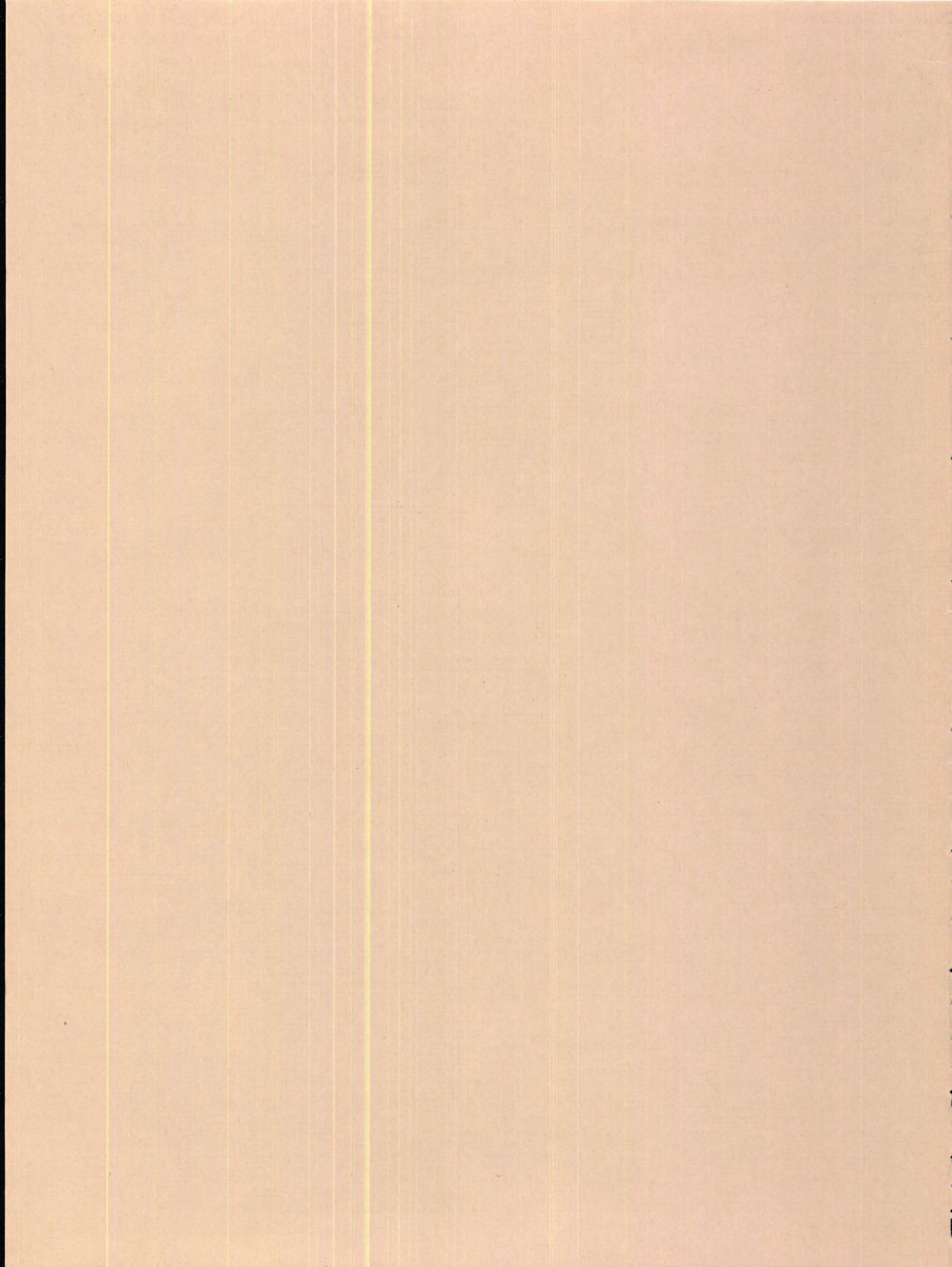


FLORIDA LEGISLATURE

**1984
SUMMARY
OF GENERAL
LEGISLATION**

Regular Session April 3 - June 1





THE FLORIDA LEGISLATURE

JOINT LEGISLATIVE MANAGEMENT COMMITTEE

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Representative Peter M. Dunbar

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August 31, 1984

Honorable Curtis Peterson
President, and Members of
the Senate

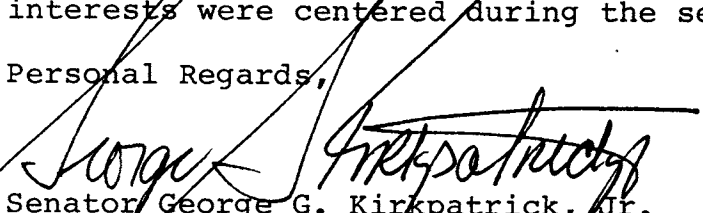
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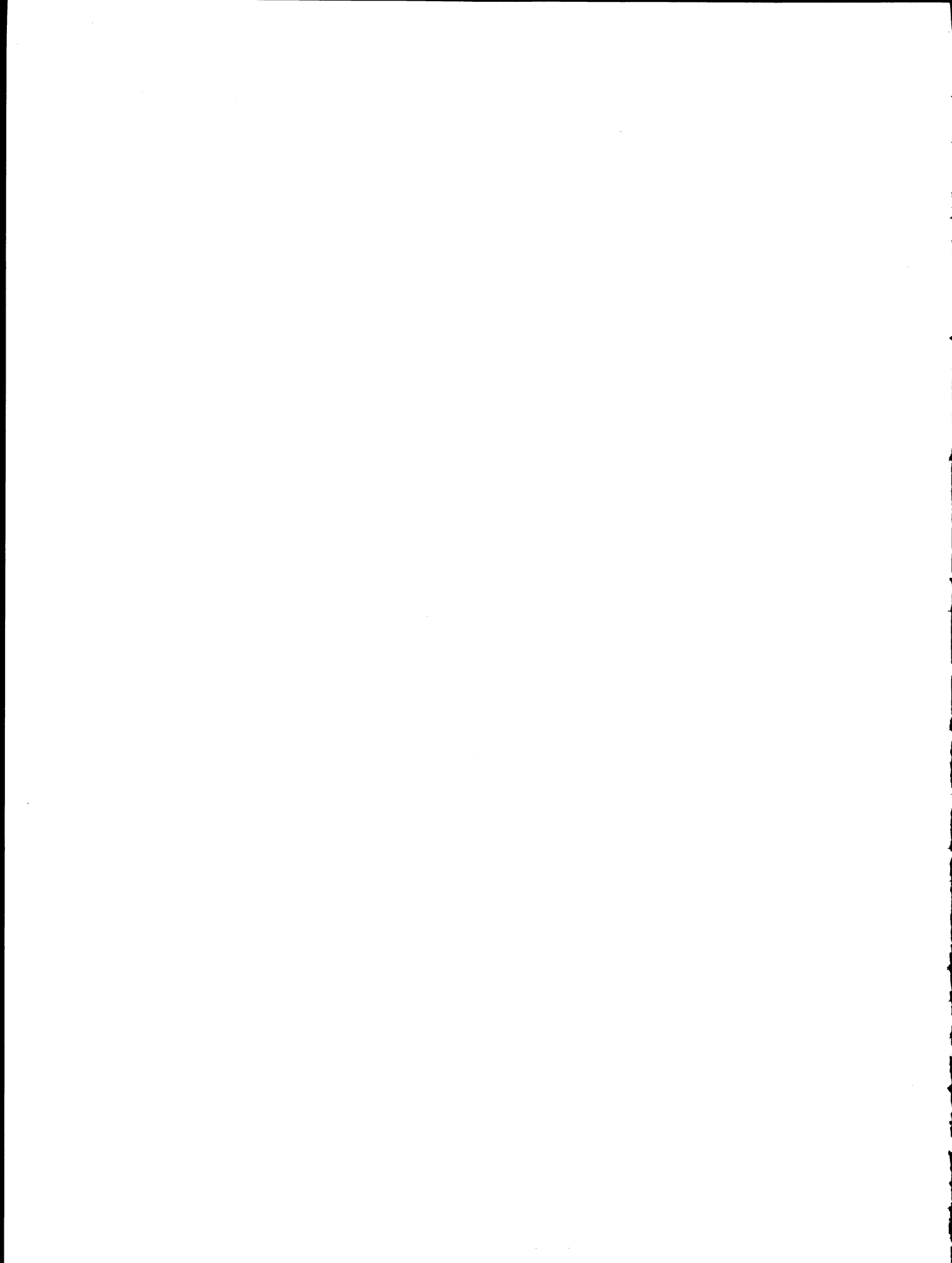
Dear Members:

I am pleased to furnish you herewith the Summary of General Legislation, 1984, 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.

Personal Regards,


Senator George G. Kirkpatrick, Jr.
Chairman
Joint Legislative Management Committee



URTIS PETERSON
President

H. LEE MOFFITT
Speaker

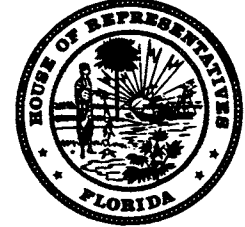


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FOREWORD

This book highlights, within broad subject areas, the general laws enacted during the 1984 Regular Session of April 3 - June 1, 1984.

Breaking a seven year trend, adjournment took place on time this year with the enactment of a spending authorization providing an 8.4 percent increase in appropriations over the year ending June 30, 1984. Major legislation includes implementation of an extended high school day and two merit pay plans for teachers; a comprehensive law for state regulation of wetlands; hospital cost containment through review of hospital budgets; regional banking regulation based on reciprocity; establishment of a child support fund in each county; increased regulation of billboards on state highways; a state and regional planning act; and the creation of a state clearinghouse for information on missing children.

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 brackets. 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 and Data Processing Division and the Legislative Information Division for making possible the utilization of the legislative computer in the preparation of the SUMMARY.

B. Gene Baker
B. Gene Baker

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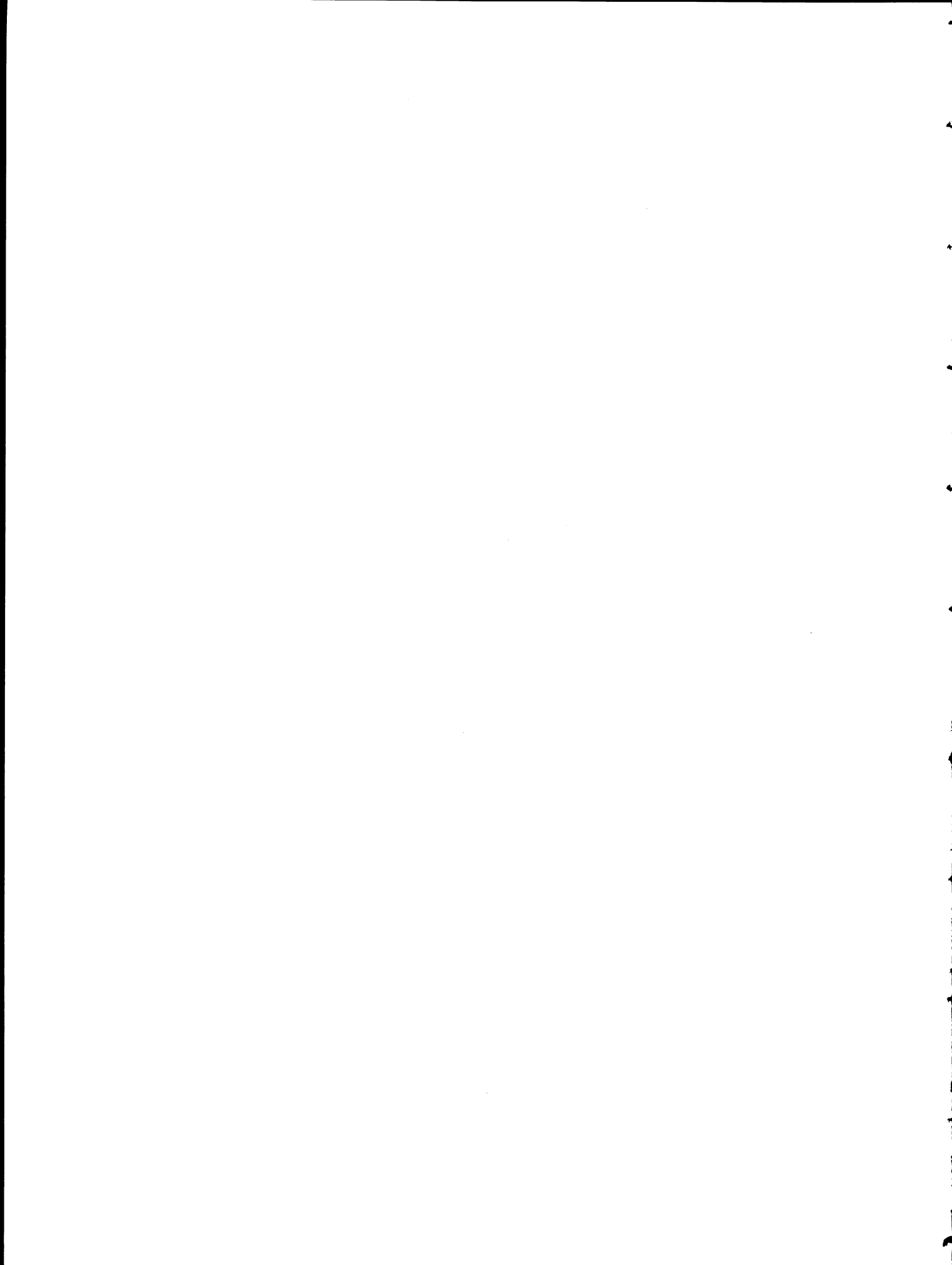
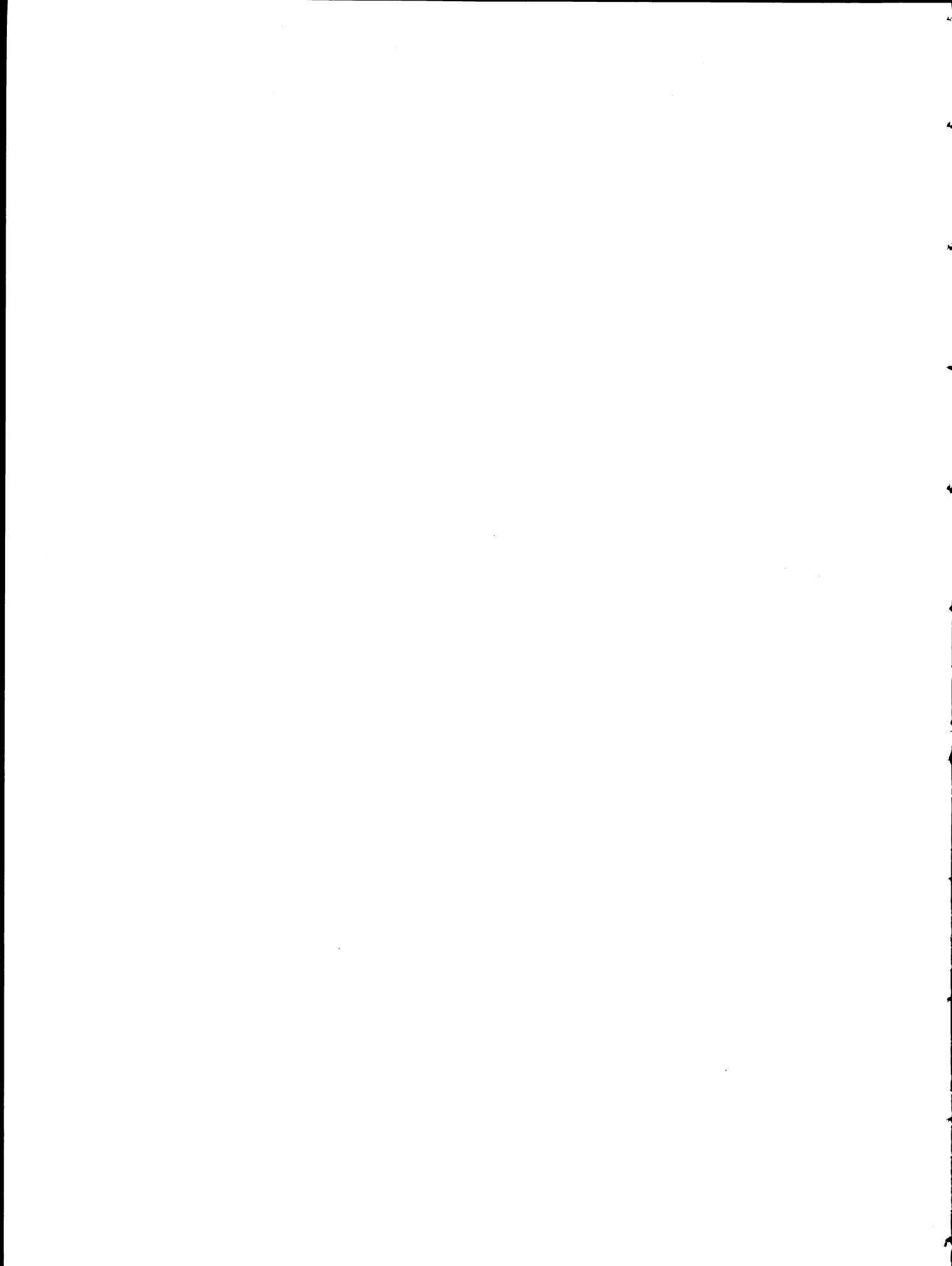


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AGRICULTURE*

Attention was given to a wide variety of agriculture-related subjects at the 1984 Session, showing legislative concern in the following areas:

Regulations were added to protect our water resources from pollution resulting from infiltration of pesticides applied to citrus and other agricultural crops; authority was given the Department of Agriculture and Consumer Services to declare an emergency for control of animal diseases and pests; protection was provided for persons contracting for purchase of farm equipment, for farmers selling their products to agricultural product dealers and to grain dealers, and for those persons buying equipment, products or services in connection with the purchase of a "business opportunity." Duties of the Department were amended with respect to enforcement and rulemaking authority regarding parasitic infestations, authority to provide chemical analyses as deemed necessary, and registration and promotional activities required for the breeders' awards program for certain Florida-bred racing horses.

*Prepared by staff of Senate Agriculture Committee

The Florida Aquaculture Policy Act was created to promote the aquaculture industry, and the Florida Viticulture Policy Act was enacted to provide for drafting a state plan to promote the grape growing industry. Other acts provide for further reduction in the citrus excise tax rate, certain identification and "trip tickets" for persons hauling bulk citrus fruit, stronger meat inspection regulations, exemption from the inspection fee for distribution of commercial feed used only to feed domestic animals owned by the distributor or cooperative member, stronger penalties for unauthorized burning of forest or wild lands, modifying egg and poultry laws to comply with federal standards, updating and clarifying laws regulating plant nurseries, and monitoring and mapping of agricultural lands in Florida in an effort to minimize the impact of governmental decisions and actions on the continued use and availability of land for agricultural purposes.

Department of Agriculture - Administration

HOUSE BILL 937 (CHAPTER 84-165) deletes statutory references to the 48 bureaus within the Department of Agriculture and Consumer Services and allows the Department to establish bureaus as necessary, subject to the restrictions in Section 20.04, F.S. [The duties of each bureau will be placed directly under one of the 11 existing divisions.]

The duties of the Division of Animal Industry are amended to provide enforcement and rulemaking authority regarding parasitic infestations.

The duties of the Division of Inspection are amended to include inspection of soil and water in order to detect the presence of pesticides, inspection of treated fence posts, and enforcement of laws relating to sellers or handlers of avocados, mangoes, or limes.

Finally, this act expands the authority of the Division of Chemistry to conduct analyses as deemed necessary, rather than being limited to statutorily prescribed areas of inquiry.

[The Department of Agriculture and Consumer Services is one of the few departments to have its bureaus enumerated in the statutes. By deleting these statutory references to its bureaus, this act allows the Department more flexibility in making organizational changes.]

This act takes effect on October 1, 1984.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 266 (CHAPTER 84-60) amends Sections 581.031, 581.141, 581.212, and 586.09, F.S., to consolidate all Division of Plant Industry collections and deposits into one account -- the Plant Industry Trust Fund.

Aquaculture

SENATE BILL 354 (CHAPTER 84-90) creates the Florida Aquaculture Policy Act and points out the need for a State Aquaculture Plan.

This act requires the Department of Agriculture and Consumer Services to coordinate efforts in developing a State Aquaculture Plan and to assist the aquaculture industry, i.e., cultivation of animal and plant life in a water environment, by

coordinating efforts of industry, governmental regulatory agencies, research, and educational institutions.

Provision is made for an Aquaculture Review Council and an Aquaculture Interagency Coordinating Board to work with the Department of Agriculture and Consumer Services in developing the State Aquaculture Plan and further coordinating aquaculture development in Florida. This Plan is to be submitted to the Legislature at least 90 days prior to the 1985 Session.

The Review Council and Interagency Coordinating Board will function for four years beginning October 1, 1984 (the effective date of this act), and will be subject to a Sundown Review October 1, 1988.

Subsections (1) and (3) of Section 570.23, F.S., are amended to increase the membership of the State Agricultural Advisory Council from 30 to 31 in order to include a member to represent the aquaculture interests.

Viticulture

SENATE BILL 898 (CHAPTER 84-295) creates the "Florida Viticulture Policy Act."

This act creates an eight-member Viticulture Advisory Council within the Department of Agriculture and Consumer Services. The Council consists of the president of the Florida Grape Growers' Association, the chairman of the Agriculture Advisory Council, a representative from the Institute of Food and Agricultural Sciences, a representative from the viticultural science program at Florida Agricultural and

Mechanical University, and four additional commercial members to be appointed for a 2-year term by the Commissioner of Agriculture, including a wine producer, a fresh fruit producer, a nonwine product (juice, jelly, pie fillings, etc.) producer, and a viticultural nurseryman.

The purpose of the Council is to provide necessary assistance, review and recommendations to the Department for drafting the State Viticulture Plan.

The Plan is to include:

- 1) criteria for viticultural research and priorities;
- 2) proposals for legislation;
- 3) plans for upgrading the Viticultural Science Program at the Florida A & M University;
- 4) plans relating to other state university viticultural programs;
- 5) viticulture marketing needs;
- 6) wine, fresh fruit and nonwine processed products policy alternatives; and
- 7) identification of state, public, and private viticultural development groups.

The State Plan is to be revised and updated biennially and submitted to the Legislature.

The Department, in consultation with the Viticulture Advisory Council, is directed to transmit to certain legislative officials the State Viticulture Plan at least 90 days prior to the 1985 Session of the Legislature.

Twenty-five thousand dollars is appropriated from the General Revenue Fund to the Department for the purpose of funding the expenses incurred in developing the State Viticulture Plan and for reimbursing members of the Viticulture Advisory Council for per diem and travel expenses for the 1984-85 fiscal year.

Finally, the act provides for a Sundown Review and repeal of the Viticulture Advisory Council on October 1, 1994.

Citrus Industry

SENATE BILL 188 (CHAPTER 84-81) amends Section 601.15, F.S., relating to citrus excise taxes. This act provides for an increase from 2 cents to 6 cents per box in the maximum citrus excise tax rate reduction the Florida Citrus Commission may approve. This action would require a nine-member Commission vote.

[Presently, the Florida Citrus Commission has the authority to reduce the annual tax by up to 2 cents per box. This year, the Commission voted to reduce the statutory tax on oranges by 2 cents, the maximum allowed by statute. This amendment to the statutes allows greater flexibility in the event of reduced fiscal needs in the future.

The tax rates imposed are based upon the previous season's crop size. The larger the crop size, the lower the tax rate. Also built into the tax rate is an automatic annual increase in the taxes through the 1985-86 season. This increase was designed to cover increased costs of advertising

due to inflation. This "sliding tax scale" has been in effect since 1980. Three citrus freezes, varying industry import requirements, inflation rates and advertising programs have directly impacted the fiscal requirements of the Department of Citrus and the industry.]

HOUSE BILL 224 (CHAPTER 84-212) amends Section 601.731, F.S., relating to transporting citrus on highways. Under Subsection 601.731(1), F.S., vehicles hauling bulk citrus fruit are required to be identified by certain numbers and lettering showing the name of the firm and other information regarding legitimate transportation of citrus fruit. Vehicles used by a grower to haul his own fruit are excluded unless said grower is also a licensed citrus fruit dealer. Violation of Subsection 601.731(1), F.S., is punishable as a misdemeanor of the first degree.

Under Subsection 601.731(2), F.S., persons hauling bulk citrus fruit on the highways of Florida are required to have in their possession a certificate "trip ticket" showing the owner, origin, amount, and destination of the fruit being hauled and other information identifying the fruit. The penalty for violation of Subsection 601.731(2), F.S., relating to a "trip ticket," for the first conviction will remain a first degree misdemeanor. However, a penalty for any subsequent conviction is added and punishable as a third degree felony.

Section 601.731, F.S., is scheduled for repeal effective October 1, 1994, pursuant to review under Section 11.61, F.S.

Domestic Animals - Diseases and Pests

SENATE BILL 362 (CHAPTER 84-72) amends Chapters 570, 585, and 823, F.S., relating to animal diseases and pests. The present law, Subsection 570.07(21), F.S., provides the Department of Agriculture and Consumer Services the power to declare an emergency, "as defined in Chapters 581, F.S. (Plant Industry), and 585, F.S. (Animal Industry)." This act amends this subsection to provide that the Department shall declare an emergency when such exists in any matter pertaining to agriculture and to issue orders which would be effective during the term of such emergency.

[According to the Department of Agriculture and Consumer Services, under certain existing definitions such as "livestock," it is difficult to deal with an emergency affecting livestock such as poultry. However, by substituting "domestic animals" in the place of "livestock," inasmuch as "domestic animals" is defined in Subsection 585.01(1), F.S., to include "any equine or bovine animal, goat, sheep, swine, dog, poultry, or other domesticated beast or bird," it provides a situation which can be dealt with by the Department.

The Avian (poultry) Influenza outbreak along the upper east coast of the United States earlier this year emphasized the Department's problem in dealing with an emergency under the existing language, and indicated the need for change.]

This act, which becomes effective October 1, 1984, makes the following statutory amendments:

Section 585.15, F.S., is amended to provide that the Department may declare by rule that certain pests and diseases of domestic animals are a public nuisance, and may consult with the Department of Health and Rehabilitative Services regarding animal diseases transmissible to humans.

Section 585.401, F.S., is amended to broaden the definition of an emergency to relate to diseases of "domestic animals" rather than "livestock."

Section 823.04, F.S., is amended to prohibit the bringing into or selling in Florida animals suffering from a disease or pest declared a public nuisance and to be dangerous, transmissible, or a threat to the agricultural interests of the state.

[HOUSE BILL 588 (CHAPTER 84-105) grants the same immunity to veterinarians as that given law enforcement officers when they find it necessary to destroy injured or diseased domestic animals under certain circumstances. This act is discussed in the Summary article, LAW ENFORCEMENT AND CRIMINAL JUSTICE.]

COMMITTEE SUBSTITUTE FOR HOUSE BILL 101 (CHAPTER 84-175) amends Section 585.65, F.S., to authorize the Department of Agriculture and Consumer Services to impose a laboratory fee of not more than \$5 for any single diagnostic service or test relating to animal and poultry diseases, except necropsy (autopsy) fees which may not exceed \$35. Currently, the Department is only allowed to recover costs incurred for postage and handling of samples being tested. Such moneys,

when collected, shall be deposited in the Animal Industry Diagnostic Laboratory Account, to be used to improve the laboratory services, except that the first \$500,000 collected in fiscal year 1984-85 may be used for improvement of the Osceola County Diagnostic Laboratory and is appropriated for that purpose.

Meat Inspection

SENATE BILL 355 (CHAPTER 84-82) amends Subsections (11) and (23) of Section 585.34, F.S., relating to inspection and transportation of meats in Florida. These statutes provide that an establishment that slaughters animals or manufactures meat food products must operate under federal, state, or an approved municipal inspection. No dressed animal carcasses (or parts) intended for food purposes shall be sold unless they have the "inspected and passed" stamp of the inspected establishment. (See Subsection 585.34(11), F.S.)

Furthermore, persons are prohibited from buying, selling, or transporting in intrastate commerce any dead or diseased animal (or animal parts) which has died other than by slaughter, or any inedible meat, unless it has been visibly denatured by an approved method in order to prevent consumption by humans. (See Subsection 585.34(23), F.S.)

This act provides that a violation of the previously mentioned subsections is punishable as a first degree misdemeanor, rather than a second degree misdemeanor as provided for violations of other subsections.

These amendments become effective October 1, 1984.

Eggs and Poultry

HOUSE BILL 490 (CHAPTER 84-102) updates, rearranges, modifies, deletes and adds provisions to Chapter 583, F.S., relating to eggs and poultry, in order to comply with federal standards. The Classification and Sale of Eggs and Poultry Law is implemented by the Department of Agriculture and Consumer Services.

Agricultural Products Dealers

HOUSE BILL 137 (CHAPTER 84-347) amends Chapter 604, F.S., relating to agricultural products. [Agricultural product dealers are persons who buy agricultural products from growers and resell the products. They are required to carry a surety bond or a certificate of deposit in an amount commensurate with the monthly purchases of products.]

This act:

- 1) requires any person possessing and offering for sale certain agricultural products to have specified written documentation regarding the sale, except a farmer selling his own products; violation of purchase documentation is a second degree misdemeanor;
- 2) allows for license denial, suspension, or revocation of any dealer who violates any statute dealing with the sale of agricultural products;

- 3) provides for the Department of Agriculture and Consumer Services to impose administrative fines not to exceed \$1,000 and also sanctions for not paying those fines; and
- 4) requires that, in addition to representatives of the Department of Agriculture and Consumer Services being provided proof of purchase of agricultural products, a state, county or local law enforcement officer must be provided the same information.

The measure renumbers Section 581.188, F.S. (which prohibits the sale of articles fashioned from cross-sectional slabs cut from the buttress of cypress trees without a permit from the Division of Plant Industry of the Department of Agriculture and Consumer Services, unless the seller owns the property on which the trees are growing), as Section 590.24, F.S. This measure transfers the responsibilities and enforcement provisions relating to cypress trees from the Division of Plant Industry to the Division of Forestry by renumbering Section 581.185 as Section 590.02, F.S.

Provisions of this act become effective October 1, 1984.

HOUSE BILL 693 (CHAPTER 84-30) creates Sections 604.31-604.34, F.S., relating to grain dealers. [Several bankruptcy proceedings during the past five years by grain elevator operators have emphasized the Department of Agriculture and Consumer Services' inadequate bond amount (\$50,000) to cover potential losses by farmers who have not been paid when a dealer files for bankruptcy. Even though a grain elevator

operator is licensed and bonded by the Department, when he files for bankruptcy he may default on hundreds of thousands of dollars in payments to farmers who have sold grain to him.]

Section 604.31, F.S., provides a definition section relating to "delivery ticket," "grain," and "grain dealer."

Section 604.32, F.S., is created to require grain dealers to issue delivery tickets to farmers, within a reasonable time, not to exceed 24 hours after delivery of the grain. The delivery ticket is required to include certain specified information regarding date, type of grain, weight, type of transaction, pricing, and other matters which would be necessary should a claim be filed.

Section 604.33, F.S., is created to require grain dealers to maintain assets to serve as security in an amount equal to the value of grain received for which the farmer has not received payment. It further requires the grain dealer to report to the Department, on a monthly basis, on the value of grain received but not paid for. The report is required to include a statement indicating the type and amount of security maintained. The Department is required to make at least one spot check per year of each grain dealer to determine compliance with the requirements of this law.

Section 604.34, F.S., is created to require payment to be made to farmers within nine months of the date of the contract for sale of grain or, in lieu of a contract, the date of first delivery of the marketing season. Grain held only for storage is exempted from this requirement.

This act becomes effective October 1, 1984.

Commercial Feed

COMMITTEE SUBSTITUTE FOR SENATE BILL 191 (CHAPTER 84-186) amends Chapter 580, F.S., relating to the Florida Commercial Feed Law. This act creates a new exemption from the inspection fee for any distribution of commercial feed that will be used only to feed "livestock or other domestic animals" which are "owned by the registrant or distributor," or if the registrant or distributor "is a cooperative distributing feed solely to its members." [Section 588.13, F.S., defines "livestock" as "all animals of the equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, and other grazing animals."]

Section 580.061, F.S., under which the fee is imposed, and which is collected by the Department of Agriculture and Consumer Services, is repealed on October 1, 1985.

Farm Equipment - Contracts and Agreements

HOUSE BILL 916 (CHAPTER 84-217) creates the "Farm Equipment Manufacturers and Dealers Act." [Notwithstanding fragmented provisions in current statutes to the contrary, there are no state or federal provisions regulating the relationship of tractors and farm equipment manufacturers, distributors, wholesalers, and factory branches to the many retail dealers in Florida.] The act, which will govern all persons who enter into contracts and agreements for the sale of new tractors, farm machinery and farm equipment in this state,

as well as to all contracts and agreements (both oral and written) between a manufacturer, wholesaler, or distributor of farm equipment and a farm equipment dealer, provides as follows:

Unfair methods of competition and deceptive acts in connection with the manufacturing, distribution, sale, wholesaling, franchising and advertising of tractors and farm equipment are unlawful. Unfair methods of competition and unfair or deceptive acts or practices are defined.

One set of prohibitions in this section applies to manufacturers, wholesalers, and distributors of tractors or farm equipment. These are as follows:

- 1) coercing, compelling, or attempting to coerce or compel any tractor or farm equipment dealer to order any item against his will or to accept delivery of a tractor or equipment loaded with special features not included in the base price;
- 2) refusing or failing to deliver in a reasonable time to its franchisees any item available for immediate delivery; or coercing, compelling, or attempting to coerce or compel any dealer or franchisee to enter into agreements supplemental to the franchise agreement; or to do any act prejudicial to the dealer by threatening to cancel an existing franchise agreement with the dealer;
- 3) cancelling or not renewing an existing franchise with a dealer without due cause as defined herein (a

franchisor terminating a franchise agreement must notify the franchisee of such in writing, with the specific grounds therefor, at least 90 days prior to such termination);

- 4) using any false or misleading advertising;
- 5) selling or offering for sale identical equipment to different dealers at different prices (exempted are sales to government agencies);
- 6) preventing a dealer from changing the capital structure of his dealership, though the dealer may be required to comply with reasonable capital standards as agreed to by the parties;
- 7) preventing a dealer from selling or transferring any interest to any other person, though no dealer may transfer, sell, or assign the franchise or power of management or control without the written consent of the manufacturer, distributor, or wholesaler (such consent shall not be unreasonably withheld); and
- 8) requiring a dealer to release any person from liability imposed by this act.

The prohibitions contained in this section applicable to dealers are as follows:

- 1) requiring a purchaser of a new tractor or item of farm equipment to purchase special features not desired by the purchaser, unless such features were already installed when the dealer received the item;

- 2) representing as new and unused any tractor or farm equipment which has been used or operated; and
- 3) using any false or misleading advertisement.

The act governs the predelivery and preparation obligations of a manufacturer to a dealer, the availability of repair parts to a dealer, and the return of surplus parts from the dealer to the manufacturer. Procedures are provided for returning surplus parts inventory for credit on an annual basis.

The measure also regulates warranty agreements provided by a manufacturer, distributor, wholesaler, or factory branch on any new tractor or farm equipment. Dealers are provided compensation for fulfilling such warranty agreements. Provision is made for the disapproval of dealers' claims for reimbursement for services relating to warranty obligations, special handling of such claims, and the calculation of compensation to dealers for warranty work.

This act is made applicable to all written or oral agreements between a manufacturer, wholesaler, or distributor and a tractor or farm equipment dealer.

The enactment makes it unlawful for any manufacturer, wholesaler, distributor, or franchisor, without due cause, to fail to renew, terminate, or restrict the transfer of a franchise unless the franchisee receives fair and reasonable compensation for the inventory of the business.

This act is made supplemental to any local ordinances consistent with this act. It provides that any contracts,

agreements, or parts thereof which are in violation of this act are void and unenforceable.

Provision is made, at the dealer's discretion, for the repurchase by the manufacturer, distributor, or wholesaler of the dealer's inventory upon the termination of his franchise; for the payment of such inventory repurchased, title to repurchased inventory, exempt inventory, and civil liability for failure to repurchase such inventory; and for the repurchase of a dealer's inventory by the manufacturer, distributor, or wholesaler, upon the death or incapacity of the dealer, at the option of the dealer's heirs or intestate successors.

It provides that a manufacturer, distributor, or wholesaler, as the case may be, shall fully indemnify and hold harmless its dealers against any losses relating to the manufacture, assembly or design of new items covered by this act, parts or accessories, or other functions by the manufacturer, distributor, or wholesaler which are beyond the control of the dealer.

The enactment further provides that this act is applicable to all existing contracts without expiration dates, and to all contracts entered into or renewed after July 1, 1984 (the effective date of this act).

Sale of Business Opportunity

SENATE BILL 233 (CHAPTER 84-127) amends Section 559.805, F.S., relating to the sale of a business opportunity. Sellers

of "business opportunities" are required to file a disclosure statement with the Division of Consumer Services in the Department of Agriculture and Consumer Services prior to placing advertisements or making other representations to prospective purchasers in Florida. "Business opportunity" as defined in Subsection 559.801(1), F.S., means the sale or lease of equipment, products or services in which the seller indicates that he will: 1) provide assistance in finding locations for vending machine, or coin operated amusements; 2) purchase products made, grown or modified by the purchaser using supplies or services sold to the purchaser by the seller; 3) guarantee that the purchaser will derive an income in excess of the purchase price; or 4) upon payment in excess of \$50, provide a sales or marketing program.

Sellers of business opportunities are required to update their filing whenever any material change in the required information occurs, but no less frequently than annually. Currently a filing fee of \$10 is charged for the initial filing. No fee is charged for updates. This act increases the fee for initial filing from \$10 to \$30. A new fee is imposed on filing updates of \$15.

This act takes effect on October 1, 1984.

Forest Protection

SENATE BILL 124 (CHAPTER 84-7) amends Chapter 590, F.S., relating to forest protection. Section 590.12, F.S., is amended to revise current provisions of law with which

individuals must comply with respect to burning of certain lands authorized by the Division of Forestry. A second degree misdemeanor penalty for unauthorized burning is added to this section.

Section 590.26, F.S., is amended to establish that whoever causes an unauthorized forest or wild lands fire or permits any fire to escape, shall, in addition to all other penalties, be liable for payment of all suppression costs.

Section 590.29, F.S., is amended to include possession of an incendiary device in areas inside as well as outside corporate limits of any municipality as prima facie evidence of intent to illegally use such a device for setting a forest fire.

[Section 590.14, F.S., provides for a felony penalty for persons who willfully or intentionally violate any of the provisions of Chapter 590, F.S., relating to forest protection, and a misdemeanor of the second degree for persons who carelessly violate the provisions of this chapter. By adding the penalty provision under Section 590.12, F.S., relating to unlawful burning, the Department of Agriculture and Consumer Services' burden of merely proving intent is broadened to include anyone who violates any provision of the section.]

The provisions of this act become effective October 1, 1984.

Environmental Protection (Pesticides)

COMMITTEE SUBSTITUTE FOR SENATE BILL 986 (CHAPTER 84-338) is considered an omnibus environmental act.

[When the original measure was filed, it dealt with environmental issues. The Department of Environmental Regulation was given the responsibility for implementation of the majority of the Water Quality Assurance Act of 1983. During the 1983-84 interim, several technical and administrative problems with the act were recognized by the Department which resulted in Senate Bill 986 being filed in the 1984 Session for clarification purposes. However, during the latter days of the session, other environmental and agriculture-related issues were added.]

The act includes amendments to the following: Chapters 373 (Water Resources) and 403 (Environmental Control), F.S., both of which are regulated by the Department of Environmental Regulation; Chapters 327 (Vessels: Registration and Safety), 370 (Saltwater Fisheries), 376 (Pollutant Discharge Prevention and Removal), and 377 (Energy Resources - Regulation of Oil and Gas Development), F.S., all of the which are under the regulation of the Department of Natural Resources; and Chapters 388 (Mosquito Control) and 501 (Consumer Protection - Hazardous Materials), F.S., which are regulated by the Department of Health and Rehabilitative Services. These changes in the laws are discussed in the appropriate Summary article, CONSERVATION AND NATURAL RESOURCES. In the AGRICULTURE article only those changes to Chapters 487 (Pesticides) and 526 (Sale of Liquid

Fuels and Brake Fluid), F.S., which are under the regulation of the Department of Agriculture and Consumer Services, are discussed as follows:

Chapter 487, F.S., relating to the Florida Pesticide Law, is amended to provide regulations requiring antisiphon devices on irrigation systems. "Antisiphon device" is defined as a device which prevents the back flow of water and chemicals into the water supply; "chemical" is defined as any substance that is added to water for agricultural purposes; "emergency exemption" is defined as an exemption from registration as authorized by the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. Section 136p (1982)]; and "irrigation system" is defined as any device which connects directly to any source of ground or surface water and is used to apply a mixture of water and chemicals for agricultural purposes.

Subsection 487.041(1), F.S., is amended to establish the authority for the Department of Agriculture and Consumer Services to issue emergency exemptions from registration based on rules adopted by the Department. Subsection 487.041(3), F.S., is amended to provide that hearing requests for registration denials be consistent with provisions of Chapter 120, F.S. Special local need registration requirements are deleted from this subsection and restated in the new Subsection 487.041(5), F.S. This change is made for clarity and to provide that safety data be included in applications for special local need registrations. The amendments also provide that the Department may require other relevant data, as it

deems necessary, with any pesticide registration application. Subsection 487.041(6), F.S., is created to provide that the Department will notify the Pesticide Review Council of the actions it takes on special local need registrations and emergency exemptions.

Section 487.055, F.S., is created to require all irrigation systems that apply chemicals to be equipped with antisiphon devices. The Department must establish specific requirements for the devices by rule and those requirements must be used by any agency that requires antisiphon devices. These rules must be adopted by November 1, 1984. All irrigation systems required to have antisiphon devices that were in use prior to October 1, 1984, will have 18 months to install the devices. Any system using chemicals and installed on or after October 1, 1984, will be required to have antisiphon devices at the time of installation.

Section 487.071, F.S., is amended to require that pesticides meet the provisions of the rules adopted under Chapter 487, F.S., as well as the existing statutory provisions.

Section 487.091, F.S., is amended to provide that any violation of the chapter or rules is subject to an administrative fine of not more than \$1,000 for each offense. Also, the criminal penalty sections are combined into one subsection to clarify that any violation of any provision of the chapter or rules is a second degree misdemeanor.

The Pesticide Review Council's authority is expanded to supervision of all pesticides. The number of members on the Council is expanded to eleven members. A pesticide industry representative and a representative of an environmental group is added to the current nine-member council.

Also amended is Subsection 526.01(2), F.S., which provides that used oil need not be labeled as such when it has been rerefined through a refining process that has removed all the physical and chemical contaminants acquired in previous use, and which meets the ASTM-SAE-API standards for fitness for its intended use. A manufacturer of such rerefined oil shall register his product with the Department of Agriculture and Consumer Services and provide an affidavit of proof the product meets the required standards.

A Toxicological Research Coordinating Committee is established which is made up of university representatives. Research and development activities and priorities will be established annually. Annual reports shall be submitted to the Legislature. Research activities shall include analyzing chemicals which may affect human health and the environment, epidemiological studies, toxicology, analytical methods, environmental fate and transport, and safe methods to control pests without chemicals. The Committee shall also provide risk-assessment analyses to state entities, including the Department of Agriculture and Consumer Services. A data bank will be created which shall contain chemical contamination information and an accompanying bibliography shall be prepared.

An appropriation of \$95,832 is made to the Department of Agriculture and Consumer Services from the General Revenue Fund for the purpose of indemnifying holders of ethylene dibromide (EDB), the use of which has been suspended by the Department.

This act takes effect October 1, 1984.

[COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 426 (CHAPTER 84-223) creates an act relating to toxic substances and an advisory council to assist the Department of Labor and Employment Security in developing the Florida Toxic Substance List. The Department is responsible for dissemination of pertinent information on toxic substances to employers, employees and state personnel. A summary of this act is included in the Summary article, COMMERCE.]

Termites (Pest Control)

SENATE BILL 594 (CHAPTER 84-293) creates the Formosan Termite Coordinating Council.

[The Formosan termite was found in a Hallandale condominium in Broward County in July 1980. This subterranean termite can destroy wooden structures much more quickly than any of our native termite species. It has been reported to attack buildings, utility poles, railroad ties, ships, and living trees and shrubs when it has become established. In addition to the recent infestation found in Florida, the Formosan termite is present in Galveston and Houston, Texas, in New Orleans and Lake Charles, Louisiana, and in Charleston, South Carolina. In Hawaii, it is the leading wood damaging

insect. A survey to determine the distribution of the Formosan termite in South Florida was begun by the Institute of Food and Agricultural Sciences (IFAS) in August 1981. The 1983 Florida Legislature allocated \$100,000 to IFAS for Formosan termite research.]

This act creates the "Formosan Termite Coordinating Council" within the Department of Agriculture and Consumer Services, consisting of five voting members and one nonvoting advisory member all of whom shall be appointed by the Commissioner of Agriculture, to review and research the Formosan termite control efforts being conducted, and to prepare proposed legislation for presentation to the 1985 Legislative Session 60 days prior to its convening.

An appropriation of \$10,000 is made from the General Revenue Fund to the Department for the purpose of carrying out the provisions of this act which are to expire on July 1, 1985.

Plant Industry

HOUSE BILL 1156 (CHAPTER 84-355) amends Chapter 581, F.S., relating to the regulation of nurseries and nursery stock by the Department of Agriculture and Consumer Services' Division of Plant Industry. Presently, Chapter 581, F.S., provides for fee charges as authorized to persons who request special identifications of pests and plants or who request special diagnostic services of the Division of Plant Industry. The new act grants general authority to levy fees.

The Division is authorized to declare quarantine, but no penalties are provided for removing, destroying, or disguising quarantine tags. This act, which becomes effective on October 1, 1984, updates and clarifies provisions of law which provide for the regulation of nurseries and nursery stock by the Department. It modifies provisions relating to quarantine; prohibits persons from removing, defacing, or destroying quarantine tags or certificates by providing that such person will be guilty of a first degree misdemeanor; and provides that a fee be prescribed for special identification or diagnostic services. This act also renames the Nursery Inspection Fee Fund, the special account known as the Plant Industry Account within the General Inspection Trust Fund, and the Nursery Inspection Trust Fund as the Plant Industry Trust Fund. [COMMITTEE SUBSTITUTE FOR HOUSE BILL 266 (CHAPTER 84-60), discussed under the subtopic, Department of Agriculture - Administration, in this Summary article, also renames the funds listed above.]

Horse Breeding Industry - Promotion

SENATE BILL 777 (CHAPTER 84-282) relates to pari-mutuel wagering. In an effort to stimulate Florida's race horse breeding industry and promote the entry of quality, Florida-bred horses in Florida racing meets, the Legislature has established a breeders' and owners' awards program. Separate but similar awards are available to breeders and owners of thoroughbreds and standardbreds.

[The provisions of this act as they relate to duties and functions of the Florida Pari-mutuel Commission, the Division of Pari-mutuel Wagering of the Department of Business Regulation, and breeders' and owners' associations are discussed in the Summary article, BUSINESS REGULATION. Herein is summarized only that portion of this act which has to do with duties and functions of the Department of Agriculture and Consumer Services.]

The Department is charged with the duty of establishing a registry for Florida-bred Appaloosas and Florida-bred Arabians on a voluntary basis, and to make breeders' awards available from funds derived from the Florida Appaloosa Racing Promotion Fund and the Florida Arabian Horse Racing Promotion Fund, respectively. Advisory councils are created for both the Appaloosa and Arabian segments under the direction of the Department which is to adopt rules and administer the funds to encourage the owning and breeding of such horses.

Sections 550.266 and 550.267, F.S., are created to provide a registry and breeders' award program for Florida-bred Appaloosas and for Florida-bred Arabians, both to be administered by the Department of Agriculture and Consumer Services. These programs are to operate on a voluntary basis, and are similar in all respects to the Quarter Horse registry and breeders' award program now in effect. A difference exists in that moneys collected for the registration of Appaloosas and Arabians are deposited in the Florida Quarter Horse Racing Promotion Trust Fund in special accounts known as the "Florida

Appaloosa Racing Promotion Fund" and the "Florida Arabian Horse Racing Promotion Fund."

Subsection 550.262(5), F.S., is amended to prohibit moneys from the Florida Quarter Horse Racing Promotion Trust Fund to be used to defray the expense of the Department of Agriculture and Consumer Services in the administration of the registry or breeders' awards or other Quarter Horse promotional activities.

Subsections (6) and (7) of Section 550.262, F.S., are created to provide similar situations -- as with Quarter Horses -- for Appaloosa and Arabian horse races whereby the "breaks" and 1 percent of contributions are deposited in the Quarter Horse Racing Promotion Trust Fund under special Appaloosa and Arabian racing promotion accounts and used for purses and prizes and for general promotion of owning and breeding Appaloosas and Arabians under the administration of the Department.

Paragraphs (d) and (e) of Subsection 550.263(2), F.S., are created to provide for abandoned money on property connected with Appaloosa and Arabian horse races to be deposited in the Florida Quarter Horse Racing Promotion Trust Fund in special Appaloosa and Arabian accounts and used for breeders' awards and stallion awards under the administration of the Department as provided in Sections 550.266 and 550.267, F.S.

Paragraph (b) of Subsection 550.265(6), F.S., is amended to require registration fees for Quarter Horses to be deposited

in the Florida Quarter Horse Racing Promotion Trust Fund instead of the General Inspection Trust Fund, and the special account known as the Quarter Horse Racing Fund is deleted. However, only the registration fees for Quarter Horses can be used to defray the expense of the Department's administration of the Quarter Horse registry and breeders' awards.

Any Florida nonprofit corporation, including an agricultural cooperative marketing association, may operate Quarter Horse races under a Quarter Horse racing permit; however, all pari-mutuel taxes and applicable fees are required to be paid. Nonprofit corporations shall assume the status of corporations for profit with regard to operating Quarter Horse races.

The Appaloosa and Arabian Horse Advisory Councils are repealed October 1, 1993, pursuant to the Sundown Act.

HOUSE BILL 265 (CHAPTER 84-59) provides two amendments to Chapter 550, F.S., similar to those contained in SENATE BILL 777 (CHAPTER 84-282), summarized immediately above.

Subsection 550.262(5), F.S., is amended to provide that moneys in the Florida Quarter Horse Racing Promotion Trust Fund are to be allocated only for supplementing and augmenting purses and prizes and for the promotion of owning and breeding racing Quarter Horses in Florida, and are not to be used to defray any administrative expense of the Department of Agriculture and Consumer Services in carrying out the provisions of Chapter 550, F.S. An exception is made for moneys generated by Quarter Horse registration fees which may

be used for such purposes only up to the amount of registration fees deposited in the Fund.

Paragraph 550.265(6)(b), F.S., is also amended to provide that such registration fees shall be deposited in the Florida Quarter Horse Racing Promotion Trust Fund (in lieu of the former requirement that they be placed in a special account known as the "Quarter Horse Racing Fund" in the General Inspection Trust Fund of the State Treasury) and that the necessary expenses incurred by the Department of Agriculture and Consumer Services in the administration of the registration and breeders' awards functions of Section 550.265, F.S., shall be paid out of the Fund only up to the amount of deposited registration fees.

Agricultural Lands - Mapping and Monitoring

HOUSE BILL 938 (CHAPTER 84-225) provides for mapping and monitoring of agricultural lands. [There is currently no mechanism in the state by which data is assembled to determine figures on any net decrease in agricultural lands in the state over given periods of time due to urbanization.] Information which could be used in assessing the change in acreage in agricultural lands in the state includes data collected by the state Department of Transportation (DOT), the University of Florida, and other federal, state, and local agencies. This act requires the Department of Community Affairs (DCA) to develop a program for mapping and monitoring the agricultural lands of the state, so that it may determine whether the amount

of agricultural lands in the state is experiencing a net decline.

The DCA is to use the information from the LANDSAT (land satellite) program of the DOT, soil data developed through county surveys and Soil Conservation Service programs, county property appraiser data, and other information developed by governmental agencies. The Department is directed to encourage and assist all agencies and units of government to utilize this information in planning and other activities in order to minimize the impact of governmental decisions and actions on the continued use and availability of land for agriculture.

[COMMITTEE SUBSTITUTE FOR HOUSE BILL 146 (CHAPTER 84-112), which amends Chapter 420, F.S., renaming the Florida Housing Land Acquisition and Site Development Act as the Rural Housing Land Acquisition and Site Development Act, limiting its use to rural areas, and extending the Farmworker Housing Assistance program for five additional years, is discussed in the Summary article, LOCAL GOVERNMENT.]

APPROPRIATIONS*

For the first time since 1976, the Legislature was able to adjourn without extension following the adoption of the CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1300 (CHAPTER 84-220), the 1984 General Appropriations Act, the provisions of which are implemented by HOUSE BILL 1301 (CHAPTER 84-361). Appropriations in the Act total \$13.0884 billion for the Fiscal Year ending June 30, 1985. Special appropriations and claims measures add \$23.4 million and the Public Education Capital Outlay (PECO) authorization is \$185.2 million, bringing total appropriations for 1984-85 to \$13.297 billion, an 8.4 percent increase over 1983-84 allocations. This total is reduced to \$13.1044 billion when contingent and reserve and vetoed items are deducted, which includes the entire PECO allocation. Three functions of government account for 80.9 percent of all expenditures: Education, 38.4 percent; Health and Rehabilitative Services, 21.3 percent; General Government, 21.2 percent.

Selected pages follow from the 1984 Fiscal Analysis in Brief, issued by the Appropriations Committees of the House and Senate.

*Prepared by staff of Legislative Library

SUMMARY OF 1984-85
TOTAL EFFECTIVE APPROPRIATIONS
(In Millions of Dollars)

<u>GENERAL APPROPRIATIONS ACT</u>	<u>GENERAL REVENUE FUND</u> \$	<u>TRUST FUNDS</u> \$	<u>TOTAL FUNDS</u> \$
<u>Operations (Section 01):</u>			
Education			
Public Schools	2,753.4	387.1	3,140.5
Universities	646.2	428.0	1,074.2
Community Colleges	336.1	1.0	337.1
All Other Education	118.9	298.6	417.5
HRS	1,260.2	1,502.5	2,762.7
Transportation	--	1,337.0	1,337.0
General Government	265.9	2,484.7	2,750.6
Criminal Justice	666.0	68.9	734.9
Natural Resources & Environmental Reg.	73.6	227.7	301.3
Salary Increases & Fringe Benefits	65.8	23.3	89.1
<u>Fixed Capital Outlay</u> <u>(Sections 02, 03, and 04):</u>	<u>56.2</u>	<u>87.3</u>	<u>143.5</u>
 Total General Appropriations Act	 6,242.3	 6,846.1	 13,088.4
Special Appropriations Bills & Claims Bills	22.2	1.2	23.4
Public Education Capital Outlay (PECO)	<u> </u>	<u>185.2</u>	<u>185.2</u>
Total Appropriations	6,264.5	7,032.5	13,297.0
Less:			
Contingent and Reserve Items	.4	.3	.7
Vetoed Items [See Veto Listing on Pages 113 & 114]	<u>4.3</u>	<u>187.6</u>	<u>191.9</u>
Total Effective Appropriations	<u>\$ 6,259.8</u> =====	<u>\$ 6,844.6</u> =====	<u>\$ 13,104.4</u> =====

HOUSE BILL 1300
Vetoed Appropriations
 1984-85

Item No.	Item	General Revenue		Trust
		Recurring	Non-Rec.	
		\$	\$	\$
<u>SECTION 01</u>				
29A	Environmental Impact Study- Veterans Domiciliary Care Facility		\$ 30,000	
322A	College of Chiropractic		150,000	
353A	University of Miami - Research AIDS		250,000	
412	FEFP - obligates amount for the Base Student Allocation		(WCF) 10,000,000	
505A	Florida Center of Transpor- tation Technology Research (5 Positions)			450,000
511	University of Miami for the Affiliated Program in Developmental Psychology	48,000		
522A	Department of Communications - University of West Florida		40,000	
644A	Phosphate Fishing Program			75,000
1349A	Create Statewide Center for Excellence at Lively Vocational Tech School - law Enforcement Training			250,000
1421	Feasibility Study & Environmental Impact of Gulf Water Access to Navarre Pass		48,500	
1427B	Transfer to Division of Fisheries - Phosphate Fish Project			75,000
1556A	Art Facilities Development & Operations Program - Consider Vetoing All Language Except the \$500,000 to Reduce the Existing Community Construction Finance Loan		875,500	
1585C	Florida Center for Transpor- tation Technology Research		450,000	

Item No.	Item	General Revenue		Trust
		Recurring	Non-Rec.	
		\$	\$	\$
<u>SECTION 02</u>				
1676A	Nassau County Multi-Use Facility		45,000	
1676B	St. Johns Co. Agricultural Center - Planning		100,000	
1679A	Polk Co. Livestock Pavilion Bartow		900,000	
1708A	Lakeland Office Bldg. Parking Facility		643,000	125,00
1734	Parking Lot Expansion Cocoa Reed Act Building			69,79
1748A	Acquire Historic Property for Use as Board Offices (Hillsborough County)			90,00
<u>SECTION 03</u>				
1753B	Law Enforcement Training Residence		1,200,000	
1764C	Eau Gallie Causeway Catwalk (Transfer to DOT)			350,00
1769A	Eau Gallie Causeway Catwalk			350,00
TOTAL VETOES		\$ 48,000	\$14,233,500	\$ 2,333,25

FINANCIAL OUTLOOK STATEMENT/1984 EFFECTIVE APPROPRIATIONS
FY 1983-84 AND 1984-85
GENERAL REVENUE AND WORKING CAPITAL FUNDS
(MILLIONS OF DOLLARS)

	GENERAL REVENUE FUND	WORKING CAPITAL FUND	TOTAL ALL FUNDS	RECURRING FUNDS	NON RECURRING FUNDS
	-----	-----	-----	-----	-----
FUNDS AVAILABLE 1983-84					
BALANCE FORWARD FROM 1982-83	110.4	10.6	121.0	.0	121.0
ESTIMATED REVENUES/MAY 84 REC (A)	5727.8	.0	5727.8	5604.5	123.3
REVERSIONS- MIDYEAR 12/83	9.5	.0	9.5	.0	9.5
WORKING CAPITAL FUND INTEREST	.0	2.9	2.9	.0	2.9
TRANSFER TO WORKING CAPITAL FUND	33.4-	33.4	.0	.0	.0
CANCELLATION OF WARRANTS	.2	.0	.2	.0	.2
	-----	-----	-----	-----	-----
TOTAL 83-84 FUNDS AVAILABLE	\$ 5814.5	\$ 46.9	\$ 5861.4	\$ 5604.5	\$ 256.9
ESTIMATED EXPENDITURES 1983-84					
OPERATIONS	2800.5	.0	2800.5	2661.8	138.7
AID TO LOCAL GOVERNMENT	2910.4	.0	2910.4	2884.9	25.5
FIXED CAPITAL OUTLAY	68.8	.0	68.8	.0	68.8
BASE STUDENT ALLOCATION LIABILITY	.0	20.0	20.0	.0	20.0
PUBLIC EDUCATION CAPITAL OUTLAY HB 39B	25.1	.0	25.1	.0	25.1
APPROPRIATION REPEALED/HB 1301 (1984)	.6-	.0	.6-	.0	.6-
	-----	-----	-----	-----	-----
TOTAL 83-84 EXPENDITURES	\$ 5804.2	\$ 20.0	\$ 5824.2	\$ 5546.7	\$ 277.5
	=====	=====	=====	=====	=====
RESERVES AVAILABLE	\$ 10.3	\$ 26.9	\$ 37.2	\$ 57.8	\$ 20.6-
	-----	-----	-----	-----	-----
OBLIGATIONS AND ENCUMBRANCES					
NONE	.0	.0	.0	.0	.0
	-----	-----	-----	-----	-----
UNENCUMBERED RESERVES	\$ 10.3	\$ 26.9	\$ 37.2	\$ 57.8	\$ 20.6-
	=====	=====	=====	=====	=====
FUNDS AVAILABLE 1984-85					
BALANCE FORWARD FROM 83-84	10.3	26.9	37.2	.0	37.2
ESTIMATED REVENUES/MAY 84 REC (A)	6313.9	.0	6313.9	6303.8	10.1
EST 83-84 UNUSED APPROPRIATIONS	51.0	.0	51.0	.0	51.0
REVERSIONS- MIDYEAR 12/84	1.2	.0	1.2	.0	1.2
REVERSIONS- FIXED CAPITAL OUTLAY 4/85	3.0	.0	3.0	.0	3.0
WORKING CAPITAL FUND INTEREST	.0	3.6	3.6	.0	3.6
CANCELLATION OF WARRANTS	.2	.0	.2	.0	.2
LAW CHANGES AFFECTING REVENUES (B)	6.9	.0	6.9	6.8	.1
AUDIT RECOVERIES	14.2	.0	14.2	14.2	.0
	-----	-----	-----	-----	-----
TOTAL 84-85 FUNDS AVAILABLE	\$ 6400.7	\$ 30.5	\$ 6431.2	\$ 6324.8	\$ 106.4
EFFECTIVE APPROPRIATIONS					
OPERATIONS (C)	2950.9	.0	2950.9	2905.0	45.9
AID TO LOCAL GOVERNMENT	3233.3	.0	3233.3	3222.8	10.5
FIXED CAPITAL OUTLAY (C)	53.4	.0	53.4	.0	53.4
SPECIAL BILLS (D)	22.2	.0	22.2	21.0	1.2
BASE STUDENT ALLOCATION GUARANTEE	.0	10.0	10.0	.0	10.0
THE THEATRE, INC.	.0	4.0	4.0	.0	4.0
	-----	-----	-----	-----	-----
TOTAL 84-85 APPROPRIATIONS BASE	\$ 6259.8	\$ 14.0	\$ 6273.8	\$ 6148.8	\$ 125.0
	=====	=====	=====	=====	=====
RESERVES AVAILABLE	\$ 140.9	\$ 16.5	\$ 157.4	\$ 176.0	\$ 18.6-
	-----	-----	-----	-----	-----
OBLIGATIONS AND ENCUMBRANCES					
NONE	.0	.0	.0	.0	.0
	=====	=====	=====	=====	=====
UNENCUMBERED RESERVES	\$ 140.9	\$ 16.5	\$ 157.4	\$ 176.0	\$ 18.6-
	=====	=====	=====	=====	=====

***** FOOTNOTES *****

(A) THIS ESTIMATE INCLUDES SERVICE CHARGES ON THE CONSTITUTIONAL GAS TAX OF \$6.7 MILLION IN FY1983-84 AND \$7.1 MILLION IN FY1984-85. THIS LEVY IS CURRENTLY BEING CHALLENGED IN COURT. ALSO IN QUESTION ARE THE SERVICE CHARGES THAT WOULD BE COLLECTED ON THAT PORTION OF THE AVIATION FUEL BEING CONTESTED IN COURT. THESE CHARGES WOULD AMOUNT TO \$3.4 MILLION IN FY 1983-84 AND \$3.4 MILLION IN FY 1984-85.

(B) THE FOLLOWING BILLS AFFECTING REVENUES HAVE PASSED BOTH HOUSES OF THE LEGISLATURE -

CS/HB 688 SALES TAX EXEMPTION	-100,000
HB 970 GASOHOL EXEMPTION	400,000
HB 1126 FLORIDA MOBILE HOME ACT	100,000 NR
CS/CS/SB 86 ALCOHOLIC BEVERAGE LICENSES	1,600,000
CS/SB 376 DRIVER'S LICENSE FEE INCREASE	1,600,000
CS/HB 599 EXTENDED RACING DAYS	7,000,000
CS/SB 600 EXTENDED RACING DAYS	200,000
SB 730 SALES TAX EXEMPTION	-1,000,000
SB 777 PARIMUTUEL WAGERING	100,000
CS/SB 799 CORPORATION FILING FEES	800,000
CS/SB 803 SEVERANCE TAX	-5,000,000
CS/SB 929 PROBATION SUPERVISION FEES	1,200,000

(C) THE FOLLOWING CONTINGENCY APPROPRIATIONS FAILED -

#10A/HB 671 PAY EQUITY STUDY COMMISSION	275,000
#374/CS/SB 1069 & 906 EDUCATION STANDARDS COMMISSION	20,000
#741A/HB 107 MENTALLY ILL UMBRELLA TRUST	100,000
#1531A/HB 618 ELECTRONIC VOTING	24,465

THE FOLLOWING VETOES ARE RECORDED -

#29A ENVIRONMENTAL IMPACT STUDY	30,000 NR
#322A COLLEGE OF CHIROPRACTIC	150,000 NR
#353A AIDS RESEARCH	250,000 NR
#511 DEVELOPMENTAL PSYCHOLOGY PROGRAM	48,000
#522A DEPT. OF COMMUNICATIONS UWF	40,000 NR
#1556A ART FACILITIES DEVELOPMENT	875,500 NR
#1676A, 1676B, 1679A, 1708A, 1753B FIXED CAPITAL OUTLAY	2,888,000 NR

(D) THE FOLLOWING SPECIAL APPROPRIATIONS BILLS PASSED -

CS/CS/HB 176&697 HEALTH COST CARE CONTAINMENT	20,000,000
CS/SB 342 HEALTH MAINTENANCE ORGANIZATION ACT	24,362
CS/SB 376 DRIVER LICENSE FEE INCREASE	880,320
SB 594 FORMOSAN TERMITE COORDINATING COUNCIL	10,000 NR
CS/CS/SB 601 STATE PUBLIC FACILITIES	133,000 NR
SB 898 FLORIDA VITICULTURE POLICY ACT	25,000 NR
CS/SB 986 ENVIRONMENTAL CONTROL	40,000 NR
HB 18, 77, 393 RELIEF BILLS	216,053 NR
HB 395 RELIEF BILL	100,000
CS/HB 279&462 BREAST CANCER	50,000 NR
HB 702 HOME EQUITY CONVERSION	65,000
HB 702 HOME EQUITY CONVERSION	60,000 NR
HB 1301 THE THEATRE, INC.	575,000 NR

GENERAL APPROPRIATION ACT FOR 1984-85
CONTINGENCY ITEMS

Item	Pos.	Approp. \$	GR or TF	Contingency	Legislative Action
SECT 01					
10A	-	275,000	G	HB 671 or Sim. Legislation	HB 671 died in Comm.
166A	3	139,560	T	CS/CS/HB 8 or Similar Legislation	HB 171 passed
185A	31	717,428	T	CS/HB 1126 or Similar Legislation	CS/HB 1126 passed
185B	-	53,400	T	HB 888 or Similar Legislation	CS/SB 712 passed
191A	13	231,394	G	HB 387 or Similar Legislation	CS/CS/SB 86 passed
374	-	20,000	G	CS/SB's 1069 and 906 or Sim. Legislation	CS/SB 1069 and 906 died on Senate Calendar
609B	18	1,114,000	G	CS/CS/HB 1187 or Sim. Legislation	CS/CS/HB 1187 passed
616	-	3,100,000	G	CS/SB 986 or Similar Legislation	CS/SB 986 passed
691A	1	49,943	T	HB 184 or Similar Legislation	HB 184 passed
713A	1	33,790	G	HB 531 or Similar Legislation	HB 531 passed
741A	-	100,000	G	HB 107 or Sim. Legislation	HB 107 died in Sen. messages
		100,000	T		
1011A	2	60,100	T	HB 184 or Similar Legislation	HB 184 passed
1049	-	150,000	G	SB 159 or Similar Legislation	HB 349 passed
1301A	3	299,565	G	HB 426 or Similar Legislation	CS/HB 426 passed
1320	-	356,930,707	T	HB 831 or Similar Legislation	SB 742 passed
1345					
1347	3	137,358	G	CS/HB 1206 or Sim. Legislation	CS/HB 1206 passed
1349					
1402B	3	67,210	T	CS/CS/HB 1187 or Sim. Legislation	CS/CS/HB 1187 passed
1410					
through	2	202,179	T	SB 304 or Similar Legislation	SB 304 died on Sen. Cal.
1415					
1424					
through	2	61,270	T	CS/SB 803 or Similar Legislation	CS/SB 803 passed
1428					
1433	-	128,857	T	CS/SB 1126 or Similar Legislation	CS/SB 306 passed
1531A	2	24,465	G	HB 618 or Similar Legislation	HB 618 died on Sen. Cal.
1537A	2	41,600	G	HB 802 or Similar Legislation	HB 802 passed
1543A	-	79,872	T	HB 505 or Similar Legislation	CS/SB 425 passed
1561A	1	17,969	T	HB 537 or Similar Legislation	CS/SB 87 passed
1593	-	576,000	T	CS/SB 869 or Similar Legislation	CS/SB 869 passed
1614A	6	400,000	T	CS/HB 1312 or Similar Legislation	CS/HB 1312 passed
Sect 2					
1712	-	18,920,000	T	HB 1330, SB 601 or Sim. Legis.	CS/CS/SB 601 passed

SPECIAL APPROPRIATION BILLS
1984-85 and 1985-86

Session Law	Bill Number	Subject	General Revenue		Trust Fund
			Recurring	Non- Recurring	
			\$	\$	\$
<u>SENATE BILLS</u>					
84- 35	CS/CS/SB 176 & 697	Health Care Cost Containment	20,000,000		
84-313	CS/SB 342	Health Maintenance Organization Act	24,362		97,200
84-314	SB 376	Driver License Fee Increase	880,320		
84-293	SB 594	Formosan Termite Coordinating Council		10,000	
84-321	CS/CS SB 601	State Public Facilities		133,000	401,893
84-278	CS/SB 651	Employment Security			91,040
84-295	SB 898	Florida Viticulture Policy Act		25,000	
84-290	CS/SB 943	Health Care Coverage		3,924,600(a)	
84-338	CS/SB 986	Enviromental Control		40,000	90,945
<u>HOUSE BILLS</u>					
vetoed	HB 18	Relief of Paradise Groves		12,567	
84-384	HB 77	Relief of Mariam B. McNulty		3,486	
84-175	CS/HB 101	Laboratory Service Fees			500,000
84-222	CS/HB 279 & 462	Breast Cancer		50,000	
vetoed	HB 344	Relief of Raphael Espinosa			70,000
vetoed	HB 382	Relief of Johnnie Mae Singleton		100,000	
84-383	HB 393	Relief of Hazel W. Wynn		200,000	
84-385	HB 395	Relief of Robert Leroy Davis Jr., Robert Leory Davis Sr., and Reba Kay Davis	100,000		
84-251	CS/CS HB 702	Home Equity Conversion	65,000	60,000	
84-260	HB 1278	Motor Carriers			44,000
84-361	HB 1301	The Theatre Inc.		575,000(b)	
vetoed	HB 1302	PECO			185,243,575

(a) This is a 1985-86 appropriation.

(b) This bill also repeals a 1983-84 general revenue
non-recurring appropriation of \$575,000.

