acquisition list shall include appraisal, boundary map and description, preacquisition planning and budget information, land use and management plans, and designation of a management agency or agencies.

HOUSE BILL 1016 (CHAPTER 82-185) provides that the proceeds from the sale of certain state lands, which are currently deposited in the Land Acquisition Trust Fund, shall be retained, instead, in the Internal Improvement Trust Fund and all revenues accruing in such Fund shall be used for the acquisition, management, administration, protection and conservation of state-owned lands.

#### Game and Fish

HOUSE BILL 1129 (CHAPTER 82-188) defines the term "totally and permanently disabled persons," for purposes of the game and freshwater fish licensing law, to mean those persons currently certified by a licensed physician of this state or the federal Veterans Administration to be totally and permanently disabled. The county tax collector of each county, and subagents appointed by him, are authorized to issue and sell fishing, hunting and trapping permits as well as licenses. The act also provides that license fees and other fees required pursuant to Chapter 372, F.S. (Game and Freshwater Fish), shall

be remitted by the several county tax collectors by the 15th of each month to the Game and Fresh Water Fish Commission.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 266 (CHAPTER 82-170) directs the Department of Natural Resources to adopt rules regulating the operation and speed of motorboat traffic within described areas in Sarasota, Collier, Brevard, Palm Beach and Martin Counties, between the dates of November 15 of each year and March 31 of the succeeding year, for the protection of manatees. The Department is also directed to adopt such rules to regulate motorboat traffic in specified waterway areas of Citrus and Levy Counties between the dates of March 1 and September 30 of each year.

#### Miscellaneous

COMMITTEE SUBSTITUTE FOR HOUSE BILL 766 (CHAPTER 82-125) defines "solid waste," "liquid waste," and "infectious waste," and requires each hospital and ambulatory surgical center in the state to identify and segregate infectious wastes from solid wastes at the generating facility. The act defines "infectious waste" as all solid wastes from patients under strict or respiratory infectious isolation, or all solid wastes from patients pertaining to the maintenance of enteric, wound/skin, discharge, and blood infectious precautions, or all unautoclaved microbiologic waste from clinical specimens. Hospitals and ambulatory surgical centers are directed to notify transporters of waste of the existence and location of infectious wastes. The act further provides for the disposal

and destruction of such wastes pursuant to rules of the Department of Environmental Regulation.

COMMITTEE SUBSTITUTE FOR SENATE BILL 344 (CHAPTER 82-49) amends the "Florida Motor Vehicle Noise Prevention and Control Act of 1974" to provide that with respect to motor vehicles with a gross vehicle weight rating over 10,000 pounds, all school buses, and certain multipurpose passenger vehicles, the maximum allowable sound level shall be 83 decibels for such vehicles manufactured on or after January 1, 1977; and with respect to described motor-driven cycles and other vehicles manufactured on or after January 1, 1975, the maximum allowable sound level shall be 80 decibels. Prior provisions for increased restrictions on maximum allowable sound levels for such vehicles are deleted.

HOUSE BILL 758 (CHAPTER 82-63) eliminates the noncriminal penalty for violations of the "Florida Litter Law" involving small amounts of litter and provides a second degree misdemeanor penalty (up to 60 days imprisonment with a maximum fine of \$500) for litter violations, with the additional provision that the court may require the offender to pick up litter or perform other labor commensurate with the offense committed.

HOUSE BILL 783 (CHAPTER 82-181) amends the "Florida Boat Registration and Safety Law" to change the word "boat" to "vessel" in provisions relating to registration thereof. The act specifies that the registration renewal period begins June 1 and extends the close of such period from June 30 to July 15.

The act also authorizes tax collectors to issue duplicate certificates and new certificates when the classification of a vessel changes.

SENATE BILL 780 (CHAPTER 82-200) designates described state lands in Orange County as the William Beardall-Tosohatchee State Preserve.

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CONSTITUTIONAL AMENDMENTS\*

Only one proposed constitutional amendment was adopted by the Legislature in its 1982 Regular Session. None were adopted in the four special sessions which fell between March 25 and April 8, 1982.

SENATE JOINT RESOLUTION 1035 would alter Subsection 8(e), Article II of the State Constitution to permit a former member of the Legislature or a former officer elected statewide to represent a person or entity before any state government body for pay, if such legislator or officer provides full and public disclosure of financial interests pursuant to Subsection 8(a) of Article II. Present language bars paid representation by such persons before the government body or agency of which the person was an officer or member within two years of leaving office.

This amendment is to be submitted to the state electorate at the November 1982 General Election.

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\*Prepared by staff of the Legislative Library



CORRECTIONS, PROBATION & PAROLE\*

Major legislation passed by the 1982 Legislature in the area of corrections, probation and parole includes acts which: set procedure for hearings to forfeit a prisoner's gain-time after disciplinary offenses; remove the requirement that the Department of Corrections perform research and statistical analysis for the Parole and Probation Commission; alter the scheduling of parole interviews; establish legislative intent that parole is an act of grace of the state and not a right; set procedures for a replacement judge in cases of retained jurisdiction; repeal Sections 949.10, 949.11, and 949.12, F. S., relating to the revocation of bail; increase the penalty for introducing contraband into state correctional institutions; remove reference to county jails in Section 138.09, F. S., allowing counties to locate their jails in areas other than the county seat; exempt the Department of Corrections from the provisions of Chapter 287, F. S., thereby allowing the Department to purchase raw materials for its industries programs; give correctional officers the same rights as law enforcement officers if under investigation; authorize the Parole Commission's duly authorized representative to

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\*Prepared by staff of House Corrections, Probation & Parole

conduct parole revocation hearings; regulate certification and decertification of law enforcement and correctional officers; and create the "Corrections Mental Health Act." These acts are described in more detail below.

### Criminal Justice Standards and Training

Portions of SENATE BILL 832 (CHAPTER 82-149) deal with the Criminal Justice Standards and Training Commission. Sections 943.11, 943.12, and 943.14, F. S., are amended to include certification of law enforcement and correctional officers within procedures already existing for decertification of such officers.

The Commission is authorized to determine probable cause for certification and decertification by forming panels of not less than eight members rather than five members as previously provided. Pending issuance of a certificate of compliance, no person can be permanently employed. A person may be temporarily certified while the FBI processes his fingerprints if all other requirements have been satisfied. This temporary certification expires after one year or upon return of the fingerprints with a finding that would preclude certification.

A temporary employment authorization may be issued to a qualified person, and if the person enrolls in the first training program offered in the geographic area or is assigned to a state training program, then the temporary authorization shall continue until the applicant: successfully completes the

course, fails the course, withdraws from the course, or is terminated by his employers.

In cooperation with the Department of Law Enforcement, the Commission may, by rule, delegate duties to the Department's Division of Criminal Justice Standards and Training to perform in the name of the Commission. The Division director's responsibility to provide information to the Commission chairman concerning possible decertification of officers is retained; however, the requirement that such information be provided within 48 hours is deleted.

#### Correctional Officers' Rights

Sections 112.531 through 112.534, F. S., enacted in 1974, provides a bill of rights for law enforcement officers for their protection from unreasonable interrogation procedures while the officer is under investigation. SENATE BILL 404 (CHAPTER 82-156) amends these sections to afford correctional officers the same rights and privileges while under investigation and interrogation as those granted to law enforcement officers. The act also sets up a complaint review board for law enforcement officers and one for correctional officers whose members shall be from the same discipline as the aggrieved officer.

#### Correctional Industries Purchasing

COMMITTEE SUBSTITUTE FOR SENATE BILL 315 (CHAPTER 82-76) exempts the correctional industries programs of the Department of Corrections from the purchasing requirements of the

Department of General Services (Part I, Chapter 287, F. S.) for the purpose of purchasing raw materials to be used in the manufacture or processing of products for resale. The Department is authorized, but not required, to promulgate rules governing such purchases.

#### Location of County Jails

Section 138.09, F. S., requires a county's commissioners to erect a jail as soon as possible after a county seat is designated. A circuit court has interpreted that language to mean that said jail must be located within the county seat. HOUSE BILL 1004 (CHAPTER 82-43) deletes reference to jails in this section thereby allowing counties to place jails in locations of choice rather than restricting them to county seats.

#### Introduction of Contraband into Prisons

HOUSE BILL 602 (CHAPTER 82-124) increases the penalty for introducing certain types of contraband into state correctional institutions from a felony of the third degree to a felony of the second degree through amendment of Subsection 944.47(2), F. S.

#### Gain-Time Forfeiture

Section 944.28, F. S., is amended by COMMITTEE SUBSTITUTE FOR HOUSE BILL 431 (CHAPTER 82-39) to allow the Department of Corrections to hold a single hearing to forfeit both a prisoner's earned gain-time and his right to earn future

gain-time after a serious disciplinary offense. The measure also provides that the prisoner must be present at any such hearing. The Department's authority to delegate its gain-time forfeiture functions, duties and powers is repealed.

#### Parole Commission Procedures

COMMITTEE SUBSTITUTE FOR HOUSE BILL 447 (CHAPTER 82-171) is a comprehensive enactment providing statutory clarification for several Parole Commission procedures, amending Chapters 20 and 947, F. S., and repealing Sections 949.10, 949.11, and 949.12, F. S.

The law amends Subsection 20.315(20), F. S., by removing the requirement that the Department of Corrections perform statistical analysis, research, and program evaluation for the Parole and Probation Commission.

Chapter 947, F. S., is extensively amended, basically to provide for: changing the schedule for initial parole interviews; providing a replacement judge to act in place of the original sentencing judge in cases of retained jurisdiction; delaying the date of notification of an inmate's presumptive parole release date; limiting the number of reviews of a presumptive parole release date; changing the time periods with respect to final interviews prior to the presumptive parole release date; and extending the time in which an inmate may request modification of the terms and conditions of his parole. This act provides identical changes to Sections 947.22 and 947.23, F. S., concerning parole revocation as are

contained in COMMITTEE SUBSTITUTE FOR SENATE BILL 241 (CHAPTER 82-193) summarized below. It also provides legislative intent indicating that parole is an act of grace of the state and not considered a right; limits the kinds of orders of the Commission that must be indexed; directs the Commission to perform all statistical analysis, research and program evaluation necessary to comply with Chapter 947, F. S.; and provides intent with respect to youthful offenders in the mutual participation program of the Commission and Department of Corrections.

Sections 949.10, 949.11, and 949.12, F. S., are repealed, thus removing provisions relating to the temporary revocation of parole or probation for persons charged with a subsequent felony. The repeal of these sections eliminates the conflict with Section 947.23, F. S.

#### Parole Revocation

COMMITTEE SUBSTITUTE FOR SENATE BILL 241 (CHAPTER 82-193) amends Section 947.22, F. S., to allow the Parole and Probation Commission's duly authorized representative to sign warrants for the retaking of a paroled prisoner, and to determine whether or not to admit an alleged parole violator to bail after a hearing. Previously such actions could only have been taken by a member of the Commission.

The act also amends Section 947.23, F. S., requiring a preliminary hearing within 30 days for parolees charged with a violation. If the preliminary hearing results in a finding of



probable cause to believe that a violation has occurred, the Commission's representative is authorized to commence a hearing on the alleged violation, and issue necessary subpoenas. A violator may execute a waiver of such hearing or a withdrawal of waiver. Within a reasonable time after the hearing, the Commission's duly authorized representative must make findings of fact in regard to the alleged parole violation. Based on such findings, in a hearing conducted by a single commissioner or Commission representative, at least two commissioners shall enter an order determining whether or not the charges have been sustained. In cases where parole is revoked, the two commissioners shall make a written statement of the evidence relied on and the reasons for revoking parole.

The provisions of this law do not preclude the Commission or a commissioner from conducting the revocation hearings. In cases where the Commission conducts the hearings, a majority of the Commission must enter the order determining whether or not charges have been sustained together with a written statement of the evidence.

#### Corrections Mental Health Act

HOUSE BILL 12-D (CHAPTER 82-224), the "Corrections Mental Health Act," provides for treatment of mentally ill inmates within a Department of Corrections mental health treatment facility staffed with Department of Health and Rehabilitative Services treatment personnel. The Department of Corrections may contract for mental health services with

qualified persons or agencies outside the Department, such as community mental health centers which provide out-patient care to inmates in community correctional centers.

Two basic rights are provided to inmates: the right to quality treatment, and the right to be asked to give written consent prior to psychiatric treatment. The law also provides certain procedural guidelines which ensure due process for any inmate for whom involuntary treatment is requested and are designed to replace similar procedures contained in Chapters 393 and 394, F. S., now applicable to the involuntary treatment of inmates. The current commingling of inmates with forensic patients in Department of Health and Rehabilitative Services facilities is discontinued.

Commitment of an inmate pursuant to the Baker Act (Part I, Chapter 394, F. S.) is provided for at the time the inmate's sentence expires, if the inmate continues to be mentally ill and in need of care and treatment on an in-patient basis. Such involuntary placement may be in a secure, non-forensic facility upon a finding by the court that the inmate is manifestly dangerous in addition to being mentally ill.

Additionally, this act provides that inmates receiving mental health treatment are to be treated in the same way as other inmates in matters relating to parole, gain-time and expiration of sentence. Mental health services records for inmates receiving mental health treatment who are paroled are to be provided to the appropriate parole officer at the time such inmates are released from incarceration.

Guidelines are provided for operation and administration of the act, for data collection on mental health services, and for training of Department of Corrections correctional officers assigned to mental health treatment facilities.

The effective date of the act is July 1, 1984.

The first of these is the fact that the  
 government has been unable to  
 maintain a stable currency. This  
 has led to a loss of confidence  
 in the government and a  
 consequent loss of support  
 from the people. The second  
 is the fact that the government  
 has been unable to maintain  
 a stable economy. This has  
 led to a loss of confidence  
 in the government and a  
 consequent loss of support  
 from the people. The third  
 is the fact that the government  
 has been unable to maintain  
 a stable society. This has  
 led to a loss of confidence  
 in the government and a  
 consequent loss of support  
 from the people.

COURTS AND CIVIL LAW\*

The 1982 Legislature in regular and special sessions increased the number of county court, circuit court, and district court judges; created the Court Education Trust Fund to provide judicial education for judges and court personnel; provided that a person who unlawfully and intentionally kills another person may not benefit in any way from the death of the decedent; established a sentencing commission to develop and revise sentencing guidelines; and required that separated or divorced parents share all rights and responsibilities of any child-rearing. Other provisions of civil law which were amended include clerk of court service charges, service of process, sheriff's sales, warrants to inspect violations of local health, safety, and welfare standards, the Self-storage Facility Act, rights and responsibilities of mobile home park owners and mobile home owners and tenants, and witnesses and witness fees.

Judges

SENATE BILL 10-D (CHAPTER 82-238) provides that one judge in the 16th Judicial Circuit shall reside in the middle

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\*Prepared by Senate Legal Research & Drafting Services

or upper Keys. The law adds one circuit court judge each to the 1st, 5th, 6th, 9th, 12th, 16th, and 20th Judicial Circuits; adds two circuit court judges each to the 11th, 15th, and 17th Judicial Circuits; provides two additional county court judges for Broward County and one county court judge each for Hillsborough, St. Johns, and Volusia counties; and adds one judge to the Second District Court of Appeal. The law also provides that circuit court judges filling new offices in the 5th, 6th, and 11th circuits shall be elected in 1982 and take office in January of 1983, and repeals provisions of the Florida Statutes relating to specific compensation for circuit and county judges.

#### Judicial Education

HOUSE BILL 8-D (CHAPTER 82-168) creates the Court Education Trust Fund to be used to provide judicial education for judges, the state court administrator and his staff, trial court administrators, and appellate law clerks, and to develop and implement an education program for clerks of the circuit court. The law requires the Supreme Court, through the Florida Court Education Council, to submit to the President of the Senate and the Speaker of the House of Representatives an annual report concerning such education program and fund finances. The law provides for an additional \$1 service charge on civil actions brought in circuit or county court to be deposited in the Court Education Trust Fund.

## Homicide

COMMITTEE SUBSTITUTE FOR SENATE BILL 78 (CHAPTER 82-71) provides that a person who unlawfully and intentionally kills another person may not inherit property from the decedent, claim right of survivorship for any property held jointly with the decedent, or receive any benefit under any obligation payable on the death of the decedent. The law does not affect the rights of any person who in good faith, prior to an adjudication under this section, purchases property which the killer would have acquired if not for this law. In such instances the killer is liable for proceeds received from the sale. Insurance companies, banks, and other obligors who make payments according to the terms of their policy or obligation are exempted from liability for making such payments unless they are in prior receipt of written notice of a claim filed under this act.

## Sentencing Commission

COMMITTEE SUBSTITUTE for SENATE BILL 410 (CHAPTER 82-145) creates a 15-member Sentencing Commission which is responsible for developing a system of sentencing guidelines, evaluating such guidelines after their implementation by the Supreme Court, and effecting necessary changes in such guidelines on a continuing basis to insure fairness and certainty of punishment. However, prior to the implementation of statewide guidelines the Commission is to study the impact of such action on the establishment of presumptive parole

release dates for inmates by the Parole and Probation Commission and recommend appropriate legislation to the Governor and presiding officers of the Legislature to establish the proper relationship between sentences set under the guidelines and the amount of time actually served by inmates, as measured against presumptive parole release dates. The Office of the State Courts Administrator shall act as staff for the Commission whose members are to be selected from each branch of government and the public by designated public officers. Sentences imposed by trial courts under the guidelines must in all cases be within the minimum and maximum limits set by statute. The guidelines may provide that under certain circumstances the trial court must explain the sentence in writing. The failure of the trial court to impose a sentence within the guidelines shall not be subject to appellate review.

#### Family Law

SENATE BILL 439 (CHAPTER 82-96) requires courts to order that parental rights and responsibilities for rearing children of separated or divorced parents be shared by both parents and provides guidelines on sharing such child-rearing responsibilities, but permits the awarding of sole parental responsibility for the good of the child. Grandparents are given legal standing to seek court enforcement of visitation rights awarded to them. The law authorizes counties to establish and fund family mediation or conciliation services



and provides for confidentiality of communications made using such services.

#### Clerks of Courts

HOUSE BILL 346 (CHAPTER 82-117) provides that the circuit court clerks' offices shall retain as a service charge 10 percent of the interest accruing from investment of moneys deposited in the registry of the court. It deletes a provision which prohibited the deducting of fees from principal sums deposited by eminent domain petitioners.

COMMITTEE SUBSTITUTE FOR SENATE BILL 881 (CHAPTER 82-205) increases various service charges by clerks of circuit courts and clerks of the county courts; deletes certain other service charges by clerks of the circuit courts; and corrects appropriate cross references.

#### Process

HOUSE BILL 370 (CHAPTER 82-118) requires a party seeking service of process to provide the sheriff with the best known address for the person to be served, but also requires the sheriff to exercise due diligence to find that person. Instructions for levy by sheriffs must disclose on the writ the balance due. Witness subpoenas in misdemeanor cases may be served by certified mail. A procedure for notice to owners of levy and execution on real property is provided. This enactment provides for readvertisement or alternative disposition of property not sold at the initial sheriff's sale and allows sale of property at an advertised location.

Requirements for the disposition of unclaimed moneys from sheriff's sales are conformed to general provisions. The procedure for the filing of tax warrants in circuit court is altered. The right of defendants in execution to substitute other property for property levied upon is repealed.

#### Inspection Warrants

HOUSE BILL 109 (CHAPTER 82-8) provides for issuing a warrant to inspect a place or structure for any condition which is a violation of a state or local law or rule relating to any municipal or county building, fire, safety, plumbing, electrical, health, housing, or zoning standards. The act sets out conditions for issuing such a warrant and for conducting the inspection, and provides penalties for refusing to permit an authorized inspection or for maliciously causing the issuance of such a warrant. The actions of the warrant user are restricted.

#### Liens For Rent

HOUSE BILL 643 (CHAPTER 82-151) changes the "Mini-self-storage Landlord and Tenant Act" to the "Self-storage Facility Act" and establishes a lien for rent, labor, or other charges. A self-storage facility owner may deny a tenant access to the tenant's personal property if the tenant fails to pay his rent. The act provides guidelines and requirements for enforcing such a lien. Parties may create liens by contract and the right of parties to create additional rights, duties and obligations by rental agreement is preserved.

## Mobile Homes

HOUSE BILL 1075 (CHAPTER 82-66) prohibits any mobile home park bylaw, lease, rental agreement, or rule from infringing upon the right of mobile home owners or tenants to communicate, assemble, or canvass other owners or tenants. Additional restrictions are placed upon mobile home park owners wishing to evict mobile homes or mobile home dwellers; and eviction criteria and procedures for mobile home owners and park owners are prescribed. Written mobile home leases must contain certain zoning information. The definition of mobile home or recreational vehicle dealer for licensing purposes is broadened. The authority of the Department of Highway Safety and Motor Vehicles to inspect used mobile homes for construction code compliance is eliminated. Mobile homes bearing state insignia of approval are deemed to comply with the requirements of all local government rules and ordinances. Statutes relating to the state Mobile Home Tenant-Landlord Commission are repealed, and provisions relating to distress for rent are reenacted. Upon sale or transfer of title of rental property, security deposits or advance rents and any earned interest must be transferred to the new owner or agent. Written notice to a tenant of a landlord's intent to terminate a rental agreement is provided, if the tenant fails to comply with the agreement; and the form and content of such notice is specified. Rights, duties, and responsibilities of landlords and tenants with respect to franchised or licensed cable television service are enumerated.

### Witnesses

HOUSE BILL 9-D (CHAPTER 82-176) requires the establishment by court administrators of a witness coordinating office in each county within each judicial circuit to coordinate pretrial conferences, depositions, and court appearances for all witnesses subpoenaed in criminal cases, and to contact witnesses regarding their subpoenas. The law also provides for payment by the state rather than the county of witness fees of witnesses called on behalf of indigent defendants and of mental health professionals and expert witnesses required in court hearings involving an indigent.

EDUCATION K-12\*

The 1982 Legislative Session was notable for the minimal number of acts passed which dealt with public schools. The most significant measure enacted is the modification and re-adoption of portions of Chapter 231, F. S., which pertain to public school personnel. The subject of review under the Regulatory Sunset Act, the pertinent sections of this statute are altered to provide, among other things, a professional service contract in lieu of a continuing contract for first-time Florida teachers beginning work after July 1, 1982. Revisions were also made to create a more precise procedure for assessing the performance of instructional personnel, to give local school boards more rule-making authority in the area of personnel management, and to authorize school boards to provide annuities to offset benefit penalties for employees choosing to retire early.

Other major changes focus on student discipline with measures which: increase a principal's authority to suspend students, authorize searches of student lockers, protect school personnel from liability for reporting suspicions of student use or possession of drugs, and create a task force to study

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\*Prepared by the Senate Committee on Education

discipline and control in public shools. Additional measures which passed include: the establishment of a public school, nonresident tuition fee equal to the per student operating cost experienced by a school district; the Jack Gordon Writing Skills Act which provides categorical funds to school districts with writing skills programs in grades 10 through 12 which meet certain statutory criteria; the Florida Youth Art Symposium which provides recognition and rewards for Florida's outstanding public school creative arts students and their teachers; and an act authorizing school boards to invest funds borrowed in anticipation of future operating needs. Legislation was also enacted which redefines the term "exceptional students," creates a council for the hearing impaired, establishes a date certain for correcting hazardous conditions affecting student access to schools, and authorizes school board members to use their place of residence as a point of departure when calculating official travel expenses.

With the exception of an act revising statutory standards for energy efficiency in education facilities and a measure authorizing school boards to issue short term, interest bearing notes to fund emergency facility repair, education capital outlay will be discussed in the APPROPRIATIONS article of this SUMMARY OF GENERAL LEGISLATION.

#### Public Schools - Generally

SENATE BILL 187 (CHAPTER 82-216) creates several statutory changes pertaining to the discipline and control of

public school students. Paragraph 232.26(1)(b), F. S., is amended to expand the authority of a school principal to suspend immediately a student in situations wherein a serious breach of conduct has occurred. Such a breach of conduct must be defined by school board rules. The student must be given notice and explanation of the charges against him and be allowed to present his side of the story.

The act requires the Department of Education and the Department of Health and Rehabilitative Services to undertake a joint study for the purpose of recommending a state policy and course of action for reducing truancy and improving discipline in the state's public schools. Study activities are to be guided by a 14-member task force consisting of representatives from a variety of groups with special interests in education, public schools, juvenile justice, and law enforcement. The study is to focus on a prescribed set of problems and conclude with recommended solutions and implementing legislation to be presented to the Governor and the Legislature before March 1, 1984.

A final provision in the act authorizes school authorities to search a student's locker or other storage area if there is reasonable cause to suspect an illegal substance or object is contained in the locker or storage area. Metal detectors or specially trained animals may be used in the search activity. Notice must be posted advising students that their lockers or storage areas may be subject to search under certain conditions.

COMMITTEE SUBSTITUTE FOR SENATE BILL 335 (CHAPTER 82-48) creates Section 232.46, F. S., which exempts school personnel from civil liability when they suspect a student unlawfully uses, possesses, or sells any controlled substance or other drug and report the suspicion to the proper school authority. Only the principal or his designee is authorized to contact the parent or legal guardian regarding the situation. The act also amends Subsection 233.067(5), F. S., by adding drug abuse education as an instructional subject area in the comprehensive health education program.

In addition, this legislation provides authority for the Police Athletic League to sponsor a junior organization or society in public schools, by exempting such sponsorship from the provisions of Section 232.39, F. S., which prohibits the establishment of secret societies in Florida public schools.

SENATE BILL 810 (CHAPTER 82-138) amends Subsection 228.041(18), Section 229.834, Subsection 230.2312(5), and Paragraph 232.01(1)(f), F. S., relating to the Florida School Code. The act provides for a redefinition of "exceptional students" which in part changes the terms "mentally retarded," "physically crippled," and "emotionally disturbed and socially maladjusted" to "mentally handicapped," "physically handicapped," and "emotionally handicapped." Certain authority of the Department of Education to establish a uniform fee schedule at diagnostic and resource centers for the testing and evaluation of children not enrolled in public schools is removed. The date when certain exceptional children qualify



for admission to special programs is changed from January 1 of the school year to September 1 of the school year. The act also provides that certain exceptional children may be eligible for "special programs" rather than "home instruction programs."

SENATE BILL 13-D (CHAPTER 82-218) creates the Florida Youth Arts Symposium to be conducted by the Department of Education for the purpose of recognizing and rewarding those students, and their teachers, who have works of art showcased in the Youth Art Exhibition at the annual Florida State Fair. The rewards include certificates and plaques as well as travel and per diem expenses to attend the Symposium.

SENATE BILL 11-D (CHAPTER 82-217) creates the Jack Gordon Writing Skills Act of 1982 which provides for the statutory continuation of the writing skills program contained in the 1981 Appropriations Act.

This act authorizes the distribution of categorical funds to school districts which establish separate courses for teaching writing skills in grades 10 through 12, or demonstrate that the teaching of writing skills is an area of emphasis in existing English courses and is a required prerequisite for graduation. Additional eligibility criteria require a district to certify to the Department of Education that writing skills classes contain no more than 25 students per teacher and that no writing skills teacher teaches more than 100 students per day. The Commissioner of Education is authorized to approve alternative staffing plans when a district can show that lack of classroom space or multiple instructional assignments for

English teachers prohibits compliance with class size/teaching load standards. The Commissioner is also required to establish criteria for determining if writing skills is an area of emphasis in existing English courses. The criteria must include the requirement that students in such courses submit one written work product per week of class.

Finally, the act contains a formula for calculating the amount of funds for each district and provides a proration procedure should the appropriation fall short of the dollars generated by the formula.

### School Personnel

HOUSE BILL 2-F (CHAPTER 82-242) was the major piece of legislation affecting public schools, aside from the Appropriations Act, passed by the 1982 Legislature. A culmination of review efforts under the Regulatory Sunset Act, the measure revives and readopts, with modifications, portions of Chapter 231, F. S., pertaining to public school system personnel. One pervasive theme of the amendments is an increase in local school board control of personnel management. Statutes governing employment and leaves of absence were altered to make them apply to all personnel and, with the exception of sick leave and illness-in-line-of-duty leave, school boards are authorized to adopt their own rules on employee absences. Prescriptive sections of law setting forth required duties of school principals and instructional personnel are also changed to a general guideline format with

increased responsibility on school boards to prescribe job duties. A third change in this area is the creation of a new section of law authorizing school boards to adopt rules on all personnel matters not covered by law.

Two of the most significant changes in the act do not increase school board control, but set forth a detailed procedure for an annual evaluation of instructional personnel, and replaces the continuing contract with a professional service contract for future instructional employees. The section on personnel evaluation contains specific assessment criteria, mandatory procedures for conducting the assessment as well as post assessment activities, and required training for supervisory personnel in the proper use of assessment criteria and procedures. Beginning with the 1982-83 school year, all instructional personnel, excluding principals and supervisors, employed for the first time in a Florida public school district, will be eligible for a professional service contract rather than a continuing contract after they have served a 3-year probationary period.

