

FLORIDA LEGISLATURE

1985 SUMMARY OF
GENERAL LEGISLATION

REGULAR SESSION
APRIL 2 - MAY 31

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September 16, 1985

Honorable Harry A. Johnston, II
President, and Members of
the Senate

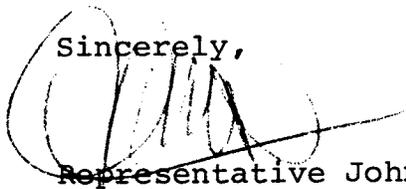
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Dear Members:

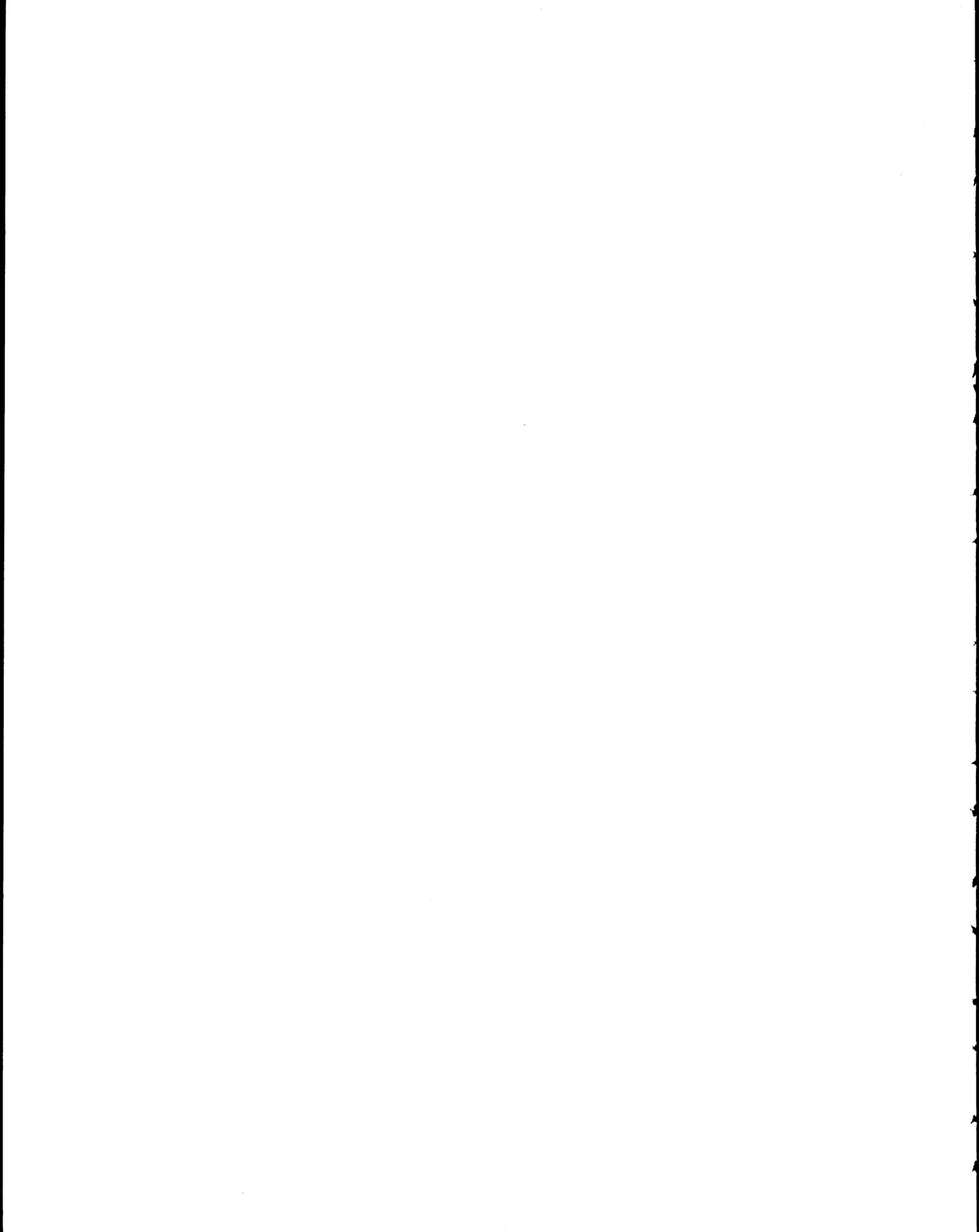
I am pleased to furnish you herewith the Summary of General Legislation, 1985, prepared under the supervision and coordination of the Division of Legislative Library Services, Joint Legislative Management Committee, with the assistance of members of the Legislative Staff.

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

Sincerely,



Representative John W. Lewis, III
Chairman
Joint Legislative Management Committee





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FOREWORD

This book highlights, within broad subject areas, the general laws enacted during the 1985 Regular Session of April 2 - May 31.

For the second consecutive year, the Legislature was able to adjourn on time while authorizing a 10.7 percent increase above 1984-85 levels in appropriations for the fiscal year ending June 30, 1985. Total authorizations exceeded \$14.7 billion. Significant enactments include: citrus canker eradication and indemnification, growth management planning and development, the "Florida Citizen Dispute Settlement Act," refinement of educational reforms enacted in 1983 and 1984, creation of a home education program within the Florida School Code, wide-ranging revision of statutes concerning child care and child abuse, the "Comprehensive Medical Malpractice Act of 1985," creation of an Office of Statewide Prosecution for combating organized crime, and revision of Department of Transportation operating procedures.

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.

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

B. Gene Baker

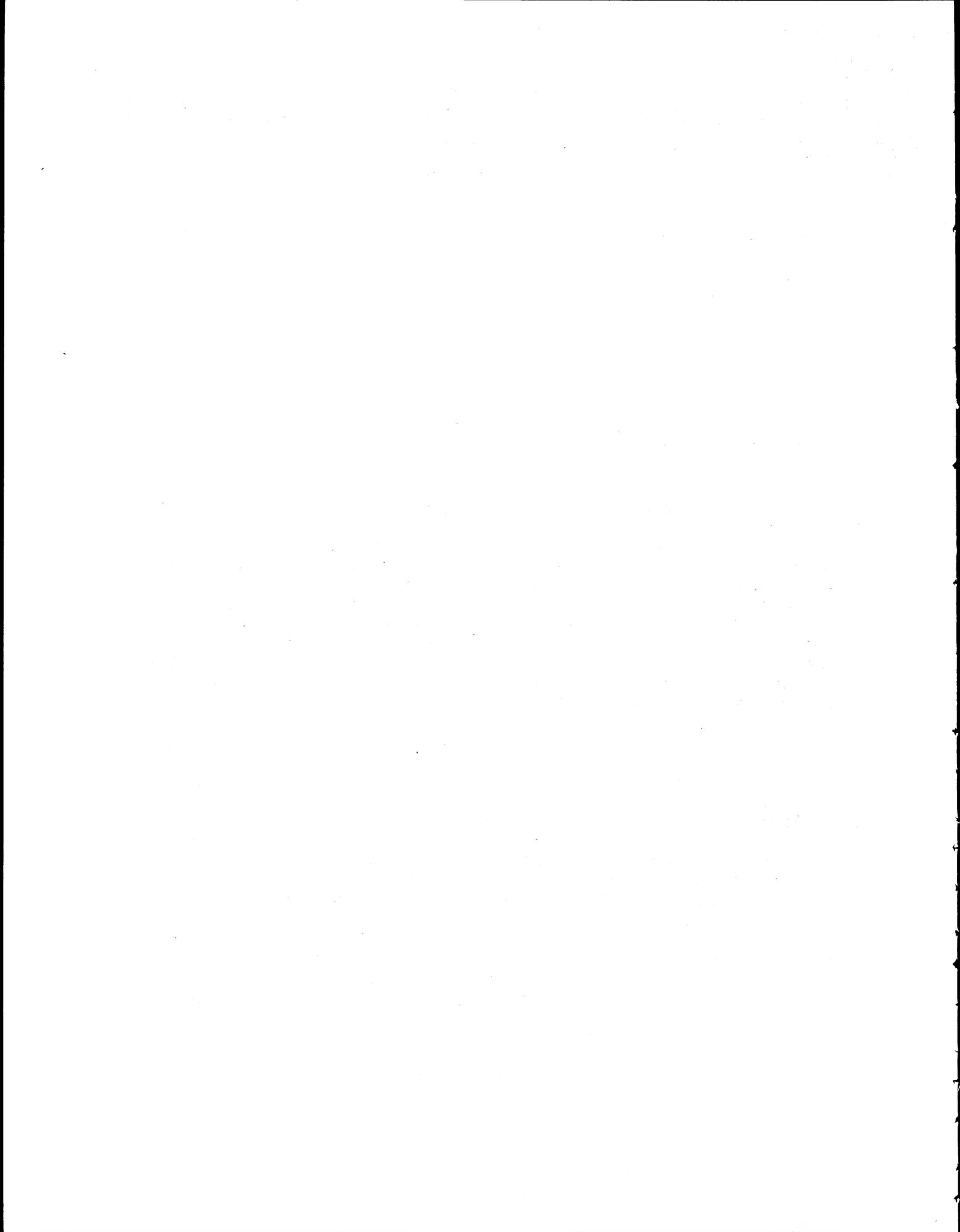
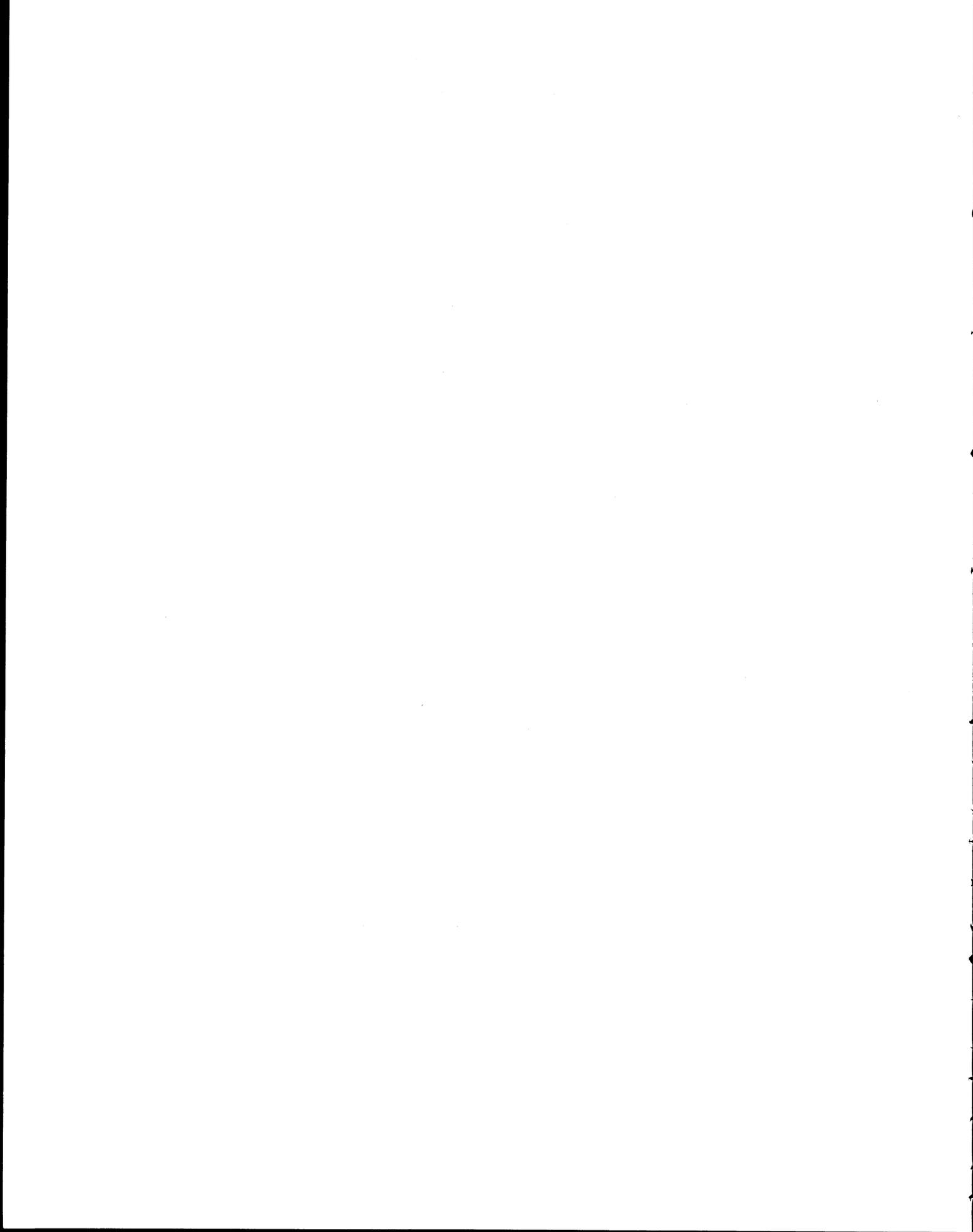


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AGRICULTURE*

Bills relating to agriculture enacted into law by the 1985 Legislature are concerned mainly with expanding and strengthening the regulatory authority of the Department of Agriculture and Consumer Services over dealers in agricultural products. Attention is given to laws regulating and setting registration fees for persons dealing in grain, commercial feed and pesticides. The Commissioner of Agriculture, in consultation with the Viticulture Advisory Council is directed to develop and coordinate the State Viticulture Plan, and a representative of the phosphate producers is designated as an additional member of the State Agricultural Advisory Council. Enactments providing improved plant industry protection include a revision of the Endangered and Threatened Plant Lists and clarification of the Department's increased authority to meet the expanding needs of the industry.

Enabling legislation is provided for 1985 appropriations totaling over \$6,000,000 for citrus canker eradication and financial assistance (indemnification). Acts relating to the citrus fruit industry include provisions for minimum grapefruit standards, for reduction of the excise tax on boxed fresh

*Prepared by staff of Senate Agriculture Committee

citrus fruit and for the use of such tax for the general promotion of such fruit. The authority of the Florida Citrus Commission to reduce citrus excise taxes is expanded. Technical changes are made in eligibility requirements for members of the Commission and the present seven citrus districts are changed to four districts, with the counties composing such districts specified. Provision is made for redistricting of such districts every five years by the Legislature.

Other agriculture measures enacted into law provide for: revision of a portion of the law governing the dairy industry to provide a more streamlined vehicle through which the Department may implement the federal laws relating to imitation and substitute milk and milk products; strengthening administrative laws regulating establishment of financial responsibility of health studios and clarification of the rights of contract holders with such studios; increasing fees for registration and penalties for violators of the Farm Labor Registration Law, and clarifying and strengthening laws relating to registration of farm labor contractors.