MEASURES AFFECTING REVENUES AND TAX ADMINISTRATION
ESTIMATED REVENUE INCREASES/(DECREASES)
1984-85
(Millions of Dollars)

			1984-85			
Session Law	Bill Number	Description	General Revenue		Trust Fund	Local Impact
			Recurring	Non- Recurring		
			\$	\$		
<u>Senate Bills</u>						
84-261	SB 79	Taxation of Condominiums	---	---	---	*
84-184	CS/SB 81	County Boat Licenses	---	---	**	**
84-262	CS/CS					
	SB 86	Alcoholic Beverage Licenses	1.6	---	---	.2
84-310	CS/SB 87	Fee Increase/Charitable Organiza- tions and Professional Solicitors	---	---	**	---
vetoed	CS/SB 106	Speed Up/ Slow Down; Gasohol Limitation Exemption	*	---	---(a)	---
84-362	CS/SB					
	114 & 173	Sales Tax/Charitable Organizations	**	---	---	**
84- 4	CS/SB 151	Occupational Therapy License Fees	---	---	*	---
84- 35	CS/CS/SB					
	176 & 697	Health Care Cost Containment Act	---	---	7.5	---
84-126	SB 185	LP Gas Dealer Examination Fee	---	---	*	---
84- 81	SB 188	Citrus Excise Tax	---	---	**	---
84-186	CS/SB 191	Commercial Feed Inspection Fee Exemption	---	---	(0.1)	---
vetoed	CS/SB 210	Electrologists License Fees	---	---	**	---
84- 70	SB 219	Speech Pathologist License Fees	*	---	**	---
84-127	SB 233	Business Opportunity Registra- tion Fees	---	---	*	---
84-190	CS/SB 241	Radiation Protection Regula- tion Fees	---	---	**	---
84-269	CS/SB 242	Radiologic Technologist License Fees	---	---	**	---
84-194	CS/SB 329	Non-game Wildlife Surcharge	---	---	1.2	---
84-270	SB 336	Documentary Stamp Tax	---	---	---	---
vetoed	CS/SB 341	Medical Practice Act Fees	---	---	**	---
84-313	CS/SB 342	Health Maintenance Organization Act	*	---	.1	---
84-309	SB 352	Road and Bridge Tax Repeal	---	---	---	**
84-314	SB 376	Drivers License Fee Increase	1.6	---	---	---
84- 68	CS/SB 390	Horseracing/Owner's Awards	---	---	---	---
84-365	CS/SB 399	Building Inspection Fees	---	---	*	---
84-315	CS/SB 408	Motor & Special Fuel Refund				
		1) Retroactive Farmer/Fisherman Refunds	---	---	(.9)	---
		2) Non-Public Schools/Compressed Gas	---	---	**	---
84-195	SB 430	Special Road and Bridge Districts	---	---	---	---
84-243	SB 439	Fire Prevention and Control License Fees	---	---	*	---
84-316	CS/SB 497	Paleontology Permits	---	---	*	---
84- 83	SB 561	Telephone Company Regulation Fees	---	---	**	---

(Continued)
 MEASURES AFFECTING REVENUES AND TAX ADMINISTRATION
 ESTIMATED REVENUE INCREASES/(DECREASES)
 1984-85
 (Millions of Dollars)

Session Law	Bill Number	Description	1984-85			
			General Revenue		Trust Fund	Local Impact
			Recurring	Non-Recurring		
84- 95	SB 581	Alcoholic Beverage License	\$ *	\$ ---	\$ ---	\$ ---
84- 96	CS/SB 599	Dogracing/Extention/Racing Days Allowed	7.0	---	6.2	---
84-199	SB 600	Dogracing/Extension/Racing Days Allowed	.2	---	---	---
84-136	SB 609	Road and Bridge District Filing Fees	---	---	---	---
---	CS/CS					
	SJR 612	Constitutional Amendment-State Bonds	---	---	---	---
84-138	CS/SB 626	Homes for the Aged Exemption/Health Facility Bonds	**	---	---	---
84-137	SB 686	SBA Investment Authority	---	---	**	---
84-368	CS/SB 712	Condominium Fee Limitation	---	---	*	---
84-323	CS/SB 716	Totalisator Licensing	*	---	---	---
84-324	SB 730	Sales Tax/Motion Picture Industry Exemption	(1.0)	---	---	(.1)
84-369	SB 731	Motor and Special Fuel	---	---	*	---
84-325	SB 732	Estate Taxes	**	---	---	---
84-327	SB 764	Ad Valorem Tax/5 Year Residency Requirement	---	---	---	---
84-282	SB 777	Parimutuel Wagering	.1	---	---	---
84-329	SB 780	Motor and Special Fuel Tax Administration	---	---	*	**
84-283	CS/SB 782	Birth Center License & Fees	---	---	**	---
84-134	CS/SB 799	Corporations Filing Fees	.8	---	---	---
84-330	CS/CS					
	SB 803	Excise Tax on the Severance of Phosphate Rock	(5.0)	---	5.0	---
84-286	CS/SB 831	Alcoholic Beverage Licenses/Civic Centers	*	---	---	---
84-205	SB 837	Licensing of Airports/Fees	---	---	*	---
84-334	SB 872	Sales Tax/Motor Fuel				
		1. FATSO Refunds	---	---	---	(a)
		2. Transit Systems: 26 Gallons	---	---	*	---
		3. Quarterly Refunds	---	---	(1.5)	**
84-337	CS/SB 929	Probation Supervision Fees	1.2	---	---	---
84-207	CS/CS					
	SB 944	High Speed Rail Transit	---	---	**	**
84-338	CS/SB 986	Water Quality Act	---	---	**	---
84-371	CS/SB 1001	Ad Valorem Taxation	---	---	---	**
84-342	CS/SB 1152	Gross Receipts Tax	---	---	4.1	---
---	SJR 1157	Gross Receipts Tax	---	---	---	---

(a) See HB 970

* insignificant dollar amount (\$ 50,000)

** indeterminate

(Continued)
 MEASURES AFFECTING REVENUES AND TAX ADMINISTRATION
 ESTIMATED REVENUE INCREASES/(DECREASES)
 1984-85
 (Millions of Dollars)

Session Law	Bill Number	Description	1984-85			
			General Revenue		Trust Fund	Local Impact
			Recurring	Non- Recurring		
			\$	\$	\$	\$
<u>House Bills</u>						
84-107	CS/HB 16	Fire Prevention/Control Contractor IV Fees	---	---	.1	---
84-108	HB 78	Motor Vehicle License	---	---	*	---
84-175	CS/HB 101	Laboratory Service Fees	---	---	.8	---
84-110	CS/HB 114 & 158	Alimony Handling Fees	---	---	---	**
84- 40	HB 121	Workers Compensation Tax Increase	---	---	1.0	---
84- 57	CS/HB 150	Local Government Surplus Investment Funds	---	---	---	**
84-246	HB 171	Pugilistic Exhibitions	**	---	**	---
84-142	CS/HB 183	Alcoholic Beverage License	*	---	---	---
84- 9	CS/HB 246	Televised Parimutuel Events	**	---	**	---
84- 59	HB 265	Quarter Horse Racing	---	---	---	---
84- 60	CS/HB 266	Plant Industry Trust Fund	---	---	*	---
84-115	CS/HB 269	Florida Drug and Cosmetic Act/Fee Revision	---	---	*	---
84-348	HB 276	Aquatic Weed Control Trust Fund	---	---	1.0	---
84-222	CS/HB 279 & 462	Medical Practice Exams Fees	---	---	(1.0)	---
84-116	HB 300	Paid Parking Trust Fund	---	---	.1	---
84- 61	CS/CS HB 312	International Currency and Barter Exchanges	---	---	---	---
84- 62	HB 317	Veteran's Guardianship	**	---	**	**
84-149	HB 384	Water/Sewer System Fees	---	---	*	*
84-150	HB 400	Commercial Driving Schools	---	---	*	---
84-211	HB 425	Putnam/Clay Boundary Change	---	---	---	*
84-118	CS/HB 474	Water Vending Machine Operation Permits	---	---	**	---
84-103	CS/HB 526	Bail Bond Regulatory Board	---	---	*	---
84-154	HB 560	Documentary Stamp Tax	*	---	*	*
84-178	CS/HB 603	Intergovernmental Interest Charges	---	---	---	*
84-349	CS/HB 658	Educational Facilities/ Two Mill Capital Outlay	---	---	---	---
84-350	CS/HB 688	Sales Tax/Exemptions and Refunds	(.1)	---	---	*
84-299	HB 698	Alcoholic Beverages/ 3.2 Beer	**	---	---	**
84-252	CS/HB 775	Respiratory Care Act	---	---	.4	---
84- 42	CS/HB 795	Regional Reciprocal Banking Act	---	---	---	---
84-216	CS/HB 801	Financial Institutions Regulatory Trust Fund	---	---	.1	---
84-253	HB 802	Ad Valorem Taxation/ Historical Property	---	---	---	**

(Continued)
 MEASURES AFFECTING REVENUES AND TAX ADMINISTRATION
 ESTIMATED REVENUE INCREASES/(DECREASES)
 1984-85
 (Millions of Dollars)

Session Law	Bill Number	Description	1984-85			
			General Revenue		Trust Fund	Loc Impa
			Recurring \$	Non- Recurring \$		
84- 67	CS/HB 899	Convention Development Tax	---	---	**	*
84-164	HB 900	Ad Valorem Taxation	---	---	---	---
84-166	HB 946	African Development Bank/SBA Investment Authorization	---	---	**	---
84-360	CS/HB 955	Uniform Community Development District Act	---	---	---	*
84-353	CS/CS HB 970	Gasohol Exemption/FATSO Refunds				
		1. Gasohol	.4	---	6.6	---
		2. FATSO Refunds	---	---	(.5)	---
84-168	HB 1013	Professional Regulation Trust Fund	---	---	**	---
84-170	HB 1040	DOR Tax Administration	**	---	---	---
84-171	HB 1050	State Bond Act Revision	---	---	**	---
84- 80	CS/CS					
	HB 1126	Florida Mobile Home Act	*	.1	2.0	---
84-239	HB 1182	Hearing Aid License Renewal Fee	---	---	*	---
84-356	HB 1218	Community Redevelopment	---	---	---	---
84-260	HB 1278	International Registration Plan				
		1. IRP	---	---	(3.0)	---
		2. FATSO Fee Slowdown	---	---	(.2)	---
84-220	HB 1300	DOR Audits	14.2	---	---	3.
84-227	CS/HB 1312	Outdoor Advertising	---	---	.8	---
84-373	HB 1324	Discretionary Sales Tax	---	---	**	*

* insignificant dollar amount (\$ 50,000)
 ** indeterminate

THREE YEAR COMPARISON - BEFORE AND AFTER 1984 TAX MEASURES

GENERAL REVENUE COLLECTIONS

(MILLIONS OF DOLLARS)

	1982-83 ACTUAL REVENUE	1983-84* REVENUE ESTIMATE	ANNUAL GROWTH RATE	1984-85* REVENUE ESTIMATE	LEGIS- LATIVE CHANGES	REVISED 1984-85 ESTIMATE	ANNUAL GROWTH RATE
SALES TAX	\$2,807.1	\$3,941.3	40.4%	\$4,276.0	\$ 5.0	\$4,281.0	8.6%
CORPORATE INCOME & EMERGENCY EXCISE TAXES	419.5	460.0	9.7	565.1	6.1	571.2	24.2
DOCUMENTARY STAMP TAX	154.3	235.8	52.8	257.0	.0	257.0	9.0
INTANGIBLES TAX	40.5	105.3	160.0	109.1	2.0	111.1	5.5
ESTATE TAX	78.6	81.7	3.9	91.5	.0	91.5	12.0
SEVERANCE TAX	102.8	63.0	(38.7)	66.2	(5.0)	61.2	(2.9)
INSURANCE PREM. TAX & LIC.	74.0	98.7	33.4	107.9	.0	107.9	9.3
BEVERAGE TAXES & LIC.	318.1	415.1	30.5	449.8	1.6	451.4	8.7
CIGARETTE TAX	87.2	60.8	(30.3)	78.3	.0	78.3	28.8
PARI-MUTUEL TAX	70.5	75.3	6.8	80.3	7.3	87.6	16.3
PUBLIC SAFETY LIC. & FEES	26.5	29.0	9.4	29.3	1.6	30.9	6.6
AUTO TITLE & LIEN FEES	10.3	15.7	52.4	17.0	.0	17.0	8.3
INTEREST	129.6	67.5	(47.9)	71.5	.0	71.5	5.9
MEDICAL & HOSPITAL FEES	31.8	38.3	20.4	43.2	.0	43.2	12.8
SERVICE CHARGES	26.6	72.5	172.6	78.9	.4	79.3	9.4
OTHER TAXES, LIC. & FEES	40.5	59.6	47.2	63.9	2.1	66.0	10.7
TOTAL RECEIPTS	4,417.9	5,819.6	31.7	6,385.0	21.1	6,406.1	10.1
LESS REFUNDS	62.9	91.8	45.9	71.1	.0	71.1	(22.5)
NET GEN. REV. COLLECTIONS	\$4,355.0	\$5,727.8	31.5%	\$6,313.9	\$ 21.1	\$6,335.0	10.6%

* BASED ON THE MAY 8, 1984 REVENUE ESTIMATING CONFERENCE

the 1990s, the number of people in the world who are under 15 years of age is expected to increase from 1.1 billion to 1.5 billion.

As the world's population grows, the demand for food and other resources will increase. This will put pressure on the environment and on the world's food supply. It is important that we find ways to meet this demand without harming the environment.

One way to do this is to use sustainable agriculture. This means using farming methods that do not harm the environment and that can be continued for a long time. Sustainable agriculture can help us meet the world's growing demand for food without harming the planet.

Another way to do this is to use renewable resources. These are resources that can be replaced naturally, such as wind, water, and solar energy. Using renewable resources can help us reduce our dependence on fossil fuels and protect the environment.

Finally, we can protect the environment by using less and recycling more. This means using fewer resources and disposing of waste properly. Recycling can help us conserve resources and reduce the amount of waste that ends up in landfills.

By using sustainable agriculture, renewable resources, and recycling, we can help meet the world's growing demand for food and other resources without harming the environment. This is the only way to ensure a sustainable future for all.

There are many other ways to protect the environment, such as using public transportation, conserving water, and recycling paper. Every small action we take can make a difference. Let's all do our part to protect the planet for future generations.

The environment is our home. It is important that we take care of it. By using sustainable agriculture, renewable resources, and recycling, we can help protect the environment and ensure a sustainable future for all.

Let's all do our part to protect the planet. We can make a difference. The environment is our home. It is important that we take care of it. By using sustainable agriculture, renewable resources, and recycling, we can help protect the environment and ensure a sustainable future for all.

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BUSINESS REGULATION*

The 1984 Legislature enacted numerous laws dealing with the regulation of businesses in Florida. Some of the areas addressed include: alcoholic beverage licenses (and in particular, the issuance of temporary licenses), the issuance of special licenses to certain theme parks, beer manufacturing complexes, cabana clubs, public fair authorities, theatres and civic center authorities; the imposition of a fee upon persons applying for a quota liquor license; the enumeration of conditions upon which a corporation may retain a liquor license despite a felony conviction; and the procedure by which a beverage license will be sold at a foreclosure sale; authorization to sell alcoholic beverages with a higher alcohol content (5 percent versus 3.2 percent) in dry counties; repeal of the alcoholic beverage excise tax on sales of alcoholic beverages to military installations; and imposition of penalties for tampering with cigarette tax machines. Laws affecting Florida's pari-mutuel industry include: a restructuring of Florida's breeders' and owners' awards program for horse racing; provision for breeders' and owners' awards programs for Appaloosa and Arabian horses; authorization for

*Prepared by staff of House Regulated Industries & Licensing Committee

the issuance of Quarter Horse racing permits to nonprofit corporations; authorization for issuance of nonwagering permits for horse racing other than thoroughbred racing; authorization for the Division of Pari-mutuel Wagering to exclude certain persons from pari-mutuel facilities; establishment of an awards program for owners of registered Florida-bred horses which win certain races; an increase in the purses paid to horse owners; an increase in the moneys which greyhound racing, jai alai and harness racing permit holders may withhold from the pari-mutuel pool and use for capital improvements; provision for broadcasting pari-mutuel events and wagering on such broadcasts; requiring totalisator operators to post a bond to secure payment of tax revenues that would otherwise be lost in the event of a failure of the totalisator system. Other laws affecting sports and recreation include establishment of a State Athletic Commission to regulate professional boxing and modification of the laws governing the conduct of bingo. Changes to the laws governing public utilities include: provision for a funding program to encourage the development of solid waste facilities for production of electricity; imposition of limitations on the purchase or sale of water or sewer utilities by local governments; modification of various procedures relative to the Florida Public Service Commission's regulation of water and sewer utilities; continuation of state regulation of intrastate rail transportation; repeal of the Florida Public Service Commission's jurisdiction to regulate certain aspects of radio cellular communication; modification

of the method for computing regulatory assessment fees imposed upon telephone companies and long distance providers. The laws governing the sale of subdivided lands are clarified this year.

Alcoholic Beverages and Tobacco

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 86 (CHAPTER 84-262) amends various provisions of the beverage laws. It creates a new Section 561.181, F.S., which authorizes the Division of Alcoholic Beverages & Tobacco of the Department of Business Regulation to issue a temporary license to any person who files an application for a new alcoholic beverage license if the application is complete and does not on its face disclose any reason for denial of the license. The license would be good for a period of up to 90 days and may be extended for an additional 90 days if the Division finds that an extension is necessary to complete its investigation. The act further provides for expiration of the temporary license and for a fee which is equal to one-fourth of the annual license fee for the type and series of license or \$100, whichever is greater.

The measure requires the Division, through amendment to Section 561.321, F.S., to issue a temporary license to a licensee who has applied for a change of location. Such temporary license is valid for up to 90 days. No fee is charged for this temporary license.

Vendors operating under a temporary initial license or a temporary transfer license would be required to pay cash for

the purchase of alcoholic beverages. This "cash only" restriction is not applicable if the entity holding the temporary license is the holder of another Florida beverage license. In addition, the "cash only" restriction is not applicable to a vendor holding a temporary initial license if a pool buying agent placing the vendor's order makes the purchase.

Nonprofit civic organizations holding temporary beverage licenses are authorized by Section 561.422, F.S., to purchase alcoholic beverages from retail vendors.

The act eliminates an ambiguity in Section 561.65, F.S., by directing the clerk of the circuit court rather than the Division to conduct foreclosure sales of beverage licenses. The clerk is required to give written notice of the sale to all distributors who have filed a claim against the vendor in the foreclosure proceeding. The purchaser of the license must pay the amount bid into the court registry within 24 hours of the sale. Distributors are authorized to purchase licenses at foreclosure sales notwithstanding the prohibitions of the Tied House Evil Law (Section 561.42, F.S.). They cannot operate as a vendor under the license, and must transfer it to persons qualified to operate under the license within 245 days of date of purchase.

The Division of Alcoholic Beverages and Tobacco is authorized by Section 561.19, F.S., to levy a filing fee on applicants for quota liquor license drawings. The amount of the fee would be set by rule, not to exceed \$25.

The act amends Section 561.15, F.S., and allows companies regularly traded on a national securities exchange and banks, insurance companies, and savings and loans to put a beverage license in the name of the operator of the beverage license provided all ownership interests are disclosed in the license application.

Another amendment to Section 561.15, F.S., provides that a corporation may qualify for a license even though it has been convicted of a felony, provided the offense is not beverage-related and provided it can show at a Chapter 120, F.S., administrative hearing that it has terminated its relationship with any person directly responsible for the conviction. A corporation, any of whose officers has been convicted of certain crimes including violation of beverage laws, may qualify for a license if the Division can be satisfied the firm's relationship with the convicted officer has been ended. A corporation previously convicted of a violation of law may qualify as a licensee if the business has been given a full pardon or restoration of its civil rights.

The act amends Sections 563.05, 564.06, and 565.12, F.S., to remove the imposition of excise taxes on any alcoholic beverages sold to military installations within the state.

An amendment to Section 561.42, F.S., requires the Division to make rules regarding advertising and promotional displays consistent with federal Tied House Evil regulations (27 C.F.R. 6 (1983)).

Most provisions of the act take effect September 1, 1984, except those relating to the excise tax exemption for alcoholic beverages sold to military installations and those conforming advertising and promotional rules with federal regulations which are in effect.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 183 (CHAPTER 84-142) authorizes the Division of Alcoholic Beverages and Tobacco to issue certain special licenses. Specifically, it amends Section 561.221, F.S., to authorize the Division to issue additional vendor's licenses to the Busch Gardens Complex in Tampa.

The act also amends Section 565.02, F.S., to authorize the Division to issue a master license to cover additional bars established in certain theme park complexes according to a fee structure based on the number of additional bars.

An amendment to Section 561.42, F.S., identical to that appearing in COMMITTEE SUBSTITUTE FOR SENATE BILL 86 (CHAPTER 84-262) summarized above, directs the Division to make rules regarding advertising and promotional displays consistent with federal Tied House Evil regulations.

SENATE BILL 581 (CHAPTER 84-95) amends Section 561.20, F.S., to provide for the issuance of a club liquor license to any chartered or incorporated beach or cabana club consisting of beach facilities, swimming pool, locker rooms for at least 100 persons, and a restaurant which serves a minimum of 100 persons all of which is located on a contiguous tract of land no less than two (2) acres in size and having a minimum of

5,000 square feet of building area. Failure to maintain the facilities are grounds for revocation of the license. The act takes effect October 1, 1984.

COMMITTEE SUBSTITUTE FOR SENATE BILL 831 (CHAPTER 84-286) amends Section 561.20, F.S., to authorize the issuance of a special liquor license to any public fair or exposition organized in accordance with Chapter 616, F.S., or a civic center authority established by state or local law. The special license is authorized for use during special events held on the premises and not during any youth agricultural activity or during any regularly scheduled public fair or exposition and permits consumption on the premises only.

The act amends Section 565.02, F.S., to provide for the issuance of a special liquor license for a \$400 annual fee to any state chartered legal entity not for profit which is organized principally for the purpose of operating theatres of not less than 100 seats which stage live performances. The license is for consumption on the premises only during any regularly scheduled live theatre performance.

The act prohibits such special licensees from entering into an exclusive contract for the use of the license. The act takes effect October 1, 1984.

HOUSE BILL 698 (CHAPTER 84-299) amends Sections 568.01, and 568.07, and creates Section 567.131, F.S., thereby increasing the percentage of alcohol from 3.2 to 5 percent for intoxicating beverages which may be legally sold and consumed in dry counties.

SENATE BILL 80 (CHAPTER 84-19) amends Section 210.18, F.S., and makes it a crime to jam, tamper with, or alter a cigarette tax meter machine in order to avoid payment of state excise taxes. The effective date is October 1, 1984.

Pari-mutuel Wagering

SENATE BILL 777 (CHAPTER 84-282) amends various laws related to horse racing. The act contains various provisions from committee substitutes for each of the following bills: SENATE BILLS 716 and 256 and HOUSE BILLS 374 and 803. The act amends Sections 550.262 and 550.263, F.S., and restructures Florida's breeders' and owners' awards program, which was established in an effort to promote the entry of quality, Florida-bred horses in Florida racing meets. Under the program, separate but similar awards are available to breeders and owners of thoroughbreds and standardbreds. A breeder of a Florida-bred thoroughbred or standardbred which wins a race, or an owner of the sire of a Florida-bred thoroughbred or standardbred which wins a stakes race, is entitled to an award equal to 15 percent of the announced gross purse for the race won.

Funds earmarked for the awards program are derived from two sources: (1) the "breaks" or odd cents on all pari-mutuel pools during the race meet, and (2) the "outs" or winning pari-mutuel tickets which have been abandoned and have escheated to the state. [These moneys are currently deposited in the Florida Thoroughbred Breeders' Promotional Trust Fund

(Thoroughbred T.F.) if generated by a thoroughbred race meet, and in the Florida Harness Horse Racing Promotion Trust Fund (Harness T.F.), if generated by a standardbred race meet. If moneys in these funds are not sufficient to pay the 15 percent awards, the Florida Pari-mutuel Commission (Commission) may authorize the Department of Business Regulation (Department) to transfer moneys from the Pari-mutuel Wagering Trust Fund to cover any shortfall. In recent years, awards for thoroughbreds have exceeded revenues earmarked for the Thoroughbred T.F. and transfer payments have been necessary to avoid short-term cash flow problems and year-end deficits. The Harness T.F. has not received any transfer payments.]

The act abolishes the two trust funds and provides that the revenues previously deposited to such funds shall be paid directly to the Florida Thoroughbred Breeders' Association (Thoroughbred Association), or the Florida Standardbred Breeders' and Owners' Association (Standardbred Association), depending upon whether the moneys are generated by thoroughbred or standardbred races. The law also provides greater flexibility in the awards program by allowing the two associations to develop annual awards plans which provide for maximum awards within existing revenues. The Department will no longer have authority from the Commission to transfer other revenues to cover operating deficits in the awards program.

Awards must be made at a uniform rate of no less than 15 percent of the announced gross purse for the race if funds are available. However, the plan may provide for a dollar cap on

individual awards, or limit, exclude or defer payment of awards to certain classes of races, if necessary to ensure the solvency of the awards program. The Standardbred Association is authorized to release up to 25 percent of the awards funds to provide purses at nonwagering race meetings.

The annual awards plans established by the two associations must be approved by the Commission. Each association is responsible for administering its own awards program, and is entitled to retain up to ten percent of the program's revenues as an administrative fee. The Division of Pari-mutuel Wagering is given authority to audit the associations' records. The Commission is given the power to halt the associations' operations in the event of noncompliance with the law.

The act amends Sections 550.262 and 550.263, F.S., and modifies the manner in which moneys are paid into the Florida Quarter Horse Promotion Trust Fund and breeders' and owners' awards are paid on Quarter Horse races. Quarter Horse permit holders are authorized to substitute Appaloosas and Arabians for Quarter Horses in a limited number of races.

The act provides that funds generated by the running of Appaloosa races or Arabian races (breaks, 1 percent of pool, and escheats) shall be deposited in the Florida Appaloosa Racing Promotion Fund or the Florida Arabian Racing Promotion Fund. The moneys would be used to pay awards and additional purses to owners of Florida-bred Appaloosas or Arabians and for

the general promotion of owning and breeding Appaloosas or Arabians.

The act creates new Sections 550.266 and 550.267, F.S., and establishes a seven-member Appaloosa Advisory Council and a seven-member Arabian Advisory Council, each composed of one representative of the Department of Agriculture and Consumer Services and six members appointed by the Department, the majority of whom must be Florida breeders of racing Appaloosas or Arabians, respectively. The Councils are to assist the Department in the administration of the awards program.

The act amends Section 550.33, F.S., and authorizes Quarter Horse permit holders to substitute thoroughbreds for 50 percent of the daily races, but prohibits them from running 24 straight days of thoroughbred races. They could also substitute trotters for 50 percent of the daily races. Prior to substituting thoroughbreds or trotters, a Quarter Horse permit holder would have to run a minimum number of races with Quarter Horses, Arabians and Appaloosas. The minimum would be based upon the actual races run by such permit holder during 1983.

Section 550.08, F.S., is amended so the maximum racing period for thoroughbred permit holders is expanded from 50 to 74 days to recapture the 24 days of thoroughbred racing deleted from the Quarter Horse provision. The expanded period does not apply to the South Florida tracks.

The act amends Section 550.33, F.S., so nonprofit corporations are allowed to obtain a Quarter Horse racing

permit provided that pari-mutuel taxes and fees are paid and that any pari-mutuel profits are taxed as if the nonprofit corporation was a for profit corporation.

Section 550.265, F.S., is amended so the two separate Quarter Horse trust funds are consolidated and restrictions are placed on the use of the funds.

The act creates Section 550.333, F.S., which authorizes the issuance of "nonwagering permits" for horse racing other than thoroughbred racing and specifies how such meets are to be conducted.

An amendment to Section 550.02, F.S., allows the Division to exclude from pari-mutuel facilities any person guilty of conduct which would be a violation of the pari-mutuel laws or rules if the person were a licensee.

Section 550.10, F.S., is amended to allow the Division to issue a three-year occupational license to any employee at a pari-mutuel facility, regardless of whether the employee had been previously licensed by the Division, and to allow the Division to deny an occupational license to a person who is not of good moral character.

Section 220.13, F.S., is revised to make the pari-mutuel income of a nonprofit corporation subject to the Florida corporate income tax.

Section 550.03, F.S., is amended to incorporate references to the provisions of new Subsections 550.262(6) and (7) relating to the deposit of required sums by permit holders conducting Appaloosa and Arabian races with the Division.

The effective date differs for various parts of the act.

COMMITTEE SUBSTITUTE FOR SENATE BILL 599 (CHAPTER 84-96) amends Sections 550.08, 550.291, and 550.37, F.S., to extend the harness racing season from 105 to 120 days.

Amendments to Sections 550.16, 550.162, and 551.09, F.S., increase the moneys available to permit holders for capital improvements by authorizing harness racing permit holders, greyhound racing permit holders and jai alai permit holders to withhold an additional one percent of the handle on any or all exotic wagers. Harness racing permit holders may use the additional one percent for either capital improvements or purses; greyhound racing permit holders and jai alai permit holders must use the additional one percent for capital improvements.

The act amends Sections 550.09 and 551.06, F.S., to create a 50 percent surtax which is imposed upon amounts generated by the additional one percent take-out. The surtax proceeds are deposited in the General Revenue Fund.

COMMITTEE SUBSTITUTE FOR SENATE BILL 390 (CHAPTER 84-68) amends Section 550.262, F.S., and establishes an awards program for owners of registered Florida-bred horses which win certain races. Award amounts are set by the horse racing permit holder and published in the condition book for the period during which the race is to be conducted.

The act also increases the purses available to owners of winning horses.

Through an amendment to Section 550.16, F.S., the awards and increased purses are funded by allowing the permit holders identified indirectly in the act to withhold additional moneys from the handle on exotic wagering. Calder and Tampa Bay are authorized to withhold an additional one percent of the exotic handle for owners' awards and two percent of the exotic handle for additional purses. Hialeah, Gulfstream and Tropical Park are allowed to withhold an additional two percent of the exotic handle for purses or owners' awards (but only one percent can be used for purses). Pompano Park and Tourist Attractions, Inc., are allowed to withhold an additional three percent of the exotic handle for additional purses.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 246 (CHAPTER 84-9) amends Section 550.35, F.S., and authorizes race tracks and frontons to transmit broadcasts of races or games to locations outside of Florida, thus, allowing off-track betting in other states on Florida races and games.

The act also allows horse tracks to receive broadcasts of horse racing conducted outside the state and to accept pari-mutuel wagering on these races. The money wagered would be subject to state taxes on the same basis as the wagering on the races actually conducted at the Florida tracks.

Dog tracks and jai alai frontons may also receive dog races or jai alai game transmissions from out-of-state. These wagers would also be subject to the state tax. Payments to horse owners or horsemen's associations are not to exceed 50 percent of the net proceeds received by the licensee from the

broadcast operation. Pari-mutuel facilities are limited as to type of race or game which may be broadcast to that authorized under current license, and the term "broadcast" is defined for purposes of the act.

Payment on any ticket purchase must await certification by officials of the facility as to the validity of the race or game. No more than 20 percent of the races or games may be out-of-state broadcasts at each meeting unless the permit holder cannot fill the card or the Division approves an exception.

The rights, privileges and immunities granted by this act are to take precedence over any other law or Public Service Commission rule.

Section 895.02, F.S., is amended to include violations of fronton statutes within the definition of "Racketeering Activity" for purposes of the RICO (Racketeer Influenced and Corrupt Organization) Act (Chapter 895, F.S.).

COMMITTEE SUBSTITUTE FOR SENATE BILL 716 (CHAPTER 84-323) amends Section 550.48, F.S., to require the posting of a \$75,000 bond or proof of \$75,000 insurance as a condition of receiving a totalisator license from the Division of Pari-mutuel Wagering. The bond would be forfeited or insurance proceeds claimed to the extent that the state lost tax revenue due to a malfunction of a totalisator machine. The bond would only be forfeited or insurance claimed upon a finding by the Division that tax revenues were lost, that the revenues could not be recaptured through make-up races or make-up days, and

that the totalisator operator could not demonstrate pursuant to administrative hearing that the machine malfunction was due to an act of God or other circumstances beyond the operator's control.

SENATE BILL 600 (CHAPTER 84-199) amends Section 550.0831, F.S., to authorize an additional 20 day period of operation to Pensacola Greyhound Park Racing, Inc., provided their operating permit is not transferred, except by probate or guardianship proceedings, or by transfer of shares of stock to family members without payment of consideration, for a period of five years from the effective date of the act, July 1, 1984.

Bingo and Amusement Games

COMMITTEE SUBSTITUTE FOR HOUSE BILL 210 (CHAPTER 84-247) amends various subsections in Section 849.093, F.S., to impose additional restrictions upon the conduct of bingo games by veterans', charitable and nonprofit organizations. "Charitable, nonprofit, or veterans' organizations" are defined to mean organizations which have been in existence for at least three years, which are exempt from taxation under the Internal Revenue Code, and which are engaged in certain charitable endeavors.

References to guest games, an undefined phrase used inconsistently throughout Section 849.093, F.S., are deleted.

The act requires organizations which conduct bingo games to be located in the same county or within a 15-mile radius of where the game is played.

The act requires an organization which conducts a bingo game to designate organization members who will be present throughout the game, and to post notice of the sponsoring organization's name and the designated members' names at the game location. Persons regularly involved in the conduct of bingo games are prohibited from playing bingo at that location.

The act limits the premises at which bingo may be conducted.

Bingo cards are required to have not less than 24 playing numbers printed on them which must range from 1 through 75.

Legislative intent states that no charitable, nonprofit or veterans' organization shall serve as a sponsor of a bingo game conducted by another, but shall only be directly involved in the conduct of a game.

The current exception to the gambling prohibition provided for amusement games is moved from Section 849.16, F.S., (gambling law) to a newly created Chapter 512, F.S.

Boxing

HOUSE BILL 171 (CHAPTER 84-246) creates Section 14.27, F.S., to establish a three-member State Athletic Commission within the Department of Business Regulation. Commissioners are to be appointed by the Governor and confirmed by the Senate for initial terms of one, two and three years. Thereafter appointees are to serve four year terms. The Commission is to exercise exclusive jurisdiction over professional boxing in

Florida through the administration of the provisions of Sections 548.0401 through 548.49, F.S., the "Joe Lang Kershaw Act." Amateur matches, student matches sponsored by educational institutions and official Olympic events are exempt from regulation by the Commission.

Commissioners may hold hearings, issue subpoenas and suspend licenses or permits. Grounds for suspension or revocation of licenses are enumerated. The Commission would establish classes of boxers, based on weights. A minimum glove weight is set at six ounces.

Attendance of a physician at every match is mandated. Pre-fight medical examinations of fighters are required.

Participation in professional matches is restricted to persons 18 years of age and older and no one under 16 years of age may attend a match alone.

Attendance at professional fights of one referee and two judges is required. The act prescribes the procedure for determining the winner of a fight. Sham or collusive contests are expressly prohibited and violation of the prohibition constitutes a second degree misdemeanor.

The act provides for licensing of promoters, fighters, managers, officials, and various other persons involved in the sport. The measure also provides for the issuance of permits for fighting events and authorizes the Commission to establish license and permit fees, but sets the following maximum fees:

Licenses

Promoters/Matchmakers	\$500.00
All other licenses	\$100.00

Permits

Seating capacity under 2,000	\$ 50.00
Seating capacity 2,000 to 5,000	\$100.00
Seating capacity over 5,000	\$250.00

The act provides for a five percent gross receipts tax levied upon admissions to live fights and closed circuit television viewings, sale or lease of broadcasting, television and movie rights, and concessions.

All revenues from taxes, licenses, permits, fines and forfeitures is first used for expenses of the Commission and any excess is deposited in the General Revenue Fund.

The unauthorized destruction of tickets is made a misdemeanor of the second degree, as is the sale of admissions in excess of seating capacity. A means of ticket refunding is provided.

The act provides minimum standards for contracts between managers and professional boxers. It requires promoters to file surety bonds to secure performance of their statutory and contractual duties. The act sets out a timetable for a promoter's distribution of compensation to managers and boxers, and a manager's distribution of compensation to the boxer. It requires certain receipt and expenditure reports by promoters and managers to be filed with the Commission. It prohibits

advance payments by promoters to boxers, with exceptions for transportation and maintenance expenses.

The act authorizes the Commission to require boxers to maintain a minimum of \$5,000 health insurance and \$5,000 life insurance.

The law establishes a five-member medical advisory board, appointed by the Governor for staggered terms, to prepare standards for physical and mental examinations of boxers.

The act provides for the repeal of existing provisions of Chapter 548, F.S., relative to pugilistic exhibitions. It provides for the automatic repeal of the chapter on October 1, 1994.

Public Utilities

COMMITTEE SUBSTITUTE FOR SENATE BILL 91 (CHAPTER 84-84) creates Sections 125.0108, 166.045, and 190.0215, F.S., to require any city, county, community development district, or special district which intends to purchase or sell a water or sewer utility to first hold a public hearing on the purchase or sale and determine that the purchase or sale is in the public interest.

The measure lists nine criteria which the governing body must consider when determining whether the purchase or sale is in the public interest. Such criteria relate to the economic condition of the utility, the terms of the sales transaction, the impact of the sale on the utility's customers, and the

ability of the purchaser to maintain high quality and cost effective utility service. The local government entity is required to prepare a statement showing that the purchase or sale is in the public interest.

The law takes effect October 1, 1984.

COMMITTEE SUBSTITUTE FOR SENATE BILL 573 (CHAPTER 84-198) requires the Florida Public Service Commission to establish a funding program to encourage the development by local governments of solid waste facilities that use solid waste as a primary source of fuel for the production of electricity.

The Commission is authorized to require electric utilities to enter into contracts with local governments to provide advance funding to such governments for the construction of the electric component of a solid waste facility. The contracts would have to be approved by the Commission. The Commission would also be empowered to prescribe the terms of the contract if the parties could not agree to the terms, or if a utility refused to negotiate a contract with a local government. The Commission cannot approve a contract if, among other things, the contract violates the payment calculations outlined in the act, is not cost effective to the ratepayer, or results in uneconomic duplication of electric facilities.

Conditions are stipulated under which a full or proportionate refund of advanced payments are to be made to the

utility by the local government unit and subsequently refunded to the utility's customers.

The act takes effect October 1, 1984.

SENATE BILL 473 (CHAPTER 84-215) amends the definition of "telephone company", in Section 364.02, F.S., to specifically exclude radio common carriers and cellular radio telecommunications carriers. The effect would be to delete the PSC's authority to regulate such entities.

[The Federal Communications Commission presently regulates some aspects of cellular radio telephone service (i.e., technical standards and market structure), which preempts state regulation in those areas. However, the FCC has reserved to the states the right to regulate charges, classifications, practices, services and facilities. These aspects of radio telecommunications will remain unregulated under the terms of this act, but the act provides that these businesses shall remain liable for any sales taxes or gross receipts taxes imposed by law.]

HOUSE BILL 384 (CHAPTER 84-149) modifies various procedures in Chapter 367, F.S., relative to the Florida Public Service Commission's regulation of water and sewer utilities. Procedures are provided for deletion of territory from a utility's service area. The notice requirements for extension of service beyond a utility's territory are modified so the notice timetable is consistent with the time periods applicable to an application for an original certificate of service.

The act limits a utility's ability to obtain cumulative rate increases based upon the indexing of certain costs and the pass-through of the cost of purchasing services from other utilities. Use of indexing and pass-through provisions would be limited to the one most recent index calculation, and pass-through costs dating back only 12 months from the date of filing. The measure provides that when applications under both indexing and pass-through provisions are filed simultaneously or are sought in a combined filing, the filing will be considered as one rate adjustment.

The authorization of the Commission to order refunds, with interest, on a water or sewer utility rate request is restored. The PSC is also authorized to conduct limited proceedings.

The notice required before an operator may abandon a water or sewer utility is doubled to 60 days, and a procedure is established, with filing fees, to delete territory from a utility's service area upon the request of a utility.

Water and sewer utilities which are subject to PSC jurisdiction but do not receive a certificate of service, and which violate laws, rules or PSC orders may be penalized and fined by the Commission. The language in the act is identical to Section 366.095, F.S., affecting electric and gas utilities except this new Section 367.163, F.S., directs the deposit of collected penalties in the General Revenue Fund unallocated.

The act takes effect October 1, 1984.

SENATE BILL 183 (CHAPTER 84-300) reestablishes Sections 351.003 and 351.009, F.S., which provide for regulation of intrastate rail transportation by the PSC and the collection of regulatory fees by the agency. Absent this act, these sections would have been repealed effective October 1, 1984, pursuant to the Regulatory Sunset Act (Section 11.61, F.S.).

SENATE BILL 561 (CHAPTER 84-83) amends Section 364.337, F.S., to require the Public Service Commission to deduct access fees from the gross operating revenues of a long distance provider prior to calculating that company's regulatory assessment fee. The local telephone companies would include access fee revenues in their gross operating revenues and pay regulatory fees on this income.

Regulatory fees imposed upon utilities are deposited in the Florida Public Service Regulatory Trust Fund and used to fund operations of the Commission. Regulatory fees for telephone companies cannot exceed one-eighth of one percent of the company's gross operating revenues derived from intrastate business.

Land Sales

SENATE BILL 346 (CHAPTER 84-71) amends Sections 498.005 and 498.059, F.S., to clarify provisions of the Florida Uniform Land Sales Practices Law, Chapter 498, F.S.

The act provides a definition of the word "offering" to include any assurance contained in:

- (1) advertising materials concerning the sale of subdivided lands,
- (2) the public offering statement,
- (3) any contract or agreement that the purchaser executes relating to the purchase of subdivided land,
- (4) any document or material submitted to the Division of Florida Land Sales and Condominiums as part of the registration application, and
- (5) the order of registration.

[This addition to the present statute should clarify the issues raised in a recent court decision as to what constitutes an offering.]

"Material change, alteration, or modification" is defined to mean any act or failure to act by a registrant or its agents that would directly and adversely affect the registrant's legal or financial ability to fulfill its contract commitments to its purchasers or any act or failure to act by a registrant which would alter or change the legal obligations or commitments of the registrant to its purchasers or to the Division of Florida Land Sales and Condominiums.

[The substantial rewording of the penalty provision (Section 498.059, F.S.) seeks to remove the possibility that ministerial or administrative mistakes could result in the conviction of a third degree felony. Under these new provisions only the specifically enumerated violations of the statute, those that involve the true substance of the statute,

could result in third degree felony convictions. In conjunction with the new definition of "offering", they are intended to apprise persons of particular conduct which is criminal under the chapter.]

COMMERCE*

Enactments of the 1984 legislative session in the area of commerce resulted generally in legislation dealing with the regulation of financial institutions, mortgages, motor vehicle manufacturers, retail installment sales, business entities, and commercial solicitations.

More specifically, the acts passed by the 1984 Legislature include: authorization for regional reciprocal interstate banking; requiring state banks to provide currency transaction reports to the Comptroller for certain large transactions; allowing savings institutions to use the word "bank" in their names; encouragement of reverse mortgages by the elderly as a means of tapping into their home equity; amending the state antitrust and unemployment compensation acts to conform with recent changes made in their federal counterparts; providing for a study into the feasibility of establishing an international currency and barter exchange in Dade County; and an expansion of the Comptroller's jurisdiction to include regulation of fraudulent investment activities.

With respect to legislation dealing with solicitations there were bills passed which outlaw automated telephone

*Prepared by staff of House Committee on Commerce

solicitations except when made in response to previously ordered goods or services; allow the cancellation of home solicitations sales in person or by telegram in addition to by mail as is provided under current law; and which protect certain sellers who work on commission by requiring such commission agreements to be in writing. Noncompliance results in certain civil sanctions in the event of suit. Other legislation passed which affects consumers included requiring financial institutions to disclose and post their check holding/clearance periods and allowing sellers to assess a five percent fine on delinquent revolving account payments.

Business entities will be affected by legislation which increases the filing fees for corporate annual reports; decreases the fees for limited partnerships; amends the Uniform Commercial Code deadlines for perfecting a security interest; and requires every business entity which transacts business in this state or which owns property in this state to have an agent registered with the state who has access to the names of the ultimate equitable owners of such entity and who must provide such names in the event of subpoena.

Motor vehicle dealers are positively affected by legislation which prohibits any motor vehicle manufacturer, distributor, importer, or factory branch from engaging in virtually any activity which would adversely affect existing dealerships, either directly or indirectly.

Finally, the Motion Picture and Television Advisory Council within the Department of Commerce is expanded to cover

promotion of the recording industry in the state and the Council's name is changed to reflect this expansion. The powers and duties of the Division of Economic Development are revised to encompass the encouragement of this industry and to permit the Division to provide administrative and technical aid to a nonprofit statewide development corporation pursuant to the federal "Small Business Investment Act of 1958." The Columbus Hemispheric Trade Commission is created in the Department to focus the Florida celebration of the quincentenary of the discovery of America.

Banking

COMMITTEE SUBSTITUTE FOR HOUSE BILL 131 (CHAPTER 84-140) creates a statutory section (Section 655.081, F.S.) governing the disclosure by financial institutions of the time when an item, deposited by a customer and drawn on or payable through a financial institution located in the United States, becomes available for withdrawal as a right. Under the act a financial institution must provide written disclosure to potential customers and post notice to existing customers of its holding period for such items. In addition, with respect to interest-bearing accounts, if the holding period for the item is greater than seven days, the unavailable funds shall start accruing interest at the rate provided in the customer's account agreement as of the fourth business day after deposit. This is effective October 1, 1984.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 795 (CHAPTER 84-42) creates the "Regional Reciprocal Banking Act of 1984" (Section 658.295, F.S.) to authorize the consolidation of banking organizations within a 12 state region in the southeastern United States and the District of Columbia. The acquisition or merger of a Florida bank or bank holding company by or with a bank holding company the principal place of business of which is within the region, is authorized only if the laws of the other state permit the reciprocal acquisition of banks or bank holding companies in that state by Florida bank holding companies. Additionally, any acquisition or merger under the Florida law is subject to any conditions, restrictions, or requirements that would apply only to interstate transactions in the other state.

The measure includes an "anti-leapfrogging" provision which requires the divestiture of any Florida bank or bank holding company by any other bank holding company that ceases to be a Florida or regional bank holding company as defined in the act.

The Florida laws relating to the acquisition, ownership and operation of banks would continue to apply to banking organizations located in this state, notwithstanding their acquisition by an out-of-state bank holding company.

The Department of Banking and Finance is authorized to enter into cooperative agreements with other bank regulatory agencies to facilitate the regulation of banks and bank holding companies operating on an interstate basis.

Finally, Paragraph 658.73(2)(i), F.S., is added to provide a \$2,500 application fee payable by a regional bank holding company seeking an acquisition pursuant to this act.

The law will take effect on July 1, 1985 or the date on which states within the region representing 20 percent or more of the total deposits within the region, excluding Florida, have enacted and have in effect reciprocal statutes, whichever occurs sooner.

Financial Institutions

COMMITTEE SUBSTITUTE FOR HOUSE BILL 801 (CHAPTER 84-216)
[filed at the request of the Department of Banking and Finance]
makes a number of primarily technical changes in Chapter 655, F.S., relating to financial institutions generally, as well as other changes throughout the financial institutions codes. In order to facilitate a general comprehension of the measure, this summary is divided into a description of the major amendments and the amendments of lesser importance.

MAJOR AMENDMENTS

The act creates Section 655.50, F.S., to establish a state currency transaction reporting requirement similar to the requirement that already exists under federal law (31 U.S.C. Section 5311 et seq. (1982)). Under this section, financial institutions will have to report to the Department of Banking and Finance all currency transactions in excess of \$10,000. The Florida Department of Law Enforcement will have access to these reports, but otherwise they will be kept confidential.

Financial institutions can satisfy the requirements of this section by filing with the Department of Banking and Finance a copy of the report required under federal law, and the same exceptions that are available under federal law will also be available under the state provision. Both civil and criminal penalties provided for violation of this section are comparable to the penalties applicable to violation of the federal law.

Revised Section 657.053, F.S., generally increases the semiannual fee paid by state credit unions by 15 percent. Additionally, the Department of Banking and Finance is authorized to make further assessments not exceeding 15 percent of a credit union's fees in any fiscal year to cover administrative costs. [Information compiled by the Department indicates that the cost of supervising state chartered credit unions will amount to approximately \$786,000 in the current fiscal year. The income from fees at the current level is \$450,000, leaving a deficit in credit union regulation of about \$336,000. The proposed 15 percent increase will not erase this deficit, but it will reduce it by about 20 percent. The additional assessments, together with an increase in fees for new charter applications and the imposition of fees for the first time for merger applications will also serve to reduce the deficit to some extent.]

The act revises the investment authority for banks and savings and loan associations. The banking provision, Section 658.67, F.S., is changed extensively to make it comparable to the more liberal investment powers afforded to savings and

loans. Perhaps the most significant change is in the area of investments in subsidiary or service corporations which would be permitted up to 20 percent of the total assets of the investing bank or association by the addition of Subsections 658.67(5) and 665.0701(3), F.S., respectively.

Section 664.02, F.S., is amended to prohibit the issuance of any new industrial savings bank (ISB) charter in Florida thus limiting the number of industrial savings banks to the three that currently exist. [This amendment was included in the act because of growing concern over the use of industrial savings banks to circumvent restriction on interstate banking. Two years ago, the Legislature imposed a one-year moratorium on the issuance of new ISB charters pending the outcome of litigation over the application of Continental Illinois Corporation to establish ISBs in Florida. A federal court in Florida has now ruled in favor of Continental Illinois, and in the wake of that decision both Citicorp and BankAmerica Corporation have applied for ISB charters. Since Florida industrial savings banks are authorized to engage in virtually all banking activities with the exception of commercial and demand accounts, an ISB charter is seen as an effective way for out-of-state bank holding companies to gain access to Florida deposits.]

Section 664.045, F.S., is created to limit an industrial savings bank to the county or counties in which it is then authorized to maintain offices if it becomes the subject of an agreement to transfer control or ownership. [This section is

intended to preclude the possibility of one of the three existing ISBs being used as a vehicle by which an out-of-state bank holding company might establish a statewide banking presence.] Transfers by gift, will or intestate succession to a natural person and transfer without consideration in connection with a corporate reorganization or consolidation are exempt from this provision.

AMENDMENTS OF LESSER IMPORTANCE

Subsection 280.02(3), F.S., is amended to include those banks or savings associations which have a branch office in this state authorized by law to receive deposits within the statutory definition of "qualified public depository."

Subsection 560.03(2), F.S., is amended to exempt financial institutions from the licensure requirement for selling money orders.

Subsection 655.025(5), F.S., is added to allow the Department of Banking and Finance to assess against financial institutions or applicants for reasonable and necessary expenses incurred for such things as interpreters, communications, legal and economic research and witness fees and expenses. Such assessments would be in addition to the application fees and are intended to reimburse the Department for extraordinary costs that arise primarily in connection with applications involving foreign nationals.

Subsection 655.033(6), F.S., is revised to permit the Department to release information on a cease and desist order prior to its being made permanent where the requirement of

confidentiality would result in a substantial financial risk to the public. Subsection (7) is added to require the chief executive officer of a financial institution to notify the Department if he has actual knowledge that any person participating in the conduct of the affairs of that financial institution is charged with a felony in a state or federal court.

Section 655.037, F.S., is revised to provide the Department with flexibility to impose more limited sanctions than the removal of a financial institution official or employee.

Sections 655.043 and 655.047, F.S., are created to establish uniform provisions governing articles of incorporation and certain accounting practices for all types of financial institutions in lieu of the various provisions which now exist.

Subsection 657.005(3), F.S., is revised to increase the nonrefundable filing fee for an application for authority to organize a credit union from \$50 to \$250 and delete the requirement that the applicant file a copy of a certificate of authorization as approved by the Department of Banking and Finance with the Department of State.

By amendment to Subsection 657.006(1), F.S., the time period given the Department of Banking and Finance to approve or disapprove bylaw amendments submitted by a credit union is increased from 45 to 60 days after receipt.

Subsection 657.008(2), F.S., is revised to permit a credit union to operate branch offices if prior written notification is given to the Department of Banking and Finance and to require the investments in such branch offices to comply with the limitations of Subsection 657.042(4), F.S.

Section 657.029, F.S., is amended by striking language relating to past due obligations in the assets of a credit union.

Under revised Subsection 657.038(3), F.S., loans of a credit union which are fully secured by assignment of its shares or deposits are exempt from the limit of the greater of \$500 or 10 percent of the unimpaired capital of the credit union placed on the total secured obligations outstanding from any member. Subsection (9) of this section is amended to permit a credit union to make loans to a corporation in which the credit union holds an equity interest.

Subsection 657.065(5), F.S., is revised to permit the Department of Banking and Finance to decide when the property, property rights and members' interests of a merged credit union shall vest in the surviving credit union. Amended Subsection 657.065(6), F.S., requires payment of a nonrefundable fee of \$500 with each merger application and permits the Department to waive the fee for mergers made to avoid insolvency.

Subsection 657.258(3), F.S., is amended and Subsection 657.258(5), F.S., is added to provide for the establishment of a permanent loss reserve by the Florida Credit Union Guaranty Corporation into which the annual and special assessments

against members would be paid. [This provision is intended to ameliorate the consequences of an IRS ruling that such payments be taxed as income to the guaranty corporation and is virtually identical to the provisions of SENATE BILL 466 (CHAPTER 84-74) summarized below.]

Revised Paragraph 658.18(2)(c) and Section 665.022, F.S., amend provisions relating to the expenses of organizing a new bank or savings association, respectively. The savings and loan provision is conformed, generally, to the provisions now found in the "Florida Banking Code" (Chapters 658 and 660 through 663, F.S.). Under both provisions the organizer is required to file an accounting of organizational expenses with the Department of Banking and Finance and to furnish such information to the subscribers.

Sections 658.21 and 665.0201, F.S., are amended to conform the criteria for approval of applications for new banks and savings and loans; make it clear that the existence of all types of financial institutions in the primary service area should be taken into account in evaluating such applications; and revise terminology to conform with the types of economic and demographic data that are currently available.

Revised Subsection 658.25(2), F.S., requires a bank or trust company to attest in the statement filed prior to an intended opening date that the entire capital, surplus and undivided profits have been fully and unconditionally paid in cash.

Revised Section 658.26, F.S., eliminates the requirement that a bank must demonstrate that public convenience and necessity would be served by the establishment of a new branch. The establishment of branches will become a management decision of the bank subject only to the ability of the bank to support the operations of the branch. [This conforms the state provision to the procedures prescribed by the Office of the Comptroller of the Currency for the establishment of branches by national banks (12 U.S.C. Section 36 (1982)) and is essentially the same as the provision already applicable to savings and loans in this state (Section 665.028, F.S.).]

Subsection 658.28(1), F.S., is revised to extend provisions governing the acquisition of control of a bank to include approved but unopened banks and trust companies. Subsection 665.034(1), F.S., is altered to make similar changes with respect to savings and loans.

Subsections 658.40(4) and 658.42(2), F.S., are amended to clarify provisions governing the organization of a successor institution in connection with a "phantom merger." Section 665.0311, F.S., is revised to do the same for savings and loans.

Paragraph 658.44(1)(b), F.S., is revised to permit a majority vote of the stockholders in a state bank or trust company to signal approval of a merger rather than a two-thirds vote.

Amended Paragraph 658.48(1)(a) and Subsection 658.48(6), F.S., revise requirements relating to the approval of loans to

bank officers and directors and increase the amount which may be lent to any individual officer or director from 10 percent of the capital accounts of the bank to 25 percent. [This provision is in conformity with comparable provisions of federal law (12 U.S.C. Section 84 (1982)).]

Revised Subsections (3) and (5) of Section 660.26, F.S., eliminate the need for a showing of public convenience and advantage in connection with the establishment of a trust department at an existing bank.

Revised Section 633.01, F.S., amends the definitions of "international banking corporation" and "foreign country" to conform with comparable definitions in federal law (12 U.S.C. Section 3101 (1982)).

Section 665.011, F.S., is changed to show the renaming of Chapter 665, F.S., as the "Florida Savings Association and Savings Bank Act."

Section 665.012, F.S., is amended to include "savings bank" within the definition of "association" for purposes of Chapter 665, F.S., and to strike the definition for "surplus."

Subsection 665.0211, F.S., is amended to authorize the use of the name "savings bank" by savings associations chartered under Chapter 665, F.S. [This provision is similar to SENATE BILL 85 (CHAPTER 84-20) summarized below.]

Revised Subsections 665.023(3) and (4), F.S., conform terminology relating to the capital of a savings association with terminology used in the "Florida General Corporation Act," Chapter 607, F.S.

Section 665.0311, F.S., is changed to provide that the merger of a state savings association into a federally chartered financial institution shall not be subject to approval by the Department of Banking and Finance pursuant to the provisions of this section.

Subsection 665.0501(5), F.S., is amended to delete reserves and surplus of savings associations from the net worth accounts subject to a claim in liquidation by holders of capital certificates.

Section 665.066, F.S., is amended to strike the prohibition on the declaration of earnings by a savings association for an accounting period for which the allocation to the general reserve for the preceding accounting period has not been paid pursuant to the requirements of Section 665.083, F.S. The specified limit of "less than \$50" for the withdrawal value of a savings account which may be denied earnings by an association's board of directors is deleted thereby allowing the board to set the limit.

Section 665.068, F.S., is revised to strike the prohibition on the redemption by an association of its savings accounts when the association is in an impaired condition or when it has applications for withdrawal which have been on file for more than 30 days and have not been reached for payment.

Section 665.0711, F.S., is amended to reduce from 80 percent to 40 percent the percentage of a savings and loan association's mortgage loans that must be secured by property located within the state unless a lower percentage is

established by the Department of Banking and Finance pursuant to Section 655.061, F.S.

Each section within Chapters 657, 658, 660, and 663 through 665, F.S., created or amended by this act is subject to Sunset Review prior to October 1, 1991. All provisions of the act are to take effect October 1, 1984, except for Section 664.02, F.S., relating to the chartering of new industrial savings banks; Section 664.045, F.S., limiting the establishment of branches by such banks; and Section 665.0701, F.S., relating to investments of savings associations which take effect June 17, 1984.

Savings Associations

SENATE BILL 85 (CHAPTER 84-20) amends provisions in the Florida Banking Code (Chapters 658 and 660 through 663, F.S.) and the "Florida Savings Association Act" (Chapter 665, F.S.) relating to the use of the word "bank" by, and in the corporate name of, savings institutions. Paragraph 658.74(2)(a), F.S., is amended to permit the use of the words "bank", "banker", "banking", or "trust company", or the plural of any of those words, by state or federal savings and loan associations. Subsection 665.0211(1), F.S., is amended to authorize state associations to use the title "savings bank" in lieu of the titles "savings association" or "savings and loan association" which are presently authorized. The act takes effect October 1, 1984.

Consumer Loans

SENATE BILL 321 (CHAPTER 84-193) amends several provisions in "Florida Consumer Finance Act," Chapter 516, F.S., and one provision in Chapter 687, F.S., relating to interest and usury. The amendments to Section 516.031, F.S., of the Consumer Finance Act limit the restriction on charges which may be received by a licensee so as to apply only to charges received as a condition to the grant of a loan. Additionally, a licensee is permitted to charge the borrower for the premium payable on "non-filing insurance" in lieu of the fees that would be required to perfect a security interest, so long as the premium does not exceed the fees which would otherwise be payable. A licensee is also permitted by the act to impose a bad check charge for any dishonored check given in payment of a loan. Finally, a licensee is permitted to include up to 60 days unpaid interest in the principal amount of a new loan when the borrower is refinancing a previous loan.

Other changes in the law include the deletion of a requirement in Subsection 516.15(1), F.S., that a consumer finance licensee give to each borrower a copy of Section 516.031, F.S., (relating to maximum rates on finance charges) and an amendment to the provision in Subsection 516.15(2), F.S., requiring licensees to give a complete receipt for all payments made on any loan permitting in lieu of such receipt an annual statement showing the amount of interest paid during the previous year and the remaining balance.

The last two sections in the measure conform related provisions in Subsection 516.20(1) and Section 687.08, F.S., to changes previously described. In the Consumer Finance Act, the word "interest" is redefined to mean any profit received by the licensee as a condition to the grant of a loan, rather than any profit received in connection with a loan.

Finally, the receipt requirement under the general usury law found in Section 687.08, F.S., is amended to permit the lender to furnish the borrower an annual statement of the interest paid in lieu of providing a separate itemized receipt with each payment.

The act takes effect October 1, 1984.

Florida Securities Act

COMMITTEE SUBSTITUTE FOR HOUSE BILL 797 (CHAPTER 84-159) renames the "Florida Securities Act" (Chapter 517, F.S.) as the "Florida Investor Protection Act," and amends the chapter to expand the jurisdiction of the Department of Banking and Finance to include sales or offers to sell investments when such sales or offers to sell involve fraud, boiler room operations involving specified fraud and violations of the federal "Commodity Exchange Act" (7 U.S.C. Section 1 et seq. (1982)).

Section 517.021, F.S., is amended by the addition of the following definitions:

- 1) "boiler room" means an enterprise in which two or more persons engage in telephone communications with

members of the public using two or more telephones at one location, or at more than one location in a common scheme or enterprise;

- 2) "investment" means any commitment of money or property, not otherwise a security as defined in this Chapter 517, F.S., in expectation of receiving an economic benefit, or sold in violation of Section 517.301 or 517.311, F.S. [with certain exceptions]; and
- 3) "branch office" means any office of a dealer or investment adviser located in this state other than the principal office of the dealer or investment adviser which is owned or controlled by the dealer or investment adviser for the purpose of conducting a securities business.

The definition of "dealer" is amended to include nonbank subsidiaries of a bank, and the definition of "sale or sell" is revised to accommodate any contract of sale or disposition of any investment.

Section 517.051, F.S., is amended to provide that securities issued or guaranteed by any instrumentality of the United States, any state, the District of Columbia or any political subdivision or agency of these jurisdictions are exempt from registration requirements. A further revision of this section includes "federally chartered savings banks" in the list of banks which may issue exempt securities.

The act creates Subsection 517.12(5), F.S., to require explicitly that branch offices of a dealer or investment adviser register with the Department and prohibits the operation of an unregistered branch office. Subsection 517.12(4), F.S., is amended to include "associated person of an investment adviser" in the group that must be registered with the Department. The "Security Guaranty Fund" is renamed the "Securities Guaranty Fund" through revision of Subsection 517.12(10) and Section 517.131, F.S. The list of persons the Department may license is amended by deleting "salesman, officer, office" and adding instead "associated person or branch office" to the language of Subsection 517.12(12), F.S. An investment adviser must notify the Department whenever the adviser terminates a registered associated person pursuant to another change in this subsection. Revised Subsection 517.12(14), F.S., includes "branch office" in the list of persons who must maintain certain books and records specified by the Department. New Subsection 517.12(15), F.S., requires every dealer, investment adviser or branch office to keep a record of all currency transactions in excess of \$10,000 and to file reports of the same with the Department pursuant to federal regulations found at 31 C.F.R. Part 103 (1983). Such reports are to be confidential though they may be accessed by any law enforcement agency or by the Department of Revenue.

Revised Section 517.131, F.S., provides that an associated person is among those from whom a person may seek

recovery for monetary damages from the Securities Guaranty Fund.

Subsection 517.141(3), F.S., is created to provide a procedure whereby all claimants against the same dealer, investment adviser or associated person who notify the Department of a pending suit or judgment against such persons within two years may all be considered in determining pro rata shares of reimbursement from the Fund. The procedure applies when there are claims against the same dealer, investment adviser or associated person which exceed the \$100,000 recovery limit per dealer, investment adviser or associated person. New Subsection 517.141(4), F.S., stipulates that when claims are filed against the Fund on accounts owned by more than one person, all such owners will be treated as a single eligible claimant with respect to payment from the Fund.

Paragraphs 517.211(3)(a) and (4)(a) and (b) are revised to include an action for rescission or damages for investments sold in violation of Sections 517.301 or 517.311, F.S.

Section 517.241, F.S., is amended to provide that nothing contained in Chapter 517, F.S., shall limit any statutory or common law right of any person to bring any action in any court for any act involved in the sale of any investment covered by the act.

Section 517.250, F.S., is created to govern prohibited practices with respect to boiler room operations and sales or offers to sell securities or investments. Paragraph (1)(a) of this section prohibits offering or selling in or from the state

any security or investment in violation of Section 517.301, F.S., relating to fraudulent transaction and falsification or concealment of facts, or Section 517.311, F.S., relating to false representations and deceptive words. Paragraph (1)(b) of Section 517.250, F.S., prohibits managing, supervising, controlling or owning any boiler room in this state which offers for sale or sells any security or investment in violation of Paragraph (1)(a) discussed immediately above. Subsection 517.250(2), F.S., provides a right of rescission and damages to any person harmed by a violation of Subsection (1) of that section.

Section 517.275, F.S., is added to Chapter 517, F.S., to make a violation of the federal Commodity Exchange Act (7 U.S.C. Section 1 et seq. (1982)) a violation of Chapter 517, F.S., which is a third degree felony. [This provision is Florida's response to the "Future Trading Act of 1982" (See 7 U.S.C. Section 13a-2 (1982)) which allows states to prosecute and enjoin violations of the Commodity Exchange Act. Prior to passage of the 1982 act, the federal government had exclusive jurisdiction over such violations.]

Sections 517.301 and 517.311, F.S., are revised to cover investments.

The statutory sections added by this act are subject to Sunset Review prior to October 1, 1990.

The act is effective June 11, 1984.

Mortgages

SENATE BILL 77 (CHAPTER 84-52) adds to Section 501.137, F.S., a requirement that a mortgage lender who collects funds in an escrow account in connection with a mortgage loan for the purpose of paying hazard insurance premiums shall pay those premiums when they become due so that insurance coverage does not lapse. If the balance of funds in the escrow account were insufficient to pay the premium, the lender would be required to notify the mortgagor of such deficiency within 15 days after receipt of a notice from the insurer that the premium is due.

If the lender fails to pay an insurance premium when there are sufficient funds in the escrow account with which to pay the premium, the lender would be liable to the property owner for any loss arising out of such failure.

Home Equity Conversion

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 702 (CHAPTER 84-251) creates Part VII of Chapter 420, F.S., the "Florida Home Equity Conversion Act" for the purpose of encouraging the development of home equity conversion plans in the state and to advise, assist, and protect the elderly in the pursuit of home equity conversion. This enactment results from a study by the Department of Community Affairs done at the direction of the Legislature pursuant to CHAPTERS 83-267 and 83-311 on the use of reverse annuity mortgages in Florida. The study was to include in its findings recommendations on

legislation or informational activities needed to implement or encourage the use of such instruments.

Subsections (17) and (18) are added to Section 420.011, F.S., to define respectively for purposes of the "Florida Housing Act of 1972" (Chapter 420, F.S.), a "home conversion mortgage" as a reverse mortgage loan made to an elderly homeowner which is secured by a lien on real property and "consortium" as two or more mortgagees who jointly negotiate and agree to provide home equity conversion plans to elderly homeowners, on agreed upon terms and conditions.

The making, servicing and managing of home equity conversion mortgages to assist elderly citizens is made an additional purpose of the Housing Development Corporation of Florida by amendment to Paragraph 420.101(1)(c), F.S.

Subsection 420.507(21), F.S., is added to give the Florida Finance Housing Agency within the Department the authority to review all reverse mortgages proposed by an individual lender or a consortium to assure consistency with the purposes and intent of this act which includes determination that the mortgagee is licensed pursuant to the "Mortgage Brokerage Act," Chapter 494, F.S., or exempt from its provisions and that the mortgagee has sufficient financial resources.

Section 420.603, F.S., is created to provide definitions for the Florida Home Equity Conversion Act (Sections 420.601 through 420.650, F.S.) and in addition to repeating the definitions for "home equity conversion mortgage" and

"consortium" found in Section 420.011, F.S., the section includes meanings for:

- 1) "home equity conversion" as all the methods by which homeowners can convert the equity in their homes into cash without relinquishing occupancy rights;
- 2) "elderly homeowner" as any homeowner 70 years of age or older or any joint homeowner 70 years of age or older; and
- 3) "reverse mortgage" as any mortgage under the terms of which a predetermined line of credit is gradually drawn down in lump-sum or periodic payments, the line of credit including both principal and deferred interest.

The duties of the Department within the context of the act are provided in Section 420.604, F.S., as:

- 1) the development and dissemination of consumer information on types of home equity conversion to individual homeowners and groups;
- 2) the monitoring of home equity conversion activity in Florida and other states in order to provide information to financial institutions and the public; and
- 3) the participation in activities to enhance the availability of home equity conversion plans which would enable elderly homeowners to make informed decisions.

To permit the fulfillment of these duties \$65,000 is appropriated from the General Revenue Fund.

Section 420.606, F.S., establishes the Home Equity Conversion Mortgage Guaranty Fund in the state treasury to provide security for mortgagees issuing home equity conversion mortgages should there be a deficiency in such a mortgage after foreclosure. The Florida Housing Finance Agency is to administer the Fund and is directed to assess an insurance premium fee for deposit in the Fund against all mortgages insured under the Fund payable at the time a loan is insured. A portion of interest earned by the invested Fund may be used to cover administrative and personnel costs with the balance reverting to the Fund. Prerequisites which must be satisfied to establish eligibility for disbursements from the Fund are specified. The Agency is authorized to study and investigate data in conjunction with the State Board of Administration which will permit the establishment and administration of the Fund according to sound economic and actuarial principles. The Agency and Board jointly are to adopt and enforce rules which are to include standards, guidelines, criteria and contractual relationships set out in the act. No mortgage may be insured under this act after July 1, 1990, unless agreed to prior to this date and when all mortgages have been amortized or foreclosed and the deficiency reimbursed, any remaining proceeds revert to the General Revenue Fund. The Agency is appropriated \$40,000 to capitalize the Fund and \$20,000 to administer it.

Section 420.608, F.S., provides that an eligible person may receive an amount from the Fund equal to the unsatisfied portion of such person's deficiency decree obtained pursuant to Chapter 702, F.S. (Foreclosure of Mortgages, Agreements for Deeds, and Statutory Liens), but in no event may the amount exceed the difference between the proceeds from a foreclosure sale and the loan due, including principal and interest. The mortgagee is to assign any additional right, title and interest in the judgment to the Agency to the extent of payment from the Fund upon the receipt of such payment.

Section 420.609, F.S., permits investment of the Fund by the Board pursuant to the Board's powers and duties relative to the investment of trust funds (Sections 215.44 through 215.53, F.S.).

Section 420.610, F.S., authorizes the Agency to insure eligible mortgages which meet the prerequisites enumerated in this section and to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement to the extent eligibility has been determined. Mortgagees are required to make available to the homeowner/mortgagor a written explanation of the home equity conversion mortgage including the risks and benefits involved, provisions for the disposal of property at the end of the loan term and provisions for circumstances such as a temporary move of the homeowner or the diminished physical or mental capacity of the homeowner. The mortgagee is required to apply for insurance prior to the execution of the mortgage and if the insurance is denied the

mortgagee is permitted 30 days to amend the mortgage and reapply.

Section 420.625, F.S., asserts the intent of the Legislature to encourage creation of a consortium of home equity conversion mortgagees.

Section 420.650, F.S., gives the Department power to make contracts and agreements with the federal government, state and local agencies and other public entities in fulfilling its obligations under this act and is empowered to seek and accept public or private funds.

The Department is to make a report to the Legislature on its activities pursuant to this act each year on or before March 1. The act takes effect July 1, 1984.

Florida Credit Union Guaranty Corporation, Inc.

SENATE BILL 466 (CHAPTER 84-74) amends Section 657.258, F.S., governing the powers and duties of the Florida Credit Union Guaranty Corporation, Inc., by mandating creation and maintenance of a loss reserve account by the Corporation. Paragraph 657.258(3)(e), F.S., is revised to strike the provisions allowing the Corporation to refund not more than 90 percent of a withdrawing member credit union's investment if the member converts to a federal credit union or voluntarily liquidates while solvent, assuming the total assets of the Corporation at least equal one percent of the aggregate of all other members' guaranteed shares and deposits. Under these same conditions, a withdrawing member can be refunded its

investment and interest in the loss reserve pursuant to new Paragraph 657.258(3)(g), F.S. Under amended Paragraph 657.258(3)(f), F.S., annual and special assessments are to be considered as payments by a member into the loss reserve. Revised Paragraph 657.258(3)(i), F.S., authorizes the Corporation to reduce proportionately the investment of each member and transfer these moneys from membership fees to the loss reserve as a special assessment when the assets of the Corporation fall below 0.5 percent of the total aggregate of members' guaranteed shares and deposits. The law lists those assessments, fees, and amounts which shall be credited to the loss reserve, as well as those items which may be charged against it in new Subsection 657.258(5), F.S.

The act which takes effect May 31, 1984, is scheduled for Sunset Review prior to its repeal on October 1, 1991.

Unemployment Compensation

HOUSE BILL 121 (CHAPTER 84-40) amends several provisions in the unemployment compensation law. [These changes were necessitated by recent changes made in the federal "Unemployment Compensation Act" (26 U.S.C. Sections 3301 - 3302, 42 U.S.C. Sections 501 - 503, 1101 et seq. (1982)).

Paragraph 443.091(3)(b), F.S., is amended to entitle a person who has rendered a service in an educational institution during the interval between two successive years or terms to unemployment compensation benefits if the person is denied an opportunity to perform the same service during the second year

or term as was performed during the first year or term. Payment shall be made retroactively for each week during the interim for which the person filed a timely claim if the claim was denied solely because of the prohibition against an interval claim for unemployment compensation when a person performs the same service during two successive years or terms in an educational institution. Paragraph 443.091(3)(d), F.S., is added to declare a person ineligible for unemployment benefits for services performed in an educational institution if the services were performed while the person was in the employ of a governmental agency or entity established and operated for the purpose of providing such services to one or more educational institutions.

Employer contribution rates to the Unemployment Compensation Trust Fund are raised through revision of Subsection 443.131(2), F.S., to require an employer whose employment record has been chargeable with benefit payments for less than eight calendar quarters to pay an initial rate of 2.7 percent on post-1977 wages and to set the rate for employers chargeable for at least eight quarters at 5.4 percent. This also is made the standard rate of employer contributions based on benefit experience as provided in Paragraph 443.131(3)(e), F.S. The maximum contribution rate is fixed at 5.4 percent unless an employer is participating in an approved short-time compensation plan in which case the maximum is to be one percent above the current maximum contribution rate for the

calendar year in which the short-time benefits are in the employer's employment record.

Interest due the federal government on advances under Title XII of the "Social Security Act" (Advances to State Unemployment Funds, 42 U.S.C. Sections 1321 - 1324 (1982)) are not to be paid from moneys in the Unemployment Compensation Trust Fund according to new Subsection 443.201(2), F.S.

The provisions of the act relating to benefit eligibility and the use of the Unemployment Compensation Trust Fund are to operate retroactively to April 1, 1984, and those provisions increasing employer contributions to the Fund are to take effect January 1, 1985.

SENATE BILL 164 (CHAPTER 84-21) extends the effect of the amendments to Subsection 443.111(1), F.S., which contain the authorization for mailing unemployment compensation benefit checks to claimants from October 1, 1984, to October 1, 1986. Additionally, the act revises Paragraph 443.141(2)(a), F.S., to delete the requirement that the first notice to an employing unit of delinquent unemployment compensation tax payments be by registered or certified mail. The act takes effect July 1, 1984.

SENATE BILL 616 (CHAPTER 84-200) extends from 1984 until 1986 the exemption from unemployment compensation coverage for alien agricultural workers by amendment to Subparagraph 443.036(17)(e)2., F.S. These provisions take effect June 13, 1984 and operate retroactively to January 1, 1984. The act also adds Subparagraph 443.036(17)(n)20., F.S., to exclude

services performed by speech therapists, occupational therapists and physical therapists as nonsalaried contract workers with a home health agency from the meaning of employment for unemployment compensation purposes. This provision is effective July 1, 1984.

Paragraph 443.091(1)(e), F.S., is amended by SENATE BILL 742 (CHAPTER 84-279) to extend unemployment compensation benefit eligibility to a worker who has been paid wages for insured work equal to 12 times his average weekly wages during his base period for benefit years beginning between July 1, 1984 and December 1, 1984. Language added to Subparagraph 443.111(4)(a)1., F.S., fixes total benefits of ten times the weekly benefit for an eligible person with a claim for a benefit year commencing between July 1 and December 1, 1984, who has been paid wages for insured work equaling between 12 and 20 times an average weekly wage of not less than \$20 during his base period. Pursuant to amended Subparagraph 443.111(5)(c)1., F.S., extended benefits are to be paid only to any individual paid wages for insured work in his applicable benefit year equal to 20 or greater times his average weekly wage during this base period if the average weekly wage is not less than \$20. [This will permit farmworkers who were detrimentally affected by the 1983-84 freeze to collect benefits.] This act is effective July 1, 1984.

SENATE BILL 90 (CHAPTER 84-123) adds new language to Paragraph 443.036(17)(n), F.S., to define "direct sellers" for the purpose of excluding services performed by such persons

from the meaning of "employment" within the context of the unemployment compensation laws.

Labor

SENATE BILL 893 (CHAPTER 84-345) exempts any employer, employee or member of a labor organization from liability under state law for wage discrimination based on sex (Sections 448.07 and 725.07, F.S) if such person is subject to the federal "Fair Labor Standards Act of 1938" (29 U.S.C. Section 201 et seq. (1982)).

Florida Antitrust Act of 1980

HOUSE BILL 278 (CHAPTER 84-146) amends two provisions of the "Florida Antitrust Act of 1980" (Chapter 542, F.S.) in order to conform it to federal antitrust legislation. Section 542.25, F.S., is amended to resolve any potential conflict between prima facie evidence presumptions and collateral estoppel by allowing the use of the doctrine of collateral estoppel in civil antitrust cases when applicable.

Section 542.28, F.S., is amended to require any person believed to have any information relevant to a civil antitrust investigation as well as any person in possession, custody or control of documentary material to respond to a civil investigative demand. The law is effective June 11, 1984.

International Trade and Finance

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 312 (CHAPTER 84-61) deals with the creation of

International Currency and Barter Exchanges. It authorizes the Secretary of Commerce to supervise a feasibility study concerning whether such an entity is needed, and if it is, how it would operate. The purpose of an Exchange would be to provide a marketplace for the negotiation of foreign currency and for the trading of goods and services. Funding for the study will be provided by private sources.

If the Secretary of Commerce determines that the establishment of an Exchange is warranted, then the Governor and legislative leaders will appoint a committee to draft the initial constitution and bylaws for the Exchange. These must be approved by the Comptroller before the Exchange may transact business.

The act provides that the first such Exchange shall be located initially in Dade County, but others may be established anywhere in the state. The Exchange may enter into cooperative working agreements with the Insurance Exchange of the Americas or the Greater Miami Foreign Trade Zone. The Exchange will be subject to the Florida securities laws and to limited supervision by the Comptroller who shall be reimbursed by the Exchange for costs thereby incurred. The Exchange is exempted from state and local taxes measured by income, transaction amounts, or gross receipts, but not from ad valorem taxes. The act takes effect October 1, 1984.

Sales Representatives

COMMITTEE SUBSTITUTE FOR SENATE BILL 63 (CHAPTER 84-76)

requires an out-of-state employer who hires a sales representative to solicit wholesale orders within this state and who pays such representative in whole or in part by commissions, to execute a written contract which sets forth the method by which such commissions are to be computed and paid. If such contracts are not reduced to writing, the employer must, within 30 days of termination of the contract, pay the sales representative all commissions due and owing. Failure to do so subjects the employer to double damages, reasonable attorneys' fees, and court costs in the event of a civil action. The law is effective October 1, 1984.

Automated Telephone Solicitation

HOUSE BILL 111 (CHAPTER 84-12) amends present law in Section 365.165, F.S., to prohibit automated selection or dialing of telephone numbers unless such automated calls are made in response to previously ordered or purchased goods or services. Prior law permits automated calls in response to calls of the persons solicited. The law takes effect October 1, 1984.

Home Solicitation Sales

HOUSE BILL 335 (CHAPTER 84-63) revises provisions in Section 501.025 and Paragraph 501.031(2)(b), F.S., which allow a buyer to cancel a home solicitation sale within three business days after the sale. This act would allow the buyer to provide written notice of cancellation in person or by

telegram, in addition to mailing such notice as provided by present law. The act is effective October 1, 1984.