The professional service contract is renewed annually unless performance deficiencies are noted during the assessment procedure described above. In the event deficiencies are noted, the employee is placed on a probationary contract for one year and is given assistance by the school district in order to correct performance shortcomings. If the deficiencies are corrected the employee is again awarded a professional service contract. If there is no performance improvement the

employee may be terminated. In the event of termination the employee may select a dismissal hearing by the school board or a hearing officer who recommends to the school board. Board action on the matter is final and appeals are under the provisions of Section 120.68, F. S. Dismissal during the contract term must be for just cause as stated in the contract, and the employee has an option on the type of dismissal hearing just as in cases of dismissal for poor performance. Employees with continuing contract, or currently working toward continuing contract, and administrators and supervisors are "grandfathered" in under the laws in effect before the 1982 changes. Also, local tenure acts currently in effect are maintained; however, any future efforts to adopt local tenure legislation have been specifically prohibited.

Other changes in the act include: clarifying that employees in a Beginning Teacher Program are subject to the same reemployment provisions as other probationary employees; requiring the Department of Education, rather than the Education Practices Commission, to investigate cases of professional ethics violations; authorizing the State Board of Education to adopt certification fees; authorizing school boards to purchase annuities to offset early retirement penalties for personnel choosing to retire who are at least 55 years of age and have 25 years experience; providing that nothing in Chapter 231, F. S., shall supersede local civil service acts governing noninstructional employees; providing for review of the "Teacher Education Center Act of 1973"

(Sections 231.600-231.611, F. S.) which is subject to repeal October 1, 1983; and providing for future Regulatory Sunset review of certain sections of Chapter 231, F. S., prior to repeal on October 1, 1992.

#### School Board

SENATE BILL 865 (CHAPTER 82-204) amends Section 230.201, F. S., to authorize school board members to use their place of residence rather than school board headquarters as the point of departure and return when calculating reimbursable travel expenses incurred in the performance of official duties.

COMMITTEE SUBSTITUTE FOR SENATE BILL 800 (CHAPTER 82-57) amends Sections 237.151, 237.181, and 237.211, F. S., relating to loans, investments, and money transfers by district school boards. The changes authorize district school boards to borrow money early in the fiscal year based on the estimated amount of funds needed (rather than actual budget shortfalls) and to invest such funds until needed for expenditures that year, so long as the districts comply with all of the Internal Revenue Service regulations relating to arbitrage. School boards are permitted to direct that funds due from state or local sources are to be deposited directly with the State Board of Administration for investment for and on behalf of the school board. The effective date of this act was March 26, 1982.

#### Capital Outlay

COMMITTEE SUBSTITUTE FOR SENATE BILL 805 (CHAPTER 82-137) makes major revisions in the statutory requirements of

public education facilities in regard to energy efficiency. New Subsections (14) and (15) are added to Section 235.011, F. S., providing for "passive design elements" that are architectural features to minimize heat gain or loss and will permit the facility to be used without heating or air conditioning when ambient conditions are moderate. The act also prescribes "low energy usage features" which minimize the fossil fuel consumption of heating and cooling equipment. Such features may include thermal storage tanks, solar energy systems, waste heat recovery systems, and high efficiency boilers and chillers.

Section 235.212, F. S., is revised to require the retention of natural ventilation and light when remodeling existing facilities and to provide for natural ventilation and lighting when ambient conditions are moderate, except in auxiliary facilities, music rooms, gyms, and large group instruction areas. Also required, when feasible, are solar systems for primary hot water heaters when water usage is in excess of 1,000 gallons per day. Solar systems shall, when used, provide at least 65 percent of the estimated needs of the facility. Swimming pools constructed as an integral part of the facility and which are to be heated, shall be heated whenever feasible by waste heat recovery systems or solar energy.

Section 235.435, F. S., is amended to provide a "Conservation and Renewable Energy Construction Account" as a part of the Public Education Capital Outlay and Debt Service

Trust Fund, to provide funds to enable school districts, community colleges, and universities to identify and upgrade energy inefficient characteristics and equipment in existing facilities. Section 243.151, F. S., is amended to authorize universities to enter into lease agreements with individuals or corporations for the purpose of erecting facilities thereon for a period not in excess of 99 years or the life expectancy of the facility, whichever is shorter.

Sections 235.011, 235.212, and 235.435, F. S., as amended by this act, are repealed as of July 1, 1985, subject to legislative review.

HOUSE BILL 1156 (CHAPTER 82-190) creates a new Section 237.162, F. S., which permits school boards to issue interest bearing notes, not pledging the credit of the district, to be repaid in one year, or not to exceed three years with the consent of the lender. The purpose of such loans is to provide money for the school to make needed repairs to school facilities to meet major emergency conditions in order to prevent further damage to the building or equipment, or to eliminate a safety hazard that constitutes immediate danger to students or other occupants. It authorizes the school board to repay the loan by using proceeds from the 2 mill optional tax levy for capital outlay, and from state funds allocated the district from the state for capital outlay. Districts wishing to use this authority must present a proposal to the Commissioner of Education and receive project approval prior to issuing the notes.

Section 237.162, F. S., created herein, shall be repealed July 1, 1985, and shall be reviewed by the Legislature pursuant to Section 11.61, F. S.

(Other acts relating to Education are discussed in this SUMMARY OF GENERAL LEGISLATION in the EDUCATION-POSTSECONDARY article.)



EDUCATION - POSTSECONDARY\*

The 1982 Legislature passed significant legislation relating to: postsecondary sophomore-level testing, financial aid, granting of monetary awards to academic scholars, exemption of state university sponsored research from the Florida Public Records Law, and Florida Atlantic University's sale of property. In addition, as a result of a Sunset Review, the 1982 Legislature revived and readopted statutes relating to the regulation of nonpublic postsecondary institutions. During the final week of the Special "D" Session the omnibus higher education law was passed, creating the Florida Higher Education Loan Authority Act and establishing the College Career Work Experience Program, as well as providing several other changes in state laws relating to other facets of postsecondary education.

Omnibus Higher Education Law

HOUSE BILL 16-D (CHAPTER 82-241) consolidates several postsecondary provisions and contains two major items relating to student financial aid. The Florida Higher Education Loan Authority Act is created to permit county commissions to

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\*Prepared by the Senate Committee on Education

establish local higher education loan authorities. The purpose of the authorities is to issue revenue bonds to fund educational loans for students at public and private institutions and to encourage investment of private capital to provide funds for financing student loans. Also created is the College Career Work Experience Program which provides 50 percent in matching funds for program costs to public or private sector employers who hire full-time students from public or private educational institutions in jobs related to the students particular fields of study. Expenditures from the Trust Fund set up under this Program are to be approved by the Department of Education.

The act further extends the length of time (from 30 to 60 days) allowed the State Board of Education to adopt rules of the Board of Regents. The exemption of University President selection meetings from public hearing is eliminated and the Board of Regents is given the authority to determine the selection procedure.

Participation in the tuition voucher program is expanded to two-year private colleges by this act. In addition to the above, New College would be able to participate in the Eminent Scholars' Trust Fund; the requirement that the Executive Office of the Governor approve university budgets of certain funds is deleted; and the Commissioner of Education no longer needs the concurrence of the State Community College Coordinating Board to appoint, suspend, or dismiss the Director of the Division of Community Colleges. Community college district boards of

trustees are required to undertake programs to eradicate discrimination on the basis of gender, race or physical handicap in the granting of salaries to employees, and to report the results of such programs to the State Community College Coordinating Board by March 15, 1983, and annually thereafter.

(The act changes several postsecondary provisions contained in the statutes which were inconsistent with language contained in the 1981 General Appropriations Act or contradicted other provisions contained in the statutes.)

#### Student Achievement Tests

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 692 (CHAPTER 82-180) amends Section 240.529, F. S., to require that 90 percent of the students admitted to each teacher training program must meet the 40th percentile requirement on a nationally standardized college entrance examination. Previously, this requirement applied to a system-wide requirement and not to each institution. Section 229.551, F. S., is amended to add a new Subsection (k) to require the Commissioner of Education to develop or contract for, and submit to the State Board of Education for approval, tests which measure and diagnose student achievement of college-level communication and computation skills. The measure also exempts such tests and related documents from the public records statute (Section 119.07, F. S.). The State Board, upon recommendation of the Commissioner, is permitted to enter into

contracts for such services which begin in one fiscal year and continue into the next fiscal year and are paid for from appropriations for either or both fiscal years. The act amends Section 240.233, F. S., to provide that effective August 1, 1984, the State Board shall require the use of scores on the required test for admission of any student to upper division instructional programs of any state institution. The legislation also requires that the student obtain a satisfactory test score prior to being awarded an Associate of Arts degree. Another provision of the act limits the use of test scores between 1982 and August 1, 1984, to student counseling and curriculum improvement. The development of tests and test related material covered by the act is exempt from Chapter 120, F. S., the Administrative Procedure Act, to preserve test security.

#### Student Financial Aid

HOUSE BILL 819 (CHAPTER 82-127) expands use of the Student Financial Aid Trust Fund. Institutions will now be allowed to use reallocated funds for any student financial aid program including scholarships and grants for educational purposes, instead of for only student loan programs.

SENATE BILL 293 (CHAPTER 82-93) makes several changes in Sections 295.01, 295.015, 295.03, 295.04, and 295.05, F. S., relating to educational benefits for dependent children of members of the Armed Forces who are deceased or disabled, were prisoners of war, or were reported as missing in action. The

act adopts the federally established date for the cessation of hostilities of the Vietnam conflict as May 7, 1975, and provides that a dependent child of a prisoner of war or a person of missing in action status will continue to be eligible for benefits until the parent so classified is returned alive or his remains are recovered. The legislation also provides that the parents of such children must have been bona fide residents of Florida for five years preceding their application for benefits and are permanent residents of Florida on the effective date of the act (July 1, 1982).

The maximum benefits available to the dependent child remain the same as existing law, and the recipient must meet the minimum instructional requirements of the institution he attends to maintain eligibility for such benefits.

#### Scholarship Awards

COMMITTEE SUBSTITUTE FOR SENATE BILLS 678, 970 and 483 (CHAPTER 82-136) creates the Florida Academic Scholars' Program which provides for the designation of certain nonpublic and public high school students as Florida Academic Scholars. The students are to be eligible for a scholarship from the existing Academic Scholars' Fund to be administered by the Department of Education. Standards for determining students eligible to receive an academic scholars' award have been increased by the act. Eligibility for such an award applies only to those students who are enrolling for the first time in college and have been recognized as National Merit Scholars or finalists;

or those students who have obtained 3.5 grade point averages on a 4.0 scale, or equivalent, and have scored 1200 or above on the combined verbal and quantitative part of the Scholastic Aptitude Test of the College Entrance Examination, or an equivalent score on the American College Testing Program; or those students identified by the State Board of Education as Florida Academic Scholars. National merit semi-finalists and commended students no longer automatically qualify for the award, and eligibility for graduate students has been eliminated. Procedural criteria regarding scholarship eligibility are provided.

Students attending an institution with annual tuition and fees in excess of \$2,000 would receive a \$750 award, and students attending an institution with annual tuition and fees of \$2,000 or less would receive a \$500 award.

The act creates the Joint Executive and Legislative Task Force for Teacher Education Quality Improvement, composed predominantly of a coalition of professional educators to examine in a systematic and comprehensive manner the issues and to make legislative recommendations for strategies for fundamental improvement in teacher education. The report of these recommendations shall be submitted by March 1, 1983, to the Governor, the Chancellor of the State University System, the Commissioner of Education, the presiding officers of the House of Representatives and the Senate, and the chairpersons of the appropriate legislative committees. The Task Force is to be administratively housed within the office of the

Commissioner of Education and assigned to the Postsecondary Education Planning Commission.

#### Research Projects

HOUSE BILL 372 (CHAPTER 82-13) exempts certain research conducted within state universities from the Florida Public Records Law. A division of sponsored research within the State University System would be required, upon request, to provide the title and description of a research project, the name of the researcher, and the amount and source of funding for any project.

(Private contributors to university research projects are now further protected by having the preliminary results of the purchased research efforts safeguarded from possible competitors.)

#### Florida Atlantic University - Land Sale

SENATE BILL 235 (CHAPTER 82-247) provides for sale of 10 of the 20 acres previously donated to Florida Atlantic University, which is a portion of its West Palm Beach Center, to pay for the construction of a substitute facility on the North Campus of the Palm Beach Junior College. The remaining 10 acres are to be deeded to the United Way of Palm Beach County Incorporated for the construction of a human service center. The title of said property shall revert to the state if the land is not used for the intended purposes as stated in this act.

## Nonpublic Postsecondary Institutions

COMMITTEE SUBSTITUTE FOR SENATE BILL 860 (CHAPTER 82-203) revives and readopts Sections 246.011 - 246.151, F. S. The act makes several major changes to the requirements for the regulation of nonpublic postsecondary schools. Several technical changes are made to eliminate obsolete language and other unnecessary references.

Reference to exemptions in Section 246.021, F. S., relating to definitions, has been deleted. A new section has been created to provide for exempt institutions and to clarify their relationship with the State Board of Independent Colleges and Universities established in the Department of Education. Beginning October 1, 1982, any new nonpublic educational institution applying to the Board for exempt status or licensure is prohibited from using the designation "college" or "university" without Board approval. In addition, a branch educational operation of an accredited nonpublic college, located 30 miles beyond the main campus, shall be subject to review by the Board unless the branch operation is separately approved by an appropriate accrediting agency.

The act further provides for 2 of the 5 members of the State Board of Independent Colleges and Universities selected from private community colleges or universities to be from licensed institutions. The Board is allowed to select annually a chairperson and vice chairperson from among its members, and to delegate to the chairperson the responsibility for signing final orders.



The initial license fee for an in-state college is increased to \$500 and the license fee for an out-of-state agent is decreased to \$25. All license fees are additionally required to go through the Department of Education to the State Treasurer.

Sections 246.011 - 246.151, F. S., are now designated as Part I of Chapter 246, F. S., relating to the State Board of Independent Colleges and Universities. Sections 246.085, 246.087, 246.125 and 246.128, F. S., are created in Part I of this Chapter to provide for the following functions, respectively: exemptions from licensing requirements; minimum standards for licensing requirements; the State Board of Independent Colleges and Universities to serve as repository for current information and data; and review and authorization of branch operations of accredited nonpublic schools. The effective date of this act is set for October 1, 1982, and a provision is made for repeal of Sections 246.011 through 246.151, F. S. (Part I of Chapter 246, F. S.), on October 1, 1992, subject to review pursuant to Section 11.61, F. S., the "Regulatory Sunset Act."

Sections 246.201 - 246.231, F. S., are now designated as Part II of Chapter 246, F. S., relating to the State Board of Independent Postsecondary, Vocational, Technical, Trade and Business Schools.

Alternative Education Programs (Residential Care Facilities)

COMMITTEE SUBSTITUTE FOR HOUSE BILL 31 (CHAPTER 82-153)

amends Paragraph 230.23(4)(n) and Section 402.22, F. S., transferring the responsibility of the educational programs at the Alyce D. McPherson School in Marion County and the Florida School for Boys at Okeechobee in Okeechobee County from their respective county school systems to the Department of Education. The Department is authorized to provide the educational programs for these schools either directly or through contracts with other public education agencies. Also, the funds that would normally be allocated to the Marion County and the Okeechobee County school systems, as a result of their directing the educational programs at the schools, are to be provided to the public education agencies with whom the Department of Education has contracted for such educational programs.

#### Nursing Assistants - Certification

COMMITTEE SUBSTITUTE FOR SENATE BILL 705 (CHAPTER 82-163) amends Section 233.0671, F. S., authorizing district school boards, as well as community colleges and universities, to enter into contracts which would enable them to use nursing home facilities as sites for nursing assistant certification courses. In addition, the act amends Section 400.145, F. S., to provide for the certification of nursing assistants by the Department of Education; establishes criteria for certification; and prohibits nursing homes, after September 30, 1984, from employing nursing assistants who are not certified, enrolled, or in agreement to enroll in an approved

certification course. This amendment to Section 400.145, F. S., is subject to repeal on October 1, 1983, pursuant to review under the Regulatory Sunset Act.

#### Capital Outlay

Capital Outlay for higher education is discussed in the APPROPRIATIONS article of this SUMMARY OF GENERAL LEGISLATION, with the exception of an act revising statutory standards for energy efficiency (COMMITTEE SUBSTITUTE FOR SENATE BILL 805, CHAPTER 82-137) which is summarized under the topic Capital Outlay in the EDUCATION K-12 article of this SUMMARY.

Also see the EDUCATION K-12 article for other changes in laws dealing with education generally.



ELECTIONS\*

The 1982 Legislature approved legislation amending the Florida Election laws to include: changes in the membership of the State Canvassing Commission; modification of provisions relating to purging of voters from the registration books; clarification of notification procedures relating to ballot format; changes in the procedure for absentee voting; establishment of a procedure for political parties endorsing candidates in primary elections; provision of a definition of "lists of registered electors"; repeal of the statute which prohibits political activities by Highway Patrol officers; repeal of provisions for deputizing precinct committee officials for registering voters; establishment of a procedure for contesting the random sampling method of verification of signatures on petitions; and enactment of a voting rights law for Florida.

Voting Rights

COMMITTEE SUBSTITUTE FOR SENATE BILL 885 (CHAPTER 82-59) establishes a voting rights act for the State of Florida; prohibits the deprivation of or interference with the voting

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\*Prepared by staff of House Ethics & Elections Committee

rights of qualified voters of the State of Florida; and provides that any citizen shall be entitled to vote without distinction of race, color, or previous conditions of servitude. Persons violating the provisions of this act are guilty of a misdemeanor of the first degree.

#### Voting Procedures

SENATE BILL 143 (CHAPTER 82-143) provides several technical changes to conform the statutes to changes made during the 1981 Session. It also amends certain sections of the election laws relating to methods and regulations governing voting, and procedures used in selection of political party delegates.

The Department of State must adopt rules for procedures to be used for write-in voting in counties using electronic and electromechanical voting systems. The supervisors of elections are also authorized to use fold-over ballots as an option to secrecy envelopes. The Department is to mail to each supervisor in counties where voting machines are not used, or for use as absentee ballots not designed for tabulation by an electronic or electromechanical voting system, the format of the ballot to be used for the primary and general election. Such format is to be mailed not less than 60 days prior to both the first primary election and the general election.

Provisions relating to the periodic removal of names from the registration books are modified to provide that an elector will not have his name purged from such books if he

makes a written request to have his registration record updated during a two-year period. A definition of "lists of registered electors" is provided to include printed lists of registered electors, computer tapes or discs, or any other device used by the supervisor of elections to maintain voter records. Absent electors are required to check a reason for voting absentee on the certificate form which is attached to the return envelope containing their marked ballot. A notary, officer entitled to administer oaths, or a Florida supervisor of elections or his deputy are reinstated as sole attesting witnesses on absentee ballots as provided prior to 1981.

The composition of the Elections Canvassing Commission is changed to include only the Governor, Secretary of State and Director of the Division of Elections. In the event that any member is unable to serve, a member of the Cabinet, as determined by the Director of the Division of Elections, shall be designated to serve as a substitute member.

Paragraph 103.091(6)(a), F. S., is amended to clarify that each at-large committeeman or committeewoman of the state or county executive committee is entitled to one vote. The conducting of official business in connection with one's public office (rather than official legislative business) is deemed sufficient reason to be excused for failure to attend state or county executive committee meetings.

An additional procedure is provided for the selection of delegates to the National Convention of political parties.

HOUSE BILL 112 (CHAPTER 82-30) repeals the statutory provision (Subsection 98.271(3), F. S.) which allows each supervisor of elections to deputize all precinct committeemen and committeewomen of county executive committees of a political party to register voters or accept changes in registration within their precincts.

#### Political Party Endorsements

SENATE BILL 585 (CHAPTER 82-160) provides that the governing body of the state executive committee for each political party shall adopt a rule governing the endorsement or recommendation procedures that will be used by county executive committees. Any county executive committee intending to use the authorized procedure shall file notification with the supervisor of elections with copies being sent to the Secretary of State and the chairman of the appropriate state executive committee. Failure to follow established endorsement procedures will result in the county executive committee forfeiting its right to any party assessments.

#### Contest of Petition Verification

HOUSE BILL 571 (CHAPTER 82-141) amends Subsections 99.097(4) and (5), F. S., to require any person wishing to contest the results of a petition signature verification by the random sampling method to file a complaint in the circuit court in the county in which the signatures were gathered, specifying the grounds on which he intends to require a complete check of names and signatures. If signatures are collected in more than



one county, the complaint must be filed in Leon County. The petitions are required to be retained by the supervisor of elections for not less than a year following the election for which the petitions are circulated.

Political Activities by Highway Patrol Officers

SENATE BILL 581 (CHAPTER 82-158) repeals Section 321.11, F. S., which prohibits members or officers of the Highway Patrol from performing police duties connected with the conduct of any election and from actively participating in political activities.

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HEALTH AND REHABILITATIVE SERVICES\*

Laws relating to health and rehabilitative services enacted during the 1982 Session include a wide variety of measures. Pursuant to the Regulatory Sunset Act, hospital and ambulatory surgical center licensure and the Hospital Cost Containment Board were reviewed by the Legislature. As a result, legislation was passed which continues hospital and ambulatory surgical center licensure. The Hospital Cost Containment Board is continued to help reduce the spiraling inflation rate in hospital charges by analyzing hospitals' financial data and providing consumer information. The certificate of need process is substantially altered, and Health Systems Agencies are eliminated and replaced with local health councils. By developing local health plans, these councils will encourage free market competition in health care and emphasize consumer education.

Other provisions relating to health: create a new midwifery act; authorize the Department of Health and Rehabilitative Services to contract for regional perinatal intensive care centers; authorize approval of graywater disposal systems; recognize the use of I.A.T. blood fractions

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\*Prepared by staff of Senate HRS Committee

as a form of cancer treatment; prohibit a hospital with an emergency department from requiring prior payment when the patient has evidence of adequate health insurance; deregulate the bedding industry; expand the provision guaranteeing equal accommodations to physically disabled persons; and provide for the delineation of trauma center qualified hospitals.

Several areas relating to long-term care facilities were addressed by the Legislature: provisions concerning surety-bond requirements are clarified; the application procedure for Adult Congregate Living Facilities is strengthened; and provisions were passed clarifying the role of nursing and long-term care facility ombudsman committees.

In the area of mental health, several sections of the Baker Act were revised to modify intent, establish new criteria and procedures for emergency involuntary placement, and further describe the rights of patients.

Provisions passed which concern the Medicaid program include: strengthening the authority of the Medicaid Third Party Recovery Unit; authorizing the extension of the Medicaid hospital outpatient pilot project; and providing for confidentiality of Medicaid fraud investigations under certain circumstances.

Legislation pertaining to economic services include provisions directing an analysis and subsequent reduction of paperwork generated in the Economic Services programs, and provisions establishing a one-year workfare pilot project for food-stamp recipients in Duval County.

Legislation which affects other areas or programs within the Department of Health and Rehabilitative Services includes: strengthening the child support enforcement program; prohibiting certain rules and policies relating to hospices; changing procedures relating to the operation of spouse abuse centers; revising procedures relating to adoptions; and establishing the prevention of child abuse and neglect as a state priority.

During the Special Legislative Session of March 29-April 7, 1982, four laws were passed within the jurisdiction of health and rehabilitative services. Chapter 482, F. S., relating to pest control was reenacted and revised to provide several consumer protections, grant the Department of Health and Rehabilitative Services the authority to initiate administrative fines, and increase certain fees. Chapter 500, F. S., relating to the regulation of food, drugs, and cosmetics, was substantially revised with the Department of Agriculture and Consumer Services continuing the regulation of food products and the Department of Health and Rehabilitative Services continuing the regulation of drugs and cosmetics. Section 409.185, F. S., was amended to specify that the establishment of the standard of need and payments level in the AFDC (Aid to Families with Dependent Children) program is a function of the Legislature, and the Career Service System law (Chapter 110, F. S.) was amended to provide for 10 policymaking positions which may be designated as exempt by the Secretary of the Department of Health and Rehabilitative Services. Finally,

legislation was passed substantially amending the statute relating to community mental health services and directing the Department of Health and Rehabilitative Services to conduct a study of the use of related party transactions in mental health services.

### Health

COMMITTEE SUBSTITUTE FOR HOUSE BILL 931 (CHAPTER 82-182) relating to health care, addresses the delivery and cost of health care - an area of vital concern to Florida citizens and especially to the elderly. (The cost of health care has continued to rise in recent years. In 1980 alone, hospital charges in Florida rose 21.1 percent. Such inflation in hospital charges significantly affects government spending which accounts for 62 percent of all spending for hospital care in Florida. Such inflation adversely affects Florida's elderly, who need more medical attention than do younger citizens, and who are suffering substantial reductions in federal assistance in health care.)

The act addresses hospital and ambulatory surgical center (ASC) licensure, the Hospital Cost Containment Board, and Certificate of Need/local health planning. Licensure and the Hospital Cost Containment Board were reviewed this legislative session pursuant to the Regulatory Sunset Act.

With only minor changes, hospital and ASC licensure is continued to protect the public by requiring that such facilities meet certain standards of construction, maintenance,

operation, and patient care. (Moreover, the Hospital Cost Containment Board has continued to help reduce the spiraling inflation rate in hospital charges by analyzing hospitals' financial data and providing consumers with information comparing hospital rates.) Also, the Florida Task Force on Competition and Consumer Choices in Health Care is established to advise the Governor and the Legislature on cost-effective methods of delivering high-quality health care services.

This measure substantially alters Certificate of Need (CON) and local health planning by raising expenditure thresholds for CON review and by eliminating mandatory local review of CON applications by eliminating Health Systems Agencies (HSAs). The act replaces HSAs with local health councils which will develop local health plans. (Appropriate funding will encourage free market competition in health care and emphasize consumer education regarding preventive health and regarding the purchase of health services.) Future review and repeal of these statutes are provided for in accordance with the Regulatory Sunset Act.

SENATE BILL 731 (CHAPTER 82-209) relating to maternity and infancy hygiene, authorizes the Department of Health and Rehabilitative Services to contract with and make grants to all health care providers for regional perinatal intensive care services. The act authorizes the Department to enter into pre-paid contracts and to locate perinatal centers in any area meeting HRS standards and funded by the Legislature. Minimum

support grants to such centers are reduced to 25 percent of the total legislative appropriation.

A two-year pilot infant hearing impairment program is created at five pilot sites to screen, diagnose and manage high risk, hearing impaired infants. Statewide implementation is to begin July 1, 1984, based upon findings of the pilot program. The act creates a council to advise the Department regarding the hearing impairment program. Provisions relating to this council stand repealed as of October 1, 1992, subject to review by the Legislature pursuant to the Sundown Act.

COMMITTEE SUBSTITUTE FOR SENATE BILL 630 (CHAPTER 82-99) repeals Chapter 485, F. S., and creates a new Midwifery Practices Act. A five-member Advisory Committee of Lay Midwifery is created within the Department of Health and Rehabilitative Services. To become a licensed midwife, an applicant must have a high school degree or the equivalent, be a graduate of an approved three-year midwifery program, and pass an examination given by the Department. The act provides for licensure by endorsement, enumerates both the subject matter of the examination and the midwife's responsibilities throughout the labor and delivery process; requires a uniform client-informed-consent form to be used by midwives; sets forth disciplinary grounds for licensees and provides penalties for violators; and requires any organization desiring to conduct an educational midwifery program to obtain approval from the Department. Repeal of this act is to be effective October 1,



1984, subject to legislative review pursuant to Section 11.61, F. S.

COMMITTEE SUBSTITUTE FOR SENATE BILL 418 (CHAPTER 82-10) relating to sewage systems, authorizes the Department of Health and Rehabilitative Services to approve, on a limited and experimental basis, graywater disposal systems which include only residential waste exclusive of toilet and kitchen drains and sewers. Such graywater systems would remain unconnected to central sewer systems provided such graywater system complied with the requirements of this act. The general requirements of Chapter 10D-6, Florida Administrative Code, would apply to such systems, except for the capacity requirement for the septic tank and the size requirement for the drainfield or absorption area. The Department would be required to submit to the Legislature by October 1, 1983, a report concerning the health impact of such graywater systems. All public-owned or investor-owned water and sewer systems are urged to reduce connection fees and regular service charges for customers utilizing water or sewer saving devices, including individual graywater disposal systems.