Agricultural Products

HOUSE BILL 401 (CHAPTER 85-36) amends certain sections of the Florida Statutes relating to dealers in agricultural products. [Bankruptcy proceedings over the past five years by grain elevator operators emphasized the Department of Agriculture and Consumer Services' inadequate bond amount to

cover potential losses by farmers who were not paid when a dealer filed for bankruptcy. One of the provisions of Chapter 84-30, Laws of Florida, required grain dealers to maintain assets to serve as security in lieu of liquid security in an amount equal to the value of grain received for which the producer had not received payment, and established certain reporting requirements to the Department. However, the new requirements were not added in Sections 570.53 and 570.54, F.S., under the powers and duties of the Division of Marketing and the duties of the director of the Division. Because this was not done, the Department has no enforcement powers over the new provisions.]

This act amends Sections 570.53 and 570.54, F.S., and the appropriate sections under Chapter 604, F.S., relating to dealers in agricultural products. It specifies that statutory provisions applicable to licensing of dealers in agricultural products relating to exceptions, funding, penalties, supervision, adoption of rules, and employment of personnel by the Department, shall also apply to special requirements applicable to grain dealers.

The effective date of this act is October 1, 1985.

HOUSE BILL 693 (CHAPTER 85-37) amends Section 570.23, F.S., relating to the State Agricultural Advisory Council [established many years ago to provide commodity groups a chance to express their needs and to advise the Department of Agriculture and Consumer Services on methods and procedures for remedying problems within the agricultural sector.]

This act amends Section 570.23, F.S., to include a representative of the phosphate producers on the State Agricultural Advisory Council. With a representative of the phosphate producers, the number of Council members will be 32.

This enactment also updates language relating to Council members' terms of office to provide staggered terms commencing on January 15 of the designated year and continuing for a period of two years.

These provisions are to take effect on January 15, 1986.

HOUSE BILL 1273 (CHAPTER 85-172) amends Chapter 487, F.S., known as the "Florida Pesticide Law." Section 487.041, F.S., provides for the registration of every pesticide which is sold, delivered or transported within the state with the Department of Agriculture and Consumer Services. For the purpose of defraying expenses, each registrant must pay a registration fee of \$10 for each and every brand registered annually, for the first 10 brands, and \$2.50 for each and every brand in excess thereof. Under this new enactment such fees would change from \$10 to \$20, and from \$2.50 to \$5, respectively.

Chapter 576, F.S., provides for the regulation of agricultural fertilizers. Section 576.041, F.S., requires an inspection fee in the amount of 25 cents per ton for commercial fertilizer sold in the state, except for fertilizers made from phosphate and lime materials, which require a 10 cents per ton inspection fee. Under the provisions of this act such

inspection fees would change from 25 cents to 50 cents per ton, and from 10 cents to 20 cents per ton.

Chapter 578, F.S., is known as the "Florida Seed Law." Section 578.08, F.S., requires that every person, before selling any agricultural, vegetable, flower or forest tree seed, must first register with the Department as a seed dealer. Each dealer must pay an annual registration fee based on the gross receipts from the sale of such seed for the last preceding license year. The fees range from \$5 to \$1,000. Under this new law, the fees are increased to range from \$10 to \$2,000.

Chapter 580, F.S., is known as the "Florida Commercial Feed Law." Section 580.061, F.S., requires each distributor of commercial feeds in this state to make application to the Department for a permit to report the tonnage of commercial feed sold in this state and to pay an inspection fee of 25 cents per ton. This new act changes the fee from 25 cents per ton to 50 cents per ton.

The amendments provided by this act will become effective on October 1, 1985.

HOUSE BILL 1206 (CHAPTER 85-169) repeals Section 2 of Chapter 84-186, Laws of Florida, relating to commercial feed. [The 1984 Legislature repealed feed inspection fees (Section 580.061, F.S.) effective October 1, 1985. The purpose was to initiate an in-depth study of the commercial feed regulatory program. Last year, the Legislature also repealed all the trust funds within the Department of Agriculture and Consumer

Services, effective October 1, 1985 (Chapter 84-346, Laws of Florida).]

This act repeals the 1985 repeal of feed inspection fees. [This will allow time for the study of the Feed Inspection Program to continue. The extension of the feed oversight will allow the House Agriculture Committee to make recommendations based on any 1985 changes in the feed inspection fees (a part of the review of the Department's trust funds).]

SENATE BILL 301 (CHAPTER 85-111) amends Chapter 599, F.S., relating to viticulture. Chapter 84-295, Laws of Florida, created the viticulture act and designated a short title to be known as the "Florida Viticulture Policy Act." [The Legislature's Statutory Revision Division in its plan of arrangement of laws inadvertently deleted this short title.] The act amends Chapter 599, F.S., to place this provision into the Florida Statutes as it currently is in Chapter 84-295, Laws of Florida.

As a housekeeping measure, Subsection 599.003(1), F.S., is amended deleting the provision directing the Commissioner of Agriculture at a time certain to transmit to specified legislative officials the State Viticulture Plan. [Since this was done on January 18, 1985, it is now obsolete wording.]

The act further amends the law by adding a provision that the Commissioner, in consultation with the members of the Viticulture Advisory Council, shall develop and coordinate the implementation of the Plan.

A repeal date of October 1, 1994, is provided for the State Viticulture Plan.

Plant Industry

HOUSE BILL 418 (CHAPTER 85-153), amends Chapter 581, F.S. [Under Chapter 581, F.S., before any person can sell or distribute any nursery stock in this state, he shall make application to the director of the Division of Plant Industry to obtain a certificate of registration. Current law prohibits the certificate of registration fee and the annual renewal fee to exceed \$200. Chapter 74-10, Laws of Florida, provided for an increase in the state inspection fee on nursery stock from \$25 to \$200.]

[The current statutory Endangered Plant List in Section 581.185, F.S., is divided into a Threatened Plant List and an Endangered Plant List. Section 581.186, F.S., establishes an Endangered Plant Advisory Council to advise the Department of Agriculture and Consumer Services, consisting of five persons to be appointed by the Commissioner of Agriculture. The Department of Natural Resources, Department of Transportation, and the Game and Fresh Water Fish Commission are required to assist the Council in the performance of its duties. The law further mandates a comprehensive review of the Endangered and Threatened Plant Lists beginning in 1980 and at subsequent four-year intervals with the Department of Agriculture and Consumer Services reporting its findings and recommendations and those of the Council to the Legislature by January 31 prior

to the convening of the regular legislative session following each such review. The law further prohibits certain activities relating to endangered and threatened plants without written permission, and requires a permit from the Department and that written permission be in the immediate possession of any person before such plants can be destroyed, injured, harvested, collected, removed, transported or sold. Exemptions are provided for Florida Indians (see Section 581.187, F.S.), certain sales by nurserymen, and for persons engaged in logging and utility operations. The Department of Transportation is also required to notify the Department of Agriculture and Consumer Services and the Endangered Plant Advisory Council of any advertised bids for highway construction.]

This new enactment relates to regulation of the plant industry by the Department of Agriculture and Consumer Services. Several sections of Chapter 581, F.S., are amended to authorize the Department to adjust operations to more effectively meet the needs of the expanding plant industry. Some new definitions are provided.

This act is not simply a revision of the Endangered and Threatened Plant Lists currently existing in Section 581.185, F.S., as is required by law.

The measure amends Section 581.185, F.S., to:

- 1) Provide a legislative declaration relating to the preservation of native flora of the state to:
 - a) Protect native flora from unlawful harvesting on both publicly and privately owned lands;

- b) Provide an orderly and controlled procedure for restricting harvesting of native flora from the wilds in order to prevent wanton exploitation or destruction of native plant populations;
 - c) Encourage the propagation of native species of flora; and
 - d) Provide the people of the state with information necessary to legally harvest native plants so as to ultimately transplant those plants with the greatest possible chance of survival.
- 2) Provide a definition section.
 - 3) Eliminate the Endangered and Threatened Plant Lists and replace them with a Regulated Plant Index which includes endangered plants, threatened plants and commercially exploited plants.
 - 4) Prohibit the willful destruction or harvesting of plants listed on the Regulated Plant Index without written permission of the landowner or his representative and a permit from the Department of Agriculture and Consumer Services. An exception is provided to the issuance of permits by the Department for species listed on the federal Endangered Species List under the Endangered Species Act of 1973, as amended.
 - 5) Prohibit the willful destruction or harvesting of one or two plants listed as commercially exploited plants without written permission of the landowner

- or his representative; or to destroy or harvest three or more such plants without first obtaining permission from the landowner or his representative and a permit from the Department.
- 6) Prohibit the falsification of any paper or document issued to give permission to destroy or harvest plants listed on the Regulated Plant Index.
 - 7) Direct the Department of Agriculture and Consumer Services to establish rules for the issuing of permits with respect to such plants, consistent with the provisions of the Federal Endangered Species Act of 1973, as amended.
 - 8) Establish a Regulated Plant Index consisting of an Endangered Plant List, a Threatened Plant List, and a Commercially Exploited Plant List.
 - 9) Provide a list of plants which are known to be established in Florida and are considered endangered under Section 6 of the Federal Endangered Species Act of 1973, as amended. Provision is also made for plants listed as threatened under Section 6 of such act. The Florida act restricts movement and handling of such plants.
 - 10) Provide that a comprehensive review of Section 581.185, F.S., shall be made by the Department and Council at four-year intervals beginning in 1984.
 - 11) Provide exemptions for:

- a) The clearing of land for agricultural or silvicultural purposes, fire control measures, or required mining assessment work;
 - b) The clearing or removal of regulated plants from certain areas by the landowner or his agent under certain conditions; and
 - c) The clearing of land by a public agency or a publicly or privately owned public utility when providing service to the public.
- 12) Provide that the Council shall meet at least yearly and that the director, or his designated representative, serve as secretary.
- 13) Increase the membership of the Endangered Plant Advisory Council, making a total of seven members, and establish qualifications for such additional members. The new members are a representative of the Florida Native Plant Society and a botanist, making a total of two botanists, each of whom shall be a staff or faculty member at a state university.
- 14) Provide the Department in the discharge of its duties with the power to subpoena records.
- 15) Restrict criminal penalty for violations of the rules to only those rules relating to quarantine. [Violations of the remaining plant industry rules are subject to administrative penalty.]

- 16) Postpone Sundown repeal of the Endangered Plant Advisory Council from October 1, 1987, until October 1, 1992.

Much of this act is clarification, condensation, and rearrangement of the existing statutes in Sections 581.185 and 581.186, F.S. [The proposed substantive changes in the law relating to native plants are the result of the Endangered Plant Advisory Council's review of these statutes as required by Section 581.186, F.S.]

HOUSE BILL 1364 (CHAPTER 85-283) also amends certain sections of Chapter 581, F.S., known as the Plant Industry chapter, to provide:

- 1) A new definition of quarantine.
- 2) Additional authority to the Department of Agriculture and Consumer Services relating to plant pest control programs.
- 3) That before a plant dealer, agent, or plant broker shall sell or offer for sale citrus nursery stock, he shall obtain a certificate of registration for each outlet.
- 4) For an increase in the maximum allowed for registration fee from \$200 to \$400 for nurserymen, stock dealers, or plant brokers.
- 5) The deletion of the exemption from payment of a certificate of registration fee heretofore granted nurserymen whose nursery stock is used exclusively for planting on their own property and the limiting

of such exemption to "governmental agency nurseries."

- 6) A \$1 excise tax on each citrus plant sold for "dooryard" use to help fund the citrus canker eradication program. A July 1, 1990, repeal is provided for this tax.
- 7) For the creation of a 10 cent per tree tax on all citrus nursery stock plants, including limes and lemons, to help fund the citrus canker eradication program. Inter-company sales are excluded. All such taxes collected prior to July 1, 1986, are to be deposited in the General Revenue Fund. After that date they are to be deposited in the Florida Citrus Canker Trust Fund. Provision for such excise taxes on citrus nursery stock is to be repealed as of July 1, 1987.

To further fund the citrus canker eradication and financial assistance (indemnification) programs conducted by the Department of Agriculture and Consumer Services, the General Appropriations Act provided various appropriations amounting to a total of \$6.011 million which are enumerated in this act. Such provisions in this act are repealed effective July 1, 1987.

This enactment further provides the enabling legislation for the spending formula found in the Appropriations Act relating to citrus canker. The formula is as follows:

REVENUE

\$1,500,000	From Citrus Advertising Trust Fund to be paid back with a \$1.00 citrus "dooryard" tree excise tax, for five years, for <u>eradication</u> .
250,000	From Plant Industry Inspection Trust Fund for <u>financial assistance</u> funded from additional citrus plant sales outlets required to register.
500,000	From General Revenue Fund for <u>financial assistance</u> .
361,000	Additional General Revenue Fund for <u>financial assistance</u> to supplement financial assistance paid prior to June 30, 1985.
3,300,000	From General Revenue Fund for <u>eradication</u> . An unspecified amount to be paid back during the first year of a two-year 10-cent per plant excise tax on all citrus nursery stock plants except those grown for own use by nurseryman. The remaining year's collection will go into the Citrus Canker Trust Fund for eradication or pay back to Citrus Advertising Trust Fund.
100,000	From Citrus Advertising Trust Fund for <u>financial assistance</u> to be paid back with excise tax of \$1.00 per "dooryard" tree.
<u>\$6,011,000</u>	TOTAL

DISBURSEMENT

\$4,800,000	For eradication
1,211,000	For financial assistance
<u>\$6,011,000</u>	TOTAL

Citrus Products

HOUSE BILL 536 (CHAPTER 85-129) revives and readopts certain sections of Chapter 601, F.S., relating to citrus fruit

dealers and manufacturers of materials used in processing citrus fruits, notwithstanding the Regulatory Sunset Act.

[The Florida Citrus Code (Chapter 601, F.S.) provides for the licensure of citrus fruit dealers. A citrus fruit dealer is anyone who buys or sells citrus fruit with the exception of growers and retail outlets. Approximately 1,600 citrus fruit dealers are licensed and 1,200 agents are registered in the State of Florida. Licensing is approved by the Florida Citrus Commission/Department of Citrus and licenses are issued by the Department of Agriculture and Consumer Services for each citrus season. Before a license is issued, the Department of Citrus conducts a background check of the applicant. Grounds for denial of a license are enumerated in the Citrus Code, and include violation of any of the citrus laws, or having delinquent accounts for the purchase of fruit from growers.]