Retail Installment Sales

COMMITTEE SUBSTITUTE FOR HOUSE BILL 843 (CHAPTER 84-180) amends Subsection 520.35(3), F.S., relating to revolving accounts to permit sellers to assess delinquency charges on revolving account payments not made within 10 days of the payment's due date. The amount of the delinquency charge is up to five percent of the amount of the delinquent payment, not to exceed \$5. However, if the delinquency charge so computed is less than \$1, no delinquency charge may be assessed for that period. In addition, all parties to a revolving account must agree in writing to the imposition of a delinquency charge prior to its imposition. The law becomes effective October 1, 1984.

Business Organizations

COMMITTEE SUBSTITUTE FOR SENATE BILL 425 (CHAPTER 84-54) is designed to expand the ability of the Department of Legal Affairs and other law enforcement agencies to investigate the participation of individuals and corporations in investment activity in Florida when such investments involve illegally obtained funds. Such investments are frequently accomplished with the use of alien or foreign corporations. This measure accomplishes this objective by creating Section 607.325, F.S., and adding appropriate definitions to Section 607.004, F.S., to require all corporations and business organizations that own

real property in Florida or own a Florida mortgage or transact business in Florida to have offices and agents in this state registered with the Secretary of State. Corporations and alien business organizations may satisfy the requirements of this section by appropriate compliance with either Section 607.034 or 607.324, F.S., relating to registered offices and agents for domestic and foreign corporations respectively, but the registered agent appointed pursuant to these sections must file an acceptance of the obligations of this section with the Department of State. Failure to continuously maintain a registered office and agent makes the entity liable to a \$500 fine for each year or portion thereof in noncompliance. The Department of Legal Affairs may file an action in the circuit court of the circuit where the corporation or alien business organization is situated or does business or owns property for an order directing the designation of a registered office and the appointment of a registered agent. The Department also may file a lis pendens (notice of disputed title) against real property owned by the noncomplying entity. Failure to comply with the order incurs a penalty of up to \$1,000 per day of noncompliance. All moneys collected under this section are to be deposited in the General Revenue Fund. The registered agent is further required in the event of subpoena to produce, within 30 days, documentary evidence of the entity's existence, the names and addresses of all current and prior officers, directors, shareholders, and equitable owners of the corporation or organization and the names and addresses of the

person or persons supplying the information. The same remedies are available to enforce the subpoena as are available to enforce an order to register office and agent. All moneys collected under this section are to be deposited in the General Revenue Fund. An entity which selects an attorney, accountant or spouse as registered agent or designated representative waives any privilege which might otherwise attach to communications between the agent or representative and entity with respect to this information. An exemption to prior and current shareholder and owner information requirements is given to financial institutions defined for purposes of the "Florida General Corporation Act" (Chapter 607, F.S.), entities whose securities are registered in compliance with the federal "Securities Exchange Act of 1934" (15 U.S.C. Sections 78A - 78kk (1982)) and entities whose securities are regularly traded on a domestic established market or a foreign established market designated by rule of the Department of Legal Affairs. The information received and records and testimony transcribed are to be considered confidential by the Department of Legal Affairs and by any person or law enforcement agency who comes into possession of them. Willful disclosure is made a third degree felony as is the knowing and willful falsification or concealment of a material fact, the making and use of fraudulent statement or representation, the making and use of any false writing or document with respect to any records or testimony produced pursuant to the subpoena. Designation of

registered office and agent is not to be used to determine whether the entity is actually doing business in the state.

Subsection 607.034, F.S., is amended to require each registered agent to file a written statement on forms prepared by the Department of State prior to January 1, 1985, accepting the appointment as registered agent simultaneously with being designated as such and acknowledging familiarity with new Section 607.325, F.S., and acceptance of the obligations of this section.

Section 692.05, F.S., relating to the ownership of property by alien corporations is repealed and all deeds and other instruments relating to conveyance, transfer or divestment of title to real property or interest in such are validated for the period from September 1, 1981 through July 1, 1984. However, this act has no effect on any action begun under the "Florida RICO (Racketeering Influenced and Corrupt Organization) Act" (Chapter 895, F.S) prior to July 1, 1984 nor does it impair any rights or defenses asserted prior to that date in a civil action in which lis pendens has been filed.

Provisions of the act are severable.

The act takes effect July 1, 1984 and a corporation, foreign corporation or alien business organization may comply by designation of a registered office and agent within one year or within 30 days of a demand from the Department of Legal Affairs to do so.

Business Entities

COMMITTEE SUBSTITUTE FOR SENATE BILL 799 (CHAPTER 84-134) amends various provisions in the corporations and partnership laws relating to formation and filing fees for limited partnerships and corporate annual reports.

Provision is made for an exception to the traditional method of valuing assets for the purpose of declaring dividends by the addition of Subsection 607.137(7), F.S. Dividends may be paid in cash out of the current value of the net assets based upon a current fair valuation or other reasonable method, but each dividend must be identified as a distribution of current value of the net assets and the shareholders must be told of the amount per share paid from current value of the net assets at the time of dividend distribution.

The filing fee for a corporate annual report stipulated in Subsection 607.361(2), F.S., is increased from \$10 to \$20.

Paragraph 620.02(1)(b), F.S., is amended to delete the requirement that a certified copy of a certificate of limited partnership be recorded by the clerk of the circuit court in the county where the partnership has its principal place of business. Various fees which the Department of State is authorized to collect for services performed under Chapter 620, F.S. (Partnership Laws), are changed by revision of Subsection 620.02(2), F.S.

Substantial rewording of Section 620.31, F.S., permits the Department of State to revoke the certificate of authority of a limited partnership for failure to file an annual report

and pay fees and taxes within the time allowed for filing and payment, failure to file any amendment to the certificate of limited partnership required by Chapter 620, F.S., and for fraudulent misrepresentation or concealment of any material matter in any document submitted in compliance with Chapter 620, F.S. However, the Department may not revoke the certificate of authority unless the limited partnership has been given at least 60 days' notice by mail and the limited partnership fails to correct prior to revocation any deficiencies which provide grounds for revocation. The certificate of revocation is to be mailed to the principal place of business of the limited partnership. Neither the limited partnership nor any successor or assignee can maintain any action, suit or proceeding in state court on the limited partnership's behalf until the certificate of authority is reinstated, but the validity of a contract, deed, mortgage, security interest, lien or act of the limited partnership is not impaired by failure to continue in effect the certificate of authority and the limited partnership may defend any action, suit or proceeding in any state court. The unauthorized conduct of business by a limited partnership makes it liable for all fees and taxes due under Chapter 620, F.S., and subject to a \$500 fine for each year or portion thereof during which unauthorized business was conducted. The Department may approve an application for reinstatement of a certificate of authority at any time if satisfied there was no cause for revocation or the reasons for revocation have been corrected.

If another person has lawfully assumed the name or substantially the same name of a limited partnership whose certificate of authority has been revoked, the Department must require the limited partnership to amend its certificate of limited partnership before reinstating it, but no person may assume or use the name of a limited partnership whose certificate of authority has been revoked for one year after the revocation. The Department of Legal Affairs or any state official may seek to annul, cancel or dissolve a certificate of limited partnership for other legal causes, the provisions of this section notwithstanding.

Section 620.32, F.S., is revised to require the Department of State to deposit moneys collected under the "Uniform Limited Partnership Law" (Part I of Chapter 620, F.S.), in the Corporations Trust Fund rather than the General Revenue Fund and to delete the requirement that administrative costs for this Part be included in the General Appropriations Act.

Section 620.33, F.S., is created to specify the items of information to be supplied in the annual report of each domestic and foreign limited partnership. The Department of State is to ensure compliance of the report with Chapter 620, F.S. Failure to file an annual report bars a limited partnership from maintaining any action in state court and makes it subject to having its certificate of authority cancelled or dissolved.

Section 620.44, F.S., is rewritten to declare fees for foreign limited partnerships identical to those in the Uniform Limited Partnership Law and to require a foreign limited partnership to declare by affidavit or certificate the amount of capital contributions of its limited partners that is allocated for the purpose of transacting business in the state.

Section 620.45, F.S., relating to the filing of amendments to certificates of foreign limited partnerships is repealed.

The act takes effect June 7, 1984.

Uniform Commercial Code

HOUSE BILL 1002 (CHAPTER 84-167) clarifies an ambiguity in the Secured Transactions part of the Uniform Commercial Code relating to filing of continuation statements when the debtor is a transmitting utility by amending Subsection 680.104(5), F.S., to provide that any continuation statement filed on or after October 1, 1984 shall continue until a termination statement is filed.

SENATE BILL 299 (CHAPTER 84-53) amends Subsection 679.301(2), F.S., to extend the filing deadline for a secured party with respect to a purchase money security interest from within 10 days after the debtor receives possession of the collateral to within 15 days after such event in order to take priority over the rights of a transferee in bulk or of a lien

creditor which arise between the time the security interest attaches and the time of filing.

Under revised Subsection 679.312(4), F.S., the time a purchase money security interest in collateral other than inventory may be perfected is extended from within 10 days after the debtor receives possession of the collateral to within 15 days after such event thereby giving such interest priority over a conflicting security interest in the same collateral.

Motor Vehicle Manufacturers

COMMITTEE SUBSTITUTE FOR SENATE BILL 1077 (CHAPTER 84-69) amends provisions in Chapter 320, F.S., "Motor Vehicle Licenses," relating to licensure of manufacturers, factory branches, importers, distributors, and motor vehicle dealers, in order to provide greater protection for existing franchisees.

Section 320.60, F.S., is amended to refine the definitions of "manufacturer", "person", "agreement", and to create a definition for the term "common entity" to mean a person who either is controlled or owned, beneficially or of record, by one or more persons who also control or own more than 40 percent of the voting equity interests of a manufacturer, or who share directors or officers or partners with a manufacturer.

Subsection 320.63(3), F.S., is revised to require the motor vehicle manufacturer, factory branch, distributor or

importer ("licensees" pursuant to Sections 320.61 through 320.70, F.S.) to notify the Department of Highway Safety and Motor Vehicles of any revision or modification to a motor vehicle dealer franchise agreement on file with the Department and of the appointment of any additional dealers or distributors not later than 60 days prior to such revision, modification or appointment. A licensee is also required to attest to the compliance with Sections 320.60 through 320.70, F.S., of any franchise agreement by affidavit filed with the Department.

Section 320.632, F.S., is created to specify that any parent, subsidiary or common entity of a manufacturer or any other licensee or entity who distributes a manufacturer's products is to be considered the manufacturer's agent for purposes of any franchise agreement with a motor vehicle dealer and to further provide that the manufacturer is to be bound by the terms and provisions of any franchise agreement executed by an agent as if the manufacturer directly executed the agreement.

Additional grounds for denial, suspension or revocation of a license are supplied by amendment to Section 320.64, F.S. These are:

- 1) a licensee has threatened or effected modification or replacement of an existing franchise agreement with one which would adversely alter the rights and obligations of a dealer or which would substantially

impair the dealer's sales, service obligations or investment;

- 2) a licensee has directly or indirectly through its parent, subsidiary or common entity, caused the termination, cancellation or nonrenewal of a franchise agreement without offering a new agreement with substantially the same provisions or without filing an affidavit with the Department promising to assume and fulfill the rights, duties and obligations of its prior importer, factory branch or distributor under the terminated, cancelled or nonrenewed franchise;
- 3) a licensee refuses to accept the succession to any interest in a franchise agreement by any legal heir or devisee pursuant to a will or the state laws of descent and distribution not demonstrably detrimental to the public interest or itself; and
- 4) a licensee has included provisions in a franchise agreement contrary to relevant statutory provisions or has filed a false affidavit with respect to changes in franchise agreements or the appointment of additional dealers or distributors.

Section 320.641, F.S., is amended to conform the applicability of its provisions relating to unfair cancellation of franchise agreements to the modification or replacement of a franchise agreement by a licensee by:

- 1) requiring written notice to dealer and Department at least 90 days prior to effective date;
- 2) making failure to comply with notice requirements render any action on part of the licensee voidable at the option of the dealer;
- 3) considering franchise agreements continuing if the licensee fails to notify the Department;
- 4) permitting a dealer to file a verified complaint with the Department for determination as to whether action on the part of the licensee is unfair or prohibited, all agreements and certificates of appointment continuing in effect until such determination is made; and
- 5) allowing a dealer who prevails against a licensee in the determination to seek civil damages.

Section 320.6415, F.S., is created to declare that a motor vehicle dealer franchise agreement continues in full force and operation in spite of a change in a plan or system of distribution resulting from the appointment of a new importer or distributor. Under such circumstances, the Department of Highway Safety and Motor Vehicles is required to deny an application for any license unless an applicant offers a franchise agreement containing substantially the same provisions as in the prior agreement with the motor vehicle dealer or files an affidavit with the Department stating its intent to assume and fulfill the rights, duties and obligations of its predecessor under the previous agreement. Neither may

the Department issue a motor vehicle dealer license in any community or territory in which the franchise agreement is operative until these prerequisites have been satisfied.

Provisions relating to the transfer, assignment or sale of a franchise agreement found in Section 320.643, F.S., are revised to specify that refusal by a licensee to accept a franchise agreement transferee of good moral character who meets the written, reasonable and uniformly applied standards of the licensee will be considered unreasonable. New language in the section also prohibits any licensee from interfering with the disposal of an equity interest in a dealership, but requires the licensee to be notified of such impending disposal of equity interest. Within 60 days, the licensee may file a verified complaint with the Department for a determination as to whether or not the transferee is qualified. The burden of proof is to rest with the licensee. If the licensee fails to file a verified complaint or if the Department finds for the dealer then the agreement will be considered amended as to finding. The agreement shall continue in effect during the pendency of the hearing.

In creating Section 320.644, F.S., the act bars a licensee from prohibiting or preventing a motor vehicle dealer from changing the executive management control of the dealership unless the licensee can demonstrate at a hearing such a change would give control to persons of immoral character or persons unable to meet the written, reasonable and uniformly applied standards of the licensee respecting its

motor vehicle dealers. This section also provides the procedure whereby the dealer may notify the licensee of a proposed change in executive management control and the licensee may file a verified complaint within 60 days of receiving notice from the dealer with the Department for a determination on the complaint concerning the impending change of executive management control. During the pendency of the hearing, the dealer franchise agreement is to continue in effect.

Exceptions to the general prohibition against a licensee or the agent, parent, subsidiary, common entity, officer or representative of such from owning a franchised motor vehicle dealership are stipulated in new Section 320.645, F.S. The exceptions are:

- 1) operation for up to one year during a change of ownership in the dealership;
- 2) operation for up to one year with an independent investor in the dealership in anticipation of the investor acquiring full ownership; and
- 3) operation subsequent to an administrative hearing by the Department which has determined that there is no independent person available in the community or territory who can own and operate the dealership in the public interest, provided the dealership continues to be available for purchase not necessarily by a buyer offering exclusive services and personnel.

Licensees owning and operating dealerships on the effective date of this act (May 31, 1984) are exempted from the provisions of this section.

The act is subject to Sunset Review pursuant to Section 11.61, F.S., prior to October 1, 1988, and the provisions of reworded Section 302.61, F.S., specifying who is to be licensed take effect July 1, 1984, while all other provisions are effective May 31, 1984.

Department of Commerce

SENATE BILL 668 (CHAPTER 84-294) amends Section 20.17, F.S., to change the name of the Motion Picture and Television Advisory Council to the Motion Picture, Television and Recording Industry Advisory Council. Five members are added to accommodate the inclusion of the recording segment of the industry. The current Council members are permitted to remain on the Council until the completion of their current terms. Successors are to be appointed for four-year terms. The five additional members are to be appointed for four-year terms initially commencing on September 20, 1984.

The powers and duties of the Division of Economic Development, Department of Commerce, found in Section 288.03, F.S., are expanded to allow the Division to promote the motion picture, television, and recording industry by sponsoring and contracting for technical training programs with educational institutions in Florida. Such contracts must require the educational institution to provide the Division with quarterly

reports, and that all payment records be maintained in accordance with governmental accounting principles and practices and be subject to audit.

Section 288.063, F.S., is amended to require that progress reports on transportation projects be provided on a quarterly basis and contain a narrative description of work completed per project schedule, a description of any change orders, and a budget summary detailing planned versus actual expenditures. The section also would require the appropriate governmental body to maintain records of progress payments, change orders, and payments made pursuant thereto in accordance with accepted governmental accounting principles and practices. Those records would be subject to financial audit as required by law.

The act also creates Section 288.3475, F.S., to establish a Columbus Hemispheric Trade Commission within the Department of Commerce. The Commission's stated purpose is to lead the celebration in Florida of the 500th Anniversary of the Discovery of America and to promote the fullest possible trade relations with all nations of the hemisphere.

The Commission will consist of 35 members, 31 of whom shall be appointed by the Governor. The terms of office shall be four years. Provision is made for the staggering of such terms. The President of the Senate and the Speaker of the House shall each appoint two members to serve at their pleasure.

Ex officio members of the Commission include the Secretary of Commerce, the Secretary of Community Affairs, the Secretary of Transportation, and each member of the Cabinet or their designees.

The Commission must meet at least four times a year. Members do not receive compensation but are entitled to travel and expenses incurred in the performance of their duties from funds appropriated to or raised by the Commission.

Authority is granted to the Commission to employ staff and consultants, enter into contracts with or accept loans or grants of money, property, or personal services from any agency, corporation or person. Rule-making authority is also granted. The Commission's statutory authority is repealed on July 1, 1993. An annual report to the Governor and Legislature is required outlining the progress and activities of the Commission.

In addition, the measure amends the "Small Business Assistance Act" (Section 288.39, F.S.) to authorize the Division of Economic Development to provide small businesses with information about the incentives and programs listed in the "Florida Enterprise Zone Act of 1982" (Sections 290.001 through 290.012, F.S.) and to enter into contracts to provide administrative and technical staff and support to a nonprofit statewide development corporation certified pursuant to the federal "Small Business Investment Act of 1958" (15 U.S.C. Section 661 et seq. (1982)). Any such contract would have to provide that the corporation would reimburse the Division, to

the extent possible, for the Division's expenses resulting from the provision of staff assistance and support. Such staff assistance and support would cease when the corporation has attained sufficient revenue-generating capacity to defray the expense of assistance and support.

The corporation's records would be available for audit by the Division and the Auditor General to verify its ability to reimburse the Division or defray the expense of staff assistance and support.

The Division would be required to include in its annual report certain information relating to enterprise zone assistance, counseling, and information. The annual report would also include information relating to the activity of the certified development corporation.

The act takes effect July 1, 1984.

Toxic Substances in the Workplace

COMMITTEE SUBSTITUTE FOR HOUSE BILL 426 (CHAPTER 84-223)

creates a statutory right of employees to be informed of the presence and hazards of exposure to toxic substances in the workplace. Employers who are covered under the Workers' Compensation Law (Chapter 440, F.S.) are required to post a sign notifying employees that they may request information about the nature and effects of these substances. Employers must also maintain material safety data sheets (MSDSs) on toxic substances and provide education and training for employees routinely exposed to such substances.

Definitions are provided which limit "toxic substances" to those listed in the Florida Substance List to be established by the Secretary of Labor and Employment Security for the purposes of the act. "Employer" is defined to exclude those with two or less employees, employers of domestic workers in private homes, bona fide farmers employing 12 or less persons regularly or 24 or less seasonally or occasionally, employers of professional athletes and employers employing labor under sentence of a court to perform community service.

The measure creates a nine-member Toxic Substances Advisory Council to assist the Department of Labor and Employment Security in developing the Florida Substance List. The Department is responsible for the dissemination of information on toxic substances to employers, employees and state personnel. The Secretary must promulgate the List after public comment and hearing pursuant to the Administrative Procedure Act (Chapter 120, F.S.) which establishes that the substance poses an acute or chronic risk to

human health or safety, and the List must be supplied to manufacturers and employers. Only those substances which appear on nine source lists designated in the act may appear on the Florida List. The initial List is to take effect upon adjournment of the 1985 Legislature unless that body delays implementation. Revisions are to be submitted to the Legislature each year by the Secretary which take effect upon adjournment unless delayed legislatively, and provision is made for the issuance of emergency revisions by the Secretary.

Among exemptions to the act are substances or mixtures which may be toxic, but which are labeled pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Section 136 et seq. (1982)), the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Section 301 et seq. (1982)), and the Federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. Section 6901 et seq. (1982)).

Any employer regulated pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, and who is licensed in mosquito and pest control and the use of pesticides, shall post a notice as prescribed by rules promulgated by the Department in a place where notices are normally posted, informing employees of their education and training requirements. Such employer is exempt from all other provisions of this act.

The law permits manufacturers to make trade secret claims, but requires them to reveal the specific chemical identity of a substance to a treating doctor or nurse.

Civil penalties not to exceed \$1,000 are authorized for violations of the act.

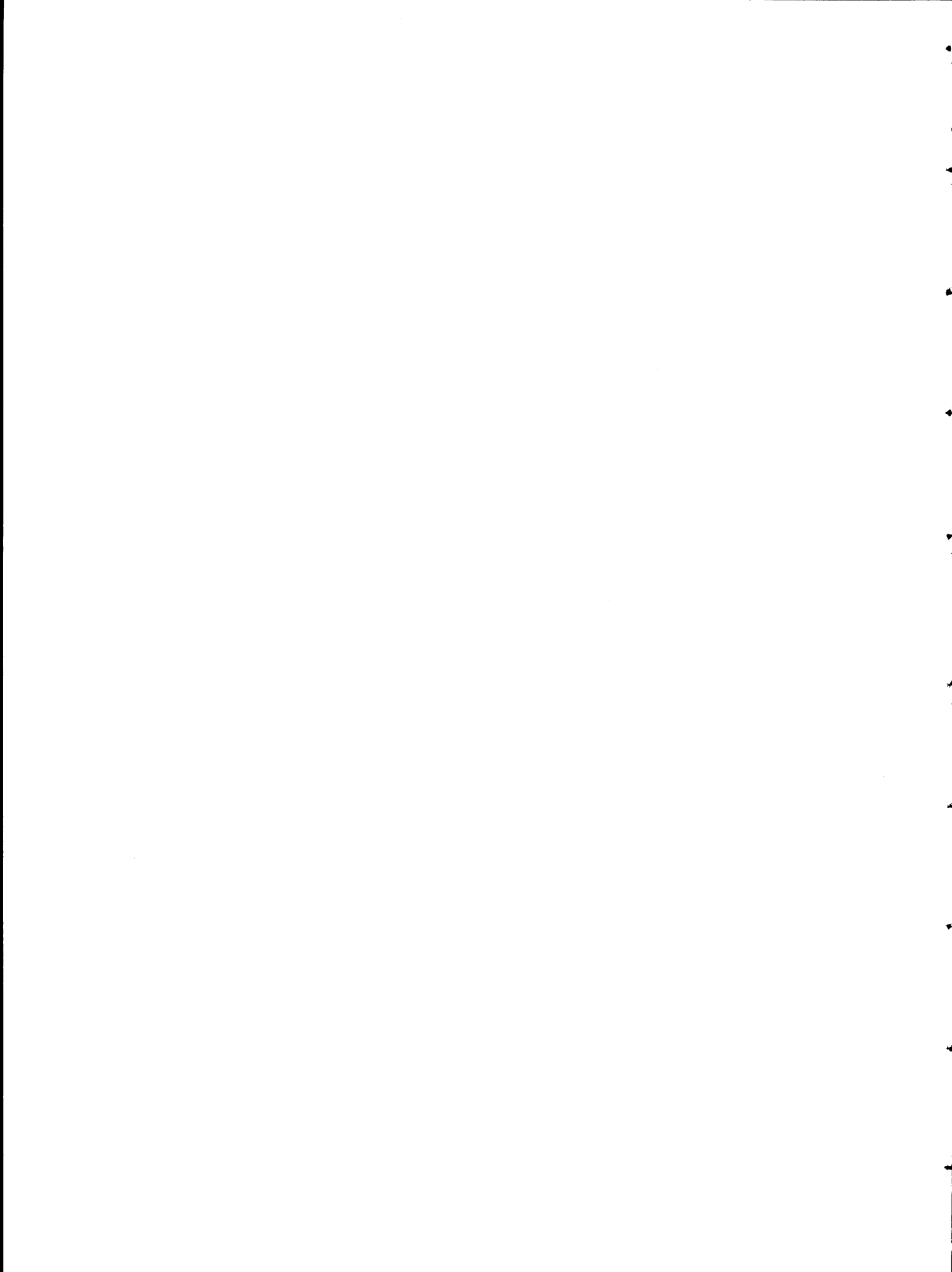
The act or any portion of it is repealed when any federal statute, rule or regulation under the Occupational Health and Safety Act of 1970 (OSHA) (29 U.S.C. Section 651 et seq. (1982)) becomes operative, if such statute, rule or regulation is of equal or greater stringency than the provisions of this act.

Local governmental units are expressly forbidden to issue rules, standards or ordinances relating to toxic substances in the workplace.

Sufficient funds are appropriated from the General Revenue Fund to implement the act.

The provisions of the act relating to the Toxic Substances Advisory Council are subject to Sundown Review prior to October 1, 1994, pursuant to Section 11.611, F.S.

The provisions of the act relating to the Council take effect June 18, 1984. All other provisions of the act become effective January 1, 1985.



CONSERVATION AND NATURAL RESOURCES*

In keeping with the last several legislative sessions, the 1984 Legislature was chiefly concerned with managing the population growth of the state and with associated problems generated by such growth. The major piece of legislation in the area of conservation and natural resources was the "Warren S. Henderson Wetlands Protection Act of 1984." This act firmly placed Florida in the forefront of the nation in the protection of wetlands which are a major component of the essential characteristics that make Florida an attractive place to live. Better coordination between planning at the state, regional and local levels was sought with the enactment of the "Florida State and Regional Planning Act of 1984." Other problems, such as land and water management, vessels, water resources and aquatic plants, the regulation of game and fish, and other environmental issues were also addressed in the area of conservation and natural resources. If a single trend could characterize this area of legislative concern, it would be the preservation of the state's natural resources as an enhancement to the quality of life in the state.

*Prepared by staff of House Bill Drafting

"Florida State and Regional Planning Act of 1984"

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1153 (CHAPTER 84-257) amends Part I of Chapter 23, F.S., relating to state comprehensive planning and Chapter 160, F.S., the "Florida Regional Planning Council Act," to create the "Florida State and Regional Planning Act of 1984."

Section 23.01, F.S., is created to state the legislative intent that the state comprehensive plan guide especially those state and regional agency policies dealing with land use, water resources and transportation system development to facilitate the orderly, positive management of growth consistent with the public interest.

Section 23.0112, F.S., is amended to provide definitions for "Executive Office of the Governor", "state agency", "state agency functional plan", "goal", "policy" and "objective" for purposes of statewide planning. The terms "regional planning agency" and "state comprehensive plan" are revised to conform them to new statutory language.

Section 23.01131, F.S., is created to give the Executive Office of the Governor (EOG) powers and responsibilities necessary for the establishment of consistency and uniformity in the state and regional planning process. Among the most important of these are the preparation and regular revision of the state comprehensive plan and the adoption by rule of the criteria, formats and standards for the preparation and content of state agency functional plans and comprehensive regional policy plans. In addition to the coordination function the EOG

is to act as state data clearinghouse, provide information to public and private agencies and contract with private firms or consultants for specialized services.

Section 23.0114, F.S., is revised to delete the advisory aspect of the state comprehensive plan and to specify the goals and policies which must be included in the state plan by the EOG as well as those which may be included. A separate portion of the plan is to be devoted to the long-term infrastructure and capital outlay needs of the state. Standards and criteria for the review and approval of state agency functional plans and comprehensive regional policy plans are to be included in the statewide plan.

Section 23.013, F.S., is reworded to specify the schedule for the adoption and implementation of the state plan. The Governor is required to recommend a state plan prepared by the EOG to the Administration Commission [Governor and Cabinet] by December 1, 1984, and to supply a copy to any governmental unit or member of the public asking for one. Following public hearings, the Commission is to submit the plan to the Legislature by February 15, 1985, together with any amendments or dissenting reports and the Legislature is to implement the plan by enacting it into law. Failing this, the plan reverts to the Commission which may adopt with the approval of five of its members, all or part of the plan consistent with law pursuant to the Administrative Procedure Act, Chapter 120, F.S. Whether implemented by law or administrative rule, each state agency must utilize and enforce the state plan and each agency

budget and programs must be consistent with it. The Public Service Commission is to consider the state plan in approving the plans of the utilities it regulates.

Section 23.0131, F.S., is created to require each state agency to prepare an initial functional plan within one year of the adoption of the state plan. The minimum content of such a plan is specified. The Department of Environmental Regulation is to prepare a state water use plan, and the Department of Community Affairs (the state land planning agency) is to prepare a state land development plan, within six months of the adoption of the state plan.

Section 23.0132, F.S., is created to provide a schedule for the adoption of state agency functional plans. Each agency plan must be submitted within one year of the adoption of the state plan to the EOG which must review and return the plan with any gubernatorial revisions within 90 days. The agency is required to initiate adoptive rulemaking within the next 60 days. The Administration Commission sitting as the Florida Land and Water Adjudicatory Commission is to resolve any disputes as to the consistency of an agency plan with the state plan or as to the adoption of any revisions by the Governor. The Governor is to mediate disputes between state agencies and the Adjudicatory Commission is to resolve disputes when mediation fails.

Section 23.015, F.S., is reworded to include the concept of growth management within the annual economic report of the Governor to the Legislature.

Subsection 160.002(3), F.S., is added to make regional planning councils the primary agencies for addressing problems and planning solutions of greater than local concern. Such councils are to provide the means for local impact on state policy.

Subsection 160.01(4), F.S., is revised to make municipal government membership or participation in regional planning councils optional, but to require each county government to belong to the council which encompasses it.

Subsection 160.02(2), F.S., is added to require councils to provide technical assistance in growth management to local governments.

Section 160.07, F.S., is reworded to specify the contents of comprehensive regional policy plans. Such plans are to contain regional goals and policies with emphasis on growth management policies consistent with the state plan and are to address significant regional resources, infrastructure needs or other regional issues. Regional plans are to be developed with the assistance and cooperation of local governments which are to be given the draft plan to permit comment. Individual citizens are to be afforded an opportunity for input by the regional councils. The councils are to make appropriate data and studies available to participants in the development of regional plans which are to include criteria for the regional review of developments of regional impact, federally assisted projects and other regional overview and comment functions.

Section 160.072, F.S., is created to provide an adoption timetable for regional plans similar to that provided for agency functional plans in Section 23.0132, F.S. Each regional council is to submit its plan to the EOG within 18 months of the adoption of the state plan. The plan is to be returned to the council within 90 days with recommended revisions, if any, and the council is to initiate rulemaking within the next 60 days. The Adjudicatory Commission has 60 days to resolve any consistency or revision disputes. Each council has six months in which to resubmit a rejected plan, otherwise, the state land planning agency will offer a regional plan to the Adjudicatory Commission which is to adopt the plan by rule after allowing for public comments.

Section 160.076, F.S., is created to provide for the continuous evaluation and revision of comprehensive regional plans by the councils at least triennially with changes adopted in the same manner as the original plans.

The act provides for the creation of the Growth Management Trust Fund within the state land planning agency the funds of which, exclusive of refunds, may be used to provide grants to state agencies, regional planning agencies and local governments to carry out the provisions of statutory law relating to executive planning functions, regional planning councils, intergovernmental programs, water resources and land and water management. Fund moneys may not be used for fixed capital outlay projects without prior legislative approval. The state land planning agency is to adopt the necessary rules

for the utilization of the Fund in making grants and all moneys surplus to current obligations are to be invested with any interest earned credited to the Fund.

The act takes effect July 1, 1984.

Wetlands

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1187 (CHAPTER 84-79) was perhaps the most important piece of legislation before the Florida Legislature in the 1984 Regular Session. The act creates Part VIII of Chapter 403, F.S., which shall be known as the "Warren S. Henderson Wetlands Protection Act of 1984," to be administered by the Department of Environmental Regulation. Several sections of Chapters 403 (Environmental Control) and 253 (State Lands), F.S., are amended to conform and strengthen the permitting provisions authorized by this newly created part of Chapter 403, F.S.

The enactment streamlines the dredge and fill permitting process by the Department and allows consideration of the effect on wildlife and habitat when deciding whether to issue a permit. Some of the major provisions of the act include:

1. authorizing the Department to consider wildlife and habitat, cumulative effects of similar projects, and recreational and natural function values of wetlands, etc., when issuing dredge and fill permits;
2. approval of an enlarged vegetative index, which is the list of wetland plant species used to establish

the Department's permitting jurisdiction (pursuant to Subsection 403.817(3), F.S.);

3. declaring the Everglades a state water, thereby extending the Department's permitting jurisdiction throughout that area (See amendment to Section 403.031, F.S., redefining the term "waters" to include reference to the boundaries of the Everglades.);
4. empowering the Department to adopt stricter rules for Outstanding Florida Waters;
5. avoidance of duplicative permitting for agricultural water management systems by shifting primary responsibility for regulating agricultural activities from the Department to the water management districts;
6. requiring property appraisers to consider lessened property value resulting from Department permit denial (See amendment to Section 193.023, F.S., relating to duties of property appraiser in making assessments.);
7. streamlining the dredge and fill process by combining portions of Chapters 253 and 403, F.S.;
8. instituting civil penalties for intentional damage to state lands;
9. directing the Department to adopt rules for the use of wetlands to treat stormwater and domestic

wastewater as a natural means of stormwater management.

Additionally, regulation of several interests is delegated to other agencies or deferred. Limerock and sand mining are exempt from geographic increases in Department jurisdiction for 10 years, and from the new permit criteria for one year. Certain delays of the act's provisions are extended to registered subdivision lots, approved developments of regional impact, etc. Waters in stormwater management systems and intermittent streams are declared outside the Department's jurisdiction. Certain upland irrigation and drainage ditches, including those that connect isolated wetlands, are exempt from dredge and fill permitting. The Department is authorized to issue long-term permits of up to 25 years' duration. Water management systems on bona fide agricultural lands will be regulated by the state's water management districts under provisions of the act. The Department is authorized to adopt rules governing the mining of peat in wetlands, and permits for such mining shall require the permittee to institute and complete a reclamation program for the area mined.

Land and Water Management

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 803 (CHAPTER 84-330) revises state law governing the reclamation of land to:

1. state the intent of the Legislature to encourage phosphate land reclamation and to recognize that

some land has been naturally reclaimed (Section 378.031, F.S.);

2. create a Nonmandatory Land Reclamation Committee as an advisory group within the Department of Natural Resources (Sections 378.032 through 378.038, F.S.);
3. establish procedures by which a landowner may submit a reclamation program for approval specifying the role of the committee, and provide that no more than 10 percent of the Nonmandatory Land Reclamation Trust Fund can be committed to new programs each year until 1995 (Section 378.034, F.S.);
4. specify the duties of the Department of Natural Resources with respect to land reclamation (Section 375.035, F.S.);
5. provide that after July 1, 1986, money paid into the Nonmandatory Land Reclamation Trust Fund may be used by the Department for land acquisition and management (Section 378.036, F.S.);
6. provide for the duties of the Comptroller in reclamation reimbursement (Section 378.037, F.S.);
7. authorize the Department to adopt design standards for reclamation projects (Section 378.038, F.S.);
8. extend to 1995 the higher severance tax rate on phosphate rock (Section 211.3103, F.S.);
9. increase the cap on the Conservation and Recreation Lands Trust Fund to \$25 million in fiscal year 1984-85, \$35 million in fiscal year 1985-86, or \$40

million in any fiscal year thereafter (Section 253.023, F.S.);

10. authorize counties to have the power to purchase interest in land for the protection of the land (Section 125.01, F.S.);

11. provide that all fees for applications and for reproduction of state land records shall be placed in the Internal Improvement Trust Fund (Section 253.01, F.S.).

COMMITTEE SUBSTITUTE FOR SENATE BILL 860 (CHAPTER 84-331) amends Section 380.06, F.S., to provide, with respect to developments of regional impact, that an authorized developer may submit an areawide development plan to be reviewed pursuant to the procedures and standards for development of regional impact, and after review and approval, all development within the defined planning area shall conform to the approved plan. The act provides that individual developments that conform with the approved areawide development plan shall not be required to undergo further development of regional impact review unless otherwise provided in the development order. The act directs the state land planning agency to establish rules for developers to petition for proposed areawide development plans, provides duties for local governments, and provides for property owners to withdraw consent to the plan.

SENATE BILL 757 (CHAPTER 84-281) amends Section 380.045, F.S., to provide that the Resource Planning and Management Committee appointed by the Governor to study a potential area

of critical state concern shall either adopt a proposed voluntary resource planning and management program for the area under study or recommend that such a program not be adopted. The act provides criteria for the program, directs the Administration Commission to review the program, and provides for action by the state land planning agency. Section 380.05, F.S., is amended to provide certain requirements concerning rules adopted designating an area of critical state concern.

COMMITTEE SUBSTITUTE FOR SENATE BILL 885 (CHAPTER 84-287) amends Sections 2, 4, 5, 8 and 16 of CHAPTER 79-167 (Sections 253.781, 253.783, 374.001 and 374.3001, F.S.), to provide for the retention or transfer of certain state-owned lands of the Oklawaha River and Valley bounding the Ocala National Forest. The act directs the Department of Natural Resources to grant to the federal government a perpetual easement for flooding in all lands associated with the Cross Florida Barge Canal Project, from the Eureka Lock and Dam site to the St. Johns River to which the Department has retained or acquired fee title; directs the Department to develop a management plan for the retention or disposition of lands acquired for the Cross Florida Barge Canal to be submitted to the Legislature no later than one year from the deauthorization of the Canal; and directs the Department to offer certain surplus lands to counties in which such lands lie, to extend the second right of refusal to the original owners of such lands, and to extend the third right of refusal to persons with leasehold interests; and provides for reconveyance of donated

lands to the original donors if not sold to counties. The act provides that these land offers shall be valid for six calendar months from the date the management plan is adopted by the Legislature.

SENATE BILL 503 (CHAPTER 84-197) transfers Sections 197.361 and 197.366, F.S. (relating to Murphy Act lands), to Chapter 253, F.S. (relating to state lands), and renumbers these sections as Sections 253.80 and 253.81, F.S., respectively. Section 253.82, F.S., is created to provide for the release of the state's interest in certain lands which the state acquired under the "Murphy Act" (Chapter 18296, Laws of Florida, 1937); allows any person to request the recording of a certificate of payment of taxes that have been paid on such lands and specifies that the certificate is conclusive evidence of the payment; and provides for a grace period (until October 1, 1985) in which holders of certain claims or liens against Murphy Act lands may sue to enforce such claims or liens, and extinguishes those not pursued in that period.

Section 197.391, F.S. (relating to construction and recodification of Murphy Act statutes), is renumbered as Section 253.83, F.S., and is amended to conform. Section 253.034, F.S. (relating to uses of state-owned lands), is amended to delete a reference to Murphy Act lands. All other sections of Chapter 197, F.S., relating to Murphy Act lands, not mentioned herein as transferred to Chapter 253, F.S., are repealed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 254 (CHAPTER 84-191) amends CHAPTER 83-80 to authorize the Department of Natural Resources to acquire by eminent domain the Julington/Durbin Creek Peninsula in Duval and St. Johns Counties, the Bower Tract in Hillsborough County, and the Largo Narrows in Pinellas County, as such parcels are described in the act.

Vessels

COMMITTEE SUBSTITUTE FOR SENATE BILL 81 (CHAPTER 84-184) revises Chapters 327, F.S. (Florida Vessel Registration and Safety Law), and 328, F.S. (Vessels: Title Certificates; Liens), with the objectives of making the chapters consistent and making vessel titling and registration more like that of motor vehicles. The act:

1. prohibits the operation of unnumbered and nonregistered vessels and makes the law comparable to the motor vehicle law with respect to time frames;
2. establishes procedures for registering vessels;
3. provides that all vessels shall be registered as commercial or noncommercial so that fees can be allocated to their intended purposes;
4. provides for certain distribution of registration fees for vessels to the Motorboard Revolving Trust Fund; the Aquatic Plant Control Trust Fund; and the Florida Saltwater Products Promotion Trust Fund;

5. revises title certificate provisions to facilitate enforcement;
6. requires vessels operated on state waters to have hull identification numbers;
7. provides for the refusal to issue, or the cancellation of registration of a title certificate;
8. authorizes the Department of Natural Resources to issue duplicate titles;
9. requires sellers of new vessels to furnish a manufacturer's statement of origin and provides for the contents of the statement;
10. requires the Department of Natural Resources, after recording a lien on a vessel, to send the title certificate to the first lienholder;
11. provides conditions under which a marina may sell a vessel to collect rents;
12. provides for all funds collected by the Department of Natural Resources pursuant to Chapter 328, F.S. (Vessels; Title Certificates; Liens), shall be deposited in the Motorboat Revolving Trust Fund.

[Note: Other amendments to Chapter 327, F.S., prohibiting careless and reckless operation of boats and other vessels and providing certain penalties, are contained in COMMITTEE SUBSTITUTE FOR SENATE BILL 100 (CHAPTER 84-188), the summary of which appears in the Summary article, LAW ENFORCEMENT AND CRIMINAL JUSTICE.]

COMMITTEE SUBSTITUTE FOR SENATE BILL 319 (CHAPTER 84-129) amends Section 860.20, F.S., to direct the Department of Natural Resources to promulgate rules specifying the locations and manner in which serial numbers for outboard motors shall be affixed no later than October 1, 1984. Provides that any outboard motor manufactured after October 1, 1985, shall comply with such departmental rules. The act also repeals a current provision (Subsection 328.07(7)), relating to the numbering of vessels under federal law.

Water Resources and Aquatic Plants

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 1040 AND 788 (CHAPTER 84-341) amends Chapter 373, F.S., relating to water resources, to transfer authority to issue orders regarding wells from the Department of Environmental Regulation, under the "Florida Water Resources Act of 1972," to water management districts; provides that rules relating to personnel matters of the water management districts shall be made available to the public and affected persons, but do not require publication in the Florida Administrative Code nor the Florida Administrative Weekly; provides that basin board members and the chairman and members of the governing board of a water management district may receive actual traveling expenses on board business; and provides for the use of land of the water management district. The act additionally authorizes water management districts to establish fee schedules for filing applications for required permits, not to exceed the

cost to the district of processing the application; authorizes the denial of a permit for failure to pay such a fee; authorizes the Department, the governing board, or any local board to commence and maintain actions to recover civil penalties or to recover investigative costs, court costs, and reasonable attorneys' fees; provides for the deposit of civil penalties in certain funds and the utilization of such deposits; modifies the procedures and conditions for declaration of a water shortage or emergency; provides for the employment of internal auditors; and eliminates the requirement that dams, reservoirs, impoundments, or works to protect the public health and natural resources of the state be inspected annually, requiring only periodic inspections.

HOUSE BILL 1262 (CHAPTER 84-380) declares the intent of the Legislature to promote the conservation and protection of the natural resources of the state; transfers the control of the Dead Lakes dam structure to the Northwest Florida Water Management District for the sole purpose of the removal of the dam; directs the district, within 30 days after the effective date of the act, to make applications for permits to effectuate such removal; and requires the removal of the Dead Lakes dam structure within 120 days of completion of the permitting process.

COMMITTEE SUBSTITUTE FOR SENATE BILLS 306 AND 1126 (CHAPTER 84-312) creates Section 258.393, F.S., to establish the Terra Ceia Aquatic Preserve in Manatee County within the "Florida Aquatic Preserve Act of 1975" (Sections 258.35 through

258.46, F.S.); amends Section 258.39, F.S., to expand the boundaries of the Rookery Bay Aquatic Preserve; and directs the Department of Natural Resources to review the boundaries of the proposed Florida Keys-Monroe County Aquatic Preserve and make recommendations to the Governor and the Legislature by March 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 570 (CHAPTER 84-120) amends Section 369.25, F.S., to prohibit any person from engaging in any business involving the importation, transportation, cultivation, collection, sale, or possession of any aquatic plant species without a permit or exemption issued by the Department of Natural Resources. The act also prohibits any person from importing, transporting, cultivating, collecting, selling, or possessing any noxious aquatic plant on the prohibited aquatic plant list established by the Department without a permit or exemption. The act provides the Department with powers to regulate aquatic plants, including rulemaking power and the power to declare a quarantine, or to seize and destroy certain aquatic plants without compensation.

Fish and Game

COMMITTEE SUBSTITUTE FOR HOUSE BILL 798 (CHAPTER 84-121) amends Section 2 of CHAPTER 83-134 to advance to July 1, 1984, the repeal date for local laws governing shrimp fishing in Gulf, Franklin, and Wakulla Counties and in certain portions of the Apalachicola River and the Choctawhatchee River and the taking of bay scallops in Gulf and Pinellas Counties, so that

the Marine Fisheries Commission may make the appropriate rules. Sections 6, 7 and 8 of CHAPTER 83-134 are amended to specify that certain statutes relating to saltwater fisheries that are scheduled for repeal shall remain in force until the Governor and Cabinet have adopted appropriate rules and such rules become effective.

COMMITTEE SUBSTITUTE FOR SENATE BILL 329 (CHAPTER 84-194) amends Section 319.32, F.S., to provide for an additional fee of \$4 for each original certificate of title issued for a motor vehicle previously registered outside of Florida; amends Section 320.02, F.S., to provide for a place on application forms for motor vehicle registration permitting a voluntary \$1 contribution; and amends Section 372.991, F.S., to provide that all such funds shall be deposited in the Nongame Wildlife Trust Fund within the Game and Fresh Water Fish Commission.

SENATE BILL 802 (CHAPTER 84-99) amends Section 372.671, F.S., to provide that it is unlawful for any person to kill a Florida panther occurring in the wild, and provides a third degree felony penalty for unlawfully killing any member of the species of panther occurring in the wild. The act includes the scientific designation for the Florida panther (Felis concolor coryi).

Miscellaneous

COMMITTEE SUBSTITUTE FOR SENATE BILL 986 (CHAPTER 84-338) amends, revises and creates numerous sections of the Florida Statutes relating to environmental issues. The act:

1. amends Section 403.061, F.S., to provide that discharges from existing and licensed electric generating plants shall not be required to be treated to higher quality than the quality of the "make-up" waters or that allowed for blowdown;
2. amends Section 376.11, F.S., to clarify the funding source for certain Department of Natural Resources' administrative expenses, including the marine patrol;
3. amends Section 377.22, F.S., to clarify the Department of Natural Resources' authority to regulate aboveground crude oil storage tanks, and creates Section 376.317, F.S., to preempt future local government ordinances that would regulate underground petroleum storage tanks, unless approval by the Department is granted;
4. creates Section 487.055, F.S., to establish requirements for antisiphon devices on irrigation systems used to apply agricultural chemicals;
5. amends Section 487.0615, F.S., to extend the Pesticide Review Council's authority to all pesticides, rather than restricted use pesticides only, and adds two members to the Council to be appointed by the Governor;
6. adds Subsection (5) to Section 487.041, F.S., to require more information from pesticide local need registration applicants and amends Section 487.091,

- F.S., to provide for administrative fines for pesticide violations;
7. clarifies how grant money is to be spent for cleanup of EDB (ethylene dibromide) applied by the Department of Agriculture and Consumer Services, and appropriates \$95,832 to indemnify certain holders of EDB;
 8. amends Section 403.087, F.S., to increase the permit fee for maintenance dredging of deepwater ports;
 9. amends Section 403.0876, F.S., to alter the permit time frames for underground injection control permits;
 10. amends Section 403.091, F.S., to broaden the Department of Environmental Regulation's authority to inspect certain sites of suspected contamination of surface or ground waters;
 11. creates Section 403.1656, F.S., to establish a Groundwater Protection Task Force appointed by the Governor to address all aspects of protecting this resource and to inform the public;
 12. amends Sections 403.1826 and 403.1838, F.S., to require local governments to set aside money for future sanitary sewerage capital improvements;
 13. amends Section 403.704, F.S., to direct the Department of Environmental Regulation to research alternative landfill construction and closure methods and submit a report at the next legislative

session (\$40,000 is appropriated to the Department of Environmental Regulation for this purpose;)

14. amends Section 403.707, F.S., to establish design standards and variances for closure of solid waste disposal (landfill) facilities and sets forth criteria for construction of solid waste facilities;
15. amends Section 403.726, F.S., to allow the Department of Environmental Regulation to use funds from the Water Quality Assurance Trust Fund to clean up sites contaminated by all hazardous substances;
16. amends Section 403.7225, F.S., to require hazardous waste assessment updates at five-year intervals and amends Section 403.7264, F.S., to change the Amnesty Days dates;
17. amends Section 501.118, F.S., and transfers it to Chapter 403, F.S., as Section 403.74, F.S., to require governmental agencies to formulate plans for management of hazardous substances in certain amounts;
18. amends Section 403.813, F.S., to exempt the restoration of certain insect control impoundment dikes from Department of Environmental Regulation permitting;
19. adds Subsection (7) to Section 403.853, F.S., to allow the Department of Environmental Regulation to require public water systems to test every three years for contaminants for which maximum tolerance

- levels have been established or for which human health tolerances have been established;
20. creates Section 403.8635, F.S., to expand the drinking water laboratory certification program;
 21. directs the Department of Environmental Regulation to adopt general permit rules for protecting mangrove trees or plants from alteration, removal, etc.;
 22. establishes a program to regulate use of recycled oil and amends Subsection 526.01(2), F.S., to exempt re-refined oil from certain labelling requirements (There is appropriated to the Department of Environmental Regulation from the Permit Fee Trust Fund for the fiscal year 1984-85, \$47,945 to implement this program and \$43,000 for financing technical studies to determine the incidence of contamination of used oil.);
 23. amends Sections 327.25, 327.28, and 370.12, F.S., to establish a continuous source of funding for manatee and marine mammal protection and recovery;
 24. adds Subsection (6) to Section 403.906, F.S., to prohibit the issuance of permits for vertical seawalls by the Department of Environmental Regulation, except under limited conditions;
 25. establishes a Toxicological Research Coordinating Committee to promote efficient research on chemicals that affect human health and the environment, and

establishes a data bank on chemical contaminants within the center for Environmental Toxicology at the Institute of Food and Agricultural Services;

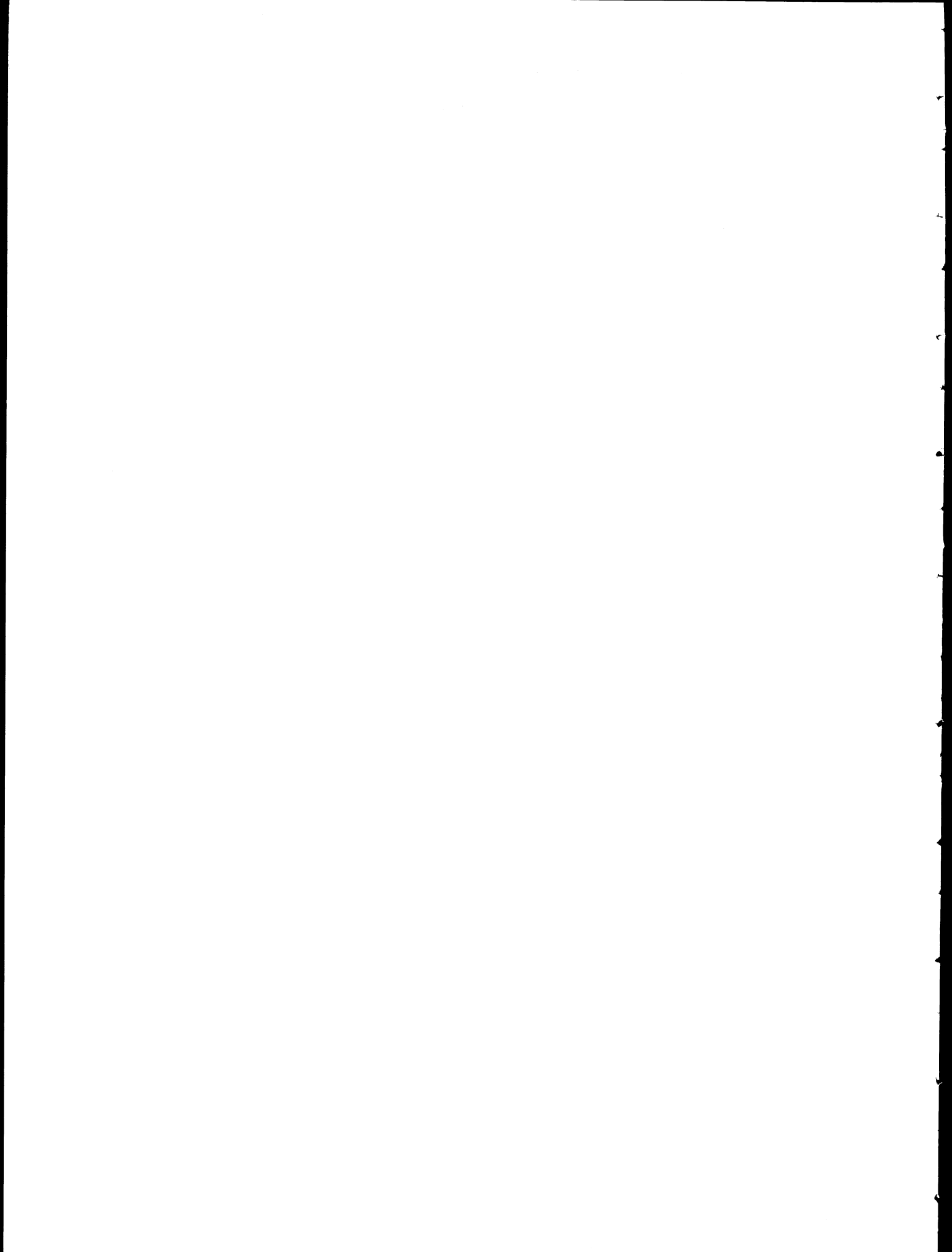
26. requires that a referendum be held at the 1984 Lake County General Election to determine the public desire to abolish the Oklawaha Basin Recreation and Water Conservation and Control Authority and its taxing powers.

COMMITTEE SUBSTITUTE FOR SENATE BILL 497 (CHAPTER 84-316) declares the public policy of the state to protect and preserve vertebrate paleontology sites containing vertebrate fossils and to provide for the collection, acquisition, and study of Florida's vertebrate fossils. The act declares that all such fossils found on state-owned lands shall belong to the state with title thereto vested in the Florida State Museum. A Program of Vertebrate Paleontology is established within the Florida State Museum, and penalties are provided with respect to the destruction, defacing, purchasing, and sale of vertebrate fossils found on or under state land (except for permitted activities of the Florida State Museum).

Exemptions are provided for protecting the rights of legitimate mine and quarry operators and legitimate operators of dragline, dredging, or digging equipment in construction of drainage canals or other such excavations.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 497 (CHAPTER 84-119) amends Section 381.272, F.S., to provide that a publicly owned or investor owned sewerage system may, with the approval of the

Department of Health and Rehabilitative Services, waive the requirement of mandatory onsite sewage disposal connection if it determines that such connection is not required in the public interest due to financial or public health considerations.



CONSTITUTIONAL AMENDMENTS*

Six proposed amendments to the Florida Constitution were adopted by the Legislature at its 1984 Regular Session. All but one would take effect in January 1985 if ratified by the electorate at the November 1984 General Election. Two resolutions deal with elected public officials; two with the state judicial system; and two with bonding for capital outlay projects.

Any speech or debate by a Florida legislator relating to legislative duties would be privileged and not subject to question elsewhere under the amendment to Section 2 of Article III of the State Constitution proposed in SENATE JOINT RESOLUTION 76.

HOUSE JOINT RESOLUTION 452 would strike the provision in Section 1 of Article VIII of the State Constitution requiring the at-large election of county commissioners and would substitute the requirement they be elected as provided by law. This amendment also would permit boards of county commissioners to be composed of five or seven members unless otherwise provided by county charter. Implementing legislation is contained in HOUSE BILL 453 (CHAPTER 84-224) which creates

*Prepared by staff of Legislative Library

Section 124.011, F.S. (For summary of this act, see ETHICS AND ELECTIONS article.)

Under the provisions of HOUSE JOINT RESOLUTION 1160, Section 11 of Article V of the State Constitution would be changed to require judicial nominating commissions at each level of the state court system to provide uniform rules of procedure which could be repealed in whole or in part by majority vote of the Legislature or by five concurring justices of the State Supreme Court. All records and proceedings of the commissions would be public records except for the deliberations of such bodies.

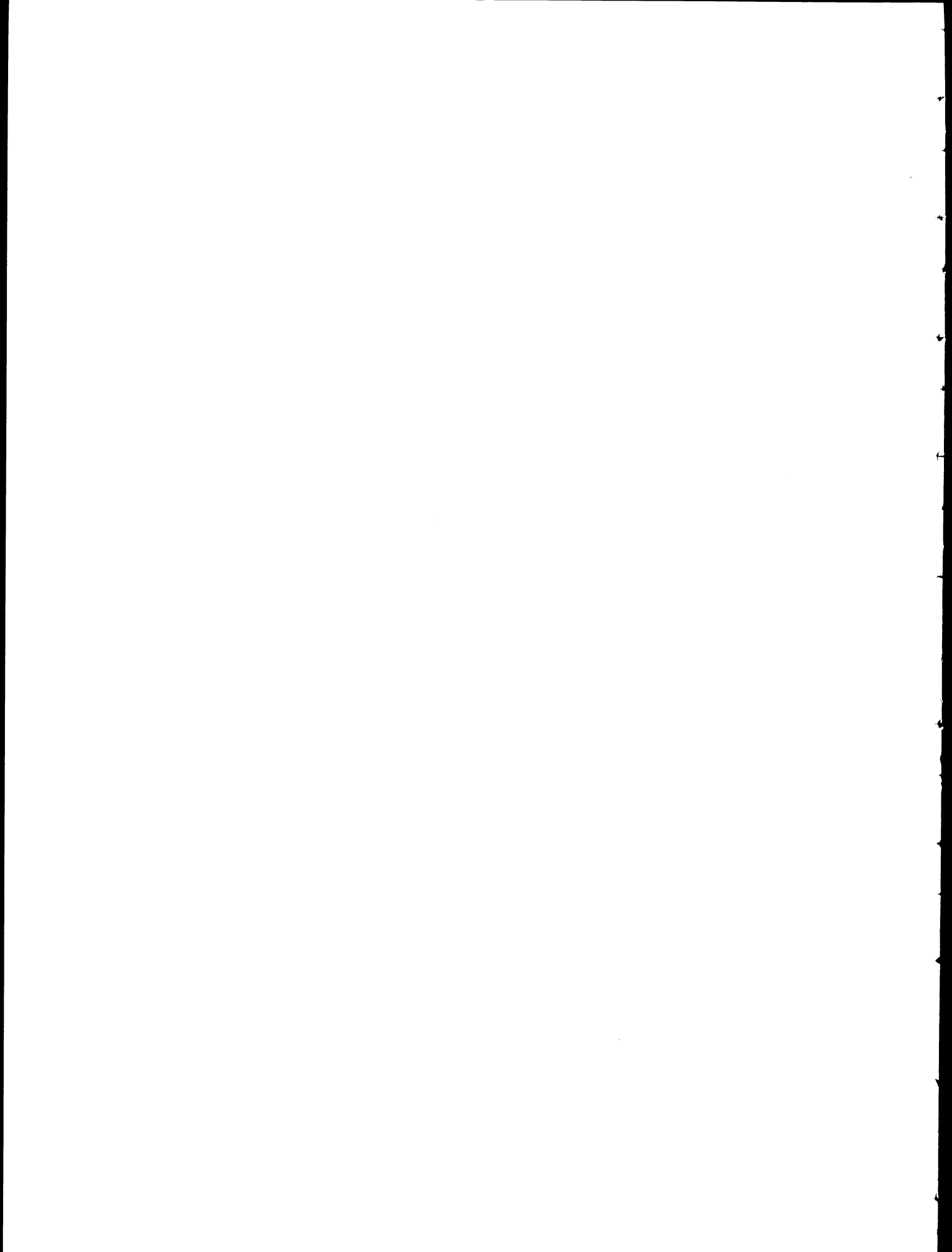
HOUSE JOINT RESOLUTION 37 would amend Section 8 of Article V of the State Constitution to require that a candidate for the office of county court judge be a member of The Florida Bar and to have been such for the preceding five years or, in a county with a population of 40,000 or less, simply be a bar member in good standing. Either of these requirements may be superseded by general law. Unlike the other five proposals summarized here, this amendment would not take effect, if approved, until July 1, 1985, and would be implemented by HOUSE BILL 1223 (CHAPTER 84-303).

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE JOINT RESOLUTION 612 would alter Section 11 of Article VII of the State Constitution to specify state general obligation bonds be used only to finance or refinance fixed capital outlay projects authorized by law, and to exclude from the tax revenue percentage limit on the outstanding principal of such bonds tax

revenues held in trust under provisions of the Constitution. The bonds could be combined with other bonds authorized by the Constitution for sale purposes. Any project, building or facility to be financed by these general obligation bonds would have to have prior approval through legislative act. The proposed amendment would also remove the prohibition against such bonds being paid from rents or fees paid from state tax revenues.

SENATE JOINT RESOLUTION 1157 would amend Section 9 [Paragraph 9(a)(2)] of Article XII of the State Constitution to remove any ambiguity as to the bonding of the proceeds from the gross receipts taxes levied under Chapter 203, F.S., for funding public education capital outlay projects. The proceeds would be based on taxes collected at the time of the adoption of this resolution or subject to future amendment of Chapter 203, F.S., the current constitutional language having been adopted in 1974. If ratified, this amendment would be implemented by COMMITTEE SUBSTITUTE FOR SENATE BILL 1152 (CHAPTER 84-342).

Two amendments adopted by the 1983 Regular Session also are to appear on the November 1984 ballot. HOUSE JOINT RESOLUTION 40 would permit any natural person to claim homestead and personal property tax exemptions from forced sale and certain liens, and HOUSE JOINT RESOLUTION 435 would permit the use of electronic funds transfer (EFT) by the State Treasurer in disbursing state funds.



CORRECTIONS, PROBATION & PAROLE*

During the 1984 Session, the Florida Legislature addressed a number of issues relating to corrections, probation and parole including matters pertaining to youthful offenders, replacement of lost or missing funds in inmate accounts, payment of costs for parolee supervision, prison industries and education. Five separate bills in this area were sent to the Governor, and one of these, COMMITTEE SUBSTITUTE FOR SENATE BILL 192, amended to include ten other proposed bills, was vetoed. The other four which became law are summarized briefly below, as well as that portion of the "Education Omnibus Act," COMMITTEE SUBSTITUTE FOR SENATE BILLS 923, 836, 1081 AND 884 (CHAPTER 84-336), relating to the education of prisoners supervised by the Department of Corrections.

Replacement of Funds in Inmate Accounts

HOUSE BILL 220 (CHAPTER 84-100) adds Paragraph 944.516(1)(f), F.S., to allow for the replacement of lost or missing funds in inmate trust accounts with interest earned by such accounts. Such losses can only be replaced in this way in cases when the loss is through no fault of the state and cannot

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

be made up in some other way from other available resources. A report from the Department of Corrections' internal auditor recommending such replacement is required. Should the auditor determine the loss is the fault of the Department, said loss would be replaced out of the Department's funds.

Contraband

SENATE BILL 252 (CHAPTER 84-1) added language to existing law (Section 944.47, F.S.) relating to contraband at correctional facilities prohibiting the attempt to send contraband from such a facility.

Correctional Work Programs

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 753 (CHAPTER 84-280) amends several sections in Chapter 946, F.S., relating to correctional work programs (industries) operated by PRIDE (Prison Rehabilitative Industries and Diversified Enterprises, Inc.), a nonprofit corporation created by the Legislature in 1981. The act rearranges and amends Sections 946.01-946.03, F.S., to clearly define the creation of the nonprofit corporation and its responsibilities. A one-time appropriation to the corporation is authorized and is to be placed in the newly created Correctional Work Program Revolving Trust Fund, the use of which is limited to additions to, renovation of, or construction of facilities or correctional work programs at the various correctional institutions. This fund is to be administered by the Executive Office of the Governor. Legislative intent is expressed in order to ensure

that no additional general revenue funds be appropriated to the corporation.

The measure imposes on PRIDE the same liability for inmate injury as that borne by the State according to Section 768.28, F.S., dealing with the waiver of sovereign immunity in tort actions. The Division of Statutory Revision of the Joint Legislative Management Committee is directed to prepare revisers' bills for introduction in the 1985 Regular Session of the Legislature to effect removal of all sections from Chapter 946, F.S., that were not placed there by legislation passed in 1983 and 1984. Further, the corporation is authorized to receive prepayment from the Department of Highway Safety and Motor Vehicles for the production of license plates and validation stickers.

Supervision and Rehabilitation - Payment of Costs

COMMITTEE SUBSTITUTE FOR SENATE BILL 929 (CHAPTER 84-337) amends Section 948.06, F.S., to allow for a probationer or offender in community control to be taken before the judge in either the county or circuit in which he was arrested for a fact-finding hearing to make a determination of guilt. Such a finding is binding on the court of original jurisdiction, and the probationer must still be taken before the original court which may either modify, revoke, or continue the term of probation. The act also requires a probationer in a revocation hearing to prove by clear and convincing evidence that failure to pay either restitution or cost of supervision was despite

sufficient bona fide efforts to legally acquire the resources to pay such fees.

This act also amends Section 945.30, F.S., to require parolees or probationers transferred either within or without the State under the Interstate Compact for the Supervision of Parolees and Probationers to pay the cost of supervision. The statute also increases the minimum cost for supervision from \$10 to \$20 for all persons on either probation or parole. Either the court or the Department of Corrections is required to determine the amount within the range from a minimum of \$20 to a maximum of \$50.

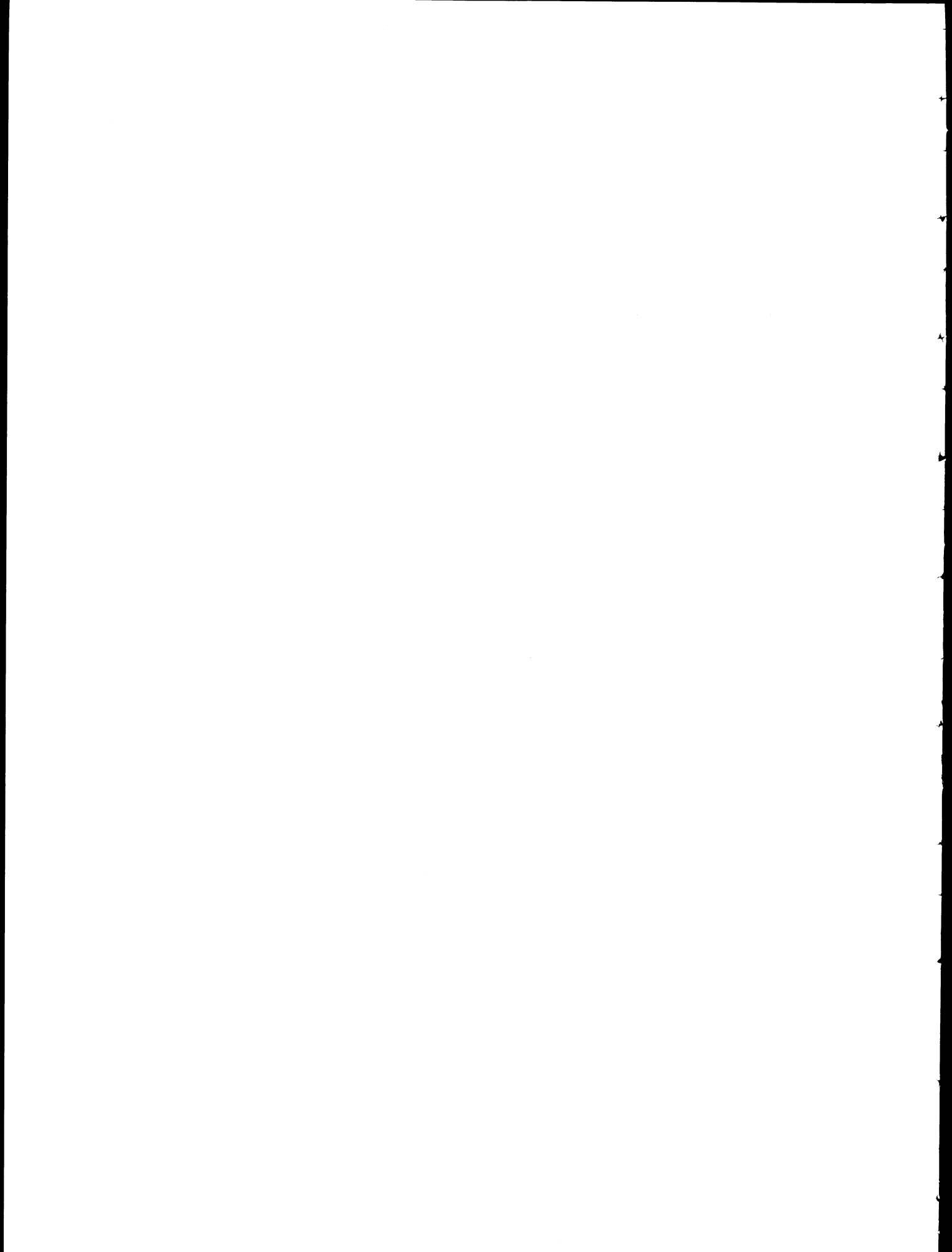
Education of Prisoners

COMMITTEE SUBSTITUTE FOR SENATE BILLS 923, 836, 1081 AND 884 (CHAPTER 84-336), the major vehicle for education legislation in the 1984 Session, contained certain statutory changes relating to courses of education offered to prisoners under the jurisdiction of the Department of Corrections. This omnibus education act is summarized in detail in the EDUCATION article of this Summary; however, those portions of the act which deal with the education of prisoners are outlined briefly as follows:

Section 944.19, F.S., is amended to provide an education supervisor at each correctional facility, to provide that all education and training given to inmates by educational institutions through the Community College Program Fund or the Florida Education Finance Program be by written agreement, and

to provide that the Department of Corrections utilize specified funds to contract with public or private schools. The act gives policy direction on the types of education to be offered and the target group of inmates to be served. A pilot project, the design of which was begun upon passage of the measure, is mandated to be implemented within one year of June 1, 1984, to test the effectiveness of correctional education. Further, the act calls for increased involvement by the Division of Labor, Employment, and Training of the Department of Labor and Employment Security to provide job placement assistance to inmates.

The act also provides for abolishment of the Council on Correctional Education (which operates under the Secretary of Corrections) effective October 1, 1984.



COURTS AND CIVIL LAW*

The 1984 Florida Legislature enacted a variety of legislation in the field of courts and civil law. In the area of courts, significant legislation included changes in jurisdiction and service of process, creation of a life-prolonging procedures act, and a study of alternative dispute resolution. With respect to civil actions, important legislation included civil remedies for counterfeit goods and labels and a revision of the motor vehicle warranty law. Major changes in real property law included revisions of the condominium, mobile home, and real estate time-sharing laws and an expansion of the RICO (Racketeer Influenced and Corrupt Organization) Act. In the area of estates, guardianship, and family law, among the more important provisions were acts relating to custody and adoption.

PART I: COURTS

Alternative Dispute Resolution

HOUSE BILL 1223 (CHAPTER 84-303) establishes the Study Commission on Alternative Dispute Resolution to determine and make recommendations concerning the feasibility of trial court

*Prepared by staff of Senate Legal Research & Drafting Services

administered alternative means for dispute resolution and to determine if legislation and court rules are necessary to implement its recommendations. The Commission also is to study and make recommendations concerning the creation of county court traffic infraction judges and needed improvements in court administration. A public hearing is required prior to final reporting to the Chief Justice of the Florida Supreme Court, the President of the Senate, and the Speaker of the House of Representatives. Commission members are appointed by the President of the Senate (two members), the Speaker of the House of Representatives (two members), the Chief Justice (two members of the judiciary), and the President of The Florida Bar (three private attorneys). The Office of the State Courts Administrator is to act as staff for the Commission. The Commission members will receive per diem and travel expenses, but no other compensation. The Commission expires April 1, 1985. [Other provisions of this act are discussed in this summary article under the headings, Judges and Jurisdiction in PART I: COURTS.]

Judges

HOUSE BILL 1223 (CHAPTER 84-303) amends Subsection 34.021(1), F.S., to provide that no person is eligible for election or appointment to the office of county court judge in a county with a population of more than 40,000 unless he is, and has been for the preceding five years, a member in good standing of The Florida Bar. The act also amends Sections

26.031 and 34.022, F.S., to authorize one additional circuit court judge for the second, fifth, sixth, eighth, ninth, tenth, eleventh, fifteenth, and twentieth judicial circuits; two additional county court judges for Broward County; and one additional county court judge for Dade, Hillsborough, Indian River, Palm Beach, Pasco, and Seminole Counties. The additional circuit court judges and county court judges in the second, fifth, sixth, ninth, tenth, eleventh, and twentieth circuits and in Broward, Dade, Hillsborough, Indian River, Pasco, and Seminole Counties are to be elected in the nonpartisan elections in 1984 and take office on the first Tuesday after the first Monday in January, 1985.

[Other provisions of this act are discussed in this Summary article under the headings, Alternative Dispute Resolution and Jurisdiction in PART I: COURTS.]

HOUSE BILL 349 (CHAPTER 84-306) amends Section 25.073, F.S., to raise the compensation of retired justices or judges assigned to temporary duty to \$150 a day and limits to 60 the number of days they may serve each year without the approval of the Chief Justice. The act also deletes the authority of the Chief Justice to appoint a judge who reaches the mandatory retirement age of 70 while in office to temporary duty for the remainder of his term at full salary.

SENATE BILL 522 (CHAPTER 84-33) amends Section 43.29, F.S., to provide that a member of a judicial nominating commission is ineligible, during his term of membership and for a period of two years thereafter, for appointment to a state

judicial office if the commission that he is or was a member of has the authority to make nominations for that office.

Jurisdiction

HOUSE BILL 1223 (CHAPTER 84-303) amends Section 924.08, F.S., to provide that a district court of appeal may review orders or judgments of a county court which are certified by the county court to be of great public importance. The act also creates Section 34.195, F.S., to provide that county courts may certify questions to the district court of appeal in a final judgment if the question may have statewide application and is of great public importance or will affect the uniform administration of justice. The trial court is required to make findings of fact and conclusions of law and to state concisely the question to be certified. The decision to certify a question is within the discretion of the trial court and the decision to answer the certified question is within the discretion of the district court of appeal.

[Other provisions of this act are discussed in this Summary article under the headings, Alternative Dispute Resolution and Judges in PART I: COURTS.]

SENATE BILL 28 (CHAPTER 84-2) amends Sections 48.181 and 48.193, F.S., to expand the in personam jurisdiction of the courts of Florida by providing that a corporation or nonresident is subject to the jurisdiction of the courts of the state when the corporation or nonresident engages in substantial and not isolated activities within the state. The

law provides that a defendant subjects himself to the jurisdiction of the court, for any cause of action a plaintiff may have against him, if he demands affirmative relief on causes of action unrelated to the transaction forming the basis of the plaintiff's claim. [Another provision of this act is discussed in this Summary article under the heading, Service of Process in PART I: COURTS.]

Life-Prolonging Procedures

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 127 (CHAPTER 84-58) creates the "Life-Prolonging Procedure Act of Florida" and provides a procedure for competent adults to execute a declaration that life-prolonging procedures be withheld or withdrawn. It provides for revocation of the declaration, immunity from liability, penalties, and exemptions from the act. It also provides a form for such declarations and establishes a procedure in the absence of a declaration. It further provides that such declaration may not constitute suicide and may not impair any life insurance policy.