COMMITTEE SUBSTITUTE FOR 1981 HOUSE BILL 747 (CHAPTER 82-12) recognizes the use of I.A.T. blood fractions (immuno-augmentative therapy) in Florida as a form of cancer treatment. Physicians must notify the patient in writing that this treatment has not been approved by the Federal Food and Drug Administration as a cure or treatment for cancer. The Department of Health and Rehabilitative Services is authorized

to adopt rules specifying the minimum standards for manufacturing I.A.T. blood fractions.

In addition, the Department is required to license manufacturers and to conduct unannounced inspections of manufacturing facilities. The manufacture, sale or distribution of I.A.T. blood fractions is exempted from the state drug approval process in Section 500.16, F. S. (This measure was passed at the 1981 Session of the Legislature, vetoed by the Governor, and passed over the veto in the 1982 Session.)

COMMITTEE SUBSTITUTE FOR HOUSE BILL 728 (CHAPTER 82-174) relating to hospital emergency care, prohibits a hospital with an emergency department from requiring payment prior to rendering emergency medical care to a patient showing evidence of adequate health insurance. The act further provides that the patient is not relieved of indebtedness resulting from such medical care.

COMMITTEE SUBSTITUTE FOR SENATE BILL 490 (CHAPTER 82-60) provides authority to the Department of Health and Rehabilitative Services to delineate trauma center qualified hospitals, provides procedures, and prevents any facility from holding itself out to be such a center unless so verified. Duties of the Department are specified, as well as the steps in the verification process. The act provides for hearings and for a periodic review of such centers.

HOUSE BILL 188 (CHAPTER 82-111) expands the provision guaranteeing equal accommodations for the deaf, blind, and

visually handicapped to apply as well to persons who are "otherwise physically disabled," which is defined to include "a physical impairment that substantially limits one or more major life activities."

HOUSE BILL 583 (CHAPTER 82-123) effectively deregulates the bedding industry. Manufacturers, renovators, and retailers no longer need to be registered nor inspected, nor to be subject to governmental scrutiny or fees. (Due to a lack of personnel, the Department of Health and Rehabilitative Services could no longer effectively enforce this regulatory law. As a result of this deregulation, approximately \$154,000 of annual fees will remain in the hands of the industry.)

HOUSE BILL 13-D (CHAPTER 82-225) revises Chapter 500, F. S., which regulates food, drugs, and cosmetics. This act separates the chapter into Part I, the "Florida Food Act," and Part II, the "Florida Drug and Cosmetic Act." The Department of Agriculture and Consumer Services continues its existing functions relating to regulation of food products, while the Department of Health and Rehabilitative Services (HRS) continues certain regulatory functions regarding drugs and cosmetics and is given certain additional authority.

The Department of Health and Rehabilitative Services continues its regulation of intrastate cosmetics and proprietary (over-the-counter) drugs. Also, HRS is authorized to approve applications for intrastate generic drugs and investigational drugs, based on recommendations from the Florida Drug and Cosmetic Technical Review Panel created by the

act. Immuno-augmentative therapy (I.A.T.) blood fractions are exempt from the provisions of this act.

This act requires the registration of "drug detail men" who distribute complimentary drugs. Moreover, the act removes HRS from the responsibility of approving or denying applications for new prescription drugs, leaving that process to the United States Food and Drug Administration.

#### Long-Term Care Facilities

COMMITTEE SUBSTITUTE FOR SENATE BILL 684 (CHAPTER 82-148) relates to long-term care facilities. This legislation amends several sections of the law which regulate nursing homes and adult congregate living facilities (ACLFs) in order to address specific problem areas. First, sections concerning surety bond requirements for both nursing homes and ACLFs are amended. With this new language only nursing homes holding resident funds in trust are required to purchase a surety bond. Surety bond requirements for such nursing homes and for ACLFs serving as protective payee or having power of attorney for residents take effect July 1, 1982. The legislation further enables the Department of Health and Rehabilitative Services to issue nursing home licenses for periods of less than one year so that the issuance of a license occurs shortly after the annual inspection. Also, an individual late fee levied for delayed filing of an application for nursing home licensure is capped at \$5,000. Nursing homes meeting minimum standards for

licensure will receive a "standard" license rather than an "unrated" license.

The application procedure for an ACLF license is strengthened. The legislation authorizes qualified staff or other qualified personnel of an ACLF to administer medication to residents who are not in need of any other nursing intervention.

Finally, language is added to those sections relating to the state and district nursing and long-term care facility ombudsman committee to ensure that the ombudsman committees have the authority to continue to function as they have in the past. The language is based on a U. S. Supreme Court case which was decided on June 17, 1981: Donovan (Secretary of Labor) v. Dewey; 101 S. Ct. 2534 (1981). The language includes the following points:

(1) Requires that Ombudsman Committees inspect each nursing home, ACLF, and adult foster home at least annually so that facilities have some knowledge of the frequency of inspections;

(2) Lists procedures that committees must follow to guarantee that inspections are reasonable;

(3) Provides for inspections without a warrant and without notice so that the effectiveness of inspections are not adversely affected;

(4) Statutorily limits committee inspections to criteria set out in specific laws and rules; and

(5) Ties the right of entry and inspection by ombudsmen to licensure of a facility.

Repeal of amendments contained in this act is set for October 1, 1983, subject to review by the Legislature pursuant to the provisions of Section 11.61, F. S.

#### Mental Health

COMMITTEE SUBSTITUTE FOR HOUSE BILL 665 (CHAPTER 82-212) revises several sections of Chapter 394, Part I, F. S., the "Florida Mental Health Act," also known as the "Baker Act." The legislation amends, adds and deletes definitions; modifies intent; establishes new criteria and procedures for emergency involuntary evaluations; establishes new criteria for involuntary placement; further describes rights of patients treated under the Baker Act; and clarifies the responsibilities of persons involved in providing services and administering the act.

The measure also directs the Department of Health and Rehabilitative Services to separate minors from adults in state mental hospitals, except in certain circumstances, and to separate children under age 14 from other minors. Plans must be developed detailing the way the separation will be accomplished and describing the development of sufficient community resources for minors.

SENATE BILL 23-D (CHAPTER 82-223) directs the Department of Health and Rehabilitative Services (DHRS) to conduct a study of the use of related party transactions in alcohol, drug

abuse, and mental health services; to develop necessary administrative rules governing the use of such transactions; and to propose legislation if necessary. October 1, 1982, is set as the date such rules shall be promulgated and the proposed legislation submitted to the Speaker of the House of Representatives and the President of the Senate. The act also amends sections of Chapter 394, Part IV, F. S., relating to community mental health services. Contracts between district boards and providers must contain provisions related to a continuum of services, priority for individuals with chronic or acute alcoholism or mental illness problems, and efforts to collect fees for service. The district plan must include a line item budget for agencies receiving state funds. Current statutory language directing district administrators to fund existing services is deleted, and priority consideration is to be given to previously funded agencies, provided their services are consistent with district plan priorities and meet departmental quality standards.

The determination of the state's share of the cost for services is modified. Residential and case management services which are part of a deinstitutionalization project are exempted from the local match requirement. The method by which providers are paid for contracted services is changed from a purchase of service reimbursement approach to a payment strategy.

The Department is directed to simplify information and fiscal reporting requirements while increasing accountability for the expenditures of state funds.

#### Medicaid

SENATE BILL 583 (CHAPTER 82-159) strengthens the authority of the Medicaid Third Party Recovery Unit located within the Department of Health and Rehabilitative Services. The measure provides for the recovery of third party payments from health care providers under certain circumstances; provides the Department with the automatic assignment of benefits and the authority to release medical information needed to obtain reimbursement from third parties; specifies enforcement provisions available to the Department to enforce its subrogation rights; and authorizes the Department to file liens in certain circumstances. The act further amends Section 639.13, F. S., to extend the provision for irrevocable prepaid funeral and burial contracts for applicants of public assistance. Thus, prepaid funeral and burial contracts will not be counted as a resource for persons applying for public assistance.

SENATE BILL 279 (CHAPTER 82-74) relating to Medicaid, authorizes the Department of Health and Rehabilitative Services to extend for one year (through June 30, 1983) a Medicaid hospital outpatient pilot project to test the feasibility of increasing hospital outpatient service through local agency contributions in order to obtain additional federal matching



funds for outpatient services to Medicaid recipients. (Formerly unmatched local funds normally spent on outpatient care for Medicaid recipients are used as match for federal funds which allows an increase in service with no added cost to the state or local governments. In FY 1981-82, DHRS estimates that local government expenditures of \$4.8 million provided \$11.2 million worth of services due to federal match.)

COMMITTEE SUBSTITUTE FOR SENATE BILL 636 (CHAPTER 82-100) amends several statutory sections relating to public assistance. The act provides that complaints or information related to the investigation of Medicaid fraud and abuse by the Department of Health and Rehabilitative Services' Medicaid Program Office or the Auditor General are exempt from the public records law until such time as the Department imposes an administrative sanction, the Auditor General refers the case for criminal prosecution, or 10 days after the complaint is found to have no merit.

The measure further conforms state statute regarding eligibility for Aid to Families with Dependent Children with recent federal statutory changes and eliminates a duplicative reporting requirement for counties.

Finally, the act expands access for Human Rights Advocacy Committees (HRACs) to client records, enabling HRACs to have access upon request to any client record which is in the physical custody of the Department.

## Economic Services

HOUSE BILL 788 (CHAPTER 82-213) includes a provision directing the Department of Health and Rehabilitative Services to conduct an analysis of the paperwork being generated in the Economic Services programs. Short and long-range recommendations for streamlining the information systems are required, and the Department is directed to reduce the volume of paperwork in these programs by at least 25 percent over the next year. The legislation also modifies or repeals several reporting requirements of the Department relating to exceptional children, spouse abuse, and elderly persons which are duplicative or unnecessary.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 6 (CHAPTER 82-211) establishes a one-year workfare pilot project to be limited to the food stamp program recipients and implemented in Duval County. The Department of Health and Rehabilitative Services is directed to conduct an ongoing evaluation of the pilot project. Contingent upon federal financial participation, \$100,000 is appropriated from General Revenue for implementation of the pilot project.

SENATE BILL 19-D (CHAPTER 82-221) specifies that the establishment of the standard of need and payments level in the AFDC (Aid for Families with Dependent Children) program is a function of the Legislature. The definition of standard of need is modified to provide for the Legislature to determine the full money value necessary to meet basic and special needs

recognized by the state as essential to applicants and recipients.

The act also amends Section 110.205, F. S., to allow the Secretary of the Department of Health and Rehabilitative Services to designate ten additional policymaking positions as exempt under career service.

#### Child Support Enforcement

COMMITTEE SUBSTITUTE FOR SENATE BILL 932 (CHAPTER 82-140) concerns the Child Support Enforcement Program administered by the Department of Health and Rehabilitative Services. The measure amends Chapter 409, F. S., authorizing the Department to petition the circuit court to use its contempt power to demand reimbursement from parents failing to provide child support. (The act is in response to the holding of the Third District Court of Appeal, in Chapman v. Lamm, 388 So. 2d 1048 (Fla. 3dDCA 1980), that incarceration, for this reason, was in violation of the constitutional provision prohibiting imprisonment for debt. On appeal, the Supreme Court of Florida held that the Department can enforce child support obligations through contempt proceedings which may lead to incarceration. See Lamm v. Chapman Case No. 59,922. This decision was handed down on March 11, 1982, the same day this act passed the Legislature.)

The legislation also provides a procedure for income deduction when the responsible parent is delinquent in support payments. The Department is required to recover costs incurred

from the resources of the responsible parent as a first preference or as otherwise provided by federal law. Finally, the appointment of a protective payee is authorized when the person having custody of a dependent child refuses to cooperate with the Department in its collection efforts.

### Hospice

SENATE BILL 672 (CHAPTER 82-102) relating to hospices, prohibits the adoption of certain rules or policies by the Department of Health and Rehabilitative Services in order to remove proposed restrictions and increase contractual flexibility for hospices. (Draft rules implementing the 1981 amendments to the hospice law contained an institutional bias which severely restricted the development of community-based hospices.) With the passage of this act, the Department is prohibited from adopting rules or policies which: govern certain contractual arrangements between hospices and inpatient facilities; establish more than one committee; require the employment of full-time personnel; establish certain staffing standards for inpatient hospice care; require designation of hospice beds in an inpatient facility available through contract; and require compliance with institutional standards for a freestanding inpatient facility with six or fewer beds.

### Spouse Abuse

COMMITTEE SUBSTITUTE FOR SENATE BILL 263 (CHAPTER 82-135) changes statutory definitions and procedures relative to the operation of spouse abuse centers and the legal processes

of filing a complaint and petitioning for a restraining order in cases of alleged spouse abuse. The statutory cap for funding centers is removed and a mechanism provided for dispersing funds appropriated from the Marriage License Trust Fund. The act also deletes specific statutory reference to the Aging and Adult Services Program Office of the Department of Health and Rehabilitative Services, allowing the Department to move the program to the Children, Youth, and Families Program Office, and repeals the section of statute requiring an annual report.

#### Adoption

COMMITTEE SUBSTITUTE FOR SENATE BILL 869 (CHAPTER 82-166) revises the procedures related to intermediary-placed or independent adoptions. The Department of Health and Rehabilitative Services is required to interview certain persons when conducting a preliminary study and is authorized to collect fees for services rendered. The intermediary is directed to make plans for a child when an adoption placement does not occur and to file a report with the Department. The measure also gives guidance to the court when it must decide whether "good cause" has been shown in granting access to sealed adoption records. Further, it directs the State Registrar of Vital Statistics to maintain a registry of identifying information to be voluntarily filed and accessed by the affected parties in an adoption.

## Children, Youth and Families

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 296 (CHAPTER 82-62) establishes the prevention of child abuse and neglect as a priority for the state and provides for the development of a comprehensive state plan in conjunction with other private and public agencies. The plan, which must be revised biennially, is to be used as the basis for all budget requests in the area of child abuse and neglect prevention.

## Pest Control

The provisions of HOUSE BILL 26-D (CHAPTER 82-229) revise and reenact Chapter 482, F. S., relating to pest control, the licensing and regulation of which is under the authority of the Department of Health and Rehabilitative Services. A summary of this act, prepared by the Senate HRS Committee, is included in the PROFESSIONAL REGULATION article.

INSURANCE\*

The 1982 Regular Session of the Florida Legislature amended and revised certain insurance laws to provide: the establishment of the Florida Self-Insurers Guaranty Association for workers' compensation self-insurance; conditions for permitting workers' compensation coverage for public law enforcement personnel injured outside their jurisdictional limits; increases in workers' compensation benefits, clarification of weekly wage benefits, and repeal of special workers' compensation guidelines for hernia injuries; creation of the Florida Limited Liability Act; more comprehensive fire safety inspector qualifications, payment of supplemental income warrants to firefighting agencies, and creation of the Fire College Publications Revolving Trust Fund; and reform of the bail bond industry.

The 1982 Special Sessions of the Florida Legislature amended and revised certain insurance laws to provide: deregulation of automobile clubs; revisions in Chapter 634, Part I, F. S., relating to automobile warranty associations; additional exceptions to the prohibition against conducting insurance transactions through credit card facilities;

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\*Prepared by staff of the House Insurance Committee

revisions of regulations pertaining to Florida Patient's Compensation Fund; and sunset revision of the Florida Insurance Code.

#### Workers' Compensation

SENATE BILL 67 (CHAPTER 82-65) establishes the Florida Self-Insurers Guaranty Association to insure the financial stability and managerial competency of individual and group workers' compensation self-insurers. (It resolves a constitutional problem on the implementation of similar legislation passed in 1979 which arose because of a circuit court ruling that this legislation was an invalid delegation of legislative authority due to a lack of sufficient guidelines.) This act creates Section 440.385, F. S., which provides specific provisions for the operation of the Guaranty Association.

Individual self-insurers, other than those which are public utilities or governmental entities, are required to become members of the Association. A member may withdraw when he terminates his self-insurance privilege and pays all assessments due. The act provides for a board of directors and for its organization, operation, powers and duties. An insolvency fund is created and a plan for its operation established. The powers and duties of the Department of Labor and Employment Security in examination and regulation of the Association are provided. By September 15, 1982, the board of directors of the Association shall submit to the Department a



proposed plan of operation for the administration of the Association and the insolvency fund. The act also provides for: exchange of information between the board and the Department to detect and prevent employer insolvencies; the effect of paid claims; certain immunity; stay of proceedings; and a statute of limitation.

COMMITTEE SUBSTITUTE FOR SENATE BILL 420 (CHAPTER 82-146) creates Section 440.091, F. S., which specifies that public law enforcement personnel acting under circumstances reasonably consistent with their duties within the State of Florida are covered under the Workers' Compensation Law even if they are injured outside their jurisdictional limits. Such persons are not considered to have been acting within the course of employment if they are engaged in services at the time of their injury for which they are paid by a private employer. (This act addresses a Florida Supreme Court decision that a municipal police officer was not entitled to compensation when he was injured outside of the limits of his jurisdiction because the injury did not arise out of and in the course of employment: City of Miami Beach v. Valeriani, 137 So. 2d 226 [Fla. 1962]. The First District Court of Appeal recently followed this case in City of Coral Gables v. Williams, 389 So. 2d 1212 [1st DCA, 1980].)

The term "employee" as used in this section includes all certified supervisory and command personnel whose duties include the supervision, training, guidance and management responsibilities of full-time law enforcement officers or

auxiliary law enforcement officers, but does not include support personnel employed by the employing agency.

SENATE BILL 655 (CHAPTER 82-237) amends Subparagraph 440.15(3)(a)1., F. S., to increase the permanent impairment benefits of the Workers' Compensation Law by increasing permanent impairment benefits to loss of 80 percent or more of vision of either eye (rather than loss of 80 percent or more of vision); increasing to \$250 (up from \$50) the payment for each percent of permanent impairment of the body as a whole from 1 percent through 10 percent (rather than 50 percent); and increasing to \$500 (up from \$100) the payment for each percent of permanent impairment of the body as a whole for that portion in excess of 10 percent (rather than 50 percent).

Subsection 440.16(1), F. S., is amended to increase death benefits by increasing funeral expenses from \$1,000 to \$2,500 and raising dependency compensation limits from \$50,000 to \$100,000; Section 440.14, F. S., is amended to provide that any compensatory benefits provided by an employer shall be deducted when calculating the employee's average weekly wage as long as these benefits are provided. This act also repeals Subsection 440.15(6), F. S., which provided special compensation guidelines for hernia injuries.

#### Limited Liability Companies

HOUSE BILL 43 (CHAPTER 82-177) repeals Part II of Chapter 617, F. S., relating to scholarship plans, and creates Chapter 606, F. S., the "Florida Limited Liability Company

Act," which authorizes the establishment of limited liability companies (LLCs). An LLC combines the investment advantages of corporations and limited partnerships. Liability of investors is limited to the amount of their investment as in a corporation and limited partnership, and the ability to transfer ownership is restricted as in a partnership. The act specifies restriction of an LLC's life to a time specified in the articles of organization, up to a maximum of 30 years; establishes procedures forming an LLC and for transacting business in this state; delineates powers which an LLC may exercise; sets procedures for distribution of assets and contributions; provides for members' liability to the LLC; sets fees for filing and issuing documents; and requires LLCs to pay state corporate income tax.

This act also amends and repeals some existing provisions of Part I of Chapter 617, F. S., and creates several new sections for this statute. The name of this Part is changed from "Corporations Not For Profit Generally" to "Florida Not For Profit Corporation Act." New or amended provisions included in this act relate to: applicability of the Florida General Corporation Act; procedures for the commencement of corporate existence, and filing, amending and restating articles of incorporation; requirements for registered office and registered agent; qualifications and indemnification of the board of directors, managers or trustees; guidelines for stockholders' meetings and activities;

certificates of membership and termination of membership; and certain record keeping requirements.

Fire Prevention and Control

HOUSE BILL 1144 (CHAPTER 82-189) amends Subsection 633.081(2), F. S., by stipulating that any fire safety inspections required by law or by rules and regulations of the State Fire Marshal must be performed by an individual who has met the fire safety inspection and certification requirements of the Division of State Fire Marshal of the Department of Insurance for the specific type occupancy he inspects. Inservice company inspections must be conducted in such a manner that at least one individual in the company has met the inservice fire safety inspection requirements.

Paragraph 633.382(5)(b), F. S., is amended to stipulate that payment of supplemental compensation to individual firefighters be accomplished through warrants issued to the employing agencies to distribute through their payroll systems. Paragraph (g) is added to Subsection 633.45(1), F. S., to establish the Fire College Publications Revolving Trust Fund; Section 633.46, F. S., is amended to provide for the deposit into this Trust Fund of training fees collected by the Division of State Fire Marshal; and Section 633.461, F. S., is created to specify the allocation of funds from the Trust Fund for purchase of firefighting and fire prevention training materials.

### Bail and Bail Bondsmen

HOUSE BILL 1137 (CHAPTER 82-175) fulfills the requirement for "sunset" review of Chapter 648, F. S., dealing with bail and bail bondsmen. This act institutes significant changes in definitions, licensing requirements, reporting requirements, business practices, collateral requirements, and revocation of license procedures contained in Chapter 648, F. S. The act abolishes requirements for bondsmen and general agent deposit or bond; requires each insurer and each bail bondsman engaged in bail bond business in Florida to transmit certain prescribed information to the Department of Insurance semi-annually; and provides procedures concerning handling of collateral security by bondsmen and the return of such security upon final termination of liability on the bond.

Other revisions include amendments to Chapter 903, F. S., relating to bail, to allow courts to accept deposit of monetary bond if Chapter 648, F. S., sunsets in 1984; to provide new procedures for forfeiture of bail; and to set requirements for minimum bail in certain cases. This measure also creates a Commission on Bail Bond Reform, and schedules the repeal of Chapter 648, F. S., on October 1, 1984, under the Regulatory Sunset Act, Section 11.61, F. S., unless it is reenacted before that date.

### Automobile Clubs

SENATE BILL 1-F (CHAPTER 82-233) "sunsets" the regulation of automobile clubs under Chapter 649, F. S. It

creates Section 624.21, F. S., which exempts automobile clubs providing specific services from the insurer regulations of the insurance code. These services include towing, group coverage for bail and arrest bonds or for accidental death and dismemberment, emergency road service, prepaid legal service or reimbursement for prepaid legal service, assistance in locating or recovering stolen or missing motor vehicles, and payment of a motor vehicle owner's emergency living and transportation expenses when his or her vehicle is damaged. Prepaid legal services are not exempt from the provisions of Chapter 642, F. S., "Legal Expense Insurance Act."

#### Automobile Inspection and Warranty

SENATE BILL 2-F (CHAPTER 82-234) redesignates Chapter 634, Part I, F. S., as dealing with "motor vehicle service agreement companies" rather than "automobile inspection and warranty associations" and conforms language accordingly. Other changes include: deleting language referring to defects in material or workmanship; providing a more restrictive definition of premium; requiring associations to keep their assets in the United States; stipulating that unearned premium reserve be equal to a minimum of 50 percent of the gross written premium on each service agreement and that this reserve be amortized on a pro rata basis over the life of the service agreement; and deleting the requirement that companies have assets equal to the amount of unearned premium reserve. In addition, statistical reporting requirements are imposed on

companies; companies are required to notify potential customers that the sale or financing of a motor vehicle is not dependent upon purchase of a service agreement; service agreements are designated assignable to subsequent retail purchases for the life of the agreement; provision is made for licensing companies and registering salesmen on a biennial basis; and civil remedy is provided for persons damaged by a violation of Chapter 634, Part I, F. S. Provision is also made for the Department of Insurance to request a court order or other relief if grounds for rehabilitation, liquidation, or other specified circumstances exist. In the event an order is entered against a company, the Department is given the power granted it when an insurance company becomes delinquent.

Chapter 634, Part I, F. S., will be repealed on October 1, 1992, unless reenacted prior to that date pursuant to the Regulatory Sunset Act, Section 11.61, F. S.

#### Credit Cards

SENATE BILL 3-F (CHAPTER 82-235) amends Subsections 626.9541(15) and (17), F. S., to create additional exceptions to the prohibition against conducting certain insurance transactions through credit card facilities. Current exceptions to this prohibition cover health, credit life and credit disability insurance. This act allows licensed agents or insurers to use credit card organizations to insure credit card holders under the following conditions: The policy must be non-cancellable except by the insured, the policyholder or

the insurer; any refund or unearned premium must be made directly to the credit card holder; and the insurance transaction must be authorized by the signature of the credit card holder or person authorized to sign on the credit card account. These requirements do not apply to the current insurance exceptions nor to an additional exception created for credit property insurance. Limited confidentiality is accorded information generated by credit card transactions.

The exception provided by this enactment does not permit the use of credit card facilities for selling insurance in conjunction with automobile club membership. The collection of certain fees is excluded from the definition of illegal dealing in premiums.

#### Patient's Compensation Fund

SENATE BILL 4-F (CHAPTER 82-236) amends Section 768.54, F. S., which regulates the Florida Patient's Compensation Fund (PCF), in the following particulars: The amount of a Fund member's liability, which is presently \$100,000 per claim, will be increased to \$150,000 per claim on July 1, 1983, \$200,000 on July 1, 1986, and \$250,000 on July 1, 1989. The PCF will offer limited liability coverage of \$5,000,000 and \$10,000,000. The act specifies that the Fund is not liable for punitive damages awarded for negligence of a health care provider. The Department of Health and Rehabilitative Services' authority to make certain determinations concerning the Fund is eliminated. The authorized number of geographical areas on which fees are



based is increased from two to three, and these areas do not necessarily have to be contiguous. In addition, the number of practice categories used for rating is raised from three to five. The PCF is also authorized to adjust fees of individual members to reflect that member's claims experience, and the \$15,000,000 cap on the amount maintained by the Fund is eliminated. Borrowing funds from one fiscal year's account to another is authorized if necessary to pay claims for a given fiscal year, and the maximum member assessment for any one year may be increased from one to two times the fees for the year giving rise to the assessment. Method of payment by the Fund for an adjudicated liability is spelled out. A risk management program is required of all institutional members of the PCF. Section 768.54, F. S., will be repealed on October 1, 1992, unless reenacted prior to that date pursuant to the Regulatory Sunset Act, Section 11.61, F. S.

#### Sunset Review of the Florida Insurance Code

HOUSE BILL 4-F (CHAPTER 82-243) reenacts and revises the Florida Insurance Code pursuant to the Regulatory Sunset Act, Section 11.61, F. S. Many of the revisions are technical and editorial in nature and bring the insurance code up to date.

General substantive changes include: providing civil remedy for a person damaged by certain unfair trade practices; requiring the public counsel to represent the public with regard to prior approved rate areas; and requiring reporting

and analysis of statistical data on the performance of the Florida insurance industry.

Rating revisions include: amending the rate review process for automobile insurance to take into account the time value of policyholders' money and to prohibit insurance companies from filing rate changes in rapid succession before previous rate filings have been reviewed by the Department of Insurance; amending general property and casualty rate standards to require the Department to define a test for adequate rate making competition; and specifying the factors to be considered in determining if actual health insurance benefits are reasonable in relationship to the benefits offered.

Group insurance definitions and requirements are liberalized to lessen government regulation and enhance industry competition.

Health insurance revisions include: requiring that, beginning July 1, 1983, comprehensive health coverage be available for all citizens; guaranteeing the right of persons transferring from group to individual policies to purchase equal coverage; requiring companies to offer health insurance policies with coinsurance clauses; stipulating that mental health coverage be available on application, raising its benefit levels, and liberalizing its authorized treatment; and authorizing drug dependency treatment in addition to treatment for alcoholism.

Auto insurance revisions include: requiring that optional excess coverage be made available for underinsured motor vehicles; bringing government vehicles under no-fault; raising funeral benefits to \$1750; and reducing deductibles to \$2000 maximum.

Other general provisions include: permitting insurers to insert non-joinder clauses in contracts; allowing the creation of captive insurance companies and limited reciprocal insurers; and permitting mutualization of nonprofit health care services plan corporations (Blue Cross/Blue Shield).

Various chapters, parts and sections of the Florida Insurance Code, Chapters 624 through 632, and Part I of Chapter 641, F. S., "Hospital and Medical Service Plans," are assigned repeal dates between October 1, 1987, and October 1, 1992, pursuant to the Regulatory Sunset Act, Section 11.61, F. S. Most provisions of this act take effect October 1, 1982, but selected sections become effective one year later and two provisions take effect when the legislation becomes a law. The Florida Motor Vehicle No-Fault Law, Sections 627.730-627.7405, F. S., is specifically exempted from repeal.

HOUSE BILL 10-G (CHAPTER 82-386), passed during the Special Session of May 21, is designed to correct editorial, technical and drafting errors discovered in this sunset review of the Florida Insurance Code.

the 1990s, the number of people in the UK who are aged 65 and over has increased by 1.5 million (19.5%) and the number of people aged 75 and over has increased by 1.1 million (22.5%). The number of people aged 85 and over has increased by 0.5 million (30.5%) and the number of people aged 95 and over has increased by 0.1 million (20.5%).