[The Florida Citrus Commission, after review of individual applications, recommends approval or denial of citrus fruit dealer licenses. This recommendation is forwarded to the Department of Agriculture and Consumer Services. The fee for the license is \$25 and is paid into the Department of Agriculture General Inspection Trust Fund. A bond must be posted with the Department, and the Department's Division of Fruit and Vegetable Inspection, Bureau of Citrus License and Bond issues the license.]

[Once the license is issued, a citrus fruit dealer can buy, sell and handle other people's fruit. The Citrus Code,

however, makes the dealer accountable for the manner in which he handles the fruit. For instance, the Code prohibits certain practices such as: failing to deliver fruit bought from a grower; the wrongful destruction or dumping of fruit; making misleading statements about fruit condition; handling stolen fruit; or failure to make full accounting of or payment for purchased fruit.]

[A person who complains he has been wronged by a citrus fruit dealer through the violation of any of these prohibitions, may file a complaint with the Department of Agriculture and Consumer Services and this begins an administrative hearing on the matter. In such an administrative proceeding, the Department can adjudicate the amount of indebtedness or damages due to be paid by the dealer to the complainant. If the dealer fails to comply with the order directing payment, then the Department can go against the bond to the extent of the bond.]

[In addition to administrative proceedings by dealers and growers against dealers, the Department can file disciplinary complaints against dealers, e.g., violation of the Department of Citrus rules such as adulteration of orange juice. In these disciplinary actions, the Department of Agriculture and Consumer Services may impose a fine of up to \$50,000 per violation, and may suspend or revoke the license of a citrus fruit dealer. Fines imposed are deposited with the Department of Agriculture General Inspection Trust Fund. Failure to pay adjudicated claims or fines also is grounds for

denying dealer licenses for subsequent citrus fruit seasons. Last year, the Bureau of License and Bond handled 58 administrative complaints.]

[In addition to these administrative proceedings, the Code provides for civil suits and criminal prosecution of Code violations. Violations of any of the provisions of the Citrus Code subject persons to first degree misdemeanor penalties, with the exception of second convictions for failing to have a trip ticket when transporting citrus fruit on the highways for commercial purposes. Those subsequent convictions provide for punishment as third degree felonies. Grand theft statutes also apply and include enhanced penalty provisions.]

[In Sections 601.75 - 601.78, F.S., provisions are made relative to the Department of Agriculture and Consumer Services' licensing of soaps, oils, dyes and other compositions used in the processing of citrus fruit. The Department reviews the analysis of these compositions to make sure their use is not injurious to fruit quality or human health. The individual manufacturers pay for the analysis and also pay a \$10 per year fee to defray administrative costs. Last year, licenses were issued to 20 manufacturers. One license to one manufacturer can cover any number of products. In the case of coloring matter, a \$5,000 bond must be posted.]

Sections 601.55 - 601.731, F.S., relating to citrus fruit dealers, and Sections 601.74 - 601.78, F.S., relating to manufacturers of materials used in processing citrus fruits, were scheduled for repeal under the Regulatory Sunset Act

(Section 11.61, F.S.) on October 1, 1985, unless reenacted by the Legislature prior to that date. HOUSE BILL 536 (CHAPTER 85-129) provides that these sections shall continue in full force and effect until October 1, 1995, at which time a repeal will be in effect subject to review by the Legislature pursuant to Section 11.61, F.S.

SENATE BILL 943 (CHAPTER 85-49) amends Section 601.04, F.S., which creates the Florida Citrus Commission within the Department of Citrus. This section provides for 12 Commission members consisting of seven growers and five grower/handlers who have been active in the citrus industry immediately prior to their appointment. The member must derive a major portion of his income from growing, shipping or processing citrus. Appointments are made by the Governor for a term of three years and are subject to Senate confirmation. Terms begin on June 1 and end on May 31 of the third year after appointment. Members are appointed from each of the present seven citrus districts as defined in Section 601.09, F.S.

This act makes technical changes in the descriptions of eligibility for membership specifying that two of the five grower/handler members shall be primarily engaged in the fresh fruit business and three of the grower/handler members shall be primarily engaged in the processing of citrus fruits.

It provides that appointments shall be made by the Governor by April 1 preceding the beginning of the term, subject to confirmation in the following legislative session. The regular terms of commissioners shall begin on June 1 and

shall end on May 31 of the third year of appointment. The terms of the new Commission members whose appointments are made by July 15, 1985, shall expire May 31, 1988. [Members will be appointed, confirmed, and then seated except for the initial appointments. Previously, members were seated prior to confirmation.]

A new Subsection (4) is added to Section 601.04, F.S., which provides that the Commission shall be redistricted every five years by the Legislature. Redistricting shall be based on the total boxes of citrus produced from each of the four districts during that five-year period and shall account for any shifts in citrus production throughout the industry in future years.

Substantial rewording of Section 601.09, F.S., changes the present seven citrus districts to four citrus districts. Subsection 601.04(1), F.S., is amended to provide three commissioners per district; no more than two grower members per district; no more than two members per county; and that one fresh fruit grower/handler must be from District 4.

The proposed four citrus districts will be composed of the following counties:

District 1: Hillsborough, Pinellas, Pasco, Hernando, Citrus, Sumter, Lake, Seminole, Marion, Levy, Alachua, Putnam, Flagler, St. Johns and portions of Volusia.

District 2: Orange, Osceola and Polk.

District 3: Manatee, Sarasota, Hardee, DeSoto, Highlands, Okeechobee, Charlotte, Glades, Lee, Hendry, Collier, Broward, Monroe and Dade.

District 4: Brevard, Indian River, St. Lucie, Martin, Palm Beach and a portion of Volusia.

[Each of the four proposed districts represents approximately 25 percent of the state citrus production based on a five-year average.]

Commission appointments under the new districts will be made from vacancies left by commissioners whose terms expire May 31, 1985. The appointments must be made by July 15, 1985, and will be in effect until May 31, 1988. The Senate will act on these appointments in the 1986 Legislative Session. Commissioners whose terms do not expire May 31, 1985, shall be reappointed under the new districts and shall remain in office until May 31 of the year their terms expire under present law.

[These changes concerning the Commission terms and redistricting are based conceptually on the recommendations of the 1984 Touche Ross and Company Management and Performance Audit of the Florida Citrus Commission and Department of Citrus.]

HOUSE BILL 1223 (CHAPTER 85-171) amends Section 601.15, F.S., to expand authority of the Florida Citrus Commission to reduce citrus excise taxes and to provide for application of such reduction. [Under Section 601.15, F.S., an excise tax upon grapefruit, oranges, tangerines, and citrus hybrids is levied upon each box of fruit when such fruit enters the

primary channel of trade. The annual tax rate on each variety is based upon the previous year's production at a rate schedule previously set by law. Currently the rate for grapefruit is 28 cents per standard 85 pound box; oranges, 21 cents per standard 90 pound box; tangerines, 18.5 cents per standard 95 pound box; and hybrids, 18.5 cents per standard 90 pound box. The Florida Citrus Commission may, upon affirmative vote of nine members, reduce the tax rates specified in this section up to six cents per box in any one year.]

Paragraph 601.15(3)(e), F.S., is amended by this act to authorize the Florida Citrus Commission, upon affirmative vote of nine members, to reduce the excise tax rates imposed in Section 601.15, F.S., beyond the current six cents. Such reduction may be applied by variety and on the basis of the fruit entering the primary channel of trade in fresh or processed form.

HOUSE BILL 1222 (CHAPTER 85-170) amends Sections 601.151 and 601.155, F.S., and repeals Section 601.157, F.S.

Presently, Section 601.151, F.S., provides for a two cents per box excise tax on all citrus fruit delivered for shipment in fresh form. [This is a special tax dating back to the early 50's and is in addition to the basic excise tax imposed upon citrus fruits.] One cent of this tax is used specifically for brand advertising programs for fresh fruit. The other one cent is used for general (generic) promotion of fresh fruit. Under the provisions of this new act this section is amended to reduce the two cents per box tax to one cent

which will be used exclusively for the general (generic) promotion of fresh citrus fruit.

At the present time, Section 601.157, F.S., provides for a two cents per box excise tax on grapefruit grown in Florida and sold or delivered for processing. Revenue from this tax is set aside exclusively to rebate handlers of processed grapefruit for brand advertising. Any excess revenue collected from this tax is used for generic promotion of processed grapefruit products. These provisions are repealed, effective August 1, 1985, by this act.

The act also amends Section 601.155, F.S., relating to the equalizing excise tax on imported citrus products, to delete the two cents per box on processed grapefruit products.

SENATE BILL 947 (CHAPTER 85-50) amends Section 601.16, F.S., providing for minimum grapefruit maturity standards. This proposal raises the minimum maturity standards of grapefruit used in processed products. It does not affect the minimum maturity standards of grapefruit used in fresh form. [There is a correlation between the flavor of grapefruit and the seasonal changes in the ratio of total solids to total acid in grapefruit. This correlation is the basis for the maturity standards.]

[Grapefruit are regarded as tasting better later in the growing season because the ratio of total grapefruit solids to total acid increases as the grapefruit matures.] This act will encourage the postponement of the grapefruit harvest by raising the minimum ratio of grapefruit for processing into grapefruit

juice to 8:1 from January 1 - January 31. The minimum ratio of packinghouse eliminations to be used in pure juice products is raised to 7.5:1 from August 1 - January 31. Also, packinghouse eliminations which do not meet the 7.5:1 ratio, as well as finished juice failing to meet 7.5:1 ratio, can only be used in the manufacture of beverage bases. Presently, minimum ratios can be as low as 6.5:1 on grapefruit for processing.

Section 601.9906, F.S., provides for canned single-strength grapefruit standards and labeling. This act substantially rewords this section to apply to all processed grapefruit juice products. Under this change a finished product failing to meet a minimum 7.5:1 ratio would be required to have an additive of some kind to preclude its future use in pure juice products. It could be used as a beverage base in drink products.

The effective date of this act is October 1, 1985.

Dairy Industry

SENATE BILL 1227 (CHAPTER 85-94) amends certain sections of Chapters 502 and 503, F.S., relating to the dairy industry. These statutes provide for the Department of Agriculture and Consumer Services to regulate milk and milk products. [The purpose of the Division of Dairy in the Department is to insure that only high quality milk, milk products, ice cream and frozen desserts are produced and processed in wholesome and sanitary conditions before being sold to the consumer. Florida's dairy industry is regulated by the Federal

Pasteurized Milk Ordinance (PMO) as implemented by the Florida Department of Agriculture and Consumer Services.]

This act rewrites a portion of the law governing the dairy industry providing for a more streamlined vehicle through which the Department may implement the federal laws relating to imitation and substitute milk and milk products. The act creates Section 502.165, F.S., to provide definitions for "imitation milk and imitation milk products" and for "substitute milk and substitute milk products." It also provides for labeling, display, and health standards for imitation or substitute milk and milk products. Deceptive or misleading advertising, packaging, labeling or sale of such milk or milk products is declared unlawful, and permits from the Department are required of manufacturers of such products within this state. Out-of-state manufacturers doing business within this state shall furnish the Department a copy of a valid permit from the regulatory authority in the political jurisdiction of manufacture.

Section 502.171, F.S., is amended to provide for enforcement expenses incurred by the Department to be paid from the General Revenue Fund rather than from the General Inspection Trust Fund.

Section 503.041, F.S., is amended to delete restrictions on use of certain license fees deposited in the General Inspection Trust Fund. Formerly this \$50 license fee paid by frozen dessert manufacturers could be used only by the Department for enforcement of Chapter 503, F.S.

Paragraph 502.012(1)(c) and Section 502.018, F.S., relating to definition and labeling of filled milk and filled milk products, and Section 502.161, F.S., dealing with industry trade products having the semblance of milk or a milk product, are repealed by this act.

All provisions of this act are effective October 1, 1985.

Consumer Protection - Health Studios

HOUSE BILL 1161 (CHAPTER 85-275) amends Section 501.012, F.S., relating to health studios, by:

- 1) Redefining "health studio" to mean the types of operations that sell contracts for the use of exercise equipment and facilities. Exercise, martial arts, gymnastics, or dance school classes are exempt. Golf, tennis, and racquetball clubs that also offer exercise facilities will continue to be subject to the health studio provisions.
- 2) Providing that contracts cannot exceed three years, but can be renewed annually after the initial three-year contract. [This language strengthens the provision that lifetime memberships are illegal.]
- 3) Providing that each separate location of a health studio must provide a bond, and increases the bond amount from \$25,000 to \$50,000. Language is also added requiring each occupational licensing authority to notify the Department of Agriculture

and Consumer Services each time a license is issued to a health studio.

- 4) Deleting language approving the submittal of a financial statement in lieu of posting a bond. The only substitutions for a bond would be a letter of credit or a guaranty agreement secured by a certificate of deposit.
- 5) Adding the requirement that a filing fee of \$100 be paid to the Department of Agriculture and Consumer Services. [This fee will be used to cover the administrative costs of establishing financial responsibility of each health studio in the state.]

The effective date of this act is October 1, 1985.

Another statutory change affecting the regulation of health studios is provided in SENATE BILL 192 (CHAPTER 85-4) which creates Paragraph 501.012(3)(e), F.S., to mandate that each health studio which requires its members to furnish identification for access to the facility and use of its services must furnish members with the means of the required identification. The act also adds a new Subsection (7) to provide that each buyer under contract with a health studio be notified by the new owner or manager of his rights and obligations within 10 days of a change of ownership or controlling stock ownership of the facility.

Farm Labor Registration

SENATE BILL 690 (CHAPTER 85-243) amends Sections 450.28

- 31 and 450.38, F.S., relating to farm labor registration. [Chapter 77-25, Laws of Florida, was encoded in Part III of Chapter 450, F.S., cited as the Farm Labor Registration Law. This statute was subsequently amended by the Legislature in 1979 and 1983. Section 1 of SENATE BILL 690 (CHAPTER 85-243) provides amendments to the 1977 session law rather than to Chapter 450, F.S.]

[Chapter 77-25, Laws of Florida, gives authority to the Department of Commerce to enforce the Federal Farm Labor Contractor Registration Act of 1963 and to enter into an agreement with the U.S. Secretary of Labor. Part III of Chapter 450, F.S., provides that any person who recruits, transports, supplies, or hires 10 or more farm workers will be considered a farm labor contractor. An annual registration fee of \$25 is charged by the state for certification as a farm labor contractor.]