Service of Process

COMMITTEE SUBSTITUTE FOR HOUSE BILL 173 (CHAPTER 84-141) amends Subsection 409.2571(1) and creates Section 409.2573, F.S., to require county sheriffs to serve initial process and orders in lawsuits filed by the Department of Health and Rehabilitative Services under the child support enforcement program. Reimbursement for such service is to be at the rate of federal financial participation for service of process and

orders. Notices and other intermediate process, except witness subpoenas, in lawsuits under the program shall be served by the Department as provided for in the Florida Rules of Civil Procedure. Witness subpoenas shall be served by the Department by certified mail as provided by Subsection 48.031(2), F.S.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 222 (CHAPTER 84-176) amends Section 48.041 and creates Section 48.042, F.S., to authorize separate procedures for service of process on a minor and on an incompetent. Section 78.13, F.S., is also amended to provide that a defendant may obtain the release of his property seized under a writ of replevin within five days after the seizure by posting bond in an amount equal to 1 1/4 times the amount owed, or upon agreement to satisfy any judgment which may be rendered against him.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1018 (CHAPTER 84-339) amends Subsection 48.031(3), F.S., to provide that the service of a criminal witness subpoena upon a law enforcement officer or federal, state, or municipal employee called to testify in an official capacity in a criminal case may be made to a designated supervisory or administrative employee at the witness' place of employment in certain circumstances.

Subsection 48.183(1) and Section 83.22, F.S., are amended to provide that, in an action for possession of residential premises or in an action for removal of a nonresidential tenant, at least five days must elapse after the date of service before a judgment of final removal may be entered against the defendant. The minimum time delay between

two attempts to obtain such service of process must be six hours.

SENATE BILL 28 (CHAPTER 84-2) amends Subsection 48.081(5), F.S., to authorize service of process on an officer or business agent of a corporation while on corporate business within this state. [Other provisions of this act are discussed in this Summary article under the heading, Jurisdiction in PART I: COURTS.]

Witnesses

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 140 and 237 (CHAPTER 84-36) amends Section 918.17, F.S., to provide that upon a motion and hearing the trial court may order the videotaping of the testimony of a victim or witness under the age of 16 in a sexual abuse or child abuse case. The law provides that such videotape may be used in lieu of testimony in open court if there is substantial likelihood that the victim or witness would suffer severe emotional or mental distress if required to testify in open court. The law specifies those persons who may file a motion to videotape testimony and provides that such motion may be filed at any time with reasonable notice to all parties. It also provides conditions and procedures for conducting the videotaping in the presence of a special master.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 520 (CHAPTER 84-153) amends Section 92.141, F.S., to extend certain witness travel expense reimbursement and witness fee provisions to all

employees of law enforcement agencies.

PART II: CIVIL ACTIONS

Attorneys' Fees

COMMITTEE SUBSTITUTE FOR SENATE BILL 438 (CHAPTER 84-78) establishes the "Florida Equal Access to Justice Act" to diminish the deterrent effect of the expense of civil actions and administrative proceedings either in seeking review of governmental action or defending against such action. Under this act a small business that prevails in an adjudicatory or administrative proceeding initiated by a state agency may be awarded attorneys' fees and costs unless the agency action was substantially justified or special circumstances exist which make the award unjust. Application for the award is by affidavit to the court which first conducted proceedings or to a hearing officer assigned by the Division of Administrative Hearings of the Department of Administration. The court or the hearing officer is then required to promptly conduct an evidentiary hearing on the application for the award of attorneys' fees and costs.

The state agency may oppose the award and may appeal the final judgment of the hearing officer. Additional attorneys' fees and costs, however, may be awarded for the appeal. The amount of the award is limited to \$15,000. The act does not apply to proceedings involving the establishment of a rate or rule or to a tort action. Each state agency is required to report annually to the President of the Senate and the Speaker

of the House of Representatives on the amount of attorneys' fees and costs awarded.

Counterfeit Labels, Trademarks, Etc.

COMMITTEE SUBSTITUTE FOR SENATE BILL 598 (CHAPTER 84-132) substantially amends Section 506.09, F.S., to expand civil remedies against persons who manufacture, use, or sell counterfeit labels or trademarks. The law also authorizes any court of competent jurisdiction to enjoin such unlawful use, order the seizure and destruction of such counterfeits, and require the defendant to pay three times the amount of damages to the owner of the labels, trademarks, etc. The law authorizes a court to order the seizure of counterfeits without notice to the defendant in certain emergency situations. The law also provides that a person who causes goods which are not counterfeit to be seized is liable for damages, costs, and, if warranted, punitive damages.

Enforcement of Foreign Judgments

COMMITTEE SUBSTITUTE FOR SENATE BILL 105 (CHAPTER 84-5) creates the "Florida Enforcement of Foreign Judgments Act." It provides that foreign judgments may be recorded and enforced as judgments of a circuit or county court. The law requires mailing of the notice of recording to the judgment debtor. It provides for the creation of a lien against the judgment debtor and provides circumstances for a stay of enforcement of a foreign judgment or judgment lien. The law also requires a person recording a foreign judgment to pay a service fee.

Sovereign Immunity

HOUSE BILL 488 (CHAPTER 84-29) amends Subsections (2) and (9) of Section 768.28, F.S., to extend sovereign immunity to public defenders, special assistant public defenders, and private attorneys serving the state in a temporary capacity as court appointed special public defenders.

COMMITTEE SUBSTITUTE FOR SENATE BILL 911 (CHAPTER 84-335) amends Section 768.28, F.S., to specifically include public defenders' offices within the definition of state agency and includes public defenders and their employees and agents within certain immunity provisions. It further provides that this statutory section shall not be construed as a waiver of sovereign immunity.

Statute of Limitations

HOUSE BILL 116 (CHAPTER 84-13) amends Paragraph 95.11(4)(f), F.S., to provide a two-year statute of limitations on an action for personal injury caused by exposure to phenoxy herbicides during the Vietnam conflict (January 1, 1962 - May 7, 1975), and provides that such period of limitation shall begin to run from the time the cause of action is discovered or should have been discovered with the exercise of due diligence. The law revives all such causes of action which are barred as of the effective date of the act because the applicable period of limitation has expired and provides that such action may commence within two years after the effective date of the act.

Warranties

SENATE BILL 743 (CHAPTER 84-55) amends Chapter 681, F.S., to revise the intent, definitions, and remedies of the "Motor Vehicle Warranty Enforcement Act." The intent section is amended to provide that the act shall not expand any rights or remedies available under any other law. A "comparable motor vehicle" defined as an identical or reasonably equivalent vehicle under prior law, is defined as a vehicle of the same model, year, and equivalent condition at the time of replacement. A new term, "replacement motor vehicle," is defined as a vehicle which is identical or reasonably equivalent to the vehicle to be replaced as it existed at the time of purchase. The act also adds to the definition section a provision defining "incidental charges" as those unavoidable costs to the consumer directly caused by the nonconformity of the vehicle and providing that the consequential damages shall not be allowed.

The act provides that the consumer's remedy for a nonconformity that could not be corrected is either replacement with a comparable or replacement vehicle acceptable to the consumer or refund of the purchase price, together with collateral and incidental charges, but excluding an allowance for use of the vehicle.

The act also provides that in an action brought by a consumer, the decision of the informal dispute settlement panel under Section 681.108, F.S., is admissible in evidence, and requires that each decision of such a panel be submitted to the

Division of Consumer Services of the Department of Agriculture and Consumer Services within 30 days after such decision is rendered.

PART III: REAL PROPERTY

Condominiums

COMMITTEE SUBSTITUTE FOR SENATE BILL 712 (CHAPTER 84-368) makes a variety of changes in Chapter 718, F.S., relating to condominiums. Terms that are newly defined are "association property," "land," "special assessment," "voting certificate," and "voting interest." The declaration is allowed to provide, however, that "land" means surface, air space, and subterranean space, or any combination of the three. Under prior law, the bylaws were not required to be attached to the declaration as an exhibit. The act now requires that the bylaws be so attached.

The revision to Chapter 718, F.S., also:

- 1) Provides that membership in the association with full voting rights passes as an appurtenance to the property.
- 2) Prohibits amendment or revision of a declaration by reference to the title or number of a provision, and requires changes in the text to be indicated by underscoring, hyphenating through, and "substantial rewording" statements, in the same manner as legislative bills are coded.

- 3) Authorizes mergers of two condominiums of a single complex into one condominium upon approval by the same voting interest as is required for modifying appurtenances or changing percentage ownership of common elements, together with approval by all lienholders. [Prior law required approval of 80 percent of unit owners, together with all lienholders.] The act also deletes the requirement that any vote to change the percentage ownership of common elements or share of common expenses be by secret ballot.
- 4) Provides alternative methods of curing errors or omissions in the declaration that affect the validity of the condominium. If property rights of unit owners are not affected materially or adversely, the declaration may be amended by majority vote. If no other means of amendment is available, affected parties may petition the circuit court for modification. The act also establishes a three-year statute of limitations for challenging the compliance of a declaration or other document with mandatory requirements for formation of a condominium.
- 5) Prohibits the charging of a fee for use of common elements by a unit owner unless such use is the subject of a lease between the association and the unit owner.

- 6) Specifies in detail the records which must be maintained by an association and provides that an association member may inspect and obtain copies of such records.
- 7) Specifies required insurance and provides that coverage afforded by insurance policies issued to unit owners is excess over the amount recoverable under other policies covering the same property without rights of subrogation against the association.
- 8) Authorizes the association to own property for the use and benefit of its members.
- 9) Provides that all approvals required of unit owners be made at duly noticed meetings, but provides for action by written agreement without a meeting in certain circumstances, and allows a unit owner to waive notice. Additionally, if a quorum is not attained at the meeting called to adopt a budget, the proposed budget goes into effect as if it had been approved.
- 10) Provides for recall of board members by majority of the voting interests, either at a meeting or in writing, and provides for arbitration of disputed recalls.
- 11) Prohibits the association from charging a fee upon sale, lease, or other transfer of a unit unless the association's approval is required for such

transfer. If approval is so required, the fee may not exceed \$50.

- 12) Provides that a lien for unpaid assessments expires after one year unless an action to enforce the lien commences within such one-year period.
- 13) Requires written notice of the purpose of any special assessment, and provides that funds remaining after completion of such purpose shall be considered common surplus.
- 14) Provides that any grant or reservation made by the developer or by the association prior to election of a majority of the board by the unit owners is deemed ratified unless rejected by a majority of the board within 18 months after unit owners elect a majority of the board.
- 15) Allows an association to levy a fine of up to \$50 against a unit owner for violation of the declaration, bylaws, or rules of the association.
- 16) Exempts leases for land on which a condominium is created from the requirement that the lease disclose the minimum number of unit owners that will be required to pay rent, and exempts the lease from certain lien provisions if the lessor is the United States, the state, or any agency or political subdivision of the state. The act also allows the director of the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of

Business Regulation the discretion to accept alternative assurances sufficient to secure payment of rent.

- 17) Requires the developer of a condominium to comply with Part VI, Chapter 718, F.S., relating to conversion to condominium, but provides that failure to comply does not affect the validity of the condominium.
- 18) Revises requirements for phased condominiums. It limits the period during which phases may be added to the seven years following recording of the declaration. It requires a detailed plot plan, a statement of the minimum and maximum number of units in each phase, a formula for reallocating proportional ownership of common elements, and a statement of circumstances under which additional common facilities will be added. The act also provides detailed requirements for amendments adding land to the condominium.
- 19) Provides that a contract for sale of a residential unit is voidable by the purchaser within 15 days after receipt of an amendment that materially alters or modifies the offering in a manner adverse to the purchaser.
- 20) Specifies information that shall be included in the offering statement of a phased condominium, including a statement that additional land may be

added, a statement as to whether future buildings will differ from existing buildings, and a statement of the maximum number of buildings to be constructed, and the minimum and maximum number of units in each.

21) Changes provisions covering conversions to exclude transactions involving the sale of more than one unit to one purchaser from the tenant's right of first refusal, to require disclosure of the condition of the structure and of fire protection systems, and to modify the formula for calculating converters' reserve accounts.

22) Creates a residential planned development study commission to study offerings involving the sale of real property without common elements, residential planned developments, and master associations. A report and recommendations are to be submitted to the President of the Senate and the Speaker of the House of Representatives by February 15, 1985. The commission will expire on June 30, 1985.

Conveyances of Real Property

SENATE BILL 482 (CHAPTER 84-366) amends Sections 255.22 and 255.23, F.S., to extend the ability of a county or municipality to hold property conveyed to it for a specific purpose. Under prior law, if a party owning adjoining land conveyed property to a municipality or county for a specific

purpose and the municipality or county failed to use it for such purpose for 60 consecutive months, the property would revert to the grantor upon demand. The act provides that the property will not revert if, within the 60-month period, the proposed use of the property is identified in a comprehensive plan or other public facilities plan. Similarly, under prior law, if land was conveyed to a municipality or county for a purpose which required physical improvement or construction, the failure to improve, construct, or maintain the property for 60 consecutive months was deemed an abandonment. This measure provides that such failure is not abandonment if the proposed use of the property is identified in a comprehensive plan or other public facilities plan within the 60-month period. The act applies only to conveyances that occur after October 1, 1984, and does not supersede any express reverter clause.

SENATE BILL 619 (CHAPTER 84-97) amends Sections 695.03, 695.04, and 695.09, F.S., to authorize the recording of documents concerning real property that are executed in a foreign country if the execution is legalized or authenticated by a civil law notary of that country, as an alternative to other means of validating such document for recording purposes. The act also creates Section 117.10, F.S., to provide that law enforcement officers and correctional officers are notaries public for the purpose of notarizing, certifying, or attesting to documents in connection with the performance of official duties. The act repeals Section 925.095, F.S., which

authorized law enforcement officers and correctional officers to administer oaths.

Housing

The protection of the Fair Housing Act is extended to persons with handicaps by COMMITTEE SUBSTITUTE FOR HOUSE BILL 437 (CHAPTER 84-117) which amends Sections 760.22 through 760.25, F.S. The act prohibits any person from discriminating in the sale, rental, terms of sale or rental, advertising, availability for inspection, access to multiple listing systems, or financing of housing, based on physical impairment which substantially limits one or more major life activities. The act also amends Section 760.29, F.S., to state that, except as otherwise provided by law, sellers and lessors are not required to modify, alter, or adjust a dwelling to provide accessibility for handicapped persons.

Mobile Homes

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1126 (CHAPTER 84-80) consolidates and expands various provisions relating to mobile homes and mobile home parks into a new Chapter 720, F.S., the "Florida Mobile Home Act."

With respect to landlord-tenant matters, the act imposes an obligation of good faith and fair dealing, provides for award of attorneys' fees to the prevailing party, grants mobile home owners the right to assemble and to communicate with each other, grants mobile home owners the right to invite candidates for public office or tenant organization officers to appear in

the common areas of the park, and authorizes injunctions to enforce such rights.

The act allows mobile home owners to sell their homes within the park, or to form an association similar to a condominium association for the purpose of purchasing the mobile home park under a right of first refusal. A similar right of first refusal applies to sale of recreational facilities or other property exclusively serving a mobile home park.

The content of rental agreements for mobile home lots is specified. Under certain circumstances, increases in lot rentals, reductions in services or utilities, or changes in park rules are subject to arbitration or mediation; parties are barred from filing an action in court relating to a matter subject to arbitration or mediation until the conclusion of the arbitration or mediation.

Prohibited and unenforceable provisions in rental agreements are specified and remedies provided. Remedies are also provided for unconscionable rental agreement provisions. The act also provides grounds and procedures for eviction and specifies defenses thereto.

Regulation of mobile homes is preempted to the state. The Division of Florida Land Sales and Condominiums of the Department of Business Regulation is renamed the Division of Florida Land Sales, Condominiums, and Mobile Homes and is granted regulatory authority over mobile home parks. Authority of the Division includes investigation, consumer education,

imposition of civil penalties, and institution of enforcement actions. Each mobile home park is required to pay a \$1 per lot annual fee to fund expenses of the Division.

The act also contains detailed requirements for filing of an offering circular or prospectus for any park having 26 or more lots. The circular or prospectus must be approved by the Division before lots may be rented. (This provision shall take effect on January 1, 1985, as to mobile home parks containing 100 spaces or more; and on July 1, 1985, as to mobile parks containing less than 100 spaces.) Filing of advertising material prior to use is required, and false or misleading advertising is prohibited.

The act repeals provisions of Part III, Chapter 83, F.S., whose substance is now contained in new Chapter 720, F.S., including the "Florida Mobile Home Landlord and Tenant Act," and provisions relating to mobile home owner associations (Sections 715.301 through 715.303, F.S.).

Real Estate Time-Sharing

HOUSE BILL 1151 (CHAPTER 84-256) revises various portions of the "Florida Real Estate Time-Sharing Act," Chapter 721, F.S. The definition of "developer" is expanded to include successor developers and concurrent developers, and the requirement of a surety bond is changed to a fidelity bond requirement. The scope of the act is expanded to include campgrounds. The requirement that approved amendments to the public offering statement be delivered to the purchaser prior

to closing and no later than ten days after approval is added to existing filing requirements.

The act also revises escrow requirements by requiring 100 percent of funds received from or on behalf of purchasers to be placed in escrow only if the funds are received before the occurrence of events that would authorize release of funds from escrow. Upon cancellation of a purchase, the purchaser is entitled to a refund only within 20 days after he demands a refund or five days after his check clears, whichever is later.

Under prior law, the managing entity of the time-share was required to provide a purchaser or owner with a list of names and addresses of all other purchasers and owners. This requirement was replaced with a requirement that the managing entity annually submit a list of names and addresses of purchasers and owners to the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation.

The act retains the requirement that any seller of a time-share plan be a licensed real estate broker, salesman, or broker salesman, but adds a licensing requirement for solicitors. Pursuant to rules adopted by the Division, each person who solicits prospective time-share purchasers shall be issued an annual time-share occupational license upon payment of a \$25 fee. Soliciting without such license is unlawful. The Division is granted disciplinary powers of denial, suspension, or revocation of a license or imposition of an administrative fine.

Racketeer Influenced and Corrupt Organizations

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 424 (CHAPTER 84-38) adds two provisions to the Florida RICO (Racketeer Influenced and Corrupt Organization) Act, Chapter 895, F.S. As an alternative to other methods of filing a RICO lien notice, the act provides that the Department of Legal Affairs may apply ex parte to the circuit court for an order authorizing filing of a RICO lien notice against real property. The order is to be granted if the Department shows probable cause to believe that the property was used in the course of, intended for use in the course of, derived from, or realized through a violation of the Florida RICO Act. The owner of the property is given an opportunity to petition the court to discharge the lien on the basis of a lack of probable cause or on the basis that the owner did not know and reasonably should not have known about the unlawful use, intended use, or source of the property. The lien created by this method expires 90 days after the date of the court order, unless extended by the court for another 90 days, or unless the Department institutes a RICO civil action and files a RICO lien notice under Section 895.07, F.S.

The act also adds a provision authorizing an investigative agency to apply to the circuit court for an order requiring a person or entity that is the subject of a RICO civil investigative subpoena not to disclose the existence of the subpoena except to his attorney. The period of nondisclosure is 90 days, unless the court extends the period

for good cause. Failure to obey the court order is punishable as contempt of court.

PART IV: ESTATES, GUARDIANSHIP, AND FAMILY LAW

Estates and Trusts

HOUSE BILL 1144 (CHAPTER 84-31) changes the powers and duties of certain fiduciaries. It amends Section 689.071, F.S., to provide that trustees of certain land trusts shall be covered by Section 737.306, F.S., providing generally for the personal liability of trustees. Section 737.402, F.S., is amended to specifically authorize trustees to acquire an undivided interest in trust assets including certain money market mutual funds and common trust funds. [Other provisions of this act are discussed in this Summary article under the heading, Guardianship in PART IV: ESTATES, GUARDIANSHIP, AND FAMILY LAW.]

HOUSE BILL 511 (CHAPTER 84-179) amends Section 737.402, F.S., to give certain trustees of small trusts the discretionary power to terminate the trust and distribute the property to the beneficiaries.

HOUSE BILL 23 (CHAPTER 84-10) repeals Section 733.709, F.S., relating to the Probate Code, which barred certain creditors' claims more than one year old against an estate.

HOUSE BILL 1189 (CHAPTER 84-106) makes certain changes to the Florida Probate Code pertaining to inventories of decedent's estates. It requires the serving, rather than the

filing, of inventories on certain parties. It permits certain interested parties to waive the filing of certain documents. The Code is also changed (Section 733.604, F.S.) to specify which interested parties shall receive a copy of the inventory and to provide for the service of amended or supplementary inventories.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 61 (CHAPTER 84-25) amends Section 733.705, F.S., to extend the time within which a personal representative or interested person may object to a claim against an estate. It requires a claimant against an estate to file written notice in the estate proceedings of any independent action brought upon a claim which has been objected to.

Guardianship

HOUSE BILL 317 (CHAPTER 84-62) reorganizes several sections of Chapters 293 and 294, F.S., relating to veterans' guardianships and transfers them to the newly created "Veterans' Guardianship Law," Part VIII of Chapter 744, F.S. Substantial changes which become effective January 1, 1985, include modifying certain requirements for a petition requesting appointment of a guardian and allowing the court to appoint a guardian other than one entitled to priority of appointment. It requires notice of such petition be given to the Veterans Administration and increases the guardianship filing fee. A new Section 744.625, F.S., is created to permit

an action for support by dependents of the ward. It exempts benefits paid to such ward from the claims of creditors.

Section 192.123, F.S., is created to require the property appraiser and tax collector, upon receipt of a copy of letters of guardianship, to provide the guardian with all ad valorem tax notices which would otherwise be given to the ward.

HOUSE BILL 1144 (CHAPTER 84-31) amends Section 744.444, F.S., to specifically authorize guardians to invest guardianship assets in certain money market mutual funds and common trust funds. Section 744.341, F.S., is amended to allow a guardian to take possession of a portion of a ward's assets. [Other provisions of this act are discussed in this Summary article under the heading, Estates and Trusts in PART IV: ESTATES, GUARDIANSHIP, AND FAMILY LAW.]

Family Law

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 114 AND 158 (CHAPTER 84-110) amends several sections of Chapter 61, F.S., to provide for the payment of alimony and child support obligations and the enforcement of alimony and child support orders. Counties are required to create central depositories to receive, record, and disburse alimony and child support payments and to monitor payment histories. The depositories may contract with the Department of Health and Rehabilitative Services for the handling of cases which come within the Child Support Enforcement Program operated pursuant to Title IV-D of the Social Security Act. In such cases the Department shall

have jurisdiction to enforce child support orders. Where the case is not a Title IV-D case, the depository shall enforce an alimony or child support order through income deduction, unless such enforcement is determined to be inappropriate. Restrictions and requirements for the use of income deductions are specified. Income deductions shall be in addition to any and all existing civil or criminal remedies to enforce alimony or child support obligations.

On or after January 1, 1985, certain alimony and support court orders shall direct that payment of alimony and child support be made through the county central depositories, and certain orders entered prior to that date may be modified to require payment through the depositories. The court shall also issue an income deduction order which shall be used for enforcement purposes only if alimony or support payments become delinquent.

Any disciplinary action against an employee by an employer to whom writs of attachment or garnishment are issued to enforce and satisfy alimony or child support orders, which action is taken solely because such writ is in effect, shall constitute contempt of court.

SENATE BILL 166 (CHAPTER 84-135) amends Section 61.12, F.S., to provide that judgments as well as orders of the court may be enforced and satisfied by attachment or garnishment for amounts due with respect to certain dissolution, alimony, or child support proceedings. [This same amendment is also

included in COMMITTEE SUBSTITUTE FOR HOUSE BILLS 114 AND 158 (CHAPTER 84-110), summarized above.]

HOUSE BILL 508 (CHAPTER 84-152) amends Section 61.13, F.S., to provide that the court, in determining the custody of a minor child as a part of a dissolution of marriage proceeding, shall consider evidence of spouse abuse as evidence of detriment to the child. If the court finds that spouse abuse has occurred between the parties, it may award sole parental responsibility to the abused spouse and make such visitation arrangements as will best protect the child and abused spouse from further harm.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 487 (CHAPTER 84-64) creates Section 61.1301, F.S., to specify visitation rights for grandparents of a minor child. Under these provisions, the court may award reasonable grandparent visitation rights, when it is in the best interests of the child, if one or both parents are deceased, the marriage of the parents has been dissolved, or a parent has deserted the child. There is no provision for grandparent visitation rights for children placed for adoption under Chapter 63, F.S. However, adoption by a stepparent after the remarriage of one of the natural parents of a minor child, for whom visitation rights have been granted to a grandparent, shall not terminate any grandparental rights unless the court determines, after giving the grandparents an opportunity to be heard, that termination of such visitation rights is in the best interests of the child. Section 68.08,

F.S., which provided a more general authorization for the granting of visitation rights to grandparents, is repealed.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 173 (CHAPTER 84-141) requires county sheriffs to serve initial process and orders in lawsuits filed by the Department of Health and Rehabilitative Services under the child support enforcement program. [A summary of this act is included in this Summary article under the heading, Service of Process in PART I: COURTS.]

HOUSE BILL 324 (CHAPTER 84-101) amends and clarifies various provisions of Chapter 63, F.S., relating to adoption. It redefines the term "intermediary" to include child-placing agencies licensed in another state and qualified by the Department of Health and Rehabilitative Services for the purpose of placing children from out-of-state with citizens of Florida for adoption. It requires that upon request of an adoptive parent, all nonidentifying information pertaining to the adopted child shall be released to the adoptive parent.

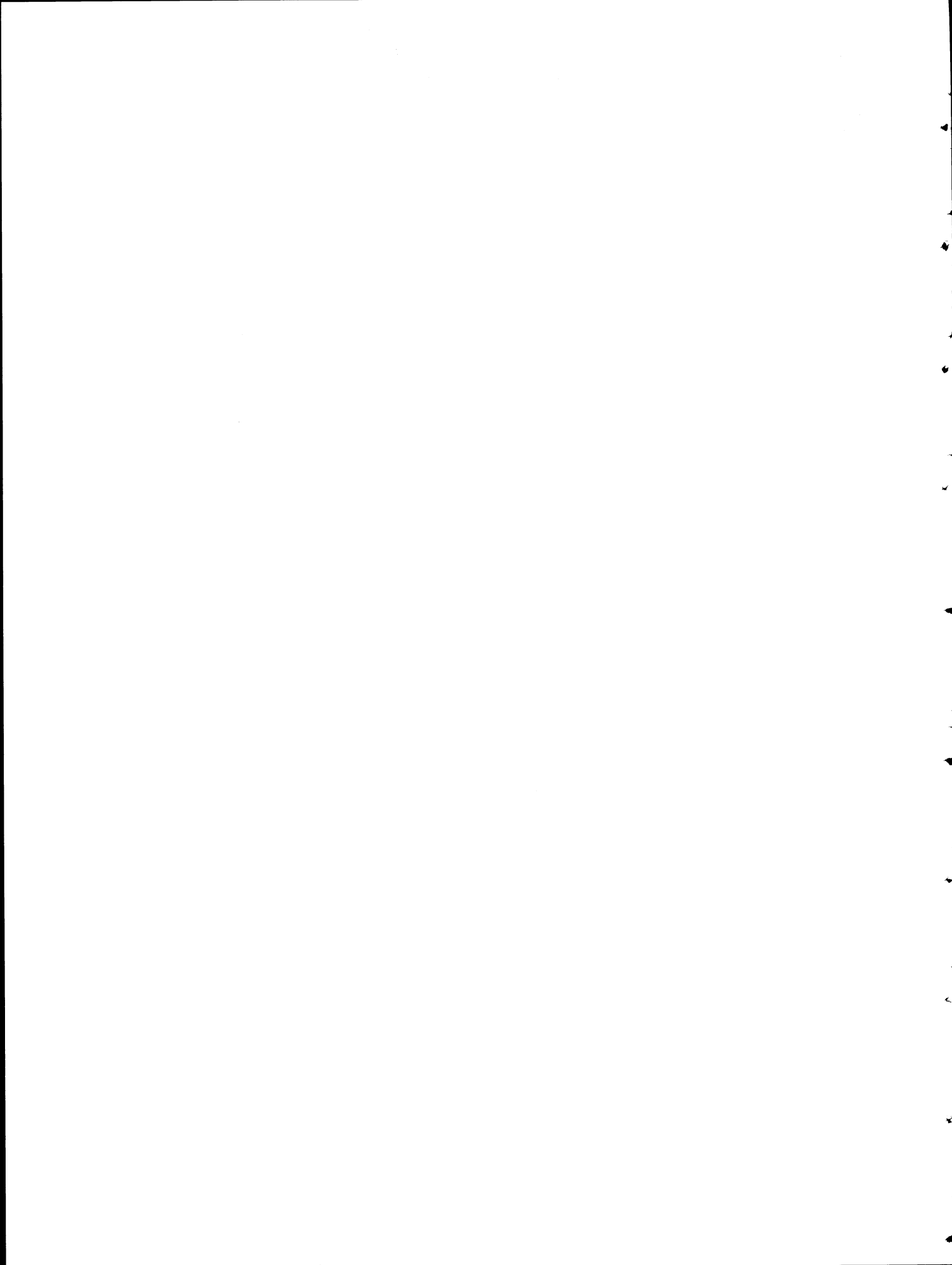
No person, except the Department of Health and Rehabilitative Services or a child-placing agency licensed by the Department, may place a child for adoption with a family whose primary residence and place of employment is in another state unless the child is placed with a stepparent or relative of the third degree. No person, except the Department, a licensed child-placing agency, or an intermediary, may place a child for adoption within the state unless the child is placed with a stepparent or a relative within the third degree. No person, except the Department or a licensed child-placing

agency, may charge a fee for making a referral in connection with an adoption. No person, except the Department, a licensed child-placing agency, or an intermediary, may advertise the placement of a child for adoption. Penalties are provided for violation of these prohibitions.

A person adopting a child may pay certain medical or living expenses of the natural mother if the child is being adopted by a stepparent or relative within the third degree, or is being adopted through the Department, a licensed child-placing agency, or an intermediary.

HOUSE BILL 428 (CHAPTER 84-28) creates Section 63.085 and amends Section 63.092, F.S., to require that intermediaries disclose the following information to persons seeking to adopt a child through the intermediary: (1) that payment of certain medical or living expenses of the natural mother or child does not guarantee that the natural mother will give the required consent for adoption; (2) that termination of parental rights occurs with the finalization of the adoption, 90 days after placement, and that consent for adoption is binding from time of execution unless it is shown to have been obtained by fraud or duress; and (3) that any irregularity or defect in the proceeding may be grounds to contest the validity of a judgment of adoption for up to one year after the entry of the judgment. The intermediary must obtain a statement signed by the person seeking to adopt a child that the person has been informed of the above information. The intermediary must keep this statement in his files and include a copy of it in his report

of intended placement to the Department of Health and
Rehabilitative Services.



EDUCATION*

The major piece of education legislation adopted by the 1984 Florida Legislature is a combination of measures commonly referred to as the "Education Omnibus Act." It embraces a wide range of subjects on all levels of education in Florida, and can be justifiably classified as both an Education K-12 and Postsecondary Education act since it deals with amendments to laws in both categories, as well as creating new programs in both the public schools and the universities.

Other measures enacted allow single member representation for school board districts; authorize school boards to negotiate loans secured by anticipated tax receipts; provide for establishment of nonprofit direct support organizations; establish registration requirements for permits to solicit funds for the blind; and authorize special education programs by nonpublic education agencies in certain residential care facilities. Scholastic standards are revised for students participating in interscholastic extracurricular activities; the "School Discipline Act of 1984" and the "Florida Educational Equity Act" are created; additional grounds are provided for suspension and expulsion of students; and copies

*Prepared by staff of Senate Committee on Education

of students' fingerprints are prohibited from being included in school records. Teacher certification laws are changed in an effort to expedite the licensing of Florida teachers and to allow certification of certain noncitizens, and all certification candidates are required to file a complete set of fingerprints with the Florida Department of Law Enforcement and the Federal Bureau of Investigation. Laws are amended relating to professional service contracts and personal leave of school personnel.

Internal auditors of community colleges are to be hired by the boards of trustees of such colleges, and expenditure of certain funds is authorized for operating a dormitory at Chipola Junior College. A procedure is established for reviewing foreign donations against discriminatory provisions; a provision is made to guarantee equity in allocation of funds for women's intercollegiate athletics; and two schools of the arts are established in Florida to serve at both the college and high school levels.

EDUCATION - K-12

"Education Omnibus Act"

COMMITTEE SUBSTITUTE FOR SENATE BILLS 923, 836, 1081 and 884 (CHAPTER 84-336) is the major piece of education legislation passed by the 1984 Legislature. As the name implies, the "Education Omnibus Act" addresses a wide range of subjects touching on all levels of education in Florida. Many of the changes are adjustments to current law which are

designed to help existing programs run more smoothly. Examples of these changes would be: the definition of a high school credit; a rewrite of the merit pay program for public school teachers; and the authorization for summer in-service institutes to be held on university campuses.

A second category of changes is made up of those sections of the act which represent extensions of 1983 legislation such as RAISE (Raising Achievement in Secondary Education, CHAPTER 83-324). Typical of these initiatives would be the Teachers as Advisors Program which provides additional academic counseling to high school students, and the meritorious school portion of the District Quality Instruction Incentives Program. [This latter change provides an opportunity for identifying and rewarding schools and school personnel doing an outstanding job of increasing student achievement.]

A third facet of the act is those sections which create new programs in new areas of education reform. Representative of this type of change would be the modification of the state procedure for selecting public school instructional materials, or the Florida Progress in Middle Childhood Education Program (PRIME). [The middle childhood program is the culmination of a year-long effort by the House of Representatives to focus educational attention on children in grades four through eight.] The act establishes the Center for Middle Grades Education within the Department of Education.

Other major changes include: a new program for the training and licensing of public school principals; a series of reporting and administrative requirements for community colleges; an adult literacy program utilizing school and public library resources; a comprehensive program designed to upgrade the quality of instructional materials used in our schools; the establishment of an Institute for Instructional Research and Practice and Student Educational Evaluation and Performance; and creation of the Florida Endowment Fund for Higher Education.

In addition, this act provides that remedial instruction offered in our postsecondary institutions shall be known as college preparatory instruction, shall be provided by community colleges with certain exceptions, and shall not be counted for degree credit. The act provides for a vocational education management information system to be developed and adopted by the State Board of Education, and implemented and maintained by the Commissioner of Education. Several changes are required in the reporting of vocational education data, and provisions are made to connect continued funding of certain vocational programs to the job placement rate for program participants. Also, a uniform fee policy is created for all public providers of adult education and adult vocational education. Provision is made for vocational preparatory instruction by area vocational technical centers; and an Adult Literacy Act is created to alleviate illiteracy among the adult population of the state.

The act changes the name of the Division of Vocational Education of the Department of Education to the Division of Vocational, Adult, and Community Education, and assigns to it the responsibility for adult and community education. It creates the Latin American and Caribbean Basin Scholarship Program to be administered by the Department of Education to provide support for students from these countries to pursue postsecondary training in Florida. It provides for model school adjustment programs, educational alternative programs, interagency student services, district multi-agency coordinating councils, and includes developmental research schools in certain categorical funding.

The act contains an experimental teacher certification program which authorizes the licensing of liberal arts graduates if they meet certain test standards and successfully complete an augmented beginning teacher program. Also included is the Florida Accountability in Curriculum, Educational Instructional Materials, and Testing Act (FACET), an effort to coordinate public school curriculum development, use of instructional materials, and student assessment procedures.

[The Education Omnibus Act, in conjunction with the RAISE Act and science and mathematics initiatives enacted in 1983 (CHAPTER 83-327), places Florida in the national forefront of public education reform. No other state has passed as extensive and as comprehensive legislation to revitalize its schools.]

Single-Member School Board Districts

HOUSE BILL 163 (CHAPTER 84-113) creates Section 230.105, F.S., to allow the school districts of Florida, at their option, to elect school board members through an alternate procedure, thus providing for single-member representation. The proposition calling for single-member representation may be submitted to the voters through the school board's own resolution or through a petition submitted to the school board by the voters, and must be approved by a majority of qualified voters within the district. The law allows school board members elected prior to the election approving single-member districts to remain on the board for the duration of their term; and provides for a return to multi-member districts by the same procedure used to provide for single-member representation within the residence areas of a school district.

School Loans

COMMITTEE SUBSTITUTE FOR SENATE BILL 61 (CHAPTER 84-18) amends Section 237.151, F.S., to authorize school boards to negotiate loans prior to the end of the fiscal year, to be repaid during the subsequent fiscal year from proceeds of revenue reasonably anticipated to be received during such year. Briefly, the boards can invest proceeds from loans secured by anticipated tax receipts at an interest rate of return which is greater than the interest rate being paid on the loans. The amount and conditions of such gains are governed by federal law. [This action is a continuation of a measure enacted by

the 1983 Legislature (CHAPTER 83-5). The early effective date of May 9, 1984, enabled districts to take advantage of a favorable securities market.]

Direct Support Organizations

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1138 (CHAPTER 84-172) authorizes the Department of Education and Florida's 67 county school districts to establish nonprofit direct support organizations as long as they are incorporated under Chapter 617, F.S., and approved by the Department of State. The organizations are to be created and operated solely to receive, hold, invest and administer property, and to make expenditures on behalf of public pre-kindergarten through 12th grade education in Florida. Department of Education and district personnel, property, and facilities may be used by the organizations subject to rules and policies of the State Board of Education and local school boards.

Should the Department of Education choose to establish a direct support organization, the board of directors would be the Florida Education Council. Local school boards are required to approve all boards of directors for local direct support organizations. Each direct support organization must provide for an annual audit of its financial operation. The audit and all information concerning the organizations, except the identity of donors and prospective donors, is to be a matter of public record subject to the provisions of Chapter 119, F.S.

[These organizations will enable the Department and local school boards to accept private gifts and donations on behalf of public education. They would operate much in the same way as university foundations.]

Solicitation of Funds for the Blind

SENATE BILL 175 (CHAPTER 84-51) reenacts Sections 413.061 through 413.068, F.S., pertaining to the registration of organizations, agencies, and individuals wishing to solicit funds on behalf of the blind. These various entities must register with the Division of Blind Services, Department of Education. The measure requires the Department, instead of the State Board of Education, to adopt rules pertaining to solicitation and criteria for approval of an application for a permit by January 1, 1985. This act limits exemption from the registration for permits to the National Federation of the Blind of Florida, the Florida Council of the Blind, the Blind Veterans Association of Florida, or the Lions Clubs of Florida. Sections 413.061 through 413.068, F.S., reenacted by this act, and Section 413.069, F.S. (providing exemptions for the above-listed organizations), are scheduled for repeal on October 1, 1994, pursuant to review under the Regulatory Sunset Act (Section 11.61, F.S.).

Special Education Programs

HOUSE BILL 89 (CHAPTER 84-109) amends Paragraph 230.23(4)(n), F.S., to authorize the Department of Education to enter into contracts allowing other nonpublic education

agencies to operate the Arthur Dozier School for Boys, the Marianna Sunland Center, the Alyce D. McPherson School, and the Florida School for Boys, provided these agencies are accredited and approved by the Department. Previously, the schools were to be operated directly by the Department of Education or through grants and contracts with other public education facilities.

Teacher Certification

SENATE BILL 421 (CHAPTER 84-272) amends Sections 231.15, 231.17, and 231.24, F.S., relating to teacher certification. [It contains recommendations of a Department of Education task force which sought ways to expedite the licensing of Florida teachers.] The changes permit license applicants to submit official college transcripts with their applications which eliminates the delay caused by the current requirement of only accepting transcripts transmitted directly from institutions. Other revisions add computer science and foreign language as acceptable areas for certificate extension, and amend the beginning teacher program to excuse anyone with a year or more of teaching experience who can demonstrate successful performance on an approved instructional personnel performance evaluation system. This latter change is also included in the "Education Omnibus Act," COMMITTEE SUBSTITUTE FOR SENATE BILL 923 (CHAPTER 84-336).

COMMITTEE SUBSTITUTE FOR SENATE BILL 544 (CHAPTER 84-130) amends Section 231.77, F.S., to clarify the procedure for

issuing Florida teaching certificates to noncitizens. Certificates may now be issued to any noncitizen who has been legally admitted to the United States by the the U.S. Immigration and Naturalization Service, provided such persons meet all other statutory requirements for licensure.

HOUSE BILL 969 (CHAPTER 84-44) amends Section 231.17, F.S., concerning certification requirements for teachers. The legislation requires certification candidates to file a complete set of fingerprints with the Florida Department of Law Enforcement and the Federal Bureau of Investigation, the cost of processing to be borne by the certification candidate. The act extends the fingerprinting requirement to substitute teachers seeking employment with local school boards.

The measure also amends Section 231.28, F.S., to require a district superintendent to report to the Department of Education any person who has been convicted of or pled nolo contendere to a misdemeanor, felony, or any other act which would be grounds for revocation or suspension of certification.

School Personnel - Service Contracts and Personal Leave

COMMITTEE SUBSTITUTE FOR HOUSE BILL 234 (CHAPTER 84-213) amends Sections 231.36 and 231.40, F.S., pertaining to professional service contracts and sick leave allotments. Each member of an instructional staff must complete certain requirements prior to July 1, 1984, to be issued a professional service contract. This act deletes the requirement that the probationary service be of a continuous nature.

The legislation also allows the school boards to increase the number of personal leave days annually allotted to an employee from four to six.

SENATE BILL 126 (CHAPTER 84-85) allows the members of a sick leave pool, if agreed to in a collective bargaining agreement, to use the sick leave pool prior to depleting their own accrued sick leave. The act also amends Sections 231.40 and 231.41, F.S., to require district school board employees, after returning from an absence due to illness, to file within five working days a written certificate of the days absent, the necessity for the absence, and whether or not the employee is entitled to receive compensation for the absence.

Participation in Extracurricular Activities/Education Equity

COMMITTEE SUBSTITUTE FOR HOUSE BILL 282 (CHAPTER 84-305) amends existing law governing high school student participation in interscholastic extracurricular activities. The measure requires participating students to be passing five subjects in addition to maintaining a 1.5 grade point average; however, these requirements pertain to the preceding grading period rather than the preceding semester. The exemption from these requirements for students in exceptional education programs and the requirement that students must be making satisfactory progress toward high school graduation are repealed.

The legislation also includes the Florida Educational Equity Act. This initiative prohibits discrimination on the basis of race, sex, national origin, marital status, or

handicap against any student or employee in any program, service, or function of any public education institution in Florida which benefits from federal or state financial assistance.

Student Attendance, Discipline, Expulsion, and Records

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 1045 and 589 (CHAPTER 84-255) creates the "School Discipline Act of 1984." It provides for more complete and valid data on the number of students who are habitually truant or drop out of school. The data's purpose is to identify programs and procedures which keep students in school or return them to the classroom. District and school reports must include specified information on rates of attendance, suspension, expulsion, and corporal punishment. School boards are authorized to plan and provide with other agencies for cooperative programs relating to discipline, truancy, and school dropouts. Student services programs are to be school-based and include positive procedures for alternative methods of classroom management. A 12-member Alternative Education Task Force is created to evaluate current alternative education programs and the impact of recent educational reforms on school attendance. The Task Force, which is to function for one year, is to report its findings to the Legislature by March 15, 1985.

Changes are made in existing law (Section 232.19, F.S.) to require the school administration and the Department of Health and Rehabilitative Services staff to exhaust a series of

prescribed joint actions before a court petition is filed to declare a child dependent due to habitual truancy.

SENATE BILL 635 (CHAPTER 84-34) amends Section 232.277, F.S., to require all school personnel to report to the principal any suspected unlawful use, possession, or sale by a student of any controlled substance, counterfeit controlled substance, alcoholic beverage, or model glue.

COMMITTEE SUBSTITUTE FOR SENATE BILL 707 (CHAPTER 84-242) amends Section 232.26, F.S., concerning the suspension or expulsion of a student who has been charged with a felony. Formerly, the felonies upon which a student could be suspended or expelled included only the unlawful possession or sale of any controlled substance. The changes allow the school principal to suspend a student who has been formally charged with a felony for an incident which allegedly occurred on other than public school property but was shown to have an adverse impact on the educational program in the student's school. A properly noticed administrative hearing must precede the suspension. Any student adjudicated guilty of a felony shall be immediately expelled by the school board.

HOUSE BILL 149 (CHAPTER 84-208) amends Section 228.093, F.S., pertaining to student or pupil records and reports. The legislation prohibits any public educational institution, from kindergarten through the university, from maintaining any student or pupil records which include a copy of the student's or pupil's fingerprints.

School Bus Lights

HOUSE BILL 611 (CHAPTER 84-49) amends Sections 234.211 and 316.2397, F.S., to authorize school buses to show and display flashing white strobe lights when transporting students or the transportation disadvantaged.

EDUCATION - POSTSECONDARY

Community College Internal Auditor

COMMITTEE SUBSTITUTE FOR HOUSE BILL 764 (CHAPTER 84-210) provides that any internal auditor employed by a community college is to be hired by the board of trustees of the community college and report directly to the board.

Community College Dormitories

HOUSE BILL 256 (CHAPTER 84-382) authorizes the Board of Trustees of Chipola Junior College to enter into agreements with the Chipola Dormitory Authority to operate a specified dormitory for the purpose of housing students. [This act provides needed authorization to validate past agreements and eliminate future audit criticism.]

[Similar language is contained in the "Education Omnibus Act," COMMITTEE SUBSTITUTE FOR SENATE BILL 923 (CHAPTER 84-336), along with authorization for Lake City Community College to operate a student dormitory. The Education Omnibus Act also restricts the source of dormitory operating revenue to the colleges' auxiliary funds.]

Foreign Donations

SENATE BILL 220 (CHAPTER 84-189) establishes a state level procedure for reviewing contracts and grants to determine whether any discriminatory provisions are contained in the documents. Each state university or public community college is required to report the terms, restrictions, and requirements of any endowment, gift, grant, contract award, or property of any kind which is worth more than \$100,000 when the gift is from a foreign government or an individual who is not a citizen of the United States and is given in one fiscal year. The report is to be submitted to the Commissioner of Education, the President of the Senate, and the Speaker of the House of Representatives.

These reports are to be made no later than 30 days after the end of each fiscal year and are to include: 1) the name of the foreign government or individual; 2) the amount of the donation; 3) the conditions, provisions, or designation of the grant; and 4) the purposes for which the donation will be used. State universities or public community colleges failing to make these reports will be fined an amount equal to five percent of the gift or contract. This legislation provides for enforcement by the State Board of Education.

Equity for Athletics

COMMITTEE SUBSTITUTE FOR HOUSE BILL 261 (CHAPTER 84-47) amends Section 240.533, F.S., relating to women's intercollegiate athletics, to place in statute a guarantee that

the allocation for equity in women's intercollegiate athletics to each university, as a minimum, should remain the same as it was in 1983-84. Funds appropriated in excess of the 1983-84 appropriation are to be allocated among the universities as recommended by the Council on Equity and Athletics of the Board of Regents.

Schools of the Arts

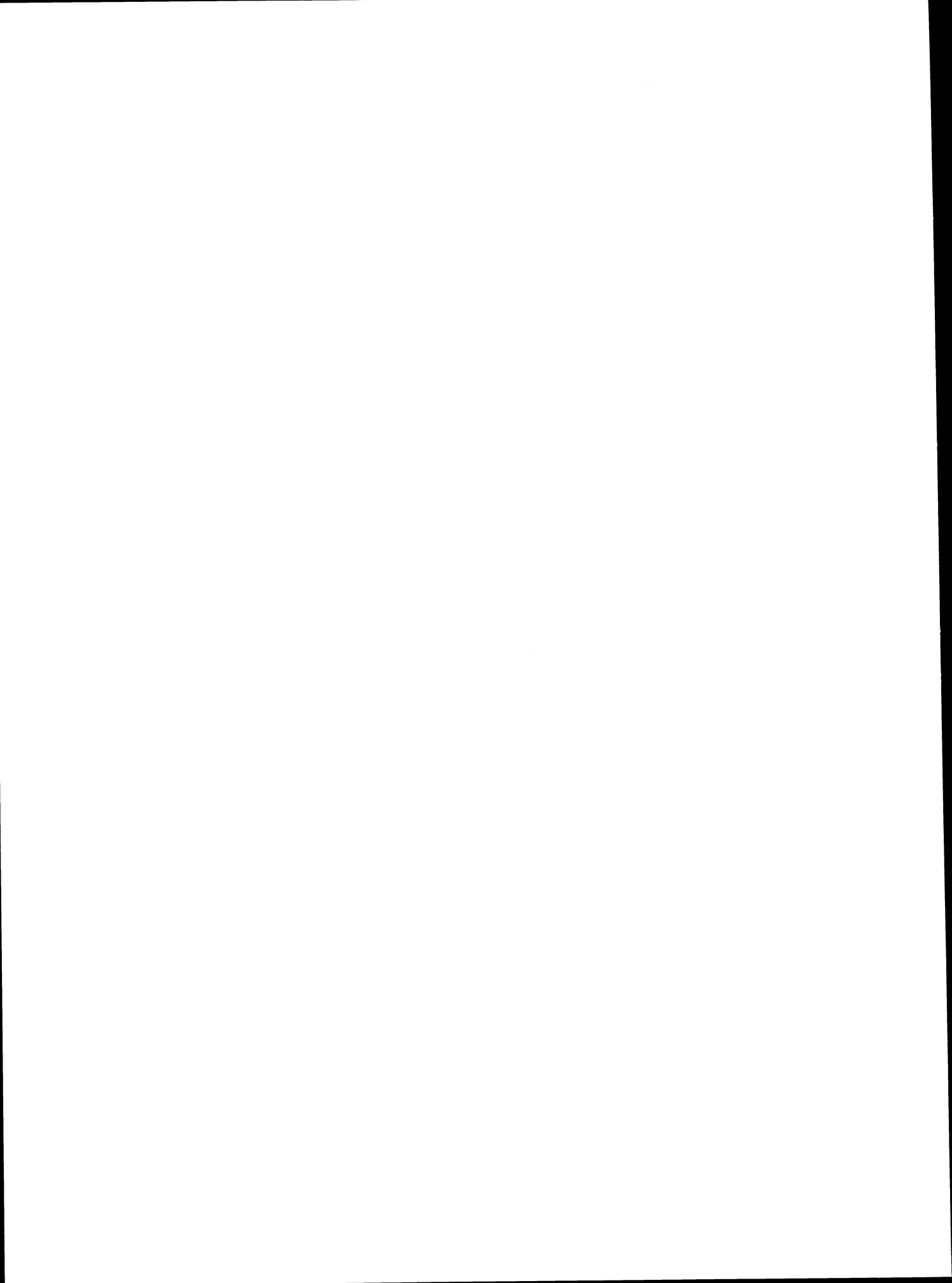
HOUSE BILL 495 (CHAPTER 84-209) creates Section 240.535, F.S., to establish the Florida School of the Arts which is to be assigned to the District Board of Trustees of St. Johns River Community College for purposes of administration and governance, but shall serve as a professional school on a statewide basis.

The Council for the Florida School of the Arts is to be established for the purpose of advising the Board on matters pertaining to the operation of the school. A Sundown Review prior to July 1, 1994, is required by this act pursuant to Section 11.611, F.S.

COMMITTEE SUBSTITUTE FOR SENATE BILL 265 (CHAPTER 84-192) also places in statute the South Florida School for the Performing and Visual Arts by creating Section 240.535, F.S.

Miami-Dade Community College, Florida International University, and the Dade County School Board are to be jointly responsible for governance and administration of the School. Students are to be served within appropriations and limitations established by the Legislature and the respective educational

boards. The School is to offer a program of academic and artistic studies in the performing arts to talented high school and college students in Dade County.



ETHICS AND ELECTIONS*

The 1984 Legislature approved legislation amending the Florida Election Code and the Code of Ethics (Part III of Chapter 112) to include: allowing counties the option of electing county commissioners and school board members on a single-member basis; providing for the removal of campaign advertisements; clarifying the voting procedures and security measures in counties using electronic and electromechanical equipment; requiring party rule to determine the method used by political parties to allocate or select delegates to national conventions; and providing a notification procedure for new appointees and employees required to file financial disclosure statements.

ELECTION CODE REVISION

HOUSE BILL 619 (CHAPTER 84-302) revises selected portions of "The Florida Election Code," Chapters 97 through 106, F.S.

Qualification and Registration of Electors

The provision of uniform standards for the proper and equitable implementation of the registration laws is made an

*Prepared by staff of Legislative Library

added responsibility of the Secretary of State as the chief election officer of the state in new Subsection 97.012(4), F.S.

"Agency" is defined for purposes of the Election Code by Subsection 97.021(23), F.S.

Any elector requiring assistance at a polling place is barred from obtaining such help from his employer, employer's agent or agent of the elector's union by amendment to Subsections 97.061(1) and 101.051(1), F.S. The same restriction applies when such an elector is applying to cast an absentee ballot in the office of a supervisor (Subsection 101.051(3), F.S.). [With these changes Florida law is conformed to federal law.]

Registration Office, Officers, and Procedures

Subsection 98.031(5), F.S., is amended to strike the requirement that the supervisor of elections publish election precinct changes in a county newspaper of general circulation.

Section 98.111, F.S., is revised to require certain information be supplied by the registrant on a voter registration form and to provide for the execution of the affidavit appearing on the form.

Any state, county, or municipal agency is authorized to provide voter registration services if the supervisor of elections approves in an amendment to Paragraph 98.051(1)(b), F.S.

Subsection 98.271(1), F.S., is changed to require the supervisor of elections to limit the power to appoint deputy

supervisors and volunteer deputy voter registrars to designated deputy supervisors and subsection (2) of this section is reworded to accommodate the new office of volunteer deputy voter registrar. Rules relating to the appointment, qualifications, and training of these registrars are to be promulgated by the Division of Elections of the Department of State under new Subsection 98.271(3), F.S., and no additional requirements may be prescribed by supervisors of elections. Supervisors, deputy supervisors and registrars are expressly forbidden to influence, deceive, or deter an applicant from exercising his right to register to vote or select his party affiliation.

Candidates and Campaign Expenses

Under revised Subsection 99.012(6), F.S., persons seeking a constitutional office must meet the financial disclosure requirements of Article II, Section 8 of the Florida Constitution, while all other candidates are governed by the provisions of Section 112.3145, F.S., in this respect.

The provisions of Subsection 99.061(2), F.S., relating to the qualifying period for certain county, district or special district officers are amended to include special district elections as a reference for such periods.

Initiative Petitions

Subsection 100.371(4), F.S., is revised to require each supervisor of elections to retain signature forms gathered to place an initiative on the ballot for one year following the

election in which the issue was on the ballot or until the supervisors are informed by the Division of Elections that the petition committee is no longer active.

Voting Methods and Procedures

Various portions of Sections 101.292 through 101.294, F.S., relating to the purchase and sale of voting equipment are revised. Competitive bid requirements are made applicable to any equipment the individual or combined retail value of which exceeds \$1,000. The Division of Elections must maintain on file the certification of any exception to these bid requirements, and must publish uniform rules for the purchase, use, and sale of voting equipment.

A number of changes are made in the "Electronic Voting Systems Act," Sections 101.5601 through 101.5615, F.S.

The statement of purpose of the act is refined and definitions are supplied for the terms, "electronic or electromechanical voting system," "secrecy envelope," and "voting device" as used in the act.

The Department of State is required to employ or contract with at least one expert in one or more fields of data processing, mechanical engineering, and public administration to report on voting equipment submitted for examination. Any changes or improvements in approved systems must also be passed by the Department and sales suspended if the modifications are not approved. The requirements for approval of voting systems are amended.

The Department is directed to establish by rule minimum security guidelines for electronic and electromechanical voting systems, to maintain expertise in the field of computer security, and to approve through the Division of Elections the written procedures for accuracy and security required of each supervisor of elections.

The procedures and ballot requirements for electronic or electromechanical systems utilizing a ballot or ballot card are updated.

Procedures covering the canvass of election returns are altered to require the election board to open a ballot box in the presence of the public and to bar anyone other than a board member from touching the ballot or ballot container.

Multiple or illegible marks in voting for one office invalidate only the vote for that office and not the rest of the ballot.

Conducting Elections and Ascertaining the Results

Election boards in precincts containing less than 300 registered electors must be composed of at least one inspector and one clerk pursuant to a revision of Subsection 102.012(6), F.S.

Newly enacted Subsection 102.141(6), F.S., adds to the duties of county canvassing boards to require such boards to file a report with the Division of Elections recording any problems encountered in the conduct of an election. The Division is to maintain a file of such reports as a public

record and utilize them to identify problems which might occur and alert the supervisors of elections.

Subsection 103.091(1), F.S., is revised to require each county committeeman or committeewoman of a political party be a resident of the precinct from which he or she is elected.

Election Code Violations

Section 104.36, F.S., is amended to provide the means of determining the area at a polling place in which solicitation for votes, opinions, or contributions is barred.

Campaign Financing

The threshold of contributions or expenditures used to define a "political committee" and require its registration as such is increased from \$100 to \$500 by amendment to Subsections 106.011(1) and 106.03(1), F.S.

Paragraph 106.021(1)(b), F.S., is revised to permit savings and loan associations and credit unions to act as campaign depositories and to permit surplus campaign funds to be deposited in credit unions as well as banks and savings and loan associations.

Subsections 106.07(5) and 106.141(9), F.S., are changed to provide the same filing date for a supplemental statement of contributions and expenditures from a political committee and a report on the disposition of surplus funds by a successful candidate. The officer who is to receive the candidate's report is specified. This same filing date, the tenth day following the end of each calendar quarter, is provided for the

contributions and expenditures report required of each state and county executive committee of a political party in a revision of Subsection 106.29(1), F.S.

A person accused of violating campaign financing laws may waive confidentiality of the proceedings of the Florida Elections Commission as the result of an amendment to Subsection 106.25(5), F.S.

This act also creates Section 106.1425, F.S., relating to the removal of political campaign advertisements. Essentially the same provisions are found in HOUSE BILL 248 (CHAPTER 84-221) summarized elsewhere in this article.

Provisions Related to the Election Code

This act also contains provisions relating to the statement of contributions required of elected public officials (Subsection 111.011(2), F.S.) similar to those found in COMMITTEE SUBSTITUTE FOR SENATE BILL 541 (CHAPTER 84-318) summarized in this article.

The election of supervisors of soil and water conservation districts is made to coincide with the general election by amendment to Subsection 582.18(1), F.S.

This act takes effect July 1, 1984.

Financial Disclosure and Voting Conflicts

COMMITTEE SUBSTITUTE FOR SENATE BILL 541 (CHAPTER 84-318) amends Subsection 111.011(2), F.S., to change the filing date for the statement of contributions required of each elected public officer, to exempt a national officer from the

filing requirement by deleting reference to such officer, and to make the statement of contributions supplemental to the requirements of Chapter 106, F.S. (Campaign Financing), rather than Chapter 99, F.S. (Candidates, Campaign Expenses, and Contesting Elections). Similar changes to this subsection may be found in HOUSE BILL 619 (CHAPTER 84-302) summarized in this article.

Subsection 112.3143(1), F.S., is created to define "public officer" for purposes of voting conflict of interest as "any person elected or appointed to hold office in any agency, including any person serving on an advisory board."

Subsection 112.3145(6), F.S., is created to require each appointing official or body or employing agency to notify new appointees or employees of disclosure requirements not later than the day of appointment or employment.

A revision of Section 112.3241, F.S., strikes the power of a district court of appeal to stay, pending disposition of an appeal, the suspension of an official or employee by the Governor upon recommendation of the Commission on Ethics.

HOUSE BILL 10 (CHAPTER 84-357) amends Section 112.3143, F.S., to prohibit a public officer from voting in his official capacity upon any measure which inures to his special private gain or to the special gain of any principal by whom he is retained. An "agency" as defined for purposes of the Code of Ethics for Public Officers and Employees (Part III of Chapter 112, F.S.) is specifically excluded from the meaning of "principal" in this context.

Prior to the vote, the officer must publicly state the nature of his interest in the matter upon which he is not voting and within 15 days file a memorandum of disclosure with the person recording the minutes.

Commissioners of a community redevelopment agency established pursuant to Part III of Chapter 163, F.S., the "Community Redevelopment Act of 1969," and officers of independent special tax districts elected on a one acre, one vote basis are exempt from this voting prohibition.

The act takes effect October 1, 1984.

Single-Member Districts

HOUSE BILL 163 (CHAPTER 84-113) creates Section 230.105, F.S., to allow school districts the option of electing school board members on a single-member district basis. Seven-member boards may have two at-large seats, as contrasted with five-member boards where no such option is allowed. Staggered four-year terms are specified.

A proposition providing for single-member representation may be placed on the ballot at any primary, general or special election, if the latter is called for other purposes, either by formal resolution of the district school board or petition to the board by not less than 10 percent of the school district electors, the validity of whose signatures must be certified by the supervisor of elections. Each resolution must provide for orderly implementation.

The wording of the petitions for each alternative form of representation is specified in the act as is the wording of the ballot proposition in each case. Electors circulating such a petition are required to organize as a political committee with a designated chairman.

The terms of office of incumbent board members or those elected at the time of adoption of single-member representation are not affected. A district may return to "the procedures otherwise provided by law" by the same means used to adopt single-member representation.

Similarly, HOUSE BILL 453 (CHAPTER 84-224) provides for the single-member district election of county commissioners as an alternative to the present at-large elections for non-chartered counties. However, since at-large elections of county commissioners are required by the Constitution of the State of Florida, the provisions of this act will not take effect unless HOUSE JOINT RESOLUTION 452 is approved by the electors at the General Election in November 1984, removing requirement that county commissioners be elected at-large and providing that they be elected as provided by law. (See also Summary article, CONSTITUTIONAL AMENDMENTS.)

Presidential Preference Primary

SENATE BILL 500 (CHAPTER 84-92) amends Section 103.101, F. S., to require that the method used by political parties for allocation or selection of delegates to the national conventions be determined by party rule.

A further revision requires that political parties submit a list of their respective party's presidential candidates to the Secretary of State by December 31 of the year prior to the Florida Presidential Preference Primary for review and approval by the Presidential Candidate Selection Committee.

The act also specifies that only the name of the presidential candidate or the delegate will be printed on the ballot. A presidential candidate whose name is not on the list submitted by the Committee to the Secretary of State can appeal to the Committee for ballot status. Changes in various deadline dates are made to allow more time for ballot preparation.

If party rule requires the delegates' names to appear on the Presidential Preference Primary ballot, the candidate to whom the delegate is pledged may be indicated on the ballot, but the candidates will not be listed separately.

The Department of State must notify the state executive committee of each party of ballot limitations and may publish rules for the conduct of the ballot including the method of listing candidates or delegates.

Political Advertising

HOUSE BILL 248 (CHAPTER 84-221) relates to campaign advertisements and creates Section 106.1425, F. S., which provides that candidates make a good faith effort to remove all campaign advertisements within 30 days after

(a) withdrawal of candidacy,

(b) elimination as a candidate, or

(c) election to office.

This section gives the political subdivision or governmental entity the authority to remove campaign advertisements that have not been removed within the specified period and to charge the candidate the actual cost of such removal.

Signs used by an outdoor advertising business as provided in Chapter 479, F.S., are exempted from the removal requirement, but the provisions of that statutory chapter apply to prohibit the display of political campaign advertisements on or above any state or county road right-of-way.

The act does not preclude the imposition of additional or more stringent requirements by municipalities. Similar provisions are contained in HOUSE BILL 619 (CHAPTER 84-302) summarized in this article.

Road and Bridge District Commissioner Candidates

SENATE BILL 609 (CHAPTER 84-136) reduces the qualifying fee for candidates for commissioner of road and bridge districts from \$250 to \$25 through amendment to Paragraph 336.62(2)(a), F.S.

FINANCE AND TAXATION*

Although no major new tax was enacted during the 1984 legislative session, a great deal of legislation was adopted affecting various types of taxation and financial matters.

With respect to ad valorem taxation, special provisions were enacted for historically significant property, provisions relating to the status of health facilities projects and bonds were reinstated, limitations on the exemption for disabled persons were revised, and various tax notice and millage adoption requirements were modified.

Several acts dealt with sales tax, particularly the exemptions for religious, charitable, and similar institutions. An exemption was provided for certain motion picture or video equipment and sound recording equipment. Several existing discretionary local sales taxes were revised, and new discretionary taxes were authorized for convention development and indigent health care. The various refunds provided for the sales tax on fuel were the subject of several acts.

In the area of fuel excise taxes, various administrative modifications were adopted, as was a special procedure for

*Prepared by staff of House Bill Drafting

taxing alternative fuels through imposition of an annual decal fee.

Provisions were also adopted imposing the gross receipts tax on interstate telecommunication services. The discretionary 2-mill school tax for capital outlay was revised and extended. With respect to financial matters, various acts affected the investment of state funds and issuance of bonds. Additionally, provision was made for the "sunset" and review of state trust funds over a 5-year period.

Ad Valorem Tax Assessment

SENATE BILL 79 (CHAPTER 84-261) amends Section 718.120, F.S., and creates Subsection 193.023(5), F.S., to provide that when condominium recreation facilities or other common elements are owned by the association or jointly by the owners, ad valorem tax assessments or special assessments shall be applied proportionally to each individual parcel, rather than assessed against such facilities or elements.

Assessment of special classes of property is the subject of HOUSE BILL 802 (CHAPTER 84-253). This act creates Section 193.505, F.S., authorizing the owner of improved real property designated as historically significant to convey development rights to the county or to enter into a covenant with the county for at least 10 years agreeing that the property will not be used for any purpose inconsistent with historic preservation. To be qualified as historically significant, property must be listed on the National Register of Historic

Places, be within a certified locally ordained district under the Internal Revenue Code, or be so designated by the Division of Archives, History and Records Management of the Department of State or by the historic preservation board in whose jurisdiction the property lies, and there must be a formal resolution of the county governing body. Property subject to such a conveyance or covenant is to be assessed at fair market value, recognizing the nature and length of the restrictions placed thereon. Upon expiration of a covenant, or if the owner obtains a release therefrom, the property is subject to deferred tax liability in an amount equal to the amount of tax reduction received during the covenant period, plus interest.

This act also amends similar provisions in Section 193.501, F.S., relating to assessment of environmentally endangered or outdoor recreational or park land. It deletes historical purposes from the definition of "outdoor recreational or park purposes" and revises the computation of interest on deferred tax liability. It also requires the tax collector to report the amount of deferred tax liability collected under the section.

In addition, this act repeals Section 193.507, F.S., which provides procedures for reassessment of land within areas of critical state concern.

Ad Valorem Tax Exemptions

SENATE BILL 764 (CHAPTER 84-327) deletes obsolete language and language relating to the 5-year residency

requirement, which has been held unconstitutional, from Section 196.031, F.S., relating to homestead exemption.

Section 154.233, F.S., which was repealed by CHAPTER 83-71, is reenacted by COMMITTEE SUBSTITUTE FOR SENATE BILL 626 (CHAPTER 84-138), thus reinstating provisions which specify the tax-exempt status of health facility projects and bonds under the Health Facilities Authorities Law. These provisions, which shall operate retroactively to July 1, 1983, are amended to specify that homes for the aged or life care communities financed through health facilities authority bonds are exempt from ad valorem taxation only in accordance with Section 196.1975, F.S.

Said section (196.1975, F.S.) is amended to provide that effective January 1, 1985, nonprofit housing projects financed by a mortgage loan made or insured by the U.S. Department of Housing and Urban Development under the National Housing Act, and which are subject to income limitations established by the Department of Insurance, shall be deemed to be used for charitable purposes. In addition, the property appraiser is directed to include a proportionate share of the common areas when determining the value of an individual unit in a home for the aged.

Ad Valorem Tax Administration

COMMITTEE SUBSTITUTE FOR SENATE BILL 1001 (CHAPTER 84-371) extends the definition of "floating structure" in Subsection 192.001 (17), F.S., to include entities used as a

mining platform, dredge, or dragline. (Floating structures are considered tangible personal property for tax purposes.) This amendment applies to 1984 and subsequent assessment rolls.

The act also amends Section 200.066, F.S., which prohibits imposition of ad valorem taxes of newly created special districts or municipalities before the January 1 subsequent to the creation of the district or municipality, to exempt a municipal service taxing unit created by a county if the boundaries of the unit conform to the boundaries of existing special districts or include all the unincorporated areas, and if the unit is created prior to July 1, if millage is to be imposed in the ensuing county budget.

Section 200.069, F.S., is amended to allow each independent special taxing district to be listed separately on the notice of proposed property taxes, if authorized by resolution of the county governing body and with the written concurrence of the property appraiser.

In the area of exemptions, this act also amends Section 196.101, F.S., relating to exemptions for disabled persons. It increases the income limitation for the exemption for the homestead of a paraplegic, hemiplegic, or other disabled person from \$8,200 to \$12,000. It requires taxpayers entitled to such exemption to submit a sworn statement of gross income to the Department of Revenue annually; the statement must include copies of federal income tax returns, W-2 forms, and other necessary documents for each household member.

HOUSE BILL 900 (CHAPTER 84-164) deals with various administrative areas. It amends Section 193.1142, F.S., to provide for the extension of deadlines relating to fixing of millage when the notice of proposed property taxes is issued late due to certain roll approval requirements, and to require issuance of a review notice for millage adjustment purposes when an assessment roll is returned to the property appraiser by the Department of Revenue for additional evaluation.

This act also amends Section 200.065, F.S., relating to procedures for fixing millage. It deletes certain requirements relating to the property appraiser's certification of taxable value. It revises the requirements for school district notices of tax increase and provides additional guidelines for preparation thereof. It deletes provisions relating to hearings of multicounty taxing districts when the notice of proposed property taxes is delayed beyond August 15. It requires that all notices required by said section be accompanied by a detailed budget summary notice that includes, if applicable, a statement of the percentage increase over the prior year's operating expenditures. Finally, it specifies that any taxing authority in violation of said section is subject to forfeiture of state funds otherwise available to it for the 12 months following a determination of noncompliance. It requires notice to a violating taxing authority by the Department of Revenue and provides that, until specified hearing and notice requirements are met by the authority and approved by the Department, revenues collected by the authority

in excess of the rolled-back rate (except for voted levies and the required school minimum financial effort) shall be held in escrow. If, as a result of these procedures, a newly adopted millage rate is less than that previously adopted, any excess revenues collected are to be held in reserve to reduce ad valorem taxes in the next year.

The provisions of this act shall apply to assessment roles and taxes levied thereon for 1984 and thereafter.

Sales Tax

COMMITTEE SUBSTITUTE FOR HOUSE BILL 688 (CHAPTER 84-350) creates Subsection 212.02(23), F.S., to specify that "transaction" means the same as "sale" for sales tax purposes. It also amends Paragraph 212.08(7)(a), F.S., relating to tax exemptions for religious, charitable, and similar institutions. It provides that the term "religious institutions" includes nonprofit corporations whose sole purpose is to provide free transportation services to church attendees, and that groups that provide volunteer manpower to charitable institutions are also considered charitable institutions.

Sales tax exemptions for religious, charitable, and similar organizations in Section 212.08, F.S., are also the subject of COMMITTEE SUBSTITUTE FOR SENATE BILLS 114 and 173 (CHAPTER 84-362). This act replaces language limiting the exemption to sale or lease of tangible personal property to churches, nonprofit religious, charitable, scientific, educational, and veterans' organizations, with a broader

reference to any transactions involving a sale or lease to such organizations. This provision also applies to such sales or leases by churches. It deletes a restriction that the exemption for scientific organizations inures only through a refund of previously paid taxes. It expands the definition of "educational institutions" to include those which conduct regular classes accepted for continuing education credit by the American Medical Association or the American Dental Association, and to include private nonprofit organizations that raise funds for schools teaching grades kindergarten through high school. This act also revises the exemption for youth organizations. It specifies that the exemption applies to nonprofit organizations which are incorporated pursuant to Chapter 617, F.S., or which hold a current exemption pursuant to the Internal Revenue Code, whose primary purpose is providing activities which contribute to the development of good character, good sportsmanship, or to the educational or cultural development of minors in this state, but only to that level of the organization located in Florida that has a salaried executive officer or an elected nonsalaried executive officer. As part of this revision, the requirement that the exemption inure only through refund is deleted.

Other provisions of this act specify that organizations qualified for a refund pursuant to CHAPTER 83-338, shall not be required to pay sales tax on purchases made prior to August 1, 1984 (the effective date of this act), on which sales tax was not paid. Additionally, youth recreational organizations are

authorized to apply to the Department of Revenue for a refund of sales tax paid during fiscal 1983-84 on purchases necessary to conduct their recreational activities.

Finally, this act creates Section 212.082, F.S., which specifies that it is the intent of the Legislature that political subdivisions and public libraries utilize their sales tax exemption certificates for making purchases necessary for the operation of certain groups with funds provided by such groups. Such groups are: with respect to school districts, parent-teacher organizations; with respect to counties and municipalities, REACT (Radio Emergency Associated Citizen Teams) groups, neighborhood crime watch groups, and youth organizations entitled to sales tax exemption; and with respect to public libraries, fund raising groups.

SENATE BILL 730 (CHAPTER 84-324) amends Section 212.02, F.S., to include the same provisions relating to the definition of "sale" and the scope of "religious institutions" and "charitable institutions" as does COMMITTEE SUBSTITUTE FOR HOUSE BILL 688 (CHAPTER 84-350), discussed above. It also extends the repeal date of Paragraph 212.08(7)(p), F.S., which provides an exemption for sale of solar energy systems and components, from June 30, 1984, to June 30, 1989. Subsection 212.08(5), F.S., is amended to provide an exemption for the sale or lease of motion picture or video equipment used in motion picture or television production activities and sound recording equipment used in the production of master tapes and master records.

A new Subsection (12) is added to Section 212.08 to provide an exemption for the gross receipts from the sale, lease, storage, use, or other consumption of master tapes or master records embodying sound, or master films or master video tapes; however, amounts paid to the recording studios or motion picture or television studios for the tangible elements of such master tapes, records, films, or video tapes are taxable. The act further requires the Department of Commerce to report to the Legislature by March 1, 1988, on the net benefits to the state of the act.

In the area of sales tax administration, this act amends Subsection 212.12(6), F.S., which authorizes the Department of Revenue to conduct a statistical sample when the records of a dealer are adequate but voluminous. The new enactment requires the Department to first make a good faith effort to reach an agreement with the dealer regarding the sampling method to be used, and provides for review by the Department's Executive Director if no agreement is reached.

HOUSE BILL 1040 (CHAPTER 84-170) contains provisions relating to sales tax. It amends Section 212.10, F.S., which relates to liability for tax upon the sale of a business, to provide that after notice by the Department of Revenue of a transferee liability, a dealer shall have 60 days to file an action under Chapter 72, F.S. It also amends the definition of "gross sales" in Paragraph 212.02(3)(d), F.S., to delete the restriction that such term means only "retail" sales of tangible personal property.

COMMITTEE SUBSTITUTE FOR SENATE BILL 408 (CHAPTER 84-315) amends the definition of "special fuel" in Subsection 212.02(22), F.S., to exclude compressed natural gas.

Discretionary Local Sales Taxes

COMMITTEE SUBSTITUTE FOR HOUSE BILL 899 (CHAPTER 84-67) amends Section 212.057, F.S., as created by CHAPTER 83-354, which authorizes Dade County to impose a 3 percent convention development tax on the rental of hotel, motel, and similar accommodations. It revises the rental period subject to the tax from 30 days or less to 6 months or less. It specifies that the municipal authorities required to be appointed shall have the sole power to approve the location and design of the facilities to be built. It adds extensive administrative provisions in conformance with Part I of Chapter 212, F.S., specifying that exemption, collection and other administrative provisions of said part apply. It provides for recordkeeping and rulemaking. It provides for creation of a Convention Development Trust Fund, and specifies that revenues collected under Dade County Ordinance 83-91 and convention development tax revenues collected by the Department of Revenue be deposited therein. It provides penalties for failure to collect the tax or offering to absorb the tax, and specifies that the tax constitutes a lien on the property of the lessee.