There is a growing awareness of the need to address the health and social care needs of the ageing population. The Department of Health (1999) has identified the need to develop a new approach to the care of the ageing population, which is based on the principles of 'active ageing' and 'lifestyle medicine'.

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LAW ENFORCEMENT & CRIMINAL JUSTICE\*

Legislative activity in the areas of law enforcement and criminal justice during the 1982 Regular Session of the Florida Legislature was highlighted by expansion of the right of private citizens to carry concealed weapons in their vehicles; the strengthening of the laws concerning driving under the influence of alcohol or controlled substances; the passage of an anti-paramilitary training act; state payment of medical expenses of victims of sexual battery; establishment of a pilot high intensity crime prevention program; and the toughening of the laws covering assorted crimes and offenses such as trespass on school grounds.

Concealed Weapons

HOUSE BILL 1173 (CHAPTER 82-131) alters Sections 790.001 and 790.25, F. S., to provide that it is lawful, and not in violation of the concealed firearms provisions of Chapter 790, F. S., for a person to carry a concealed firearm or other weapon in the interior of a private conveyance without a license, if the firearm or other weapon is "securely encased or not readily accessible for immediate use" as defined in this

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\*Prepared by staff of House Criminal Justice Committee

act and is being transported for a lawful purpose, such as self-defense. In no event shall this law be construed to prohibit the lawful carrying of a firearm other than a handgun, or to authorize the carrying of a concealed firearm or other weapon on the person. Liberal construction in favor of the lawful use, ownership, and possession of firearms is directed.

Driving Under the Influence of Alcohol or Controlled Substances

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 69, 432, 312, 351, 39 and 285 (CHAPTER 82-155) consolidates under Chapter 316, F. S., "The Florida Uniform Traffic Control Law," the separate prohibitions against driving under the influence (DUI) (Section 316.193, F. S.), driving with an unlawful blood alcohol level (DUBAL), and driving while intoxicated (DWI) (Section 316.1931, F. S.). The minimum penalties for these offenses will be identical and a previous conviction for any of these offenses will be considered a prior conviction of violation of each of the three prohibitions in setting sentences for subsequent convictions. The act also establishes minimum mandatory sentences, mandatory fines, extended periods of license revocation, and mandated attendance at a substance abuse education course.

Current law permits the issuance of a business use license to a driver whose license is under suspension. This law provides that such a permit may not be issued to a driver

with two or more convictions, or with two or more license suspensions for refusal to submit to tests for impairment or intoxication. Additionally, first offenders must provide proof of having completed a prescribed education course prior to the issuance of a temporary business use permit.

The measure provides for a urine test for the detection of controlled substances in the same manner that a breath test is performed to determine a blood alcohol level. The tests must be incidental to a lawful arrest and made at the request of a law enforcement officer having reasonable cause to believe the driver is under the influence of alcohol or controlled substances. The urine test must be performed so as to maintain the privacy of the driver and the accuracy of the specimen.

The act provides that the officer may request that the driver submit to either a breath or a urine test, or both. Refusal to submit to a test carries a three month license suspension unless a driver has previously refused to submit, in which case a six month suspension will result. Evidence of refusal to submit will be admissible in any criminal proceeding.

In situations where a driver has been involved in a motor vehicle accident and has been admitted to a medical facility, this law provides that a blood test may be performed in a reasonable manner when a breath or urine test is not available. The driver may refuse to consent. Such refusal carries the same three to six month license suspension as discussed above. A driver who, due to unconsciousness or some

other mental or physical condition, is unable to refuse to consent to a blood test, shall have the test performed. Upon regaining consciousness or as soon as practical, such a driver shall be advised of the test, his right to withdraw consent for the use of such a test, and be given the option to do so. Such refusal will carry the same license suspension as cited above.

In situations where a law enforcement officer has probable cause to believe a driver while under the influence of alcohol or controlled substances has caused the death of or serious bodily injury to a person, the officer will have the ability to demand the driver's submission to a blood test for determining alcohol content or the presence of controlled substances. The officer may use reasonable force to effectuate the test if required. The blood test will be performed in a reasonable manner. For purposes of the act, "serious bodily injury" means physical pain, illness or any impairment of physical condition which creates a substantial risk of death or serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ. Only a physician, a registered nurse, a licensed clinical laboratory technologist or technician, or a certified paramedic may perform the blood test. Chemical analysis of the person's blood must be performed substantially in accordance with methods approved by the Department of Health and Rehabilitative Services.

The act provides that criminal charges resulting from the incident giving rise to the officer's demand for testing



shall be tried concurrently with any charges arising from the driver's refusal to submit to the required blood test. If the charges are tried separately, the fact that the driver refused, resisted, or withdrew his consent for the test shall be admissible at the trial of the criminal offense which gave rise to the demand for testing.

Finally, the legislation prohibits sentence suspension and the withholding of adjudication. (Plea bargaining is not addressed, however.)

#### Paramilitary Training

HOUSE BILL 178 (CHAPTER 82-5) creates Section 790.29, F. S., to be entitled the "State Anti-Paramilitary Training Act," which prohibits paramilitary training, including the teaching or demonstrating of the use, application, or construction of a firearm, destructive device, or technique capable of causing injury or death to persons. However, in order to be convicted for a violation of this law, a third degree misdemeanor, a paramilitary instructor must know, intend, or have reason to know that his training will be unlawfully employed in the furtherance of a civil disorder as defined in the act.

The act of any law enforcement officer performed in connection with his official duties, and any training or teaching of the use of weapons to be used in hunting, recreation, competition, self defense and defense of property or other lawful activity is specifically exempted.

## Sexual Battery

SENATE BILL 166 (CHAPTER 82-192) provides for the payment of medical expenses up to \$150 connected with an initial physical examination of a sexual battery victim if the victim reports the incident to a law enforcement officer and said officer certifies in writing that he reasonably believes that such an offense occurred and the claimant is a victim of that offense. If the victim is covered by health or disability insurance, the Bureau of Crimes Compensation, Division of Workers' Compensation, Department of Labor and Employment Security, will pay only the balance due between the sum paid by the insurance company and total charges up to the \$150 limit. Payment will only be paid to the victim when the victim has paid the medical examiner; otherwise, it will be paid directly to the examiner. This act further provides for restitution in an equal amount to the Crime Compensation Trust Fund by any perpetrator of the act who pleads nolo contendere, guilty, or is convicted of the sexual battery offense. Payment records are made confidential, but payment is contingent upon the victim's agreement to bring charges. The act appropriates \$501,000 for Fiscal 1983 from the Crimes Compensation Trust Fund for the payment of said medical expenses.

Additionally, this law doubles the \$5 fee charged for marriage licenses and used to fund spouse abuse centers pursuant to Section 741.01, F. S., and repeals Subsection (5) of Section 409.605, F. S., having to do with the maximum annual funds that an individual spouse abuse center can receive.

### Pilot Crime Prevention Program

SENATE BILL 450 (CHAPTER 82-11) creates the "High Intensity Crime Prevention Program Act," a 60 day pilot program funded by a \$171,000 appropriation, whereby state law enforcement officers work with local law enforcement agencies in an effort to increase public awareness and criminal justice system coordination in crime prevention. The act provides that the Attorney General and the Executive Director of the Florida Department of Law Enforcement designate three counties of the state to participate in the program, promulgate a program plan, and supervise the operation of the program. An evaluation is to be made of the effectiveness of campaign.

### Trespass on School Grounds

HOUSE BILL 21 (CHAPTER 82-3) amends Section 228.091, F. S., to more strictly define a person who is guilty of trespass on school grounds or property and to eliminate the requirement that such a person must first create a disturbance before he commits a second degree misdemeanor. This act elevates the penalty to a first degree misdemeanor for anyone who remains on the school premises after having been directed to remove himself by the chief administrative officer or his designee. The school's chief administrative officer or a designated employee may detain a person on school property in a reasonable manner if there is probable cause to believe the person was unlawfully trespassing on the premises. This act grants civil and criminal immunity to the designated school

officials who detain such persons on school property, and further provides that a law enforcement officer shall be called onto the scene immediately following any detention on school premises.

#### The Felony Murder Rule

SENATE BILL 44 (CHAPTER 82-69) amends Section 782.04, F. S., to add escape and trafficking offenses to the list of crimes that may be charged as the underlying felony when a defendant is prosecuted under the "felony murder" rule. Therefore, if a person escapes or attempts to escape, or if a person commits or attempts to commit a trafficking offense, and unlawfully kills a human being, such person would be guilty of first degree murder, even if the prosecution cannot prove premeditation. Also, if during commission of one of the above acts, someone other than the person committing the act unlawfully kills a human being, the person committing the act would be guilty of second degree murder under the felony murder rule.

HOUSE BILL 91 (CHAPTER 82-4) adds to Subsection 782.04(4), F. S., the one felony listed in Subsection 782.04(1), F. S., that was omitted from Subsection 782.04(4), F. S., when the felony of "distribution of opium" was added to the "felony murder rule" list in 1976. This act would cure current ambiguity between Sections 782.04(1) and 782.04(4), F. S., by adding the perpetration or commission of the "unlawful distribution of opium," where the death of another

person results, to the list of felonies outside the definition of murder in the third degree.

#### Drug Abuse

SENATE BILL 73 (CHAPTER 82-88) creates Section 893.105, F. S., to provide that quantities of controlled substances seized by law enforcement authorities may be weighed and sample tested after seizure as well as photographed or videotaped for use in a trial. The results of such samples and the analysis thereof shall be admissible in any civil or criminal proceeding for the purpose of proving the nature, composition, and weight of the substance seized. Substances not retained for testing may be destroyed by court order pursuant to Section 893.12, F. S.

SENATE BILL 100 (CHAPTER 82-16) amends Section 893.03, F. S., providing that it is unlawful for a medical practitioner to prescribe, either orally or in writing, any substance which contains methaqualone. In addition, the transfer of possession of a substance which contains methaqualone by a practitioner to the consumer is unlawful. Sale, manufacture, or delivery of methaqualone, or possession of the substance with intent to sell, manufacture or deliver, formerly a third degree felony, is now classified as a second degree felony.

SENATE BILL 103 (CHAPTER 82-2) amends Florida's drug trafficking statute, Section 893.135, F. S., to provide that any person convicted of criminal conspiracy to traffic shall be punished as if the conviction were for trafficking, which is

punishable as a first degree felony subject to the minimum mandatory prison terms and fine provided in Subsection 893.135(1), F. S. Conspiracy to traffic was formerly classed as a second degree felony pursuant to Paragraph 777.04(4)(b), F. S. Moreover, conviction of conspiracy does not preclude a separate conviction for trafficking.

COMMITTEE SUBSTITUTE FOR SENATE BILL 842 (CHAPTER 82-210) amends Section 893.18, F. S., to elevate the penalty from a first degree misdemeanor to a third degree felony for any boat operator plying the waters of the state to flee a duly authorized law enforcement officer after having been directed by such officer to stop, or to flee in an attempt to elude the officer after having stopped. The penalty for a third degree felony is a term of imprisonment not exceeding 5 years and a fine of \$5,000.

#### Crimes Against Property

SENATE BILL 713 (CHAPTER 82-164) amends Subsection 812.014(1), F. S., to provide that the temporary as well as the permanent deprivation or appropriation of a person's property rights or use constitutes theft. Section 812.041, F. S., which bars the unauthorized temporary use of motor vehicles, aircraft, boats and boat motors is repealed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 42 (CHAPTER 82-87) amends Section 810.011, F. S., to define the term "dwelling" to include conveyance as well as building for purposes of Chapter 810, F. S., relating to the crimes of burglary and trespass.

The measure also amends provisions of Section 810.02, F. S., to stipulate that armed entry, or the arming of oneself while inside a conveyance, constitutes a first degree felony, while unarmed entry or presence within a conveyance which is a dwelling is a second degree felony.

SENATE BILL 425 (CHAPTER 82-21) amends Section 806.13, F. S., to make the willful or malicious defacing, injuring or damaging of a church, synagogue, mosque or other place of worship or any religious article contained therein a third degree felony, if the damage to the property exceeds \$200.

#### Obstruction of Law Enforcement

HOUSE BILL 310 (CHAPTER 82-150) creates Section 843.185, F. S., to provide that anyone who gives a false name or address, with intent in any manner to obstruct the execution of the law, including an interruption of the duties of a law enforcement officer or beverage agent, is guilty of a first degree misdemeanor.

Additionally, this law revises Part VIII of Chapter 23, F. S., relating to the Florida Council on Criminal Justice, to reduce the ex-officio and appointive membership of the Council and specify voting members. Terms of non-voting members are set out and the provisions of the whole part are placed under the operation of the Regulatory Sunset Act, Section 11.61, F. S., effective July 1, 1983.

#### Cruelty to Animals

HOUSE BILL 328 (CHAPTER 82-116) provides for a fine up

to \$5,000 for any violation of the cruelty to animals provisions of Sections 828.12, 828.13, and Subsection 828.122(4), F. S.

This act also increases the sentence for confining an animal without sufficient food, water, or exercise, or abandoning such animal, to a first degree misdemeanor; and increases the penalty for the act of abandonment of an animal in a public place from a second degree misdemeanor to a misdemeanor of the first degree.

Additionally, this measure deletes the provision relating to the feeding of cows on food which causes impure milk from the list of proscribed acts.

#### Fines and Forfeitures

SENATE BILL 22-D (CHAPTER 82-222) amends Section 960.20, F. S., to provide that a person convicted of a criminal traffic offense shall, in addition to any other costs imposed by law, be required to pay a fine of \$10 of which \$9 shall be forwarded to the State Treasurer for deposit in the Crimes Compensation Trust Fund administered by the Bureau of Crimes Compensation, Division of Workers' Compensation, Department of Labor and Employment Security. The clerk of the county court in which the conviction is obtained shall retain the remaining \$1 as a service charge. The act also provides that criminal traffic offenses shall be included in offenses which, pursuant to Section 960.25, F. S., require the payment of a 5 percent surcharge in addition to the fine imposed.



SENATE BILL 18-D (CHAPTER 82-239) amends Section 932.704, F. S., to create the Forfeiture and Investigative Support Trust Fund as the depository for moneys received from the sale for forfeited property seized by the Department of Law Enforcement. Such moneys may be expended only by specific appropriation of the Legislature.



LOCAL GOVERNMENT\*

The 1982 Florida Legislature enacted a variety of laws concerning local government. Among the more significant issues addressed were such topics as the following: modifications to the county budget preparation procedure; technical changes concerning bond disclosure requirements; creation of the Florida Enterprise Zone Act, which changes the term "slum or blighted area" to "enterprise zone" for purposes of several existing revitalization tax credit and other incentive programs; establishment of a voluntary binding arbitration process to resolve internal disputes arising from the operation of condominiums; required display of a new resident's energy performance index (EPI) from the time of final inspection by the local building inspection department to the time of actual sale; authorization for counties to create code enforcement boards to provide an expeditious and inexpensive method of enforcing building, zoning, and other technical codes; liability of owners of abandoned motor vehicles or boats for the costs of their removal and destruction; authorization for local governments to have any withdrawal, payment, or deposit of public funds to which they are entitled transferred by

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\*Prepared by staff of Senate Economic, Community & Consumer Affairs

electronic, telephonic, or other media (direct deposit); expansion and clarification of the powers of "legal entities" composed of publicly-owned electric utilities and the investor-owned utilities with which they wish to deal; and administrative assumption by the state of the federal government's Community Services Block Grant Program.

#### Fiscal and Budgetary Matters

HOUSE BILL 23 (CHAPTER 82-107) amends Section 142.01, F. S., to authorize counties to transfer surplus moneys in their fine and forfeiture funds to their general funds at the end of the fiscal year.

HOUSE BILL 69 (CHAPTER 82-28) amends Subsection 336.59(2), F. S., concerning the municipal portion of the county road and bridge tax. In those cases in which a municipality has no jurisdictional responsibility for roads and bridges, it is authorized to exchange its share of the county road and bridge tax revenue, which is required to be used for constructing or maintaining roads and bridges, for an equal amount of unrestricted county funds.

HOUSE BILL 256 (CHAPTER 82-33) makes several changes to the county budget preparation procedure. The date by which the sheriff, clerk of the circuit court, county comptroller, tax collector (unless a fee officer), and supervisor of elections must submit their tentative budgets to the board of county commissioners is moved from June 1 to May 1. The date the sheriff's budget must be adopted by the board is moved from

August 1 to the final public hearing at which the entire county budget is adopted (typically between September 2 and October 1). Also, the deadline for appealing the property appraiser's budget to the Governor and Cabinet is moved from September 1 to 15 days after the conclusion of the final public hearing at which the entire county budget is adopted.

SENATE BILL 340 (CHAPTER 82-195) amends Part III of Chapter 218, F. S., relating to local financial management and reporting of financial matters pertaining to political subdivisions, by modifying certain duties of the Division of Bond Finance of the Department of General Services with respect to general obligation bonds and revenue bonds of units of local government, duties of the advisory council to the Division, and provisions dealing with bond disclosure. Other statutory changes effected by passage of this measure deal with interest rates on bonds, levy and payment of special assessment for certain improvements, and specified denomination of bonds issued for making local municipal improvements. Some of the more significant changes include: 1) differentiating the type of information that must be disclosed for bonds sold at public sale by competitive bid and those sold by negotiated sale; 2) requiring only the managing underwriter rather than each underwriter be reported when disclosure statements are filed with the Division by local government units authorized to issue general obligation and revenue bonds; 3) excluding funds pledged to bond debt service from those funds the Department of Banking and Finance must withhold from local governments for

failure to comply with bond disclosure provisions; 4) authorizing the use of either the lowest net interest cost or the lowest true interest cost as the basis for awarding state bonds; 5) increasing from 10 to 15 years the maximum installment pay-back period for special assessments; and 6) authorizing a floating interest charge on installment payments for special assessments financed by bonds for county water and sewer system improvements.

COMMITTEE SUBSTITUTE FOR SENATE BILL 834 (CHAPTER 82-202) creates a procedure for the preparation and submission of the supervisor of elections' budget. Provision is also made for procedures for payment of salaries and expenses of the office and maintenance of accounts and records. (These procedures are patterned after the ones that currently exist for sheriffs.)

#### Community Revitalization

COMMITTEE SUBSTITUTE FOR HOUSE BILL 387 (CHAPTER 82-119) creates Chapter 162, F. S., the Florida Enterprise Zone Act of 1982. The act authorizes local governments to designate zones in which existing state and local revitalization incentives are available for use. The definition of "enterprise zone" in the act is the same as the definition of "slum or blighted area" (see Section 163.340, F. S.) that previously applied to these existing revitalization incentives, which include several state corporate income tax credits, a grant and loan program for local community development corporations, an economic

development property tax exemption, and revenue bond financing for commercial projects. The Department of Veteran and Community Affairs (DVCA) will continue to approve these zones using the same process and criteria currently in existence.

In the event enterprise zone legislation is enacted by the federal government in the future, DVCA is authorized to prepare and submit all information and forms necessary to permit zones approved by DVCA to be considered as eligible for the federal program.

There are also several changes made to the revitalization tax credit programs and the grant and loan program for local community development corporations. Some of the major changes include:

A 5-year carry forward of unused tax credits for the jobs creation and community contributions programs (to encourage participation by relatively new businesses which might not have income tax liabilities in their first few years of operation);

The elimination of the requirement that an employee be continuously employed for at least 6 months before that employee's wages are eligible for the jobs creation tax credit, and the replacement of that requirement with a provision that authorizes the hiring of a replacement employee who is eligible for the remaining unused portion of the original 1-year tax credit;

An extension of the maximum repayment period allowed on loans to community development corporations from 5 to 15 years.

## Housing

HOUSE BILL 268 (CHAPTER 82-113) amends Paragraph 718.112(2)(j), F. S., to allow condominium associations to charge a preset fee of up to \$50 to cover association expenditures and services in regard to transfers, sales, leases, or subleases of condominium units by their owners, provided such transactions are subject to association approval. In addition, the act requires the Division of Florida Land Sales and Condominiums of the Department of Business Regulation to establish procedures to provide notice to a condominium association when the Division is considering issuing a declaratory statement with respect to a declaration or any other related document governing the condominium.

SENATE BILL 634 (CHAPTER 82-199) amends Section 718.503, F. S., relating to requirements for disclosure prior to the sale of condominium units, to apply only to contracts for the sale or lease of residential condominium units. Also amended is Section 718.112, F. S., to provide for voluntary binding arbitration of internal disputes arising from the operation of condominiums. The Division of Florida Land Sales and Condominiums of the Department of Business Regulation is responsible for employing full-time arbitrators who must be members of The Florida Bar to conduct arbitration hearings. These hearings do not foreclose the parties involved from proceeding in a trial de novo; however, the final decisions of the arbitrators are admissible as evidence. The parties may also seek enforcement of the arbitrator's final decision in a



court of competent jurisdiction. Other amendments to the "Condominium Act" make the following changes: the Condominium and Cooperative Advisory Council (see Subsection 718.501(2), F. S.) is abolished; the survey of the condominium property required by Section 718.104, F. S., must show all existing easements; and the Division of Florida Land Sales and Condominiums is authorized to bring class actions for declaratory relief, injunctive relief, and restitution.

SENATE BILL 339 (CHAPTER 82-78) amends Section 420.509, F. S., pertaining to bonds of the Florida Housing Finance Agency. Instead of having to publish a notice of bond validation in a newspaper in each county where the proceeds of a housing bond are to be expended, as well as serve notice on the state attorneys of each of these counties, the Florida Housing Finance Agency will have to publish newspaper notice and serve notice to the state attorney only in Leon County, and shall also publish notice in two newspapers with statewide circulation.

#### Building Codes and Construction

SENATE BILL 573 (CHAPTER 82-197) amends several statutory provisions relating to building codes, energy codes, and energy conservation:

First, the Department of Veteran and Community Affairs' duty in Section 553.901, F. S., to annually update the Florida Model Energy Efficiency Code for Building Construction, is changed to a biennial requirement, with proposed changes being

made available to the public by June 1 of the year prior to Code implementation;

Second, Section 420.5085, F. S., is created to authorize the Florida Housing Finance Agency to purchase or take assignment of certain energy conservation loans made by utilities pursuant to their Public Service Commission-approved conservation plans (see Subsection 366.82(3), F. S.);

Third, Section 553.911, F. S., is created to require the energy performance index (EPI) of new residences to be prominently displayed on the completed buildings from the time of final inspection by the local building inspection department to the time of actual sale. The card to be displayed will be developed by the Department of Veteran and Community Affairs and posted by local building officials. If compliance with the statewide, uniform energy code is achieved under a section of the code that does not generate an EPI, the builder has the option of calculating the EPI or stating that the EPI of the residence might be higher than the maximum allowed under the section of the code requiring the EPI. An EPI is an indicator of relative energy consumption arrived at by analyzing the thermal envelope and climate control systems of a residence and then indexing the residence against the average energy consumption of a similar house built to prevailing construction standards in 1977;

And last, mobile homes used as temporary offices are exempted from the requirements of the State Minimum Building Codes.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 421 (CHAPTER 82-37) amends the Municipal Code Enforcement Boards Act (Part II, Chapter 166, F. S.), which is renamed the "Local Government Code Enforcement Boards Act." Counties, like municipalities, are authorized to create these administrative boards to provide an expeditious and inexpensive method of enforcing the various occupational license, fire, building, zoning, sign, and other technical codes in force locally. Several of the other significant changes include: granting authority to abolish the boards; increasing the number of board members from six to seven; restricting reappointment of board members to only one successive term; specifying that all proceedings shall be open to the public; reducing the maximum fine for noncompliance with a board order from \$500 to \$250 a day; providing that if a violator does not own the land on which the violation occurs, a lien may attach to any other real or personal property owned by the violator; specifying that an action to foreclose on a lien must commence within two years of recording the order or the lien becomes invalid; and giving the circuit court jurisdiction over appeals from a board's final administrative orders.

#### Miscellaneous

HOUSE BILL 1004 (CHAPTER 82-43) amends Section 138.09, F. S., eliminating the requirement that the board of county commissioners must locate a jail within the county seat.

HOUSE BILL 146 (CHAPTER 82-110) amends Section 705.16, F. S., concerning the procedure for removing and destroying

abandoned property. The owner of a motor vehicle or a boat which is removed and destroyed as abandoned property, defined as wrecked or derelict property having no value other than nominal salvage value, is held liable for costs of removal and destruction. Until these costs are paid to the local government, the owner of an abandoned boat cannot be issued a certificate of registration for any other boat. In the case of an abandoned motor vehicle, any owner who neglects or refuses to pay such costs shall be subject to a fine of \$100. Also, the number of days allowed for removal of abandoned boats after notice is given is extended from 10 to 30 days.

SENATE BILL 682 (CHAPTER 82-104) amends Section 274.02, F. S., raising from \$100 to \$200 the value of a local government's tangible personal property of a nonconsumable nature which is exempt from the inventory, marking, and recording requirements of Chapter 274, F. S. Also, local governments and county hospitals are authorized to have any withdrawal, payment, or deposit of public funds to which they are entitled, transferred by electronic, telephonic, or other media (direct deposit) if the transfer does not represent an expenditure, advance, or reduction of cash assets. This act also amends Section 125.012, F. S., authorizing certain counties to enter into contracts with the users of or service providers for any project. Such contracts may include agreements to design, construct, or improve any project on such terms and conditions as the county shall determine by resolution. Such contracts may also provide for the hiring of

professional services and the awarding of construction contracts. Reimbursement for reasonable and necessary expenses may be provided from the proceeds of revenue bonds, bond anticipation notes, loans, or from any other method authorized by law, including the allowance of advance rental credits.

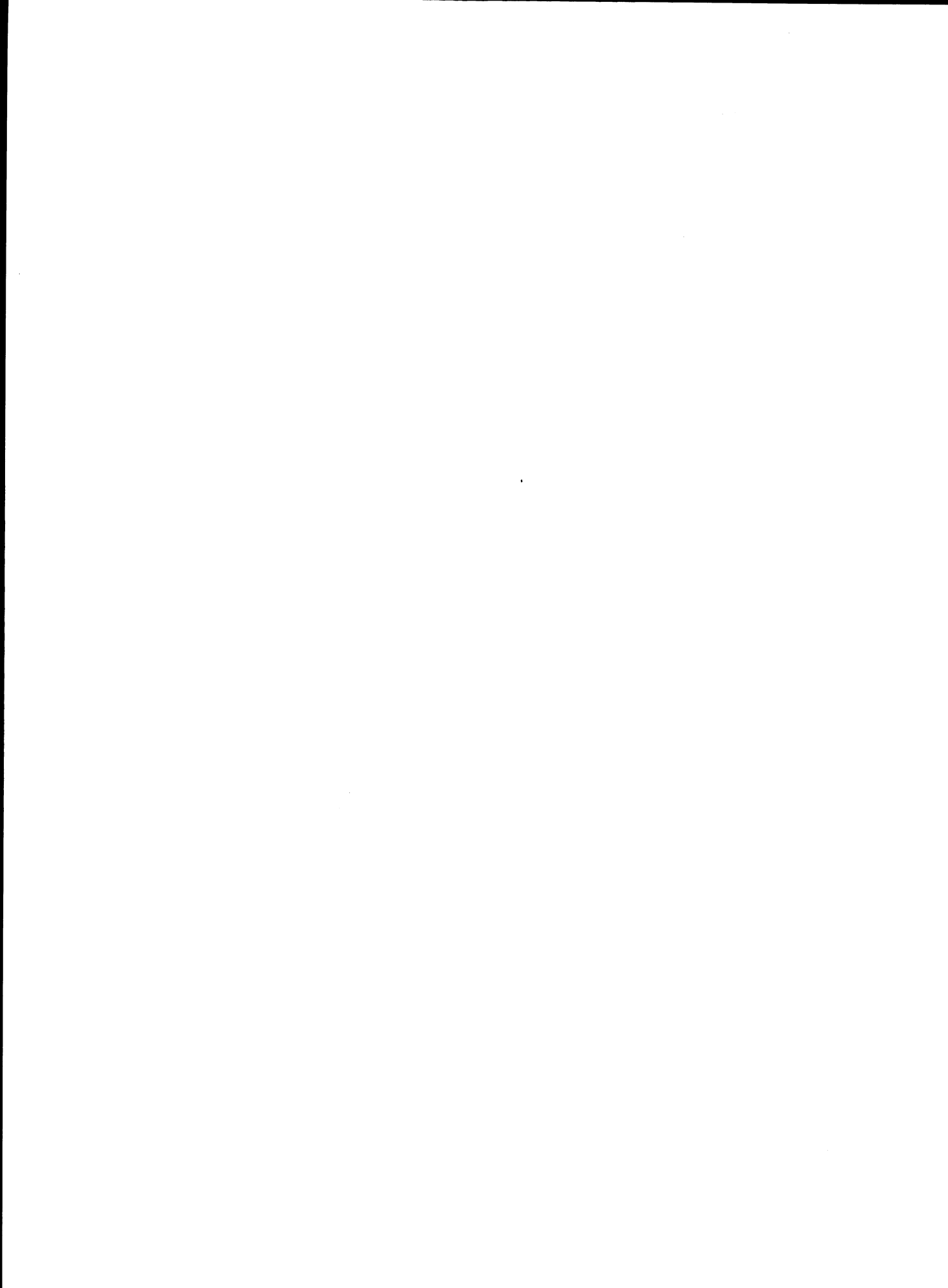
(The term "county" as used in Section 125.012, F. S., is defined by Section 125.011, F. S., to include only those counties operating under a home rule charter adopted pursuant to Sections 10, 11, or 24, Article VIII of the Constitution of 1885, as preserved by Subsection 6(e), Article VIII of the Constitution of 1968. Currently, only Dade County has adopted a charter under these provisions; therefore, the amendment to Section 125.012, F. S., which appears in Section 6 of SENATE BILL 682 applies only to Dade County.)