This present enactment provides the following:

- 1) Updates Chapter 77-25, Laws of Florida, to provide that the Department of Labor and Employment Security has the authority to administer the federal Migrant and Seasonal Agricultural Worker Protection Act of 1983 (29 U.S.C. 1801 - 1872 (1982)).
- 2) Amends Subsection 450.28(1), F.S., to provide that a person will be considered a farm labor contractor if one (present law allows up to 10) farm worker is recruited, transported, or hired.

- 3) Amends Subsections 450.28(3) and (4) and 450.29(1), F.S., to provide definitions for "carpool" and "immediate family member" and extends the exclusions from this law to those instances.
- 4) Amends Subsection 450.30(3), F.S., to stipulate that each farm labor contractor's certificate of registration will be renewed annually on the birthdate of that contractor.
- 5) Amends Subsection 450.31(3), F.S., to increase the annual application fee from \$25 to \$35 for all certificates of registration, and stipulates that the fee is nonrefundable.

The act also amends Section 450.38, F.S., to provide that any farm labor contractor may be assessed a civil penalty of not more than \$1,000 for each violation of the provisions of the Farm Labor Registration Law. A civil penalty may not be assessed if the accused person is subject to a criminal indictment by the state or by the U.S. Government. The civil penalty may not be applied to a violation occurring prior to the effective date of this act.

Also a farm labor contractor may be enjoined from engaging in farm labor contracting activities if he fails to obtain or possess a certificate of registration to perform as a farm labor contractor.

APPROPRIATIONS*

For the second consecutive year, the Legislature was able to adjourn without extension following the adoption of CONFERENCE COMMITTEE REPORT ON SENATE BILL 1300 (CHAPTER 85-119), the 1985 General Appropriations Act, the provisions of which are implemented by SENATE BILL 1301 (CHAPTER 85-120). Appropriations in the Act total \$14.7313 billion. This represents a 10.7 percent increase over 1984 allocations. Vetoed, contingency and reserved items account for \$3.5 million, leaving effective appropriations of \$14.7278 billion.

Three functions of government account for 80.9 percent of all expenditures. Education, 38 percent; Health and Rehabilitative Services, 22.7 percent; and General Government, 20.2 percent.

Selected pages follow from the 1985 Fiscal Analysis in Brief, issued jointly by the Appropriations Committees of the House and Senate.

*Prepared by staff of Legislative Library

SUMMARY OF 1985-86
TOTAL EFFECTIVE APPROPRIATIONS
(In Millions of Dollars)

<u>GENERAL APPROPRIATIONS ACT</u>	<u>GENERAL REVENUE FUND</u>	<u>TRUST FUND</u>	<u>TOTAL FUNDS</u>
	\$	\$	\$
<u>Operations (Section 01):</u>			
Education			
Public Schools	2,980.2	455.7	3,435.9
Universities	724.7	481.3	1,206.0
Community Colleges	356.1	--	356.1
All Other Education	121.3	109.1	230.4
HRS	1,418.2	1,705.6	3,123.8
Transportation	--	1,486.4	1,486.4
General Government	302.6	2,632.1	2,934.7
Criminal Justice	719.4	76.4	795.8
Natural Resources & Environmental Regs.	77.4	195.9	273.3
Salary Increases & Fringe Benefits	65.0	27.4	92.4
<u>Fixed Capital Outlay</u> <u>(Sections 02, 03, and 04):</u>	<u>64.8</u>	<u>99.2</u>	<u>164.0</u>
 Total General Appropriations Act	 6,829.7	 7,269.1	 14,098.8
Special Appropriations Bills & Claims Bills	47.0	5.0	52.0
Public Education Capital Outlay (PECO)	<u>--</u>	<u>580.5</u>	<u>580.5</u>
Total Appropriations	6,876.7	7,854.6	14,731.3
Less:			
Contingent and Reserve Items	.1	.3	.4
Vetoed Items (See Veto Listing on Pages 113 & 114)	<u>2.6</u>	<u>.5</u>	<u>3.1</u>
Total Effective Appropriations	<u>\$6,874.0</u>	<u>\$7,853.8</u>	<u>\$ 14,727.8</u>

GENERAL APPROPRIATIONS ACT - SB 1300
Vetoed Appropriations
 1984-85

Item No.	Item	General Revenue		Trust
		Recurring	Non-Rec.	
		\$	\$	\$
<u>SECTION 01</u>				
368	Financial Assistance Payments- Florida Student Assistance Grants-Winner Florida Junior Miss Contest		5,000	
523A	Lump-Sum Archaeological Research/Palm Bay		55,000	
524	Lump Sum-Engineering Enhancement (Proviso) UNF-UF Operating Funds and Scientific and Tencinal Equipment	532,000	925,000	
585A	Special Categories-College of Chiropractic		75,000	
699A	Grants and Aids-911 System Osceola County		250,000	
817	Grants and Aids-Domestic Violence Program (Proviso) Commission Against Sexual Assault	61,560		
856	Grants and Aids-Contracted Services (Proviso) Community Arbitration Program in Seminole County	25,000		
1335	Special Categories-Contract Walnut House Ex-Offender Program			145,000
1423A	Lump Sum-Special Projects Coordination			55,000
1428	Other Personal Services (Proviso) Appraisals for Possible Disposal of Approx. 60 Acres in Hillsborough County			61,000

1631	Special Categories-Public Transportation Structures Improvements (Proviso) Intercounty Bus Service in Broward and Dade Counties		110,000
1712E	Fixed Capital Outlay-Planning Construction of Walton County State Farmers' Market	100,000	100,000
1712F	Fixed Capital Outlay-Renovation of Walton County Fair	50,000	
1712G	Fixed Capital Outlay-Construction/ Southeastern Livestock Pavilion/ Marion County	100,000	
1724A	Fixed Capital Outlay-Construction/ Renovation Jackson County Agricultural Center	400,000	
	TOTAL VETOES	<u>\$618,560</u>	<u>\$1,960,000</u> <u>\$471,000</u>

FINANCIAL OUTLOOK STATEMENT FROM 1985 SESSION
 FY 1984-85 AND 1985-86
 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 1984-85					
BALANCE FORWARD FROM 1983 84	95.8	25.3	121.1	.0	121.1
ESTIMATED REVENUES	6279.8	.0	6279.8	6256.8	23.0
MIDYEAR REVERSIONS	14.8	.0	14.8	.0	14.8
FIXED CAPITAL OUTLAY REVERSIONS 4/85	2.8	.0	2.8	.0	2.8
WORKING CAPITAL FUND INTEREST	.0	2.8	2.8	.0	2.8
CANCELLATION OF WARRANTS	.6	.0	.6	.0	.6
TRANSFER TO WORKING CAPITAL FUND	95.8	95.8	.0	.0	.0
	-----	-----	-----	-----	-----
TOTAL 84 85 FUNDS AVAILABLE	\$ 6298.0	\$ 123.9	\$ 6421.9	\$ 6256.8	\$ 165.1
ESTIMATED EXPENDITURES 1984-85					
OPERATIONS	2950.9	.0	2950.9	2909.1	41.8
AID TO LOCAL GOVERNMENT	3233.3	.0	3233.3	3222.8	10.5
FIXED CAPITAL OUTLAY	53.4	.0	53.4	.0	53.4
OTHER	22.5	4.0	26.5	21.2	5.3
CHILD DAY CARE/SPECIAL SESSION	4.5	.0	4.5	4.5	.0
CITRUS CANCKER/SPECIAL SESSION	6.4	.0	6.4	3.0	3.4
SPECIAL BILLS 1985 SESSION	.6	.0	.6	.0	.6
	-----	-----	-----	-----	-----
TOTAL 84-85 EXPENDITURES	\$ 6271.6	\$ 4.0	\$ 6275.6	\$ 6160.6	\$ 115.0
	=====	=====	=====	=====	=====
RESERVES AVAILABLE	\$ 26.4	\$ 119.9	\$ 146.3	\$ 96.2	\$ 50.1
	-----	-----	-----	-----	-----
OBLIGATIONS AND ENCUMBRANCES					
NONE	.0	.0	.0	.0	.0
	-----	-----	-----	-----	-----
UNENCUMBERED RESERVES	\$ 26.4	\$ 119.9	\$ 146.3	\$ 96.2	\$ 50.1
	=====	=====	=====	=====	=====
FUNDS AVAILABLE 1985-86					
BALANCE FORWARD FROM 84-85	26.4	119.9	146.3	.0	146.3
ESTIMATED REVENUES (A)	6626.5	.0	6626.5	6659.9	33.4
ADJ. FOR MOBILE HOME SALES	11.0	.0	11.0	4.9	6.1
ADJ. FOR EST. PAYMENTS INTERPRETATION	8.0	.0	8.0	.0	8.0
EST 84-85 UNUSED APPROPRIATIONS	55.1	.0	55.1	.0	55.1
REVERSIONS- MIDYEAR 12/85	14.9	.0	14.9	.0	14.9
REVERSIONS- FIXED CAPITAL OUTLAY 4/86	3.0	.0	3.0	.0	3.0
WORKING CAPITAL FUND INTEREST	.0	10.8	10.8	.0	10.8
CANCELLATION OF WARRANTS	.7	.0	.7	.0	.7
TRANSFER TO WORKING CAPITAL FUND	26.4	26.4	.0	.0	.0
TRANSFER FROM WORKING CAPITAL FUND	31.4	31.4	.0	.0	.0
BROWARD CTY INTERIM ROLL DECISION (B)	28.1	.0	28.1	.0	28.1
MEASURES AFFECTING REVENUES	127.3	.0	127.3	102.9	24.4
	-----	-----	-----	-----	-----
TOTAL 85-86 FUNDS AVAILABLE	\$ 6868.0	\$ 125.7	\$ 6993.7	\$ 6757.9	\$ 235.8
EFFECTIVE APPROPRIATIONS					
OPERATIONS	3375.1	.0	3375.1	3301.9	73.2
AID TO LOCAL GOVERNMENT	3389.8	.0	3389.8	3383.1	6.7
FIXED CAPITAL OUTLAY	64.8	.0	64.8	.0	64.8
OPERATIONS VETOES	1.9	.0	1.9	.6	1.3
FIXED CAPITAL OUTLAY VETOES	.7	.0	.7	.0	.7
SPECIAL BILLS	41.0	6.0	47.0	40.5	6.5
BSA GUARANTEE	.0	10.0	10.0	.0	10.0
FAILED CONTINGENCY ITEMS	.1	.0	.1	.1	.0
	-----	-----	-----	-----	-----
TOTAL EFFECTIVE APPROPRIATIONS	\$ 6868.0	\$ 16.0	\$ 6884.0	\$ 6724.8	\$ 159.2
	=====	=====	=====	=====	=====
RESERVES AVAILABLE	\$.0	\$ 109.7	\$ 109.7	\$ 33.1	\$ 76.6
	-----	-----	-----	-----	-----
OBLIGATIONS AND ENCUMBRANCES					
NONE	.0	.0	.0	.0	.0
	-----	-----	-----	-----	-----
UNENCUMBERED RESERVES	\$.0	\$ 109.7	\$ 109.7	\$ 33.1	\$ 76.6
	=====	=====	=====	=====	=====

***** FOOTNOTES *****

(A) THESE ESTIMATES CONTAIN REVENUES THAT ARE SUBJECT TO LITIGATION. THE AMOUNTS IN MILLIONS OF DOLLARS ARE AS FOLLOWS:

SOURCE -----	RECURRING	NON	
	1985-86	RECURRING	1986-87
	-----	-----	-----
BEVERAGE TAX/FLORIDA PRODUCTS	\$ 0.0	\$ 3.4	\$ 0.0
MEDICAL-HOSPITAL FEES/COUNTY REIMB.	0.0	1.5	3.0
SERVICE CHARGES/AVIATION FUEL	0.0	1.3	0.0
SERVICE CHARGES/CONSTITUTIONAL GAS TAX	7.3	7.1	7.5
	-----	-----	-----
	\$ 7.3	\$13.3	\$10.5

(B) THIS REVENUE IS DUE TO THE STATE FROM BROWARD COUNTY. THE STATE CONTESTED THE COUNTY'S 1980-81 AD VALOREM TAX ROLL, WHICH IS USED FOR DETERMINATION OF THE REQUIRED LOCAL EFFORT FOR SCHOOL FUNDING. A COURT RULING IN THE STATE'S FAVOR REQUIRES THE COUNTY TO REPLACE THE FUNDING THAT WOULD HAVE RESULTED HAD THE TAX ROLL BEEN PROPERLY ASSESSED.

GENERAL APPROPRIATION ACT FOR 1985-86

CONTINGENCY ITEMS

<u>Item</u>	<u>Pos.</u>	<u>Approp.</u>	<u>GR or TF</u>	<u>Contingency</u>	<u>Legislative Action</u>
Sect. 01					
1	6	2,021,920 121,217	G T	HB 1202 or Similar Legislation	CS/HB 1202 passed (85-360)
49 through 52	4	172,763	T	SB 419 or Similar Legislation	CS/HB 1392 passed (85-180)
100A & 100B	- -	4,161,000 1,850,000	G T	HB 1364 or Similar Legislation	HB 1364 passed (85-283)
110 through 114	-	132,274	T	CS/HB 173 or Similar Legislation	CS/HB 173 died-Sen. Comm.
179, 181, 183 & 184	9	225,643	G	SB 1 or Similar Legislation	CS/CS/SB 1 passed (85-285)
192A	-	1,600,000	T	HB 1364 or Similar Legislation	HB 1364 passed (85-283)
198A	7	370,651	G	SB 1150 or Similar Legislation	CS/SB 1150 passed
199	2	5,000,000	G	SB 1150 or Similar Legislation	CS/SB 1150 passed
222A	-	2,310,000	G	HB 287 or CS/CS/SB 1143 or Similar Legislation	CS/HB 287 passed (85-55)
222A/B & 225A	21	3,144,661 415,000	G T	CS/CS/SB 1143 or Similar Legislation	CS/HB 287 passed (85-55)
243, 245, & 256	4	55,766 7,767,799	G T	SB 316 or Similar Legislation	HB 1335 passed (85-223)
258A	2	45,000	G	HB 1163 or Similar Legislation	Died in Crim. Just. Comm.
320A	-	250,000	G	HB 649 or Similar Legislation	CS/HB 121 passed (85-196)
329A	-	250,000	G	Passage of Authorizing Legislation	CS/HB 121 passed (85-196)
369A	-	500,000 1,136,000	G T	SB 136 or Similar Legislation	CS/HB 121 passed (85-196)
369B	-	250,000	G	CS/SB 26 or Similar Legislation	CS/HB 121 passed (85-196)