This act also amends Section 212.0305, F.S., which authorizes any county operating under a government consolidated with that of one or more municipalities to levy a 2 percent

convention development tax. It revises the rental period subject to the tax from 30 days or less to 6 months or less, and also adds provisions relating to administration, exemptions, collection, recordkeeping, rulemaking, creation of a trust fund, and penalties for violation as were added with respect to the Dade County tax discussed above. It also requires that a copy of the ordinance levying the tax be furnished to the Department of Revenue, and provides that the effective date of the tax shall be the first day of any month at least 60 days after enactment of the ordinance. It provides that one-half the proceeds of the tax collected within a municipality, the government of which is not consolidated with the county, shall be remitted to the municipality at its request to be used for the purposes authorized by said section; however, this requirement does not apply to the distribution to the county of revenues necessary to repay principal of or interest on any bonds issued prior to the effective date of this amendatory act. Dade County convention development tax revenues collected prior to the effective date of this act (May 29, 1984) by the Department of Revenue and deposited into the state General Revenue Fund are appropriated to Dade County for deposit in the Convention Development Trust Fund.

Finally, this act includes provisions authorizing levy of a convention development tax by each county chartered under Article VIII of the State Constitution which levies a tourist advertising ad valorem tax within a special taxing district;

however, these provisions are superseded by the two acts discussed immediately below.

SENATE BILL 730 (CHAPTER 84-324) and HOUSE BILL 1324 (CHAPTER 84-373) contain identical provisions which supersede those of HOUSE BILL 899 (CHAPTER 84-67), discussed above, and provide for the levy of a convention development tax by a county as described above (Volusia County). This is a 1 percent tax levied by ordinance on the rental of hotel, motel and similar accommodations within the special district, and the county may not continue to impose the tourist advertising ad valorem tax after January 1 of the year following the date of adoption of the convention development tax. Tax revenues may be used to promote tourism and fund convention and tourist bureaus. Provision is made for appointment of an 11-member authority to administer tax proceeds. The act includes administrative, exemption, collection, recordkeeping, rulemaking and penalty provisions similar to those discussed above applicable to the various other convention development taxes. The county is directed to create a trust fund for the deposit of revenues and to furnish the Department of Revenue with a copy of the levying ordinance.

Another discretionary tax is also authorized by HOUSE BILL 1324 (CHAPTER 84-373). This act provides for levy by a charter county (Hillsborough County) which has a publicly-owned regional referral hospital, which hospital has an affiliation agreement with a state university medical school located in that county and which hospital would have received from the

county more than it actually received for providing health care for recipient indigent patients had 1982-83 federal poverty guidelines been applied. The tax would apply to all transactions subject to sales tax, at the rate of 1 cent for each \$4 of sale price, and for each fractional part of \$4 the tax would be as follows: up to and including \$1.99, no tax; over \$1.99, but less than \$4, 1 cent. Levy is authorized for the period January 1, 1985, through December 31, 1986, or any portion thereof. Special provisions are included for application of the tax to utility, communications, or wired television services billed on a cyclical basis, and provision is made for refund of taxes paid by contractors in connection with contracts signed prior to the effective date of the act. Specific guidelines for determining when a transaction is deemed to have occurred in the county are included. Levy is to be by ordinance and notification to the Department of Revenue is required. Administration and enforcement provisions of Part I of Chapter 212, F.S., apply to the tax. Proceeds of the tax, less the costs of administration (which may not exceed a total of \$500,000) are to be deposited in an Indigent Health Care Tax Clearing Fund, and shall be expended to provide health care to certified indigent patients. The act also includes legislative findings that it would be an unconstitutional use of the taxing power of the state for any holders of any hospital revenue obligation bonds to have a lien on any of the tax revenues until those funds are received by the health care provider for services rendered; that such moneys shall remain the property

of the state and shall be distributed by the Department to the county, in trust, until they are paid to the account of the appropriate provider of health care services; and that funds shall not be disbursed from the trust fund until the county has paid out of county funds for indigent health care a sum equal to the amount which the county paid for such care out of county funds in the preceding fiscal year.

Both COMMITTEE SUBSTITUTE FOR HOUSE BILL 688 (CHAPTER 84-350) and SENATE BILL 730 (CHAPTER 84-324) amend Section 212.058, F.S., as created by CHAPTER 83-355, which authorizes a discretionary 1 percent sales tax for 1985 or any portion thereof to be used for criminal justice facilities. Both acts correct to March 31, 1986, the deadline for submission of applications by contractors for refund of taxes paid in connection with preexisting contracts. Both clarify language regarding transactions subject to the tax and disbursement of the proceeds, and both direct the Department of Revenue to promulgate by rule the tax brackets applicable to transactions which would otherwise be taxable at 3 percent. In addition, SENATE BILL 730 (CHAPTER 84-324) exempts intrastate long distance calls from the tax.

Sales Tax on Fuel

Section 212.67, F.S., which provides for various refunds of this tax, was amended by three different acts.

SENATE BILL 780 (CHAPTER 84-329) provides for additional refunds, allowing distributors who have paid the tax on

purchases of motor fuel blended with ethyl alcohol to produce gasohol, and wholesale blenders who are not licensed as distributors who purchase motor fuel for blending with ethyl alcohol to produce gasohol, a refund of 4 cents per gallon until July 1, 1985, and then a refund of 2 cents per gallon through June 30, 1987. This act operates retroactively to April 1, 1983.

SENATE BILL 872 (CHAPTER 84-334) authorizes refunds to mass transit public transportation systems on purchases of less than 26 gallons. It also provides for a quarterly, rather than annual, payment of all refunds under Section 212.67, F.S.

COMMITTEE SUBSTITUTE FOR SENATE BILL 408 (CHAPTER 84-315) extends to nonpublic schools existing provisions which authorize a refund of taxes paid by a school district on fuel used in its vehicles; the refund must be used by the nonpublic school for transportation-related purposes. This act also deletes a requirement that in order to secure a refund a person must be the holder of an unrevoked refund permit before the purchase of the fuel on which a tax refund is sought, and specifies that permits are effective for the year issued by the Department of Revenue. It also provides that persons entitled to apply for refunds on fuel used for agricultural or commercial fishing purposes for the period May 1, 1983, through December 31, 1983, but who failed to do so, shall have 90 days, beginning June 2, 1984, and ending August 31, 1984, to obtain a refund permit and file for a 1983 tax refund.

Among its other provisions, HOUSE BILL 1040 (CHAPTER 84-170) amends Section 212.66, F.S., which lists the sections of Chapter 206, F.S. (relating to the excise tax on fuels), which apply to Part II of Chapter 212, F.S. (relating to tax on sales of motor and special fuels), to include Section 206.425 (which requires distributors to obtain affidavits or resale certificates with respect to tax-exempt purchases); Section 206.426 (penalties with respect to resale and exemption certificates); Paragraph 206.87(3)(f) (exemption for special fuel consumed by a power takeoff for concrete mixers and solid waste compactors); and Section 206.945 (settlement or compromise of interest).

HOUSE BILL 276 (CHAPTER 84-348) revises the portion of the proceeds of the sales tax on fuel which is transferred to the Department of Natural Resources under Subsection 212.69(1), F.S., from \$2,800,000 to \$3,800,000, specifying that \$1,000,000 be spent solely for nonchemical control of aquatic weeds, research into nonchemical controls, and enforcement of control programs.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 970 (CHAPTER 84-353) restricts the exemption for gasohol provided by Section 212.63, F.S., to gasohol containing ethyl alcohol distilled from U.S. agricultural products or byproducts, and extends the termination date of the exemption from 2 cents of the tax (which takes effect July 1, 1985) from June 30, 1987, to June 30, 1989. This act further specifies that gasohol blended with ethyl alcohol distilled from non-U.S.

agricultural products or byproducts and purchased from a foreign source, which as of May 1, 1984, was stored in Florida or was under transit, is entitled to a 4-cent per gallon exemption. The act also contains a provision which repeals said section on July 1, 1987.

Excise Tax on Fuel

SENATE BILL 780 (CHAPTER 84-329) deals with the excise tax on motor fuel. The act transfers a list of characteristics which determine if a person is a "distributor" from the definitions in Subsection 206.01(4), F.S., to Subsection 206.02(1), F.S., relating to licensing, and adds a provision that a person is engaging in business as a distributor if he purchases fuel in wholesale quantities in any Florida county to be delivered into another county for retail sale or use. It amends Subsection 206.06(1), F.S., to provide that if a distributor neglects to file a report, files an incorrect report, or is in default, penalty and interest as provided in Section 206.44, F.S., shall be added to the estimate of tax due. It also amends Section 206.425, F.S., which requires distributors to obtain affidavits or resale certificates with respect to exempt purchases. It provides that in order to seek relief from an audit or assessment completed by the Department of Revenue on or after September 1, 1981, but before the effective date of this provision of the act (June 24, 1984), a person must make application for review within 90 days after the effective date of the act. With respect to audits

completed after the effective date of the act, a person may use the informal protest procedure established under Section 213.21, F.S., and the rules of the Department to provide the Department with evidence of the exempt status of a sale or transfer of motor fuel. A refund is authorized if the person is found to be entitled thereto.

SENATE BILL 731 (CHAPTER 84-369) deals with the excise tax on special fuels. It creates Subsection 206.86(11), F.S., which provides a separate definition of "alternative fuel," which includes butane gas, propane gas, and other forms of liquefied petroleum gas and compressed natural gas. It also creates Subsection 206.87(7), F.S., to provide that the excise tax does not apply to vehicles powered by alternative fuel; rather, owners of such vehicles are required to pay an annual decal fee based on the vehicle license category. In addition, persons fueling vehicles from their own facilities must pay a local alternative fuel fee in lieu of the excise tax levied by a county pursuant to Sections 336.021 and 336.025, F.S., also based on the vehicle classification. Administrative provisions for decal issuance, transfer, rulemaking, audit and recordkeeping are included, and violation is made a second degree misdemeanor. State alternative fuel fees are to be deposited in a State Alternative Fuel User Fee Clearing Trust Fund, from which 50 percent shall be transferred to the State Board of Administration for distribution according to the provisions of Section 16, Article IX of the State Constitution of 1885, as amended; 25 percent shall be transferred to the

Revenue Sharing Trust Fund for Municipalities; and 25 percent shall be distributed to the counties for public transportation purposes using the formula contained in Subsection 206.60(2), F.S. Local alternative fuel fees are to be deposited in a Local Alternative Fuel User Fee Clearing Trust Fund and returned on a monthly basis to the appropriate county.

The tax on the operation of commercial vehicles in Florida is dealt with by three acts. Both SENATE BILL 872 (CHAPTER 84-334) and COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 970 (CHAPTER 84-353) amend Subsection 207.005(3), F.S., to allow a refund when the amount of the credit authorized for sales and excise taxes paid exceeds the amount of the tax imposed under Chapter 207, F.S. HOUSE BILL 1040 (CHAPTER 84-170) amends Section 207.021, F.S., to authorize the Department of Revenue to settle or compromise penalties or interest due under Chapter 207, F.S.

SENATE BILL 731 (CHAPTER 84-369), discussed above, also amends Paragraph 336.025(5)(a), F.S., relating to the local option fuel tax for county transportation systems. It requires each county to provide the Department of Revenue, by August 15 annually, with a certified copy of an interlocal agreement entered into to establish distribution proportions, with the distribution proportions established pursuant thereto or pursuant to other provisions of said section.

Gross Receipts Tax

COMMITTEE SUBSTITUTE FOR SENATE BILL 1152 (CHAPTER 84-

342) revises the application of the gross receipts tax to telephone services. It replaces references in Chapter 203, F.S., to "telephone" with "telecommunication services" and creates Section 203.012, F.S., to define "telecommunication services" to include local telephone service, toll telephone service, teletypewriter or computer exchange service, private communication services, cellular mobile telephone or telecommunication service, specialized mobile radio, and pagers and paging service, including but not limited to "beepers" and any other form of mobile and portable one-way or two-way communications. Most of these terms are themselves further defined. Beginning July 1, 1984, gross receipts on telecommunications services subject to tax include access charges and various other specified service charges; "access charges" are defined as charges for use of the intrastate telephone system and specifically include the gross amount paid by subscribers and users in this state for access into the intrastate or interstate interexchange network as authorized by the Federal Communications Commission or Florida Public Service Commission. Beginning January 1, 1985, the tax is due on interstate telecommunications services. Excluded from application of the tax are charges for customer premises equipment, cable television, hotel telephone service charges; and, beginning January 1, 1985, connection and disconnection charges, move or change charges, suspension of service charges, and service order, number change, and restoration charges.

The act creates Section 203.013, F.S., which provides detailed apportionment formulas for determining the tax when a telecommunication service originates in Florida and terminates in another state, or originates in another state and terminates in Florida, including a formula applicable to teletypewriter or computer exchange services. Also effective January 1, 1985, Section 203.011, F.S., is repealed. (This section provides that when a public utility, municipality or rural electric cooperative association purchases a utility service and pays a tax thereon, and resells the same directly to consumers, the utility, municipality or cooperative shall receive a credit against the gross receipts tax to the extent of the tax paid by the person from whom the purchase was made.) Effective on the same date, Section 203.01, F.S., is amended to exempt from taxation gross receipts from the sale of electricity to a public or private utility for resale within the state, or as part of an electrical interchange agreement or contract between such utilities for the purpose of transferring more economically generated power, or from the sale of telecommunication services for resale of such services wholly or partially within the state. The person deriving such gross receipts must demonstrate that a resale in fact occurred and must comply with departmental rules. A public or private utility or person making a sale for resale may provide the Department of Revenue with evidence of the exempt status of a sale through the informal protest method provided for in Section 213.21, F.S., and the rules of the Department.

Excise Tax on Documents

HOUSE BILL 560 (CHAPTER 84-154) amends Sections 201.04 and 201.05, F.S., to exempt from the documentary stamp tax any stock or share of an open-end mutual fund registered under the Investment Company Act of 1940, 15 U.S.C., Section 80a-1-52, as amended.

CHAPTER 83-220, which authorized Dade County to impose a discretionary surtax on documents, is revised by SENATE BILL 336 (CHAPTER 84-270). The purposes for which the proceeds of the tax may be used are extended to include the financing of construction, rehabilitation, or purchase of housing for low and moderate income families. The act specifies that revenues may be used for first and second mortgages and for acquiring property for housing cooperatives and directs that special consideration be given to utilizing revenues in Community Development Corporation programs. It limits to 50 percent the amount of revenues that may be used for new construction.

Estate Tax

SENATE BILL 732 (CHAPTER 84-325) amends Sections 198.13 and 198.15, F.S., to conform the dates for filing the Florida estate tax return and paying such tax with the dates for filing the federal estate tax return and paying the federal tax. It also creates Subsection 213.21(6), F.S., to authorize the Executive Director of the Department of Revenue to compromise and settle estate taxes.

Tax Administration

HOUSE BILL 1040 (CHAPTER 84-170) contains various administrative provisions, some of which are discussed under specific tax headings. In addition, it amends Section 72.011, F.S., which provides procedures for taxpayers to contest various taxes and penalties. It includes among the taxes subject to said section those assessed under Sections 125.0104 (tourist development tax), 125.0165 (discretionary sales tax), 336.021 (voted gas tax on motor fuel and special fuel), 336.025 (local option gas tax on motor fuel and special fuel), and Chapters 207 (tax on operation of commercial motor vehicles) and 221 (tax on particular corporate income taxpayers), F.S. It requires that before bringing an action in circuit court, a taxpayer must pay to the Department of Revenue the amount of tax, plus penalties and interest, which he admits to be owing, and specifies with respect to the existing bond requirement that the bond be for the amount of the contested assessment. It also requires that before a taxpayer files a petition under Chapter 120, F.S., he must pay to the Department the amount of tax admitted to be owed and file a bond for the amount of the contested assessment. The act specifies that no action may be maintained unless all taxes assessed in years after the action is brought, which the taxpayer admits to be owing, are paid before they become delinquent. The requirements of the section are specified to be jurisdictional. The section also applies to notices of assessments of transferee liability and to any notices or billings made by the Department of Revenue. The

section is amended to provide that it is not necessary for the Department to file any assessment with the agency clerk in order for the assessment to become final. Section 72.021, F.S., is created to provide that if the court or hearing officer finds that the amount of tax which the taxpayer has admitted to be owing is grossly disproportionate to the amount of tax found to be due or that the taxpayer's admission was not made in good faith, a 15 percent penalty may be imposed.

This act amends Section 213.053, F.S., relating to confidentiality of tax information, to include former officers and employees of the Department under the penalty for divulging confidential information. It also authorizes the Department to provide information relative to Chapter 376, F.S. (pollutant spill prevention and control), to the proper state agency, and to provide information relating to sales tax to the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation. Such state agencies are bound by confidentiality requirements and violation is a first degree misdemeanor.

Paragraph 624.509(3)(b), F.S., is amended to provide for applicability of penalties for failure to report and timely pay any tax due on an insurance premium tax final return.

Subsection 120.52(10), F.S., which defines "order" under the "Administrative Procedure Act" (Chapter 120, F.S.) as a "final agency decision," is amended to exclude from its application assessments of tax, penalty or interest made by the Department.

Finally, the act amends Subsection 20.21(3), F.S., to transfer Department of Revenue authority over investigative services from the Assistant Executive Director to the Division of Collection and Enforcement.

Educational Finance

COMMITTEE SUBSTITUTE FOR HOUSE BILL 658 (CHAPTER 84-349) provides that the discretionary 2-mill school tax for capital outlay authorized by Subsection 236.25(2), F.S., which was scheduled for July 1, 1985 repeal, shall be continued at a 1.5-mill level after that date until July 1, 1990. It specifies that purchase of new and replacement equipment is restricted to new construction and remodeling projects, and that violation of expenditure provisions will result in an equal dollar reduction in Florida Educational Finance Program funds for the district in the next fiscal year. As of July 1, 1985, it repeals the requirement that the 2-mill levy be a rolled-back ad valorem millage rate. Also effective on that date, it repeals Paragraph 235.435(3)(a), F.S., which provides for calculation of each district's allocation from the Public Education Capital Outlay and Debt Service Trust Fund. Paragraph 234.435(3)(b), F.S., is created to provide new procedures for such calculation, which involve determining a district's "construction cost entitlement" and subtracting therefrom the district's required local effort (1.5 mills applied to 95 percent of the most recent tax roll). The act also amends Section 236.45, F.S., relating to bonds issued by school

districts, to delete a requirement that payments on other outstanding district bonds be considered in arranging the schedule of maturities of proposed bonds.

Financial Matters

HOUSE BILL 1050 (CHAPTER 84-171) amends Section 215.68, F.S., relating to the issuance of state bonds on behalf of state agencies by the Division of Bond Finance of the Department of General Services, to provide that the interest rate applicable thereto shall not exceed the limitation in Subsection 215.84(3), F.S., rather than 7.5 percent. It allows bonds to be sold at a reasonable discount to par not to exceed 3 percent, and provides that bonds be awarded to the lowest bidder by the Director or Assistant Secretary of the governing board of the Division of Bond Finance (the Governor and Cabinet). It creates Subsections 215.70(3) and (4), F.S., to require the State Board of Administration to monitor the debt service accounts of bonds and advise the Legislature of any projected need to appropriate funds to honor the state's pledge of credit. It provides that when an appropriation is necessary for bonds issued on behalf of any local authority, any state shared revenues otherwise earmarked for the local authority shall be used by the Comptroller to reimburse the state, until the local authority has reimbursed the state in full.

Section 215.73, F.S., is amended to specify that bonds proposed to be issued by the Division be approved by the State Board of Administration at or prior to sale. Section 215.76,

F.S., is amended to require each agency for which the Division issues bonds to assure continued compliance with the provisions of the Internal Revenue Code relating to maintaining the tax-exempt status of said bonds. Section 215.82, F.S., is amended to provide that: refunding bonds issued pursuant to Section 215.79, F.S.; bonds issued pursuant to Section 9(a)(2), Article XII of the State Constitution to finance or refinance capital outlay projects authorized by the Legislature for the state system of public education; and bonds issued to finance the acquisition and construction of roads in a county pursuant to Section 9(c), Article XII of the State Constitution may be validated pursuant to Chapter 75, F.S., as determined by the Division.

Section 215.83, F.S., is amended to provide for liberal construction in favor of bondholders of resolutions authorizing issuance of bonds and all related proceedings. Finally, Subsection 215.84(3), F.S., is amended to correct a reference to The Bond Buyer "20 Bond Index."

HOUSE BILL 946 (CHAPTER 84-166) amends Sections 215.47, 625.316, 658.67 and 665.0701, F.S., to authorize the Board of Administration, domestic insurers, banks and trust companies, and savings associations to invest in obligations of the African Development Bank. It further authorizes the Board to engage in bona fide hedging activities for the purpose of protecting the asset value of the underlying portfolio if the instruments for such purpose are traded on a regulated securities exchange or board of trade.

SENATE BILL 686 (CHAPTER 84-137) also deals with investment of state funds. It repeals Paragraph 215.47(2)(b), F.S., which authorizes investment of not more than 25 percent of any fund in savings accounts of savings and loan associations, and amends Paragraph 215.47(1)(h), F.S., to authorize such investment without limitation. It amends Section 218.407, F.S., to remove authority of local governments to invest surplus funds in certain investments authorized by Section 215.47, F.S.; direct the Board of Administration to invest moneys in the Local Government Surplus Funds Trust Fund as provided in said section; and allow local governments to hold funds in deposit accounts with savings institutions. It also amends Subsection 218.409(3), F.S., to remove general language relating to the Board's authority to invest funds in the above-named trust fund.

Also, Subsection 215.535(1), F.S., relating to the Treasurer's authority with respect to investment, is amended to provide that certain securities or investments may be loaned to securities dealers, and may be registered by the Treasurer in the name of a third-party nominee in order to facilitate such loans, provided the loan is collateralized by cash or U.S. government securities having a market value of at least 100 percent of the market value of the securities loaned.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1029 (CHAPTER 84-346) abolishes all state government trust funds according to a 5-year schedule beginning October 1, 1985. Exempted are trust funds created by the State Constitution, trust funds

established by bond indentures and classified by the Comptroller in the Special Revenue Funds or in the General Long-term Debt Account Group, the Florida Retirement System Trust Fund, the Social Security Clearing Trust Fund, the Collector of Internal Revenue Clearing Trust Fund, and the Federal Tax Levy Clearing Trust Fund.

On February 1 of each year, the Comptroller is required to present a report to the Legislature containing specified information for all trust funds. During the regular session of the Legislature preceding the scheduled abolition of a trust fund, the Legislature is to review the fund and either continue the existence of the fund, providing statutory authority for the fund if necessary, or determine not to continue the existence of the fund and by law provide for the distribution of moneys in the fund. The provisions calling for such a report by the Comptroller and subsequent legislative action are scheduled for repeal on October 1, 1989.

The act also amends Subsection 216.031(3), F.S., to require, as part of each agency's legislative budget request, specific information regarding each trust fund established in connection with legislative action authorizing the collection of a fee or other charge to support a governmental service or activity being performed by the agency involved. The service or activity is to be reviewed by the legislative appropriations committees for the express purpose of making adjustments in fees or other charges in order to make such activities as nearly self-supporting as possible.

SENATE BILL 430 (CHAPTER 84-195) creates Section 336.505, F.S., to provide for the appointment of a receiver when any bond or interest coupon on a special road and bridge district bond is not paid within 60 days after maturity. Pursuant to court order, the receiver may assess and collect any tax or assessment which the district commissioners may levy. The act specifies that if any tax deed is issued on property within the district after a receiver is appointed, any claim of a person holding such bond or interest coupon shall survive the issuance of the tax deed.

The act is made applicable to receivers appointed prior to its effective date.

HOUSE BILL 585 (CHAPTER 84-104) creates Section 377.704, F.S., relating to energy resources planning and development, to provide legislative intent that funds received as a result of federal statute or administrative or regulatory action requiring the disbursement to states of refund moneys for alleged overcharges for crude oil or refined petroleum products, sold during the period of time in which federal price controls on such crude oil and refined petroleum were in effect, whether by themselves or in conjunction with other moneys appropriated by the Legislature, shall not be expended unless appropriated in the General Appropriations Act or other subsequent specific appropriation by law.

HOUSE BILL 302 (CHAPTER 84-147) creates Subsection 15.09(4) and Section 607.372, F.S., establishing within the Division of Corporations of the Department of State a

Corporations Trust Fund, into which all funds collected by the Division are to be deposited and from which funds for the Division's operation are to be appropriated. Unencumbered funds in excess of \$300,000 at the end of any quarter are to be transferred to the General Revenue Fund. The act is retroactive to June 30, 1983.

HOUSE BILL 1260 (CHAPTER 84-308) amends Sections 159.26, 159.27, and 159.30, F.S., under the Florida Industrial Development Financing Act, to include financing of educational facilities within the scope of said act. "Educational facility" is defined as property operated in the public sector and used in connection with the operation of an institution for higher education, constructed in compliance with applicable codes, and limited to structures suitable for use as a dormitory or other housing facility or for a dining facility. The act authorizes such institutions of higher education to lease or operate such industrial development-financed housing or dining facilities in furtherance of their lawful public purpose.

HEALTH AND REHABILITATIVE SERVICES*

Laws relating to health and rehabilitative services enacted during the 1984 legislative session address a wide range of subjects. Pursuant to the Regulatory Sunset Act (Section 11.61, F.S.), the Legislature reviewed and reenacted, with specific changes in some cases, sections of the statutes relating to the regulation by the Department of Health and Rehabilitative Services (DHRS) of radioactive material and radiation machines and the licensing of agencies providing care for dependent children.

Legislation pertaining to health includes the prohibition of the sale or purchase of human organs or tissues, the exemption of private pools and bathing places from regulation as a public swimming or bathing facility, the regulation of water vending machines, and the distribution of information about breast cancer. Also legislation affecting the delivery of school health services and the regulation of drug and cosmetic products was passed. In the area of acute health care services, a major piece of legislation was enacted which provided for the review of hospital budgets by the Hospital Cost Containment Board. The measure established upper

*Prepared by staff of Senate HRS Committee

limits for a hospital's annual rate of increase in gross revenues and also provides for an assessment of a hospital's net revenues to fund an expanded indigent care program. Other legislation provides for the regulation of prepaid health clinics and birthing centers.

Residents of long-term care facilities received additional statutory protection through measures which clarified a nursing home resident's right to have his bed reserved during a hospitalization.

Significant changes occurred in the area of mental health with legislation that replaced the district mental health boards with alcohol, drug abuse, and mental health planning councils staffed by the Department of Health and Rehabilitative Services district offices. The act also amended provisions in the statutes relating to Baker Act (Part I of Chapter 394, F.S.) patients.

The subjects of child abuse, youth suicide, the disposition of dependent children, and community-based sanctions for juvenile delinquents committed to the Department of Health and Rehabilitative Services were addressed by a number of enactments relating to children in Florida. Provisions relating to domestic violence were also enacted.

Legislation affecting the organization of the Department of Health and Rehabilitative Services was enacted to change the boundaries of Subdistricts 2A and 2B. Also, the Florida Developmental Disabilities Planning Council was established in

Florida statutes and the functions of the Statewide and District Human Rights Advocacy Committees were modified.

Public Health

COMMITTEE SUBSTITUTE FOR SENATE BILL 143 (CHAPTER 84-264), which creates Section 381.603, F.S., prohibits the sale or purchase of human organs or tissues for valuable consideration. Reasonable costs associated with the removal, storage, and transportation of human organs and tissues are not included in the definition of valuable consideration. Organs and tissues are specified and the Department of Health and Rehabilitative Services is given authority to further define human organs and tissues subject to the provisions of the act. Violation of provisions is made a second degree felony.

The list of persons who may make an anatomical gift is expanded in Section 732.912, F.S., to include court appointed representatives ad litem. No anatomical gifts may be made by any person on the list unless persons of higher priority on the list, if they are reasonably available, have been contacted and unless a reasonable effort has been made to determine if the decedent would have had objections on religious grounds.

Advertising or sale of human embryos is prohibited in new language. Violation of this provision is a misdemeanor of the second degree.

COMMITTEE SUBSTITUTE FOR SENATE BILL 241 (CHAPTER 84-190) amends and reenacts Chapter 404, F.S., which deals with the regulation by the Department of Health and Rehabilitative

Services of radioactive material and radiation machines. The major substantive changes in Chapter 404, F.S., include the following: the Department's authority to adopt rules and standards to license, register or regulate radioactive materials and naturally occurring radioactive materials is addressed (Subsection 404.051(4), F.S.); the number of radiation machines for which DHRS review and approval of plans and specifications are required is reduced by excluding x-ray machines of less than 200,000 volts potential (Chapter 404, F.S., currently excludes only x-ray machines of less than 25,000 volts) (Subsection 404.051(5), F.S.); an additional 5 percent on annual license fees is provided to be deposited in the Radiation Reclamation Fund to pay for measures to prevent or mitigate adverse effects from a licensee's abandonment of radioactive materials (Subsection 404.111(2), F.S.); and, provisions on default on lawful obligations, insolvency or other inability to assure the public health and safety are revised (Section 404.111, F.S.). DHRS is authorized to collect fees from solid mineral industries and nuclear power plants for environmental monitoring services to meet the actual costs of surveillance activities (Paragraph 404.131(4)(a), F.S.). Municipalities or counties are prohibited from regulating the possession, use or transportation of sources of radiation (Section 404.166, F.S.). A radiation monitoring system is established at the weigh stations operated by the Department of Transportation (Subsection 404.20(7), F.S.). The Department's authority to inspect a radiation machine and its components is

expanded to include the housing facilities, the film and film processing equipment, and the resultant image produced (Subsection 404.22(1), F.S.). The act is to take effect October 1, 1984, and is subject to Sunset Review within 10 years.

HOUSE BILL 262 (CHAPTER 84-14) adds an exemption to Chapter 514, F.S., in creating Section 514.0315 to exempt private pools and bathing places from regulation even if such pools or bathing places are used for instruction in swimming or other aquatic activities by humans. The enactment defines "private pool or bathing place" as a private facility used only by an individual, by a family, or by living-unit members and guests and does not include any private pool or bathing place serving any type of cooperative housing or joint tenancy of five or more living units. The law must undergo Sunset Review by October 1, 1985.

COMMITTEE SUBSTITUTE FOR SENATE BILL 529 (CHAPTER 84-317) revises Part III of Chapter 401, F.S., the "Florida Emergency and Nonemergency Medical Services Act" (Sections 401.21 through 401.181, F.S.) regulating the providers and personnel of medical transportation and nontransportation services, amends the "School Health Services Act" (Section 402.32, F.S.) and creates the "Florida Youth Emotional Development and Suicide Prevention Act."

Legislative intent language contained in Section 401.211, F.S., is amended to reflect the state's regulatory authority over emergency medical nontransportation services.

Section 401.23, F.S., is revised to delete redundant definitive language, refine existing definitions and define "physician's assistant" and "service location." A physician's assistant is a person approved by the Department of Professional Regulation to perform medical services under Section 458.347 of the "Medical Practice Act" (Chapter 458, F.S.). Service location means any permanent location in or from which a licensee solicits, accepts, or conducts business.

Providers of prehospital advanced life support services are included within the licensing requirement for basic life support or advanced life support ground services by amendment to Subsection 401.25(1), F.S., and Subsection (2) of this section is altered to delete the requirement that the Department of Health and Rehabilitative Services issue a license to any complying applicant within 60 days of the filing of the application and to permit an applicant to enter into a mutual aid agreement with a county in place of obtaining a certificate of public convenience and necessity. The deadline for license issuance is deleted also with respect to the licensing of nonemergency medical transportation services (Subsection 401.255(3), F.S.).

Under revised Subsection 401.255(1), F.S., providers of nonemergency medical transportation services (serving persons confined to wheelchairs or stretchers and not needing medical attention during transport) are barred from using or carrying basic or advanced life support equipment and supplies on their vehicles. Counties may license such providers through

ordinances, but cannot require the providers to secure certificates of public convenience and necessity.

Subsection 401.255(5), F.S., is revised to require a county to supply DHRS with a copy of the proposed and final licensure ordinance for review to ensure conformity with statutes and departmental rules. Written notice of any conflict must be supplied to the county which has sixty days to resolve the conflict or request an administrative hearing.

Paragraph 401.26(5)(a), F.S., is changed to provide a time frame for the filing of vehicle permit renewal applications by basic and advanced life support services.

The techniques in which emergency medical technicians and paramedics must demonstrate proficiency are to be identified by reference to appropriate definition and by rule of the Department rather than enumeration in Subsection 401.27(2), F.S. Subsection 395.031(6), F.S., is revised to provide for the interpretation through departmental rules of standards for verification of trauma centers issued by the American College of Surgeons. Prehospital advanced life support services are to be performed under the supervision of a medical director. The number of continuing education unit hours required for the biennial renewal certification of paramedics is reduced from 45 to 30 in a revision of Paragraph 401.27(6)(b), F.S. Subsection 401.27(7), F.S., is amended to permit the certification of a physician's assistant as a paramedic. Subsection 401.27(10), F.S., is created to permit a physically disabled person to take and be given the results of

the emergency medical technician or paramedic certification examination, but no special assistance may be provided.

A driver for a nonemergency medical transportation service is not required to be certified in first aid and personal safety and cardiopulmonary resuscitation under a revised Subsection 401.281(2), F.S.

A revised Section 401.30, F.S., directs emergency medical service providers to supply the Department with a true and certified copy of any record requested and accords privileged and confidential status to records of patient treatment and examination which may be released without consent to specified individuals or governmental entities.

Section 401.321, F.S., is created to prohibit the sale, assignment or other transfer of a license or permit issued to a service provider and to provide for the expiration of a license when a service provider changes his service location or name registered with the Department. An application and \$25 fee is required for the issuance of a new license. A new license also is required when a licensee changes majority ownership or controlling interest or a lessee assumes liability for the service. A new license application is to be received by the Department at least 60 days prior to the change.

The list of exemptions to the act in Section 401.33, F.S., is amended to exempt ambulance service providers licensed in another state or U.S. territory and delete reference to certain fire department vehicles.

A city or county emergency medical service provider licensed by the Department is exempt from a service license fee or vehicle permit fee under revised Paragraph 401.34(5)(a), F.S., and a volunteer emergency medical service provider likewise licensed, is exempt from personnel certification fees as well.

Pursuant to the respective amendment of Paragraphs 401.35(1)(c) and (d), F.S., rules of the Department are to be used in interpreting standards for ground ambulance and vehicle equipment and supplies published by the Committee on Trauma of the American College of Surgeons as well as interpreting the standards for ground ambulance design and construction issued by the federal General Services Administration.

Section 401.411, F.S., is substantially revised to provide additional grounds for the denial, revocation or suspension of a license, certificate or permit or reprimanding or fining any provider or person subject to the provisions of the act:

- 1) habitual intemperance or narcotics addiction;
- 2) conviction in any state or federal court of a felony; and
- 3) fraudulent, misleading or unauthorized advertising.

Provisions relating to disciplinary proceedings set out in new Section 401.414, F.S., generally follow the language of Section 455.225, F.S., which relates to such proceedings for the Department of Professional Regulation.

The School Health Services Act (Section 402.32, F.S.) is amended extensively.

Paragraph 402.32(3)(e), F.S., is added to provide a definition for "school health services plan" to mean the document that describes the services to be provided, the responsibility for provision of the services, the anticipated expenditures to provide the services and evidence of cooperative planning by the local school districts and public health units of the Department of Health and Rehabilitative Services.

Subsection 402.32(4), F.S., is amended to charge the Department with administrative supervision of the school health services program in cooperation with the Department of Education and with the conduct of periodic program reviews. In revised Subsection 402.32(5), F.S., each public health unit in joint action with the district school board and local school health advisory committee is to develop a health services plan with minimum components including screening for various health problems, referral of students for appropriate treatment, consultation with parents or guardians on the need for attention by medical specialists and the maintenance of records on the incidence of health problems and corrective measures taken. The duties of nonpublic schools voluntarily participating in the school health services program are enumerated in amended Subsection 402.32(6), F.S. Subsection (7) of this section requires the district school board:

- 1) to coordinate the educational aspects of the school health services program with the "Comprehensive Health Education Act of 1973" (Section 233.067, F.S.);
- 2) to include health services and health education as part of the school districts' comprehensive plan;
- 3) to provide in-service health training for school personnel;
- 4) to make available physical facilities for health services; and
- 5) to inform parents or guardians that their children will receive specified health services as provided in the district's health services plan.

Revised Subsection 402.32(8), F.S., authorizes the DHRS in cooperation with the Department of Education to issue rules for the implementation of the act.

District school boards and the governing bodies of nonpublic schools may allow students up to 30 school days to present a certification of a school entry health examination under an amended Subsection 232.0315(1), F.S., but must assist students in securing the examination.

In addition, this measure creates the "Florida Youth Emotional Development and Suicide Prevention Act" because the impact of the incidence of teenage suicide has caused the Legislature to determine that the prevention of suicide by youths is a priority of this state.

The state plan for the prevention of youth suicide is to be developed by DHRS with the full participation and cooperation of the Department of Education and appropriate local groups and organizations, some of whom are named in the act. The plan is to be submitted to the Presiding Officers of the Legislature and the Governor not later than January 15, 1985.

An interprogram task force composed of representatives from designated program offices of DHRS and one representative each of the Department of Law Enforcement and the Department of Education is assigned the responsibilities of providing a format for the local plans to be developed by the DHRS service districts, technical assistance in the development of such plans and incorporation of the local plans in the state plan. Each district administrator is to appoint a local task force the membership of which shall include the local groups and organizations named in the act and district DHRS personnel who take part in the prevention of youth suicide. The district plan is to include specified components.

DHRS is directed to work with the Department of Education and the Department of Law Enforcement in teaching district school personnel and law enforcement personnel, respectively, how to detect youth suicidal tendencies. DHRS and the Department of Education are to develop jointly curriculum materials for grade levels 9-12 on the identification, intervention and prevention of youth suicide.

The Department of Education is to develop suitable audio-visual materials on emotional development and suicide prevention which is to be distributed to school districts for in-service training of teachers and administrators.

Each school is required to submit an annual, written student services plan to the superintendent and school board under revised Subsection 230.2313(2), F.S.

Paragraph 230.2313(3)(e), F.S., is added to include "health services" and the distribution of a suicide prevention public awareness program developed by the interprogram task force of DHRS within the definition of "student services program."

Subparagraph 231.17(2)(a)4., F.S., is added to include the ability to recognize severe emotional distress in students in the minimum requirements for teacher certification.

Subparagraph 232.246(1)(b)10., F.S., is amended to include emotional development in the one-half credit life management skills course which is required for high school graduation and to direct that life management skills be taught to all students either in the ninth or tenth grades.

Most provisions of the act take effect January 1, 1985, but those dealing with the School Health Services Act (Section 402.32, F.S.) and the legislative intent of the Florida Youth Emotional Development and Suicide Prevention Act become effective July 1, 1984.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 269 (CHAPTER 84-115) provides authority for DHRS to issue a "Certificate of Free

Sale" for any product registered under Chapter 499, F.S. (the "Florida Drug and Cosmetic Act") which makes a product legally salable in the state (Subsections 499.003(2) and 499.015(6), F.S.). The act changes requirements relating to the registration of drugs, devices, and cosmetics. Any person who manufactures, packages, repackages, labels, or relabels a drug, device, or cosmetic in Florida must register his products annually with the Department (Section 499.015, F.S.). The enactment also provides statutory authority for DHRS to promulgate rules which protect the health and safety of consumers regarding the packaging of drugs, devices, and cosmetics. Such rules may cover tamper-resistant packaging, childproof containers, and unit-dose drug distribution and labeling consistent with federal rules and regulations unless the Legislature directs otherwise (Section 499.05, F.S.). The fee schedule for obtaining a permit to operate as a drug repackager or wholesaler, or as a drug, device or cosmetic manufacturer is revised (Paragraph 499.011(1)(b), F.S.). Also, the upper limit of the annual renewal fee for a permit to distribute or dispose of complimentary drugs is increased (Paragraph 499.028(2)(c), F.S.). Provisions of Sections 402.36 and 499.082, F.S., relating to the use of certain investigational drugs in the treatment of cancer are repealed effective July 1, 1984. Manufacturers licensed under Sections 499.01 and 499.011, F.S., who were providing products according to provisions in Section 402.36, F.S., prior to July 1, 1984, shall continue to be licensed to manufacture the products and

may have the product registered under the new provisions found in Subsection 499.018(3), F.S. The protocols approved under Section 402.36, F.S., may continue, but new uses or protocols for the products must be approved according to provisions in Paragraph 499.018(1)(h), F.S., relating to investigational drugs. The act is effective October 1, 1984.

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 279 and 462 (CHAPTER 84-222) amends Section 381.3712, F.S., to direct the Florida Cancer Control and Research Advisory Board to prepare a written summary of the medically viable treatment alternatives for breast cancer which explains the relative advantages, disadvantages, and risks of each. The act provides for the printing and distribution of the summary and directs the Board to implement a public education program.

The term "medically viable" is defined in new Section 458.324, F.S., and physicians and osteopaths are required to inform certain persons of medically viable treatment alternatives described in this section and Section 459.0125, F.S., which are created by the measure.

The law also amends Paragraph 232.246(1)(b), F.S., to mandate that breast self-examination be taught as part of the life management skills high school graduation requirement. Finally, the examination fee for physicians licensed under Chapter 458, F.S., is raised from \$250 to \$400 and prerequisites for the licensure examination are amended in a revision of Section 458.311, F.S.

HOUSE BILL 474 (CHAPTER 84-118) creates Section 381.295, F.S., to provide for comprehensive regulation of water vending machines throughout Florida. Each person or public body operating one or more machines is required to obtain an annual operator's permit. Standards are provided to ensure that machines are operated in a sanitary and safe manner, and that consumers are given complete information regarding treatment and source of the vended water. The Department of Health and Rehabilitative Services is given responsibility for monitoring machines and taking specific actions to ensure the public health, safety, and welfare when such are threatened by substandard water vending machine operation or sanitation. Penalties of a second degree misdemeanor apply for failure to obey an order to discontinue operation or for continuing to operate after revocation of a permit. The act is effective October 1, 1984.

Acute Care Health Services

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 176 AND 697 (CHAPTER 84-35) amends Chapters 110, 154, 381, 395, 409 and 627, F.S., to implement many of the recommendations made by the Florida Task Force on Competition and Consumer Choices in Health Care which was created by Section 18 of CHAPTER 82-182.

The provisions of Section 395.503, F.S., relating to the organization, staffing, facilities, equipment and committees of the Hospital Cost Containment Board are revised and an Office

of Technical Assistance is created within the Board to provide service to persons, businesses, and purchaser coalitions interested in containing the costs of health care. The act provides also for transfer of the Board from the Department of Insurance to the Executive Office of the Governor effective December 31, 1985.

Section 395.504, F.S., is amended to require the submission of additional data by hospitals to the Board and to define the following additional duties of the Board:

- 1) to approve, approve as amended by the Board, or disapprove each hospital's budget;
- 2) to audit hospital books and records;
- 3) to provide a toll-free telephone number for the handling of consumer complaints;
- 4) to monitor the effects of preferred provider organizations and new Medicare reimbursement methodologies on cost shifting;
- 5) to designate staff to render preliminary findings in the review of each hospital budget;
- 6) to issue an annual report containing premium and benefit comparisons for health insurance policies and a second annual report containing available physician charge comparisons. Such reports are to be based on information supplied to the Board by the Department of Insurance (pursuant to new Section 627.920, F.S., which is scheduled for Sunset Review prior to October 1, 1992) and are to be distributed

through the Consumer Information Network established by new Section 395.5085, F.S.

The requirements contained in Section 395.507, F.S., relating to a uniform system of financial reporting are revised to provide a filing timetable and specify the data to be filed with the Board by each hospital undergoing budget review.

New Subsection 395.502(10), F.S., defines the "maximum allowable rate of increase" (MARI) as the maximum rate at which a hospital is expected to increase its average gross revenues per adjusted admission for a given period. MARI is composed of the "market basket index" which is the index used to measure the inflation in hospital input prices as employed on January 1, 1984, by the Secretary of the U. S. Department of Health and Human Services and "plus points" which are additional percentage points added to the market basket index to adjust for the Florida experience.

Under the provisions of a revised Section 395.509, F.S., if a hospital's gross revenue is in the lower 80 percent of its group (established pursuant to Subsection 395.507(2), F.S.), or if the hospital's gross revenue is in the lower 50 percent of its group and the hospital has a rate of increase in gross revenues below the maximum allowable rate of increase, then the hospital's budget is approved without further action by the Hospital Cost Containment Board. All other hospitals may have their budgets approved by the Board based on a list of eleven other criteria specified in the act. The review process is to

begin with those hospitals which have fiscal years beginning on or after February 1, 1985.

In order to avoid delay in the implementation of the act, provision is made for the Board to appoint a technical advisory panel to advise the Board on the collection of case-mix data and to assist in preparation of a report to the Legislature on the status of the collection program and the means of converting such data into a case-mix index.

Section 395.5135, F.S., is created to place the burden of proof on any hospital alleging an erroneous determination of fact by the Board, to require the Public Counsel to represent the public in any budget review proceeding before the Board and to exempt certain state-operated hospitals and comprehensive rehabilitative hospitals from the budget review process.

Section 395.514, F.S., is amended to provide penalties for hospitals which exceed the maximum allowable rate of increase to include a prospective reduction of the hospital's budget, fines to be paid into the Public Medical Assistance Trust Fund, and possible revocation of the hospital's license.

Section 395.515, F.S., is created to require hospitals and health insurers to establish a prospective payment system which will provide hospitals with financial incentives to contain costs.

The provisions are subject to review under the Regulatory Sunset Act (Section 11.61, F.S.) prior to October 1, 1988.

Under the provisions of new Paragraph 110.123(5)(d), F.S., the Department of Administration and the Governor's Office are directed to study the current methods of providing health care benefits to state employees and develop specific recommendations to the Legislature on how the purchase and delivery of such benefits can be modified to achieve health care cost containment.

Sections 154.32 through 154.35, F.S., are created as the "Public Medical Assistance Act" to provide a mechanism for the funding of health care services to indigent persons the cost of which shall be borne by the state and by Florida hospitals. An assessment on hospital net revenues of one percent for the first year and one and one-half percent thereafter, plus an annual appropriation of \$20 million from state general revenue is to be deposited in the Public Medical Assistance Trust Fund created by the act. These provisions are scheduled for legislative review prior to and during the 1986 Regular Session.

The Department of Health and Rehabilitative Services is authorized to use up to \$10 million from the Public Medical Assistance Trust Fund to establish primary care for low-income persons through county public health units and is directed also to undertake a feasibility study financed through the Fund, for a state program to pay the hospital bills of qualified medically indigent patients.

The Hospital Cost Containment Board is instructed to contract with the State University System to conduct a study

concerning the financing of indigent health care and to report to the Presiding Officers of the Legislature and the Governor by February 1, 1986.

Pursuant to the intent of Section 409.266, F.S., the medicaid program is expanded to include children in intact families; married, pregnant women; and families with an unemployed parent. The outpatient hospital services cap is raised from \$100 to \$500.

Section 381.025, F.S., is created to specify legislative intent with respect to long range planning for health care services within the state.

The Department is to develop a state policy framework for health care and services, including identification of major health care policy issues and health care priority needs to be incorporated in a comprehensive state health plan.

The School of Public Health of the University of South Florida is to assume a leadership role within the state's public health system through the development of academic programs intended to meet this state's unique health care, economic, political, and social service needs.

The Legislature also wants Florida's medical schools to develop in their curricula an emphasis on cost consciousness and cost containment so that physicians in training will be made aware of the financial consequences to the patient of the physician's clinical decisions.

Subsection 381.494(5), F.S., is amended to change the number of batching cycles for Certificate of Need for health

related projects from the current four to two times per year and the review timetable is lengthened.

COMMITTEE SUBSTITUTE FOR SENATE BILL 342 (CHAPTER 84-313) is designed to address the regulatory problems associated with the "quinta" health clinics in South Florida. Quintas are organizations very similar to Health Maintenance Organizations (HMOs) in that they provide health care services to members on a prepaid basis. Unlike HMOs, prepaid health clinics do not provide inpatient hospital services. The clinics are to be regulated by the Department of Insurance and DHRS in a manner similar to HMOs, except that financial requirements are reduced.

This measure amends Section 641.19, of Part II, Chapter 641, F.S., relating to HMOs to more precisely define such groups as ones which provide inpatient hospital services, emergency care and any two of the other three minimum services which are physician care, ambulatory diagnostic treatment, and preventive health care services.

Sections 641.22 and 641.225, F.S., are revised to clarify the minimum surplus requirements for HMOs.

New Section 641.226, F.S., makes the use of an unauthorized provider of services by an HMO a third degree felony. This offense is grounds for revocation of the HMO's certificate of authority under Subsection 641.23(8), F.S. Section 641.226, F.S., also requires HMOs and providers to display prominently a current license in each waiting area. An HMO and its officers are prohibited from modifying the

professional judgment of a physician concerning the proper source of treatment of a subscriber. However, utilization management programs established by an HMO are permitted.

HMOs which provide no more than ten outpatient holding beds for short-term and terminally ill patients in an ambulatory care facility for its members are exempted from the provisions of Part I of Chapter 395, F.S., relating to the licensing and regulation of hospitals.

Under the provisions of Subsection 641.385, F.S., the Department of Insurance is authorized to order an HMO to stop using any advertisement which, in the opinion of the Department, violates the provisions of Part II of Chapter 641, F.S. If the advertisement is determined to be violative of statutory provisions after a hearing requested by the HMO or by agreement between the HMO and the Department, the Department may levy an administrative fine and require clarification of the advertisement in place of revoking the HMO's certificate of authority.

Subsection 641.31(10), F.S., is added to specify the coverage required in health maintenance contracts for a pre-enrolled newborn child of a subscriber or covered family member of a subscriber.

This act creates the "Prepaid Health Clinic Act," Part III of Chapter 641, F.S. (Sections 641.501 through 641.549), to minimize legal barriers to the organization, promotion, and expansion of prepaid health care clinics and to recognize the need to tailor the "Florida Insurance Code" (Chapters 624

through 632, F.S., and Part I of Chapter 641, F.S.) to the regulation of prepaid health clinics. Such a clinic is defined as one which provides basic services to enrollees either directly or through a third party. Basic services include emergency care, physician care, ambulatory diagnostic treatment or preventive health care services. Specifically excluded are inpatient hospital services, hospital inpatient physician services, or indemnity against the cost of such services.

Section 641.504, F.S., requires a clinic to obtain a certificate of authority from the Department of Insurance. Application is made on a departmental form with specified accompanying documents. Under the provisions of Section 641.505, F.S., the Department is to issue a certificate of authority within 60 days of the filing of a properly completed application with payment of required fees and satisfaction of stipulated conditions.

Section 641.506, F.S., establishes the schedule for minimum surplus required for a clinic and the terms under which a written guaranty may be supplied in lieu of a surplus.

The provisions of Section 641.507, F.S., relating to the offense of use of an unauthorized provider of services, display of a certificate of authority, and prohibition on interference with the treatment of medical or osteopathic physicians are the same for a clinic as those applicable to HMOs appearing at Section 641.226, F.S., summarized above. The Department of Insurance may act alone on behalf of itself or a subscriber if

a clinic operates or issues contracts without a certificate of authority.

The grounds for revocation of a certificate of authority of a clinic set out in Section 641.509, F.S., are substantially the same as those grounds for revoking the certificate of an HMO. However, a clinic's certificate may be revoked for failure to follow grievance procedures in a contract for clinic services and failure to satisfy a judgment within ten days or within 60 days of an appeal affirming the judgment.

Section 641.511, F.S., stipulates that recommendations and findings of the Department of Health and Rehabilitative Services as to the quality and nature of basic health care services shall be binding upon the Department of Insurance in proceedings concerning the denial or revocation of a certificate.

Section 641.512, F.S., allows the Department of Insurance to levy an administrative penalty in lieu of revocation of a certificate of authority.

The Department must approve the transfer of more than ten percent stock or ownership interest in a clinic under the provisions of Section 641.513, F.S.

An annual report containing specific information is required of each clinic and is to be filed with the Department pursuant to Section 641.514, F.S.

Section 641.515, F.S., authorizes the Department to conduct examinations of clinics when deemed necessary. The Department of Health and Rehabilitative Services may examine

the quality of basic services. Certain medical records are exempt from the audit requirements of this section but may be subpoenaed by court order. The total cost of all examinations is not to exceed \$15,000 in any year. The Department is to supervise all clinic rehabilitations, liquidations, conservations and dissolutions.

The prevailing party is entitled to attorneys' fees and court costs in any civil action brought to enforce a clinic contract under Section 641.516, F.S.

Clinics are required under Section 641.518, F.S., to protect subscribers against insolvency on the part of the clinic by insurance or a surety bond and to make a \$30,000 cash deposit with the Department.

Section 641.519, F.S., prescribes the fees to be paid the Department by each clinic in the fulfillment of the clinic's statutory duties.

Section 641.521, F.S., defines the relationship of the Prepaid Health Clinic Act to the Insurance Code and Parts I and II of Chapter 641, F.S., and permits the solicitation of subscribers by properly certified clinics, any provisions of law relating to solicitation or advertising by health professionals to the contrary notwithstanding.

Requirements relating to the clinic contracts are described in Section 641.522, F.S., and Section 641.524, F.S., requires the clinic to supply the subscriber with a written translation approved by the Department prior to its use of the

contract, if the contract is negotiated in a language other than English.

Any charter or bylaw provision stated in a contract must be stated in full under the provisions of Section 641.525, F.S.

Section 641.526, F.S., authorizes the use of facsimile signature of a representative of the clinic in the execution of contracts and preserves the validity of contracts otherwise valid but for the facsimile signature of an unauthorized executor on behalf of the clinic.

Under Section 641.527, F.S., an invalid rider, endorsement, attachment, or addendum shall not void a contract but shall be construed and applied in a lawful manner. Clinics are made liable for contracts made for amounts in excess of statutory provisions. The clinic may cancel an unlawful contract but not any liability incurred while the contract is in force.

Section 641.528, F.S., specifies the construction of contracts with regard to services performed by physicians, optometrists, or podiatrists. Section 641.529, F.S., requires the delivery of a contract within ten days of its execution or issuance unless the subscriber has not met a condition of the clinic. Section 641.531, F.S., provides that contracts must contain a clause giving 30 days written notice for cancellation, termination or nonrenewal of a contract.

Under Section 641.532, F.S., contracts between clinics and providers must stipulate that the clinic and not the subscriber is liable for payment of unpaid fees for services

already rendered by the provider. Clinics may accept payments from governmental agencies, corporations, associations, groups, or individuals covering the cost of contracts pursuant to Section 641.533, F.S.

Section 641.534, F.S., lists proscribed words for the name, contracts or literature of clinics and HMOs. The funds of clinics may be invested only in those securities which qualify for investment of assets of life insurance companies under the provisions of Section 641.535, F.S.

Section 641.536, F.S., authorizes the Department of Insurance to issue all rules pursuant to the act except those regarding the quality and nature of basic services which shall be promulgated by the Department of Health and Rehabilitative Services.

Any person or entity which operates a clinic or renews, issues or delivers any prepaid health clinic contract without obtaining and maintaining a certificate of authority commits a third degree felony under Section 641.537, F.S.; Section 641.539, F.S., prohibits unfair methods of competition and unfair or deceptive acts or practices and Section 641.541, F.S., defines them. Hearings on such activities are to be conducted under the provisions of Section 641.543, F.S.

The Department of Insurance is granted the power to examine and investigate clinics under Section 641.542, F.S.

Section 641.544, F.S., provides for the issuance of cease and desist and penalty orders by the Department after a hearing. Such orders may be appealed pursuant to the

"Administrative Procedure Act" (Chapter 120, F.S.) under the provisions of Section 641.545, F.S. (The penalties which the Department may apply for violation of cease and desist orders are described in Section 641.546, F.S.) The Department also is granted the power to seek an injunction in a circuit court to enforce the provisions of this part under Section 641.547, F.S.

The provisions of Part III are made cumulative to rights under the general civil and common law and no action of the Department shall abrogate such rights to damage or other relief in any court (Section 641.548, F.S.).

Clinics in operation since January 1, 1947, are exempt from the provisions of Part III pursuant to Section 641.549, F.S., if the Department is notified prior to January 1, 1985. The exemption terminates with a change in controlling ownership.

Clinics in operation on the effective date of the act, December 31, 1984, have until May 1, 1985, to apply for a certificate of authority and until December 31, 1985, to obtain it.

This Part is subject to Sunset Review prior to October 1, 1991.

The sum of \$97,200 is appropriated from the Insurance Commissioner's Regulatory Trust Fund and four positions are allocated to the Department of Insurance to implement the act. The Department of Health and Rehabilitative Services is to receive \$24,362 from the General Revenue Fund and one position for implementation purposes.

COMMITTEE SUBSTITUTE FOR SENATE BILL 782 (CHAPTER 84-283) provides for the licensure and regulation of birth centers by enactment of the "Birth Center Licensure Act." The law requires any individual or governmental unit to obtain a license from the Department of Health and Rehabilitative Services prior to the establishment or operation of a birth center. Stipulations are made as to the governing body and staff of such a center. Minimum design and operation standards for birthing center facilities are provided and birthing centers are required to ensure that clients have adequate prenatal care. Surgical procedures must be limited to those normally performed during uncomplicated childbirth, such as episiotomy and repair. Performance of operative obstetrics or caesarean sections is prohibited.

Criteria for the selection of patients are to be established by rule of the Department as is the consent form which must be signed by each patient prior to admission.

Standards are set for the provision of intrapartum and postpartum care and the administration of analgesia and anesthesia. A center is to maintain a written agreement with a consultant and to document policies and procedures for the transportation and transfer of patients.

Required records and reports are enumerated and the contents of clinical reports are specified.

Clinical records are to be audited at least every three months to evaluate the process and outcome of care. Statistics on maternal and prenatal morbidity and mortality, maternal

risk, consultant referrals, and transfers of care are to be analyzed at least semiannually.

The Department is to promulgate rules concerning personnel, housekeeping and construction, maintenance and repair at the centers and is to inspect such facilities whenever deemed necessary. Inspection reports are to be open to public inspection unless state or federal law dictates otherwise.

The Department is authorized to deny, revoke or suspend a license or impose an administrative fine the amount of which is to be determined by factors listed in the act. The Department also may seek an injunction to enforce the act and impose a moratorium on elective admissions to any facility deemed a threat to public health or safety. Operation without a license is a misdemeanor.

Partial exemptions from the provisions of the act are provided for (a) birth centers offering surgical obstetrics prior to June 15, 1984, and (b) birth centers having consultant agreements on June 15, 1984, with physicians not practicing obstetrics. The act takes effect July 1, 1984, and is subject to Sunset Review prior to October 1, 1994.

Long Term Care Health Services

HOUSE BILL 255 (CHAPTER 84-144) amends Section 400.022, F.S., to extend the right currently provided in statute to private-pay residents to residents who are recipients of Medicaid by providing that a Medicaid recipient shall be

informed that his nursing home bed will be reserved for any single hospitalization for the length of time for which Medicaid reimbursement is available, up to 15 days. However, the bed shall not be reserved if it is medically determined by DHRS that the resident will not need or will not be able to return to the nursing home, or if the Department determines that the nursing home's occupancy rate will ensure the availability of a bed for the resident. The measure strikes the reference to private and public funds, and specifically provides that a resident cannot be transferred or discharged solely because of a change in payment source. The law further provides that admission to a facility cannot be conditioned upon a waiver of this right, states that any such waiver is void, and makes the obtaining or attempt to obtain such a waiver grounds for disciplinary action by the Department.

Alcohol, Drug Abuse, and Mental Health

COMMITTEE SUBSTITUTE FOR SENATE BILL 797 (CHAPTER 84-285) amends the Baker Act (Part I of Chapter 394, F.S.) and the Community Mental Health Act (Part IV of Chapter 394, F.S.).

Various subsections of Section 394.459, F.S. (relating to the rights of patients), are amended to: describe the conditions under which a jail may be used for up to 15 days as an emergency treatment facility for mentally ill persons who have been charged with or convicted of a crime; permit mentally ill patients to review individualized treatment plans prior to implementation; provide additional circumstances which would

permit the release of the clinical records of a mentally ill patient; bar the transport of mentally ill patients by law enforcement or correctional personnel except in certain counties; and permit counties to contract for the transportation of such patients with private transportation companies which meet certain prerequisites.

Paragraph 394.461(4)(e), F.S., is created to require a law enforcement authority to transport a mentally ill person taken into custody for noncriminal or minor criminal behavior to a receiving facility for evaluation. A person arrested for a crime of violence against another is to be processed in a standard manner even if an arresting officer has reasonable grounds for believing the person arrested meets statutory guidelines for involuntary examination. However, a designated receiving facility is to be notified at once if the person would seem to meet the legal requirements for involuntary examination or placement. A subsequent written notice is required. The costs of mandated evaluation and treatment are to be recovered by the facility pursuant to Section 901.35, F.S., relating to medical expenses incurred during arrest.

Subparagraph 394.463(2)(a)2., F.S., is amended to require a law enforcement officer to take a person who seems to meet the criteria for involuntary examination into custody and deliver the person to the nearest receiving facility for examination. Each county or portions of a county must have one law enforcement agency named as the transport agent for involuntary examination pursuant to Paragraph 394.463(2)(b),

F.S., and the agency may decline the duty only if the county has contracted for emergency medical transport service in the jurisdiction and the law enforcement presence is not needed for the public safety. Only a person who is qualified to initiate involuntary examination may release a person being examined, but no patient may be detained at a facility for more than 72 hours.

Patients are provided the right to counsel in placement proceedings and those 18 or older are prohibited from waiving a hearing for initial or continued placement without advice of counsel in revisions to Subsections 394.467(2) and 394.467(4), F.S., respectively.

Changes made to other provisions of Part I reflect the replacement of district mental health boards by alcohol, drug abuse and mental health planning councils effected through the transformation of Part IV from the Community Mental Health Act to the "Community Alcohol, Drug Abuse, and Mental Health Services Act" (Sections 394.65 through 394.81, F.S.).

The legislative intent provisions of Section 394.66, F.S., are restated to emphasize the Department of Health and Rehabilitative Services as the focal point for the planning of comprehensive coordinated alcohol, drug abuse, and mental health services for Florida citizens through service providers made accountable by statewide management, monitoring and reporting standards. Citizens are to be involved in the delivery of the services at the local level.

The definitions of Section 394.67, F.S., are conformed to the new planning councils and Section 394.675, F.S., is created to provide for an alcohol, drug abuse, and mental health service system composed of "primary care services", "rehabilitative services", and "preventive services", which are defined.

The alcohol, drug abuse, and mental health planning councils are created by the provisions of Section 394.715, F.S. This section also addresses council membership, staffing, organization, filling of vacancies and reimbursement of members.

Section 394.74, F.S., relating to contracts for services is substantially reworded to conform provisions to the operation of local alcohol, drug abuse and mental health programs. The district administrator is to contract with community alcohol, drug abuse and mental health service providers whereas under prior law district mental health boards could contract for such services.

Completely new provisions in Section 394.75, F.S., require the district administrator to ensure that: the district plan conforms to the state plan, statutes and standards; efficient use is made of district alcohol, drug abuse and mental health resources; and adequate review and evaluation services are available in the district. The district administrator is to make the necessary modifications to conform the district plans to the statutes and the Secretary of the Department is to resolve any dispute between the

administrator and the district council. Local governing bodies who fund the program also have the right to make modifications.

Subsection 394.76(2), F.S., is amended to direct the district administrator to consult with the planning council to effect conformity between the summary operating budget for the district and the district plan. Paragraph 394.76(3)(d), F.S., is enacted to direct that fees generated by residential and case management services funded as part of a deinstitutionalization program and not requiring local matching funds are to be used to support program costs approved in the district plan. Another source of moneys to defray such costs are the earnings above appropriations pursuant to Title XIX (Medicaid) of the Social Security Act as stated in Paragraph 394.76(3)(e), F.S. New Subsection 394.76(9), F.S., permits a local governing body to make lump sum payments for alcohol, drug abuse or mental health purposes within the district plan. Recipients are to be audited annually. Beginning with fiscal year 1984-85, no additional local matching funds will be required for alcohol, drug abuse and mental health block grants added to the General Appropriations Act for the purpose of funding local community programs according to the provisions of Subsection 394.76(10), F.S.

Subsection 394.78(3), F.S., is enacted to require DHRS to audit service providers prior to the execution of any contract using a standard procedure established by the Department. Subsection 394.78(4), F.S., charges the Department with the responsibility of monitoring service providers to

ensure compliance with contracts and state and federal regulations and stipulates that the planning council must be represented on the monitoring unit.

A substantially reworded Section 394.79, F.S., directs the Alcohol, Drug Abuse, and Mental Health Program Office of the Department to prepare a biennial alcohol, drug abuse and mental health state plan in consultation with the district administrators, state treatment facility administrators, and district planning councils. The components of the plan are specified.

The act creates a Task Force on Public Psychiatry which is to meet at least quarterly for the purpose of developing and overseeing the implementation of plans to enhance the quality of psychiatric care and which is to report to the Legislature no later than March 1, 1985, on its efforts and the status of psychiatric care in the state. The Task Force is to be abolished 30 days after submitting its report.

All provisions relating to the Community Alcohol, Drug Abuse and Mental Health Services Act (Part IV of Chapter 394, F.S.) take effect July 1, 1984. Section 394.715, F.S., relating to the establishment of alcohol, drug abuse, and mental health planning councils is subject to Sundown Review prior to October 1, 1994, pursuant to Section 11.611, F.S.

All provisions relating to the Baker Act (Part I of Chapter 394, F.S.) are to take effect January 1, 1985, except Subsection 394.459(1), F.S., relating to the use of a jail as

an emergency treatment facility, which is to take effect July 1, 1985.

Children, Youth, and Families

COMMITTEE SUBSTITUTE FOR SENATE BILL 230 (CHAPTER 84-311) clarifies, expands, and reenacts Section 409.175, F.S., requiring the licensing of family foster homes, residential child-caring agencies, and child-placing agencies by DHRS to protect the health, safety, and well being of all children in the state who are cared for by such facilities. New statutory provisions:

- 1) prohibit the regulation of religious curriculum in the licensed facilities unless the health, safety or well being of the child is threatened;
- 2) provide definitions for the section;
- 3) prohibit the adoption of rules interfering with the free exercise of religion;
- 4) authorize background investigations on applicants for licensure;
- 5) authorize scheduled or unannounced licensure inspections;
- 6) provide for provisional licenses;
- 7) provide grounds for denial, suspension or revocation of licenses;
- 8) provide for corrective action plans for remedying violations;
- 9) provide penalties; and

10) authorize DHRS to take custody of children in immediate danger.

The Department of Health and Rehabilitative Services is required to promulgate licensing rules no later than July 1, 1985.

The act creates Section 409.170, F.S., to provide for registration of all residential child-caring agencies but considers licensed agencies as registered. Exemptions from licensing requirements are provided for certain residential child-caring agencies operated by religious organizations. This new section further stipulates that child-caring agencies must supply certain information on the children for whom they are caring, agency personnel and proof of compliance with minimum standards as part of the annual application for registration. DHRS is to be notified of any child with developmental disabilities in the care of the agency for whom treatment cannot be provided. Access at reasonable times must be provided to state and local officials charged with the maintenance of fire, health, safety and sanitation standards.

Agencies registered under this section are classified as Type II facilities while agencies licensed under Section 409.175, F.S., are deemed Type I facilities. Contracts containing certain information must be issued for each child residing in an unlicensed facility.

The provisions of Chapters 827 and 415, F.S., relating to child neglect and abuse are made applicable to any registered agency.

Certain provisions parallel to those appearing in the licensing procedures of Section 409.175, F.S., appear in Section 409.170, F.S., with respect to the denial, revocation or suspension of registration, injunctive proceedings against violators of the statutes; corrective action plans to remedy violations and the provision of penalties.

Registered agencies may apply for licensure.

Sections 409.170 and 409.175, F.S., are subject to Sunset Review prior to October 1, 1994.

Problem definitions for the "Florida Juvenile Justice Act" (Chapter 39, F.S.) are addressed by amendment of Subsections (1), (9), (26) and (31) of Section 39.01, F.S., and the addition of Subsection (33).

"Abandoned" is redefined to permit a circuit court to declare a child abandoned without regard to time frame when the parent, legal custodian or person responsible for the child's welfare fails to support or communicate with the child or makes only a marginal effort to do so. Failure of such persons to appear at a dependency hearing in response to actual or constructive service creates a rebuttable presumption of ability to support and communicate with the child.

Before a court may declare a runaway or disobedient child to be a dependent one, it must first be determined that the behavior has persisted in spite of reasonable remedial

efforts on the part of parent or guardian and appropriate agencies.

Lack of adequate finances on the part of a parent is not to be a factor in determining neglect unless services for relief have been offered and rejected.

"To be habitually truant" is defined in new Subsection 39.01(33), F.S., as being absent from school without the knowledge or justifiable consent of parents or guardian by a child who is not exempt from school attendance when such absence is subsequent to certain activities by the school administration undertaken to determine and correct the cause of the truant behavior. The activities consist of:

- 1) one or more meetings between a school attendance professional or social worker, the parents or guardian and the child;
- 2) educational counseling to see if curriculum changes would help;
- 3) educational evaluation; and
- 4) joint staffing by school and DHRS personnel to determine if referral to appropriate community agencies is necessary.

Failure of a parent or legal guardian or child to participate, or make a good faith effort to participate, in remedial activities shall call into play the provisions of Section 232.19, F.S., relating to court procedures and penalties for the enforcement of the compulsory school attendance law.

Subsection 232.19(3), F.S., is amended to place in statute the definition of "habitually truant" provided in Subsection 39.01(33), F.S., and permit the complementary application of the provisions of Chapter 39, F.S., and Section 232.19, F.S., to the identification and treatment of the habitually truant child. Paragraph 232.19(6)(a), F.S., is changed to provide that the parent who refuses to comply with the requirements of Subsection 232.19(3), F.S., is guilty of a second degree misdemeanor. Pursuant to a revised Subsection 39.403(2), F.S., the criteria for completeness of the report or complaint relating to a child said to be dependent because of habitual truancy are to be measured against the components of the definition provided in Subsection 39.01(33), F.S.

The DHRS and the Department of Education are to work together to develop and adopt rules for the implementation of the revisions to Chapter 39 and Section 232.19, F.S.

Subsection 39.40(2), F.S., is amended to declare that the circuit court has jurisdiction in review of the status of a child voluntarily placed with a child-caring agency or DHRS. Subsection 39.402(2), F.S., is added to require that in addition to existing prerequisites, a determination be made that appropriate and available services cannot eliminate the need to place a child in a shelter before such placement takes place. These prerequisites are to govern all decisions as to whether placement in a shelter is necessary prior to disposition by the court and no child is to be removed from home if he can safely remain there with the provision of

appropriate and available services according to the respective provisions of newly created Subsections 39.402(7) and 39.402(8), F.S. Paragraph 39.402(6)(b), F.S., requires that the detention petition filed with the court provide the information necessary for the court to make the determinations required of it by Subsection 39.402(9), F.S., to wit:

- 1) the criteria of Subsections 39.402(1) and (2), F.S., have been met;
- 2) placement in a shelter is in the best interest of the child;
- 3) DHRS has made reasonable efforts to prevent or eliminate the need to remove the child from home; and
- 4) the safety of the child cannot be guaranteed even with the provision of appropriate and available preventive services.

The period of time a child may be held in a shelter before the entry of an adjudication order by the court is increased from 14 to 21 days in Subsection 39.402(10), F.S. New language also requires the notification of the parent, guardian or custodian of an order to place a child in shelter and permits these persons to request a hearing within 48 hours on the need for continued placement in shelter. Visitation rights are to be determined by the court at that time unless such rights are shown not to be in the best interest of the child. At the same time the court will rule on the reasonableness of DHRS efforts to prevent or eliminate the need

for removal of the child from home. A petition alleging dependency is to be filed within seven days after the child is taken into custody and within the next seven days an arraignment hearing is to be held for the response of the parent, guardian or custodian to the findings of dependency. Subsection 39.404(6), F.S., is amended to provide that in all other cases the dependency petition is to be filed within a reasonable time.

Subsection 39.402.(12), F.S., is amended to permit a guardian ad litem to request a continuance in the proceedings.

Subsection 39.402(13), F.S., is created to provide that the court shall review the need for continued placement in the same manner as the decision was made for initial placement and shall make a determination within 48 hours as to any violations of the provisions of Subsection 39.402(10), F.S., relating to the filing of a dependency petition and the holding of an arraignment hearing or the granting of any continuance pursuant to Subsection 39.402(12), F.S.

Subsection 39.407(1), F.S., is revised to allow the examination of a child named in a petition for dependency by a district school board educational needs assessment team whose examination shall include reports of intelligence and achievement tests and screening for learning disabilities and the need for alternative education. Subsection 39.407(8), F.S., is created to bar the placement of a child alleged or found to be dependent in a detention home or other program for children alleged or found to be delinquent.

Subsection 39.408(1), F.S., is amended to require an arraignment hearing and establish time requirements when the child is in state custody or that of a parent, guardian or custodian. If the parent, guardian or custodian admits or consents to the findings of a dependency petition, the court shall proceed according to the Florida Rules of Juvenile Procedure, but if any of the allegations are denied, then an adjudicatory hearing must be held. For a child in the custody of a parent, guardian or custodian the court is directed to hold a dispositional hearing at the "earliest practicable time that will allow for the completion of a predisposition study." Pursuant to a revision of Paragraph 39.408(2)(a), F.S., the time limits for hearings for a child in custody are made applicable to adjudicatory hearings. Paragraph 39.408(3)(a), F.S., is amended to specify the information which the predisposition study must document for the court.

Subsection 39.41(1), F.S., is revised to make the provisions of Section 409.168, F.S., relating to children in foster care, in addition to the requirements of Chapter 39, F.S., applicable to all dispositional proceedings of children committed to a child-caring agency or the temporary custody of DHRS. The preconditions which will allow a court to commit a child permanently to an agency or temporarily to DHRS for subsequent adoption are revised to add the following prerequisites:

- 1) a finding by the court of clear and convincing evidence that the parent, guardian, legal custodian

or person responsible for the child's welfare has abandoned the child for a period of six months or longer, prior to the filing of the petition for permanent commitment; or

- 2) the parents have failed to substantially comply with a court approved plan for permanent placement.

The court is required in new Subsection 39.41(2), F.S., to determine that DHRS has made reasonable efforts to eliminate or prevent the need for the removal of a child from home prior to committing a child to temporary legal custody of DHRS and to make such determination part of the disposition order based on guidelines herein supplied. Under a revised Subsection 39.41(5), F.S., the court is to retain jurisdiction until a child is placed for adoption through DHRS, or in the case of permanent commitment to a child-caring agency, for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement but is to have no part in the selection of an adoptive parent.

A guardian ad litem is permitted to appeal a circuit court order to an appropriate district court of appeal under revised Section 39.413, F.S.

Section 39.415, F.S., is created to place a ceiling on the earnings of a court appointed attorney in a dependency proceeding of \$1,000 at the trial level and \$2,500 at the appellate level.

Section 49.011, F.S., is expanded to cover service of process by publication for permanent commitment of dependent children by the court.

Subsection 409.168, F.S., is substantially reworded first with respect to its legislative intent provisions to include the aim of reuniting children with their natural families. A permanent placement plan is made an element of helping to insure a permanent home for children in foster care. Every reasonable attempt is to be made to place siblings in the same foster home.

Definitions are revised to include the foster parent and the guardian ad litem among persons who are to sign a performance agreement and the terms "permanent placement plan" and "substantial agreement" are added.