COMMITTEE SUBSTITUTE FOR HOUSE BILL 765 (CHAPTER 82-53) amends the Florida Interlocal Cooperation Act of 1969 (Section 163.01, F. S.) and the Joint Power Act (Part II, Chapter 361, F. S.). It expands and clarifies the powers of "legal entities" composed entirely of publicly-owned electric utilities and the investor-owned utilities with which they may wish to deal. The act's definition of "electric project" expands the types of projects and scope of activities for which revenue bond financing can be used. Additional powers given to "legal entities" and "public agencies" include such items as the following: the authority to plan, finance, construct, maintain, extend, or jointly participate in "electric projects"; an exemption from public bidding and competitive

bidding, including Section 287.055, F. S., in relation to entry into an agreement relating to an "electric project"; and the authority to include specified provisions in these agreements, including default definitions and remedies, purchase options, restraints on alienation, cost allocations, rates, and prohibitions against withdrawing from the "legal entity." "Legal entities" may only acquire services and capacity from an "electric project" in which it has ownership interest, except in certain cases. "Legal entities" may not purchase wholesale power from any electric utility for resale to its customers if such sale is the result of legal proceedings in a federal court or by an administrative body. The enactment also specifies several limited circumstances which must exist before the "legal entity" can sell electricity to various persons. In addition, parties to contracts are made defendants in the bond validation proceedings, and these defendants must show cause why the validity of the contracts should not be inquired into by the court. Contracts or bond agreements may not be impaired by the state, and powers of the "legal entity" may not be impaired in such a way as to adversely affect the rights of bondholders. Any "public agency" or "legal entity" which participates in an electric project waives its sovereign immunity in relation to all other persons related to the project. Materials supplied in connection with a project which are deemed by the supplier to be confidential and proprietary, or which have been determined to be confidential by a court or regulatory agency, are not public record for purposes of the

public records law. Criteria for the valuation of condemned electric utility property are established. And finally, "legal entities" are prohibited from exercising the power of eminent domain to acquire retail distribution facilities.

HOUSE BILL 24-D (CHAPTER 82-228) creates the Community Services Block Grant Program Act. The act, in essence, authorizes the assumption of the federal government's Community Services Block Grant Program by the state. Guidelines for the distribution of the federal funds to community action agencies, local governments, and migrant farmworker organizations, for the state fiscal year 1982-83, are provided. Matching requirements for grant applicants are also specified. The Department of Veteran and Community Affairs (DVCA), which is directed to administer the program, must establish a committee composed of local officials and representatives of migrant farmworker organizations and community action agencies to provide advice to the Department Secretary concerning administration and distribution of these funds for fiscal year 1983-84 and beyond. Following statewide public hearings, DVCA and the advisory committee must submit a report to the Governor and Legislature by March 1, 1983, with recommendations regarding the future administration of the program, as well as the consolidation of the program with the activities of the state's Community Services Trust Fund program.





MOTOR VEHICLES AND TRANSPORTATION\*

Enactments of the 1982 Legislature in the area of motor vehicles and transportation include: revision of Chapter 319, F. S., relating to titles and liens on motor vehicles and mobile homes; requirement that newly formed Metropolitan Planning Organizations be operative within six months of designation by the Governor; modification of procedures for reporting of unclaimed motor vehicles; provision for issuance of special license plates for active Armed Forces reservists and ex-prisoners of war; requirement that mobile home and recreational vehicle brokers be licensed by the state; provision directing the Department of Transportation to develop both a proposed and a final annual program budget; authorization for use of permanent license plates on vehicles rented, loaned or leased to a district school board for driver training purposes; reenactment with modifications of Chapters 351 and 354, F. S., relating to the regulation of railroads and other common carriers; authority for the Department of Transportation to cash-flow the revenue in the Sunshine State Parkway Improvement Fund; requirement for use of child restraint devices for children five years old or younger;

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\*Prepared by staff of Senate Committee on Transportation

authorization for municipalities to finance mass transportation systems through special assessments; provision for new or replacement speed limit signs on the state highway system to show the speed limit both in miles per hour and in kilometers per hour, if approval of the Federal Highway Administration is obtained; and establishment of a statutory schedule setting liquidated damages to be charged upon a contractor's failure to complete construction work for the Department of Transportation within the time specified on the contract. Summaries of these and other related acts are presented herein.

#### MOTOR VEHICLES and HIGHWAY SAFETY

##### Motor Vehicle Titles, Registrations and License Plates

SENATE BILL 149 (CHAPTER 82-134) revises Chapter 319, F. S., relating to titles and liens on motor vehicles and mobile homes. The act repeals several sections and deletes numerous provisions which were either incorporated by the measure into other sections or were found to be obsolete, redundant, or otherwise unneeded. The enactment also makes numerous technical changes aimed at clarifying existing provisions and correcting minor deficiencies throughout Chapter 319, F. S.

Several substantive changes contained in the act include the following: (1) elimination of the requirement that the amount of the lien on a motor vehicle be specified on the notice of lien; (2) when there are vehicle co-owners in the

alternative, connected by the word "or," each co-owner is allowed to place a lien on the vehicle; (3) provision that the filing of a notice of lien constitutes perfection of a security interest under Chapter 319, F. S.; (4) definitions are provided for terms frequently used in the chapter, and the definitions contained in Chapter 320, F. S., are made applicable to Chapter 319, F. S., unless otherwise provided; (5) provisions requiring indication of the purchaser's name prior to notarization of a title transfer and prohibiting title transfers unless the seller is named as owner on the title, are made applicable to mobile home title transfers; and (6) authorization is provided for the use of temporary tags on vehicles offered for lease by a rental car company which is licensed as a motor vehicle dealer under rules and regulations prescribed by the Department of Highway Safety and Motor Vehicles.

The issuance of specially designated license plates for Florida residents who are ex-prisoners of war or active United States Armed Forces reservists is authorized by SENATE BILL 511 (CHAPTER 82-97). Upon application, accompanied by proof of internment as a prisoner of war or active membership in a reserve unit, and payment of the appropriate license tax, the owner of an automobile, recreational vehicle or light-weight truck which is not used for hire or commercial use, could obtain the appropriate special plate.

A second provision of the enactment removes trucks with a gross weight of 26,000 pounds or more from the statutory requirements of Subsection 320.08(4), F. S., which bases the

amount of license tax due on gross vehicle weight, and places them in the jurisdiction of Subsection 320.08(3), F. S., which bases the tax due on net weight. The effect of the provisions of this act is that the license tax for all trucks weighing over 5,000 pounds is based on net weight, while the tax for all truck-tractors is based on gross vehicle weight.

Any person cited for a noncriminal traffic infraction may post a bond in the amount of the applicable civil penalty. The act increases the bond amount in the case of an expired registration, by requiring that the bond shall equal the amount of the license tax due under Chapter 320, F. S., together with the amount of the civil penalty.

The act further provides that operation of a motor vehicle or boat without a current registration license plate and validation stickers would subject the vehicle owner, if he is present, to the applicable penalty. In the owner's absence, the operator would be subject to the penalty. The penalty for operation of a boat without a current registration is reduced from a misdemeanor to a noncriminal violation subject to a \$15 civil penalty. Finally, marine boat trailer dealers are authorized to issue temporary tags to purchasers of boat trailers.

Two provisions relating to motor vehicle registrations are contained in HOUSE BILL 196 (CHAPTER 82-112). The first requires positive proof of identification in order to obtain information from Department of Highway Safety and Motor Vehicles' registration files. A record of the inquiry is to be

kept for six months. Financial institutions, insurance companies, motor vehicle dealers, licensees under Chapter 493, F. S. (relating to investigative and patrol services), and others as determined by the Department, may obtain registration information by means of a code to be developed by the Department.

Under the second provision, a nonresident college student is permitted to be present in the state for up to six months on a work-study program without registering his vehicle or obtaining a driver's license in this state if his vehicle is properly registered in another jurisdiction and he possesses a valid driver's license from another state. Additionally, this exemption would apply to any nonresident student enrolled full-time at a college or university, for the duration of his enrollment.

SENATE BILL 150 (CHAPTER 82-17) exempts from the annual license tax any motor vehicle or mobile home owned by and operated exclusively for the personal use of any member of the U. S. Armed Forces who is a nonresident of Florida and who is stationed in the state in compliance with military or naval orders. Upon payment of a \$3 administrative fee, a license plate, revalidation sticker or mobile home sticker would be issued, as appropriate. The act operates retroactively to December 1, 1980, in order to ratify administrative action taken earlier.

HOUSE BILL 937 (CHAPTER 82-129), in part, authorizes the issuance of special indefinite registration license plates and

vehicle registration certificates to the owner of 25 or more semitrailers used exclusively for hauling agricultural products, as defined. In addition to the annual license tax amount due, a fee of \$3 would be charged for each semitrailer registered. (Other provisions of this enactment are included in this article under the subheadings, Licensing of Motor Vehicle and Mobile Home Dealers and Miscellaneous.)

Under the provisions of HOUSE BILL 858 (CHAPTER 82-128), the permanent, tax-exempt license plates issued to a governmental entity (in this case, the county) may be used on vehicles loaned, rented or leased to a district school board for the purpose of providing driver education training.

SENATE BILL 386 (CHAPTER 82-50) exempts privately owned license tag agencies, appointed by the county manager of a charter county with an appointed tax collector, from the provisions in the law that prohibit a tax collector or an employee of the state or county from charging a notary fee in connection with the issuance of motor vehicle license tags or titles. Additionally, the current provision that prohibits the issuance of a prestige (personalized) plate for vehicles used for hire or commercial purposes, or for trucks weighing in excess of 5,000 pounds, is repealed.

#### Driver Licenses

The Department of Highway Safety and Motor Vehicles is authorized by SENATE BILL 66 (CHAPTER 82-132), to issue a non-renewable restricted operator license to persons 15 years of

age or older (changed from 16 years or older). Any person who has previously held such a license may not be issued another one and the original license is not renewable. Existing statutory language specifying conditions for restricted operator license holders to operate a motor vehicle after dark is clarified.

(The restricted operator license addressed in this legislation is the license issued to a person initially obtaining a Florida license and is different from the "operator restricted license." Examples of an operator restricted license would be one requiring the person to wear corrective lenses when driving or one authorizing the operation of a vehicle for business purposes only.)

SENATE BILL 317 (CHAPTER 82-20) provides that proof of the giving of notice and order of cancellation, suspension or revocation of a driver's license may be made by entry into Department of Highway Safety and Motor Vehicles records that such notice was given. The record entry is admissible in the courts of this state and constitutes sufficient proof that notice was given to the licensee.

Florida law requires that the driver of any vehicle involved in an accident resulting in the injury or death of any person immediately stop and remain at the scene of the accident. SENATE BILL 656 (82-161) specifies that any person who fails to comply with this requirement is guilty of a third degree felony. This change has the effect of increasing the maximum term of imprisonment from one year to five years, but

retaining the maximum fine of \$5,000. Additionally, a repeat violator of this law would be subject to the penalties applicable to habitual offenders.

Statutory provisions relating to driving under the influence of controlled substances and alcohol are consolidated in Chapter 316, F. S., the "Florida Uniform Traffic Control Law," by COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 69, 432, 312, 351, 39 and 285 (CHAPTER 82-155) summarized in the article on LAW ENFORCEMENT AND CRIMINAL JUSTICE.

#### Licensing of Motor Vehicle and Mobile Home Dealers

Two provisions of HOUSE BILL 937 (CHAPTER 82-129), relate to dealer licensing. The first authorizes endorsement of a motor vehicle dealer license to reflect a change in the licensee's name when majority ownership interest of the licensee has not changed or when the name of the franchisee on the sales and service agreement has not changed. A fee of \$25 would be charged for the endorsement.

The second provision requires that mobile home or recreational vehicle brokers, as defined by the act, must be licensed in the manner established by law for mobile home and recreational vehicle dealers. However, a broker is not required to certify that the business location provides adequate vehicle storage space in order to be licensed.



(Other provisions of this act are included in this article under the subheadings, Motor Vehicle Titles, Registrations and License Plates and Miscellaneous.)

#### Vehicle Child Restraints

COMMITTEE SUBSTITUTE FOR SENATE BILLS 298 and 101 (CHAPTER 82-58) requires that each parent or legal guardian of a child five years old or younger must provide for the protection of that child when transporting him in a passenger car, van, or pickup truck, by using an approved child restraint device. For children under the age of four years a separate crash-tested, federally approved carrier is required. Children four through five years old shall be protected by either a separate carrier or seat belt. Failure of the parent or legal guardian to provide and use a child passenger restraint shall not be considered comparative negligence, nor shall such failure be admissible as evidence in the trial of any civil action with regard to negligence.

Persons found to be in violation of the provisions of this act are subject to a civil fine of \$15. Charges may be dismissed by the clerk of the court if the defendant, prior to his court appearance, produces proof that he has acquired a child restraint device.

It is the intent of the Legislature that all state, county and local law enforcement agencies and safety councils conduct a continuing safety and public awareness campaign as to the dangers associated with transporting unrestrained children.

The effective date of this act is delayed until July 1, 1983.

#### Unclaimed Motor Vehicles

The procedure for reporting unclaimed motor vehicles is substantially modified by SENATE BILL 479 (CHAPTER 82-157). The act provides that whenever a law enforcement agency authorizes the removal of an abandoned vehicle, or whenever a law enforcement agency is notified by a garage or storage facility of possession of a vehicle removed from private property at the request of the property owner, the law enforcement agency shall report the vehicle to the Department of Highway Safety and Motor Vehicles within 24 hours. The Department must search its files and, within 72 hours, notify the applicable law enforcement agency of the identity of the owner and any lienholders. After obtaining this information, the person in charge of the storage facility is required, within 5 days from the storage date, to notify the owner and any lienholders of the vehicle's location. Failure to make good faith best efforts to comply with these notice requirements precludes the imposition of any storage charges against the vehicle.

#### Miscellaneous

HOUSE BILL 1054 (CHAPTER 82-130) provides, with the exception of law enforcement agencies, statutory authority for fees currently charged by the Department of Highway Safety and Motor Vehicles for duplication of various types of records.

Additionally, the act provides statutory authority for activities performed by the Department in conjunction with its recordkeeping functions, including destruction and photographing of records. Further, the enactment specifies current practices with regard to admissibility into evidence of authenticated reproductions of original and photographed records.

Under one of the provisions of HOUSE BILL 937 (CHAPTER 82-129), the level of the surety bond statutorily required of the tax collectors is to be determined based on an amount not more than 10 percent above the average of the daily deposits of each tax collector. (This provision codifies the current method used by the Department of Highway Safety and Motor Vehicles in determining the bond amount.) (Other provisions of this act are included in this article under the subheadings, Motor Vehicle Titles, Registrations and License Plates and Licensing of Motor Vehicle and Mobile Home Dealers.)

SENATE BILL 26 (CHAPTER 82-68) requires all motor vehicles leased by the state for longer than one year and all motor vehicles purchased by the state to use energy-saving devices, equipment, and additives which are approved by the United States Environmental Protection Agency and which have been determined to be cost-effective by the Department of General Services.

## TRANSPORTATION

### DOT - Program Budget and Construction Plan

The Department of Transportation (DOT) is required by the provisions of COMMITTEE SUBSTITUTE FOR HOUSE BILL 192 (CHAPTER 82-31) to develop both a proposed and a final annual program budget. The proposed annual budget and 5-year construction program shall be submitted to the legislative appropriations committees prior to the start of each regular legislative session. The final program budget is to be prepared upon passage of the Legislative Appropriations Act. Additionally, the final 5-year construction plan may include only those projects submitted as part of the proposed 5-year plan and projects necessary to satisfy the provisions of the Appropriations Act.

The Department is also required to develop a list of unfunded projects that could be made production ready within the biennium in the event that additional sources of state revenue are made available. The list must include projects defining programs for the interstate system, noninterstate highway and bridge replacement and rehabilitation, traffic operations, public transportation, and major new road and bridge construction. The level of these unfunded programs shall equal approximately 50 percent of the corresponding funded programs in the biennium plan, except that higher limits may be established by the Department to accommodate anticipated federal funding actions. An appropriate amount not to exceed

\$50 million may be determined by the Department if a funded program does not exist. The list shall be prioritized based on need. Projects scheduled in the later years of the funded 5-year construction plan may be included in the list and shown in an advanced position if justified by priority. The list shall be submitted to the legislative appropriations committees prior to the start of each regular session.

Upon adoption of the final annual budget and 5-year construction plan, the Department's authorization to substitute projects is limited to those projects funded in the 5-year plan. If a substitution occurs and results in the delay of the right-of-way or construction phase of a project estimated to cost in excess of \$500,000, the Department must notify the legislative appropriations and transportation committees. The transportation committees shall notify each legislator who represents the district or districts affected by the substitution. Notification by the Department shall also include the name, location and estimated cost of any project that is advanced in the 5-year work program as a result of the delay of any other project.

#### Department of Transportation Construction Contracts

Under the provisions of HOUSE BILL 640 (CHAPTER 82-41), when a contractor performing work for the Department of Transportation on a construction project has defaulted due to failure to complete the contract work within the time specified in the contract or within such additional time allowed by the

Department, the liquidated damages will be determined by a schedule provided in the act. This schedule sets a fixed daily charge based on the amount of the original contract, except that on contracts totalling \$20 million or more the daily charge is a combination of a fixed amount plus .005 percent of the contract amount over \$20 million. The act further provides that if the Department determines and documents that timely completion of a project is essential to public health, safety or welfare, the contract may provide for an incentive payment for early completion of the project and additional damages against the contractor for late completion. These incentive payments or additional damages may not exceed \$2,000 per calendar day for a maximum of 100 days.

#### Public Transportation

SENATE BILL 590 (CHAPTER 82-198) expands the present law to include mass transportation systems as a type of public works project that may be undertaken by a city or municipality and financed by a special assessment against the owners of property that adjoins the improvements or against property owners who benefit from such improvements, subject to prior approval of affected property owners. Additionally, the length of time under which assessments may be levied is increased from 10 to 20 years.

SENATE BILL 922 (CHAPTER 82-139) expands the definition of "transit system" to include those systems operated within any county or transit transportation authority region in the

state (including demand-type service that is an integral part of the main system). Independent taxicabs and limousine operations are excluded from the definition.

Under the provisions of the legislation these systems are entitled to a refund of the four cents primary gas tax that they have paid in the acquisition of motor fuel. The Department of Revenue is required to authorize such refunds when it is satisfied the refund is proper and timely.

#### Transportation Finance

HOUSE BILL 405 (CHAPTER 82-120) provides that effective July 1, 1983, the State Board of Administration (SBA) shall distribute the counties' 80 percent share of the Second Gas Tax in the same manner as the 20 percent share is currently distributed. The act also directs the SBA to assure that county funds are made available to the Department of Transportation to be held in escrow for any construction underway on behalf of the county pursuant to resolution of the county governing body.

Operation of the Sunshine State Parkway (Florida Turnpike) budget is modified by SENATE BILL 673 (CHAPTER 82-162). The act eliminates the requirement that funds be budgeted on an encumbrance basis and instead allows operation of the budget on a cash-flow basis. Under this method, funds estimated to be available for the year will be exhausted, with the exception of a required cash reserve of not less than 10

percent of the unpaid balance of all turnpike improvement project obligations outstanding at any time.

COMMITTEE SUBSTITUTE FOR SENATE BILL 620 (CHAPTER 82-246) directs the Florida Department of Transportation to increase for a one-year period toll charges on all except westbound lanes of "Dolphin" and "Julia Tuttle" or "Airport" Expressways (State Roads 836 and 112 respectively) from 10 cents to 25 cents. During this time the Department is to conduct a study to determine whether 25 cents or 20 cents toll would provide revenues required by the bond indentures, and the effect on revenues of free travel during certain daylight hours and free egress at one Dolphin Expressway exit. The results of the study are to be reported to the chairmen of the House and Senate Transportation Committees prior to the 1984 Session. Moreover, the act authorizes the Department to place tolls on the 192nd Street Causeway to fund a study to determine the feasibility of financing construction on U. S. Highway 1 in north Dade County through bonds underwritten by such tolls.

#### Ridesharing

Information provided to a governmental entity for purposes of forming ridesharing arrangements which reveal the identity of any person participating in such arrangements is exempted from the public records law by SENATE BILL 322 (CHAPTER 82-95). In another provision of this enactment, the liability of employers who encourage or promote ridesharing arrangements is limited. Such employers are not liable for



injuries or damages to persons resulting from the operation of a vehicle used in a ridesharing arrangement between a residence and place of employment. This limitation would not apply to motor vehicles owned or leased by the employer nor to acts by an employee within the scope of his "employment," as defined in the act.

#### Speed Limit Designation

SENATE BILL 306 (CHAPTER 82-94) requires that, subject to approval by the Federal Highway Administration, all new or replacement speed limit signs erected by the Department of Transportation shall show the legal speed limit both in miles per hour and in kilometers per hour.

In a second provision, the act provides that when, due to accident, equipment failure or other emergency, a temporary detour to bypass a bridge on the State Highway System is necessary, and the only available detour is over a toll facility, the Department is authorized to pay the tolls to the appropriate authority.

#### Disposal of Surplus Property by DOT

The allocation of appraisal costs in conjunction with the disposal of surplus property by the Department of Transportation is the subject of HOUSE BILL 407 (CHAPTER 82-36). When, as a result of an inquiry, the Department initiates the process to dispose of surplus property, the person making the inquiry will bear the cost of an independent appraisal to determine the fair market value of the property. If the

property is sold to another, then the purchaser would pay the appraisal costs. If no purchase takes place, the initial inquirer will forfeit the sum he paid for the appraisal. The appraisal shall be prepared in accordance with Department guidelines and regulations by an independent appraiser certified by the Department. If federal funds were used in acquisition of the property, the appraisal shall also be subject to approval by the Federal Highway Administration of the United States Department of Transportation.

Additionally, the act authorizes the Department to lease surplus property, as well as convey it without charge, to any unit of state or local government to be used for a public purpose. Any property which was acquired by a county for rights-of-way for roads on the state highway or state park road system, and which is no longer used or needed by the Department, may be conveyed without cost to that county. The county may then sell such surplus property upon receipt of competitive bids in the same manner as prescribed for the Department under the provisions of Subsection 337.25(2), F. S.

#### Metropolitan Planning Organizations

HOUSE BILL 518 (CHAPTER 82-9) provides that future Metropolitan Planning Organizations (MPO's) must be fully operative no later than six months after designation by the Governor. (MPO's are established within each urbanized area where a planning organization is necessary to meet federal requirements for obtaining and expending transportation funds.

As a result of the 1980 federal census, six additional MPO's were designated in Florida.)

#### Electronic Navigation Protection Equipment

HOUSE BILL 772 (CHAPTER 82-126) requires pilots and deputy pilots to use electronic navigation protection equipment as an aid to navigation when passing under bridges having such protection equipment. If such equipment requires that portable devices be used on the piloted vessel, it will be the responsibility of the pilot or deputy pilot to bring the devices on board and to remove such devices upon completion of his duties aboard the piloted vessel.

The act further requires that the pilot not proceed under a bridge if the navigation protection equipment or portable device malfunctions during the vessel's approach to the bridge and the bridge is not continuously visible for the final two miles of the approach.

The provisions of this act stand repealed on October 1, 1984, subject to review under the Regulatory Sunset Act.

#### Regulation of Railroads and Other Common Carriers

COMMITTEE SUBSTITUTE FOR SENATE BILL 140 (CHAPTER 82-90) was the result of the Legislature's review of Chapters 351-360, F. S., relating to railroads and other common carriers, as required by the Regulatory Sunset Act. Certain provisions of Chapters 351 and 354 are modified to provide:

Whenever a railroad train stops so as to block a public highway, street or road (not equipped with flashing lights or

other adequate lighting), at any time from one-half hour after sunset to one-half hour before sunrise, the crew of such train shall place a lighted fusee or other visual warning device to warn approaching motorists of such blockage;

Maintenance provisions are specified for all public rail/highway crossings where a permit has not been issued by the Department of Transportation, including provisions for correction should the maintenance not be performed in cases where railroad companies have assigned responsibility;

The gubernatorial appointment of special officers specified in Section 354.01, F. S., requires that the officers, before appointment, meet the law enforcement standards and training requirements in Sections 943.13-943.145, F. S. Existing officers have until October 1, 1985, to comply. If an officer is decertified pursuant to Section 943.145, F. S., the Governor shall revoke the officer's commission. Additionally, Section 354.07, F. S., relating to suits for damages against the bond of any officer, is amended to clarify that this remedy is not exclusive of any other remedy available;

A general grant of eminent domain power and a procedure for the use of state lands is extended to any railroad company organized under the laws of this state;

The Public Service Commission (PSC) is empowered in Section 351.003, F. S., to exercise jurisdiction over intrastate rail rates and practices in accordance with applicable federal standards and procedures. The Commission shall also adopt all rules necessary to implement the

provisions of Chapter 351, F. S., relating to the duties of railroads, as well as the other provisions set forth in the legislation. The fee schedule, which is contained in Section 351.009, F. S., and which is payable by every railroad company which applies for a rate increase or appears before the Commission through other applications, has been increased. Rates being charged or collected prior to the enactment of this legislation shall not be changed or invalidated.

Both Sections 351.003 and 351.009, F. S., are scheduled for repeal on October 1, 1984, and shall be reviewed by the Legislature pursuant to Section 11.61, F. S.

The PSC is directed to conduct a performance audit of Commission Rail Rate Regulation. Said audit shall be reviewed by the Auditor General and shall then be submitted to the Legislature no later than January 1, 1984.

Chapters 351 and 354, F. S., as amended (except for specified sections), are revived and readopted. They shall be repealed on October 1, 1992, and shall be reviewed pursuant to Section 11.61, F. S.

(The following chapters of the Florida Statutes were not revived or readopted as part of the legislative review and are therefore repealed on October 1, 1982, as scheduled by the Regulatory Sunset Act: Chapter 352, Duties to Railroad Passengers and Freight; Chapter 353, Claims for Lost or Damaged Freight; Chapter 355, Carriers' Lien and Enforcement; Chapter 356, Fencing and Evidence of Livestock Cases; Chapter 357, Railroad Crossings, although some of the provisions contained

in this chapter were recreated in Section 338.21, F. S.; Chapter 358, Tickets, Passes, and Discounts; Chapter 359, Express Companies; and Chapter 360, Special Powers of Railroad and Canal Companies, Tolls, but provisions for eminent domain and use of state lands contained in this statutory chapter were recreated in the act summarized immediately above.)

PROFESSIONAL REGULATION\*

As in recent years, the majority of changes in the laws relating to professional regulation are encompassed within one omnibus law. This year that enactment is COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179). This summary discusses changes generally affecting the Department of Professional Regulation, followed by further discussion under subheadings for each affected profession including architecture, construction, cosmetology, dentistry, engineering, funeral related professions, land surveying, massage, nursing home administration, opticianry, pest control, pharmacy, plumbing, psychological services, and real estate. Summaries of other enactments are also grouped under the appropriate subheadings and include provisions relating to: the Department's authority to subpoena patient records and to inspect pharmacies and other establishments where practitioners are authorized to prescribe controlled substances; changes in certification qualifications for the practice of acupuncture; a substantial revision of the state pest control laws; creation of a Division of Real Estate within the Department of Professional Regulation; granting certain graduates of the University of Havana unlimited

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\*Prepared by the staff of House Bill Drafting

privileges in the number of times they may take the state dental examination; and modifying the medical practice act to require certain notices of intent be filed by licensed physicians entering into a supervisory relationship with physician's assistants, emergency medical technicians or advanced registered nurse practitioners.