<u>Item</u>	<u>Pos.</u>	<u>Approp.</u>	GR or <u>TF</u>	<u>Contingency</u>	<u>Legislative Action</u>
608D	-	165,000	T	SB 716 or Similar Legislation	HB 738 passed (85-353)
662	20	509,775	G	SB 1150 or Similar Legislation	HB 1266 passed (85-104)
753, 755, & 758	1	25,323	G	HB 420 or Similar Legislation	HB 420 died-Sen. messages
754	-	47,750	T	CS/HB 781 or Similar Legislation	CS/HB 1020 passed (85-167)
1010A	20	400,000	G	HB 1392 or Similar Legislation	CS/HB 1392 passed (85-180)
1111, 1113, & 1114	21	838,859	G	SB 616 or Similar Legislation	CS/SB 616 passed (85-332)
1328, 1330 & 1333	2	50,150	T	SB 690 or Similar Legislation	SB 690 passed (85-243)
1342	-	22,171,915	T	SB 660 or Similar Legislation	HB 430 passed (85-126)
1367 through 1370	46	1,011,321	T	Enactment of Legislation Increasing Fees	CS/HB 1358 passed (85-224)
1387A	13	331,970	T	SB 745 or similar legislation	CS/HB 1358 passed (85-224)
1390,1392 & 1393	8	268,638	G	SB 616 or Similar Legislation	CS/SB 616 passed (85-332)
1430A	-	1,000,000	T	CS/SB 335 or Similar Legislation	CS/SB 335 passed (85-306)
1495A	2	100,954	T	CS/HB 101 or Similar Legislation	CS/HB 101 died-Sen. Econ/ Comm/Cons Aff Comm.
1495B	-	41,300	T	CS/HB 421 or Similar Legislation	CS/HB 421 passed (85-262)
1567A	-	50,000	T	SB 53 Not Becoming Law	SB 53 died-Sen. calendar
1586B	-	4,000,000	G	CS/HB 398 or Similar Legislation	CS/HB 398 passed (85-152)
1624	-	6,000,000	T	SB 1194 or Similar Legislation	CS/HB 1392 & CS/HB 314 passed (85-180 & 85-149)

GENERAL APPROPRIATIONS ACT FOR 1985-86
 CONTINGENCY ITEMS DEPENDENT ON ACTION
 OTHER THAN LEGISLATION

<u>Item</u>	<u>Pos.</u>	<u>Appropriation</u>	<u>GR or TF</u>	<u>Contingency</u>
632 through 637	1	related costs	T	Full reimbursement by Exxon Corporation
1094	-	3,448,000	G	Matching contribution by each county
1320, 1322, 1323, 1324, & 1326	4	3,289,136	T	Receipt of federal funds resulting from passage of Federal Crime Act of 1984
1622 through 1634	-	4,680,000	T	Receipt of federal grants
1909A	-	1,000,000	G	Florida State Fair Association providing \$750,000 match
1911	-	6,163,000	T	Southwest Florida Water Management District headquarters remaining at its present location
1927	-	500,000	T	Secretary of the Navy designating Pensacola as the home port of the battle- ship Wisconsin, and the Department of Transportation including in its Five-Year Work Plan, the completion of a specified road

SPECIAL APPROPRIATIONS BILLS
1985-1986

SESSION LAW	BILL NUMBER	DESCRIPTION	GENERAL REVENUE		
			RECURRING	NON- RECURRING	TRUST FUND
<u>SENATE BILLS</u>					
84-290	SB 290	FLORIDA RETIREMENT			
85-105	CS/SB 216	INFORMATION TECHNOLOGY RESOURCE PLANNING	3,924,600	0	0
85-298	SB 235	NURSING HOME FINANCIAL DISCLOSURE	38,840	0	0
85-299	CS/SB 247	VOLUNTEER SERVICE CREDIT PROGRAM	0	0	306,972
85-375	SB 279	RELIEF OF S M MERRELL	50,000	0	0
85-305	SB 322	FLORIDA RETIREMENT SYSTEM	0	100,000 (A)	0
85- 83	CS/SB 673	MARTA STUDY COMMISSION	20,000	0	15,311
85-116	SB 848	EDUCATIONAL FACILITIES	0	50,000	0
85-245	CS/CS/SB 973	DEPARTMENT OF INSURANCE	0	0	580,491,336 (B)
85-348	CS/SB 995	AVIATION FUEL	0	0	123,250
85-247	SB 1083	ANATOMICAL GIFTS	174,220	0	0
85-341	SB 1102	FLORIDA KEYS COMMUNITY COLLEGES / PECO	175,000	0	0
85-342	SB 1176	MOTOR FUEL TAX ADMINISTRATION	0	0	247,000
85-118	SB 1178	CHILDCARE PILOT PROGRAM	0	0	280,000
85-349	CS/SB1266	FLORIDA BUILDINGS & FACILITIES ACT	0	100,000	0
85-120	SB 1301	PECO SUPPLEMENT	100,789	0	0
			0	6,000,000 (C)	0
	SENATE TOTAL		4,483,449	6,250,000	581,463,869
<u>HOUSE BILLS</u>					
85-374	HB 045	RELIEF OF M T HAZELWOOD	0	0	324
VETOED	HB 182	RELIEF OF J M SINGLETON	0	0	100,000 (D)
85-148	CS/HB 251	PRESERVATION OF FLORIDA LAKES	0	0	3,765,000
85- 55	CS/HB 287	GROWTH MANAGEMENT	0	150,000	0
85-269	CS/HB 722	HRS LABORATORY CERTIFICATION FEES	0	0	0
85-352	HB 863	SUPPLEMENTAL APPROPRIATION DCA	746,000	0	0
85-165	CS/CS/HB 949	FLORIDA SECURITIES INVESTORS ACT FEES	0	464,212 (A)	0
85-276	CS/HB 1168	COMMUNICATIONS	1,642,852	0	0
85-277	CS/HB 1190	TOXIC OR HAZARDOUS CHEMICALS	443,500	0	0
85-360	CS/HB 1202	ENVIRONMENTAL PROTECTION	246,000	0	0
85-138	HB 1227	INTERMEDIATE TERM CORPORATE NOTES- TREASURER	170,732	0	0
85-220	HB 1308	FLORIDA RETIREMENT SYSTEM	51,500	0	0
85-282	HB 1313	FLORIDA PRIVATE ACTIVITY BOND ALLOCATION ACT FEES	0	200,000	0
85-175	HB 1352	PROFESSIONAL MALPRACTICE	0	0	50,000
85-224	CS/HB 1358	CRIMINAL JUSTICE STANDARDS AND TRAINING ASSESSMENTS	0	0	150,000
85-141	HB 1365	TOBACCO PRODUCTS TAX	330,923	0	0
85-180	HB 1392	TRANSPORTATION REFORM	230,528	0	0
85-359	HB 1440	STATE TRANSPORTATION	172,763	0	0
			32,000,000	0	0
	HOUSE TOTAL		36,034,798	814,212	4,065,324
	1984-1985 APPROPRIATIONS		0	564,212	0
	1985-1986 APPROPRIATIONS		40,518,247	6,500,000	585,529,193
	TOTAL		40,518,247	7,064,212	585,529,193
	LESS VETOED AMOUNTS		0	0	5,947,000
	NET TOTAL		40,518,247	7,064,212	579,582,193

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(A) 1984-1985 APPROPRIATION
(B) \$5,847,000 OF THE AMOUNT HAS BEEN VETOED
(C) FUNDS APPROPRIATED FROM WORKING CAPITAL FUND
(D) \$100,000 VETOED

LEGISLATION AFFECTING REVENUES AND TAX ADMINISTRATION
ESTIMATED REVENUE INCREASES/DECREASES(-)
1985-1986 AND 1986-1987
(MILLIONS OF DOLLARS)

SESSION LAW	BILL NUMBER	DESCRIPTION	1985-1986				1986-1987
			GENERAL REVENUE		TRUST FUND	LOCAL IMPACT	GENERAL REVENUE
			RECURRING	NON- RECURRING			RECURRING
<u>DEPT OF AG - GENERAL INSPECTION FEES AND LICENCES</u>							
85-275	HB	1161 HEALTH STUDIO FILING FEES	.00	.00	*	.00	.00
85-169	HB	1206 COMMERCIAL FEED INSPECTION FEES	*	.00	*	.00	*
85-172	HB	1273 AGRICULTURAL FEES	.00	.00	1.00	.00	.00
TOTAL AGRICULTURAL INSPECTION FEES AND LICENCES			.00	.00	1.00	.00	.00
<u>CORPORATE INCOME TAX</u>							
85-342	CS/SB	1176 EET EXTENSION	.00	.00	.00	.00	.00
85-118	SB	1178 CHILD CARE TAX BREAK	-.20	.00	.00	.00	-.20
TOTAL CORPORATE INCOME TAX			-.20	.00	.00	.00	-.20
<u>DEPARTMENT OF STATE FEES, LICENSES AND TAXES</u>							
85-226	SB	22 ELECTIONS - LATE FILING FEE	**	.00	.00	**	**
<u>DEPARTMENT OF INSURANCE FEES, LICENSES AND TAXES</u>							
85-185	SB	520 TITLE INSURANCE AGENT LICENSE FEES	*	.00	*	*	*
85-245	CS/CS/SB	973 NATL ASSOC OF INSUR COMMISSIONERS FEE	.00	.00	**	.00	.00
85-208	HB	677 INSURANCE EXAM FEES	.00	.00	**	.00	.00
85-175	HB	1352 MEDICAL MALPRACTICE INSUR CERTIFICATION	*	.00	.10	.00	*
TOTAL DEPARTMENT OF INSURANCE FEES LICENSES AND TAXES			.00	.00	.10	.00	.00
<u>GROSS RECEIPTS TAX</u>							
85-116	CS/SB	848 PECO - TELECOMMUNICATIONS	.00	.00	.00	.00	.00
85-174	HB	1340 TELECOMMUNICATIONS	.00	.00	1.00	.00	.00
TOTAL GROSS RECEIPTS TAX			.00	.00	1.00	.00	.00
<u>PARI-MUTUEL WAGERING</u>							
85-117	SB	972 THOROUGHBRED HORSERACING	*	.00	.00	.00	*

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* INSIGNIFICANT DOLLAR AMOUNT (<50,000)
** INDETERMINATE

LEGISLATION AFFECTING REVENUES AND TAX ADMINISTRATION
ESTIMATED REVENUE INCREASES/DECREASES(-)
1985-1986 AND 1986-1987
(MILLIONS OF DOLLARS)

BILL NUMBER	DESCRIPTION	1985-1986				1986-1987	
		GENERAL REVENUE				GENERAL REVENUE	
		RECURRING	NON-RECURRING	TRUST FUND	LOCAL IMPACT	RECURRING	
CIGARETTE TAX							
85-294	SB 99	FEDERAL CIGARETTE TAX ASSUMPTION	.00 (A)	.00	.00	.00	.00 (A)
85-141	HB 1365	TOBACCO PRODUCTS TAX	6.70	.40	.00	.00	7.40
		TOTAL CIGARETTE TAX	6.70	.40	.00	.00	7.40
BEVERAGE LICENSES AND TAX							
85-285	CS/CS/SB 1	DRINKING AGE	-1.60	.00	.00	.00	-5.40
VETOED	SB 1126	EXCISE TAX ON WINE COOLERS	.00	.00	.00	.00	-.50
85-203	CS/CS/CS/HB 521	FL GROWN PROD EXEMPT LIQUOR	-1.60	.00	.10	.00	-1.20
85-204	CS/CS/CS/HB 530	FL GROWN PROD EXEMPT WINE	-.60	.00	.10	.00	-.10
		TOTAL BEVERAGE LICENSES AND TAX	-3.80	.00	.20	.00	-7.20
CITRUS TAXES							
85-170	HB 1222	ADDIT EXCISE TAX REPEAL - GRAPEFRUIT	*	.00	-.90	.00	*
85-283	HB 1364	CITRUS CANCKER	.00	.70	.40	.00	.00
		TOTAL CITRUS TAXES	.00	.70	-.50	.00	.00
DEPARTMENT OF PROFESSIONAL REGULATION							
85- 9	CS/SB 30	PUBLIC ACCOUNTANCY LICENSURE FEES	.00	.00	**	.00	.00
85-291	CS/SB 91	VETERINARY LICENSE FEES	.00	.00	**	.00	.00
85-297	CS/SB 218	BARBERING AND COSMETOLOGY FEES	.00	.00	**	.00	.00
85-303	CS/CS/SB 246	NATUROPATHY LICENSURE FEES	.00	.00	*	.00	.00
85-304	SB 291	FORFEITURE PROCEEDS DEPOSIT	*	.00	*	.00	.00
85-307	CS/SB 340	MEDICAL FACILITY CERT RENEWAL FEES	.00	.00	*	.00	*
85- 89	SB 402	PRE - NEED FUNERAL CONTRACTS FEE	.00	.00	*	.00	.00
85-202	CS/HB 382 & 804	CEMETERY FEES	.00	.00	*	.00	.00
85-156	CS/HB 548	DENTIST FEES	**	.00	.20	**	.00
85-280	HB 1254	MASSAGE LICENSE FEES	.00	.00	**	.00	**
		TOTAL DEPARTMENT OF PROFESSIONAL REGULATION	.00	.00	1.10	.00	.00

(A) DEPENDING ON FEDERAL ACTION, THIS AMOUNT MAY GO TO AN ADDITIONAL \$70.1M IN 1985-86 AND \$106.4M IN 1986-87.