New language is added to that defining the purpose of the performance agreement concerning the preparation of the child for long term foster care or independent living. The agreement is to expire no later than 18 months from the date the child was initially ordered into foster care. New items of information to be included in the agreement are a description of the type of out-of-home placement in which the child is to be placed and a plan for addressing the needs of the child while in foster care. "Other pertinent parties" as well as the natural parents are to be consulted in the preparation of the agreement. The social service agency and the court are to inform the parents of a right to receive assistance in preparing the agreement and the person who executed the

agreement is to explain it to all participants prior to their signing it. New language is more specific as to an amendatory process for the agreement and requires that a copy of the amended agreement be supplied to the signatories. The court is to review the agreement upon submission as to consistency with prior orders of the court and the statutory requirements for content of an agreement.

The social service agency shall have the burden of proof supporting a permanent placement plan in place of a performance agreement because of the physical, emotional or mental condition or physical location of the parent. A new provision requires that the parent be given a copy of the plan. Parents retain the right to seek court review of the plan and to be notified that placement of a child in foster care may result in termination of parental rights.

The court is to retain jurisdiction beyond permanent commitment to review the child's status and progress toward permanent adoptive placement but may have no part in the selection of an adoptive parent.

The court may dispense with the attendance of the child at the hearing, but not other parties to the review. A child permanently committed to a social service agency for adoptive placement shall have his status reviewed by the court every six months. If the child is placed for adoption, the social service agency is to notify the clerk of the court within five working days so the review hearing may be cancelled.

Language reflecting current practice concerning a petition for judicial review is placed in statute. Guardian ad litem is added to the list of those to be served a notice of judicial hearing.

New language specifies information which must be included in the social study required of the social service agency by the court, and requires that the foster parents and the guardian ad litem be given copies of the report. The social service agency must report to the court on a child permanently committed to its care as to the progress being made for adoption or progress toward preparation in long term foster care or toward independent living.

The court is directed to consider specific sources of information in its deliberations at a judicial review hearing and in making specific determinations. Dispositional alternatives available to the court are enumerated.

Current time schedule provisions relating to permanent commitment proceedings are revised to conform to federal law.

HOUSE BILL 231 (CHAPTER 84-231) amends Paragraph 39.09(3)(e), F.S., to specify the community-based sanctions which may be imposed by a circuit court on a child committed to the Department of Health and Rehabilitative Services at the time of the disposition hearing or any time prior to the child's release from commitment. The sanctions may include, but are not limited to, rehabilitative restitution, curfew, revocation or suspension of the driver's license of the child, community service, the limitation of the child from

nonessential activities or privileges or other appropriate restraints on the child's liberty.

Paragraph 39.11(1)(g), F.S., is amended to enable the court to order a child, or the parent of a child found to have committed a delinquent act, to make restitution for the damage or loss caused by the offense as part of the community-based sanctions ordered by the court at the disposition hearing or prior to the child's release from commitment.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 988 (CHAPTER 84-226) addresses several legal, judicial and DHRS issues affecting the identification, prosecution, and treatment of child abuse.

Section 39.4055, F.S., is created to authorize juvenile courts to issue injunctions, upon reasonable cause and with notice, enjoining acts of child abuse or sexual offenses involving children. The injunction may be issued when a petition for detention or dependency has been filed or when a child has been taken into custody and the conditions of the injunction may require the alleged or actual offender to:

- 1) refrain from further abuse;
- 2) obtain counseling;
- 3) limit contact or communication with the child;
- 4) refrain completely from contacting the child;
- 5) participate in limited or supervised visitation;
- 6) pay temporary support for the child or other family members including the cost of treatment incurred as a result of offenses; and
- 7) vacate the child's home.

The section also provides for the notice of injunction to the parties pursuant to the Florida Rules of Juvenile Procedure and for the issuance of an immediate injunction when a child said to be in imminent danger or an emergency injunction on a day the court is closed. Failure to comply with an injunction is made a first degree misdemeanor.

Subsection 39.407(2), F.S., is added to permit the court to order a physical or mental examination of a parent, guardian, or other person requesting custody of a child when the mental or physical condition, including blood group, of such a person is in question. The order may be issued only on good cause and with notice according to the rules of juvenile procedure.

The law creates Subsection 230.23(18), F.S., requiring district school boards to post a notice in each school informing school personnel of their responsibilities for reporting actual and suspected cases of child abuse and neglect, their immunity from liability for reports made in good faith and for their duty to comply with child protective investigations pursuant to Chapter 415, F.S. The notice must include the statewide toll free number for the Abuse Registry. Each board is to designate the superintendent as the liaison to DHRS and any child protection team involved in a case and is to notify the Department of Education and DHRS of compliance by March 1, 1985.

Paragraph 395.005(3)(b), F.S., is amended to direct DHRS to publish a rule by March 1, 1985, requiring general and

certain specialty hospitals, and county public health units to adopt child abuse and neglect protocols. Such protocols would make the affirmative duty of all staff members to report actual or suspected cases of child abuse and neglect a part of hospital or health unit policy and require the naming in such cases of a staff physician as liaison between the hospital or health unit and the DHRS and child protection team, if any. Failure of any hospital or health unit to supply the DHRS with a copy of its policy incorporating these protocols by March 1, 1985, is punishable by a departmental fine of up to \$1,000 per day.

The enactment amends Chapter 415, F.S., to assist state attorneys, law enforcement officers, and DHRS abuse investigators in coordinating their investigations of the most serious cases of abuse and neglect of aged and disabled persons and children.

Subsection 415.104(1), F. S., is amended to require the Department to provide written notice to the state attorney of the receipt of a report of abuse, neglect, or exploitation of an aged or disabled person and to require the Department to provide immediate oral notice to the appropriate law enforcement agency in order that a criminal investigation may be undertaken in conjunction with the Department's protective investigation. A full written report is to follow in three days.

Definitions of terms used in Sections 415.502 through 415.514, F.S., relating to comprehensive protective services

for abused or neglected children, are set out in Section 415.503, F.S., which is revised to define "child protection team" and "guardian ad litem." Paragraph 415.503(7)(b), F.S., extends the definition of "harm" to a child's welfare to include committing or permitting sexual abuse of a child and the definition of "employee" is broadened for purposes of "institutional child abuse and neglect" and "other person responsible for a child's welfare." The acts which constitute "sexual abuse of a child" are listed.

Paragraph 415.504.(4)(c), F.S., is revised to require the Abuse Registry to expunge all identifying information in unfounded reports from computer systems or records as well as the Registry within 30 days of a case being classified as unfounded, rather than immediately.

Paragraph 415.505(1)(c), F.S., is added to require the Department to notify the district school board of the receipt of an allegation of child abuse or neglect on the part of a school board employee and to declare the Department the lead agency in the investigation. New Paragraph 415.505(1)(g), F.S., requires the Department to notify orally the state attorney and the appropriate law enforcement agency immediately upon determination that a child has suffered an observable injury or medically diagnosed internal injury as the result of child abuse or neglect whether such determination came from confirmation of an allegation or in the course of an investigation. A full written report is to be made to the state attorney within three days of the oral report. The law

enforcement agency may conduct a criminal investigation based on the oral report in conjunction with the Department or separately and report to the state attorney and the Department if the investigation was conducted independently. Any person with information may supply a statement to the state attorney as to whether prosecution is justified. New language provides for the implementation of similar procedures when a child is a victim of sexual abuse or institutional abuse or neglect with the added requirement that the state attorney report his findings to the Department within 15 days of the conclusion of his investigation and include a determination as to whether prosecution is warranted. New Paragraph 415.505(2)(b), F.S., requires the Department to notify the appropriate district human rights advocacy committee within 24 hours of the initiation of an investigation and Subsection 415.505(3), F.S., directs the Department to notify the appropriate law enforcement agency and state attorney of any other child abuse or neglect case where the Department feels a criminal investigation is merited.

Section 415.5055, F.S., is created to place in statute the interdisciplinary child protection teams one or more of which the Department is to provide for each of its service districts. The Department is to utilize and convene the teams which may be composed of representatives from appropriate health, mental health, social service, legal service and law enforcement agencies to supplement the single intake and protective services activities of the children, youth and

families program of the Department. The team's role is to support activities of the program and render services to abused and neglected children by appropriate referral.

The specialized supportive services of the team are to include:

- 1) medical diagnosis and evaluation;
- 2) telephone consultation;
- 3) medical abuse on neglect evaluation;
- 4) psychological and psychiatric diagnosis and evaluation;
- 5) short-term psychological treatment;
- 6) expert professional testimony in court cases;
- 7) case staffings to develop, implement and monitor treatment plans for a child;
- 8) case service coordination and assistance;
- 9) training services for departmental employees; and
- 10) educational and community awareness campaigns on child abuse and neglect.

Appropriate cases for the child protection teams include:

- 1) bruises, burns or fractures in a child under three years of age or a nonambulatory child of any age;
- 2) unexplained or implausibly explained injuries in a child of any age;
- 3) sexual abuse of a child;
- 4) sexually transmitted disease in a prepubescent child;

- 5) reported malnutrition and failure of a child to thrive;
- 6) reported medical, physical, or emotional neglect of a child;
- 7) any family in which one or more children have been pronounced DOA at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse or neglect, where any sibling or other child remains in the home; and
- 8) symptoms of serious emotional problems in a child where abuse or neglect is suspected.

Subsection 415.508(1), F.S., is amended to specify that the court is to appoint a guardian ad litem to represent the child in any child abuse or neglect judicial proceeding of a civil or criminal nature.

Pursuant to revised Subsection 415.51(2), F.S., the Department is directed to search the Abuse Registry for a report indicating child abuse and neglect with the written permission of a person applying to work with children as a volunteer or as a paid employee for a public or private nonprofit agency. The existence of such a report and the results of the subsequent investigation are to be reported to the hiring agency. A revised and renumbered Subsection 415.51(6), F.S., permits any person reporting a case of child abuse or neglect to request the Department to supply notice that a child protection investigation has taken place because

of the report. Such notice is to be mailed within ten days of the completion of the investigation.

The Inspector General of DHRS is instructed to conduct a study and review of the state's child protection teams and report to the Governor and Legislature by March 1, 1985.

Paragraph 20.19(4)(a), F.S., is amended to change the boundaries of DHRS Subdistricts 2A and 2B by moving Calhoun County from Subdistrict 2A to 2B and by moving Franklin County from Subdistrict 2B to 2A.

Subsection 20.19(18), F.S., is created to establish the Florida Developmental Disabilities Planning Council in state law as an interdepartmental and interagency advisory body for the state for programs and services affecting persons with developmental disabilities. [The federal definition of developmental disability is adopted for use by the Council in carrying out its federally mandated and funded functions.] "Developmental disability" is defined as a severe, chronic disability attributable to mental or physical impairments or a combination of both, and which:

- 1) appears before age 22;
- 2) is likely to continue indefinitely;
- 3) results in substantial functional limitations;
- 4) reflects a need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services of lifelong or extended duration; or

- 5) places a child at risk of becoming developmentally disabled or requires services and treatment similar to that needed for those who meet the foregoing criteria.

The act also specifies the duties of the Council:

- 1) to advocate for the developmentally disabled;
- 2) to advise the executive and legislative branches of state government and the private sector on programs, policies and proposed legislation pertaining to the developmentally disabled;
- 3) to review and comment on proposed state legislation, rules, operating policies and plans relating to the developmentally disabled;
- 4) to assess, review and monitor the services and programs being offered the developmentally disabled consistent with "The Developmental Disabilities Assistance and Bill of Rights Act" (42 U.S.C. Section 6000 et seq. (1982)); and
- 5) to develop, prepare, adopt, review annually and revise as necessary, in consultation with state departments and agencies, a state plan meeting federal specifications which is to be submitted to the Governor and Presiding Officers of the Legislature.

The Council is assigned to the Office of the Secretary of the Department for administrative purposes and fiscal

accountability, but otherwise is to operate independently of the Department. The Governor is to appoint the 27-member Council and provide for the rotation of its membership. He may remove a member for cause. The representation of interests among the members is prescribed. All members are voting members entitled to per diem and travel expenses. The Council is to meet at least four times a year with a majority of members constituting a quorum. A chairman and vice-chairman are to be elected annually and the Council is empowered to appoint an executive director who shall employ adequate personnel to perform Council functions. The Council may create committees to conduct special specific programs and functions. The policies and bylaws of the Council must conform to applicable state and federal law. The Governor is to appoint by Executive Order an administering agency or agencies for the Council which is to receive and disburse funds for the developmental disabilities program, provide fiscal control for the disbursement of grant funds and accountability for them, establish a budget for the Council and negotiate a written work agreement with the Council.

Subsection 20.19(6), F.S., is amended to modify the representation of interests and length of terms of members of the Statewide Human Rights Advocacy Committee members.

A vacancy on the statewide committee may be filled by majority vote of the committee after 60 days rather than 120 days pursuant to amended Paragraph 20.19(6)(c), F.S. The paragraph is further amended to bar a person employed by the

Department or employed by a program or facility funded by the Department from membership on the statewide committee.

Paragraph 20.19(6)(f), F.S., is revised to give the statewide committee authority to exercise its powers to receive, investigate and resolve reports of abuse or deprivation of constitutional and human rights without referral from a district committee if a matter constitutes a threat to the life, safety or health of a client or is multidistrict in scope. The statewide committee is to have access to all client records unless part of an investigation by law enforcement or the courts or such access is in contravention of federal law and regulation or the records are those of certain private licensed practitioners. All records obtained are to be held in confidence. The statewide committee may also receive, investigate, seek to conciliate, hold hearings on, and act on complaints alleging any abuse or deprivation of constitutional or human rights of clients. The statewide committee responsibilities are expanded to cover the organization, operation and procedures for district committees and their responsibilities to the statewide committee. The statewide committee also has the responsibility for the maintenance of confidential information and the definition of misfeasance and malfeasance for members of the statewide and district committees. The provisions of this paragraph expire July 1, 1987.

Representation of interests on District Human Rights Advocacy Committees is changed through amendment to Paragraph

20.19(7)(b), F.S., and the terms of members are altered in a revised Paragraph 20.19(7)(c), F.S., which also permits members to fill a vacancy if there is no gubernatorial appointment within 60 days rather than 120. Paragraph 20.19(7)(d), F.S., is revised to provide for the chairperson's term to end on the anniversary of his election. The restriction on an employee of a facility funded by DHRS serving as chairperson is stricken. Paragraph 20.19(7)(g), F.S., is amended to direct district committees to seek local resolution of complaints before referral to the statewide committee and the access to client records are to be given under the same conditions as apply to the statewide committee except for an additional prohibition on access to the records of clients of a mental health facility about whom no complaint of abuse has been received. Provisions concerning access to records expire July 1, 1987. The statewide committee may call a meeting of a district committee. The duties of the district committee are conformed to the expanded responsibilities of the statewide committee.

The act is to take effect July 1, 1984.

Aging and Adult Services

COMMITTEE SUBSTITUTE FOR SENATE BILL 251 (CHAPTER 84-128) amends Sections 415.602 - 415.605, F.S., directing the Department of Health and Rehabilitative Services to certify all spouse abuse centers. The Department is required to evaluate each certified center annually (Paragraph 415.603(1)(d), F.S.). Funding is changed from a center-based allocation to a

district-based allocation, which allows funding decisions to be made within a district without impacting on the level of funding statewide (Paragraph 415.605(7)(a), F.S.). The requirement that a funded center receive a base amount is eliminated in the substantial rewording of Section 415.605, F.S. Funds are to be distributed annually to each district according to an allocation formula determined by the Department (Paragraph 415.605(7)(a), F.S.). Contracts between districts and centers must include provisions assuring the availability and geographic accessibility of service district-wide. Centers may distribute funds through subcontract and center satellites. (Paragraph 415.605(7)(b), F.S.).

COMMITTEE SUBSTITUTE FOR SENATE BILL 495 (CHAPTER 84-343) amends Sections 415.601 - 415.608 and Chapter 741, F.S. The term "spouse abuse" is changed to "domestic violence" and defined (Subsection 415.602(1), F.S.). Funding of domestic violence centers is changed from a center-based allocation to a district-based allocation (Subsection 415.605(7), F.S.). Investigating officers must advise victims of the availability of services at domestic violence centers. Officers must also advise victims of their legal rights (Section 415.606, F.S.). Officer training is required on the subject of domestic violence (Section 415.609, F.S.). DHRS is required to furnish to the Legislature an annual report on the status of domestic violence in Florida (Section 415.604, F.S.).

Section 741.30, F.S., is amended to provide for "injunction for protection" instead of a "restraining order."

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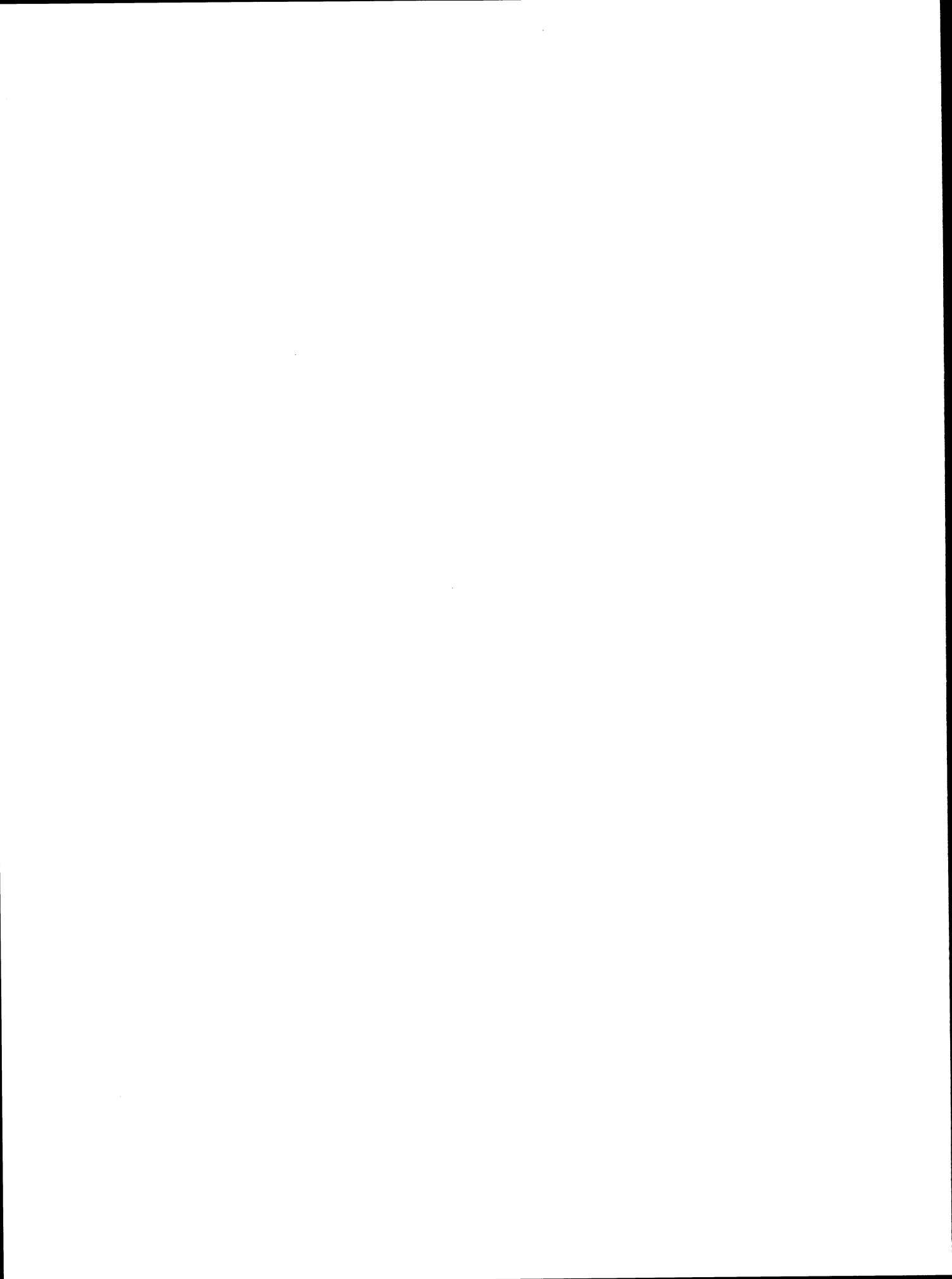
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Section 741.30, F.S., is amended to provide for "injunction for protection" instead of a "restraining order."

Any person may petition for injunctive protection. Neither filing a complaint nor leaving a residence is a prerequisite to filing a petition. An ex parte temporary injunction may be issued under certain circumstances. Violation of an injunction constitutes contempt of court, for which the court may impose a fine. Certain duties are imposed on the investigating officer (Section 901.155, F.S.). An officer may arrest without a warrant for violation of a domestic violence injunction for protection (Subsection 901.15(6), F.S.). An officer is immune from civil liability for good faith arrest (Subsection 901.15(8), F.S.).



INSURANCE*

The scope of legislation enacted by the 1984 Legislature in the area of insurance touches on a broad variety of subject matters. Issues addressed include amendments and enactments dealing with health insurance, including the issue of health care cost containment, health insurance for newborn children, and multiple-employer welfare arrangements. Acts also require dental insurance and dental service corporations to provide alternatives to enable the insured to have free choice of a dentist, and change the fiscal year of the Patient's Compensation Fund to coordinate these dates with those of most other malpractice insurers. Other changes provide reenactments, revisions and amendments to laws relating to bail and bail bondsmen, uninsured and underinsured motorists, contractors who install and service fire protection equipment, fire safety inspectors, workers' compensation, domestic insurance, preneed funeral insurance, travel agency and baggage insurance, variable value contracts, surplus lines insurance, and liquefied petroleum gas. Enactments also allow waiver of the three-year experience requirement for alien insurers who provide products or service not readily available to Florida

*Prepared by staff of House Committee on Commerce

consumers; exempt mortgage guaranty insurance policies from readable language requirements; and exempt commercial inland marine insurance from certain rate filing requirements.

Fire Prevention and Control

COMMITTEE SUBSTITUTE FOR HOUSE BILL 16 (CHAPTER 84-107) amends Chapter 633, F.S., relating to fire prevention and control to require that all persons seeking to serve as contractors installing automatic fire sprinkler systems for one-family and two-family dwellings or mobile homes be certified by the State Fire Marshal. Applicants for certification are required to pay a certificate fee of \$150 and an annual renewal fee of \$150. Persons who operate such businesses without proper certification will be guilty of a misdemeanor in the second degree.

SENATE BILL 439 (CHAPTER 84-243) requires a separate permit or license to engage in the business of installing and repairing pre-engineered fire extinguishing systems. The definition of "Contractor II" is expanded to include the servicing of water sprinkler systems. License and permit fees for all classes of licenses are increased; initial application and renewal fees are also increased. Failure to renew a license by the December 31 expiration date will result in an additional penalty fee equal to the license fee upon the filing of a late application for renewal by March 31.

The written examination for licensees and permittees will be based on knowledge and competency regarding the rules

and statutes regulating the licensee's activities, rather than the 1970 edition of the National Fire Protection Association (NFPA) Pamphlet 10. Similarly, the standards for servicing fire extinguishers and pre-engineered systems will be based on the regulations prescribed by Chapter 633, F.S., and rules adopted thereto, rather than the NFPA pamphlet.

The act also requires fire prevention equipment to be installed in accordance with the manufacturer's specifications in addition to the applicable standards of the NFPA. The continuing education requirements for fire safety inspectors are eliminated. The Division of State Fire Marshal of the Department of Insurance retains its authority to establish by rule standards for renewal. Joint authority is provided to the Division and Department of Education for fire safety inspections of facilities under the administration of district school boards. Specific grounds are listed for the revocation or suspension of a certificate of a fire safety inspector.

Presently, Section 633.085, F.S., requires the State Fire Marshal to inspect each state-owned or state-leased building at least once annually. This section is amended to require only high hazard occupancies to be inspected annually while other state buildings will be inspected on a recurring basis as established by rule.

Section 633.161, F.S., is amended to provide a specialized accelerated procedure when the State Fire Marshal determines that a serious fire safety hazard exists. Upon such a determination, the State Fire Marshal shall issue an order to

immediately vacate the premises. For facilities under the jurisdiction of district school boards and community college boards of trustees, any order to vacate the building must be issued jointly by the district or college administrator and the State Fire Marshal. A hearing concerning an order to vacate may be requested within ten days of the order, and a hearing must be held within ten days of the request. The State Fire Marshal is authorized to seek an injunction in circuit court to enforce this order. Chapter 120, F.S. (the "Administrative Procedure Act"), applies where not in conflict with this section.

Section 633.162, F.S., is amended to list specific grounds for the revocation or suspension of a license or permit to inspect and service fire prevention systems. The maximum fine for a violation of a cease and desist order of the State Fire Marshal is increased from \$250 to \$1,000 by amendment to Section 633.163, F.S.

There are three categories of certificates for contractors who lay out, fabricate, install, and repair fire protection systems (Section 633.021, F.S.). The distinctions in categories are based on the types of systems covered by the certificate. Presently, Section 633.521, F.S., directs the State Fire Marshal to require applicants to submit proof of public liability and property damage insurance, or qualification as a self-insurer. The act establishes liability insurance requirements of not less than \$500,000 for all classes of contractors.

Section 633.534, F.S., is amended to provide that the sole contractor of a business organization must not be affiliated simultaneously with another business organization. This section also eliminates the requirement that the State Fire Marshal investigate the financial responsibility of the certified contractor and language stating that the State Fire Marshal shall be responsible for approving the design and inspecting the construction of certain systems.

Amendments to other sections of Chapter 633, F.S., provide that reexamination is mandatory rather than discretionary for contractors whose certificate has not been renewed within 90 days after expiration. The grounds for an administrative fine, or the suspension or revocation of a contractor's certificate, is amended to: (1) eliminate the standard that a violation of law or a building code be willful; (2) add the ground that it is unlawful for a certificate holder to sign a building permit without supervising the installation of the fire protection system; and (3) increase the maximum administrative fine from \$500 to \$5,000.

This enactment also repeals Subsection 633.521(6), F.S., which provides the grandfather language for contractors engaged in business prior to January 1, 1975.

Liquefied Petroleum Gas

SENATE BILL 185 (CHAPTER 84-126) amends Chapter 527, F.S., to specify that persons who deal in liquefied petroleum (L.P.) gas or who deal in, manufacture, or install liquefied

petroleum gas-related equipment must possess a separate license for each location of such business. Applicants for examinations are required to pay a \$10 nonrefundable examination fee; and failure to submit an application for license renewal prior to October 1 will result in a \$50 delinquency fee.

The content of the license examination is expanded to include information contained in Chapter 527, F.S., and Department of Insurance rules, as well as the National Fire Protection Association Standards on which the examination is now based.

In order to provide a certificate of insurance, an applicant must request the certificate from the Department of Insurance and send it to the insurance carrier for completion. [This process is time consuming and, according to the Division of Liquefied Petroleum Gas, inefficient since expiration dates on the certificates vary.] To simplify this process, the act requires provision of insurance affidavits rather than these certificates.

This act exempts from minimum storage requirements those dealers in L.P. gas operating a single dispensing unit with containers having a capacity of 2,000 gallons or less.

Workers' Compensation

SENATE BILL 214 (CHAPTER 84-267) made various changes to the Workers' Compensation Law, Chapter 440, F.S. The act requires that for injuries occurring on or after July 1, 1984,

the five percent supplemental benefit, payable under workers' compensation to permanently and totally disabled persons, be paid directly by employer/carriers rather than by the Division of Workers' Compensation of the Department of Labor and Employment Security. [This does not affect the amount of the supplemental benefit payable to any employee.]

The measure provides that information filed by self-insurers pursuant to Paragraph 440.51(6)(b), F.S., be maintained by the Division as confidential records. Such information includes the wages paid, the amount of premiums the self-insurer would pay if insured, and all payments of compensation made by the self-insurer. The law also authorizes the Division of Workers' Compensation to do payroll audits of self-insurers.

The act establishes separate self-insurance requirements for two or more local government entities that form a pool to secure the payment of workers' compensation benefits. Local government pools would be exempt from the general requirements for group self-insurance funds if they:

- (1) have annual premiums in excess of \$5 million;
- (2) maintain a continuing program of excess insurance coverage and reserve evaluation by an independent actuary;
- (3) submit an annual audited financial statement by an independent certified public accountant; and
- (4) have a governing body which is comprised entirely of local elected officials.

Such government pools would not be required to file any report with the Division which is uniquely required of group self-insurer's funds.

The act amends Section 440.385, F.S., to provide that the Florida Self-Insurers Guaranty Association is not liable to pay claims until there has been a final adjudication of insolvency of an employer. Section 440.20, F.S., is amended to provide that the present prohibition against "washing out" or settling a compensation claim until six months after maximum medical improvement has been reached, shall not apply to claims by nonresident aliens.

The act strikes the provision in Section 440.45, F.S., that ties the salaries of deputy commissioners to \$4,000 less per year than that paid to a district court of appeal judge and, instead, provides that salaries of deputy commissioners shall be increased by the same percentage as that granted to employees within the Senior Management Service.

Section 440.39, F.S., is amended to require the employer, employee, and carrier to cooperate with each other in investigating and prosecuting claims against third-party tortfeasors by producing nonprivileged documents and allowing inspection of premises for such purpose.

State Group Insurance Program

SENATE BILL 129 (CHAPTER 84-3) amends Paragraph 110.123(5)(a), F.S., to exclude benefit determination and contribution requirements for the state group insurance

program, whether underwritten by a private insurer or the state, from promulgation as administrative rules or orders under the Administrative Procedure Act (Chapter 120, F.S.).

Travel Agency and Baggage Insurance

HOUSE BILL 715 (CHAPTER 84-157) amends Section 626.9541, F.S., which speaks to unfair methods of competition and unfair or deceptive acts for purposes of the Florida Insurance Code (Chapters 624 through 632 and Part I of Chapter 641, F.S.) by exempting life insurance, trip cancellation insurance, or lost baggage insurance from the prohibition against offering "free insurance," if such insurance is offered by a travel agency and booked through the agency as part of a travel package.

SENATE BILL 257 (CHAPTER 84-88) amends Section 626.321, F.S., to permit employees of motor vehicle rental or lease businesses to obtain limited licenses to sell baggage insurance. At the present time, baggage insurance may be sold only by full-time employees of common carriers, travel agencies, or licensed general agents if those employees have obtained limited licenses.

The new enactment, which goes into effect on October 1, 1984, requires the rental agency to disclose in writing to the purchaser of baggage insurance that the insured's homeowners policy may provide coverage for loss of personal effects and that the purchase of baggage insurance is not required with the purchase of tickets or in order to rent the car.

Domestic Insurers

COMMITTEE SUBSTITUTE FOR SENATE BILL 353 (CHAPTER 84-37) amends Section 628.461, F.S., relating to acquisition of a domestic insurance company, to apply the prohibitions of the section to "affiliated persons." Present Section 628.461, F.S., requires that before a person may obtain five percent or more of the voting securities of a Florida domestic stock insurance company, the Department of Insurance must first approve the acquisition. The Department reviews the background of the principals involved and any plans to make changes in the business of the insurer, in order to determine whether the acquisition will jeopardize the financial stability of the insurer or prejudice the interests of the policyholders or stockholders.

The new enactment extends the prohibitions of Section 628.461, F.S., to "affiliated persons." [By applying the prohibitions to affiliated persons, the measure attempts to prevent circumvention of the statute by groups of persons acting in concert who individually may be obtaining less than five percent of the securities of a domestic insurer, but who collectively are obtaining greater than five percent.] Included within the definition of "affiliated person" is "any person who has entered into an agreement, written or unwritten, to act in concert with such person in acquiring or limiting the disposition of securities of a domestic stock insurer or controlling company."

The act provides specific authority to the Department to revoke the certificate of authority of any insurer that is controlled, directly or indirectly, by any person who acquired control in violation of this section.

The enactment also provides for an expedited hearing upon issuance by the Department of an order to any person who violates this section to cease acquisition of any further securities of a domestic stock insurer.

Preneed Funeral Contracts - Life Insurance

COMMITTEE SUBSTITUTE FOR SENATE BILL 489 (CHAPTER 84-196) amends Section 626.785, F.S., to authorize funeral directors or employees of funeral establishments who sell preneed funeral merchandise or service contracts, to qualify as life insurance agents in order to sell only policies of life insurance covering the expense of a prearrangement for funeral services and merchandise. The face amount of insurance covered by such policy shall not exceed \$5,000.

Variable Value Contracts

SENATE BILL 524 (CHAPTER 84-93) amends Section 627.803, F.S., to allow life insurance or annuity contracts which provide variable or indeterminate values to decrease below the face amount of the contract. Any contract that provides for benefits, values, or premiums on a variable basis must contain a clear statement of this provision on its first page in a prominent position in contrasting color or boldface type, in a type size as large as the type used in the text of the policy.

Bail Bondsmen

COMMITTEE SUBSTITUTE FOR HOUSE BILL 526 (CHAPTER 84-103) is a sunset bill that reenacts and revises Chapter 648, F.S. (Bail Bondsmen and Runners), which was scheduled to be repealed on October 1, 1984. The act also amends provisions in Chapter 903, F.S., relating to bail. All such amendments are to become effective October 1, 1984.

The primary change in Chapter 648, F.S., is the creation of the Bail Bond Regulatory Board within the Department of Insurance to regulate bondsmen in conjunction with the Department. The Board would have seven members appointed by the Insurance Commissioner, and would consist of:

- (1) a licensed bail bondsman;
- (2) an employee or agent of a licensed surety insurer;
- (3) a sheriff, deputy sheriff, chief of police, or police officer;
- (4) a state attorney or assistant state attorney;
- (5) a clerk or deputy clerk of a Florida court, or a county attorney or assistant county attorney;
- (6) a criminal defense attorney; and
- (7) a representative of the general public.

Section 648.26, F.S., is amended to provide that both the Board and the Department have the authority to adopt rules necessary and proper to effect their respective duties and powers.

Section 648.266, F.S., is created to provide for the Board's authorization to monitor and investigate the efficiency

and equity of Chapters 648 and 903, F.S. The Board may, by rule, require any information related to pretrial release of criminal defendants to be submitted from the courts and law enforcement offices of Florida and from any other public or private agency receiving public funds.

The investigation of applicants for a license under Chapter 648, F.S., and the issuance of such licenses remains with the Department though Section 648.38, F.S., is amended to authorize the Board to approve the written examination taken by applicants and to determine the passing test score. The Board is required by amendment to Section 648.34, F.S., to approve the certification course in the criminal justice system which must be completed by applicants. Section 648.442, F.S., is amended to authorize the Board to approve the type of collateral security that may be accepted by a bondsman in addition to those types specifically authorized by Section 648.442, F.S.

The procedure for disciplinary action against bondsmen is substantially revised in Section 648.46, F.S. The Department is required to investigate a licensee upon receipt of any written complaint of a violation, upon written request of three or more board members, or if the Department is otherwise aware that a possible violation has occurred. When its investigation is complete, the Department must submit its findings and recommendations to the Board which, in turn, must determine whether there are legally sufficient grounds of a violation of Chapter 648, F.S., or a rule. If the Board finds

that legally sufficient grounds exist, the Department is required to file a formal complaint against the licensee and prosecute the complaint pursuant to Chapter 120, F.S. If the Board does not find legal sufficiency within the time limits provided, the Department may still find that legally sufficient grounds exist and may file a complaint and prosecute pursuant to Chapter 120, F.S.

If an informal hearing is held pursuant to Subsection 120.57(2), F.S., the Board shall conduct the hearing and submit its recommendations to the Department. If a formal hearing is held before a hearing officer from the Division of Administrative Hearings of the Department of Administration, pursuant to Subsection 120.57(1), F.S., the hearing officer shall issue its recommended order to the Board. The Board shall review the hearing officer's recommended order and file any exceptions to the recommended order with the Insurance Commissioner as the Board deems necessary. The Insurance Commissioner shall issue the final order in each disciplinary case.

Section 648.44, F.S., is amended to increase the penalty to a third-degree felony for any licensee who pays a fee or rebate to a jailer, policeman, peace officer, or committing magistrate or any public employee in order to secure a settlement, compromise, remission or reduction in the amount of any bail bond or estreatment. The penalty is also increased to a third degree felony for any jailer or person employed in any jail, any police officer or employee of a police department or

law enforcement agency, committing magistrate, employee of a court or clerk of any court, sheriff or deputy sheriff or employee of any sheriff's department, or any person having the power to arrest or control prisoners who becomes a bondsman or employee of a bondsman or who directly or indirectly receives any benefits from the execution of any bail bond.

It is presently prohibited for any person who has been convicted of or has pleaded guilty or no contest to any felony to participate as a director, officer, manager, or employee of any bail bond agency or office or own shares in any closely held corporation which has any interest in any bail bond business. This prohibition is expanded by the new enactment to prohibit any person who has been charged with a felony or a crime involving moral turpitude or a crime punishable by imprisonment of one year or more to participate as a director, officer, manager, or employee of any bail bond agency or office or to exercise direct or indirect control in any manner in such agency or office. This prohibition continues if the person charged with the crime described is convicted of or pleads guilty or no contest to the charge. The act further proscribes any person who knowingly permits a person charged with the described crime to engage in the bail bond business. A violation of this new proscription is a third degree felony.

The new and renewal fees for licenses for a bail bondsman, limited surety agent, and runner are doubled by amendments to Section 648.31, F.S. Presently the total license fee is \$40 prior to licensure and the renewal fee is also \$40,

paid biennially. The act increases each new and renewal fee to \$80.

This enactment adds various duties required of licensed bondsmen, including an amendment to Section 648.43, F.S., to require any bondsman who executes or countersigns a transfer bond to indicate in writing on the bond the name and address of the referring bail bondsman.

The act provides for repeal of Chapter 648, F.S., on October 1, 1988, to be reviewed pursuant to Section 11.61, F.S., the Regulatory Sunset Act.

Chapter 903, F.S. (Bail), addresses both the criminal defendant's conditional right to bail and issues of primary importance to bail bondsmen such as conditions of forfeiture of a bond and remission of forfeiture. COMMITTEE SUBSTITUTE FOR HOUSE BILL 526 (CHAPTER 84-103) addresses both of these areas.

Section 903.035, F.S., presently provides that if a defendant fails to give accurate and truthful information in connection with an application for bail it may result in the revocation or modification of bail. The new enactment provides that any person who intentionally provides false or misleading information, or who intentionally omits material information in connection with an application or modification of bail, is guilty of a misdemeanor or felony of one degree less than that of the crime charged for which bail is sought, but in no event greater than a third degree felony.

Section 903.046, F.S., lists the factors that a court may consider in determining whether to release a defendant on

bail or other conditions. This act amends that permissive consideration to make it mandatory, and adds to the list the factor of the street value of any drug connected to the criminal charge. The act further provides legislative intent encouraging the courts to carefully consider the utility and necessity of substantial bail in relation to the street value of the drugs involved.

New Section 903.047, F.S., is created to establish conditions of bail. This section requires that as a condition of pretrial release the defendant must refrain from criminal activity of any kind and refrain from any contact with the victim of the crime. Standards for modification of the latter condition are provided.

Section 903.27, F.S., provides the procedure for forfeiture of a surety bond and entry of a judgment thereon. Presently a surety or bail bondsman is required to pay a judgment ordering forfeiture of bond within 60 days after entry of the judgment. However, the surety or bail bondsman may within 45 days after notice of the judgment file a motion to set aside or stay the judgment. The new enactment requires that as a condition of filing a motion to set aside or stay the judgment the surety or bondsman must pay the amount of the judgment to the clerk of the court to be held in escrow until disposition of the motion.

Section 903.28, F.S., allows a surety or bondsman to seek remission (refund) of a forfeited bond. The new act increases the maximum allowable remission from 90 percent to

100 percent of the forfeiture, provided that the defendant is apprehended within 90 days of forfeiture; increases the maximum remission from 75 percent to 95 percent of the forfeiture if apprehension is within 180 days; from 60 percent to 90 percent if apprehension is within 270 days; from 50 percent to 85 percent if apprehension is within one year; and allows up to 50 percent remission of a forfeiture (where none is presently permitted after one year) if the defendant is apprehended within two years of forfeiture.

Health Insurance

COMMITTEE SUBSTITUTE FOR HOUSE BILL 530 (CHAPTER 84-235) addresses the issue of health care cost containment by making the following changes.

The act creates Section 626.9545, F.S., to permit insurers to establish programs which pay consumers a portion of the amount of any billing errors recovered by the insurer after the error was identified by the consumer.

Section 627.410, F.S., is amended to require that all health insurance rates and rate changes be filed with the Department of Insurance and to permit the Department to exempt certain types of health insurance from the rate review process. Section 627.4115, F.S., is created to permit the Department to conduct rate and contract examinations of health insurers.

Section 627.4231, F.S., is created to require that every health insurance policy issued after the effective date of the act contain at least one recognized cost containment procedure

or provision. Such provisions include coinsurance, deductibles, utilization review, required second opinion programs, provider charge audits, scheduled benefits, preadmission testing benefits or provisions for any other measures which can reasonably be expected to encourage health care cost containment.

The act amends Section 627.4235, F.S., to require coordination of benefits among group health insurance policies and to remove the prohibition against coordinating group health insurance benefits with individual health insurance benefits. The act also eliminates gender-based coordination provisions, so that when two policies are coordinated to provide coverage for a dependent, instead of the male's policy paying first, the policy of the person whose birthday occurs earlier in the calendar year would pay first.

Section 627.429, F.S., is created to require that benefits be paid for treatment received outside of a hospital on the same basis as in-hospital treatment if: (1) the treatment is performed by a provider covered under the policy, and (2) the treatment is both medically necessary and is being provided as an alternative to hospitalization.

The act amends Section 627.659, F.S., to allow blanket health insurance to be issued in the name of a health care provider, which shall be deemed the policyholder covering patients.

Section 627.916, F.S., is created to require that insurers report annually to the Department the cost containment

measures that they use and the estimated cost effects of those measures. The act requires that the Department publish annually a summary of the cost containment measures used by insurers and their estimated cost effects.

All new sections added by this act to Chapter 626, F.S., are repealed on October 1, 1990, subject to review pursuant to Section 11.61, F.S. Likewise, new sections added to Chapter 627, F.S., are repealed on October 1, 1992, subject to legislative review under the Sunset Act.

SENATE BILL 682 (CHAPTER 84-202) expands the requirement for providing health insurance for newborn children. Sections 627.641 and 627.6575, F.S., provide that insurance policies which offer insurance coverage for the insured's family shall provide coverage for newborn children of the insured from the moment of birth. This act requires that such coverage be extended to include the newborn children of the insured's family member with coverage terminating 18 months after the birth of the newborn child.

HOUSE BILL 1131 (CHAPTER 84-50) relates to multiple-employer welfare arrangements (MEWAs). Under present law, all required benefits and coverages applicable to health insurance policies in Florida are also generally applicable to plans of self-insurance, Subsection 627.651(1), F.S. However, individual employers who self-insure their health benefits for their employees and who are approved in accordance with the Employee Retirement Income Security Act of 1974 (ERISA, 29 U.S.C. Section 1001 et seq. (1982)) are exempt from all

required benefits and coverage. But, if two or more employers form a multiple-employer welfare arrangement approved under ERISA, certain specified minimum benefits must be provided, as stipulated in Subsection 627.651(5), F.S.

This act amends Subsection 627.651, F.S., to add a minimum benefit that must be provided by multiple-employer welfare arrangements. MEWAs would be required to provide the handicapped children's coverage that all health insurance policies must now provide, as specified in Section 627.6615, F.S. In general, this section requires that coverage for a dependent child be continued after the child becomes an adult, if the child is handicapped and remains a dependent.

Surplus Lines Insurance

SENATE BILL 531 (CHAPTER 84-75) amends Section 626.342, F.S., to provide that the prohibition against furnishing supplies to unlicensed life, health or general lines agents does not apply to the placing of surplus lines business under the provisions of Sections 626.913 through 626.937, F.S., the statutes regulating surplus lines agents.

Alien Insurers

HOUSE BILL 677 (CHAPTER 84-65) adds an exemption from the requirement in Section 624.404, F.S., that a foreign or alien insurer operate successfully for three years before becoming licensed to do business in Florida. Presently, an out-of-state insurance company may not become licensed to transact business in Florida unless the insurer has operated

successfully for three years. However, two exceptions currently exist to allow the Department of Insurance to waive the three-year requirement: (1) if the insurer has \$5 million in capital and surplus (rather than the \$1.5 million normally required), or (2) if the insurer is a wholly-owned subsidiary of an insurer authorized in Florida. This enactment adds a third exception which allows the Department to waive the three-year requirement for an insurer which provides a product or service not readily available to the consumers of Florida.

[This act also has a parallel effect on Florida domestic insurers seeking to do business in another state. Due to the operation of reciprocal provisions in most state's insurance codes, this act will also exempt domestic insurers from a three-year operation requirement of another state, if the insurer offers a product not readily available to the consumers of that state.]

The act also allows the Florida Insurance Exchange, authorized in Section 629.401, F.S., to underwrite surplus lines insurance in any other state subject to the applicable surplus lines laws of such other state for risks located entirely outside of this state.

Section 624.406, F.S., is amended to authorize health insurers to transact excess insurance for self-insurers of a plan of health insurance and multiple-employer welfare arrangements.

Dental Insurance and Dental Service Corporations

COMMITTEE SUBSTITUTE FOR SENATE BILL 728 (CHAPTER 84-301) creates Section 627.6577, F.S., which establishes a newly mandated option for group health insurance policies and dental service plans. Under this act, an employer, group, or organization that provides dental coverage which limits the insured's choice of a dentist must provide an alternative to enable the insured to have a free choice of a dentist. Insurers and dental service plan corporations must notify policyholders that they have an option for the dental services provided under the policy.

The act specifies that this section does not apply to health maintenance organizations or preferred provider organizations.

Section 637.407, F.S., is amended to provide that dental service plans in existence on July 1, 1981, must prove to the Department of Insurance that they have adequate working capital in a minimum amount of \$100,000, or that the working capital is sufficient to carry all acquisition costs and operating expenses for at least six months from the date the license was issued.

Mortgage Guaranty Insurance

HOUSE BILL 822 (CHAPTER 84-352) exempts mortgage guaranty insurance policies from the requirements of Section 627.4145, F.S., relating to readable language in insurance policies. [These policies are written for financial

institutions that are sufficiently sophisticated in this area as not to need the protections of the readability law.]

The act also amends Section 627.331, F.S., to exempt commercial inland marine insurance from certain rate filing requirements. [Commercial inland marine insurance is a type of property insurance that is written on specialized risks related to transportation such as bridges or satellites for which rates must be filed with the Department of Insurance, but upon which the Department takes no action. This provision simply eliminates unnecessary filings.]

Patient's Compensation Fund

HOUSE BILL 871 (CHAPTER 84-163) makes two changes to the Patient's Compensation Fund in Section 768.54, F.S. First, the act changes the start of the fiscal year of the Fund from July 1 to January 1 in order to coordinate the Fund's fiscal year with that of most other malpractice insurers which provide underlying coverage to Fund members.

The act also repeals a sunset provision that applies only to a particular 1982 amendment which added a provision, relating to claims procedures involving the Florida Patient's Compensation Fund, that states, "If the account for a given year does not have enough money to pay all of the settlements or judgments, those claims received after the funds are exhausted shall be payable in the order in which they are received." However, the 1982 act also contained a sunset provision that will nullify only this amendment on July 1,

1985. HOUSE BILL 871 (CHAPTER 84-163) deletes this sunset provision.

Uninsured Motorists

COMMITTEE SUBSTITUTE FOR HOUSE BILL 319 (CHAPTER 84-41) amends Section 627.727, F.S., relating to uninsured and underinsured motor vehicle insurance coverage, to limit the applicability of the uninsured requirements to liability policies covering specifically insured or identified motor vehicles thereby exempting comprehensive general liability policies or special multi-peril policies which provide coverage, usually for businesses, against many types of liability, but which do not specifically identify the vehicles covered.

By striking the qualification that there must be "a policy wherein the lessee is a named insured or on a certificate of a master policy issued to the lessor," the act will require lessors to offer uninsured motorist coverage to long-term (one year or more) lessees if liability coverage is provided, whether or not the lessor is self-insured or is the named insured under a policy.

The measure also clarifies that whether a named insured rejects uninsured motorist (UM) coverage or elects limits of UM coverage lower than liability limits, UM limits equal to liability limits need not be provided in any policy which renews, extends, changes, supersedes, or replaces the existing

policy even if the replacement policy is issued by a different insurer.

Written rejection of UM coverage, or selection of UM limits less than liability limits purchased, must be on a form approved by the Insurance Commissioner imprinted with a specifically worded advisory statement. A signed rejection by a named insured is presumed to be an informed, knowing rejection.

The coverage described is to be over and above, but not duplicative of the benefits available under any motor vehicle liability insurance coverage and must cover the difference, if any, between the sum of such benefits and the damages sustained, up to the maximum amount of such coverage provided under this section. The amount of coverage available under this section is not to be reduced by a setoff against any coverage [of the other driver], including liability insurance.

The act restricts the applicability of the written rejection and minimum limit requirements for UM coverage to policies providing primary liability coverage which includes coverage for liabilities arising from the maintenance, operation, or use of a specifically insured motor vehicle. However, the insurer issuing such policies must make available UM limits up to the bodily injury liability limits contained in such policies as part of the application at the written request of the insured. The cap on such limits of \$100,000 per person and \$300,000 per occurrence is deleted.

LAW ENFORCEMENT AND CRIMINAL JUSTICE*

The 1984 Session addressed the principal issues of training and certification of law enforcement and correctional officers, the protection of minors from criminal acts, strengthening the sexual battery statutes, establishing the crime of misprision of a sexual battery, adopting changes in the criminal sentencing guidelines, enacting a "Victim and Witness Protection Act," redesigning the drunken driving provisions, clarifying the arson statute, and addressing criminal fraud and theft, grand juries and controlled substances.

Law Enforcement Officers

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1206 (CHAPTER 84-258) is the result of a House Criminal Justice Oversight Subcommittee which was impaneled to review the Criminal Justice Standards and Training Commission's programs.

The new act amends, rewrites and creates certain sections of Chapter 943, F.S., to redirect the mandate of the Criminal Justice Standards and Training Commission by emphasizing the proper training and education of law

*Prepared by staff of House Criminal Justice Committee

enforcement and correctional officers. The enactment limits the causes for decertification; places the responsibility of employment procedures and documentation with the employing agency, and includes penalties for false statements; requires the development of job-related training courses and performance evaluation instruments; establishes and separates career development training from advanced training; requires a combination of career development and advanced training for full salary incentive training benefits; establishes priorities and restricts the use of training trust fund money; and requires assessment reports by the Commission (to the Governor and the Legislature by January 7, 1985, January 6, 1986, and January 5, 1987), and a complete performance audit of the Commission's programs by the Auditor General (to be filed 60 days prior to the convening of the 1988 Regular Legislative Session).

[It is anticipated that the Subcommittee will continue its oversight function of these programs and will monitor the implementation of this legislation.]

HOUSE BILL 654 (CHAPTER 84-156) amends several sections of Chapter 943, F.S., to define "auxiliary correctional officers" for purposes of Criminal Justice Standards and Training, and to require such officers to comply with the employment standards and training requirements set by law and by the Commission.

COMMITTEE SUBSTITUTE FOR SENATE BILL 752 (CHAPTER 84-326) amends Sections 354.01 and 354.05, F.S., to require

railroad or common carrier special officers to meet the recruit training course requirements as determined by the Criminal Justice Standards and Training Commission, and to delete reference to the Governor as the employer of these special officers.

Protection of Minors

COMMITTEE SUBSTITUTE FOR HOUSE BILL 186 (CHAPTER 84-43) creates Section 937.033, F.S., to establish by statute a "Missing Children Information Clearinghouse" within the Department of Law Enforcement. The Clearinghouse is a central repository of information on missing children and is responsible for intrastate and interstate communication of this information. This act also creates Section 937.034, F.S., to restrict the release of fingerprints of children which were taken to identify a child in the event that child disappears. Fingerprints of children taken by certain agencies and organizations must be destroyed when the child becomes 18 years of age.

HOUSE BILL 799 (CHAPTER 84-238) amends Section 827.03, F.S., to elevate the penalty for kidnapping a child who is under 13 years of age, when certain other offenses are committed against the child, from a first degree felony to a life felony. False imprisonment of a child under 13 years of age, when certain other offenses are committed against such child, is defined as a felony of the first degree. Separate

judgments and sentences are permitted for the offenses enumerated in the provisions established by this measure.

SENATE BILL 72 (CHAPTER 84-16) adds "aggravated child abuse" to the list of felonies which bring the "felony-murder rule" into effect pursuant to Subsection 782.04(1), F.S. Any person who commits aggravated child abuse resulting in the death of the child is guilty of first degree murder, punishable by death. "Aggravated child abuse" which results in the death of a child is also added to the list of felonies enumerated in Subsection 782.04(3), F.S., thereby making it murder in the second degree (a first degree felony) when the crime is committed by a person other than the principal perpetrator.

Sexual Battery

SENATE BILL 138 (CHAPTER 84-86) amends Section 794.011, F.S., to provide that evidence of mental incapacity or defect shall be admissible in sexual battery cases to prove that consent is not intelligent, knowing, or voluntary. Section 794.012, F.S., is created to provide that consent as an issue in a sexual battery case is removed when the victim is over 12 but less than 18 years of age when the offender is in familial or custodial authority. This provision creates two new offenses: the first, which is punishable as a felony of the first degree, prohibits engaging in sexual activity with a person over 12 but less than 18; the second, which is punishable as a felony of the third degree, prohibits solicitation of sexual activity with a person within the same

age group. This act also creates Section 794.013, F.S., making it a first degree misdemeanor offense for persons who have the present ability to seek assistance, who are not related to the victim or offender within a certain degree, and who would not expose themselves to physical danger by seeking assistance, to fail to seek assistance through the immediate notification to law enforcement whenever that person had reasonable grounds to believe he has observed the commission of a sexual battery. This enactment provides enhanced penalties when a sexual battery (which constitutes a first or second degree felony) was committed by more than one person during the same criminal transaction or episode.

The act cites the case of Lanier v. State, 433 So.2d 178 (Fla. 3d DCA 1983), in which the court found that the statute prohibiting lewd and lascivious conduct with children under the age of 14 years did not prohibit acts of sexual intercourse between an adult and an unchaste person. (Where a victim is at least 12 but less than 14 years of age, the victim's consent was a defense to the crime of lewd and lascivious handling, fondling, or assault of a child.) This act addresses the problem created by Lanier by providing that the crime of lewd and lascivious handling, fondling or assault of a child includes sexual intercourse and other acts defined as sexual battery without regard to either the victim's consent or chastity. The age of the victim under this section (Section 800.04, F.S.) is also raised from under 14 years of age to under 16 years of age.

The act amends Section 775.15, F.S., to extend the statute of limitations for certain felony sexual offenses committed upon persons under 16 years of age to provide that the limitations period will not begin to run until the child reaches 16 or until the violation is reported, whichever occurs first.

Finally, the act contains a provision requiring the chief judge of each judicial circuit, after consulting with certain persons, to provide by order reasonable limits on the number of interviews a child abuse or sexual abuse victim under 16 years of age would have to undergo for law enforcement or discovery purposes.

Criminal Sentencing Guidelines

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 775 (CHAPTER 84-328) constitutes final approval of Supreme Court modifications of the criminal sentencing guidelines in accordance with Section 921.001, F.S. Principal changes effected by adoption of revised Rules 3.701 and 3.988, Florida Rules of Criminal Procedure, include:

1. authority of the trial court to increase a sentence to the next higher cell for a defendant whose probation or community control sentence is revoked
2. an overall increase of 20 percent in the guideline offense points, in the sexual offense category, resulting in more frequent and longer periods of incarceration [The effect of this change is to

ensure a state prison sentence for any consummated sexual battery.]

3. consistency of departures from the guidelines with the Statement of Purpose contained within Rule 3.701(b), Florida Rules of Criminal Procedure, and such departures must be stated at the time of sentencing
4. authority of the trial court to impose a "split sentence" (a term of probation or community control after release from incarceration under Subsection 921.187(7), F.S.) without exceeding the guidelines [Revocation of such post-release sentence would allow for recommitment to prison under a sentence determined by the next higher sentencing range.]

In addition to implementing revisions in the guidelines, the act also changes the timetable in which the Sentencing Commission submits its recommended changes, from 45 days prior to the convening of the Legislature, to October 1 of each year. The "ongoing research" required of the Commission and the State Courts Administrator would be completed by December 15 of each year.

Victim-Witness Rights

COMMITTEE SUBSTITUTE FOR SENATE BILL 238 (CHAPTER 84-363) creates the "Victim and Witness Protection Act" for the purpose of protecting and enhancing services for victims and witnesses of crimes. Section 914.16, F.S., is created to

authorize the use of photographs of property wrongfully taken as evidence and provides for the expedited return of such property. The provisions of law relating to offender restitution have been substantially broadened to mandate that the court or the Parole and Probation Commission order restitution unless reasons to the contrary are found, which must be disclosed on the court or Commission records. This act also requires that certain specified agencies develop in-house guidelines for the fair treatment of victims and witnesses in the criminal justice system to achieve the purposes of this act. Section 903.047, F.S., is established to state that the court shall, as a condition of bail, require that a defendant refrain from any contact with the victim except as may be necessary in the prosecution of the case.

The provisions of law (Sections 914.21 and 914.22, F.S.) relating to intimidation and harassment of victims are expanded to include activities not presently covered under current law, in an attempt to dissuade intimidation, harassment, or the use of physical force to threaten another person. The initiation of civil action is authorized (Section 914.24, F.S.) to prevent harassment of witnesses and victims. Further, new Section 914.23, F.S., is created to prohibit retaliation against a witness, victim or informant under certain circumstances.

Drunken Driving

HOUSE BILL 360 (CHAPTER 84-359) amends various sections of Chapters 316 (Uniform Traffic Control Law), 322 (Drivers'

Licenses), and 318 (Disposition of Traffic Infractions), F.S. The act combines the offenses of driving under the influence (DUI) and driving with an unlawful blood alcohol level. It becomes a felony for a person with certain prior driving histories to drive while intoxicated when the driving causes serious bodily injury to another. It allows a person convicted of DUI who is unable to pay the required fine to perform additional community service. The act clarifies the law, stating who may withdraw blood to be tested for alcohol content and the civil liability which may ensue. It allows blood withdrawn for medical purposes to be admitted into evidence at a trial for DUI. It permanently revokes the driver's license of a person convicted of vehicular homicide, but allows those whose licenses were revoked due to four DUI convictions to reapply for a license after ten years. For DUI and DWI (driving while intoxicated) sentencing purposes, out-of-state convictions may now be considered. In addition, the measure amends Section 562.11, F.S., to specify penalties for those who use a driver's license to misrepresent the age of an underaged purchaser of alcoholic beverages. Finally, the act decriminalizes certain traffic violations.

Arson

HOUSE BILL 75 (CHAPTER 84-23) creates Section 784.08, F.S., to provide a penalty of first degree misdemeanor for persons who perpetrate arson or use destructive devices resulting in injury to firefighters or other persons,

regardless of the intent of the perpetrator. When anyone suffers great bodily harm, permanent disability, or permanent disfigurement from such illegal actions, the penalty is a second degree felony. Any penalties under this section may be assessed separately from the penalty for arson or for the unlawful throwing, placing or discharging of a destructive device or bomb.

SENATE BILL 229 (CHAPTER 84-17) adds Subsection 552.22(10), F.S., to provide that any person who knowingly possesses an explosive in violation of Section 552.101, F.S. (which prohibits the possession of explosives without a license), is guilty of a misdemeanor of the first degree, regardless of the intent of the possessor for the use of the explosive.

Fraud and Theft

HOUSE BILL 36 (CHAPTER 84-297) amends portions of Chapters 817 and 832, F.S., to prohibit the fraudulent creation or alteration of admission tickets and credit cards. The legislation provides that possession of a "counterfeit credit card" (defined in the act) is prima facie evidence of intent to fraudulently use or counterfeit a credit card. It also prohibits certain persons from making credit card account lists available to third parties.

Certain conditions are stipulated concerning the production, sale or distribution of identification cards, and a penalty is provided for violation of these conditions; and,

certain fraudulent uses of debit cards are included within prohibitions relating to worthless checks.

COMMITTEE SUBSTITUTE FOR SENATE BILL 687 (CHAPTER 84-367) addresses the problem of enforcing Section 715.04, F.S. (relating to pawnbrokers), against those who operate as pawnbrokers but claim to be "buy-back dealers," thereby falling outside the provisions of this statute. The act amends Section 715.04, F.S., by establishing definitions for "pawn" and "pawnbroker", thereby bringing under the statute any person who loans money on the deposit of personal property as security. Also, the time period in which an article placed with a pawnbroker may be sold for nonpayment has been reduced from 6 months to 90 days.

The act adds a new provision stating that it shall not be a defense to the prosecution that the pawnbroker or other person purchased any item with an agreement to sell it back within a specified period of time.

HOUSE BILL 69 (CHAPTER 84-304) amends Subsection 812.035(7), F.S., to provide, in the case of theft and related crimes, that any person who is injured as a result of the offense shall be entitled to treble damages with minimum damages in the amount of \$200 in a civil action. This act also permits the plaintiff's recovery under Section 812.035, F.S., of court costs and reasonable attorney's fees at the trial and appellate levels.

Grand Juries

HOUSE BILL 540 (CHAPTER 84-237) amends Section 905.01, F.S., to allow the chief judge of a circuit court to replace any grand juror who becomes unable to continue service. Further, only the chief judge may dispense with the convening of a grand jury.

HOUSE BILL 258 (CHAPTER 84-145) amends Section 905.34, F.S., to include violations of the provisions of the "Florida Antitrust Act of 1980" (Chapter 542, F.S.) as subject matter under the jurisdiction of the statewide grand jury. This act also amends Section 905.37, F.S., to provide that statewide grand jury members receive a \$10 fee as well as per diem and travel expenses while in attendance of a session of the grand jury.

Controlled Substances

COMMITTEE SUBSTITUTE FOR SENATE BILL 228 (CHAPTER 84-77) creates two new first degree misdemeanors in Chapter 893, F.S., the drug abuse laws: (1) withholding information from a practitioner from whom a person seeks to obtain a controlled substance that the person has within the previous 30 days obtained a controlled substance by prescription, and (2) possessing a blank prescription form without proper authorization. Second or subsequent violations of the new misdemeanors, or of any other proscribed acts in Paragraph 893.13(2)(a), F.S., would constitute a third degree felony. The act also exempts law enforcement officers from the

provisions of Section 893.13, F.S., for delivery of controlled substances for bona fide law enforcement purposes during the course of an active criminal investigation.

SENATE BILL 284 (CHAPTER 84-89) modifies the lists of controlled substances provided for in Section 893.03, F.S., in accordance with additions to the federal lists (21 C.F.R. 1308.11 - 1308.13 (1983)).

SENATE BILL 446 (CHAPTER 84-22) includes the criminal analysis laboratory located in Sanford within the statewide criminal analysis laboratory system established pursuant to Section 943.32, F.S. The Monroe County Laboratory is added to the list of locally funded laboratories which are eligible for partial state funding. Section 943.35, F.S., is amended to delete the Region IV Crime Laboratory in Seminole County from the list of criminal analysis laboratories eligible for receipt of state matching funds and to add the Monroe County Sheriff's Crime Laboratory to the list.

Miscellaneous Acts

COMMITTEE SUBSTITUTE FOR SENATE BILL 100 (CHAPTER 84-188) creates Sections 327.351 through 327.354, F.S., and amends several other existing sections of Chapter 327, F.S., to make the DUI penalties and provisions applicable to operation of boats and other vessels. The act prohibits the careless and reckless operation of boats, and provides safety rules to be followed when towing a person on skis, inner tubes, sleds or similar devices.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 588 (CHAPTER 84-105) amends Section 828.05, F.S., to allow law enforcement officers, veterinarians, and agents of certain associations to destroy incurable, diseased or injured animals without a court order and without civil liability. Guidelines are provided for euthanasia of dogs and cats by public or private animal shelters or other such facilities.

HOUSE BILL 147 (CHAPTER 84-230) amends Section 872.02, F.S., to make it a felony to cause damage in excess of \$100 to a tomb or to wantonly or maliciously disturb a tomb, gravestone, or other object intended for the protection or ornamentation of such structures.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 372 (CHAPTER 84-249) creates Section 895.09, F.S., to govern the court's distribution of cash forfeited pursuant to the "Racketeer Influenced Corrupt Organization (RICO) Act." Section 16.53, F.S., is amended to conform provisions relating to the Legal Affairs Revolving Trust Fund wherein the Attorney General retains a percentage of money recovered in an action initiated by his office; and Section 27.345, F.S., is created to provide for a Civil RICO Trust Fund to collect funds recovered by a state attorney. Other statutes are amended to conform provisions relating to the Land Acquisition Trust Fund and to the distribution of forfeiture proceeds.

HOUSE BILL 856 (CHAPTER 84-181) creates Section 849.0935, F.S., to allow certain charitable nonprofit organizations to conduct drawings by chance. The following

information must appear on all brochures, entry blanks, advertisements, and notices used in connection with the drawing: rules of the drawing, the name of the organization, the organization's principal place of business, and the source of the funds to be awarded or to be used to buy prizes. The act prohibits the promotion of drawings with predetermined winners, required entry fees or purchases, or false advertising, and requires prompt notification of winners and awarding of prizes.

SENATE BILL 2 (CHAPTER 84-183) amends Section 396.161, F.S., to authorize a county or municipality to establish alternative systems of treatment for certain alcohol abusers by adoption of an ordinance providing for construction and funding of a secure facility to be used exclusively for the treatment of certain alcohol abusers. The act authorizes detention for up to sixty days of a person who is intoxicated in a public place, appears to be incapacitated, is dangerous due to alcohol dependence, and who has left an alcohol treatment program two or more times within a twelve-month period without completing the program.

SENATE BILL 46 (CHAPTER 84-187) amends Section 843.19, F.S., making it a felony to injure or kill a police horse. It also creates Section 843.025, F.S., making it a felony to deprive a law enforcement officer of his weapon or of the means of summoning assistance.

SENATE BILL 556 (CHAPTER 84-131) creates Section 624.34, F.S., to authorize the Department of Law Enforcement to

exchange criminal history records with the Department of Insurance to assist the latter when it investigates insurers or potential insurers. The act does not apply to the licensing of general lines (property, casualty, surety, health, and marine insurance) agents, solicitors, life and health insurance agents, or insurance adjusters.

SENATE BILL 645 (CHAPTER 84-201) is an attempt to stop persons from selling fireworks (which are illegal) under the guise that they are sparklers (which are legal). Section 791.01, F.S., defines "sparkler" as a device containing less than 100 grams of the chemical producing sparks which emits showers of sparks upon burning, does not contain any explosive compounds, does not detonate or explode, is hand-held or ground-based, and cannot propel itself through the air. Section 791.055, F.S., is created to place certain restrictions upon the storage of sparklers as a precaution to avoid the danger of fire.

LOCAL GOVERNMENT*

The 1984 Florida Legislature enacted a variety of laws concerning local government. Among the issues addressed were such topics as the following: modifying the Uniform Community Development Act of 1980; changing the Community Redevelopment Act of 1969; amending the Florida Enterprise Zone Act of 1982; limiting grants and loans to community development corporations; requiring a review procedure for a local government to purchase or sell a water or sewer utility; updating the State Minimum Building Codes and bringing the plumbing, electrical, glass, manufactured buildings, and thermal efficiency codes under the minimum code; clarifying the definition of a threshold building; allowing a local government to charge interest on payments overdue from another local government; expanding municipal authority to invest surplus funds; providing an allocation formula by which to divide the amount of single-family mortgage revenue bonds authorized to be issued in the state between the Florida Housing Finance Agency and local housing finance authorities; revising the Florida Housing Land Acquisition and Site Development Program and extending the Farmworker Housing Assistance Program for five

*Prepared by Senate Economic, Community & Consumer Affairs Committee

years; and exempting certain local government property negotiation transactions from public records law for a certain period of time.

Other measures include provisions to: reorganize the Department of Community Affairs into three divisions and remove certain responsibilities relating to the study of local government problems and the provision of technical assistance and training to local governments; provide rulemaking authority to the Department with respect to certain grant programs; allow county, district, or municipal hospitals to reorganize as not-for-profit corporations; create the Handicapped and Elderly Security Assistance Act of 1984 to assist nonprofit housing authorities to carry out crime prevention and security programs; prohibit municipalities from refusing to provide utility services to occupants of rental property because of unpaid service charges of former occupants; amend laws regulating mobile homes and recreational vehicle parks; create the Municipal Motor Vehicle Racing Act of 1984; change boundary lines to include in Clay County a small portion of land presently in Putnam County; and provide for deposit of certain National Guard Armory funds in local banking institutions.

Community Revitalization

COMMITTEE SUBSTITUTE FOR HOUSE BILL 955 (CHAPTER 84-360) amends Chapter 190, F.S., the Uniform Community Development District Act of 1980. The enactment makes a number of changes to the law, including: 1) prior to filing a petition for

creation of a district of 1,000 acres or more, a petitioner shall pay a filing fee of \$15,000 to the county and to each municipality which contains a portion of the land within the district; 2) an economic impact statement (in accordance with Subsection 120.54(2), F.S.) must be included in the petition; 3) the petition must be submitted to the county and to municipalities contiguous to the district, and objection or support may be transmitted to the Florida Land and Water Adjudicatory Commission; 4) a local public hearing must be conducted by a hearing officer; 5) members of the district board shall be residents of the United States, and provisions are included for electors of the district to select the board members after a certain number of years or if the district is to levy ad valorem taxes; 6) district powers are restricted to those contained in Section 190.011, F.S., and the taking of land through eminent domain outside the district can only occur with the approval of the applicable county or municipal governing body; 7) specified powers relating to certain community facilities can be exercised by the board only with the consent of the local general-purpose government in which the power will be exercised; and 8) revenue bonds may be secured by, or payable from, the pledge of revenues from special assessments, and general obligation bonds may be issued only to finance or refinance capital projects or refund outstanding bonds.

Section 190.047, F.S., is created to provide certain requirements with respect to incorporation or annexation upon a

district attaining the required population standards. The Department of Community Affairs is required to monitor annually the status of the district for purposes of carrying out these provisions. Section 190.048, F.S., is created to require that subsequent to the creation of a district each contract for sale of real estate within the district shall include specified information relative to taxes imposed and assessments made on such property through the special taxing district.

HOUSE BILL 1218 (CHAPTER 84-356) amends Part III of Chapter 163, F.S., which authorizes a municipality or county to create a community redevelopment agency to establish and implement a redevelopment plan for a designated slum or blighted area. Among other changes to the law, the act: 1) redefines "public body" or "taxing authority" to exclude certain types of special districts; 2) includes the provision of housing for low-income and moderate-income persons in the definition of "community redevelopment"; 3) requires additional information to be included in a redevelopment plan; 4) specifies that certain projects shall not be paid for or financed by increment revenues; 5) provides that a redevelopment trust fund may be established only after the redevelopment plan is adopted; and 6) provides that the increase in the assessed value of taxable property by which a tax increment is measured is excluded from the calculations of the "rolled-back" millage rate.

The act also revises various provisions of existing law (Chapters 193, 195, 196, 205, 212, 220, and 290, F.S.) relating

to tax credits and exemptions and creates new incentives to encourage business development in enterprise zones. Provisions of the measure include: authorizing abatement of the municipal public service tax; revisions to the economic development ad valorem tax exemption; occupational license tax exemption; sales tax exemptions in enterprise zones on building materials used in rehabilitation, business property, electrical energy used, and for enterprise zone residents hired; and revisions to existing credits against the corporate income tax. The act prescribes a procedure by which the Department of Community Affairs is to approve up to twenty zones to receive the existing and newly created enterprise zone incentives, such approval becoming effective on January 1, 1987.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1196 (CHAPTER 84-240) amends Sections 290.033 - 290.038, F.S., relating to the Community Development Support and Assistance Program. The funds annually appropriated by the Legislature for the Community Development Support and Assistance Trust Fund shall be apportioned by the Legislature between loans and administrative grants to community development corporations (CDCs). Administrative costs of the program shall be annually set in the General Appropriations Act. After July 1, 1984, a CDC may not be awarded more than one administrative grant per year for up to a total of five years. If a grant is received by a CDC in a year in which no loan funds have been appropriated by the Legislature, that year is not counted for the purposes of the five-year limitation. A grant to a CDC in

any one year may not exceed \$100,000, and the Department of Community Affairs (DCA) may fund up to 18 CDCs per year, as provided for in the Appropriations Act. Loans to one CDC cannot exceed \$500,000 annually. The DCA is required to submit to the Governor and Legislature a report on the activities of CDCs funded pursuant to the act on or before October 1 each year.

Building Codes and Construction

SENATE BILL 465 (CHAPTER 84-273) amends sections of Chapter 553, F.S., relating to the State Minimum Building Codes to update references to model codes which satisfy the minimum electrical and building codes requirements and to bring Parts I, II, III, IV, and VII (relating to plumbing, electrical, glass, manufactured buildings, and thermal efficiency) under the State Minimum Building Codes. Section 553.73, F.S., is amended to allow the Board of Building Codes and Standards to amend the State Minimum Building Codes by rule. The thermostat setting required by the Florida Energy Efficiency Code for Building Construction for residential water heaters sold after October 1, 1980, is changed from 125 to 110 degrees fahrenheit, and electric water heaters shall not have a standby loss which exceeds 4 watts per square foot of tank surface per hour. Section 553.48, F.S., is amended to exempt condominiums and townhouses from the accessibility for the handicapped features required of new buildings by Part V of Chapter 553, F.S.

SENATE BILL 399 (CHAPTER 84-365) amends various sections of Chapter 553, F.S., changing the definition of a threshold building, modifying certain provisions relating to inspection of such buildings, and expanding the responsibilities of the Board of Building Codes and Standards of the Department of Community Affairs. Threshold buildings are defined as greater than three stories or 50 feet in height, or having an assembly occupancy greater than 5,000 square feet and an occupant content greater than 500 persons. The Board is to establish a voluntary program to certify persons to administer any building code or to inspect any building. Section 553.79, F.S., is amended to clarify the duties of a special inspector of a threshold building, and the Board is to establish a qualification program for special inspectors and compile a list of qualified persons.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 447 (CHAPTER 84-24) also amends Chapter 553, F.S., to change the definition of a threshold building to mean any building greater than three stories or 50 feet in height or one that has an assembly occupancy exceeding 5,000 square feet and an occupant content of more than 500 persons. Section 553.79, F.S., is amended to allow primary building permits to be issued to licensed building contractors as well as to licensed general contractors.

HOUSE BILL 747 (CHAPTER 84-66) amends Section 553.19, F.S., to update the model codes and standards which satisfy the state minimum electrical requirements.

SENATE BILL 152 (CHAPTER 84-32) revises and readopts Part IV, Chapter 553, F.S., relating to manufactured buildings. The amendments require manufacturers to obtain product liability insurance; repeal the authority of the Department of Community Affairs to require an inspection agency to obtain a surety bond; and repeal the requirement for an annual report to the Legislature by the Department. A repeal date for Part IV of Chapter 553, F.S., is set for October 1, 1994, pursuant to review under Section 11.61, F.S.

Fiscal and Budgetary Matters

COMMITTEE SUBSTITUTE FOR HOUSE BILL 603 (CHAPTER 84-178) creates a new section in Part III of Chapter 218, F.S., to provide that a local government may impose an interest penalty on any amount due it from another local government which is not made within 10 working days of the required time authorized by interlocal agreement. The state or its agencies are exempt from these provisions.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 150 (CHAPTER 84-57) amends Sections 125.31 and 166.261, F.S., to expand the list of authorized investments of surplus funds for counties and municipalities to include obligations of the Federal National Mortgage Association. Section 166.261, F.S., is further amended to authorize municipalities to invest surplus funds in ways other than those listed through the passage of an ordinance.