Department of Professional Regulation

COMMITTEE SUBSTITUTE FOR SENATE BILL 459 (CHAPTER 82-22) authorizes the Department of Professional Regulation to obtain patient records pursuant to a subpoena without the patient's consent if the Department and the probable cause panel of the appropriate regulatory board have reasonable cause to believe that a licensed physician, osteopathic physician, podiatrist, dentist, or veterinarian is excessively or inappropriately prescribing a controlled substance. The use of such records is limited to disciplinary proceedings. This access to patient records is not intended to limit the psychotherapist-patient privilege of qualified physicians and osteopathic physicians.

The Department is authorized to inspect pharmacies and establishments where the services of practitioners authorized to prescribe controlled substances are offered, in order to determine whether the laws regulating physicians, osteopathic physicians, podiatrists, dentists, and veterinarians are being violated, or to secure evidence for administrative prosecutions against such practitioners.



COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179)  
amends Section 455.217, F. S., to authorize the Department, in the absence of a regulatory board, to adopt rules relating to the security and monitoring of the various licensure examinations and reexaminations, as well as making available an examination review procedure for the applicants.

#### Acupuncture

COMMITTEE SUBSTITUTE FOR HOUSE BILL 615 (CHAPTER 82-172)  
amends Part VII of Chapter 468, F. S., to change the certification qualifications for the practice of acupuncture by removing the 2-year education and 2-year apprenticeship requirements for eligible applicants for certification. After July 1, 1983, applicants must complete a 1-year apprenticeship program. Applicants for the apprenticeship program must pass an examination administered by the Department of Professional Regulation and pay a separate examination fee. The exemption from certification granted to licensed physicians, osteopathic physicians, chiropractors, podiatrists, naturopathic physicians, and dentists is expanded to include all licensed health care professionals. Those persons certified by the Department prior to passage of this act are not required to requalify for certification.

#### Architecture

COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179)  
amends Part I of Chapter 481, F. S., relating to architecture, to provide that any person who wishes to make plans or

specifications for, or supervise the erection, enlargement or alteration of, a single-family townhouse need not be qualified as an architect. The term "townhouse" is defined to place various restrictions upon the construction thereof.

#### Construction Contracting

The scope of practice of a plumbing contractor is redefined and expanded by COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179) which amends Part I of Chapter 489, F. S. Plumbing contractors are authorized to perform incidental excavation work, but must subcontract to the appropriate type of contractor any incidental work which is specifically within the scope of a contractor other than a plumbing contractor. Registered and certified contractors must affix their registration or certification numbers to their applications for building permits, rather than to their contracts and bids.

#### Construction Industry

COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179) creates a 20-member Committee for the Study of the Construction Industry, to be composed of representatives of various construction-related fields, the Secretary of the Department of Professional Regulation (or his designee), a building official, and a member of the Senate and the House of Representatives. The Committee will study conditions, standards and practices in commercial and multi-unit residential construction which present safety risks, and must make recommendations to the Governor and Legislature by February 1, 1983, on how to

alleviate or correct problems. A \$20,000 appropriation is made for paying administrative costs and travel expenses.

### Cosmetology

COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179) amends Chapter 477, F. S., relating to cosmetology, to increase from \$25 to \$50 the maximum fee for reciprocity applications, examinations and reexaminations of cosmetologists and cosmetology instructors. The Board of Cosmetology is required to maintain testing facilities in cities in which testing facilities have been located for the past 5 years.

### Dentists

COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179) amends Chapter 466, F. S., relating to dentistry, dental hygiene and dental laboratories to require dental records to indicate the dentist of record and creates a presumption, for purposes of disciplinary proceedings, that dental treatment was rendered by the dentist of record. Persons other than licensed dentists are prohibited from employing or engaging in a variety of proprietary relationships with dentists or dental hygienists. This attempt to prohibit interference with the independent professional judgment of these professionals also prohibits nondentists from exercising control over dental records, treatment, policies or decisions. Any violator of these prohibitions is guilty of a third degree felony.

Graduates of foreign dental schools, or of dental schools not approved by the Board of Dentistry, who apply for a

dentist's license and cannot pass either part of the National Board of Dental Examiners' examination in two attempts, may not take the state laboratory model examination. Similarly, such applicants who twice fail the laboratory model examination may not take the state written or clinical examinations. However, SENATE BILL 21-D (CHAPTER 82-220) provides that applicants who graduated from the University of Havana prior to 1962 may take the above examinations any number of times. COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179 ) also increases the maximum fee for the manual skills portion of the dentistry examination from \$100 to \$250.

#### Engineering

COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179) amends Chapter 471, F. S., relating to engineering, to expand the type of construction project on which an electrical, plumbing, air-conditioning, or mechanical contractor may work without being registered as an engineer to include projects that require air-conditioning and refrigeration equipment serving an occupant content of fewer than 100 persons and having a value of \$100,000 or less, rather than \$10,000 or less.

#### Funeral Home Directing, Embalming and Direct Disposition

The Board of Funeral Directors and Embalmers is authorized by COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179) to establish an embalmer apprenticeship program under which an apprentice will serve under the direct supervision of

a licensed embalmer for a period not to exceed one year. The Department of Professional Regulation will biennially register direct disposal establishments, and will annually register preneed sales agents, defined as persons who sell preneed funeral service contracts or direct disposition contracts. Licensed funeral directors, embalmers and direct disposers are exempt from registration as preneed sales agents.

### Land Surveyors

The Board of Land Surveyors is increased from five to seven members by COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179) which amends Chapter 472, F. S., relating to land surveying. The maximum license renewal fee for land surveyors is increased from \$50 to \$150. Each registered land surveyor, whether a corporation, partnership or individual, must use a seal prescribed by the Department of Professional Regulation. All final drawings, plans, specifications, plats or reports prepared by a registered land surveyor, which are in accordance with minimum technical standards adopted by the Board of Land Surveyors, must be signed and stamped with the seal, regardless of whether they are being filed for public record.

Part I of Chapter 177, F. S., relating to platting, is also amended by this act to provide that any registered land surveyor may place Permanent Control Points (secondary horizontal control monuments used in platting) whenever the surveyor of record is unavailable due to relocation, or when

the contractual relationship between a subdivider and a surveyor has been terminated. The clerk of the court is required to place a specified notation in the margin of a recorded plat when a land surveyor has filed an affidavit confirming an error on the plat.

#### Massage

The Board of Massage is authorized by COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179) to issue a provisional license to an otherwise qualified applicant which will allow the licensee to practice massage under the supervision of a licensed masseur until the next scheduled examination for a regular license. No person may receive more than one provisional license the fee for which is \$25.

#### Medical Practice

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 239 (CHAPTER 82-32) modifies the provisions of Chapter 458, F. S., relating to medical practice, to require licensed physicians to submit to the Board of Medical Examiners a notice of intent to enter into an established protocol, standing order or formal supervisory relationship with a physician's assistant, emergency medical technician or advanced registered nurse practitioner for the performance of specified medical acts. The joint committee established in Paragraph 464.003(3)(c), F. S., composed of members of the Board of Nursing, members of the Board of Medical Examiners, and a Department of Professional Regulation representative, will

determine minimum standards for established protocols and physician supervision. The Board of Medical Examiners and the Board of Nursing will adopt such standards. Membership of the joint committee is altered to require that two (instead of one) of the three members from the Board of Nursing be advanced registered nurse practitioners, and that two of the three members from the Board of Medical Examiners shall have had work experience with advanced registered nurse practitioners.

Physicians may be disciplined for failing to supervise adequately the activities of physician's assistants, emergency medical technicians, or advanced registered nurse practitioners acting under their supervision.

#### Nursing Home Administration

COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179) amends Part IV, Chapter 468, F. S., relating to nursing home administration, to provide that applicants for licensure by endorsement (which allows persons to be licensed without an examination because they are licensed in another state or have already passed an equivalent examination) will have to pass an examination on the laws and rules of Florida relating to nursing home administration. The Board of Nursing Home Administrators is authorized to assess an application fee for a provisional license for nursing home administrators not to exceed \$100.

#### Opticians

COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179)

authorizes licensed opticians to delegate to nonlicensed supportive personnel duties, tasks and functions which do, rather than do not, fall within the scope of practice defined as "opticianry."

#### Pest Control

HOUSE BILL 26-D (CHAPTER 82-229) reenacts and revises Chapter 482, F. S., relating to pest control. Some of the more substantial revisions include the following consumer protections:

Requires the pest control company to post a notice in the consumer's home when a wood-destroying organism inspection or control treatment is performed. This notice will indicate the company's name, address, the name of the pesticide used, the wood-destroying organism treated, and the inspection date. The contract for treatment must state the location of such notice;

Requires the pest control company to furnish the property owner with a signed report of the condition of the property when periodic reinspections or retreatments are completed;

Requires that a copy of the wood-destroying organism inspection report be retained by the pest control company for a period of not less than three years;

Provides restrictions in the use of the terms "guarantee" and "warranty" in a wood-destroying organism contract;



Provides that the inspection report contain a statement certifying that neither the inspector nor the owner of the pest control company has a conflict of interest concerning the property inspected or the transaction involved;

Requires any employee who performs wood-destroying organism inspections to receive special training in the area of wood-destroying organisms;

Provides that any pest control company disciplined for any violation of Section 482.226, F. S., relating to wood-destroying organism inspections, may be required to submit to the Department of Health and Rehabilitative Services reports for wood-destroying organism inspections and treatments performed;

Requires that when an inspection for wood-destroying organisms is made for purposes of real estate transfer, the inspection findings must be reported to the requesting party. The inspection report must specify where the notice of such inspection is located within the property owner's home;

Requires a certificate holder to complete four hours of approved continuing education or pass an examination given by the Department before the renewal date of the certificate;

Requires anyone performing pest control to have at least 5 days of field training under the supervision of a certified operator;

Finally, the act grants the Department authority to initiate administrative fines. It also increases fees (so that

the pest control program will be self-supporting rather than being subsidized by general revenue funds).

Chapter 482, F. S., as amended and readopted by this act, is scheduled for repeal on October 1, 1992, subject to review under the Regulatory Sunset Act.

### Pharmacy

COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179) authorizes pharmacists to fill prescriptions written by practitioners licensed in any jurisdiction, rather than any state, other than Florida. Pharmacists who allow their licenses to become inactive may reactivate them in the same manner and subject to the same continuing education requirements as is provided for license renewal. Licenses which are inactive shall expire after 4 years, rather than be suspended after 10 years.

### Psychological Services

Salaried employees of a developmental services program operated under the Department of Health and Rehabilitative Services are exempted by COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179) from licensure by the Board of Psychological Examiners. The licensure qualifications for marriage and family therapists and mental health counselors who are exempted from examination are changed and made applicable to otherwise qualified applicants who apply by September 30, 1982. A qualified applicant for licensure as a psychologist

without examination will have until June 30, 1982, rather than December 31, 1981, to apply for a license.

### Real Estate

The administration of the regulation of the real estate profession is significantly changed by SENATE BILL 419 (CHAPTER 82-1). A separate Division of Real Estate is created within the Department of Professional Regulation. The Division is given duties with respect to the preparation and administration of examinations and will be located in Orlando. The Board of Real Estate is renamed as the Florida Real Estate Commission. The Commission is authorized to delegate duties to the Division, or to any other division within the Department, when appropriate. The Commission may retain independent legal counsel, subject to the approval of the Attorney General.

The term "broker-salesman" is redefined by COMMITTEE SUBSTITUTE FOR HOUSE BILL 681 (CHAPTER 82-179) to mean any person who is qualified to be a broker who nonetheless operates as a salesman in the employ of another. A licensed broker may obtain additional licenses as a broker, but not as a salesman or broker-salesman, when it is shown that the additional licenses are necessary to the conduct of real estate brokerage business, so long as the additional licenses will not be used in a manner prejudicial to any other person. A real estate school may similarly obtain additional permits when necessary to the conduct of the school, so long as no other person is

prejudiced thereby. No real estate salesman or broker-salesman may have more than one employer at a time.

Certified public accountants acting within their authorized scope of practice are exempted from regulation by the Florida Real Estate Commission. The Commission is authorized to substitute for its continuing education course requirements for license renewal or reactivation any satisfactorily completed education course offered by certain real estate organizations or by an accredited university within the state.

PUBLIC OFFICERS AND EMPLOYEES\*

Compensation and career service, retirement, and ethics were the major areas of the law affecting public officers and employees which were addressed by the 1982 Legislature.

In the area of compensation and career service, the legislation which most directly affects all state employees requires the Department of Administration to establish and maintain a plan for part-time career employment. Other legislation authorizes the Public Service Commission to set the salaries of its official reporters notwithstanding any limitations prescribed by other laws. The Legislature also included the personal secretaries of cabinet officials in the class of persons eligible for certain Senior Management Service benefits.

In the area of retirement, certified law enforcement officers who are members of a bomb disposal unit are included in the special risk class of the Florida Retirement System. Provision is made for special risk members who are subsequently employed in certain nonspecial risk positions to earn credit for such service at the same percentage rate as that earned by a nonspecial risk member. There is also authorization for

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\*Prepared by Senate Legal Research & Drafting Services

county elected officers who are members of the Elected State Officers' Class of the Florida Retirement System to purchase additional retirement credit.

In the area of ethics, the Code of Ethics for public officers and employees is amended to make the filing of financial statements and other required information easier. New appointees to public office and new public employees are required to report their interest in a business authorized by the state to do business in Florida. Persons appointed to advisory boards may have reporting requirements waived. The "reasonably prudent person" test for determining whether acceptance of a gift violates the Code is abolished. And candidates for public office who violate the financial disclosure law are made subject to public censure, reprimand, or civil penalty not to exceed \$5,000.

#### Compensation and Career Service

SENATE BILL 156 (CHAPTER 82-18) creates Section 110.210, F. S., to require the Department of Administration to establish and maintain within the Career Service System a plan for part-time career employment whereby the duties and responsibilities of a full-time position in the career service are divided between part-time employees who are eligible for the position and who receive benefits and wages on a pro rata basis. Each employing agency may, in accordance with rules adopted by the Department, establish or convert a percentage of agency career service positions, not to exceed 10 percent, for

the shared-employment program. No person who is employed on a full-time basis in an agency shall be required to accept shared-employment as a condition of continued employment. No agency can abolish any position occupied by an employee without his consent to make the position one of shared-employment. Full-time positions which are converted to shared-employment positions retain the status of the former position for purposes of bargaining unit membership. The definition of "shared employment" provided in the act excludes persons paid from other personal services (OPS) funds.

HOUSE BILL 1092 (CHAPTER 82-187) authorizes the Public Service Commission, with the approval of the Department of Administration, to set the salaries of its official reporters notwithstanding any maximum limitations on such salaries set by law. The act also includes officers elected by popular vote, and persons appointed to fill vacancies in such offices and the personal secretary of each such officer, among those employees who are eligible for Senior Management Service benefits other than salary.

#### Retirement

HOUSE BILL 173 (CHAPTER 82-169) provides that any certified law enforcement officer who is an active member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices is included in the special risk class of membership within the Florida Retirement System. The act also provides that a

special risk member who is moved or reassigned to a nonspecial risk law enforcement, firefighting, or correctional administrative support position with the same agency, or who is subsequently employed in such a position with any law enforcement, firefighting, or correctional agency under the Florida Retirement System, shall earn credit for such service at the same percentage rate as that earned by a regular nonspecial risk member. For purposes of benefit payments, service in such an administrative support position shall apply toward satisfaction of the special risk normal retirement date provided certain conditions relating to certification and reassignment are met, and the member completes an aggregate of 10 or more years of service as a designated special risk member prior to retirement. A member may request that this provision for earned credit be applied retroactively to October 1, 1978. Effective July 1, 1982, each employer of such a member must contribute to the system 11.14 percent of the member's gross compensation each pay period.

HOUSE BILL 282 (CHAPTER 82-114) authorizes any county elected officer, including any sheriff, tax collector, property appraiser, supervisor of elections, clerk of the circuit court, county commissioner, school board member or elected school board superintendent who is a member of the Elected State Officers' Class, to purchase at the time of his retirement additional retirement credit for service which falls under the purview of the Class, upon the payment into the system trust



fund of a sum equal to the total actuarial cost of the credit being purchased for such service.

#### Code of Ethics

SENATE BILL 597 (CHAPTER 82-98) amends the Code of Ethics for Public Officers and Employees (Part III of Chapter 112, F. S.) to authorize persons filing full and public disclosure, as required by Article II, Section 8 of the Florida Constitution, not to file a second disclosure for the same year regardless of Code requirements. However, a copy of such disclosure must be filed by any candidate for office with the officer before whom the candidate qualifies. The act also requires persons qualifying for state office to file financial statements with the Secretary of State. Persons seeking to qualify as candidates for local public office must file with the officer before whom they qualify. Local officers must file with the supervisor of elections. In addition, local officers are required to report the clients they represent before local government agencies to the supervisor of elections. State officers, elected constitutional officers, and specified employees must report their clients to the Secretary of State.

The act allows jewelry, art objects, coin, stamp and gun collections, household equipment and furnishings, clothing, other household items, and vehicles for personal use, which are not held for investment purposes and if valued at over \$1,000 in the aggregate, to be reported in a lump sum as "household goods and personal effects." The "reasonably prudent person"

test for determining whether the solicitation or acceptance of a gift violates the Code is abolished. The act defines "liability," and excludes United States Senators and Representatives from the definition of "state officer" contained in Paragraph 112.3145(1)(c), F. S., relating to disclosure of financial interests and clients represented before agencies.

New appointees to public office or new public employees are required to file a statement indicating their interest in any business granted the privilege of doing business in the state within 45 (instead of 30) days after their appointment or after the date their employment begins. Persons appointed to an advisory board may have reporting requirements waived if they disclose their financial interest or contractual relationship to the body or person appointing them to the board. The act also provides that any candidate who violates the financial disclosure requirements of Section 112.3145, F.S., may, in addition to being disqualified from being on the ballot, be publicly censured, reprimanded, or subjected to a civil penalty not to exceed \$5,000.

The number of members the Governor may appoint to the Ethics Commission is increased to five, and only three of the five may be from the same political party.

The effective date of this act is delayed until October 1, 1982.

STATE GOVERNMENT\*

The following summaries provide a brief discussion of specific issues addressed by the 1982 Legislature which affect governmental agencies. Generally, the measures adopted provide more accountability for certain governmental activities, clarification of government agency responsibilities with regard to contracts with private entities, and improvements in the process used in the Sundown review of advisory bodies.

The state's process for contracting with private consultants is revised providing more specificity with regard to the process and ethical considerations in contracting, and directing greater use of minority-owned firms. Certain statutory restrictions relating to the investment of state funds are removed, permitting the state to realize a greater return on investments. The process and time frames used by the Legislature in the review of government advisory bodies, commissions, and boards of trustees adjunct to executive agencies are revised. Other enactments include provisions for: exempting the purchase of raw materials by the Department of Corrections for its prison industry program from the purchasing requirements of the Department of General Services; providing

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\*Prepared by the House Governmental Operations Committee

that the Florida Administrative Weekly and the Florida Administrative Code be furnished without charge upon request to certain libraries and to legislators; creating eligibility criteria for determining use of the state's communication system; expanding the powers of the Board of Trustees of the Ringling Museum of Art; creating a Florida Crime Prevention Training Institute in the Department of Legal Affairs; transferring the Division of Veterans' Affairs to the Department of Administration and creating the Florida Commission on Veterans' Affairs within the Executive Office of the Governor; and clarifying the authority of a state agency to establish travel rates with certain providers that are less than the maximum.

#### State Purchasing and Contractual Services

The state purchasing and contractual services laws were changed by the 1982 Legislature by the following three acts:

COMMITTEE SUBSTITUTE FOR SENATE BILL 315 (CHAPTER 82-76) provides that the purchase of raw materials used by the Department of Corrections in its prison industries programs is exempt from Part I of Chapter 287, F. S., relating to the purchasing requirements of the Department of General Services. The Department of Corrections is authorized to adopt rules for the purchase of raw materials for the prison industries program, and to include provisions for competitive bidding for purchases exceeding \$2,500, with certain exceptions.

SENATE BILL 387 (CHAPTER 82-196) establishes more specific statutory guidelines for the procurement of contractual services. The act requires the use of competitive sealed bidding, or where impractical, competitive sealed proposals in order to procure contractual services. This legislation requires that the Division of Purchasing in the Department of General Services be responsible for the development of uniform procurement policies, procedures, and practices to be used by all agencies in acquiring contractual services, and provides for certain exceptions.

Minority participation is encouraged in the contracting process through provisions of this act which direct that minority firms receive contracts when equal bids are proposed, and state agencies are encouraged to establish set-asides for minority contracting in the future. In addition, the enactment amends Subsection 255.05(1), F. S., to allow for certain contracts of \$100,000 or less (previously \$25,000 or less) for construction of public property to be awarded without a performance bond. A new Section 287.095, F. S., is created providing penalties for individuals who falsely represent themselves as a minority business enterprise.

The Legal Services Trust Fund is created in the State Treasury to be used by the Attorney General in providing legal services to agencies on a contractual basis.

HOUSE BILL 415 (CHAPTER 82-121) amends Section 287.057, F. S., dealing with travel expenses incurred for contractual services. (Before the passage of this act, disagreements arose

because many individuals interpreted this section to read that the maximum rate for state employee travel specified in Section 112.061, F. S., should always be paid.) The provisions of this measure eliminate the ambiguity that previously existed and make it clear that a state agency may establish travel rates with certain providers that are less than the maximum. (This change should save the state money through the use of lower rates for travel.)

#### State Administrative Procedures

The Administrative Procedures Act, Chapter 120, F. S., which governs agency rulemaking and administrative hearings, was altered by passage of SENATE BILL 219 (CHAPTER 82-47) which adds a new Subsection 120.55(4), F. S. This enactment requires that names of persons originating the rule, the name of the supervisor or person who approved the rule, and the date of approval be included when any proposed rule is published in the Florida Administrative Code or elsewhere.

SENATE BILL 245 (CHAPTER 82-19) orders the Department of State to provide depository libraries upon request with copies of the Florida Administrative Code Annotated and the Florida Administrative Weekly, free of charge under the provisions of Section 120.55, F. S. The Department also must provide free copies to each state legislator upon the request of the office of the Senate President or the House Speaker. (Until March 1982, the Department had been responsible for publishing the

Code and the Weekly, but that now is being done by a private publisher.)

#### Sundown Review

The Sundown review process of various sections of law relating to boards, committees, commissions and councils was reformed by the 1982 Legislature through passage of HOUSE BILL 449 (CHAPTER 82-46) which rewrites the Sundown Act. The act extends the Sundown cycle from 6 to 10 years. The review schedule is arranged so that all statutorily created advisory bodies, commissions, and boards of trustees adjunct to an executive agency will be reviewed the same year.

Legislative intent is expressed that new advisory bodies, commissions and boards of trustees should be kept to a minimum, created only if essential, and terminated when they are no longer needed. In addition, the enactment requires that agencies send with their legislative budget requests a list of each committee, council, commission, and board of trustees that is adjunct to it. This list would show the name, statutory authority for creation, purpose, number of meetings held in the past fiscal year, number of members, and expenses of the entity.

#### State Telecommunications

The regulation of telecommunications by the Public Service Commission and Department of General Services was altered by passage of SENATE BILL 154 (CHAPTER 82-56) which creates eligibility criteria for determining use of the state's

communications system. The Division of Communications of the Department of General Services is authorized to adopt rules whereby a private nonprofit corporation under contract with state agencies or political subdivisions, that receives at least 75 percent of its total revenue from such entities and expends at least 75 percent of its services to such entities, may qualify to use the state communications system.

Furthermore, the measure authorizes municipalities to connect onto the state long distance communications system upon such terms and under such conditions as the Division may establish.

The Florida Public Service Commission will continue to set jurisdictional tariffs of telephone companies.

#### Governmental Reorganization

The Legislature altered the administrative responsibility of the Departments of State, Legal Affairs, Community Affairs and Administration during the 1982 session by passage of the following three acts:

SENATE BILL 189 (CHAPTER 82-73) expands the powers of the Board of Trustees of the John and Mable Ringling Museum of Art, which is assigned to the Department of State (see Subsection 265.26(3), F. S.). (The intent of this legislation is to provide operating flexibility to the Museum so that it can be run along the lines of a private museum rather than as a state agency.)



First, the Board is empowered to enter into a contract or agreement with one direct support organization (a nonprofit corporation created solely to assist the Museum) for the operation and maintenance of the Museum. The organization is responsible for operating expenses or other personal services, but not for salaries or operating capital outlays. The contract or agreement must provide for approval of the organization's articles of incorporation by the Museum's Board, and the Board shall have the power to appoint the organization's directors. The organization's annual budget is subject to review and approval by the Museum's Board. The contract or agreement also shall provide for a trust agreement with the organization (which must include a reversion clause in the event the contract terminates) transferring money in the Museum's Incidental Trust Fund to the organization. Money received from admissions, rentals and other income from the Museum and its programs shall then be held in trust by the organization for use in running the Museum in accordance with the contract of agreement with the Museum's Board.

Second, the Museum's Board is granted an exception from the provisions of Section 287.062, F. S., requiring competitive bidding when hiring specialists to restore art objects belonging to the Museum or for purchase of art objects to be added to the collection.

Third, the Museum is granted a limited exception from Section 273.055, F. S., which controls the sale of surplus state property. That statutory section gives the Department of

General Services title to surplus state property and authorizes and regulates its sale. With passage of the present enactment, art objects acquired by the Museum after 1936 may now be sold or exchanged by the Museum's Board for objects of equivalent or greater value without complying with the surplus property regulations. Board members and Museum employees are prohibited from benefiting from the sale or exchange of Museum art.

COMMITTEE SUBSTITUTE FOR SENATE BILL 89 (CHAPTER 82-89) creates a Florida Crime Prevention Training Institute in the Department of Legal Affairs. The Institute's purpose is to provide a comprehensive program of crime prevention training for Florida citizens. The Department is instructed to establish a curriculum and admission requirements, and to provide the Institute with whatever administrative support services it needs.

The Department shall adopt rules and policies for the administration of the Institute, and may set course fees that shall be only enough to support the program. The Department is authorized to accept donations and grants for the program, and all admissions fees, donations and grants money must be deposited in a trust fund created by the act.

HOUSE BILL 13-G (CHAPTER 82-387) enacted during the Special Session of May 21, revises Section 292.04, F. S., to replace the Advisory Council on Veterans' Affairs with the Florida Commission on Veterans' Affairs. The Commission is to be an autonomous entity within the Executive Office of the Governor in contrast to its predecessor Council which was

located within the Division of Veterans' Affairs of the Department of Veterans' and Community Affairs. The Governor's Office is to cooperate fully with the Commission and seek to implement the Commission's recommendations concerning the Division of Veterans' Affairs. The Commission membership is fixed at nine Florida citizens who are honorably discharged veterans of a war in which the United States participated. It is authorized to apply for and accept funds, grants, gifts, and services from public and private sources which may be used to pay clerical and administrative costs. Moreover, the Commission is granted rulemaking authority under Chapter 120, F. S., the Administrative Procedure Act. Duties of the Commission require: An ongoing study of the problems and needs of Florida veterans which is to include specific areas of inquiry; acting as liaison between the state and veterans organizations; and securing the benefit of state and federal projects for veterans. The Commission is to submit an annual report on its activities not later than January 1 to the Governor, Legislature and Secretary of Administration.

The act also provides for the transfer of the Division of Veterans' Affairs from the Department of Veterans' and Community Affairs, now renamed the Department of Community Affairs, to the Department of Administration and authorizes the Secretary of Administration to appoint the Division Director. The sum of \$75,000 is provided to effect the purposes of the act and a "sunset" date of October 1, 1987 is set.

## State Financial and Budgeting Matters

The State Board of Administration's authority to invest state funds is expanded, and the statutory spending and accountability requirements for the Florida National Guard are altered by the 1982 Legislature's passage of these two measures:

COMMITTEE SUBSTITUTE FOR SENATE BILL 129 (CHAPTER 82-45) grants the State Board of Administration (SBA) additional authority to invest in real and personal property. (The SBA is currently managing over \$6 billion in investments, the largest segment of which is comprised of the Florida Retirement System Trust Fund which amounts to over \$1.4 billion. By expanding the spectrum of investments available to the SBA, it is hoped the state will realize increased interest income on its investments.)