REGISTRATION AFFECTING REVENUES AND TAX ADMINISTRATION
ESTIMATED REVENUE INCREASES/DECREASES (-)
1985-1986 AND 1986-1987
(MILLIONS OF DOLLARS)

1985-1986

1986-1987

BILL NUMBER	DESCRIPTION	GENERAL REVENUE				GENERAL REVENUE	
		RECURRING	NON-RECURRING	TRUST FUND	LOCAL IMPACT	RECURRING	
MOTOR FUEL TAX							
85-349	SB 995	AVIATION FUEL	34.60	.00	.00	.00	36.60
85-342	CS/SB 1176	COLLECTION OF TAX ON FIRST SALE	.00	.00	3.60	2.10	.00
85-14	HB 1386	JULY 1 TAX ADJUSTMENT DATE	.00	*	.50	.00	.00
85-180	CS/HB 1392	TRANS PACKAGE - FLOOR	.00	.00	5.10	.00	.00
TOTAL MOTOR FUEL TAX			34.60	.00	9.20	2.10	36.60
INTANGIBLES TAX							
85-342	CS/SB 1176	EXEMPT IRAS FROM INTANGIBLES TAX	-.20	.00	.00	-.30	-.20
85-342	CS/SB 1176	AGREEMENTS FOR DEED	**	.00	.00	**	**
TOTAL INTANGIBLES TAX			-.20	.00	.00	-.30	-.20
DOCUMENTARY STAMP TAX							
85-347	SB 1081	DOC STAMP TAX INCREASE	.30	.00	19.30	.00	.30
85-196	CS/HB 121	STUDENT LOAN DOC STAMP EXEMPT	-.30	.00	-.10	.00	-.30
TOTAL DOC STAMP TAX			.00	.00	19.20	.00	.00
SALES AND USE TAX							
85-285	CS/CS/SB 1	DRINKING AGE	-.40	.00	.00	*	-1.50
85-230	SB 115	SALES TX EXEMP - ANIMAL SHELTERS	-.10	.00	.00	*	-.10
85-230	SB 115	SALES TX EXEMP - HOMES FOR THE AGED	-.50	.00	.00	-.10	-.50
85-230	SB 115	SALES TX EXEMP - MOTION PICTURE PROD	-1.10	.00	.00	-.10	-1.20
85-310	(B) SB 434	SALES TAX EXEMPTION CONDO LEASES	.00	.00	.00	.00	-1.50
85-348	SB 995	AVIATION FUEL	.00	.00	-37.20	.00	.00
85-348	SB 995	CASUAL SALES-AUTO	3.00	.00	.00	.30	3.50
85-348	SB 995	CASUAL SALES-MOBILE HOMES	4.90	.00	.00	.50	5.10
85-342	CS/SB 1176	SALES TX EXEMP POWER TKEOFF EQUIP	*	.00	.00	*	*
85-342	CS/SB 1176	MILEAGE RATIO CALCULATION	2.30	.00	.00	.30	2.40
85-342	CS/SB 1176	EXCLUDE REIMB FOR SALES TX EXEMPS	**	.00	.00	**	**
85-120	SB 1301	EST SALES TAX THRESHOLD ADJUSTMENT	.00	8.00	.00	.00	.00
85-174	HB 1340	TELECOMMUNICATIONS	40.90	.00	.00	4.30	47.40
85-141	HB 1365	TOBACCO PRODUCTS TAX	.10	.00	.00	*	.20
85-142	HB 1425	SPEED UP REENACTMENT	.00	.00	.00	.00	.00
TOTAL SALES AND USE TAX			49.10	8.00	-37.20	5.20	53.80

(B) THIS BILL TAKES EFFECT OCTOBER 1, 1986.

(C) IN 1986-87 THERE WILL BE A NON-RECURRING GR LOSS OF \$8 MILLION.

LEGISLATION AFFECTING REVENUES AND TAX ADMINISTRATION
ESTIMATED REVENUE INCREASES/DECREASES(-)
1985-1986 AND 1986-1987
(MILLIONS OF DOLLARS)

BILL NUMBER	DESCRIPTION	1985-1986				1986-1987
		GENERAL REVENUE				GENERAL REVENUE
		RECURRING	NON-RECURRING	TRUST FUND	LOCAL IMPACT	RECURRING
<u>HUNTING AND FISHING LICENSES</u>						
85-235	CS/CS/SB 357	GAME & FRESH WATER FISH LIC FEES	.00	.00	.00 (D)	.00
<u>MOTOR VEHICLE AND MOTOR HOME LICENSES</u>						
85-227	SB 33	HANDICAPPED PARKING PERMIT FEES	.70	.00	.00	.30
85-309	SB 417	REG FEE MOTOR DRIVEN CYCLES	.00	.00	.00	.80
85-66	SB 484	MOTOR VEH LIC EX POW & MEDAL OF HONOR	.00	.00	.00	.00
85-343	SB 1204	MOTOR VEH & MOBILE HOME LICENSE FEE	.00	.00	-.10	.00
85-98	CS/HB 291	6 YEAR DRIVERS LICENSES	13.40	.00	.00	**
85-176	HB 1383	MOTOR VEHICLE TITLE FEES	1.00	.00	.00	.00
85-180	CS/HB 1392	TRANS PACKAGE - TRUCK REG	.00	.00	3.40	.00
85-180	CS/HB 1392	TRANS PACKAGE - DELINQUENT FEES	.00	.00	.40	.00
		TOTAL MV AND MOTOR HOME LICENSES	15.10	.00	4.50	.30
<u>SERVICE CHARGES</u>						
85-294	SB 99	FEDERAL CIGARETTE TAX ASSUMPTION	.00 (E)	.00	.00	.00
85-348	SB 995	AVIATION FUEL	-2.60	.00	.00	.00
85-342	CS/SB 1176	COLLECTION OF TAX ON FIRST SALE	.00	.20	.00	.10
85-280	HB 1254	MESSAGE LICENSE FEES	.10	.00	.00	.00
85-172	HB 1273	AGRICULTURAL FEES	.10	.00	.00	.00
85-180	CS/HB 1392	TRANS PACKAGE - FLOOR	.30	.00	.00	.00
		TOTAL SERVICE CHARGES	-2.10	.20	.00	.10
<u>INTEREST EARNINGS</u>						
85-138	HB 1227	INTEREST INTERMEDIATE TERM NOTES	.10	.00	.00	.10
<u>LOCAL</u>						
85-232	SB 184	HOMESTEAD EXEMPTION	.00	.00	.00	*
85-315	SB 529	HOMESTEAD EXEMPTION LATE FILING	.00	.00	.00	*
85-322	SB 743	FIRE DAMAGE - ABATEMENT OF TAXES	.00	.00	.00	*
85-324	SB 832	TAX COLLECTORS FEES	*	.00	.00	-.60
85-342	CS/SB 1176	TAX COLLECTOR FEES AND REFUNDS	.00	.00	.00	23.40
85-209	HB 835	SYMPHONY OCCUP LICENSE TAXES	.00	.00	.00	*
85-211	CS/HB 921	ST JOHNS WMD ADDIT MILLAGE	.00	.00	.00	**
85-174	HB 1340	TELECOMMUN - MUNICIPAL UTILITY TAX	.00	.00	.00	**
85-180	CS/HB 1392	TRANS - LOCAL OPTION GAS TAX	**	.00	.00	**
		TOTAL LOCAL	.00	.00	.00	22.80

(D) THIS BILL TAKES EFFECT JUNE 1, 1986. AN ADDITIONAL \$2.3 MILLION WILL BE COLLECTED IN 1986-1987.
(E) DEPENDING ON FEDERAL ACTION, THIS AMOUNT MAY GO TO AN ADDITIONAL \$4.5M IN 1985-86 AND \$6.8M IN 1986-1987.

LEGISLATION AFFECTING REVENUES AND TAX ADMINISTRATION
ESTIMATED REVENUE INCREASES/DECREASES(-)
1985-1986
(MILLIONS OF DOLLARS)

			1985-1986				1986-1987	
			GENERAL REVENUE				GENERAL REVENUE	
BILL NUMBER	DESCRIPTION		RECURRING	NON- RECURRING	TRUST FUND	LOCAL IMPACT	RECURRING	
<u>OTHER</u>								
85-108	SB	108	VESSEL TITLING FEES	.00	.00	.00	**	.00
85- 21	SB	141	PUGILISTIC EXHIBITIONS	**	.00	.00	.00	**
85- 86	CS/SB	208	PUBLIC RECORDS ACCESS FEES	.00	.00	**	**	.00
85-300	CS/SB	454	SALE OF BOTTLED WATER PERMIT FEE	.00	.00	**	.00	.00
85-VETOED	SB	661	WEAPON OR FIREARM LICENSES	.00	.00	13.00	.00	.00
85-243	SB	690	FARM LABOR CONTRACTOR REG FEE	.00	.00	.10	.00	.00
85-333	CS/SB	755	ALCOHOLISM TREATMENT CENT LIC FEES	.00	.00	.00	.00	.00
85-337	CS/SB	964	DUI FINES	.00	.00	17.40	.00	.00
85-340	SB	1031	CORRECTION PAROLE AND PROBATION FEES	1.60	.00	.00	.00	4.60
85-249	CS/SB	1152	COURT FILING FEES	.00	.00	.70	.00	.00
85-342	CS/SB	1176	TAXPAYER DISPUTES	**	.00	**	**	**
85-349	CS/SB	1266	FL BUILDING & FACILITIES ACT	**	.00	.00	**	**
85-120	SB	1301	TRUST FUND CLOSE OUT	.00	7.50	-7.50	.00	.00
85-120	SB	1301	FLA HOUSING AGENCY LOAN PAYOFF	.00	1.50	-1.50	.00	.00
85-284	CS/HB	89	CLAM HARVESTING LICENSE FEE	.00	.00	.20	.00	.00
85-155	HB	542	MOBILE HOME PARK OWNER FEES	*	.00	.90	.00	*
85-264	HB	543	VEHICLE EXPORT FEE	**	.00	.00	.00	**
85-164	HB	893	TRUST FUNDS	.00	*	*	.00	.00
85-165	CS/CS/HB	949	FL SECURITIES & INVESTORS ACT	2.00	.00	.00	.00	2.10
85-167	CS/HB	1020	MENTAL HEALTH FEES	.00	.00	* (F)	.00	.00
85-213	HB	1023	COURT FEES	.00	.00	**	.00	.00
85- 78	HB	1236	HIGHWAY SAFETY RECORD FEES	.00	.00	2.20	.00	.00
85-282	HB	1313	FL PR ACTIVITY BOND ALLOC ACT FEES	.00	.00	**	.00	.00
85-173	HB	1319	PUBLIC SWIMMING FEES	.00	.00	.40	.00	.00
85-VETOED	CS/CS/HB	1357	SCHOOL PERSONNEL CERTIFICATION FEES	.00	.00	**	.00	.00
85-224	CS/HB	1358	CRIM JUSTICE STDS & TRAINING ASSESS	.00	.00	1.10	.00	.00
85-177	HB	1387	HMO APPLICATION FEES	.00	.00	*	.00	.00
85-180	CS/HB	1392	TRANS PACKAGE - ACI	.00	.00	.00	.00	.00
TOTAL OTHER			3.60	9.00	27.00	.00	6.70	

(F) THIS BILL ALSO INCLUDES INCREASED DUI FINES IDENTICAL TO THOSE CONTAINED IN CS/SB 964(85-337).

LEGISLATION AFFECTING REVENUES AND TAX ADMINISTRATION
 ESTIMATED REVENUE INCREASES/DECREASES(-)
 1985-1986 AND 1986-1987
 (MILLIONS OF DOLLARS)

BILL NUMBER	DESCRIPTION	1985-1986				1986-1987
		GENERAL REVENUE				GENERAL REVENUE
		RECURRING	NON-RECURRING	TRUST FUND	LOCAL IMPACT	RECURRING
SUB TOTAL		102.90 =====	18.30 =====	25.60 =====	30.30 =====	109.40 =====
LESS REFUND (SB 995 CASUAL SALES - MOBILE HOMES) 85-348		.00 =====	-6.10 =====	.00 =====	-.60 =====	.00 =====
GRAND TOTAL		102.90 =====	24.40 =====	25.60 =====	30.90 =====	109.40 =====
LESS VETOED ITEMS		.00 =====	.00 =====	13.00 =====	.00 =====	-.50 =====
FINAL TOTAL		102.90 =====	24.40 =====	12.60 =====	30.90 =====	109.90 =====

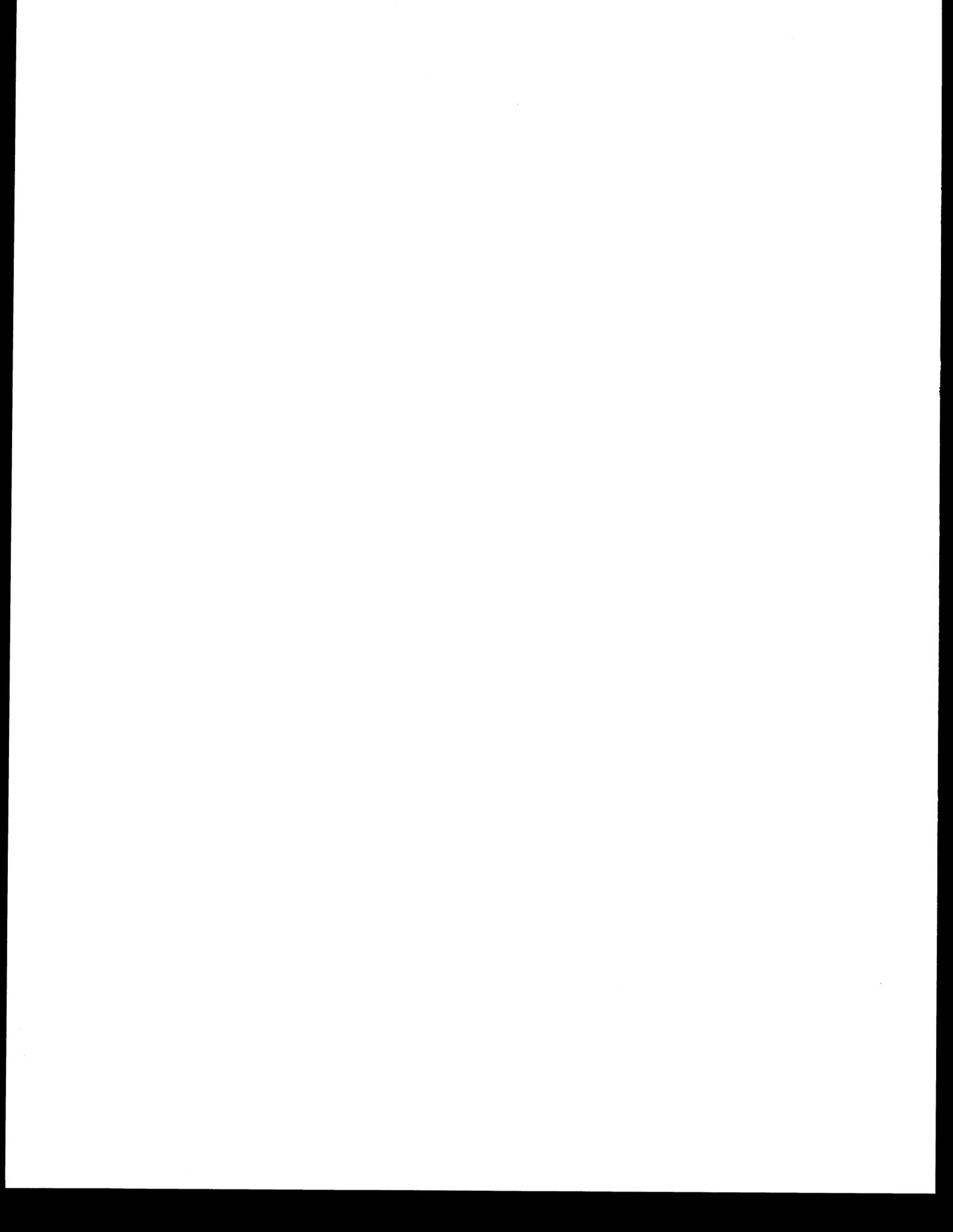
THREE YEAR COMPARISON - BEFORE AND AFTER 1985 TAX MEASURES