Housing

SENATE BILL 701 (CHAPTER 84-344) amends Part VI of Chapter 420, F.S., the Florida Housing Finance Agency (FHFA) Act, by creating Section 420.5095, F.S., to provide an allocation formula to divide the amount of single-family mortgage revenue bonds authorized to be issued in the state by the federal government. The FHFA retains 50 percent of the allocation, and local housing finance authorities receive the remaining 50 percent on a per capita basis. Unused allocations can be used by the FHFA or other local housing finance authorities; the required actions to receive an allocation are prescribed; and a small issuers pool is established.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 146 (CHAPTER 84-112) amends Part III, Chapter 420, F.S., to rename the Florida Housing Land Acquisition and Site Development Act of 1979 as the Rural Housing Land Acquisition and Site Development Act. The act limits this program to rural areas. In addition to existing authority to make loans, the Secretary of the Department of Community Affairs (DCA) is authorized to make grants to eligible sponsors to pay for the predevelopment costs of rural housing projects as identified in Subsection 420.204(2), F.S. Nonprofit organizations are included as eligible recipients for rural housing development assistance grants or loans in addition to existing local governments and housing authorities.

Part IV of Chapter 420, F.S., is amended to extend the Farmworker Housing Assistance program for five years, expiring

July 1, 1989. Grants from the Farmworker Housing Assistance Trust Fund are authorized where private assistance may also be available to aid in the site acquisition, construction, or maintenance of the housing for which assistance is requested. The definition of "local public body" is amended to more clearly identify the political entities which are eligible to sponsor or develop housing. The powers, duties, and functions of the Executive Office of the Governor relating to the Farmworker Housing Assistance Program are transferred to the DCA.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 403 (CHAPTER 84-250) amends Sections 421.05 and 421.06, F.S., to require all housing authorities created pursuant to the chapter to have at least one commissioner of a public housing authority who is a resident current in rent in a public housing project, except those housing authorities whose commissioners are the governing body of the city. The leasehold interest of any resident-commissioner of a housing project is exempted from conflict of interest provisions established in Section 421.06, F.S.

Three new sections (943.406, 943.407 and 943.408) are added to Chapter 943, F.S., to create and provide for the administration of the Handicapped and Elderly Security Assistance Act of 1984. The program is to provide financial assistance to nonprofit housing authorities owning or operating housing projects for the handicapped or elderly which will enable them to carry out crime prevention and security programs designed to reduce the criminal victimization of their

residents. The Department of Community Affairs, through its Bureau of Criminal Justice Assistance, is to administer the program, evaluate applications for funding, and monitor the funded programs. Funding is to be provided to the trust fund through legislative appropriations, moneys received from the federal government or local governments, moneys received from additional court costs or surcharges upon fines, and moneys received from any other public or private source. Costs and surcharges authorized in the act only apply in counties which have adopted an ordinance requiring collection. Section 943.405, F.S., the present law dealing with prevention of crimes against the elderly, stands repealed on October 1, 1984, the date this new act goes into effect.

Miscellaneous

COMMITTEE SUBSTITUTE FOR SENATE BILL 692 (CHAPTER 84-133) amends Section 367.051, F.S., dealing with the issuance of certificates by the Public Service Commission (PSC) to water and sewer utilities in counties opting to come under the provisions of the chapter. County and municipal governments are given standing to object to the issuance of a certificate on the grounds that it will violate local government comprehensive plans developed pursuant to Part II of Chapter 163, F.S, the Local Government Comprehensive Planning Act of 1975. The PSC shall consider, but not be bound by, the local comprehensive plan.

HOUSE BILL 384 (CHAPTER 84-149) also amends and adds various provisions to Chapter 367, F.S., relating to the regulation of certain water and sewer utilities by the Public Service Commission (PSC) in counties opting to come under the provisions of the chapter. A procedure is provided by which a utility can delete territory from its certificate. A utility desiring to extend its territory is required to meet the same notice requirements as for the original certificate. The act also limits certain rate adjustments and allows the PSC to charge interest on refunds of unjustified rate increases, conduct limited proceedings, and fine non-certificated utilities for violation of laws, rules, or PSC orders. A utility proposing to abandon service would be required to give the appropriate county commission(s) 60 days notice.

All new sections added to Chapter 367, F.S., by this act are repealed on October 1, 1989, pursuant to review under the Regulatory Sunset Act, Section 11.61, F.S.

COMMITTEE SUBSTITUTE FOR SENATE BILL 91 (CHAPTER 84-84) adds a new section each to Chapters 125, 166, and 190, F.S., to require all counties, municipalities, special districts, and community development districts to hold a public hearing and evaluate, according to certain criteria, a proposed purchase or sale of a water or sewer utility providing service to the public for compensation.

SENATE BILL 693 (CHAPTER 84-98) amends Section 155.40, F.S., to allow county, district, or municipal hospitals to reorganize as not-for-profit corporations. Any lease,

contract, or agreement made by such hospitals with a not-for-profit corporation must provide for the continued treatment of indigent patients pursuant to the Florida Health Care Responsibility Act (Part IV of Chapter 154, F.S.).

COMMITTEE SUBSTITUTE FOR SENATE BILL 706 (CHAPTER 84-241) amends Section 20.18, F.S., and reorganizes the Department of Community Affairs (DCA) into three divisions: Resource Planning and Management, Housing and Community Development, and Emergency Management. Sections 145.19, 163.03, and 171.042, F.S., are amended, deleting certain DCA responsibilities relating to the study of local government problems and the provision of technical assistance and training for local governments.

Several other sections of the statutes are amended to conform references affected by name changes. The act repeals Section 165.091, F.S., relating to DCA general powers and duties to conduct studies and publish a general census of local government with respect to each county, municipality, and special district in the state consistent with standards developed by the U.S. Bureau of the Census. Section 165.092, F.S., which provides for continuing studies by DCA of local government activities and services, is also repealed.

SENATE BILL 805 (CHAPTER 84-218) amends Section 163.03, F.S., to provide the Department of Community Affairs the authority to adopt rules by which to administer several grant programs consistent with the laws, regulations, or guidelines governing the grant to the Department.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1057 (CHAPTER 84-292) creates Section 166.045, F.S., which prohibits municipalities from refusing services or discontinuing utility, water, or sewer services to the owner, tenant, or prospective tenant of a rental unit for non-payment of charges incurred by a former occupant of the unit. Liens against the property for such unpaid service charges incurred by a former occupant are also prohibited. The provisions apply when the former occupant contracted for services with the municipality.

HOUSE BILL 125 (CHAPTER 84-26) amends Section 713.135, F.S., relating to notice of commencement and applicability of a mechanic's lien. In addition to other required information, all building permits must contain: the name and address of the property owner and the contractor; a description sufficient to identify the property; and the number or identifying symbol assigned the building permit affixed to the application by the issuing authority.

HOUSE BILL 277 (CHAPTER 84-214) creates the "Municipal Motor Vehicle Racing Act of 1984," authorizing municipalities to issue permits allowing racing events on highways, streets, or parks within the limits of the municipality and to charge fees for the permits. The municipality shall determine that the permit holder has adequate insurance against damages and prior experience in conducting racing events, and that the public health, safety, and welfare will be protected during the event. A racing event held pursuant to the act is not to be considered a public nuisance; the municipality is not liable

for damages; and the person issued a permit is responsible for restoring the area used for a racing event to a substantially similar condition as existed before the event.

HOUSE BILL 305 (CHAPTER 84-148) amends Section 171.031, F.S., to add a publicly-owned county park to the list of structures, bodies, or geographic divisions that, under certain circumstances, may separate territory sought to be annexed from the annexing municipality and still not violate the contiguity standard.

HOUSE BILL 425 (CHAPTER 84-211) changes the boundaries of Clay and Putnam Counties to transfer approximately 10 acres of Hillcrest on the Lake subdivision from Putnam to Clay County.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 836 (CHAPTER 84-160) amends Section 489.103, F.S., to exempt from regulation under Chapter 489, F.S., the installation and maintenance of water conditioning units for domestic, commercial, or industrial purposes by operators of water conditioning services. Local governments are prohibited from requiring operators of water conditioning services to become licensed, certified, or registered as plumbers or otherwise preventing the installation of water conditioning units by such operators.

HOUSE BILL 1204 (CHAPTER 84-182) amends sections of Chapters 320 and 513, F.S., relating to mobile home and recreational vehicle parks. Park trailers are included within the definition of a recreational-type unit, and the Uniform Standards Code approved by the American National Standards

Institute (ANSI A-119.5) is to be used for park trailers. Tie-down requirements and minimum installation standards are provided for park trailers used as dwelling places in a particular location for more than 45 days. Park trailers are subject to inspection in the same manner as mobile homes pursuant to Section 320.8285, F.S.

Legislative intent is provided by creation of Section 513.001, F.S. A recreational vehicle park is prohibited from qualifying for a liquor license. A mobile home park with spaces set aside for recreational vehicles is not required to obtain two licenses (a mobile home park license and a recreational vehicle park license). The Department of Health and Rehabilitative Services is authorized to refuse or suspend a permit, or impose a fine against a permittee for failure to comply with the provisions of the law. The Department is required to inspect, at least annually, each recreational vehicle park. Park operators may establish reasonable rules and regulations, and parks are required to maintain a guest register. The liability of park operators is limited for property of guests. Sections 513.14-513.38, F.S., are created to establish recreational vehicle park protections and responsibilities; including, among other things, the right of the operator of a recreational vehicle park to refuse accommodations to persons for specified reasons, the operator's right to recover premises, and the ability of the operator to prosecute a writ of distress.

HOUSE BILL 1298 (CHAPTER 84-174) amends Section 250.40, F.S., to require moneys received for certain activities occurring at a National Guard armory and from other specified sources to be deposited in local banking institutions in the county where such facility is located. The Post Council is required to disburse these funds for certain purposes according to rules established by the Armory Board. Members of the Post Council are to be prescribed by rule, and the Council is authorized to employ personnel to perform certain duties.

HOUSE BILL 1266 (CHAPTER 84-298) creates new sections in Chapters 125, 166, and 235, F.S., to exempt appraisals, offers, or counteroffers made by a county, municipality, or school board seeking to purchase real property for a public purpose from the provisions of Chapter 119, F.S. (Public Records Law), until an option contract is executed, or if no option contract is executed, until 30 days before a contract or agreement for purchase is considered for approval by the governing body. The act amends Section 119.02, F.S., to provide that a public officer who knowingly violates Section 119.07(1), F.S., is guilty of a first degree misdemeanor. Section 119.07, F.S., regarding inspection and examination of records, is amended to clarify the fees charged to make copies of public records available and the procedure to be utilized by a custodian of records exempt from examination. An exemption to the public records law is provided for certain legal papers prepared by an agency attorney for litigation or administrative proceedings until the conclusion of the proceedings.

Section 119.14 is added to Chapter 119, F.S., to create the Open Government Sunset Review Act, providing for the periodic automatic application of the open government policy to certain exemptions to Section 286.011, F.S. (Public Business), and Chapter 119, F.S. In the year prior to the repeal of an exemption pursuant to this section, the Legislature shall conduct a review of the exemption, and the criteria to be considered are provided. A schedule for exemptions to repeal is also provided.

MOTOR VEHICLES AND TRANSPORTATION*

Enactments of the 1984 Legislature in the areas of transportation include: a revision of the Florida Transportation Code; defining the role of the Department of Transportation in the areas of aviation and rail transportation; authorization for the advance acquisition of property for transportation rights-of-way by the Department and counties; the issuance of federal revenue anticipation bonds to accelerate the completion of the interstate highway system; the creation of the Florida High Speed Rail Commission; the establishment of the Florida Transportation Plan directing the Department and local governmental entities in the planning of transportation facilities; expanding the Department's participation in public transportation projects; providing for the functional classification of all public roads in the state and for their assignment to the appropriate road system; providing assistance to disadvantaged business enterprises in order to obtain contracts with the Department; the planning and development of bicycle and pedestrian ways; the Sunset Review of Chapter 479, F.S. (Outdoor Advertising) and Section 330.30, F.S. (Airport Licensing); and the Sundown Review of Chapter

*Prepared by staff of Senate Transportation Committee

427, F.S. (Coordinated Transportation Services for the Transportation Disadvantaged), and Subsection 335.075(2), F.S. (Advisory Committee on Uniform Minimum Standards for Roads and Bridges); authorization for the Department to covenant to complete revenue-producing transportation projects as a part of the Broward County Expressway System and the Orlando-Orange County Expressway System, and to enter into a lease-purchase agreement relating to construction, operation and maintenance of the Santa Rosa County Bay Bridge System and any improvements or extensions thereto.

Enactments relating to the Department of Highway Safety and Motor Vehicles (DHSMV) include: provisions to implement the International Registration Plan for trucks; requirements for the recordation of the odometer reading on a motor vehicle registration; authorization for DHSMV to send driver license cancellation, suspension or revocation notices by first class mail; the requirement that every applicant for a driver license be examined, including persons licensed in another state or country; prohibiting the operation of a motorcycle or motor-driven cycle without a driver license; creating penalties for the unauthorized use or possession of an identification card; authorizing the operation of golf carts on the state highway system under certain conditions, and exempting the operator of a golf cart from the requirement to obtain a driver license; regulating the use of sunscreen materials on motor vehicle windshields and windows; authorizing emergency vehicles to warn other vehicles through the use of red or blue lights as an

alternative to audible signals; the Sunset Review of commercial driving schools; deleting the requirement that trains emit audible warnings under certain conditions; providing length limitations for automobile carrier semitrailers; and authorization for counties and municipalities to enact ordinances providing fines for unauthorized use of parking spaces for disabled persons.

MOTOR VEHICLES

Motor Vehicle Titles, Registrations and License Plates

COMMITTEE SUBSTITUTE FOR HOUSE BILL 640 (CHAPTER 84-155), relating to motor vehicle licenses, amends Subsection 320.02(2), F.S., to require that, beginning October 1, 1984, the Department of Highway Safety and Motor Vehicles shall prescribe a form on which every motor vehicle owner shall record his vehicle's odometer reading when registering his motor vehicle. Any person who knowingly provides a false odometer reading when registering his vehicle will be guilty of a third degree felony.

Another amendment to this subsection provides that a vehicle not manufactured in accordance with the federal Clean Air Act (42 U.S.C. Section 1857 et seq. (1982)) and the federal Motor Vehicle Safety Act (15 U.S.C. Section 1381 et seq. (1982)) may not be sold to a consumer, or be titled or registered in Florida unless it is certified by the United States Customs Service or the United States Department of

Transportation as complying with the above cited federal laws. Such a vehicle may not be titled as a new motor vehicle.

Subsection (4) is added to Section 320.13, F.S., to provide that motor vehicle, mobile home and marine boat trailer dealers can obtain dealer license plates bearing the special designation "dealer." Finally, the registration period for vehicles qualifying for dealer license plates is changed to correspond to the licensing periods for motor vehicle dealers and mobile home dealers. [Other provisions of this act are discussed below in this article under the MOTOR VEHICLES section, Miscellaneous heading.]

The following provisions relating to license plates are contained in HOUSE BILL 78 (CHAPTER 84-108): Section 320.0898, F.S., is created to authorize special front designation license plates for certain emergency service and emergency management personnel for a fee of \$5; Section 320.089, F.S., is amended to authorize survivors of Pearl Harbor and Congressional Medal of Honor winners to be issued special license plates; and Subsection 320.0807, F.S., is amended to provide that state legislators are no longer limited to receiving two specially designated license plates. In a final provision, Subsection 320.0848(1), F.S., is amended to provide for the issuance of exemption entitlement parking permits to entities that provide regular transportation services to elderly or handicapped persons.

HOUSE BILL 1278 (CHAPTER 84-260) makes the necessary changes in the present law (Chapters 207, 316, and 320, F.S.)

to implement the International Registration Plan for trucks by July 1, 1985, for the 1985-86 registration period. The Department of Revenue is designated as the agency responsible for registering trucks under the Plan. The sum of \$44,000 is appropriated to the Department from the Motor Fuel Use Tax Trust Fund for the purpose of carrying out the planning provisions of this act.

The act also contains several provisions relating to truck registration and enforcement. Truck-tractor license plates with declared weight classes will be issued annually, and truck owners will be required to display the plate on the front end of the truck-tractor. Weigh station officers will inspect truck license plates and assess a penalty of five cents per pound if actual gross weight exceeds the declared weight.

Driver Licenses

SENATE BILL 130 (CHAPTER 84-265) amends Subsection 322.251(1) and Subsection 120.60(6), F.S., to authorize the Department of Highway Safety and Motor Vehicles to send orders of driver license cancellation, suspension or revocation by first class mail rather than by certified mail. Further, the act amends Subsection 322.29(1), F.S., to delete the requirement that in order to have his license reinstated following suspension, the licensee must successfully pass a complete examination. Instead, the licensee is only required to pass the vision, signs and traffic law examinations. The

Department could, however, require a driving examination under certain circumstances specified in the law.

SENATE BILL 376 (CHAPTER 84-314) amends Subsection 322.12(1), F.S., to require that the Department of Highway Safety and Motor Vehicles examine every applicant for a driver license, including applicants who are licensed in another state or country. Persons holding a restricted operator's license will not be required to pay a fee for successfully completing the driving examination and will not be required to pay the fee for a replacement license. Paragraph (e) is added to Subsection 322.21(1), F.S., to provide that an additional fee of \$4 will be charged for each initial operator's or chauffeur's license.

Appropriations are made from the General Revenue Fund to the Department of Highway Safety and Motor Vehicles, Division of Driver Licenses, for the 1984-85 Fiscal Year as follows: for salaries for 102 positions, \$577,310; for other-personal-services, \$3,000; for expenses, \$107,111; for operating capital outlay, \$170,915; and for data processing services, \$21,984.

The effective date of the act is January 1, 1985.

SENATE BILL 695 (CHAPTER 84-139) adds Subsection (4) to Section 322.03, F.S., to prohibit any person from operating a motorcycle or a motor-driven cycle unless he holds a driver license authorizing such operation, and provides that a Florida driver license issued prior to October 1, 1984, permits the licensee to operate a motorcycle or motor-driven cycle until the expiration of the license.

Under one of the provisions of COMMITTEE SUBSTITUTE FOR HOUSE BILL 142 (CHAPTER 84-111), Subsection 322.04(1), F.S., is amended to provide that any person operating a golf cart in accordance with the law is exempt from the requirement to obtain a driver license. [Other provisions of this act are discussed below in this article under the MOTOR VEHICLES section, Highway Safety and Traffic Control heading.]

SENATE BILL 396 (CHAPTER 84-91) amends Section 322.212, F.S., to create penalties for the unauthorized use or possession of identification cards issued by the Department of Highway Safety and Motor Vehicles. The penalty for violation of the act's provisions is a third degree felony, except that the penalty for a violation involving the use of a false age in an application for a driver license or identification card is a second degree misdemeanor.

Highway Safety and Traffic Control

COMMITTEE SUBSTITUTE FOR HOUSE BILL 142 (CHAPTER 84-111) amends Section 316.212, F.S., to remove the prohibition against the operation of golf carts on any part of the state highway system and authorizes operation on the system under specified conditions. Under the act, golf carts will be permitted to cross at intersections of the state highway system and a county road or city street designated for use by golf carts, provided that the Department of Transportation has approved the intersection from a safety standpoint. Further, a golf cart may be operated on a state road designated for transfer to a

local government if the Department determines that golf cart operation on the right-of-way will not impede traffic, and certain conditions are met. [Another provision of this act is discussed above in this article under the heading Driver Licenses.]

HOUSE BILL 3 (CHAPTER 84-296) creates Sections 316.2951 through 316.2957, F.S., to regulate the use of sunscreening materials, as defined, on motor vehicle windshields and windows. Sunscreening materials are defined as any product or material, including film, glazing, and perforated sunscreening which, when applied to a motor vehicle windshield or window, reduces the effects of the sun with respect to light reflectance or light transmittance.

The standards for use of such materials vary depending on which window area is involved: Windshield - sunscreening material must be transparent and is permissible only along a strip at the top which does not encroach on the driver's direct forward viewing area; Sidewings and side windows forward of or adjacent to driver's seat - sunscreening material may be applied only when tests show the material to have a total solar reflectance of visible light not to exceed 25 percent measured on the nonfilm side and a light transmittance of at least 35 percent in the visible light range; All windows behind the driver - sunscreening material consisting of film is permissible if it has a total solar reflectance of visible light not exceeding 35 percent as measured on the nonfilm side and light transmittance of at least 18 percent in the visible

light range, except that on multipurpose passenger vehicles, light transmittance must be at least 8 percent in the visible light range. Each installer or seller of sunscreening material, except factory glazing which complies with federal law, must label the motor vehicle as specified in the act.

Any person who operates a motor vehicle on which, after the effective date of the act (June 20, 1984), material is installed in violation of the act's provisions, will be guilty of a second degree misdemeanor. Replacement or repair of any material legally installed is not a violation of the act. Any person selling or installing suncreening material in violation of the act after the effective date will also be guilty of a second degree misdemeanor. The act's provisions do not apply to manufacturers' tinting or glazing which complies with federal laws and regulations.

Under the provisions of COMMITTEE SUBSTITUTE FOR SENATE BILL 427 (CHAPTER 84-73), which amends Chapter 351, F.S., any railroad train approaching within 1500 feet of a public at-grade crossing will be required to emit an audible warning signal for such distance, except that railroad trains of a railroad company operating wholly within this state are prohibited from emitting such warning signal between the hours of 10 p.m. and 6 a.m., if: (1) the crossing is equipped with a train-activated traffic control device (flashing lights, bells and crossing gate); (2) the county or municipality has, by ordinance, prohibited audible warnings during those hours; and (3) the county, municipality or state has erected signs at the

crossing stating that audible warnings will not be sounded during those hours. This provision is not to be construed to nullify the liability provisions of Section 768.28, F.S.

The penalty for violation of Subsection 316.1575(2), F.S., prohibiting driving around, through or under closed railroad crossing gates, is increased from \$25 to \$50.

SENATE BILL 744 (CHAPTER 84-204) amends Subsections (1) and (3) of Section 316.126, F.S., to authorize emergency vehicles en route to an existing emergency to warn other traffic by giving visible signals by red or blue lights as an alternative to audible or other signals. Upon use of the visible signal, other traffic is required to yield the right-of-way to the emergency vehicle.

Commercial Driving Schools: Sunset

HOUSE BILL 400 (CHAPTER 84-150) reenacts Chapter 488, F.S., relating to the licensing of commercial driving schools and amends certain provisions of the chapter. Chapter 488, F.S., is repealed on October 1, 1994, and is scheduled for legislative review pursuant to the Regulatory Sunset Act. Included in the modifications to the chapter are: an increase in the annual license renewal fee from \$50 to \$100; the establishment of a fee schedule for both instructor and vehicle certifications; a requirement that an agent obtain an identification card and the establishment of a fee for such card; and the authorization for the Department of Highway

Safety and Motor Vehicles to charge a fee for the issuance of a duplicate certificate.

Miscellaneous

HOUSE BILL 1275 (CHAPTER 84-259) relates to aircraft registration, and amends Chapter 329, F.S., to create two new provisions relating to the submittal of false aircraft ownership information to governmental entities:

- 1) Any person who knowingly supplies false information to any governmental entity concerning the name, address, business name or business address of the owner of any aircraft located or operated in the state is in violation of the section.
- 2) It is a violation of the section for any person or corporate entity to knowingly inform any governmental entity that an aircraft located or operated in this state is owned by it or owned by another firm, business, or corporation, and it is determined that such corporate entity or other firm, business or corporation represented to be the owner:
 - a) Is not, or has never been a legal entity in this state;
 - b) Is not, or has never been a legal entity in any other state; or
 - c) Has lapsed into a state of no longer being a legal entity in this state as defined by Chapter 607 and Section 865.09, F.S., and no documented

attempt has been made with the Secretary of State to correct such information with the governmental entity for a period of 90 days after the date on which such lapse took effect.

Further, in regard to liens on aircraft, the act requires that the lienor record his lien within 90 days after the time the labor, services or materials were last furnished.

Automobile carrier semitrailers are exempted from certain length limitations by HOUSE BILL 864 (CHAPTER 84-122) which amends Subsection 316.515(3), F.S. Except as otherwise mandated by federal law, such carriers may not exceed 50 feet in length, exclusive of load; provided, however, that the load may extend up to an additional 3 1/2 feet beyond the rear of the semitrailer.

HOUSE BILL 326 (CHAPTER 84-234) amends Section 316.008, F.S., to authorize counties and municipalities to enact ordinances providing fines for violations of the law restricting the use of parking places designated for the exclusive use of disabled persons. Such fines may not exceed \$100.

With respect to the posting of parking places for disabled persons by nongovernmental entities, the act amends Section 316.1956, F.S., to authorize use of the accepted wheelchair symbol or the caption "Parking by Disabled Permit Only," rather than requiring both the symbol and the caption as previously provided by law.

Several provisions of COMMITTEE SUBSTITUTE FOR HOUSE BILL 640 (CHAPTER 84-155) relate to motor vehicle dealers. The license period for independent motor vehicle dealers is changed to run from May 1 to April 30. All initial motor vehicle dealer license applications submitted to the Department of Highway Safety and Motor Vehicles after January 1, 1986, must be accompanied by verification that the applicant or a designated employee has, within the preceding 6 months, attended a training and information seminar conducted by the Department. The act also specifies additional grounds for the denial, suspension or revocation of a motor vehicle dealer's license or a mobile home or recreational vehicle dealer's license. Finally, the act provides that no license is required when one or more franchised motor vehicle dealers display their vehicles for a period of not more than seven days at a location other than their established place of business. [Other provisions of this act are discussed above in this article under the heading Motor Vehicle Titles, Registrations and License Plates.]

TRANSPORTATION

Florida Transportation Code Revision

SENATE BILL 352 (CHAPTER 84-309) amends and revises Chapters 334 through 339 and 341, F.S., the "Florida Transportation Code." [This act is the first significant revision to the Code since its enactment in 1955.] Certain subject matter is transferred between chapters for purposes of

better organization; some existing provisions are amended or deleted to reflect current practices of the Department of Transportation; many substantive or technical changes to the chapters are aimed at strengthening or clarifying provisions of the Code; and other pertinent sections of the statutes are amended to conform. Chapters 348 and 349, F.S., relating to expressway authorities and to the Jacksonville Transportation Authority, are made a part of the Code in their entirety. Many obsolete and/or redundant sections of Chapter 340, F.S. (Florida Turnpike Law), are repealed, and the remaining applicable provisions are made a part of the Code by transfer to Chapter 338, F.S. (Limited Access and Toll Facilities), wherein they are renumbered as Sections 338.22 through 338.36, F.S.

Section 20.23, F.S., which creates the Department of Transportation and establishes its organization structure, is amended to delete the requirement that the head of the Department (Secretary of Transportation) shall serve full time and be a professional engineer. Instead, in order to qualify, the amended version of this section provides that such person would have to be a proven, effective administrator who, by virtue of education and experience, has a broad knowledge of the administrative, financial and technical aspects of the development, operation and regulation of transportation or comparable systems and facilities. The Secretary would be required to appoint a deputy secretary who would serve at his pleasure, whose qualifications would have to be similar to

those of the Secretary, and who would act in the absence of the Secretary.

The Florida Transportation Code is to consist of the following revised chapters of the Florida Statutes. (All chapters in the Code are to be considered components of the total Code, and the provisions therein shall apply to all chapters unless they are expressly limited in scope.)

1) Chapter 334, F.S. Transportation Administration)

Two new sections are added to this chapter, one defining the purpose of the Code and the other setting out the general powers and duties of the Department of Transportation. Section 334.035, F.S., is created to provide the purpose of the Code which is to establish the responsibilities of the state, the counties and the municipalities in the planning and development of the transportation systems serving the people of the state; and to assure the development of an integrated, balanced statewide transportation system as necessary for the protection of the public's safety and general welfare, and for the preservation of all transportation facilities in Florida. Section 334.044, F.S., is created to provide the general powers and duties of the Department. Several sections in the Code dealing with conflict of interest are consolidated and transferred to this chapter (see Sections 334.193 and 334.195, F.S.). Qualifications for heads of certain divisions within the Department are established which require such persons to be professional engineers; duties of the internal auditor are

defined; and several obsolete provisions relating to the former county secondary road system are deleted.

2) Chapter 335, F.S. (State Highway System)

This chapter provides for designation and systemization of public roads. Amendments and revisions of this chapter which are provided in the act include: provisions relating to notice of public hearings concerning designations or relocations of roads as part of the state highway system; clarification of the Department's authority and responsibility concerning regulations for vehicles operating on the state highway system; amendments relating to the Department's responsibility for the functional classification of all public roads; and expansion of the factors used for functional evaluations to include other than just quantitative criteria. Language is added requiring the appropriate governmental entity to maintain access roads to the state parks; and requirements concerning biennial inspections of bridges on all public roads is clarified and expanded and the minimum qualifications for bridge inspectors are amended to provide that such persons either be registered engineers with expertise in civil engineering or have at least five years experience in bridge construction or maintenance inspection assignments. Other changes involve regulations concerning erection and maintenance of signs on state highways and traffic control devices on state highways or park road systems; regulations governing removal, cutting or defacing of trees or other vegetation on rights-of-

way; and requirements concerning detours of traffic from roads on the state highway system.

3) Chapter 336, F.S. (County Road System)

Sections 339.083 (County Transportation Trust Fund), 339.089 (use by counties of the surplus from the constitutional gas tax), and 335.075 (uniform minimum standards for design, construction and maintenance), F.S., were transferred to Chapter 336, F.S., because the provisions of these sections are applicable to the counties and not to the Department of Transportation. (See Sections 336.022, 336.023 and 336.045, F.S.) Two new sections are created: Section 336.024, F.S. (distribution of constitutional gas tax), and Section 336.467, F.S. (county-state rights-of-way acquisition agreements). Several redundant or obsolete sections are repealed.

4) Chapter 337, F.S. (Department of Transportation; Contracts; Acquisition and Disposal of Property; Utilities)

The threshold amount above which the Department must purchase materials, machinery, equipment and supplies by competitive bid is raised from \$3000 to \$5000. The section relating to conflict of interest (Section 337.045, F.S.) is transferred to Chapter 334, F.S. (Section 334.195, F.S.). The provision relating to the sale of obsolete equipment (Section 337.05, F.S.) is repealed since the Department of General Services is now charged with the responsibility for disposal of state equipment. A provision is added giving the Secretary of Transportation the authority to waive the requirement for

competitive bids in the event of an emergency if the time required for such bids would be detrimental to the best interests of the state.

The authorized use of supplemental agreements in construction contracts is amended to cover contract disputes in order to reflect current practice; applicants for a certificate of qualification to bid on Department of Transportation projects must submit a financial statement with certain specified information; and the Department is required to make final payment to a contractor within 90 days after receipt and acceptance of all required contract documents, or within 30 days after the settlement of a claim. Other changes include provisions relating to contractors who are delinquent on contract work; the authority of the Department to acquire, lease and dispose of real and personal property; regulations concerning negotiations for the acquisition of rights-of-way and notice to the property owner from the Department; and requirement for submission of bid guaranty bonds for proposals on Department work for construction contracts in excess of \$150,000.

The board that arbitrates disputes between the Department and contractors is renamed the State Arbitration Board (instead of the State Road Arbitration Board), and the jurisdiction of the Board is increased to matters of \$100,000 or less and the terms of the membership are limited to three consecutive two-year terms. Also, persons such as engineers

and architects who provide professional consultant services to the Department are required to provide liability insurance.

5) Chapter 338, F.S. (Limited Access and Toll Facilities)

The revised version of this chapter provides authorization to the Department of Transportation to place general motorist service signs on the rights-of-way of limited access facilities and to establish a fee schedule for the placement of specific business logo signs. The surviving provisions of Chapter 340, F.S. (Florida Turnpike Law), are transferred to this chapter (see Sections 338.22 through 338.36, F.S.), the sections are consolidated and unnecessary language deleted. Any governmental entity wishing to acquire, construct, maintain or operate a turnpike project must receive specific authorization from the Legislature. The Department may authorize engineering and traffic studies to determine the feasibility of turnpike projects in the state. If such projects are feasible, the Department with legislative approval may construct, maintain and operate such projects. Bonds authorized to finance turnpike projects must be issued in accordance with the State Bond Act (Sections 215.57 through 215.83, F.S.).

6) Chapter 339, F.S. (Transportation Finance, Planning, and Miscellaneous Provisions)

Section 339.08, F.S., is amended to reflect existing policy that authorizes the use of moneys in the State Transportation Trust Fund to pay the cost of public

transportation projects in accordance with Chapter 341, F.S. (relating to public transit and airport development and assistance). Section 339.081, F.S., is amended to reflect the names of the current trust funds of the Department maintained by the State Comptroller. Other changes provide for the Department to hold a public hearing in at least one urbanized area in each transportation district prior to the annual adoption of the five-year transportation plan; Section 334.211, F.S., relating to transportation planning, is transferred to this chapter and renumbered as Section 339.155, F.S.; Section 334.215, F.S., relating to Metropolitan Planning Organizations (MPOs) is transferred to this chapter and renumbered as Section 339.175, F.S. MPOs are directed to submit to the appropriate Department district engineer a five-year plan of work to be undertaken by the governmental entities within an MPO's jurisdiction. The plan shall be prepared by the MPO with the approval of the governing entity responsible for the construction and maintenance of the work described in the plan.

Section 339.24, F.S., (relating to beautification of roads by the Department) is amended to require the Department to plan a statewide beautification program; and Section 339.30, F.S. (unlawful use of limited access facilities) is repealed. (The provisions of Section 339.30, F.S., which are not already covered in Chapter 316, F.S., are transferred to that chapter by this act through an amendment to Section 316.130, F.S., relating to pedestrian obedience to traffic control devices and traffic regulations. This amendment to Section 316.130, F.S.,

prohibits pedestrians from walking upon limited access facilities or ramps connecting such facilities to other streets or highways.) Section 339.27, F.S., which prohibits fishing from state road bridges and stopping, standing or parking a vehicle in specified public transportation areas, is transferred to Chapter 316, F.S., renumbered as Section 316.1305, F.S., and amended to provide certain exemptions concerning disabled vehicles, to allow limited parking for such vehicles or for persons rendering aid to injured persons or disabled vehicles. Also repealed is Section 339.33, F.S., relating to the manufacture of road signs in state prisons. (Since the Department has its own sign shop, it no longer obtains such signs from state prisons.)

7) Chapter 341, F.S. (Public Transit; Airport Development and Assistance)

Sections 341.201 through 341.205, F.S., are added to this chapter to reflect the current role of the Department of Transportation in the area of aviation. These sections are entitled the "Florida Airport Development and Assistance Act." The act prohibits the Department: from regulating commercial air carriers regulated by the federal government; from participating in or exercising control in the management and operation of a sponsor's airport except upon request; or from expanding the Department's design or operational capability in the area of airport or aviation consultant's contract work, other than to provide technical assistance as requested. Definitions are provided and the Department's duties and

responsibilities in aviation are enumerated. Federal funding of individual airport projects are to continue to be wholly between the local sponsors and the federal government. The Department is required to prepare and continuously update a five-year aviation and airport development plan based on a collection of the local sponsors' proposed projects and shall provide priority funding in support of such projects. Funding requested by the Department for aviation shall be based on the aviation and airport development plan. Funding participation ratios are established to provide for the portion of certain projects the Department may fund.

8) Chapters 348 and 349, F.S. (Expressway Authorities and the Jacksonville Transportation Authority)

Chapter 348, F.S., contains the statutes which create and regulate the Brevard County Expressway Authority, the Broward County Expressway Authority, the Tampa-Hillsborough County Expressway Authority, the Orlando-Orange County Expressway Authority, the Palm Beach Expressway Authority, the Pasco County Expressway Authority, the St. Lucie County Expressway Authority, and the Seminole County Expressway Authority. Chapter 349, F.S., provides for the Jacksonville Transportation Authority. Both of these chapters are incorporated into the Florida Transportation Code in their entirety.

Transportation Planning

The Florida Transportation Plan is established under the

provisions of SENATE BILL 868 (CHAPTER 84-332), which renumbers Sections 334.21, 334.211, and 334.215, F.S., as Sections 339.135, 339.155, and 339.175, F.S., respectively. The act amends these sections to provide that the mandated planning functions of state and local governmental entities must be undertaken consistent to the maximum extent feasible with the policies and guidelines section of the Plan. In developing the Plan the Department of Transportation (DOT) must consider its consistency with regional and local government comprehensive plans and must coordinate the development with affected state agencies, regional planning agencies, Metropolitan Planning Organizations (MPOs), other local governmental entities, private business enterprises and the general public.

Regional Planning Councils (RPCs) are required to develop transportation goals and objectives as an element of their comprehensive regional policy plans. The goals and objectives must be consistent, to the maximum extent feasible, with the goals and objectives of the MPOs and the policies and guidelines section of the Plan. The RPCs' goals and objectives are to be advisory only.

MPOs' plans are to be developed to the maximum extent feasible with the goals and objectives of the RPCs. The RPCs must review urbanized area transportation plans and provide written recommendations to the DOT and the MPOs which shall take them under advisement.

The act creates the MPO Advisory Committee comprised of a representative from each MPO in the state. The Committee is

charged with making recommendations to the DOT concerning the Plan and is to augment the role of the individual MPO.

The DOT must institute a systematic planning process for developing the Plan which is to be reviewed and updated annually. At a minimum the Plan shall consist of the following sections: (a) transportation policies and guidelines; (b) transportation modes; (c) transportation corridor designation and coordination; (d) performance monitoring; and (e) five-year program plan.

Under other provisions of SENATE BILL 868 (Chapter 84-332) the Department's five-year construction plan is renamed as the five-year transportation plan, and projects may not be undertaken unless they are in the plan. The plan shall be developed cooperatively with the various MPOs of the state and shall include, to the maximum extent feasible, the transportation plans, project priorities, and transportation improvement programs (TIPs) of the MPOs. The Department must provide written justification to an MPO if a project in its TIP is rescheduled or deleted.

Prior to adopting the five-year construction plan a public hearing must be held by the DOT in at least one urbanized area in each district and the DOT must make a presentation to each MPO to determine the necessity for making changes. The MPO may request, in writing, further consideration of specific projects not included or adequately addressed in the plan.

Aviation and Rail Transportation - DOT Role

COMMITTEE SUBSTITUTE FOR SENATE BILL 869 (CHAPTER 84-333) creates Sections 341.301 through 341.303, F.S., to outline the role of the Department of Transportation in the area of rail transportation. The Department's authority is expanded in certain areas including the provision of new rail services and equipment based on public need and other factors, and the provision of emergency rail service if not otherwise available.

Any rail project that is consistent with the Department's transportation plan and is included in the five-year work program will be eligible for state funding in accordance with capital and operating assistance funding ratios established by the act.

Rail service development projects are limited to three years' duration. These projects must be identified in the Department's appropriations request according to certain specified requirements, and will be eligible for funding in their third year only if they attain an operating ratio of 60 percent or more during the second year.

State funding participation levels are established as follows: In the area of capital assistance, the state may fund up to 50 percent of the nonfederal share of local projects, except that state funding may not exceed 12.5 percent of total project cost in nonfederally funded projects having a total capital cost of \$1 million or more; and up to 100 percent of any project that is statewide in scope. In the area of operating assistance for rail service development projects, the

state may fund up to 50 percent of the capital and net operating costs of projects that are local in scope, and up to 100 percent of the capital and net operating costs of projects that are statewide in scope.

The Department of Transportation's role in air transportation is contained in SENATE BILL 584 (Chapter 84-320) which creates Sections 341.201 through 341.205, F.S., to establish the "Florida Airport Development and Assistance Act" within Chapter 341, F.S., and specifies the duties and responsibilities of the Department of Transportation in administering this act.

The Department is authorized to receive federal aid grants for statewide projects if no local sponsor is available, but federal funding of individual local airport projects is to continue to be wholly between local airport sponsors and the appropriate federal agencies.

The Department is required to prepare and continuously update a five-year aviation and airport development plan based on a collection of the local sponsor's proposed projects which will be included in the Department's five-year transportation plan. The aviation and airport development plan must be consistent with the statewide aviation system plan and local plans.

Aviation and airport development funds are to be requested on the basis of the funding required for the aviation and airport development plan. Only airport access transportation facility projects which are necessary to provide

direct connection to a public-use airport from the nearest practicable transportation facility are eligible for the use of aviation and airport development funds. No single airport may secure more than 25 percent of the total project funds available in any given year.

State funding participation levels for capital costs are established. In federally assisted projects, the Department may fund up to 50 percent of the nonfederal share of eligible local projects, not to exceed 12.5 percent of the total project cost of all projects except those for the nonrevenue-producing portions of terminal facilities. In such terminal facilities projects the level of state participation may be 25 percent if the federal contribution is limited to 50 percent. The state's contribution in nonfederally funded projects which cost \$1 million or more may not exceed 12.5 percent of the total project cost. In cases of projects that are statewide in scope the Department may fund up to 100 percent of the cost of the project. The Department may also advance up to 75 percent of the cost of land acquisition for new airports with repayment due upon receipt of federal funds or within 10 years, whichever is earlier.

The provisions of the act specifically prohibit the Department from: regulating commercial air carriers operating pursuant to federal authority and regulations; participating in or exercising control in the management and operation of a sponsor's airport unless requested; or expanding the

Department's design or operational capability in the area of airport and aviation consultants contract work.

Public Transportation

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1030 (CHAPTER 84-340) amends Chapter 341, F.S., relating to the role of the Department of Transportation (DOT) in the area of public transit. Among the additional transit responsibilities given the Department are the requirements to: develop, publish and administer state standards for privately owned or operated transit systems financed wholly or in part by state funds; provide transit service through contracts with existing publicly or privately owned transit systems where the service represents the transit element of a corridor project; and assist local governmental entities and other transit operators to achieve the most effective use of resources and to increase revenue sources whereby transit systems could become self-sufficient.

Service development projects are divided into four functional areas (system operations, system maintenance procedures, marketing and consumer information programs, and system technology), and the duration of two of the categories (system operations and maintenance procedures) is increased to three years. The remaining two areas continue to have a duration of two years.

Transit corridor projects are established as a new program eligible for state funding. Project duration may not

exceed two years unless reauthorized by the Legislature for an additional two years. In order to be eligible for state funding a project must be in the local transportation improvement program and the Department's five-year transportation plan and must meet the program objectives of Section 341.041, F.S. The projects must also be approved as being consistent with the Florida Transportation Plan and regional transportation goals and objectives.

The policy on state participation in certain transit programs is stipulated. Department participation in the final design, rights-of-way acquisition, and construction phases of individual fixed guideway projects which are not approved for federal funding may not exceed 12.5 percent of the total cost of each phase.

The Department is authorized to advance up to 80 percent of the cost of any eligible project that will assist Florida's transit systems to become fiscally self-sufficient. Such advances shall be reimbursed to DOT on an appropriate schedule not to exceed five years.

The Department is further authorized to fund up to 100 percent of the capital and net operating costs of statewide transit service development projects and transit urban corridor projects. DOT may fund up to 50 percent of the capital and net operating costs of transit service development projects that are local in scope and which will improve system efficiencies, ridership, or revenues.

Section 341.061, F.S., is created to provide that minimum statewide safety standards for all bus and fixed guideway transit systems operating in this state are to be developed by the Department for those systems funded wholly or in part with state funds. At a minimum the standards shall embody existing federal transit safety regulations, guidelines and criteria for the development, operation, and maintenance of bus and fixed guideway systems.

Finally, the Department shall conduct safety reviews of fixed guideway public transit systems to audit compliance with adopted standards, and shall ensure that all transit buses in the state are subject to annual safety inspections. Those public entities with inspection capability may be authorized by the Department to perform the inspections and must certify the annual inspection of each bus.

Right-of-Way Acquisition

COMMITTEE SUBSTITUTE FOR SENATE BILL 569 (CHAPTER 84-319) amends Section 337.27, F.S., to expand the Department of Transportation's authority to exercise its power of eminent domain for securing transportation rights-of-way. Under the act, the Department could acquire an entire block or tract of land if acquisition costs will be equal to or less than the cost of acquiring a portion of the property. Further, if property needed for rights-of-way falls within a designated transportation corridor, the Department could acquire the property prior to preparation or completion of design or

construction plans. However, design plans must be initiated within ten years or completed within 12 years of the acquisition date. If not, the Department must notify the Legislature. Funds for property acquisition under this provision must be specifically appropriated and may be used only for that purpose. Subsection 127.01(1), F.S., is amended to provide that counties are also authorized to exercise these powers.

Finally, if the Department condemns property and then fails to devote the property to the use for which it was condemned within five years, the original owner will have four months to purchase the property at the condemnor's original purchase price plus interest. Otherwise, the Department will dispose of the property in accordance with current law. The term "use" is defined as inclusion in the Florida Transportation Plan. Notice is required to be provided to the condemnee at the time the property is acquired, and failure to provide notice renders the condemnor liable for damages, costs and reasonable attorney fees.

Florida High Speed Rail Transportation Commission

The Florida High Speed Rail Transportation Commission is created by COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 944 (CHAPTER 84-207) within the Department of Transportation, and consists of seven members appointed by the Governor subject to Senate confirmation. The members, who may not receive compensation for their services, are entitled to

per diem and traveling expenses. Appointments are for four-year terms and members are eligible for reappointment. They may appoint an executive director and other necessary staff who are exempt from the Florida Career Service System. Among the powers and duties of the Commission is the authority to award an exclusive franchise for a high speed rail line, to issue bonds in conjunction with high speed rail service, and to acquire property.

The Commission may issue bonds to provide the funds necessary to implement a high speed rail system (defined as a fixed guideway transportation system capable of operating at speeds in excess of 120 m.p.h.), but any bonds issued by the Commission may not constitute a debt, liability, or obligation of the Commission, the state or any political subdivision; and the Commission may not pledge the full faith and credit of the state, any political subdivision or itself to the payment of debt service. Any bonds would be issued on behalf of and in the name of the Commission and must be payable solely from the revenues derived from the high speed rail system.

The Commission shall submit proposed legislation to the Legislature by March 1, 1985, which provides for the financing of the high speed rail line.

The Commission may issue requests for proposals for the provision of a high speed rail line and may impose fees for a franchise application. Any application for a franchise must contain a certification component and a franchise component. The certification component, which is composed of rail line and

ancillary facilities elements, addresses the land use, governmental, and environmental impacts of the rail line while the franchise component must address the financial and operational aspects of the proposal.

The Commission is responsible for reviewing the franchise component for completeness, while the Department of Environmental Regulation (DER) has responsibility for coordinating the review of the rail line element of the certification component, and the Department of Community Affairs (DCA) coordinates and reviews the ancillary facilities element.

A Franchise and Environmental Review Committee (FERC) is established consisting of the heads of several state agencies and representatives of environmental organizations, local governments, minorities, and the state's business community. The Committee is required to hold public hearings in the vicinity of any proposed corridor to receive local input and is to provide recommendations to the Commission concerning the certification component of each application. Within 60 days of receipt of the FERC recommendations the Commission must select no more than three applicants for more detailed review. The Commission has to request that the Division of Administrative Hearings designate a panel of three hearing officers to conduct the certification hearings, and the Commission, DER and DCA must each review for sufficiency those parts of the three applications for which they have responsibility. If found to be sufficient a process is established whereby affected local

governmental units and state agencies have eight months to review the applications for the potential impact to their areas of jurisdiction. Local governments must conduct at least one combined public meeting and land use and zoning hearing. Those agencies whose area of jurisdiction are affected by the proposed rail line must each prepare reports for submission to DER or DCA.

No later than 11 months after the applications have been determined to be sufficient, the Department of Administrative Hearings (DOAH) officer must conduct a certification hearing pursuant to Chapter 120, F.S. Upon conclusion of the hearing the hearing officer shall issue a recommended order to the Board (the Governor and Cabinet sitting as the Land and Water Adjudicatory Commission).

Within 30 days after receipt of the hearing officers' recommended order, the Board is required to prepare a written order on each certification component, and it may either approve each certification component in whole or with modification and conditions, or it may deny the certification.

Upon the completion of its assessment of each franchise component and within 30 days of receipt of the Board's final order on each certification component, the Commission shall award the franchise. The award is the final order of the Commission and must contain all the terms and conditions of the Board's certification order. The Commission is authorized to include the terms and conditions in the franchise that it deems appropriate to protect the Commission's interest and to ensure

that the franchise is capable of constructing the rail line in a timely manner.

A franchise awarded by the Commission and certified by the Board shall be the franchisee's sole license and authority to construct and operate the rail line, transit station and transit station appurtenant building, and shall constitute the Commission's license and authority for the franchisee to construct and operate the ancillary facilities. The franchisee must comply with the State Minimum Building Codes (Section 553.73, F.S.) as it applies to the transit station and transit station appurtenant building. The certification remains valid for the term of the franchise if construction is commenced within five years of the date of franchise or a later date authorized by the Commission.

Fees are established for the initial application, franchise and certification component application, application amendment and certification modification, and the franchise. The various fees are to be used either to pay the expenses associated with the processing of the application including the public hearings or, in the case of the franchise fee, to cover the cost of regulating the high speed rail line.

The Department of Transportation (DOT) is required to grant multiyear vehicle operation easements within state-owned highway rights-of-way to the franchisee of a high speed rail line, provided that the granting of such easements is consistent with applicable state and federal laws. If requested by the Commission, the DOT shall exercise the power

of eminent domain to obtain title to any real property needed for the rail line, transit station, transit station appurtenant building or ancillary facilities. The property would be conveyed to the Commission and title would be held in the name of the state.

The act encourages the participation of minority business enterprises in all phases of economic and community development, and requirements are placed upon the franchisee to involve and utilize minorities, women, and socially and economically disadvantaged business enterprises in the development of the rail line.

Expressway and Bridge Authorities

Under the provisions of SENATE BILL 756 (CHAPTER 84-374) the Department of Transportation (DOT) is authorized to covenant to complete a revenue-producing transportation project as a part of the Broward County Expressway System. The project is to be financed principally from the proceeds of State of Florida Expressway Bonds, issued for and on behalf of the Broward County Expressway Authority, in an amount not to exceed \$200 million. The project consists of the "Sawgrass Expressway" and the "Deerfield Expressway," both of which have been collectively referred to by the Authority as the "Sawgrass Expressway." Both components of the project are limited access arterial highway facilities.

No bonds may be sold until the Authority and the DOT have made updated cost estimates and determined that the cost

of the project will not exceed the funds projected to be available, excluding any moneys in the State Transportation Trust Fund. If it is determined that the projected available funds are not sufficient, the DOT's covenant is null and void.

The lease-purchase agreement between the Authority and the DOT must provide for the expeditious repayment of all costs incurred by the Department as a result of the authorized covenant to complete. The repayment shall be made from excess tolls or constitutional gas tax proceeds not required for debt service or other required deposits of the bonds. The agreement shall further provide that all operating and maintenance costs of the facilities be repaid annually from excess tolls or the surplus of the 80 percent constitutional gas tax to the extent that such revenues are legally available.

If tolls and the pledged portion of the constitutional gas tax are insufficient to satisfy debt service requirements on the bonds in a given year, funds appropriated to the DOT and programmed by it for state projects in Broward County must be used to satisfy such requirements prior to invoking the full faith and credit of the state.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 686 (CHAPTER 84-372) also authorizes the Department of Transportation (DOT) to covenant to complete a revenue-producing transportation project to be a part of the Orlando-Orange County Expressway System. The project, which is to be a four-lane limited access expressway toll facility, is to be financed principally from State of Florida expressway bonds, issued for and on behalf of

the Orlando-Orange County Expressway Authority in an amount not to exceed \$75 million.

No bonds may be sold until the Authority and the DOT have made updated cost estimates and determined that the total cost of the project will not exceed the funds projected to be available, excluding the proceeds of the State Transportation Trust Fund and construction bids have been received on the project. The covenant shall be null and void if the determination or the bids reveal that the projected available funds are not sufficient.

The lease-purchase agreement between the Authority and the DOT must provide for the expeditious repayment of all costs incurred by the Department as a result of the authorized covenant. The repayment shall be made from excess tolls or constitutional gas tax proceeds not required for debt service or other required deposits of the bonds. The agreement shall further provide that the DOT be reimbursed annually for all operating and maintenance costs of the facilities from excess tolls or from the surplus of the 80 percent constitutional gas tax.

The Department and the Board of County Commissioners of Orange County are authorized to defer receipt of payments or reimbursements due to either or both from prior bond issues, until the 1984 bonds have been retired or until an earlier date agreeable to them, the Expressway Authority, and the State Board of Administration.

If tolls and the pledged portion of the constitutional gas tax are insufficient to satisfy debt service requirements on the bonds in a given year, funds appropriated to the DOT and programmed by it for state projects in Orange County must be used to satisfy such requirements prior to invoking the full faith and credit of the state.

The "Santa Rosa Bay Bridge Authority" is created by HOUSE BILL 1068 (CHAPTER 84-354) as Part IX of Chapter 348, F.S., consisting of Sections 348.965 through 348.974, F.S. The Authority consists of seven members, three appointed by the Governor, three appointed by the Board of County Commissioners of Santa Rosa County, and the seventh being the District Engineer of the Department of Transportation's Third District who will serve in an ex-officio capacity. None of the members may be elected officials at the time of appointment.

The Authority is given the right to acquire, construct, maintain, operate and lease the Santa Rosa County Bay Bridge System (System) and any extensions, additions or improvements thereto.

The Authority is empowered to issue bonds on its behalf, pursuant to the State Bond Act (Sections 215.57 through 215.83, F.S.), for the acquisition and construction of the System and may enter into a lease-purchase agreement with the Department of Transportation (DOT) relating to its construction, operation and maintenance. Upon completion, the System is to be a part of the state highway system and therefore the DOT may be appointed by the Division of Bond Finance of the Department of

General Services as its agent for the purpose of constructing improvements and extensions of the System and for its completion.

The Authority is granted the power to acquire necessary private or public property by negotiations or through eminent domain proceedings, and may acquire entire lots, blocks or tracts of land if to do so will best serve the public interest.

Disadvantaged Business Enterprises

SENATE BILL 847 (CHAPTER 84-370) amends Section 339.081, F.S., to provide a training and bond guarantee program for socially and economically disadvantaged business enterprises. Mechanisms are provided by which the Department of Transportation will implement the provisions of current law requiring that not less than ten percent of the amount expended from the State Transportation Trust Fund be expended with disadvantaged business enterprises (DBEs), as defined by federal law.

Under the act, the Department is authorized to expend up to six percent of the required ten percent for a construction management development program for DBEs certified under federal requirements or firms having annual gross receipts not exceeding \$2 million averaged over a three-year period. The program will consist of classroom and on-the-job instruction, and curriculum development will be accomplished by the Department under contract with various educational institutions.

Further, the Department is authorized to expend up to four percent of the required ten percent on a bond guarantee program for certified DBEs under which the state will guarantee up to 90 percent of a bond of \$250,000 or less, and 80 percent of a bond greater than \$250,000. Any participant in the program must place five percent of the contract amount in reserve with the Department until final acceptance of the work.

The Department is required to report annually to the Legislature and to the Governor on the progress of the programs. An appropriation of \$25,000 is made to the Department of Transportation from the State Transportation Trust Fund for fiscal year 1984-85, for the purpose of carrying out the provisions of this act.

Transportation Finance

In order to accelerate the completion of the interstate highway system in Florida, SENATE BILL 908 (CHAPTER 84-289) adds Subsection (4) to Section 337.34, F.S., to authorize the Division of Bond Finance of the Department of General Services (DGS) to issue federal revenue anticipation bonds or notes of the state on behalf of the Department of Transportation (DOT). The bond proceeds shall be used to fund the portion of the cost of any segment of federal-aid interstate highway which will be reimbursed to the state by the federal government.

The principal and interest on the bonds or notes are to be paid from all funds certified by the State Comptroller as being due and payable to the state from the federal government,

pursuant to the Federal Highway Act of 1956, as amended, or from the proceeds of the bonds or notes or any interest earned thereon. At no time may the aggregate debt service and redemption premium, if any, exceed 75 percent of the funds certified. In his certification of federal highway funds the Comptroller shall include only those funds authorized for apportionment or allocation and which do not require additional congressional action.

The provisions of the State Bond Act (Sections 215.57 through 215.83, F.S.) shall apply to the issuance of any bonds or notes. Prior to the issuance of any bonds or notes, the DOT shall provide the Division of Bond Finance, DGS, with certain information indicating the public benefits, projected costs, projected federal reimbursement for the interstate project and investment earnings that would result from the sale of the bonds.

Functional Classification

Provisions relating to the functional classification of roads and the delegation of responsibilities for those roads is contained in SENATE BILL 948 (CHAPTER 84-291) which amends Section 335.04, F.S. The Department of Transportation (DOT) is responsible for the collection of data for planning and functional classification purposes and for the evaluation and functional classification of all the public roads in the state. Each road is to be assigned to the appropriate public road system on the basis of its functional classification.

Subsequent to July 1, 1982, the DOT is to evaluate and classify each public road every five years using factors which include quantitative criteria.

Any road for which responsibility is being transferred from the DOT to a county or municipality as a result of functional classification must be brought to a physical condition commensurate with contemporary roads of like age and existing classification. Any bridge that is to be transferred from the DOT to a local government must be rehabilitated or reconstructed prior to transfer so as to ensure a ten-year life expectancy subsequent to transfer.

Prior to the transfer of any road or bridge to a county or municipality, the DOT must provide notice to the local entity by certified mail, and the affected entity has 30 days in which to file an objection concerning the condition of the facility to be transferred. If the DOT and local government are unable to agree on the condition of the road or bridge, either party has the right to the administrative and judicial review provided in Chapter 120, F.S.

Any roads which were to be transferred from the state to the counties under the functional classification plan adopted in accordance with CHAPTER 77-165, and which were to be resurfaced by the DOT prior to transfer, shall not be transferred from the state highway system until the resurfacing is completed. Prior to the resurfacing of such road the recipient county must certify that it has the financial ability to maintain the road. If the DOT and the county are unable to

agree on the county's financial ability, the county has the right to administrative and judicial review. In any administrative or judicial review to determine a county's financial ability, the taxes imposed by the county for transportation purposes shall be given consideration.

If it is determined that a county does not have the financial ability to maintain a road to be transferred to it, the DOT shall continue to maintain the facility if it serves a significant inter-regional benefit to the state highway system and a specific appropriation is made to the Department for the maintenance of such road.

Finally, the act provides that if a municipality would ordinarily be required to assume the operation and maintenance responsibility of a mechanically-operated bridge over the Florida Intracoastal Waterway because of the functional classification of the road, and if such bridge had been constructed, operated, and maintained by another governmental entity, then the bridge and roadway would continue to be within the jurisdiction of that governmental entity. This provision would be applicable to all transfers or attempted transfers of responsibility pursuant to functional classification which have occurred since January 1, 1978, or which may occur subsequent to the effective date of this act (October 1, 1984).

Bicycle and Pedestrian Ways

SENATE BILL 789 (CHAPTER 84-284) transfers to Chapter 316, F.S., the prohibition against: the operation of a

bicycle, motor-driven cycle or animal-drawn vehicle on a limited access facility; the operation of a bicycle on the roadway or shoulder of an interstate highway; and the riding of an animal upon a limited access facility. The prohibition against the wearing of headsets is extended to persons operating vehicles other than motor vehicles.

The Department of Transportation is directed to give full consideration to bicycle and pedestrian ways in the planning and development of transportation facilities, and is to incorporate such ways into state, regional and local transportation plans and programs. Special emphasis shall be given projects within five miles of an urban area.

In the establishment of a statewide system of bicycle and pedestrian ways, bicycle facilities may be established as a part of or separate from the actual roadway and may utilize existing road rights-of-way or other rights-of-way or easements dedicated for public use.

Outdoor Advertising: Sunset

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1312 (CHAPTER 84-227) reenacts with modifications Chapter 479, F.S., relating to the regulation of outdoor advertising, repeals the chapter's provisions on October 1, 1994, and provides for legislative review pursuant to the Regulatory Sunset Act.

Several major changes are contained in the act. Permit fees for sign facings are increased to \$25 for 20 lineal feet or less and \$35 for over 20 lineal feet, and license fees are

established at a flat fee of \$300. Revenue from these fees will be used for the administration of the regulatory program; however, any projected balance not so used will be designated for the removal of nonconforming signs if matched on a 50 percent basis by other funds in the State Transportation Trust Fund.

Spacing requirements for signs are increased from 1,000 to 1,500 feet on the same side of the highway on any interstate highway, and from 500 feet to 1,000 feet on the same side of the highway on any federal-aid primary highway. Signs will be prohibited on any new highway outside of urban areas.

The height of signs will be limited to 50 feet if located outside an incorporated area and 65 feet if located inside an incorporated area, and the maximum square footage of a sign is reduced from 1200 to 950 square feet.

Newly created sections (Sections 479.105 and 479.107, F.S.) provide for notice and removal of signs erected without having obtained a permit and signs placed on the right-of-way in violation of the law.

The following three new programs are created by the act.

The Department of Transportation is required to implement a specific information panel program (logo sign program) on the right-of-way of the interstate and federal-aid primary highway systems. Any business which displays a sign along those highway systems that is not permitted under the section will not be permitted to display a sign on any specific information panel. The Department will prescribe the

qualifications and criteria a business must satisfy to display a sign on a panel, and a permit fee not exceeding \$250 per annum will be imposed. Fees charged must be sufficient to cover the costs of the program.

The act also requires that the Department implement rest area information panels or devices in rest areas along the interstate and federal-aid primary highway systems to provide information to the traveling public and to promote tourist-oriented businesses. The Department may contract with private persons for the construction, erection, and maintenance of the panels or devices, and compensation to the contractors will be derived solely from reasonable fees which the contractor may impose on participating businesses. The Department is to receive sufficient revenue from the contractors to cover the cost of administering the program.

Finally, the Department is required to test and, if economically feasible, implement a low frequency radio advisory program on limited access highways. Private contractors may operate the advisory radio system and their compensation will be derived from reasonable fees the contractors are permitted to charge participating businesses. The Department is to receive sufficient revenue from the contractors to cover the cost of administering the program.

Airport Licensing: Sunset

SENATE BILL 837 (CHAPTER 84-205) reenacts and revises Section 330.30, F.S., relating to airport licensing, and amends

and repeals certain other sections in Chapter 330, F.S. Section 330.30, F.S., is repealed on October 1, 1994, and is scheduled for legislative review pursuant to the Regulatory Sunset Act.

Under the act, fees for site approval and licensing are established by statute rather than by rule, and license fees are increased as follows:

<u>Airport Category</u>	<u>Previous Fee</u>	<u>Enacted Fee</u>
Public	\$50	\$100
Private	\$35	\$ 70
Limited	\$25	\$ 50
Temporary	\$25	\$ 25

The site approval fee is currently \$50 for all categories of airports; the act increases this fee to \$100.

The act eliminates the provision authorizing the Department of Transportation to establish additional exemptions from licensing requirements, and provides statutory authority for all present exemptions.

Ultralight aircraft landing areas are exempt from licensing requirements under the act, except that any public ultralight landing area within five nautical miles of an existing public or military airport, or any ultralight landing area with more than ten ultralights operating from the site, is required to be licensed. The provisions of this act are effective on October 1, 1984.

Uniform Minimum Standards for Roads and Bridges - Advisory Committee

HOUSE BILL 423 (CHAPTER 84-151) reenacts and revises Subsection 335.075(2), F.S., which authorizes the establishment of the Advisory Committee on Uniform Minimum Standards for Roads and Bridges, and rennumbers Section 335.075 as Section 336.045, F.S. Further, the act repeals the renumbered Subsection 336.045(2), F.S., effective October 1, 1994, and schedules it for legislative review pursuant to the Sundown Act (Section 11.611, F.S.).

Transportation Disadvantaged Services - Coordination

HOUSE BILL 5 (CHAPTER 84-56) reenacts Chapter 427, F.S., which provides for the coordination of transportation services for the transportation disadvantaged and for the establishment of the Coordinating Council on the Transportation Disadvantaged. Further, the act repeals the chapter effective October 1, 1989, and schedules it for legislative review pursuant to the Sundown Act (Section 11.611, F.S.).

Miscellaneous

Under the provisions of SENATE BILL 549 (CHAPTER 84-276) Section 340.12, F.S., is renumbered Section 338.28, F.S., and is amended to provide that the Department of Transportation (DOT) is empowered to review and adjust the terms, conditions, rates and charges for persons or firms wishing to provide motorist services on any turnpike project. The DOT is also authorized to secure services for turnpike patrons through the

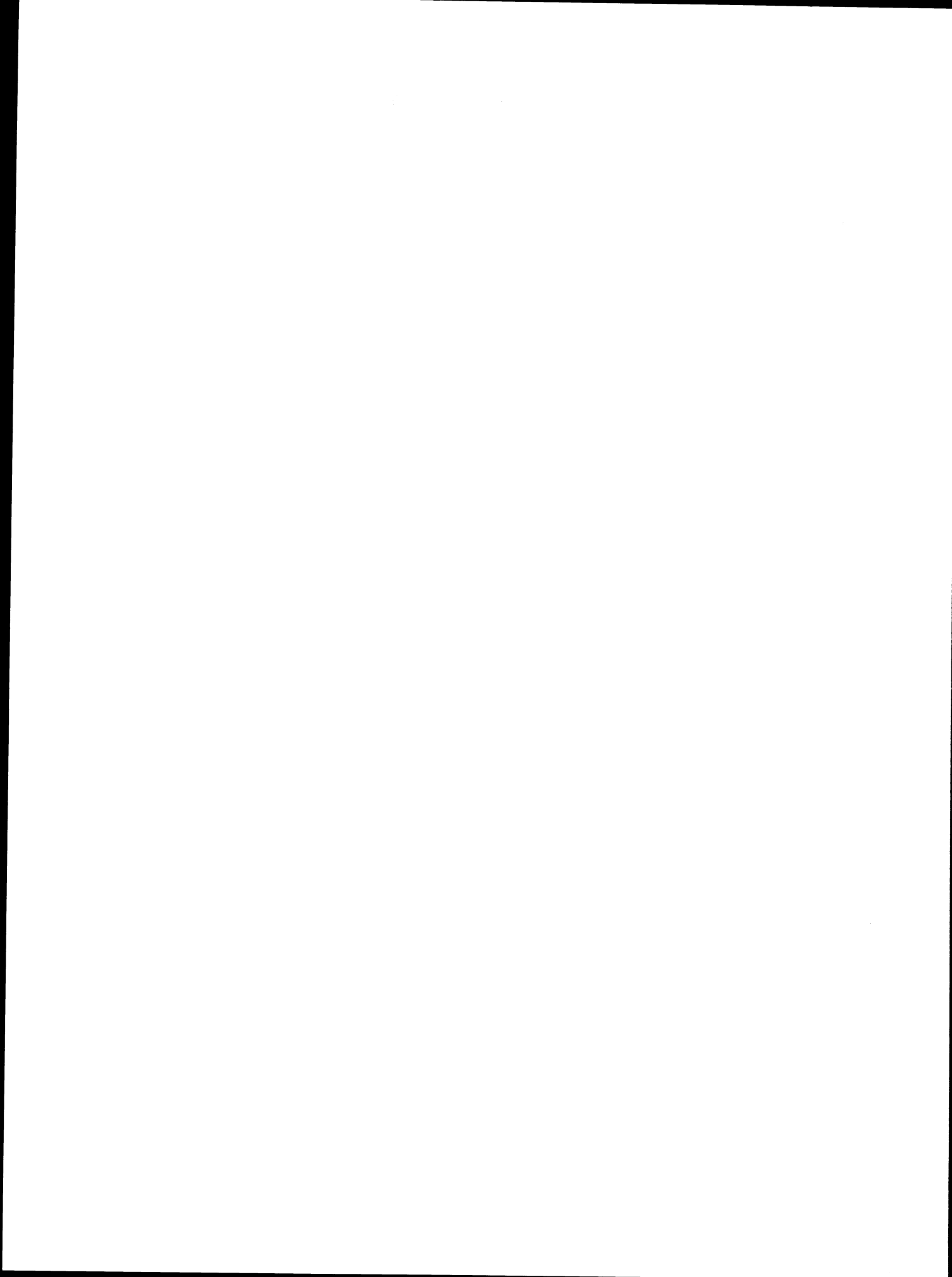
request for proposal process rather than through competitive bids. The selection is to be made on the basis of the proposal and fee which best satisfy the conditions of quality service and product operation for the turnpike system. Factors for the DOT to use in making its selection are enumerated in the act.

In addition, the existing provisions relating to the award of leases for motor fuel services are clarified.

COMMITTEE SUBSTITUTE FOR SENATE BILL 883 (CHAPTER 84-206) amends Section 337.19, F.S., to provide that suits by and against the Department of Transportation on construction contracts must be commenced within three years (instead of two years) after the time of final acceptance of the work. Further, a counterclaim may be filed on any suit commenced by the Department prior to the effective date of the act (June 13, 1984). SENATE BILL 553 (CHAPTER 84-277) amends Subsection 337.11(4), F.S., to allow the Department of Transportation to use supplemental agreements to contracts in order to settle claims and to provide for quantity differences in the contractor's work which exceeds the original contract amount by more than five percent. In addition, supplemental agreements may be used to expand the physical limits of a project only to the extent necessary to make the project functionally operational with the intent of the original contract, and the cost of any agreement for this purpose shall not exceed ten percent of the original contract price.

Under one of the provisions of HOUSE BILL 1068 (CHAPTER 84-354), that portion of U.S. Highway 441 which extends from

the Dade-Broward County line to the Golden Glades Interchange is designated as the "John I. Smith Boulevard" and the Department of Transportation is directed to erect appropriate markers. [Other provisions of this act are discussed above in this Article under the TRANSPORTATION section, Expressway and Bridge Authorities heading.]



PROFESSIONAL REGULATION*

While this summary usually relates to professions regulated by the Department of Professional Regulation and the various boards thereunder, many of the professions and occupations which were the subject of legislative action in 1984 are regulated by the Department of Health and Rehabilitative Services, the Department of Education, and the Department of State. The regulation of the following professions and occupations were subject to sunset review and, with modification, regulation by the state is continued: midwifery, occupational therapy, piloting, radiologic technology, and speech pathology and audiology. The profession of respiratory care will be regulated in the state for the first time. The subject of pharmacists and pharmacy interns whose performance has been impaired by the abuse of alcohol or drugs is addressed. Discussion of the various professions and occupations made subject to legislative action this year will be addressed under the appropriate subheading.

Department of Professional Regulation and Boards Generally

Section 455.228, F.S., is created by COMMITTEE

*Prepared by staff of House Bill Drafting

SUBSTITUTE FOR SENATE BILL 356 (CHAPTER 84-271) to authorize the Department of Professional Regulation to issue cease and desist orders against unlicensed persons who violate any of the professional regulatory acts or against persons who employ such unlicensed persons in violation of these acts. The Department is also authorized to seek the imposition of civil penalties and the court is authorized in such actions to award attorneys' fees and court costs to the prevailing party. In the event the Department prevails the court may also award reasonable costs of investigation. All moneys collected by the Department as fines and court costs are to be deposited in the Professional Regulation Trust Fund.

The Department is required to submit annual reports to the Legislature relating to administrative complaints received and the disposition thereof.

Section 455.206, F.S., is created in both COMMITTEE SUBSTITUTE FOR SENATE BILL 356 (CHAPTER 84-271) and COMMITTEE SUBSTITUTE FOR HOUSE BILL 837 (CHAPTER 84-161) to provide that any person who otherwise meets the requirements for board membership, and who is connected in any way with a medical college, dental college, or community college may be appointed to serve on any professional regulatory board despite such connection, unless the college represents the person's principal source of income.

Finally, Section 455.02, F.S., is amended by HOUSE BILL 1006 (CHAPTER 84-15) to provide that any member of the United States Armed Forces, whose entitlement to practice a profession

or occupation is being kept in good standing by an administrative board regulating such vocation while he is in the armed forces, shall lose this entitlement if he engages in the practice of his licensed profession or occupation in the private sector for profit.

Construction Contracting

COMMITTEE SUBSTITUTE FOR SENATE BILL 650 (CHAPTER 84-322) amends Section 489.107, F.S., to expand the membership of the Construction Industry Licensing Board from 15 to 17 members by the addition of an underground utility contractor and a second local building official. Each of the two divisions which comprise the Board shall have one of these local building officials as a member. Section 489.119, F.S., is amended to give business organizations which apply for registration or certification through a qualifying agent 45 rather than 10 days to report any change of information to the Department of Professional Regulation.

Health Care Practitioners

HOUSE BILL 1006 (CHAPTER 84-15) amends Section 455.241, F.S., to include x-rays within the reports which a licensed physician, osteopathic physician, chiropractic physician, podiatrist, naturopathic physician, optometrist, nurse, dentist, or veterinarian is required to furnish his patient upon request.

These same health care practitioners are required by an amendment to Section 455.227, F.S., in COMMITTEE SUBSTITUTE FOR

HOUSE BILL 837 (CHAPTER 84-161) to disclose in any advertisement for a free service, examination, or treatment that the patient may refuse to pay, cancel payment, or be reimbursed for payment for any other service, examination, or treatment performed as a result of, or within 72 hours of, the patient's responding to the advertisement.

Hearing Aids

HOUSE BILL 1182 (CHAPTER 84-239) amends Section 484.047, F.S., to provide for biennial licensure of persons who dispense hearing aids, and to increase the maximum annual fee from \$200 to \$300 for biennial renewal. The Board of Hearing Aid Specialists is authorized to promulgate rules which require no more than 30 hours of mandatory continuing education for license renewal. Such continuing education shall be required for license renewal for the biennium commencing in 1985.

Investigative and Patrol Services

Section 493.30, F.S. (Investigative and Patrol Services), is amended by COMMITTEE SUBSTITUTE FOR HOUSE BILL 299 (CHAPTER 84-233) to include armored car services and armored car personnel within the types of investigative and patrol services regulated by the Department of State. An amendment to Section 493.304, F.S., also makes firearms instructors and managers of private investigative agencies and watchman, guard, and patrol agencies subject to regulation and licensure. Section 493.306, F.S., is amended to require certain qualifications for approval for licensure as a firearms

instructor. However, Section 493.305, F.S., is amended to provide that any firearms instructor holding a letter of approval from the Department on October 1, 1984, need not be licensed until the letter expires. Similarly, any manager holding such a letter of approval on such date need not be licensed until the license of the agency he manages expires.

Section 493.305, F.S., is amended to provide that any applicant for licensure relating to investigative and patrol services whose application is denied, and any licensee whose license is revoked, must wait one year before reapplying for licensure.

An amendment to Section 493.313, F.S., requires class G licensees (private investigators and watchmen, guards, and patrolmen having authority to carry a firearm) to complete eight hours of range training by a licensed firearms instructor.

Midwifery

The regulation of the practice of midwifery under Chapter 467, F.S., is continued pursuant to COMMITTEE SUBSTITUTE FOR SENATE BILL 231 (CHAPTER 84-268). However, beginning October 1, 1984, a person who wishes to practice midwifery must be licensed as a nurse pursuant to Section 464.012, F.S. Exceptions to this licensure requirement are provided to persons who are licensed to practice midwifery under Chapter 467, F.S., on October 1, 1984, or who, as of May 31, 1984, were enrolled in a program of lay midwifery approved

by the Department of Education and the Department of Health and Rehabilitative Services.

Amendments to Section 467.004, F.S., rename the Advisory Committee of Lay Midwifery within the Department of Health and Rehabilitative Services as the Advisory Council of Lay Midwifery and expand its membership from five to seven by the addition of a certified pediatrician and a third licensed lay midwife. Council members are no longer entitled to per diem and travel expenses.