Changes effected by provisions of this enactment include the following:

Section 215.45, F. S., relating to sale and exchange of securities, is amended to establish the authorized sale price for sales under call options; Section 215.455, F. S., is created authorizing the loan of securities; new provisions are added to Section 215.47, F. S., authorizing investment of public funds in prime commercial paper and bankers acceptance, certain group annuity contracts, and certain interests in real and personal property; increasing the percentage of state trust funds and agency funds that can be invested in common stock, preferred stock and certain interest-bearing obligations (from

25 to 40 percent), and revising the criteria for investment in stock; authorizing the use of listed options in selling or purchasing portfolio securities, and authorizing repurchase agreements and reverse repurchase agreements with the requirement that investments be designed to maximize the financial return to the fund; a new provision is added to Section 215.50, F. S., authorizing the registration of certain securities by the State Treasurer in the name of a third party nominee and providing circumstances under which the Treasurer is not personally liable for any losses incurred; and a new subsection is added to Section 215.515, F. S., authorizing investment of the State Board of Administration Expense Trust Fund to the extent that such investment is consistent with the cash requirements and investment objectives of the Board.

SENATE BILL 246 (CHAPTER 82-92) provides flexibility to the Florida National Guard in paying personnel ordered to active service. The enactment is directed at expediting the payment process, and specifies that when military personnel in the Florida National Guard are ordered to active service by the state they shall receive pay and allowances as prescribed in pay tables for the United States Army or Air Force. Funds to cover pay and expenses for Guard personnel will be deposited in a separate revolving fund to be approved by the Executive Office of the Governor. The Department of Military Affairs will administer the fund and present audit documents to the Comptroller for payments from the fund. The Adjutant General of the Florida Guard is required to calculate cost for pay and

expenses for personnel ordered to service, and must request the release of such funds. Frequency of payments to troops on active service shall also be at the discretion of the Adjutant General.

The act repeals Section 250.11, F. S., which required that books, accounts, and vouchers of the Adjutant General and all other officers of the Florida National Guard handling state or government property be audited upon the direction of the Governor.

#### Miscellaneous

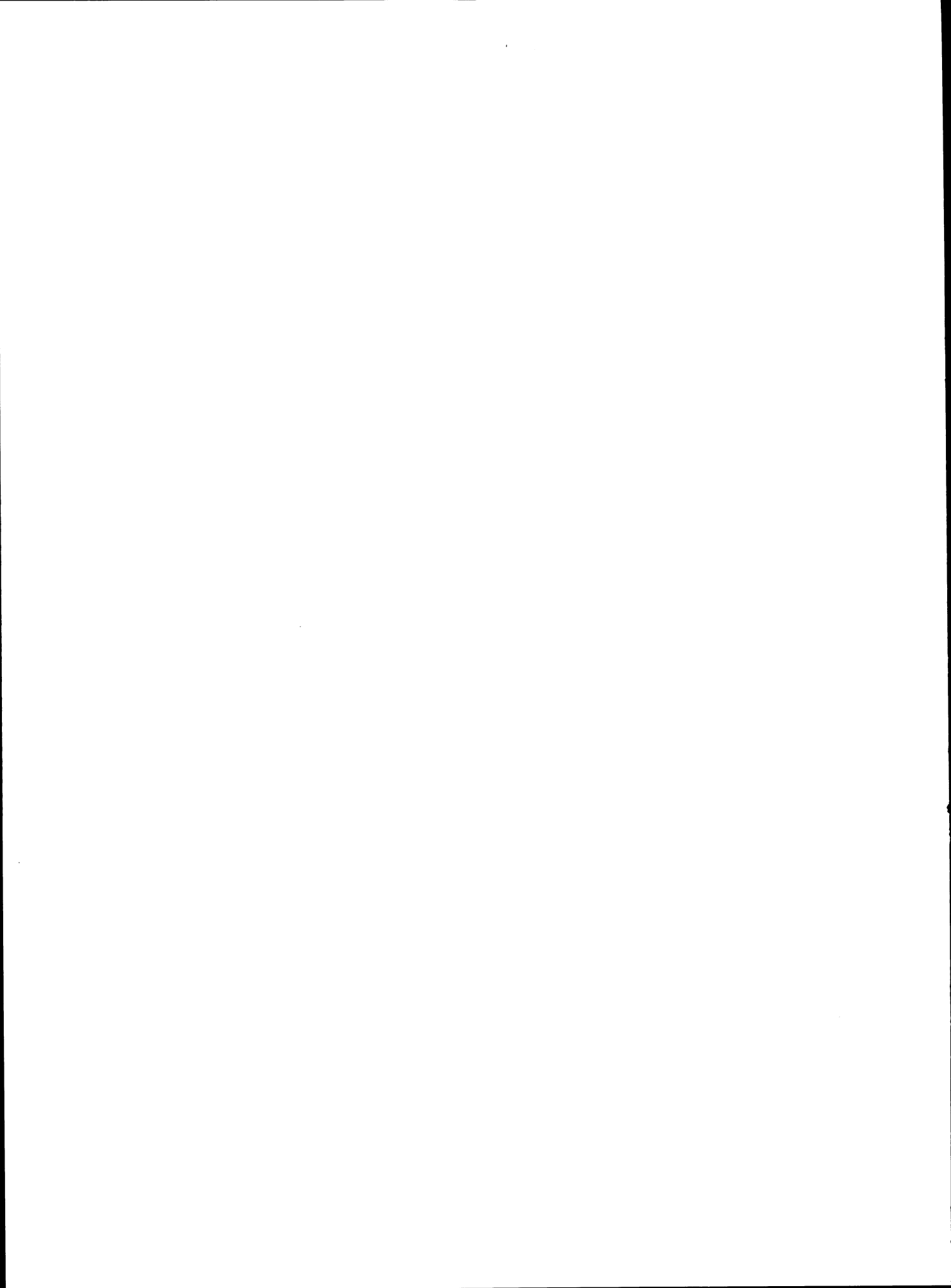
Various measures relating to governmental operations were adopted by the 1982 Legislature, ranging from naming a state animal, changing the state electrical code, to collecting fingerprints by state agencies.

HOUSE BILL 1 (CHAPTER 82-61) creates Section 15.044, F. S., to declare the Florida panther to be the official State Animal.

SENATE BILL 80 (CHAPTER 82-15) conforms the minimum electrical standards of the state, found in the Florida Electrical Code (Chapter 553, Part II, F. S.), to those set forth in the most recent national standards publications. These newly established standards do not apply to any construction on which a contract for electrical services had been accepted prior to the effective date of this act (March 15, 1982).

SENATE BILL 120 (CHAPTER 82-191) amends Section 255.25, F. S., which requires that the Division of Building Construction and Property Management of the Department of General Services ascertain compliance with federal flood-plain-management criteria before construction is initiated on new state buildings or before existing buildings are substantially renovated. The enactment allows for the State of Florida to incorporate in law (by reference) rules and regulations concerning flood-plain-management enacted by the United States Department of Housing and Urban Development and by the Federal Emergency Management Agency. The act also eliminates from the Florida Statutes references to obsolete federal rules and regulations to reflect changes in flood management at the federal level.

COMMITTEE SUBSTITUTE FOR SENATE BILL 833 (CHAPTER 82-201) allows state agencies authorized to take fingerprints and exercising regulatory powers to collect actual costs of processing fingerprints from the person or entity on whose behalf the fingerprints were submitted. Such agencies are empowered to adopt rules and establish amounts and methods to collect payment of such costs. Collections made are to be deposited with the State Treasurer to an appropriate trust fund account to be designated by the Executive Office of the Governor.





TAXATION\*

Action during the 1982 Regular Session in the area of taxation touched on a wide variety of subjects. Rates and/or distributions were revised with respect to phosphate severance taxes, occupational license taxes, cigarette taxes, and the municipal resort tax. Sales tax exemptions and administrative provisions were the subject of several acts. Provisions relating to ad valorem tax exemptions for homes for the aged were revised. In addition, various administrative revisions were enacted, particularly in the areas of intangible taxes, documentary stamp taxes, and estate taxes.

However, the sales tax increase and its distribution were key issues during the special sessions, and received a great deal of attention. In related areas, sales tax exemptions were enacted or modified, an additional 1-year discretionary tax for sports, arts and recreation centers was authorized, and the municipal public service tax exemption was revised. In addition, there were substantial revisions to administrative provisions, particularly in the area of ad valorem taxation, as well as revisions in the area of corporate income taxation.

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\*Prepared by the staff of House Bill Drafting

### Sales and Use Tax - Increase

HOUSE BILL 2-D (CHAPTER 82-154) increases the sales tax from 4 to 5 percent, except that the sale of farm equipment remains at 3 percent. Half of the revenues generated within each participating county from this increase are designated the "local government half-cent sales tax," and will be divided among the county and its participating municipalities; the county's portion is based on the unincorporated area population plus two-thirds of the incorporated area population, and each municipality's share is based on its population. Local governments must be eligible for revenue sharing in order to participate. The act revises revenue sharing eligibility requirements and requires additionally that local governments certify compliance with millage limitations imposed (Section 200.085, F. S.) as a condition of participating in the local government half-cent sales tax. If such certification is not made, revenue sharing funds and sales tax proceeds which would otherwise go to the local government are to be deposited in the General Revenue Fund for 12 months.

That portion of the county's share of the tax proceeds based on two-thirds of the incorporated area population must be expended for countywide tax relief or programs; the remainder is deemed revenue derived on behalf of the unincorporated area but may be expended countywide. Municipal portions must be expended only for municipalwide programs, property tax, or municipal utility tax relief.

Specific millage limitations are imposed on participating local governments. In the first year of participation, the local government cannot levy a millage in excess of the "tax reduction rate," which is a rate that will yield revenues equal to ad valorem tax revenues for the prior year, less an amount equal to 40 percent of estimated sales tax revenues (excluding additions to the tax rolls and voted levies). However, this rate may be adjusted if necessary to insure that 60 percent of the sales tax revenues equals 15 percent of the prior year's tax revenues, as long as the rolled-back rate is not exceeded. If, for a local government levying the tax reduction rate, 40 percent of the sales tax revenues exceeds taxes which would be generated by levy at the rolled-back rate, the excess shall be utilized to reduce municipal public service taxes or local occupational license taxes. A municipality whose rolled-back rate would be 4 mills or less, which has not chosen to adjust the tax reduction rate as described above, may levy above the tax reduction rate but may not exceed the rolled-back rate, and a specified amount must be used for municipal utility tax relief. The decision to increase utility taxes in any year subsequent to such a reduction must be made in a public hearing.

In the second and third years of participation in the local government half-cent sales tax, no local government may levy a millage which exceeds 108 percent of the rolled-back rate, except that this may be increased to 115 percent by majority vote plus one of the governing body.

These limitations may be exceeded by Dade County and its municipalities by majority vote of the governing body. The amount of excess allowed is based on the percentage by which the Dade County crime rate, as published by the Florida Department of Law Enforcement, exceeds said rate for the state for the preceding calendar year, and the excess must be used for crime control and prevention.

Each local government participating in the local government half-cent sales tax for the first time must provide detailed public notice of the way it proposes to use the revenues and of the public hearing at which a final decision will be made. The form of such notice varies depending on the relationship of the maximum allowed rate (according to the limitations contained in the act) to the rolled-back and the actual proposed rates. Sales tax revenues which would otherwise be distributed to a local government which does not comply with these requirements are to be deposited in the General Revenue Fund for 12 months.

In addition to the regular distribution of sales tax revenues, local governments participating in the local government half-cent sales tax which meet specified criteria under which a financial emergency is determined to exist are eligible for an emergency distribution not to exceed \$20 per capita when combined with the regular distribution. Such counties must have a population of less than 50,000, and growth in taxable values in previous years must have been below specified limits. An appropriation of \$2,500,000 is made from

the General Revenue Fund to the Local Government Half-cent Sales Tax Clearing Trust Fund to be used for emergency distribution during the local government fiscal year.

In other related areas, the act specifies categories into which sheriffs' budgets and expenditures shall be divided, modifies requirements relating to the notice of proposed taxes, and requires that a statement be included in such notice with respect to the effect of participation in the local government half-cent sales tax. In addition, school millage is limited to a rate not to exceed the rate certified by the Commissioner of Education as necessary to provide district required local effort for 1982-83, plus 1.6 mills (rather than an 8-mill limit), and the 2-mill limit on additional nonvoted capital outlay millage is modified to a 2-mill equivalent, based on a 2-mill levy for 1981-82 rolled back in each subsequent year.

This act also contains revisions of laws relating to millage determination, which are discussed under the heading Ad Valorem Tax Administration.

HOUSE BILL 9-G (CHAPTER 82-385) clarifies the method of calculating percent of tax increase, a required item in the statement relating to the effect of participation in the local government half-cent sales tax which is to be included in the notice of proposed taxes under the provisions of Chapter 82-154, Laws of Florida, discussed immediately above.

SENATE BILL 5-G (CHAPTER 82-389) provides that any contractor responsible for the performance of a written contract for construction of improvements to real property or

remodeling of existing property, which contract was binding prior to April 19, 1982 (the effective date of Chapter 82-154, Laws of Florida, which increased the sales tax), shall pay the sales tax at the increased rate. However, such a contractor may, within 3 years, apply for one refund of the additional sales tax paid on materials necessary to complete the contract. Application for refund must include proof of the written contract and of payment of additional taxes, and must contain a sworn statement attesting to the validity of the application. Any person who obtains a refund fraudulently is liable for repayment of the refund, plus a 100 percent mandatory penalty, and is guilty of a second degree misdemeanor.

#### Sales and Use Tax - Exemptions

SENATE BILL 29 (CHAPTER 82-207) exempts from sales tax the lease or rental of land, halls, or other facilities by a fair association to a promoter or prime operator of a carnival or midway attraction; however, sublease by the promoter or prime operator is not exempt.

SENATE BILL 46 (CHAPTER 82-206) exempts nonprofit organizations designated as State Theater Program facilities, and purchases of office supplies, equipment and publications by the Florida Retired Educators Association and local chapters from the tax imposed by Chapter 212, F. S., on sales, use and other transactions. It also provides that persons who manufacture factory-built buildings for their own use in the performance of contracts for construction or improvement of

real property shall pay tax only on the cost price of the items used in the manufacture of such buildings.

The cost of tangible personal property produced by a taxpayer for his own use solely in research or development is exempt from sales tax under SENATE BILL 14-D (CHAPTER 82-219). This act also provides that industrial machinery and equipment purchased for use by new and expanding businesses shall be exempt from the sales tax at the time of purchase, rather than through a refund of taxes paid, through the use of temporary tax exemption permits. It allows the Department of Revenue 4 years from the date of return of the permit to determine if the equipment meets established criteria, and requires payment of the tax if the equipment does not qualify or production is not commenced. Taxes paid may be refunded if a qualifying business fails to apply for a permit or if the Department tentatively determines that the business does not qualify. The act revises the method of calculating increases in productive output for purposes of the exemption, specifying that a 12-month continuous period, other than that immediately following completion of installation of the equipment, may be used if agreed upon by the Department and the expanding business. (Other provisions of this act are discussed elsewhere in this article under the heading Tax Administration - Generally.)

#### Sales and Use Tax - Discretionary Local Tax

HOUSE BILL 30-D (CHAPTER 82-231) creates the "Sports, Arts and Recreation Centers Act," authorizing counties to levy

a discretionary additional 1-percent sales tax for 1983 or any portion thereof upon referendum approval. The proceeds must be used for acquisition, construction or improvement of sports, arts, and recreation centers, or for the construction or alteration of adjacent roads necessary to provide access thereto. Dade County would be required to use a portion of the proceeds to construct a convention center in its most populous city. If a county declares its intent not to levy the tax, or does not exercise its authority to levy the tax by the 1982 general election, the tax may be levied by the most populous municipality in the county.

The tax is to be administered by the Department of Revenue and disbursed to participating local governments in accordance with a schedule provided to the Department by the government as part of a certification that it has entered into a contract to effectuate the purposes for which the proceeds are required to be used. In the event the government does not so certify, the proceeds are to be used for property tax relief, with any excess used for municipal public service tax or occupational license tax relief. Any excess above amounts certified to the Department is to be used for similar tax relief.

#### Sales and Use Tax - Administration

SENATE BILL 281 (CHAPTER 82-75) requires any person who sells or receives anything of value by way of admissions to obtain a certificate of registration for each place of such



business. It also requires the Department of Revenue to send written notification at least 60 days prior to the date an auditor will begin an audit under the sales tax laws, except in certain emergency or delinquency situations. It specifies the documentation that is acceptable in conducting such audit and provides for application of provisions of the tax laws concerning fraudulent or improper records to the audit.

The act allows dealers to provide the Department with resale certificates and certificates of exemption as evidence of the exempt status of a sale, through the informal protest method and under departmental rule. This provision applies to audits and assessments completed by the Department between September 1, 1981, and the effective date of the act, April 2, 1982, and refunds are authorized if necessary. (Other provisions of this act are discussed below in this article under the headings Tax Administration - Generally and Occupational License Taxes.)

#### Municipal Resort Tax

HOUSE BILL 1094 (CHAPTER 82-142) relates to the additional resort tax of up to 2 percent authorized to be levied by municipalities in counties in specified population brackets, which has been implemented in Dade County. It authorizes levy of up to 3 percent on room rentals only, if authorized by charter amendment approved by referendum before January 1, 1983.

## Tax Administration - Generally

SENATE BILL 281 (CHAPTER 82-75) authorizes the Department of Revenue to amend its rules to reflect legislation or departmental policy changes. (Other provisions of this act are discussed in this article under the headings Sales and Use Tax - Administration and Occupational License Taxes.)

SENATE BILL 14-D (CHAPTER 82-219) extends the applicability of the confidentiality and information sharing requirements of state revenue laws. It specifies that the Department of Revenue shall provide information in response to subpoenas duces tecum from state attorneys, United States attorneys, certain courts, state and federal grand juries, state and federal agencies having jurisdiction over RICO (Racketeer Influenced and Corrupt Organization Act), or to an order of a judge of a court of competent jurisdiction. It requires the Department to furnish the Comptroller with the names and addresses of taxpayers claiming described exemptions or deductions, and authorizes the Department to make certain information available to the Secretary of the Department of the Interior of the United States and to furnish certain information to appropriate state agencies. (Other provisions of this act are discussed elsewhere in this article under the heading Sales and Use Tax - Exemptions.)

Section 16 of HOUSE BILL 21-D (CHAPTER 82-226) specifies the responsibilities of the Department of Revenue for ad valorem taxation and for administration of revenue laws generally. (Other provisions of this act are discussed below under the

headings Ad Valorem Tax Administration and Tangible Personal Property.)

Department of Revenue administrative responsibilities as specified by Chapter 82-226, Laws of Florida, are revised as they relate to intangible personal property tax by HOUSE BILL 9-G (CHAPTER 82-385).

Ad Valorem Tax Administration

SENATE BILL 706 (CHAPTER 82-208) allows any taxpayer aged 60 or over to request the tax collector to send notice of unpaid taxes to a third party designated by the taxpayer, with a copy to the taxpayer. (Another provision of this act appears below under the heading Tangible Personal Property.)

A general revision of laws relating to determination of millage under Chapter 200, F.S., is part of HOUSE BILL 2-D (CHAPTER 82-154). County, municipal, school, independent special district and dependent special district millages are defined, and additional definitions of these various units are also provided. The act specifies that tax levies and budgets for certain dependent special taxing districts shall be discussed and adopted at hearings for the taxing authority to which such districts are dependent. Provisions relating to limitation of county and municipal millage are clarified and revised, particularly with respect to application to dependent districts, authority of county commissioners, and those eligible to participate in a referendum. The act also revises provisions relating to the creation of special districts. It

prohibits special laws or general laws of local application pertaining to creation of such districts which conflict with Chapter 165, F.S., and specifies that authorization for creation of independent special districts shall be provided only by general law. (Other provisions of this act are discussed above under the heading Sales and Use Tax - Increase.)

HOUSE BILL 9-G (CHAPTER 82-385) clarifies the amendment made to Subsection 200.071(1), F.S., by Chapter 82-154, Laws of Florida, relating to limitation of county millage.

Because of the numerous provisions contained in HOUSE BILL 21-D (CHAPTER 82-226), section numbers of the act are cited in this discussion. Sections are not discussed in numerical order but, insofar as possible, the subjects dealt with are arranged in the chronological order of the ad valorem tax assessment and payment process.

Section 1 of this act deals with prepayment of taxes by the installment method. It specifies that these provisions shall apply when more than \$25 of estimated taxes is due. It revises application and notice dates and requires that a taxpayer who makes the first installment payment continue participation for the tax year. It provides for computation of delinquent payments, and for applicability of delinquency provisions and inapplicability of discount provisions. (The effective date of these provisions is delayed until January 1, 1983.)

Millage adoption procedures are revised under Section 4. This section provides for additional notice to the taxpayer when the tentatively adopted rate exceeds the rate originally provided to the property appraiser, and specifies conditions under which a taxing authority may administratively adjust its millage rate without a public hearing. It revises dates for certain school district notices and hearings, transfers a provision relating to notice of intent to levy the additional capital outlay millage by a school district, and provides the form of such notice.

Section 5 provides for computation of the prior year's taxes for use in millage determination and notice requirements for newly created municipal service taxing units, and requires additional notice when such a unit is created subsequent to the notice of proposed property taxes. The Department of Revenue is to prescribe by rule the form and content of such notice.

Section 6 requires each taxing authority to certify to the Division of Ad Valorem Tax of the Department that any ordinance or resolution establishing a property tax levy complies with law.

Section 15 specifies a date for preparation of the tentative county budget.

Section 12 contains a revision of the form of the notice of proposed property tax.

Section 11 specifies conditions under which time periods with respect to millage determination and property appraisal adjustment board hearings may be shortened.

Sections 71 and 72 require that the tax collector receive certification of millage rates from taxing authorities, certification of taxable value of each taxing authority from the property appraiser, and a copy of each resolution or ordinance setting the millage rate for a taxing authority.

Interim assessment roll provisions are the subject of Section 2. Application of millage determination procedures and provisional rates is provided for. The property appraiser and executive director of the Department of Revenue are named as defendants in certain actions, and a provision allowing a court to confirm as final taxes levied under an interim roll is deleted. Notification of final assessments is also provided for.

Section 7 provides that in any year in which the base student allocation has been guaranteed to school districts through the use of state funds, a school district which levied taxes based on an interim assessment roll shall be required to reimburse the state in an amount equal to the additional taxes collected upon reconciliation of that roll.

Sections 19-24, 27-30, and 62 deal with various aspects of roll review, approval and audits. Provisions relating to assessment roll approval by the Department of Revenue are restructured and time limitations are provided. The Department is authorized to issue review notices to property appraisers. In the event a review notice is issued, Section 25 provides for appropriate millage adjustment. The act also provides that performance audits by the Auditor General of the administration

of ad valorem tax laws by the Department be conducted biennially and submitted to the Legislature. The first such performance audit shall be submitted by April 1, 1984, reporting on the activities of the Division of Ad Valorem Tax related to the 1982 and 1983 ad valorem tax rolls. The Assessment Review Trust Fund is eliminated and moneys in the Fund (\$85,836), plus two positions, are transferred to the Auditor General for the fiscal year 1982-83 to implement the provisions of this act. Another provision directs the Department to publish annual assessment-to-sales ratio studies for each county, not later than 15 days following approval of that county's assessment roll. (The effective date of this provision is delayed until January 1, 1983.) The act provides that the presumption of correctness accorded an assessment made by a property appraiser shall not be impugned merely because the standard measures of value do not establish the just value of any property.

Section 10 requires that the property appraiser give written notice to a taxpayer of denial of agricultural classification by June 1 of the year for which the application was filed, and advise the landowner of his right to appeal to the property appraisal adjustment board, and of the filing deadline. (The effective date of this provision is delayed until January 1, 1983.)

Property appraisal adjustment board procedures are the subject of Sections 8, 9, and 26. These sections revise dates for filing petitions with the board and allow the board to meet

beginning July 1 under certain circumstances. (The act delays until January 1, 1983, certain amendments to Paragraph 194.011(3)(d), F. S., contained in Section 8 of the enactment which deal with issues involving the denial of exemptions, agricultural classification applications, or deferrals.) With respect to hearings before the board, these sections authorize either party to require each petitioner, all witnesses, and the property appraiser to testify under oath, provide for cross-examination of witnesses, and provide that no evidence shall be considered by the board except during the scheduled hearing or when the petitioner is given reasonable notice. The provisions of Chapter 120, F.S., shall not apply to hearings of the property appraisal adjustment board, and when special masters are used their recommendation shall be considered by the board.

Section 14 requires the property appraiser to publish notice of extension and certification of the assessment rolls.

Section 52 provides that special assessments imposed on property in special districts and municipal service taxing or benefit units shall be collected as provided for ad valorem taxes. It authorizes tax collectors to act as agent for the county in collecting service charges under agreement with the board of county commissioners, and provides that tax certificates and deeds may not be issued for nonpayment of service charges, and such charges shall not be included on ad valorem tax bills.



Section 13 repeals provisions (Subsection 196.011(6), F. S.) which require a 10-percent random refiling of applications for exemption or agricultural classification.

Sections 63 and 64 define "taxable value."

Sections 65 and 66 specify that the delinquency date for ad valorem taxes is April 1 (current law) or 60 days after the mailing of tax notice, whichever is later.

Sections 67-70 clarify language with respect to sale of tax certificates.

Sections 17 and 18 require that, to bring an action to contest a tax assessment, the taxpayer must pay taxes admitted to be owing which were assessed after the action is brought, and increase the deficiency rate of interest on ad valorem taxes.

Section 51 revises the interest rate on taxes due on property of certain deceased nonresidents which was allowed a homestead exemption.

Sections 31-50 restructure Chapter 197, F.S. (Tax Collections, Sales and Liens), dividing it into 8 parts and removing obsolete provisions.

Sections 53-61 provide (effective January 1, 1983) for the assessment of real property subject to a time-sharing plan or in which a time-share estate has been created; specify that the managing entity is considered the taxpayer as agent of the time-share period titleholder; provide duties of the managing entity and rights of the taxpayer under the tax laws; and require that notice thereof be included in contracts for the

sale of condominium units in which time-share estates are created and contracts for sale of time-share periods in a time-share plan.

Section 80 of this act repeals Section 3 of SENATE BILL 281 (CHAPTER 82-75) and Sections 1 through 16 of SENATE BILL 706 (CHAPTER 82-208) superceding said sections with certain other provisions contained in this act.

(Other provisions of this act are discussed in this article under the headings Tax Administration - Generally and Tangible Personal Property.)

HOUSE BILL 14-G (CHAPTER 82-388) provides an itemized description of those elements necessary to constitute a "complete submission of the rolls" for ad valorem tax purposes. It revises procedures relating to the property appraisers' duty to make extensions on the tax rolls, to include applicable time limitations when the board of county commissioners orders extension prior to completion of property appraisal adjustment board hearings. It specifies that the notice of extension and certification (newly required by Chapter 82-226, Laws of Florida) be in a form required by the Department of Revenue. It requires that assessment rolls be submitted to the executive director of the Department within a week after extension and certification, or after both extension and reconciliation if interim assessment roll procedures are in effect.

The act requires the Department to publish annually such ad valorem tax data as may be appropriate to facilitate fiscal policymaking. It revises the description of entities composed

entirely of governmental agencies whose property is exempt from taxation, specifying that such entities must be created by general or special law. It provides that the notice of proposed property taxes be mailed not later than 50, rather than 45, days after certification of value.

Finally, the act appropriates \$100,000 to the Department to purchase a computerized property appraisal system.

#### Ad Valorem Tax Exemptions

Tax exemption for homes for the aged is the subject of SENATE BILL 136 (CHAPTER 82-133). It provides that a facility is not qualified for exemption unless at least 75 percent of its occupants are over age 62, and requires licensing by the Department of Health and Rehabilitative Services for tax exemption only if the home furnishes medical facilities or nursing services to residents or is an adult congregate living facility. For those units that are not otherwise exempt, the act raises the amount of exempt assessed valuation for 5-year residents to \$25,000, deleting references to a \$10,000 exemption for persons 65 and over, to conform to homestead tax exemptions. The provisions of this act shall apply to assessment rolls for 1982 and each year thereafter.

#### Tangible Personal Property

Section 3 of HOUSE BILL 21-D (CHAPTER 82-226) provides that personal property rolls are exempt from the in-depth review of assessment rolls by the Division of Ad Valorem Tax of the Department of Revenue until 1983, unless positions are

provided therefor in the 1982-83 budget. (Other provisions of this act are discussed in this article under the headings Tax Administration - Generally and Ad Valorem Tax Administration.)

HOUSE BILL 3-F (CHAPTER 82-232), discussed in greater detail under the heading Corporate Income Tax, appropriates \$545,203 and 20 positions to the Department of Revenue, which is required to perform in-depth reviews of tangible personal property assessments, beginning with 1983 rolls. Fourteen of the positions and \$381,642 of the appropriation are to be used expressly for this purpose.