GENERAL REVENUE COLLECTIONS

(MILLIONS OF DOLLARS)

	1983-84 ACTUAL REVENUE	1984-85 REVENUE ESTIMATE*	ANNUAL GROWTH RATE	1985-86 REVENUE ESTIMATE*	LEGIS- LATIVE CHANGES	REVISED 1985-86 ESTIMATE	ANNUAL GROWTH RATE
SALES TAX	\$3,965.8	\$4,224.9	6.5%	\$4,446.7	\$ 57.1	\$4,503.8	6.6%
CORPORATE INCOME TAX AND EMERGENCY EXCISE TAX	471.1	542.6	15.2	587.4	(.2)	587.2	8.2
DOCUMENTARY STAMP TAX	233.8	242.5	3.7	254.4	.0	254.4	4.9
INTANGIBLES TAX	103.4	111.0	7.4	117.6	(.2)	117.4	5.8
ESTATE TAX	82.4	105.5	28.0	109.8	.0	109.8	4.1
SEVERANCE TAX	59.7	65.5	9.7	52.4	.0	52.4	(20.0)
INSURANCE PREM. TAX & LIC.	100.4	117.0	16.5	124.9	.0	124.9	6.8
BEVERAGE TAX & LIC.	412.0	430.3	4.4	451.4	(3.8)	447.6	4.0
CIGARETTE TAX	60.2	77.7	29.1	90.9	7.1	98.0	26.1
PARI-MUTUEL TAX	74.6	83.1	11.4	88.7	.0	88.7	6.7
PUBLIC SAFETY LIC. & FEES	29.8	33.8	13.4	35.2	15.1	50.3	48.8
AUTO TITLE & LIC. FEES	16.2	17.0	4.9	17.2	.0	17.2	1.2
INTEREST EARNINGS	69.7	91.0	30.6	82.4	.1	82.5	(9.3)
MEDICAL & HOSP. FEES	37.8	37.0	(2.1)	48.0	.0	48.0	29.7
SERVICE CHARGES	63.4	70.7	11.5	92.4	(1.9)	90.5	28.0
OTHER TAXES, LIC. & FEES	59.6	70.5	18.3	71.7	47.9	119.6	69.6
TOTAL RECEIPTS	5,839.9	6,320.1	8.2	6,671.1	121.2	6,792.3	7.5
LESS REFUNDS	82.7	40.3	(51.3)	63.6	(6.1)	57.5	42.7
NET GENERAL REVENUE COLLECTIONS	\$5,757.2	\$6,279.8	9.1%	\$6,607.5	\$ 127.3	\$6,734.8	7.2%

* BASED ON THE REVISED MAY 6, 1985 REVENUE ESTIMATING CONFERENCE RESULTS



BUSINESS REGULATION*

The 1985 Legislature enacted several varied laws dealing with the regulation of businesses in Florida. Several changes were made this session to provisions relating to the beverage law, the most visible change being the raising of the legal drinking age to 21. Other beverage law changes include changing the tax exempt status of Florida-produced wine and liquor by providing that all wine and liquor produced with certain products shall be taxed based on the value of the product sold; providing that if a malt beverage is prepared and properly labeled it can be used as evidence in prosecuting a beverage law violation; exempting beer manufacturers and distributors from certain federal regulations pertaining to promotional displays and advertising furnished to vendors; authorizing the issuance of a special alcoholic beverage license to a hotel or motel of a certain size if it is of historic significance; and repealing the provisions which restrict and specify the procedures for the withdrawal from a Florida distributor of a given brand of liquor or wine by the "primary American source of supply."

*Prepared by staff of Senate Commerce Committee

Only one bill was enacted affecting the pari-mutuel industry which contained the following provisions: authorizing the Division of Pari-mutuel Wagering to set up a laboratory on the premises of a thoroughbred horse racetrack; extending the racing period by 16 days at Tampa Bay Downs, a thoroughbred track; exempting bonding requirements for nonwagering licenses; and allowing one additional racing day at all thoroughbred tracks for the racing of Arabian horses only.

Changes in the area of public utility regulation include: establishing a program whereby the cost of special telecommunications equipment to insure the speech-and-hearing-impaired have access to basic telephone service be borne by all ratepayers; allowing the Public Service Commission to grant a telephone company a certificate to provide certain duplicative telephone service regardless of statutory requirements concerning adequacy; and allowing water and sewer companies to recover from ratepayers the cost of testing water for contaminants.

Miscellaneous legislation relating to business regulation includes: exempting an elevator that serves only two adjacent floors of a building from having an annual or biennial inspection under certain circumstances; allowing bowling tournament fees to be used as prize money; and prohibiting the solicitation of funeral merchandise by a funeral director or direct disposer unless the family or next of kin of the deceased contacts those providing the services.

Alcoholic Beverages

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1 (CHAPTER 85-285) amends Sections 561.15, 562.11 and 562.111, F.S., raising the legal drinking age to 21. [This act is designed to comply with federal legislation which threatens to withhold federal highway funds from states which do not enact a 21-year-old drinking age.]

Section 562.11, F.S., is amended making it unlawful to sell, give, serve, or permit to be served, alcoholic beverages to a person under 21 years of age. It is also now unlawful, under the provisions of Section 562.111, F. S., for a person under 21 years of age to be in possession of alcoholic beverages. The act requires that a person may not be less than 21 years of age to acquire an alcoholic beverage license in accordance with Section 561.15, F.S. However, any person who was under 21 years of age on July 1, 1985, and who had been issued a beverage license is allowed to continue to retain possession of the license. The effective date of the act is July 1, 1985, and it allows anyone who is 19 years of age prior to this date (persons born on or before June 30, 1966) to legally continue to consume or be in possession of alcoholic beverages.

The act creates Section 562.51, F.S., authorizing a retail licensee who offers services to the general public to refuse services to any person who is objectionable or undesirable to the licensee. This refusal may not be based on

race, creed, color, religion, sex, national origin, marital status, or physical handicap.

Language is added to Section 322.141, F.S., providing that no driver's license currently issued to persons under the age of 21 shall be recalled because of the color of the license.

The act specifies that if a federal court of last resort determines that federal transportation funds may not be withheld based on the states' legal drinking age then the law relating to the legal drinking age will revert to the language existing prior to the changes in the act.

SENATE BILL 32 (CHAPTER 85-44) amends Section 562.47, F.S., which specifies that malt beverages which are used as evidence in any prosecution under the beverage law may be presented as prima facie evidence that they are alcoholic beverages, as defined in Section 561.01, F.S., if the following requirements are met:

- 1) the beverage in question was contained in an unopened bottle or can;
- 2) it was appropriately labeled;
- 3) the crown or lid contained the word "Florida"; and
- 4) the manufacturer's insignia, name, or trademark was on it.

[This act is designed to assist in the presentation of evidence when a violation of the beverage law is being prosecuted. This allowance would alleviate the prosecutor from

having to have the evidence chemically analyzed in order to determine that it is an alcoholic beverage.]

This act has an effective date of October 1, 1985.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 521 (CHAPTER 85-203) amends various provisions in the beverage law. [This act is in response to the decision of the U.S. Supreme Court in the case of Bacchus Imports, Ltd. v. Herbert Dias, Director of Taxation of the State of Hawaii, 52 U.S.L.W. 4979 (U.S. June 29, 1984). The decision held unconstitutional two Hawaiian statutes which granted a tax exemption for alcoholic beverage taxes to certain locally produced alcoholic beverages. The court held such statutes to be unconstitutional because they favored local liquor industries in violation of the commerce clause of the U.S. Constitution.]

By amending Subsections (1) and (2) of Section 565.12, F.S., and by adding Subsections (5), (6), and (7) to said section, this act extends the current reduced beverage tax rate on Florida products to include all liquor products manufactured exclusively from citrus products, citrus by-products, sugarcane, and sugarcane by-products except for flavoring extracts. The lower tax rate would apply to all in-state and out-of-state liquor products that qualify. The lower minimum rates are raised from the current minimum \$4.15 to \$4.35, and \$4.75 to \$4.95 per gallon. These two sets of rates are based on percent alcohol content of the beverages. The maximum rates continue to be \$6.50 and \$9.53 per gallon.

In new Subsection 565.12(6), F.S., the act provides for adjustments to the lower tax rates based on gallonage sales of the beverages. If the gallons sold in certain months during the previous year have increased, the tax rate would increase in an amount equal to the percentage increase which is in excess of five percent. Similar tax adjustments are provided for decreases in sales. The act limits the range for a tax adjustment to the current lowest and highest tax specified in the law.

In Subsections 565.12(9) and (10), F.S., the act imposes a nonrefundable application fee of \$5,000 for new applicants filing for the lower rates. An annual license fee of \$3,000, plus travel expenses of the Department of Business Regulation to audit the manufacturer's records, is also imposed on each qualifying applicant. The Department shall adopt appropriate rules to establish a method of qualification for affected parties. The act also provides that all revenue collected by the above subsections shall go to the Department to administer the provisions contained herein.

The act also specifies that the higher tax rate applies to all liquor products from states, territories, or other countries which impose discriminatory taxes or requirements on alcoholic beverages manufactured or bottled outside of their boundaries or which provide certain price support or export subsidies.

Other provisions of the act include the repeal of Section 565.14, F.S., which specifies the requirements which

must be met to qualify for the tax rate for Florida-grown products. The licensing restriction for out-of-state manufacturers to be licensed as distributors or exporters is repealed by amendment of Section 561.24, F.S. Finally, the act limits the sale or consumption of distilled spirits to beverages which are no greater than 153 proof by creating Section 565.055, F.S.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 530 (CHAPTER 85-204) is similar to CHAPTER 85-203, relating to liquor, which is summarized above. [This act is also in response to the decision of the U.S. Supreme Court in the case of Bacchus Imports, Ltd. v. Herbert Dias, Director of Taxation of the State of Hawaii, 52 U.S.L.W. 4979 (U.S. June 29, 1984). The decision held unconstitutional two Hawaiian statutes which granted a tax exemption for alcoholic beverage taxes to certain locally produced alcoholic beverages. The court held such statutes to be unconstitutional because they favored local liquor industries in violation of the commerce clause of the U.S. Constitution.]

Current Florida excise taxes imposed on wine under amended Section 564.06, F.S., include: Natural Sparkling Wine

\$3.50 per gal.

Wine 14 percent alcohol or more \$3.00 per gal.

Wine under 14 percent alcohol \$2.25 per gal.

This act repeals the tax exemption for wine products manufactured in Florida from Florida products and establishes a

reduced wine tax rate to include all wines manufactured in-state or out-of-state which are produced exclusively from specified products including citrus fruits and various varieties of grapes.

New Subsection 564.06(10), F.S., establishes a schedule of taxes which would apply to these beverages based on gallonage sales. If the gallons sold in the previous month increases to a certain amount, the succeeding month's tax rate would be increased. If the gallons sold in the previous month is reduced the applicable tax could be reduced. The prior month's gallonage sales shall be determined by the Department of Business Regulation by the 20th of each month (the time of calculation), commencing August 20, 1985. This same subsection establishes separate tax schedules for alcoholic beverages that are under 14 percent alcohol by weight, except malt beverages, wines over 14 percent alcohol by weight, natural sparkling wines, and wine cooler products.

Subsections 564.06(11) and (12), F.S., impose a nonrefundable application fee of \$3,000 for new applicants filing for the tax exemption or the scheduled tax rates. An annual license fee of \$1,000, plus travel expenses of the Department to audit the manufacturer's records, is also imposed. The act also provides that all revenues collected by the above subsections shall go to the Department to administer the provisions contained herein.

In Subsection 564.06(9), F.S., the act specifies that the tax benefits would not apply to wine products from states,

territories, or other countries that impose discriminatory taxes or requirements on alcoholic beverages manufactured or bottled outside of their boundaries or which provide certain price supports or export subsidies.

HOUSE BILL 769 (CHAPTER 85-58) amends Sections 564.045 and 565.095, F.S., requiring registration as the "primary American source of supply" for wine and liquor. Subsections (5) of each section provide that no brand or label may be withdrawn from a distributor without a showing of good cause. They provide the procedure whereby a distributor may object to the withdrawal of a given brand by filing a written objection with the Division of Alcoholic Beverages and Tobacco and provides for a determination by the Division as to whether there exists "good cause" for the withdrawal. This act repeals this restriction and procedure for both wine and liquor.

HOUSE BILL 820 (CHAPTER 85-161) addresses various provisions relating to alcoholic beverages. The act amends Sections 567.01, 567.06, 567.07, and 567.13, F.S., relating to the county election restrictions for "package sales only" by deleting the requirement that sales be made in quantities of not less than one-half of a pint. Package sales continue to be limited to beverages sold in sealed containers and beverages sold for consumption off the premises only.

This act also amends Subsection (4) of Section 565.02, F.S., extending the length of time from five days to eight days that a golf club may hold special events and serve alcoholic beverages to the public.

Additionally, Paragraph 561.20(2)(a), F.S., is amended to authorize the issuance of a special alcoholic beverage license to a hotel, motel, or motor court which is licensed as a public lodging establishment by the Division of Hotels and Restaurants. However, the establishment must have less than 100 guest rooms and derive 51 percent of its gross revenue from room rentals.

The establishment must also meet one of the following criteria:

- 1) Be listed on the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966; or
- 2) Be within and contribute to a registered historic district pursuant to 26 U.S.C. 48(g)(3)(B) (1982) [of the Internal Revenue Code]; or
- 3) The Division of Archives, History and Records Management of the Department of State determines that the establishment meets the criteria of historical significance; or
- 4) The establishment has been determined to be historically significant by a historical group located within the jurisdiction where the hotel, motel, or motor court is located.