Section 464.012, F.S., is amended to allow nurse midwives to perform certain services related to a delivery in a patient's home if approved by the nurse midwife's physician back-up.

Chapter 467, F.S., as amended and readopted, is scheduled for repeal on October 1, 1994, subject to review in accordance with Sections 11.61 and 11.611, F.S.

Occupational Therapy

The regulation of the practice of occupational therapy under Part IV of Chapter 468, F.S., is continued pursuant to COMMITTEE SUBSTITUTE FOR SENATE BILL 151 (CHAPTER 84-4). An amendment to Section 468.203, F.S., prohibits an occupational therapist or an occupational therapy assistant from using certain devices unless he has received training specified by the Board of Medical Examiners. The Board is given rule-making authority in the regulation of occupational therapy by the creation of Section 468.204, F.S.

Section 468.209, F.S., is amended to provide that an applicant for licensure as an occupational therapist or an occupational therapy assistant who is qualified for licensure by endorsement may practice under a temporary permit until the next meeting of the Board. The temporary permit of a licensure applicant awaiting his examination results shall be revoked if he fails the examination.

The Board is authorized by an amendment to Section 468.211, F.S., to use a national examination in lieu of the state examination. The Board's disciplinary powers, specified in Section 468.217, F.S., are expanded to include the issuance of reprimands and the imposition of fines for unprofessional conduct. The types of conduct subject to disciplinary action are also expanded. Licenses shall be issued under Section 468.219, F.S., on a biennial rather than an annual basis.

Part IV of Chapter 468, F.S. (consisting of Sections 468.201 through 468.225), as amended and readopted, is scheduled for repeal on October 1, 1994, subject to review in accordance with Section 11.61, F.S., the Regulatory Sunset Act.

Osteopathy

HOUSE BILL 1014 (CHAPTER 84-39) amends Section 459.006, F.S., to change the qualifications for licensure of osteopathic physicians by examination to allow the Board of Osteopathic Medical Examiners to approve internship programs other than certain programs approved by the Bureau of Hospitals of the

American Osteopathic Association, upon a showing of good cause by the applicant.

Pharmacy

COMMITTEE SUBSTITUTE FOR SENATE BILL 365 (CHAPTER 84-364) adds new language to Section 465.016, F.S., relating to disciplinary actions by the state Board of Pharmacy. Paragraph 465.016(1)(n), F.S., provides that violation of a rule or order of the Board or the Department of Professional Regulation is grounds for disciplinary action.

Subsection 465.016(5), F.S., stipulates that if there is reason to believe a pharmacist or pharmacy intern may be impaired because of alcohol or medicinal drug abuse and such information is reported to the Department, the report will not be considered a complaint in terms of the general regulatory authority of the Department if the pharmacist or intern:

- 1) has acknowledged an impairment problem;
- 2) has enrolled in a board approved treatment program;
- 3) has voluntarily withdrawn from practice and temporarily surrendered license or registration to the Board; and
- 4) has violated Chapter 465, F.S., the "Florida Pharmacy Act," because of impairment.

Under Subsection 465.016(6), F.S., there shall be no determination of probable cause so long as the probable cause panel of the Board is satisfied the impaired pharmacist or intern is making satisfactory progress in an approved program.

If requested to do so by the panel, the approved program provider is required to furnish all information in its possession on the impaired pharmacist or intern. Such information is exempt from the disclosure provisions of the public records statutes (Chapter 119, F.S.).

Subsection 465.016(7), F.S., provides the information may be treated as a complaint and the possible basis for a finding of probable cause if the panel determines after conferring with the provider that the impaired pharmacist or intern is not making satisfactory progress and requires the immediate communication of such a conclusion to the Secretary of the Department if an immediate and serious danger to the public health exists. Subsection 465.016(8), F.S., requires that the surrendered license or registration be returned to a pharmacist or intern when determination has been made of successful completion of an approved program.

Under Subsection 465.016(9), F.S., the panel may not make a finding of probable cause against any pharmacist acting as a prescription department manager or permittee-employer for any actions of an impaired pharmacist or intern.

Subsection 465.016(10), F.S., grants a privilege against civil liability for any person giving information to the Department, Board or panel unless bad faith or malice can be demonstrated.

The act takes effect June 29, 1984.

Physical Therapy

SENATE BILL 546 (CHAPTER 84-275) amends Section 486.021, F.S., to authorize physical therapists to perform physical therapy assessments (defined as observational, verbal, or manual determinations of the function of the musculoskeletal or neuromuscular systems as related to physical therapy for the purposes of making recommendations for treatment) pursuant to the oral or written request of a physician, osteopathic physician, chiropractic physician, podiatrist, or dentist.

Piloting

COMMITTEE SUBSTITUTE FOR SENATE BILL 150 (CHAPTER 84-185) revises and readopts Chapter 310, F.S. (Pilots, Piloting, and Pilotage), and amends Section 310.071, F.S., to expand the maritime experience requirements for the licensure of pilots and the certification of deputy pilots. Applicants for licensure and certification must be licensed by the United States Coast Guard. The maritime experience requirements may be waived, however, if it is necessary to fill an opening and no person meeting these requirements has applied, providing the opening has been advertised more than once.

Chapter 310, F.S., is scheduled for repeal on October 1, 1986, subject to review by the Legislature pursuant to Section 11.61, F.S.

Psychological Services

HOUSE BILL 1013 (CHAPTER 84-168) creates Section 490.0055, F.S., to require the Department of Professional

Regulation to approve all continuing education providers, programs, and courses and fees therefor, relating to persons who provide psychological services, except that, with respect to psychologists, such authority is given to the Board of Psychological Examiners. Section 490.0141, F.S., is created to allow licensed psychologists to perform hypnosis if determined to be qualified by the Board. These sections added to Chapter 490, F.S., by this act are scheduled for repeal on October 1, 1988, subject to legislative review pursuant to Section 11.61, F.S.

Radiologic Technologists

The regulation of radiologic technology by the Department of Health and Rehabilitative Services under Part V of Chapter 468, F.S., is continued pursuant to COMMITTEE SUBSTITUTE FOR SENATE BILL 242 (CHAPTER 84-269). The Department is required in Section 468.30, F.S., to contract with the Department of Professional Regulation for assistance in the areas of investigation, certificate issuance or renewal, or technology. The scope of the regulatory act is changed to regulate the use of radiation rather than x-rays.

Five separate categories of persons who may be certificated by the Department to use radiation are created in Section 468.302, F.S. These are: (1) Basic X-ray Machine Operator; (2) Certified Radiologic Technologist-Radiographer; (3) Certified Radiologic Technologist-Computed Tomography; (4)

Certified Radiologic Technologist-Therapy; and (5) Certified Radiologic Technologist-Nuclear Medicine.

The scope of practice of each category is specified, as are the qualifications for certification and examination. The Department of Health and Rehabilitative Services is required in Section 468.305, F.S., to develop standards for certification in each category as well.

The Department is authorized in Section 468.306, F.S., to either develop its own examination or to contract with organizations which develop examinations for each of these categories. Examinations are to be given at least twice each year and shall include positioning, technique, and radiation protection.

The persons to whom temporary certificates may be issued under Section 468.307, F.S., are restricted. Temporary certificates shall expire after six months and shall not be extended, renewed, or reissued. Employers or certificate holders must display the certificates of their employees.

The qualifications for certificates based on prior experience or training contained in Section 468.308, F.S., are changed to conform to the new categories. After October 1, 1984, no more applications for limited computed tomography certificates will be accepted.

Provisions of Section 468.309, F.S., relating to certificate renewal are changed to authorize the Department to adopt biennial renewal procedures. The Department is authorized to prescribe continuing education requirements as a

condition of renewal. Any certificate not renewed after the two-year certification period shall revert to inactive status. Certificate holders are authorized in Section 468.31, F.S., to request that their certificates be placed on inactive status. Certificates which are inactive for less than one year may be reactivated upon payment of a late renewal fee. Otherwise reactivation requires application to the Department and may require completion of continuing education requirements. Minor changes are made to the list of prohibited acts in Section 468.311, F.S., for which criminal penalties apply. Section 468.3115, F.S., is created to provide that the Department or any state attorney may apply for injunctive relief against violators of the regulatory act. The types of disciplinary action which the Department may take against certificate holders and applicants for certification are expanded in Section 468.313, F.S., and the Department is given authority to establish guidelines for disciplinary action.

A Radiation Protection Trust Fund is created in Section 468.312, F.S., for the deposit of regulatory fees. A 15-member Advisory Council on Radiation Protection is created within the Department of Health and Rehabilitative Services by Section 468.314, F.S., to assist the Department. Members of the Council shall receive no compensation, but are entitled to reimbursement for necessary travel expenses.

Part V of Chapter 468, F.S. (Radiologic Technologists), as amended, is continued in full force and effect until October 1, 1994, when it is scheduled for repeal subject to review by

the Legislature pursuant to Section 11.61, F.S., the Regulatory Sunset Act.

Respiratory Care

A new Part VI is added to Chapter 468, F.S., pursuant to COMMITTEE SUBSTITUTE FOR HOUSE BILL 775 (CHAPTER 84-252) to provide for the regulation of the profession of respiratory care for the first time in the state. An Advisory Council on Respiratory Care is created to assist the Board of Medical Examiners within the Department of Professional Regulation in the certification of respiratory therapy technicians and the registration of respiratory therapists. Eligibility criteria for certification and registration are specified. The Council shall recommend to the Department a code of ethics and continuing education courses for those persons certified or registered pursuant to this act. The Board is authorized to temporarily certify for up to one year eligible persons who have entered the state or who have graduated from a program approved by the Board.

Provision is made for certification by examination. The examination shall either be the one given by the National Board for Respiratory Care or an equivalent examination. Certain persons employed on October 1, 1984, as respiratory therapy technicians or respiratory therapists are given two years to pass the examination. Persons holding certain credentials issued by the National Board for Respiratory Care may be certificated or registered by endorsement.

The use of certain titles and abbreviations relating to respiratory care are restricted to persons who are certificated or registered under the act, or who are graduates of Board-approved programs. Procedures for the renewal of certification and registration are provided and the Board is required to adopt continuing education requirements as a condition upon renewal.

Conditions are specified under which a certificate or registration may be considered to be inactive or expired and provision is made for reactivization, recertification, and reregistration. Regulatory fees are established and hospitals are relieved of responsibility to pay for or reimburse any person for such fees.

The Board is granted disciplinary powers over certificate holders and registrants as well as applicants for certification or registration and 24 grounds for disciplinary action are specified. Persons who commit specified acts, including the unauthorized practice of respiratory care, are guilty of a third degree felony. The Department of Professional Regulation is authorized to seek injunctive relief against persons violating the act.

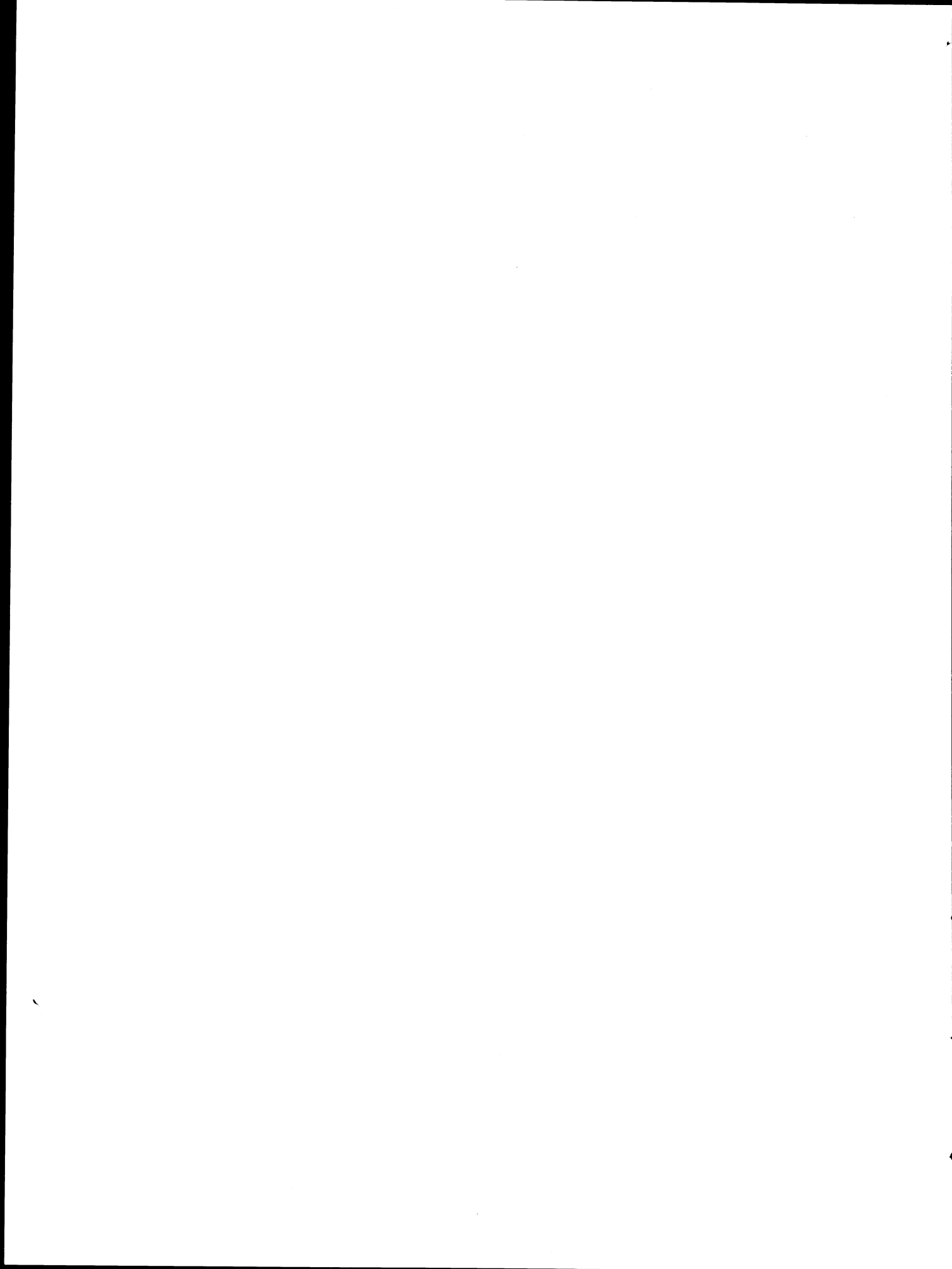
Criteria are specified for the approval of educational programs. The Board is authorized to approve continuing education programs and providers. Certain persons are excluded from regulation by the act, including properly trained medical personnel and persons providing emergency respiratory services.

Part VI of Chapter 468, F.S., as created by this act, is scheduled for repeal on October 1, 1994, subject to review by the Legislature pursuant to Section 11.61, F.S., the Regulatory Sunset Act.

Speech-Language Pathology and Audiology

The regulation of speech pathology and audiology under Part II of Chapter 468, F.S., is continued pursuant to SENATE BILL 219 (CHAPTER 84-70). All references to speech pathology are changed to "speech-language pathology." The educational requirements specified in Section 468.143, F.S., for certification as a speech-language pathologist or an audiologist are changed to delete all reference to specific hours of course work. The amount of course work is to be determined by the Department of Education. Provisional certificates may be issued for up to 24 months to persons who have completed the academic requirements but have not met either the employment or examination requirements. Nonactive registrant certificates may be issued to persons no longer in the active practice of speech-language pathology or audiology. Continuing education requirements are imposed as a condition upon the renewal of a certificate. Section 468.146, F.S., is amended to authorize the Department to set regulatory fees within specified ranges, and a Speech-Language Pathology and Audiology Trust Fund is established in the State Treasury for the deposit of revenues derived from such fees.

Sections 468.139 through 468.149 (Part II of Chapter 468), F.S., as readopted and amended by this act, are scheduled for repeal on October 1, 1994, subject to legislative review pursuant to Section 11.61, F.S., the Regulatory Sunset Act.



PUBLIC OFFICERS AND EMPLOYEES*

The 1984 Session of the Florida Legislature addressed a number of issues concerning public officers and employees. Public employers and employee bargaining agents were authorized to jointly waive appointment of a special master and proceed directly to the appropriate legislative body for resolution of an impasse. In the area of insurance, certain local governments were authorized to provide group insurance to their officers and employees; the Division of Retirement was authorized to contract with a private insurance carrier or the Social Security Administration to provide health insurance for certain retirees; the determination of benefits and contributions under state group insurance programs were excluded from being rules under the "Administrative Procedure Act" (Chapter 120, F.S.); and provision was made for retired employees and their dependents to participate in group insurance plans.

Regarding law enforcement officers and firefighters, provisions relating to educational benefits for children of law enforcement officers and firefighters killed in the line of duty were amended. Law enforcement and correctional officers

*Prepared by staff of Senate Legal Research & Drafting Services

were classified as notaries for purposes connected with their official duties. Additional compensation was provided for firefighters who completed work-related education.

Several measures relating to municipalities were passed this session. The governing body of a municipality was given the authority to suspend or remove certain municipal board members from office, and provisions were set out for filling the temporary vacancies. Also, the Governor was authorized to suspend or remove certain municipal officers. Certain cities and towns were authorized to provide a retirement salary to certain elected officers.

Various provisions relating to retirement were enacted. Changes were made regarding the amortization schedule for unfunded liability of governmental retirement systems and the actuarial valuations of the Florida Retirement System. Criteria for membership eligibility for certain retirement classes were revised, and certain officers or employees were authorized to purchase credit for past service or for time that would have been earned if their terms of office had not been shortened by reapportionment. Changes were made regarding optional forms of benefits, and supplemental cost-of-living adjustments were provided for certain retirees. Provisions were made for crediting military service and for claiming service under certain federal pension systems. Forfeiture of retirement benefits by officers or employees convicted of certain felonies was required, and reemployment of retired members of state-administered retirement systems was addressed.

Supplemental retirement benefits were enacted for retired members of the Institute of Food and Agricultural Sciences at the University of Florida. Also, interest on certain moneys being held while awaiting accumulation of the purchase price of United States securities for employees was required to be transferred to the Florida Retirement System.

The number of personal leave days given to school personnel was expanded.

Other provisions enacted during the 1984 Session related to discrimination against handicapped state employees, criteria for classifying types of state employment, and authorization of the state to contract for executive recruitment services. Provisions relating to veterans were also amended.

Collective Bargaining

HOUSE BILL 87 (CHAPTER 84-228), by amendment to Subsection 447.403(2), F.S., authorizes public employers and employee bargaining agents to jointly waive in writing the appointment of a special master for the resolution of impasses and provides that the parties may proceed directly to the resolution of the impasse via the appropriate legislative body, effective October 1, 1984. The act clarifies provisions contained in Subsection 447.205(1), F.S., relating to the terms of office of members of the Public Employees Relations Commission, by providing that the terms of office shall be for four years. The term of office of the chairman of the Commission is more precisely defined.

Insurance

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1145 (CHAPTER 84-307) authorizes certain local governmental units as defined in new Subsection 112.08(1), F.S., to provide certain types of group insurance for their officers and employees and their dependents. It provides procedures and guidelines in new Paragraph 112.08(2)(b), F.S., for Department of Insurance approval of such plans which are self-insured and establishes requirements for certain annual reports of such plans.

COMMITTEE SUBSTITUTE FOR SENATE BILL 943 (CHAPTER 84-290) authorizes the Division of Retirement of the Department of Administration to contract with a private health insurance carrier or the Social Security Administration to provide health care coverage for persons retired prior to January 1, 1976, under state-administered retirement systems. The act also applies to the surviving spouses of such persons not covered by Social Security. The law is effective July 1, 1984; however, the \$3,924,600 appropriated to fund such agreements may not be expended prior to July 1, 1985.

SENATE BILL 129 (CHAPTER 84-3) amends Paragraph 110.123(5)(a), F.S., to provide that the determination of benefits to be provided and the contributions to be required for the state group insurance program, whether contracted plans or self-insurance plans, shall not be rules or orders within the meaning of the Administrative Procedure Act.

SENATE BILL 153 (CHAPTER 84-266) requires employers who provide insurance coverage under Sections 110.123 or 112.0801,

F.S., to allow retired former employees and their eligible dependents to participate in group insurance plans required by said sections. Notification of eligible persons is required prior to January 1, 1985. The deadline for acceptance or rejection is April 1, 1985.

Law Enforcement Officers and Firefighters

HOUSE BILL 120 (CHAPTER 84-229) amends CHAPTER 83-115, which provides death benefits for law enforcement officers and firefighters killed in the line of duty. The 1983 act provides educational benefits to the child of a law enforcement officer or firefighter, if the officer or firefighter is unlawfully and intentionally killed while in actual performance of his duties after December 1, 1980; as the act is amended in 1984, the educational benefits are available if the officer or firefighter is so killed after July 1, 1980, and the benefits continue until the child's 25th birthday. Identical amendments are contained in SENATE BILL 153 (CHAPTER 84-266).

SENATE BILL 619 (CHAPTER 84-97), the bulk of which is covered in the Summary article COURTS AND CIVIL LAW, contains two provisions affecting the powers of law enforcement officers. The act creates Section 117.10, F.S., to provide that law enforcement officers and correctional officers are notaries public for the purpose of notarizing, certifying, or attesting to documents in connection with the performance of official duties. The measure also repeals Section 925.095,

F.S., which granted law enforcement officers and correctional officers authority to administer oaths.

COMMITTEE SUBSTITUTE FOR SENATE BILL 762 (CHAPTER 84-244) provides, in amending Section 633.382, F.S., that certain firefighters shall receive additional compensation from their employing agency based on the completion of additional work-related education. The act creates the Firefighters' Supplemental Compensation Trust Fund under the Department of Revenue and establishes procedures for the payment of funds to special fire service taxing districts from such fund beginning July 1, 1984.

Municipal Officers

HOUSE BILL 30 (CHAPTER 84-245) gives, in newly enacted Section 112.501, F.S., the governing body of a municipality the authority to suspend or remove a municipal board member, who is appointed or confirmed by the governing body, from office. Grounds for suspension or removal include malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform official duties. In addition, a board member arrested for a felony or for a misdemeanor related to his official duties or indicted or informed against for commission of a federal or state felony or misdemeanor may be suspended, and a board member convicted of a state or federal felony or misdemeanor may be removed. The governing body may reinstate the board member before removal.

Suspension under the act creates a temporary vacancy to be filled as provided by law, special act, or municipal charter for the filling of a permanent vacancy. If there are no provisions for filling a permanent vacancy, the governing body of the municipality is authorized to fill the temporary vacancy.

During the period of suspension the municipal board member may not perform any official act, duty, or function or receive any compensation or emoluments or privileges attached to the office. If the board member is acquitted or otherwise cleared of the charges on which the suspension was based, the suspension is revoked and any compensation or emolument denied is restored. If the term of office of the board member expires during the suspension and a successor is appointed or confirmed, the suspended board member is to receive the compensation or emolument denied for the unserved portion of his term, and he will not be reinstated to the office.

The act also authorizes the Governor, by executive order, to suspend an elected or appointed municipal officer for malfeasance, misfeasance, neglect of duty, habitual drunkenness, incompetence, or permanent inability to perform official duties. The Governor may also suspend an elected or appointed municipal officer who is arrested for a felony or a misdemeanor related to the officer's duties or who is indicted or informed against for commission of a federal or state felony or misdemeanor.

If the municipal officer is convicted of the charges for which he was suspended, the Governor is directed to remove him from office. A conviction is defined to include being found guilty of or pleading guilty or nolo contendere to a crime. Any official found not guilty or otherwise cleared of the charges is to be restored to office.

HOUSE BILL 726 (CHAPTER 84-351) amends Paragraph 112.048(2)(b), F.S., to authorize certain cities and towns to elect to provide an annual or monthly retirement salary to elected officers who had completed at least ten years of service prior to October 1, 1973.

Retirement

SENATE BILL 153 (CHAPTER 84-266) amends various provisions relating to retirement. The act provides for changes in the amortization schedule for unfunded liability of governmental retirement systems (Section 112.64, F.S.) and amends various definitions (Section 121.021, F.S.) for use regarding the Florida Retirement System (Chapter 121, F.S.). The enactment also revises the frequency of actuarial valuations of the Florida Retirement System, specifies information to be included in such valuations, and specifies an amortization schedule for certain liabilities arising under the System (Section 121.031, F.S.).

The criteria for certifying law enforcement and correctional officers as eligible for special risk membership is revised (Subsection 121.0515(2), F.S.).

Membership requirements for legislators in the Elected State Officers' Class of the Florida Retirement System are updated to permit participation in an IRA and the FRS (Subsection 121.052(1), F.S.). Contribution rates applicable to certain classes of members are revised (Subsection 121.052(4), F.S.).

Employees who participated in multiple offender projects in certain State Attorneys' offices may purchase past service credit (Paragraph 121.081(1)(k), F.S.). Changes are made regarding optional forms of benefits payable under the System (Paragraph 121.091(6)(d), F.S.). Supplemental cost-of-living adjustments are provided for certain retirees and beneficiaries of state-administered retirement systems (Subsection 121.101(5), F.S.).

The procedure for crediting military service is specified, and provision is made for the purchase of service credit for military leaves of absence (Section 121.111, F.S.). Service granted and used under certain federal pension systems may be claimed under the Florida Retirement System under specified circumstances (Subparagraph 121.111(2)(b)2., F.S.).

An elected state officer whose term is shortened by reapportionment may buy service credit for the length of time he would have served had such term not been shortened by reapportionment (Section 121.1121, F.S.).

Forfeiture of certain benefits under public retirement systems by officers or employees convicted of a felony

involving the use of such office or employment or other specified offense is required (Section 112.3176, F.S.).

The purchase of additional retirement credit for service as an elected county prosecuting attorney is authorized (Subparagraph 121.052(1)(d)2., F.S.).

Retired members of state-administered retirement systems are allowed to be reemployed after retirement and to receive their retirement benefits in addition to employment compensation (Subsections 112.05(4) and 121.091(9), F.S.). The act stipulates that retired members may not be reemployed with any agency participating in the Florida Retirement System for a 12-month period immediately after retirement and receive benefits during that period.

The effective dates of various provisions of this act differ.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 51 (CHAPTER 84-11) amends Paragraph 121.091(9)(b), F.S., to provide that any person who is holding an elective public office which is covered by the Florida Retirement System and who is concurrently employed in nonelected covered employment may elect to retire while continuing employment in the elective public office provided that he terminate his nonelected covered employment. Certain benefit payments made under certain provisions in CHAPTER 83-76, are ratified and confirmed, but no future benefit payments shall be made pursuant to these provisions except as amended by this act.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 98 (CHAPTER 84-358) creates the "Institute of Food and Agricultural Sciences Supplemental Retirement Act" (Section 240.508, F.S.) which provides for a supplement to the monthly retirement benefits paid under the Federal Civil Service Retirement System to certain retired members of the Institute of Food and Agricultural Sciences at the University of Florida and for death benefits for such members in certain cases. Provision is also made for cost-of-living adjustment of benefits, limitation on employment after retirement and funding of the benefits. The act is effective July 1, 1985.

SENATE BILL 149 (CHAPTER 84-124) amends Section 215.28, F.S., to provide that any interest earned on moneys deducted from the salaries or wages of officers or employees of the state, a county, or other political subdivision of the state for purchase of United States securities, while awaiting accumulation of the purchase price of such securities, shall be transferred to the Florida Retirement System Trust Fund as reimbursement for administrative costs.

School Personnel

SENATE BILL 153 (CHAPTER 84-266) expands the number of personal leave days for school personnel from four to six per year, through amendment to Paragraph 231.40(2)(a), F.S.

State Employment Practices

SENATE BILL 162 (CHAPTER 84-125) amends Subsections 110.233(1), and 112.042(1), F.S., to provide that no person

shall be discriminated against with respect to public employment because such person is handicapped.

SENATE BILL 196 (CHAPTER 84-87) deletes language contained in Subsection 110.131(3), F.S., which provides that certain state employment for which there is a continuing need for a definite period of time should be considered full-time or part-time positions and not other-personal-services temporary employment.

HOUSE BILL 359 (CHAPTER 84-48) authorizes the Department of Administration through creation of Paragraph 110.403(3)(c), F.S., to contract with certain persons to conduct executive searches to recruit applicants for positions in the Senior Management Service. The law provides a procedure for selecting those persons with whom the Department will contract.

Veterans

COMMITTEE SUBSTITUTE FOR HOUSE BILL 172 (CHAPTER 84-114) makes a variety of technical or clarifying changes to statutory laws relating to veterans.

The definition of "veteran" as used throughout the Florida Statutes is amended to include service during the Spanish American War, the Philippine Insurrection or the Boxer Rebellion (Subsection 1.01(15), F.S.).

The act provides for recording without cost to the veteran of the portion of a discharge certificate that indicates the character of discharge, separation or service by clerks of the circuit courts (Paragraph 28.222(3)(d), F.S.).

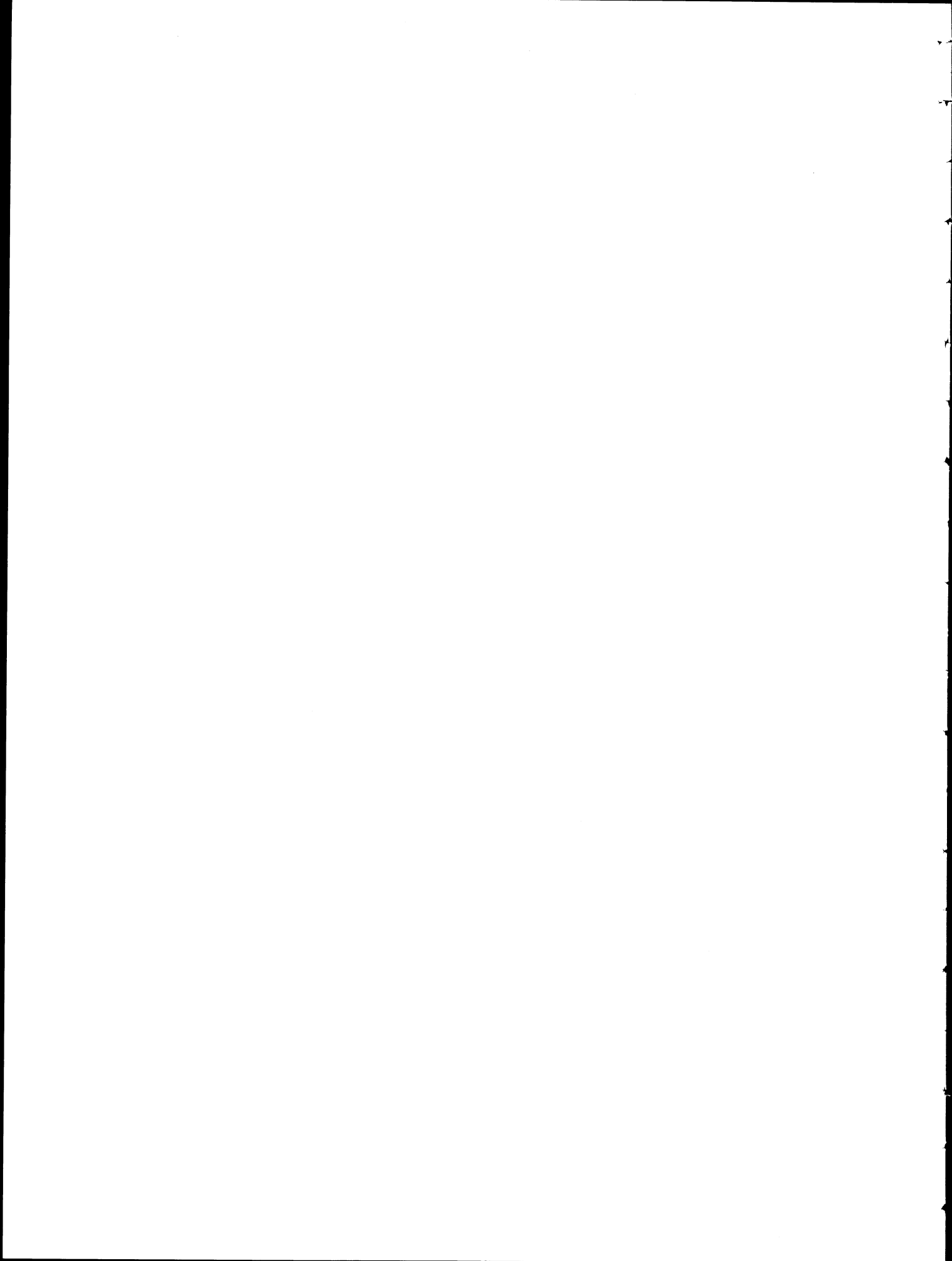
Limited administrative leave for the purpose of examination or reexamination by the Veterans Administration is provided for disabled veterans who are state employees in new Section 110.119, F.S.

The requirement that the Director of the Division of Veterans' Affairs of the Department of Administration be a war veteran is replaced, through amendment to Subsection 292.05(2), F.S., with the requirement that he be simply a veteran, and state and federal programs administered by the Division are made subject to the provisions of Chapters 215 and 216, F.S.

The designated administrative unit of the Department of Education replaces the Division of Veterans' Affairs as the state approving agency for veterans' education and training (Section 295.124, F.S.).

Provisions concerning veterans' preference in competitive and noncompetitive exams are amended to remove an expiration date and other automatic expiration provisions (Sections 295.08 and 295.085, F.S.).

Subsection 446.052(4), F.S., is amended to require that veterans who have received other than dishonorable discharges be given the same priorities as registered preapprentices.



STATE GOVERNMENT*

In the broad area of state government, the 1984 Legislature dealt with several major issues. A law was passed to establish a new capital facilities planning and budgeting process to help improve the planning of expenditures for the state's infrastructure needs. Agencies are required to submit short and long term plans for their facility needs.

The issues of fire safety and security in buildings owned and leased by the state were addressed through an enactment that provides the State Fire Marshal with added fire safety inspection duties. Responsibility for security in state buildings is further delineated, and the powers of the Division of Security, which is renamed, are expanded.

Security of data and information resources is increased by an enactment that requires agencies to adopt certain security measures and authorizes an agency to oversee such security for all state government.

Requirements for statutorily mandated reports are changed, and distribution of such reports is limited. Oversight of public printing, specifically printing which is paid for by state tax dollars, is increased. Numerous changes

*Prepared by staff of House Governmental Operations Committee

were made in the "Administrative Procedure Act" (Chapter 120, F.S.) concerning emergency rules, the filing of forms, time requirements, and powers of hearing officers. Historic preservation activities authorized by law were expanded to encourage private organization involvement. Solicitation of contributions received legislative attention as the chapter on solicitations (Chapter 496, F.S.) was amended and readopted before its October 1984 Sunset Repeal date.

A discussion of these measures and others relating to state government follows.

Capital Facilities

Comprehensive actions were taken by the Legislature in the area of capital facilities. A capital facilities planning and budgeting process is established, and the responsibility for fire safety inspections in state-owned or state-leased buildings is transferred from the Department of General Services to the State Fire Marshal. Changes in the state's unemployment compensation trust fund law are made to conform that law with the federal law, and thereby authorize the expenditure of funds for the construction of a state parking facility.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 601 (CHAPTER 84-321) creates the "Capital Facilities Planning and Budgeting Act." The act establishes a planning and budgeting process to enable the state to better meet the demands for new and properly maintained infrastructure. The

Executive Office of the Governor (EOG) is assigned responsibility for the coordination, development, and direction of the capital planning and budgeting process.

The Department of General Services (DGS) is required to develop an automated inventory of agency facility space of more than 3,000 square feet, excluding transportation facilities occupied by the Department of Transportation which shall develop and maintain an inventory of its facilities. The Board of Regents and the Division of Community Colleges are required to report their facility space as the DGS prescribes. Timetables for the publication of the space inventory are also set forth. The EOG or its designee is required annually to analyze trends and conditions in the state and nation that affect the need for capital facilities. The analysis must be included in the state comprehensive planning process, and the planning data base must be automated and continuously updated.

Goals and objectives must be set by the Legislature to establish guidelines for agency practices and programs and the guidelines are to be used by all agencies in preparing their budget request for capital facilities. Agencies are further required to determine their future facility needs and to submit a short-term plan for fulfilling their needs that covers the next five-year period. Agencies must also submit a long-term plan for the five-year period following the short-term plan. Based on the agency plans, the EOG must prepare a state comprehensive plan for facility needs and include a five-year schedule of preventive maintenance, improvement, or

construction of needed facilities. Financing methods for satisfying capital facility needs are to be arranged by the Division of Bond Finance, DGS, in consultation with involved agencies, and the EOG.

Subsection 255.25(1), F.S., is amended to allow the Division of Building Construction and Property Management, DGS, to employ certain financing techniques, when authorized by the Appropriations Act, for the acquisition, renovation, or construction of fixed capital outlay projects. Subsection (4) is added to Section 255.29, F.S., to require the DGS to promulgate rules to give effect to: procedures for entering into performance-based contracts that include prequalification of bidders; development of requests for proposals; acceleration of scheduling for development of plans, designs and construction; and evaluation of proposals and award of contracts.

Finally, the DGS is appropriated \$401,893 and four positions, and the EOG \$133,000 and four positions, three of which are time-limited, to carry out the provisions of the act for fiscal year 1984-85.

COMMITTEE SUBSTITUTE FOR SENATE BILL 651 (CHAPTER 84-278) amends Subsection 443.191(5), F.S. [to conform state law with the federal law popularly called the "Reed Unemployment Compensation Act of 1954" (42 U.S.C. Sections 503, 1101 et seq., 1321 et seq. (1982)), which established an employment security administration account in the Federal Unemployment Trust Fund]. Funds collected under the Federal Unemployment

Tax Act are deposited into this Fund and credited to states. Funds in the amount of \$91,040 are appropriated for the purchase of property and the construction of a parking lot adjacent to the office of the Division of Unemployment Compensation of the Department of Labor and Employment Security in the City of Cocoa, Florida. The parking lot is to be used exclusively for providing parking facilities for the activities of the Division. Separate records of deposit, obligation and expenditure of funds used for carrying out the purposes of this act are to be maintained by the Division.

HOUSE BILL 184 (CHAPTER 84-143) amends several sections of the statutes relating to fire safety or security in state-owned or state-leased space.

Section 633.085, F.S., is amended to assign the responsibility of fire safety inspections of state-owned buildings or state-leased space to the State Fire Marshal. All construction or changes of occupancy plans are required to be reviewed by the State Fire Marshal for fire safety compliance. Additionally, orders to cease and desist may be issued to agencies by the State Fire Marshal if such plans or activities fail to comply with fire safety standards set by him.

Section 255.25, F.S., is amended to provide the State Fire Marshal with responsibility for fire safety inspections in state-owned or state-leased space and eliminates the authority of the Division of Building Construction and Property Management, Department of General Services (DGS) to perform the same duties. Furthermore, the section is amended to change the

fire safety standards used to inspect state buildings and state-leased space, from the State Building Code standards, to uniform fire safety standards developed by the State Fire Marshal. The Division is also required to submit plans for renovation or construction of state-owned buildings or state-leased space to the State Fire Marshal prior to the commencement of construction or renovation.

Section 255.24, F.S., is amended to require the Division of Building Construction and Property Management to ensure that fire safety violations found on state-owned property leased from DGS are corrected as soon as practicable. Section 255.244, F.S., is created to require the Division to maintain the electronic fire safety and security system located in the Capitol.

Section 281.02, F.S., is amended to assign the Division of Security, DGS, the responsibility of establishing a fire safety and security plan for the Capitol, House and Senate buildings, Historic Capitol, and all state-owned buildings. Specifically, the Division is directed to: develop evacuation routes in case of fire; employ security agents certified as police officers; train security agents and guards in fire prevention, fire safety, and emergency medical procedures; respond to all complaints relating to criminal activities on state-owned or state-leased property, and to enforce the DGS parking rules.

Section 281.03, F.S., is amended to delineate the investigative authority of the Division of Security to perform

traffic accident investigations, misdemeanor investigations, and felony investigations upon the request of an appropriate law enforcement agency.

Administrative Procedure Act

Numerous changes to Chapter 120, F.S., the Administrative Procedure Act (APA), were made. Procedures relating to emergency rules were amended, as well as provisions for the application of penalties recommended by hearing officers, and the awarding of attorneys' fees. Additionally, the act was amended to: require agencies to file certain forms; set more explicit time requirements and procedures with respect to the granting or denying of licenses; and change filing deadlines for final orders and emergency rules.

SENATE BILL 723 (CHAPTER 84-203) amends Paragraph 120.53(1)(b), F.S., to eliminate the requirement that all agency rules include a list of the forms and instructions used by the agency in its dealings with the public.

Section 120.54, F.S., is clarified to specifically permit a fact-finding hearing while an administrative determination is in process. Also, this section requires that emergency rules be published in their entirety, in the first available issue of the Florida Administrative Weekly. The term "public hearing" is clarified, and if a petition for an administrative determination is filed the 90-day time limit for rule filings is tolled until the hearing officer has filed his order with the Department of Administration's Division of

Administrative Hearings clerk. Additionally, this section is amended to require that agencies must draft and formally propose rules within 180 days of the effective date of the act which authorizes such rule promulgation, unless the provisions of the act provide otherwise.

Paragraphs 120.55(1)(a) and (b), F.S., are amended to require that agencies must file forms and instructions that the public may use, with the Joint Administrative Procedures Committee before such forms are used. If any of the forms or instructions meet the definition of a rule, then the form must be incorporated into the rules by reference. The reference must specifically state that the forms are incorporated by reference, and must include the number, title, and effective date of each form.

Section 120.57, F.S., is changed to require the Florida Land and Water Adjudicatory Commission to notify the Division of Administrative Hearings within 60 days of receipt of the notice of appeal if the Commission elects to request a hearing. The section is also amended to allow the court to award reasonable attorneys' fees if it finds that an appeal was frivolous, meritless, or an abuse of the appellate process. State university students are exempted from the procedures of the APA by another amendment to this section. The Board of Regents is directed to appoint a committee to establish by January 1, 1985, rules and guidelines insuring fairness and due process in judicial proceedings involving students in the State University System.

Section 120.59, F.S., is amended to require that a notice explaining the availability of any administrative hearing or judicial review be included with all hearing orders. If a recommended order is submitted to an agency, the agency is required to return its final order to the Division within 15 days after the order is filed with the agency clerk.

Section 120.60, F.S., is amended to require that written notice be delivered either personally, or by mail, indicating that the agency intends to grant or deny or has granted or denied an application for a license. The notice must include any administrative or judicial remedy available to the applicant, and the procedure and time limits to be adhered to by the applicant. The agency is also required to certify the time and date that the notice was mailed or delivered.

Subsection 455.213, F.S., is altered to require persons applying to the Department of Professional Regulation for licenses to supplement their applications with additional data if their circumstances materially change before a license is granted or denied to them.

HOUSE BILL 1225 (CHAPTER 84-173) also amends various sections in Chapter 120, F.S., the Administrative Procedure Act (APA), to revise procedures relating to emergency rules, application of penalties recommended by hearing officers, and the awarding of attorneys' fees.

Paragraph 120.54(9)(c), F.S., is revised to allow the renewal of an emergency rule if a proposed rule dealing with the same subject is challenged. Subparagraph 120.57(1)(b)3.,

F.S., is amended to provide that when an agency requests a hearing officer, it cannot take further action concerning the formal proceeding except as a party litigant as long as the Division of Administrative Hearings of the Department of Administration has jurisdiction. Subparagraph 120.57(1)(b)9., F.S., is amended to prohibit an agency from reducing or increasing a penalty recommended by a hearing officer without a review of the hearing record, as well as the submission of a statement of reasons citing the record in justification of its action.

Paragraph 120.58(1)(b), F.S., is revised to restore procedures for enforcing discovery orders and subpoenas issued by hearing officers under the APA. The hearing officers' power to control their hearings through the use of sanctions is clarified. Subsection 120.58(2), F.S., is amended to allow hearing officers and agencies to invalidate subpoenas, relating to hearings, under certain circumstances. Current references to orders directing discovery are eliminated. Subsection 120.58(3), F.S., conforms the procedures for enforcement of subpoenas, discovery orders, and orders imposing sanctions to other sections in the statutes. The courts are allowed the discretion to award attorneys' fees to prevailing parties pursuant to existing procedures in the Florida Rules of Civil Procedure.

Subsection 120.68(1), F.S., is amended to provide that orders of hearing officers as well as agency actions or rulings can be appealed immediately if the final agency decision does

not provide an adequate remedy. Finally, Subsection 120.68(12), F.S., is amended to require the courts to remand a case to an agency for corrective action if it finds that the agency's exercise of its discretion is inconsistent with its own rules.

Public Printing

Public printing, and specifically the production of statutorily required reports, were areas substantially affected by new enactments. Reporting requirements in 35 statutes are changed. The production and circulation of agency reports is limited, and abstracts for all reports are required. The review and accounting for publications paid for by state tax dollars is also addressed in new enactments requiring greater agency oversight.

SENATE BILL 99 (CHAPTER 84-263) repeals Subsection (9) of Section 287.16, F.S., which requires the Division of Motor Pool, Department of General Services to submit written recommendations to the Legislature for establishing and operating central maintenance facilities for state-owned or leased motor vehicles and watercraft.

HOUSE BILL 1039 (CHAPTER 84-254) provides several areas of change concerning statutorily required reports and public printing. The first area affected by this act relates to changing reporting requirements in 35 statutes. In 24 of the statutes, the requirements are altered to change report distribution, frequency, and volume. Some required reports are

consolidated, and in 11 statutes reporting requirements are repealed.

The second area of this act concerns reducing the production of statutorily required reports. Subsection (16) is added to Section 1.01, F.S., to provide that an agency's reporting requirement is fulfilled when the agency files a one-half page report abstract with the Executive Office of the Governor and the agency or person designated to receive the report. Actual copies of the report will be retained by the agency producing the report and copies thereof will be provided upon request of interested parties. Paragraph 11.61(2)(d), F.S., is redesignated as Paragraph (e) and a new Paragraph (d) is created to stipulate that when functions of agencies are reviewed by the Legislature pursuant to the "Regulatory Sunset Act," any related reporting requirement shall be reviewed for possible abolishment or modification. A new Subsection (6) is added to Section 216.151, F.S., which expands the duties of the Executive Office of the Governor with respect to overseeing the distribution of statutorily required reports. The act also stipulates that the administrative heads of executive agencies are required to utilize electronic data processing to create, store, manage, update, and retrieve statutorily required reports.

The third area addressed in this act concerns agency review and accounting for publications paid for by state tax funds, and authorization for additional free distribution of session laws. Section 283.31, F.S., is amended to require the

agency internal printing oversight committees to review all publications which cost in excess of \$1,000 (in lieu of \$2,500). Specific dates are set for the committees' submission of semiannual reports to the Auditor General, and the requirement for quarterly reports is eliminated. Section 283.315, F.S., is amended to require a statement of cost and purpose on all publications costing in excess of \$1,000 paid for by state tax funds. Paragraphs 283.52(1)(c) and (d), F.S., are amended to provide free distribution of the Florida Session Laws to Nova University, and to the U.S. Circuit Court of Appeals for the Eleventh Circuit (in lieu of the Fifth Circuit).

Historic Preservation

The activities of historic preservation were advanced by enactments to allow preservation boards to develop, procure, and sell items of a historical or cultural interest. Grants for historic preservation were authorized to be made to additional organizations, and standards for the establishment of railroad museums were created. An individual preservation board's name was changed and its authority expanded. Another board received authority to permit certain historic preservation support groups to use its property and facilities under certain conditions.

SENATE BILL 896 (CHAPTER 84-219) amends Section 266.301, F.S., to rename the Historic Boca Raton Preservation Board of Commissioners and transfer its assets, obligations, and

liabilities to the newly created Historic Palm Beach County Preservation Board of Trustees, effective October 1, 1984. Section 266.303, F.S., is amended to provide for two new members of the Board which would increase its membership from nine to eleven members. Current members of the Board are allowed to serve on the renamed Board until their terms of appointment for the old Board expire, and reappointment of Board members is provided for. Surety bonds formerly paid to the Department of State by Board members will be paid to the Governor. Subsections 266.306(9), (10) and (12), F.S., are amended to expand the Board's authority to draft historical development plans for Palm Beach County and its municipalities. Subsection 266.307(1), F.S., is amended to change the membership of the architectural review board (which approves plans for buildings erected, renovated or removed from designated historic districts) by reducing that board by three members (from nine to six members).

COMMITTEE SUBSTITUTE FOR HOUSE BILL 132 (CHAPTER 84-45) creates Section 266.08, F.S., to provide authority to the Historic St. Augustine Preservation Board of Trustees to allow the use of its property, facilities, and personnel by groups organized to support the Board's activities. These "direct-support organizations" are defined and their existence is conditional, subject to Board approval. Annual audits of the support organizations' finances are required, and such audits must be reviewed by the Board and the Auditor General. Section 266.08, F.S., created by this act, will be repealed and

reviewed on October 1, 1990, pursuant to the Sundown Act, Section 11.611, F.S.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 168 (CHAPTER 84-46) amends numerous sections in Chapter 266, F.S., relating to historic preservation boards. The changes provide that all state historic preservation boards may develop, procure, and distribute documents, books, films, recordings, and similar products relating to persons and events of historical or cultural interest pertaining to Florida history.

HOUSE BILL 329 (CHAPTER 84-248) amends Section 267.0617, F.S., to authorize the Division of Archives, History, and Records Management, Department of State, to make grants to for-profit or nonprofit corporations, partnerships, other public or private organizations, and individuals having as their purpose the preservation of historic sites and properties or the planning of such preservation. Funds appropriated from general revenue for the historic preservation grants-in-aid program are prohibited for projects owned by private individuals or by for-profit corporations.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 852 (CHAPTER 84-162) creates Section 15.045, F.S., to establish standards and criteria for museums designated as official state railroad museums, and to designate such museums upon their meeting such standards and criteria:

- (1) The Orange Blossom Special Railroad Museum, West Palm Beach;

(2) The Gold Coast Railroad Museum, Inc., and Gold Coast Railroad, Inc., Fort Lauderdale;

(3) The Florida Gulf Coast Railroad Museum, Inc., Tampa.

Governmental Operations

The operations of state government were changed or new operations and programs were established by measures which authorize the Secretary of State to remove members of the Florida Arts Council for cause; rename the Division of Security, DGS; create an allocation formula for single-family mortgage revenue bonds; expand the purposes of the public housing development corporation; create the paid parking trust fund; allow state agencies to purchase primary contract insurance for loss of rental income; and create a program for the protection of foreign diplomats.

SENATE BILL 179 (CHAPTER 84-8) amends Section 265.285, F.S., to provide for the removal by the Secretary of State of members of the Florida Arts Council if such members are absent from two consecutive or two regularly scheduled Council meetings in a calendar year. The Secretary of State is also provided discretion to excuse such absences.

Additionally, the Secretary of State is empowered to remove any Council member for misconduct, malfeasance, incompetence, neglect of duty, conviction of a felony, or permanent inability to perform official Council duties.

SENATE BILL 478 (CHAPTER 84-274) adds to the Florida Housing Finance Agency Act by creating Section 420.5095, F.S.,

which provides an allocation formula for single-family mortgage revenue bonds, or mortgage credit certificates. Local housing finance authorities must comply with official action steps set forth in the section before receiving their per capita allocation of mortgage revenue bonds, and a small issuers' pool is created for those authorities not eligible for a per capita allocation of bonds in excess of \$20 million.

Paragraph 420.101(1)(c), F.S., is amended to expand the purpose for which a housing development corporation is formed. Presently they can only finance housing for low to moderate income persons. In the future, they will be required to place an emphasis on such financing, but will be able to finance other construction.

Finally, in an unrelated matter, Section 20.22, F.S., is amended as well as Sections 281.02 through 281.09, F.S., to rename the Division of Security, of the Department of General Services, as the Division of Safety and Crime Prevention. References to security agents or security personnel are amended by deleting the term "security."

HOUSE BILL 213 (CHAPTER 84-27) amends Section 287.025, F.S., to permit state agencies to purchase primary contract insurance for the loss of rental income on state-owned buildings. [This corrects an existing conflict in the statutes that in one section of the law permits agencies to purchase loss of rental income insurance (Subsection 284.01(2), F.S.), and in another section prohibits such purchase (Section 287.025, F.S.).] Additionally, the deductible for excess

insurance to cover physical damage to motor vehicles, watercraft, aircraft hulls, and miscellaneous equipment is decreased from \$50,000 to \$10,000.

HOUSE BILL 297 (CHAPTER 84-177) creates Section 15.20, F.S., to require the Department of State to provide a program that assures federally granted rights, privileges, and immunities to foreign officials residing or traveling in Florida. The Department is authorized rulemaking power for the development of a program to register, identify, and protect such foreign officials.

HOUSE BILL 300 (CHAPTER 84-116) amends Section 272.161, F.S., to create the Paid Parking Trust Fund. The Department of General Services is required to deposit all fees collected for the rental of reserved parking spaces in this Fund. Fees collected in the Fund are to be utilized by the Department for the operation and administration of parking facilities and programs. The requirement that these funds be distinctly accounted for and displayed in the agency's budget request is repealed.

Security of Data and Information

A substantial enactment dealt with data and information resource security, and established a security program for all state agencies involved in the operation or handling of electronic data processing or its products. The Information Resource Commission is authorized to oversee such security activities for state government.

HOUSE BILL 531 (CHAPTER 84-236) creates the "Security of Data and Information Technology Resources Act" to assure adequate security in state agencies for data and information technology resources. The act requires all state agencies, including the State Board of Administration, the Executive Office of the Governor, and the Game and Fresh Water Fish Commission to designate an information security manager who is charged with administering information technology security programs as required in rules developed by the Information Resource Commission (created by Section 282.304, F.S., and composed of the Governor and Cabinet). The Board of Regents and the State Supreme Court are delegated responsibility for the security of data and information technology in the state university system and the state judiciary system, respectively. Both agencies are required to comply with minimum security guidelines set forth in the act. The comprehensive risk-analysis, written internal procedures, and periodic internal audits and evaluations required of each department shall be confidential and exempt from the Public Records Law (Chapter 119, F.S.), except that such information shall be available to the Auditor General in performing his postauditing duties.

The Information Resource Commission is assigned responsibility for providing technical assistance to agencies, as well as centralized management and coordination of policies relating to security of data and information technology resources. Rulemaking authority is specifically assigned to the Commission to carry out the provisions of this act.

The Department of General Services is required to adopt rules for the physical security of central computer rooms under its jurisdiction, and must also develop and include security requirements in state contract specifications for bids on information technology resources.

State Purchasing and Contractual Services

In the area of state purchasing and contractual services, the length of time required for publishing invitations to bid is shortened. Prevention services such as child and drug abuse prevention programs are excluded from the definition of "contractual services," and prior approval for private legal services is required for state agencies. The purchase or lease of motor vehicles, other than those of a subcompact class, is prohibited in most cases.

SENATE BILL 118 (CHAPTER 84-6) amends Paragraph 287.042(4)(b), F.S., to decrease the length of time required for publication of notice of invitation to bid from 28 days to 10 days, prior to the date set for the submission of bids.

SENATE BILL 907 (CHAPTER 84-288) amends Section 255.04, F.S., to allow governmental bodies, under certain conditions, to specify the use of sole source materials or systems while letting contracts for services, or purchasing materials for the construction or renovation of any publicly-owned facility. The use of sole source specifications will be permitted when justified by cost or interchangeability, or upon recommendation of the project engineer or architect. The governmental body's

consideration and justification for the use of the sole source specifications are required to be kept on file in writing.

Added to Section 255.05, F.S., is new Subsection (7) which provides that contractors constructing or repairing public buildings or works may file alternative forms of security in lieu of a bond. The alternative forms of security considered acceptable, and the method used to determine value, are set forth in the subsection.

HOUSE BILL 744 (CHAPTER 84-158) amends two sections of Chapter 287, F.S., relating to "contractual services." Section 287.012, F.S., is amended to exclude from the statutory definition of "contractual services" prevention services such as child and drug abuse prevention programs and shelters for runaways, operated by not-for-profit corporations. However, agencies acquiring such services are required to consider a contractor's price, general dependability, and willingness to meet time requirements. Additionally, Section 287.059, F.S., is amended to require that funds expended for private legal services procured for the Executive Office of the Governor, agencies under the jurisdiction of the Governor and Cabinet, and agencies under the jurisdiction of a Cabinet officer, be given final approval by their respective constitutional officer or officers.

HOUSE BILL 1038 (CHAPTER 84-169) creates Section 287.151, F.S., and provides that all motor vehicles leased or purchased by the state with funds from the General Appropriations Act be of a subcompact class or be of a more

cost effective class as determined by the Division of Motor Pool of the Department of General Services. Exceptions are provided for vehicles used for law enforcement, towing, routine multi-passenger or bulk material transport, and for vehicles used on unpaved roads.

Sunset/Sundown

Numerous sections in the statutes were amended pursuant to the Sunset and Sundown Acts. Within those acts, corrections of repeal dates of various programs were made. A major Sunset Review conducted by the 1984 Legislature concerned the solicitation of contributions.

COMMITTEE SUBSTITUTE FOR SENATE BILL 87 (CHAPTER 84-310) revives and readopts Chapter 496, F.S., before its October 1, 1984, Sunset repeal. This chapter regulates the solicitation of charitable funds, law enforcement and emergency service funds, and the solicitation of funds within public transportation facilities. The two acts in Chapter 496, F.S., are renamed as the "Solicitation of Charitable Contributions Act" and the "Law Enforcement and Emergency Service Solicitation of Contributions Act," and are designated as Part I (Sections 496.01 through 496.132) and Part II (Sections 496.20 through 496.34) of Chapter 496, F.S., respectively.

Part I provides amendments to the applicable statutes relating to the powers and duties of the Department of State in issuing, denying, suspending or revoking certificates of registration to organizations which solicit contributions for

charitable purposes and to professional solicitors and their employees. Exemption from registration requirements of the Solicitation of Charitable Contributions Act are charitable organizations and sponsors which do not receive over \$10,000 during their fiscal year or use a professional solicitor; which do not receive contributions from more than 100 persons, provided all functions are performed by volunteers, and no assets or income personally benefit any officer or member; or those which only solicit within their membership and by their members. Also exempted are persons soliciting for a specifically named person, provided all funds are turned over to such person or dedicated to his use; state universities, community colleges, and public schools and their direct-support organizations; recognized parent-teacher organizations; and private educational institutions accredited by the Southern Association of Colleges and Schools. Registration is continued on an annual basis along with the existing fee structure, except that little league baseball organizations and scholarship fund raising groups continue to be exempt from paying registration fees.

Part II provides amendments to the applicable statutes relating to the powers and duties of the Department of State in issuing, denying, suspending or revoking certificates of registration to sponsors and to professional solicitors and their employees which solicit contributions on behalf of law enforcement and emergency services. Exempted from the registration requirements under this part are sponsors which do

not receive over \$10,000 during the fiscal year or use a professional solicitor; organizations which solicit only within their membership and by their members; volunteer firefighters who disburse all funds collected for the use of the fire service; persons soliciting for the relief of a specified person, provided all funds are turned over to such named beneficiary; and sponsors and other groups authorized to provide law enforcement or emergency services and which have been authorized to solicit for a charitable organization, provided that no fee, commission or other remuneration is paid.

Fund raising organizations and sponsors are required to disclose their finances annually for the preceding year. Those which raise less than \$50,000 are allowed to submit their reports on Department of State approved forms. Those which raise \$50,000 to \$100,000 may either submit a review or an audit of their finances by a certified public accountant (CPA). Those raising in excess of \$100,000 are required to submit an audit and opinion by a CPA.

Current remedies in the law that apply to unlawful solicitation of law enforcement and emergency service contributions are applied to the unlawful solicitation of charitable contributions. The Department of State, which administers the provisions of the two acts, is authorized to impose certain penalties or fines up to \$1,000 for each violation. Criminal penalties are also set forth in the chapter.

Sponsor's financial disclosure statements to persons solicited are changed to require actual recently filed financial information or estimates of contributions to be received.

Section 496.40, F.S., is amended to provide that public transportation operating authorities are authorized to verify information on applications for permits to solicit, and are allowed to place restrictions on the hours, locations, and volume of solicitation. Additionally, the authorities are authorized to suspend or revoke solicitors' permits for violation of this section which is designated Part III of Chapter 496, F.S.

A repeal date of October 1, 1994, is set for Chapter 496, F.S., as amended by this act, subject to review by the Legislature pursuant to Section 11.61, F.S., the Regulatory Sunset Act.

SENATE BILL 575 (CHAPTER 84-94) corrects erroneous section numbers, repeals conflicting clauses in certain laws of Florida, and includes for repeal sections creating or reestablishing programs or functions meeting the criteria of the Sunset or Sundown Acts which were found to have no further repeal date as required by those acts.

HOUSE BILL 254 (CHAPTER 84-232) creates Section 288.3475, F.S., which provides for the establishment of the Columbus Hemispheric Trade Commission within the Department of Commerce. The Commission is composed of 35 members whose purposes are to lead the Florida celebration of the 500th

Anniversary of the Discovery of America, and to promote trade relations with all nations of the hemisphere. Although the Commission members will not receive compensation for their services, travel and expenses related to the performance of their duties will be reimbursed. The Department is prohibited from spending state funds for carrying out the provisions of the act. The Commission will be abolished on July 1, 1993.

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. CS/S81 (84-184), CS/S986 (84-338)
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. CS/S100 (84-188)
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. CS/S319 (84-129)
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. CS/H403 (84-250)
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(CONTINUED)

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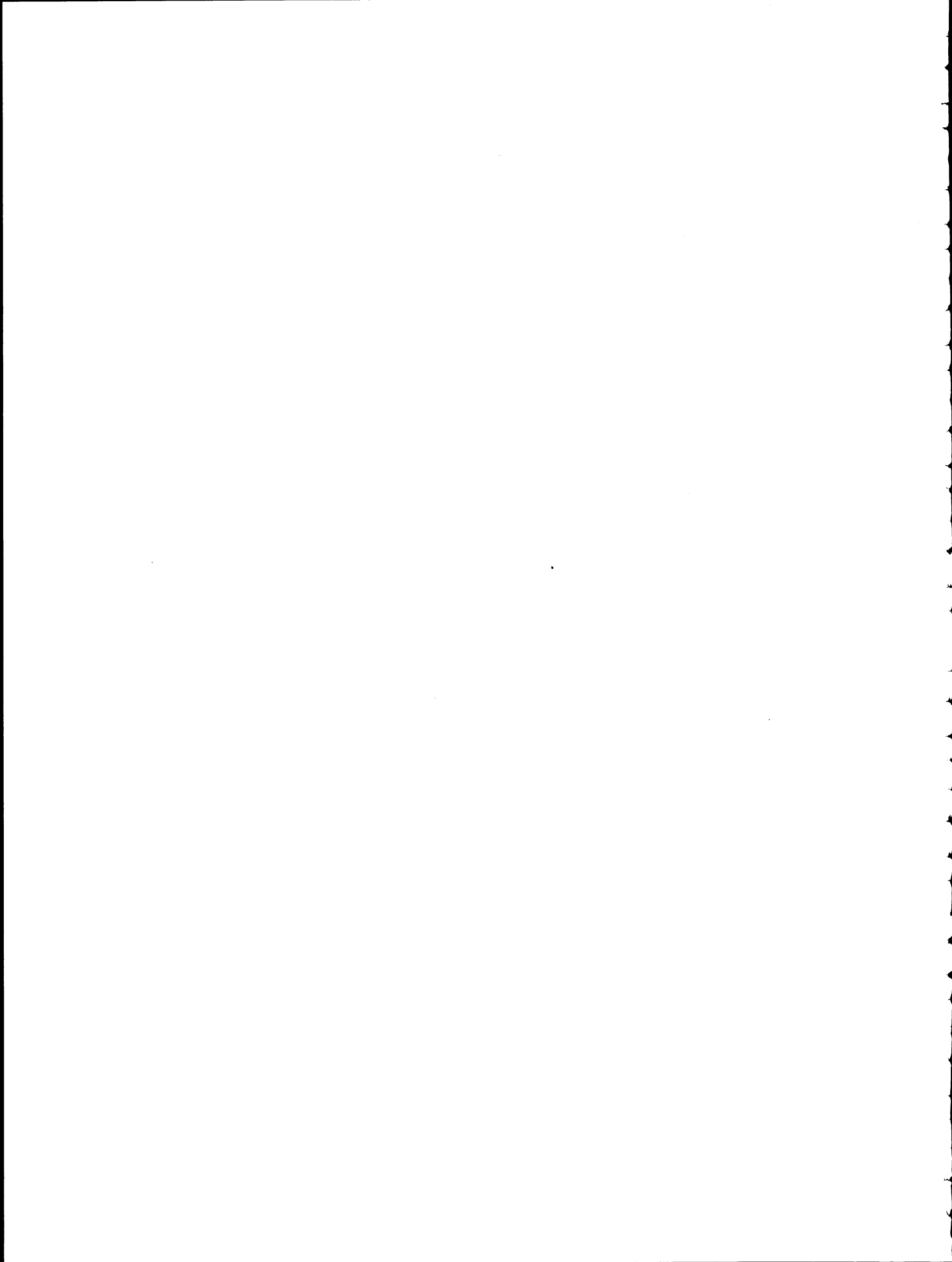
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with

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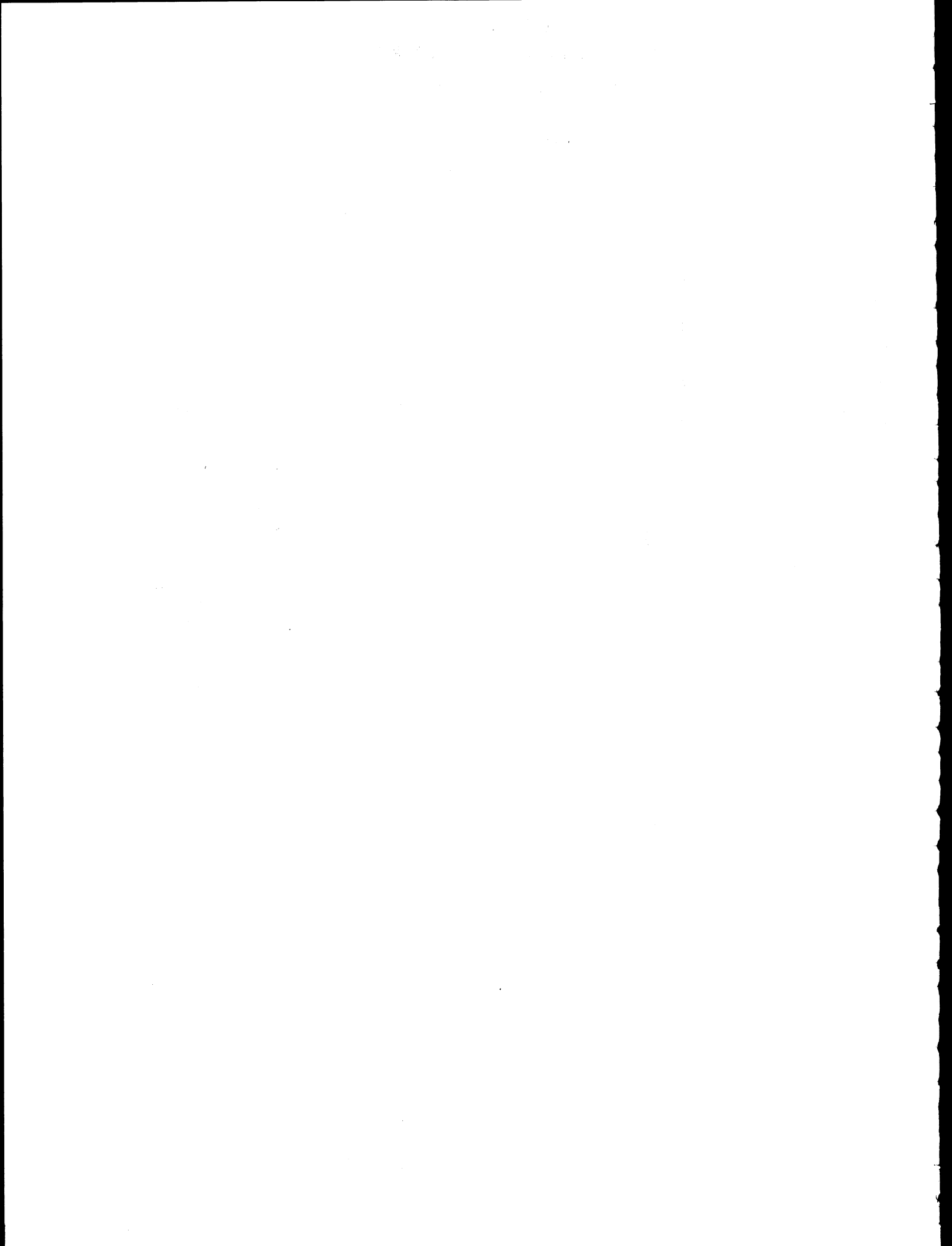
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HB 1301	-----	84-361
HB 1312	-----	84-227
HB 1324	-----	84-373

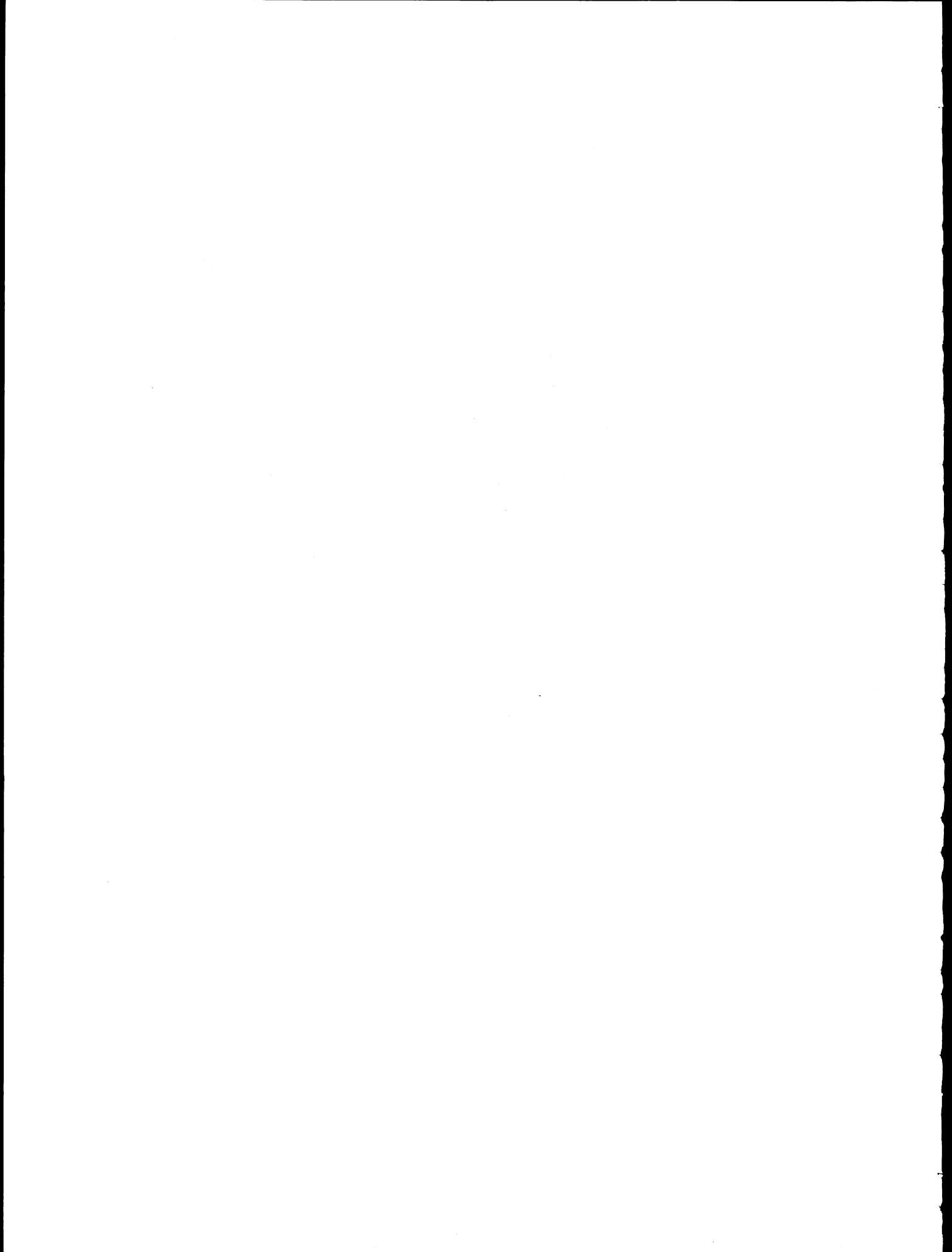


FLORIDA LEGISLATURE - REGULAR SESSION - 1984

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	13	7	20	7	33	14
RESOLUTIONS (ONE CHAMBER ONLY)	37	34	76	71	113	105
GENERAL BILLS	985	202	1010	198	1995	400
LOCAL BILLS	74	46	146	111	220	157
GEN BILL/LOC APPLICATION	0	0	0	0	0	0
JOINT RESOLUTIONS	46	3	43	3	89	6
MEMORIALS	4	0	9	2	13	2
BILLS NUMBERED, NOT INTRODUCED	0	0	1	0	1	0
WITHDRAWN	1	0	33	0	34	0
TOTAL	1160	292	1338	392	2498	684
APPROVED BY GOVERNOR	189		170		359	
BECAME LAW WITHOUT SIGNATURE	54		128		182	
VETOED BY GOVERNOR	5		11		16	
BECAME LAW, VETO NOTWITHSTANDING	0		0		0	
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)	10		12		22	
BILLS TO CONFERENCE COMMITTEE	2		4		6	
BILLS AMENDED	209		269		478	
COMMITTEE SUBSTITUTES	291		291		582	
COMMITTEE SUB FOR COMMITTEE SUB	34		26		60	
RESOLUTIONS ADOPTED	34		71		105	
FAILED TO PASS SENATE BY VOTE	0		1		1	
FAILED TO PASS HOUSE BY VOTE	0		1		1	
UNFAVOR COMMITTEE REPORT IN SENATE	6		1		7	
UNFAVOR COMMITTEE REPORT IN HOUSE	0		13		13	
BILLS NUMBERED, NOT INTRODUCED	0		1		1	
INDEFINITELY POSTPONED	44		0		44	
LAI D ON TABLE	190		135		325	
WITHDRAWN PRIOR TO INTRODUCTION	1		33		34	
WITHDRAWN/FURTHER CONSIDERATION	0		39		39	
FAILED OF INTRODUCTION/SECOND HOUSE	0		0		0	
DIED IN SENATE COMMITTEES	423		120		543	
DIED IN HOUSE COMMITTEES	38		422		460	
DIED IN CONFERENCE COMMITTEE	0		0		0	
DIED ON SENATE CALENDAR	122		17		139	
DIED ON HOUSE CALENDAR	26		141		167	
DIED IN MESSAGES	18		22		40	
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Compiled by:
Legislative Information Division



1984 VETOED GENERAL BILLS

Senate Bills:

CS/SB 106 - Vetoed 6/20/84
CS/SB 192 - Vetoed 6/25/84
CS/SB 210 - Vetoed 6/14/84
CS/SB 341 - Vetoed 6/20/84
CS/SB 504 & 681 - Vetoed 6/14/84

House Bills:

HB 18 - Vetoed 6/21/84
HB 252 - Vetoed 6/14/84
HB 382 - Vetoed 6/14/84
CS/HB 431 - Vetoed 6/22/84
HB 475 - Vetoed 6/14/84
HB 572 - Vetoed 6/14/84
HB 953 - Vetoed 6/14/84
CS/HB 997 - Vetoed 6/14/84
HB 1012 - Vetoed 6/14/84
HB 1302 - Vetoed 6/14/84