SENATE BILL 706 (CHAPTER 82-208) specifies that personal property used as marine cargo containers shall not be deemed to have acquired taxable situs within a county if temporarily stored for 180 days or less. (Another provision of this act is discussed above under the heading Ad Valorem Tax Administration.)

Sections 73-79 of HOUSE BILL 21-D (CHAPTER 82-226) remove provisions relating to taxation of "live-aboard vessels" as tangible personal property, and references to exemption of live-aboard vessels from vessel registration license fees. In lieu thereof, a definition of "floating structure" is provided. Floating structures are to be taxed as tangible personal property and are excluded from the definition of "vessel" under Chapter 327, F.S. (Vessel Registration and Safety). (See other references to provisions of this act above under this heading and also elsewhere in this article under the headings Tax Administration - Generally and Ad Valorem Tax Administration.)

### Municipal Public Service Tax

HOUSE BILL 28-D (CHAPTER 82-230) removes the mandatory exemption from the municipal public service tax granted to residential households on the first 50 kilowatts of electricity purchased monthly, and authorizes municipalities to grant an exemption to residential households on any amount up to the first 500 kilowatts of electricity purchased monthly.

### Tax on Severance of Solid Minerals

COMMITTEE SUBSTITUTE FOR HOUSE BILL 971 (CHAPTER 82-184) revises the distribution of the proceeds of the phosphate severance tax. It provides that 5 percent shall be returned to the counties, based on production within the county, and shall be used for phosphate-related expenses. However, if the county accepts a donation of property from a producer, the amount returned to the county shall be reduced by the value of the donation. It provides that, for 1988 and subsequent years (rather than for 1983), the base rate shall be reduced by 20 percent, unless additional funding of the Nonmandatory Land Reclamation Trust Fund is approved by law.

The act requires producers to report solid minerals severed within each county, imposes a delinquency penalty of 12 percent per annum, and authorizes the Department of Revenue to settle or compromise interest, as well as penalties.

Additionally, the act stipulates that applications for approval of reclamation programs which include a request for reimbursement from the Nonmandatory Land Reclamation Trust Fund

not be accepted after January 1, 1985. It also allows use of moneys in the Fund to purchase land disturbed by the removal of phosphate rock prior to July 1, 1975, if the land is to be used for hunting, fishing or outdoor recreational purposes, and provides that up to 1 percent of the amount in the Fund at the beginning of a fiscal year may be used for the purposes for which the land was purchased.

#### Tax on Motor Fuels and Special Fuels

HOUSE BILL 515 (CHAPTER 82-40) deals with the county discretionary additional 1-cent tax on motor fuel and special fuel. It specifies that provisions of the motor fuel tax laws which allow a dealer's refund and refunds for fuel used for city transit systems, municipal vehicles, and for agricultural or commercial fishing purposes do not apply to that additional tax. Counties are authorized to settle certain claims arising from such refunds prior to the effective date of the act (March 17, 1982).

#### Cigarette Tax

Under the provisions of COMMITTEE SUBSTITUTE FOR SENATE BILL 704 (CHAPTER 82-85), manufacturers' free sample packages of cigarettes may contain up to 20 cigarettes (the former limitation was 5), and are to be taxed on a unit basis, rather than a flat package rate.

#### Occupational License Taxes

SENATE BILL 92 (CHAPTER 82-72) specifies that the

authorized increase in county and municipal occupational license taxes levied at graduated or per-unit rates shall not be more than 25 percent above the rates levied on October 1, 1971.

SENATE BILL 281 (CHAPTER 82-75) deletes a definition of "Department of Revenue" from the Local Occupational License Tax Act. (Other provisions of this act are discussed above under the headings Sales and Use Tax - Administration and Tax Administration - Generally.)

#### Estate Tax

HOUSE BILL 424 (CHAPTER 82-38) revises the formula for calculating Florida estate tax. It deletes an alternative that the amount of tax be a sum equal to the amount by which the credit allowed under applicable federal taxes exceeds a proportion of such credit, such proportion to be the proportion that the value of properties taxable by other states bears to the value of the entire gross estate, wherever situate.

The act also specifies that rules of construction applicable to federal estate and inheritance tax laws shall apply to interpretation of Florida estate tax laws, deleting a provision which limits such rules to those in effect January 1, 1980. (See further discussion of the provisions of this act below under the heading Intangible Personal Property Tax.)

#### Corporate Income Tax

For purposes of the Florida Income Tax Code, HOUSE BILL 3-F (CHAPTER 82-232) gives effect to all amendments to the

Internal Revenue Code of 1954 made between January 1, 1980, and January 1, 1982, retroactive to the effective date of such amendments. However, it permits a taxpayer to elect to report and pay his taxes as if all such amendments took effect January 1, 1982, or to report and pay as if the Internal Revenue Code in effect on January 1, 1980, and the 1980 Florida Code are in effect indefinitely thereafter. A taxpayer who does not make the latter election is subject to the emergency excise tax imposed by the act. A one-time-only revocation is allowed for such elections.

The act imposes an emergency excise tax on those taxpayers described above, retroactive to the effective date of 26 U.S.C. 168 (1976 ed.) as amended by the "Economic Recovery Tax Act of 1981" (P.L. 97-34), and based on deductions allowed under said Act. The tax is to be allowed as a credit against the emergency excise tax imposed in the fifth taxable year following the year in which it was paid, or, if earlier, the taxable year for which a final return is required. Excess credit is to be allowed against the corporate income tax and may be carried over to each of the subsequent 5 years.

In other amendments which conform Florida law to changes in the Internal Revenue Code, the act removes real estate investment trusts from certain requirements relating to inclusion of undistributed capital gains in taxable income. The act also distinguishes, for purposes of adjustments to federal income, installment sales for taxable years ending on or before October 19, 1980, from those sales made for taxable



years ending after such date. Another section of the act provides for the order of credits against the corporate income or franchise tax.

The act appropriates funds (\$163,561) and positions (six) to the Department of Revenue to insure that state corporate income tax returns and taxes paid are in accordance with law. It also directs the Revenue Estimating Conference to estimate prior to the 1983 Regular Session of the Legislature the extent to which the act has neutralized revenue losses associated with the Economic Recovery Tax Act of 1981 and to estimate losses for the next three fiscal years.

Amendments made pursuant to this act will expire December 31, 1984. Unused credits for emergency excise taxes paid pursuant to Chapter 221 (created by this act) for taxable years beginning before January 1, 1985, shall continue to be available.

(Another provision of this act appears above under the heading Tangible Personal Property.)

HOUSE BILL 9-G (CHAPTER 82-385) clarifies and revises Chapter 82-232, Laws of Florida, relating to the relationship between the federal Internal Revenue Code and Florida's corporate income tax laws. It supplies time limitations within which the elections offered by said chapter must be made (within 90 days of the effective date of the act or upon filing the first return under chapter 220, F.S., whichever is later), and clarifies revocation procedures. It specifies that, for those taxpayers who elect to pay Florida corporate income tax

as if the 1980 Internal Revenue Code and Florida Statutes are in effect indefinitely, the Internal Revenue Code shall be deemed to include the Foreign Investment in Real Property Tax Act of 1980 for tax years after January 1, 1982.

Retroactive applicability of Chapter 82-232, Laws of Florida, is also clarified. The act specifies that the emergency excise tax is retroactive to January 1, 1982, for those taxpayers who elect to have amendments made to the Internal Revenue Code between January 1, 1980, and January 1, 1982, take effect January 1, 1982.

The emergency excise tax is included as an addition in the computation of adjusted federal income. It is also included in the computation of the credit against the franchise tax and the credit against the insurance premium tax.

The act clarifies the computation of the emergency excise tax. With respect to partnerships holding property which is allowed a deduction under Section 168 of the Internal Revenue Code, it requires the partners to include their distributive share of the deduction in computing the tax due.

Administration of the emergency excise tax is also clarified. Provisions requiring the making of estimated tax payments are made applicable to the tax, and rulemaking powers of the Department of Revenue are provided. Also, the nonseverability clause included in Chapter 82-232, Laws of Florida, is modified to apply only to Sections 1 and 3 of said chapter, rather than the whole chapter. (These two sections

provide for the elections as to applicability of amendments to the Internal Revenue Code and impose the emergency excise tax.)

(Other provisions of this act are discussed under the headings Sales and Use Tax - Increase; Tax Administration - Generally; and Ad Valorem Tax Administration.)

#### Intangible Personal Property Tax

SENATE BILL 641 (CHAPTER 82-83) modifies the definition of "affiliated group" for purposes of intangible tax laws, deleting a provision that the common parent corporation be incorporated in or have its principal place of business in this state. It specifies that if the due date (June 30) falls on a weekend or holiday, intangible tax returns postmarked or received by the Department of Revenue on the next workday shall not be considered delinquent.

The act provides that any increase in the amount of original indebtedness, caused by interest accruing under an adjustable rate note or mortgage having an initial interest rate adjustment interval of not less than 6 months and secured by a one-to-four family structure, shall be taxable as a future advance only to the extent the increase is a computable sum certain when the document is executed. It also revises an exemption from intangible tax for notes and other obligations secured by mortgage or other lien upon real property outside the state, excluding bonds from the exemption and deleting a requirement that documentary tax must have been paid in the

jurisdiction where the property is located; this provision is retroactive to January 1, 1979.

In addition, the act generally revises and restructures provisions of Section 199.062, F. S., which require companies and corporations to file on or before June 30 of each year certain Florida stockholder information with the Department of Revenue, unless there are no Florida stockholders, the security is not subject to the intangible tax, the company has paid a dividend on the class of security, or the company pays the tax as agent for its Florida stockholders. It specifies information to be filed with the Department and notification to be sent to stockholders. It revises filing dates for such reports and for security brokers' position statements. It also revises penalties, replacing a blanket \$100 penalty (See Paragraph 199.062(5)(a), F. S.) with penalties of \$10 per record for certain records not timely filed, or \$100 for failure to file certain notifications. These revised provisions of Section 199.062, F. S., are to be effective July 1, 1983.

(Provisions of this act relating to documentary stamp tax are included below under the heading Excise Tax on Documents.)

HOUSE BILL 23-D (CHAPTER 82-227) corrects a scrivener's error which appeared in SENATE BILL 641 (CHAPTER 82-83) with respect to the time that amendments to certain information reports required under the intangible personal property tax law take effect and the time for which certain amendments to the

exemption portion of such law take effect. These corrections have been taken into consideration in preparation of the summary of SENATE BILL 641 (CHAPTER 82-83) as it is presented in this article immediately above.

HOUSE BILL 424 (CHAPTER 82-38) amends the Florida Probate Code to provide that, in the event an amended inventory of an estate is filed by the personal representative, the Department of Revenue shall have the right to file its claim for intangible taxes due or amend a previously filed claim within 30 days after the filing of the amended inventory. (Another provision of this act appears above under the heading Estate Tax.)

#### Excise Tax on Documents

Paralleling amendments made to intangible tax laws, SENATE BILL 641 (CHAPTER 82-83) also revises documentary stamp tax provisions to specify that any increase in the amount of original indebtedness, caused by interest accruing under an adjustable rate note or mortgage having an initial interest rate adjustment interval of not less than 6 months and secured by a one-to-four family structure, shall be taxable as a future advance only to the extent such increase is a computable sum certain when the document is executed, and that notes given in renewal of such notes or mortgages are subject to tax only to the extent of accrued interest on which taxes have not been paid. (Other provisions of this act are discussed above under the heading Intangible Personal Property Tax.)

Water and Sewer District Special Assessments

SENATE BILL 56 (CHAPTER 82-14) authorizes a board of county commissioners, when acting as the governing board of a water and sewer district, to adjust the interest penalty on, and duration of, installment payments of special assessments for water or sewer system improvements, when necessary to insure that assessment payments are sufficient to satisfy district contractual obligations to bondholders.

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1. The first part of the document discusses the importance of maintaining accurate records of all transactions and activities. It emphasizes that proper record-keeping is essential for transparency and accountability, particularly in financial matters. The text suggests that organizations should implement robust systems to track income, expenses, and assets, ensuring that all data is up-to-date and easily accessible.

2. The second part of the document addresses the challenges of managing complex data sets. It highlights the need for effective data management strategies, including regular backups, secure storage, and efficient retrieval methods. The author notes that as the volume of data increases, the complexity of managing it also grows, necessitating the use of advanced tools and techniques.

3. The third part of the document focuses on the importance of communication and collaboration. It argues that clear communication is vital for ensuring that all team members are aligned and working towards common goals. The text encourages the use of open communication channels and regular meetings to foster a collaborative environment where ideas are shared and problems are solved collectively.

4. The fourth part of the document discusses the role of technology in modern business operations. It points out that while technology offers numerous benefits, such as increased efficiency and automation, it also presents challenges, such as data security and integration with existing systems. The author suggests that organizations should carefully evaluate the pros and cons of adopting new technologies and ensure that they are implemented in a way that maximizes their potential.

5. The fifth part of the document concludes by emphasizing the importance of continuous learning and improvement. It states that in a rapidly changing business landscape, organizations must stay current with the latest trends and best practices. The text encourages a culture of learning, where employees are encouraged to seek out new knowledge and skills, and where the organization as a whole is committed to ongoing growth and development.

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with

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	SUBMITTED	PASSED	SUBMITTED	PASSED	SUBMITTED	PASSED
CONCURRENT RESOLUTIONS	10	3	11	2	21	5
RESOLUTIONS (ONE CHAMBER ONLY)	22	17	35	34	57	51
GENERAL BILLS	904	135	916	96	1820	231
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SEN BILL/LOC APPLICATION	0	0	2	1	2	1
JOINT RESOLUTIONS	40	2	39	0	79	2
MEMORIALS	11	0	11	0	22	0
BILLS NUMBERED, NOT INTRODUCED	2	0	3	0	5	0
WITHDRAWN	<u>2</u>	<u>0</u>	<u>9</u>	<u>0</u>	<u>11</u>	<u>0</u>
TOTAL	1040	166	1177	247	2217	413
APPROVED BY GOVERNOR	132		90		222	
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VETOED BY GOVERNOR	3		4		7	
BECAME LAW, VETO NOTWITHSTANDING	0		0		0	
FILED WITH SECRETARY OF STATE (J.T. RES., CONC. RES., MEM.)	5		2		7	
BILLS TO CONFERENCE COMMITTEE	0		0		0	
BILLS AMENDED	194		193		387	
COMMITTEE SUBSTITUTES	225		149		374	
COMMITTEE SUB FOR COMMITTEE SUB	15		11		26	
RESOLUTIONS ADOPTED	17		34		51	
FAILED TO PASS SENATE BY VOTE	4		0		4	
FAILED TO PASS HOUSE BY VOTE	2		3		5	
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UNFAVOR COMMITTEE REPORT IN HOUSE	1		25		26	
BILLS NUMBERED, NOT INTRODUCED	2		3		5	
INDEFINITELY POSTPONED	36		0		36	
LAI D ON TABLE	83		85		168	
WITHDRAWN PRIOR TO INTRODUCTION	2		9		11	
WITHDRAWN/FURTHER CONSIDERATION	0		49		49	
DIED IN SENATE COMMITTEES	547		139		686	
DIED IN HOUSE COMMITTEES	78		411		489	
DIED IN CONFERENCE COMMITTEE	0		0		0	
DIED ON SENATE CALENDAR	28		6		34	
DIED ON HOUSE CALENDAR	52		196		248	
DIED IN MESSAGES	26		6		32	
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Compiled by  
Legislative Information Division

**FLORIDA LEGISLATURE - SPECIAL SESSION "C" - 1982**

**STATISTICS REPORT**

	S E N A T E		H O U S E		T O T A L	
	SUBMITTED	PASSED	SUBMITTED	PASSED	SUBMITTED	PASSED
CONCURRENT RESOLUTIONS	0	0	0	0	0	0
RESOLUTIONS (ONE CHAMBER ONLY)	1	1	0	0	1	1
GENERAL BILLS	0	0	0	0	0	0
LOCAL BILLS	0	0	0	0	0	0
GEN BILL/LOC APPLICATION	0	0	0	0	0	0
JOINT RESOLUTIONS	1	0	1	0	2	0
MEMORIALS	0	0	0	0	0	0
BILLS NUMBERED, NOT INTRODUCED	0	0	0	0	0	0
WITHDRAWN	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	2	1	1	0	3	1
APPROVED BY GOVERNOR	0		0		0	
BECAME LAW WITHOUT SIGNATURE	0		0		0	
VETOED BY GOVERNOR	0		0		0	
BECAME LAW, VETO NOTWITHSTANDING	0		0		0	
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)	0		0		0	
BILLS TO CONFERENCE COMMITTEE	0		0		0	
BILLS AMENDED	1		1		2	
COMMITTEE SUBSTITUTES	0		0		0	
COMMITTEE SUB FOR COMMITTEE SUB	0		0		0	
RESOLUTIONS ADOPTED	1		0		1	
FAILED TO PASS SENATE BY VOTE	0		0		0	
FAILED TO PASS HOUSE BY VOTE	0		0		0	
UNFAVOR COMMITTEE REPORT IN SENATE	0		0		0	
UNFAVOR COMMITTEE REPORT IN HOUSE	0		0		0	
BILLS NUMBERED, NOT INTRODUCED	0		0		0	
INDEFINITELY POSTPONED	0		0		0	
LAID ON TABLE	0		0		0	
WITHDRAWN PRIOR TO INTRODUCTION	0		0		0	
WITHDRAWN/FURTHER CONSIDERATION	0		0		0	
DIED IN SENATE COMMITTEES	0		0		0	
DIED IN HOUSE COMMITTEES	0		0		0	
DIED IN CONFERENCE COMMITTEE	0		0		0	
DIED ON SENATE CALENDAR	0		0		0	
DIED ON HOUSE CALENDAR	0		0		0	
DIED IN MESSAGES	1		1		2	
BILLS - STATE FISCAL IMPACT	0		0		0	
BILLS - LOCAL FISCAL IMPACT	0		0		0	
BILLS - PRIVATE SECTOR IMPACT	0		0		0	
BILLS - PASSED FIRST HOUSE	1		1			

SPECIAL SESSION "C"

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## STATISTICS REPORT

	SENATE		HOUSE		TOTAL	
	SUBMITTED	PASSED	SUBMITTED	PASSED	SUBMITTED	PASSED
CONCURRENT RESOLUTIONS	0	0	1	1	1	1
RESOLUTIONS (ONE CHAMBER ONLY)	1	1	4	4	5	5
GENERAL BILLS	19	10	17	14	36	24
LOCAL BILLS	2	2	2	2	4	4
GEN BILL/LOC APPLICATION	0	0	0	0	0	0
JOINT RESOLUTIONS	2	1	0	0	2	1
MEMORIALS	0	0	0	0	0	0
BILLS NUMBERED, NOT INTRODUCED	0	0	9	0	9	0
WITHDRAWN	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	24	14	33	21	57	35
APPROVED BY GOVERNOR		9		13		22
BECAME LAW WITHOUT SIGNATURE		2		3		5
VETOED BY GOVERNOR		1		0		1
BECAME LAW, VETO NOTWITHSTANDING		0		0		0
FILED WITH SECRETARY OF STATE (JOINT RES., CONC. RES., MEM.)		1		1		2
BILLS TO CONFERENCE COMMITTEE		0		3		3
BILLS AMENDED		5		5		10
COMMITTEE SUBSTITUTES		0		0		0
COMMITTEE SUB FOR COMMITTEE SUB		0		0		0
RESOLUTIONS ADOPTED		1		4		5
FAILED TO PASS SENATE BY VOTE		1		0		1
FAILED TO PASS HOUSE BY VOTE		0		0		0
UNFAVOR COMMITTEE REPORT IN SENATE		0		0		0
UNFAVOR COMMITTEE REPORT IN HOUSE		0		0		0
BILLS NUMBERED, NOT INTRODUCED		0		9		9
INDEFINITELY POSTPONED		0		0		0
LAI'D ON TABLE		2		0		2
WITHDRAWN PRIOR TO INTRODUCTION		0		0		0
WITHDRAWN/FURTHER CONSIDERATION		0		0		0
DIED IN SENATE COMMITTEES		0		0		0
DIED IN HOUSE COMMITTEES		0		0		0
DIED IN CONFERENCE COMMITTEE		0		0		0
DIED ON SENATE CALENDAR		2		0		2
DIED ON HOUSE CALENDAR		0		1		1
DIED IN MESSAGES		5		2		7
BILLS - STATE FISCAL IMPACT		0		0		0
BILLS - LOCAL FISCAL IMPACT		0		0		0
BILLS - PRIVATE SECTOR IMPACT		0		0		0
BILLS - PASSED FIRST HOUSE		18		19		

SPECIAL SESSION "D"

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FLORIDA LEGISLATURE - SPECIAL SESSION "E" - 1982

STATISTICS REPORT

	S E N A T E		H O U S E		T O T A L	
	SUBMITTED	PASSED	SUBMITTED	PASSED	SUBMITTED	PASSED
CONCURRENT RESOLUTIONS	0	0	0	0	0	0
RESOLUTIONS (ONE CHAMBER ONLY)	0	0	0	0	0	0
GENERAL BILLS	0	0	0	0	0	0
LOCAL BILLS	0	0	0	0	0	0
GEN BILL/LOC APPLICATION	0	0	0	0	0	0
JOINT RESOLUTIONS	1	1	0	0	1	1
MEMORIALS	0	0	0	0	0	0
BILLS NUMBERED, NOT INTRODUCED	0	0	0	0	0	0
WITHDRAWN	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	1	1	0	0	1	1
APPROVED BY GOVERNOR	0		0		0	
BECAME LAW WITHOUT SIGNATURE	0		0		0	
VETOED BY GOVERNOR	0		0		0	
BECAME LAW, VETO NOTWITHSTANDING	0		0		0	
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)	1		0		1	
BILLS TO CONFERENCE COMMITTEE	0		0		0	
BILLS AMENDED	1		0		1	
COMMITTEE SUBSTITUTES	0		0		0	
COMMITTEE SUB FOR COMMITTEE SUB	0		0		0	
RESOLUTIONS ADOPTED	0		0		0	
FAILED TO PASS SENATE BY VOTE	0		0		0	
FAILED TO PASS HOUSE BY VOTE	0		0		0	
UNFAVOR COMMITTEE REPORT IN SENATE	0		0		0	
UNFAVOR COMMITTEE REPORT IN HOUSE	0		0		0	
BILLS NUMBERED, NOT INTRODUCED	0		0		0	
INDEFINITELY POSTPONED	0		0		0	
LAID ON TABLE	0		0		0	
WITHDRAWN PRIOR TO INTRODUCTION	0		0		0	
WITHDRAWN/FURTHER CONSIDERATION	0		0		0	
DIED IN SENATE COMMITTEES	0		0		0	
DIED IN HOUSE COMMITTEES	0		0		0	
DIED IN CONFERENCE COMMITTEE	0		0		0	
DIED ON SENATE CALENDAR	0		0		0	
DIED ON HOUSE CALENDAR	0		0		0	
DIED IN MESSAGES	0		0		0	
BILLS - STATE FISCAL IMPACT	0		0		0	
BILLS - LOCAL FISCAL IMPACT	0		0		0	
BILLS - PRIVATE SECTOR IMPACT	0		0		0	
BILLS - PASSED FIRST HOUSE	1		0		1	

SPECIAL SESSION "E"

Compiled by  
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## STATISTICS REPORT

	S E N A T E		H O U S E		T O T A L	
	SUBMITTED	PASSED	SUBMITTED	PASSED	SUBMITTED	PASSED
CONCURRENT RESOLUTIONS	0	0	0	0	0	0
RESOLUTIONS (ONE CHAMBER ONLY)	0	0	0	0	0	0
GENERAL BILLS	5	4	3	3	8	7
LOCAL BILLS	0	0	0	0	0	0
GEN BILL/LOC APPLICATION	0	0	0	0	0	0
JOINT RESOLUTIONS	0	0	0	0	0	0
MEMORIALS	0	0	0	0	0	0
BILLS NUMBERED, NOT INTRODUCED	0	0	1	0	1	0
WITHDRAWN	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	5	4	4	3	9	7
APPROVED BY GOVERNOR		4		2		6
BECAME LAW WITHOUT SIGNATURE		0		1		1
VETOED BY GOVERNOR		0		0		0
BECAME LAW, VETO NOTWITHSTANDING		0		0		0
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)		0		0		0
BILLS TO CONFERENCE COMMITTEE		0		0		0
BILLS AMENDED		0		2		2
COMMITTEE SUBSTITUTES		0		0		0
COMMITTEE SUB FOR COMMITTEE SUB		0		0		0
RESOLUTIONS ADOPTED		0		0		0
FAILED TO PASS SENATE BY VOTE		0		0		0
FAILED TO PASS HOUSE BY VOTE		0		0		0
UNFAVOR COMMITTEE REPORT IN SENATE		0		0		0
UNFAVOR COMMITTEE REPORT IN HOUSE		0		0		0
BILLS NUMBERED, NOT INTRODUCED		0		1		1
INDEFINITELY POSTPONED		0		0		0
LAI D ON TABLE		1		0		1
WITHDRAWN PRIOR TO INTRODUCTION		0		0		0
WITHDRAWN/FURTHER CONSIDERATION		0		0		0
DIED IN SENATE COMMITTEES		0		0		0
DIED IN HOUSE COMMITTEES		0		0		0
DIED IN CONFERENCE COMMITTEE		0		0		0
DIED ON SENATE CALENDAR		0		0		0
DIED ON HOUSE CALENDAR		0		0		0
DIED IN MESSAGES		0		0		0
BILLS - STATE FISCAL IMPACT		0		0		0
BILLS - LOCAL FISCAL IMPACT		0		0		0
BILLS - PRIVATE SECTOR IMPACT		0		0		0
BILLS - PASSED FIRST HOUSE		4		3		

SPECIAL SESSION "F"

Compiled by  
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## STATISTICS REPORT

	SENATE		HOUSE		TOTAL	
	SUBMITTED	PASSED	SUBMITTED	PASSED	SUBMITTED	PASSED
CONCURRENT RESOLUTIONS	0	0	1	1	1	1
RESOLUTIONS (ONE CHAMBER ONLY)	0	0	2	2	2	2
GENERAL BILLS	5	1	10	5	15	6
LOCAL BILLS	1	1	0	0	1	1
GEN BILL/LOC APPLICATION	0	0	0	0	0	0
JOINT RESOLUTIONS	0	0	0	0	0	0
MEMORIALS	0	0	0	0	0	0
BILLS NUMBERED, NOT INTRODUCED	0	0	4	0	4	0
WITHDRAWN	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	6	2	17	8	23	10
APPROVED BY GOVERNOR		1		5		6
BECAME LAW WITHOUT SIGNATURE		1		0		1
VETOED BY GOVERNOR		0		0		0
BECAME LAW, VETO NOTWITHSTANDING		0		0		0
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)		0		1		1
BILLS TO CONFERENCE COMMITTEE		0		1		1
BILLS AMENDED		1		2		3
COMMITTEE SUBSTITUTES		0		0		0
COMMITTEE SUB FOR COMMITTEE SUB		0		0		0
RESOLUTIONS ADOPTED		0		2		2
FAILED TO PASS SENATE BY VOTE		0		0		0
FAILED TO PASS HOUSE BY VOTE		0		0		0
UNFAVOR COMMITTEE REPORT IN SENATE		0		0		0
UNFAVOR COMMITTEE REPORT IN HOUSE		0		0		0
BILLS NUMBERED, NOT INTRODUCED		0		4		4
INDEFINITELY POSTPONED		0		0		0
LAID ON TABLE		1		0		1
WITHDRAWN PRIOR TO INTRODUCTION		0		0		0
WITHDRAWN/FURTHER CONSIDERATION		0		0		0
DIED IN SENATE COMMITTEES		0		0		0
DIED IN HOUSE COMMITTEES		0		0		0
DIED IN CONFERENCE COMMITTEE		0		0		0
DIED ON SENATE CALENDAR		0		1		1
DIED ON HOUSE CALENDAR		0		0		0
DIED IN MESSAGES		3		4		7
BILLS - STATE FISCAL IMPACT		0		0		0
BILLS - LOCAL FISCAL IMPACT		0		0		0
BILLS - PRIVATE SECTOR IMPACT		0		0		0
BILLS - PASSED FIRST HOUSE		5		11		

SPECIAL SESSION "G"

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VETOED GENERAL BILLS

Senate Bills:

SB 68 - Vetoed 4/22/82  
SB 898 - Vetoed 4/7/82  
SB 921 - Vetoed 4/7/82  
SB 24-D - Vetoed 5/4/82

House Bills:

HB 34 - Vetoed 3/22/82  
HB 291 - Vetoed 4/8/82  
HB 1015 - Vetoed 4/23/82

## THEORY OF THE CASE

The following is a summary of the case.

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OFFICE OF THE SECRETARY OF THE SENATE  
STATE OF FLORIDA

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