Finally, the act provides legislative intent that, in addition to anyone filing a law suit in an appropriate court of jurisdiction to protect their rights under the beverage law, an action involving a contractual dispute between a licensed

[Florida] distributor and its registered primary American source of supply, may be filed in a Florida court.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 964 (CHAPTER 85-166) amends Chapter 561, F.S. [This act exempts beer manufacturers and distributors from certain federal regulations which are adopted as rules of the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation pertaining to promotional displays and advertising furnished to vendors.] Eight specific exceptions to Subsection 561.42(12), F.S., provided for in the act [in order to authorize activities that might be in conflict with the federal regulations], are listed below:

- 1) Expendable retail advertising specialties (cups, napkins, etc.) are allowed to be furnished by distributors or manufacturers to retailers at a price not less than the actual cost without a cost limitation.
- 2) Durable advertising specialties (clocks, etc.) are allowed to be furnished by distributors or manufacturers to retailers without limitation.
- 3) Consumer advertising specialties (T-shirts, ashtrays, etc.) are not allowed to be given to retailers unconditionally, but rather sold at a price that is not less than the actual cost.
- 4) Advertising specialties noted above may be provided to consumers on any vendor's licensed premises by a manufacturer or distributor.

- 5) Manufacturers and distributors are prohibited from furnishing coupons redeemable by a vendor.
- 6) Manufacturers and distributors are prohibited from conducting any taste testing and sampling activities on the vendor's premises if the vendor is licensed for off premises sales only.
- 7) The prohibition of manufacturers and distributors engaging in cooperative advertising with vendors is restated.
- 8) Beer distributors are allowed to provide at a price draft equipment and tapping accessories. Distributors may also furnish replacement parts at no charge or may exchange parts which are not compatible.

The act further defines "in-store servicing" of beer products to specifically allow moving or resetting any product or display in order to display a distributor's own product.

Pari-mutuel

SENATE BILL 972 (CHAPTER 85-117) revises several provisions of Chapter 550, F.S., relating to the regulation of pari-mutuel wagering. Section 550.02, F.S., is amended to allow each licensed thoroughbred racing track to run one additional race per racing day composed exclusively of Arabian horses. Changes in this act also exempt nonwagering permitholders from certain bonding requirements and from certain other pari-mutuel statutes relating to license fees and

admission taxes. Section 550.08, F.S., is amended, extending the total number of days allowed for thoroughbred horseracing from 74 to 90 days at certain racetracks. Amended Subsection 550.41(1), F.S., changes the daily hours of operation permitted for summer thoroughbred horseracing by extending the hours of racing from 10 a.m. to 12 midnight. And finally, newly created Section 550.242, F.S., authorizes the Division of Pari-mutuel Wagering of the Department of Business Regulation to lease or build a racing laboratory at a horse racetrack. The purpose of the facility is to ensure the prompt testing of urine and/or blood samples.

Public Utilities

SENATE BILL 173 (CHAPTER 85-327), amending Subsection 364.335, F.S., allows the Public Service Commission to grant a certificate to a proposed or existing telephone company which would provide competitive or duplicative local pay telephone service without first having to meet the statutory requirements regarding need or adequacy of the existing facilities. Pay telephone service includes that telephone service using telephones that are capable of accepting payment by specie, paper money, or credit cards.

SENATE BILL 175 (CHAPTER 85-85) amends Section 367.031, F.S., to require each water and sewer utility subject to the Public Service Commission's jurisdiction to have a current certificate.

[Section 403.853, F.S., permits the Department of Environmental Regulation to require the testing of public water supplies for certain contaminants. Testing for such contaminants is required for community water supply systems at least every three years. The Department has promulgated rules to require such testing to be done by certain certified laboratories.] This act allows water and sewer utilities to use the automatic pass-through provisions of Section 367.081, F.S., to recover from the ratepayers the costs of such water testing. Paragraph 367.081(4)(d), F.S., is amended to provide that if the Public Service Commission finds that the utility has exceeded its authorized rate of return after implementing a rate adjustment pursuant to the pass-through provisions, then it may order the utility to refund the difference to the ratepayers and adjust its rates accordingly. Such a determination must be made by the Public Service Commission within 15 months after the filing of a utility's annual report with the Commission.

This act has an effective date of October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 910 (CHAPTER 85-102) creates Part II of Chapter 364, F.S., the "Telephone Communication Services for the Deaf Act of 1985." The act's stated purpose is to establish a program whereby the cost of specialized telecommunication equipment necessary to ensure that the speech-and-hearing-impaired have access to basic telephone service is borne by all the citizens of the state.

The Florida Council for the Hearing Impaired is given additional duties to administer the program and to coordinate such administration with affected telephone companies which agree to participate, the Public Service Commission (PSC), and the Public Counsel. The Council [which currently has no regular full-time staff] is authorized to employ two full-time staff persons.

The Council must develop and implement a schedule for the purchase and distribution of the devices and equipment required by the act. However, no more than one-third of the total number of devices estimated to be needed by Florida's speech-and-hearing-impaired population may be purchased or distributed in the program's first year (fiscal year 1985-1986).

The act provides that the funds for the first year costs of the program must be taken from the PSC's Regulatory Trust Fund. New Section 364.54, F.S., also establishes a nonlapsing fund, the Telecommunication Devices for the Deaf Trust Fund, for the purposes of this act.

In Section 364.55, F.S., the Council must establish characteristics and performance standards for telecommunication devices for the deaf (TDD) and must select equipment to be purchased following certain prescribed standards which are enumerated. Furthermore, the Council is encouraged to purchase the equipment on a competitively bid basis so that the lowest possible per unit price may be obtained.

Telephone companies would be required to provide basic telephone service for the speech-and-hearing-impaired at a cost equal to the amount paid by all other subscribers.

Certain public safety and health care providers must purchase and operate TDD's as required in Section 364.56, F.S.

The Council is required, in new Section 364.57, F.S., to conduct a study regarding a dual party relay system to determine the necessity of implementing such a system as well as the expected costs associated with this system. [A dual party relay system enables the speech-and-hearing-impaired to communicate with others through an intermediary party to relay necessary messages such as medical appointment calls, etc.] Results of such study are to be presented to the Legislature by January 1, 1987.

Miscellaneous

Chapters 470 and 497, F.S., are amended by SENATE BILL 295 (CHAPTER 85-16) which prohibits an "at-need solicitation" of funeral merchandise, service or burial rights. No funeral director or direct disposer may contact the family or next of kin of a deceased person to sell services or merchandise unless the funeral director or direct disposer has been initially called or contacted by the family for such services or merchandise.

An "at-need solicitation" is any uninvited contact by a funeral director or direct disposer or any person licensed under Chapter 497, F.S., for the purpose of selling burial

services or merchandise to the family or next of kin of a person after his death has occurred.

This act has an effective date of October 1, 1985.

SENATE BILL 356 (CHAPTER 85-24) amends provisions relating to gambling generally. [Section 849.14, F.S., generally prohibits wagering upon the result of any trial or contest of skill, etc. Statutory provisions were unclear regarding whether a bowling tournament requiring an entry fee in which a participant has the opportunity to win a prize based on his skill was a violation of Section 849.14, F.S., depending on whether the entry fees are considered a wager. An entry fee which does not specifically make up the purses, prizes or premiums contested for is not considered a wager in violation of Section 849.14, F.S.; however, entry fees by participants which specifically make up the "pot" in which they compete for is considered a wager in violation of Section 849.14, F.S. Finally, the law was unclear on whether prize money which consists of entry fees and money contributed by sponsors was a wager.]

This act clarifies the uncertainty surrounding bowling tournaments and the applicability of Section 849.14, F.S., by creating, in new Section 849.141, F.S., an exemption for bowling tournaments from Chapter 849, F.S., concerning gambling.

This act also defines a "bowling tournament" and a "bowling center."

SENATE BILL 361 (CHAPTER 85-236) amends Paragraph 399.061(1)(b), F.S., to provide that the requirement of annual or biennial inspection of an elevator by the Division of Hotels and Restaurants of the Department of Business Regulation does not apply to elevators that serve only two adjacent floors of a building as long as a service maintenance contract is in effect. The provisions of the act also would not apply to escalators or dumbwaiters. The Division would continue to be responsible for the proper and safe installation of these elevators.

[The act would codify the accident reporting requirements which are now specified in Rule 7C-5.10, Florida Administrative Code.]

The act deletes the prohibition found in Section 399.035, F.S., against padding or carpeting on the interior walls of elevators as it relates to elevator accessibility requirements for the handicapped. It requires that interior materials of an elevator conform to the Elevator Safety Code [i.e., be fire and smoke resistant].

COMMERCE*

Laws enacted by the 1985 Legislature in the area of commerce dealt generally with the regulation of mortgage brokers, consumer finance companies, security dealers, pest control companies, small and minority businesses, gasoline dealers and refiners, automobile manufacturers, cemeteries and financial institutions. In addition, legislation was passed relating to consumer protection, economic development, and unemployment compensation.

More specifically, laws enacted in the area of consumer finance include: clarifying a "pawn" transaction with respect to pawnbrokers; prohibiting a seller from collecting a cancellation fee if a buyer chooses to cancel a home solicitation sale; allowing the finance charge on consumer sales to be computed at a simple interest rate equivalent to the finance charge permitted; repealing a provision in the statutes that requires consumer finance companies to provide an annual report; raising the graduating scale from \$0 - \$2500 to \$0 - \$5000 on interest rates applicable to consumer loans; and increasing the delinquency charge on installment payments that are greater than \$100.

*Prepared by staff of Senate Commerce Committee

In the investment area, the state strengthened the Florida Investor Protection Act, Chapter 517, F.S., which governs all security transactions, amended several sections of the Florida Home Equity Conversion Act, and amended Chapter 280, F.S., to include certificates of deposit within the definition of "public deposits." In a related area, legislation was passed that tightened regulations by the Department of Banking and Finance over mortgage brokers and mortgage solicitors.

In the area of unemployment compensation, the maximum weekly benefit was raised from \$150 to \$175 and the required number of weeks worked was temporarily reduced from 20 to 12 weeks to benefit migrant workers. Additionally, the definition of "wages" was amended to include tips, gratuities and employer payment of benefits for retirement, sickness or accident disability.

Burial needs were addressed this session as the Legislature exempted licensed funeral directors, funeral establishments and direct disposers from the registration requirements for preneed agents. This same legislation increased annual renewal fees for certificates of authority to sell certain preneed contracts. There were also several changes in Chapter 497, F.S., the "Florida Cemetery Act."

Legislation requested by the Department of Banking and Finance, designed to assist financial institutions in the technical areas of regulation and operations, was enacted.

Other commerce areas addressed by the Legislature during the 1985 Session include: repeal of the "Retail Divorcement Law," and the enactment of the "Motor Fuel Marketing Practices Act"; legislation to assist small and minority businesses to obtain bonding, government contracts and loans through financial institutions; prohibition against the sale to minors of certain tobacco products, cigars, snuff and chewing tobacco; amending Florida's "Lemon Law" by extending the statute of limitations for a consumer bringing suit; legislation to encourage direct investment in Florida by promoting Florida as the ideal location for complimentary facilities to offshore Caribbean Basin operations; and providing that pest control companies no longer have to provide a written report to a customer unless a fee is charged or the consumer requests it.

Mortgages

COMMITTEE SUBSTITUTE FOR HOUSE BILL 822 (CHAPTER 85-162) amends the Florida Home Equity Conversion Act which was adopted in 1984. Subsection 697.204(2), F.S., is amended to provide that the "term" of the mortgage is only to be used for purposes of determining the payments to be made to the mortgagor. [This would clarify that the "term" would not be the time when the mortgage becomes due.] As a result, the mortgage may only become due upon the sale of the property by the mortgagor, upon the death of the mortgagor, or when the property ceases to be the principal residence for 18 months.

Additionally, the act authorizes the mortgagee to charge interest on the full amount of the outstanding mortgage between the time the mortgage "term" expires and the time the mortgage becomes due. The rate of interest may not exceed the contract rate provided for in the original home equity conversion mortgage. The act also specifies that when the mortgage is executed by more than one mortgagor, the term of the loan shall only be equal to the life expectancy of the younger mortgagor plus one year.

The act amends Subsection 697.205(1), F.S., to authorize the Florida Housing Finance Agency to adopt rules to provide an alternative to recovery from the Home Equity Conversion Mortgage Guaranty Fund when a debtor has no significant assets to apply towards the payment of the debt. It specifies that the rules include provisions to require that the mortgagee obtain the mortgaged property by deed, that a reasonable appraisal of the property be made, and that the mortgagee determine all significant assets of the debtor which may be applied toward payment of the debt. The maximum recovery which would be authorized would be the difference between the loan amount due, including principal and interest, and the appraised value of the property.

The effective date of this act is October 1, 1985.

HOUSE BILL 824 (CHAPTER 85-271) amends various provisions of Chapter 494, F. S., relating to the licensing and regulation of mortgage brokers and mortgage solicitors by the Division of Finance of the Department of Banking and Finance.

With certain specified exceptions this chapter requires any individual corporation, partnership, or other organized group, who for a fee either directly or indirectly makes or offers to make, negotiate, acquire, or sell a mortgage loan, to be licensed as a mortgage broker. The act amends the definition of mortgage broker in Subsection 494.02(3), F.S., to include a person who arranges for a mortgage loan or a mortgage loan commitment.

[Individuals who have suffered financial loss due to acts of a licensee may seek recovery from the Mortgage Brokerage Guaranty Fund. In order to file a claim against the Fund, Section 494.043, F. S., requires the individual who seeks recovery to meet certain conditions. Once these conditions have been met, the individual seeking recovery from the Fund may apply to the Department for payment. The Fund balance was reached from assessments by licensees. The collection of these fees was discontinued in 1981-82 since the Fund reached its maximum balance.]

The act amends Subsection 494.042(1), F.S., to provide for the payment of a Guaranty Fund fee only by persons who have not been previously licensed. The fee would be \$50 for a principal broker and \$10 for any other broker or a mortgage solicitor. Under the provisions of the current law, if the Fund exceeds \$1.5 million the requirement for a payment of a fee on licensed renewals is discontinued and not reimposed unless the Fund is reduced below \$500,000. At this time fees would be imposed on renewals also, until such time as the Fund

balance reaches \$1.5 million (increased from the current maximum of \$750,000). The act caps the Fund at \$1.5 million.

The act amends Section 494.044, F.S., to increase the benefits payable to an individual claim from \$10,000 to \$20,000. Similarly, benefits payable in the aggregate against one broker or solicitor are raised from \$50,000 to \$100,000. Section 494.043, F.S., is amended to specify that the increased benefits which could be paid from the Fund would apply only to transactions occurring on or after October 1, 1985, the effective date of the act.

The act amends Section 494.05, F.S., to provide for the suspension of a license where it is found that a licensee has a current and unrelated professional or occupational license regulated by a state or the federal government which has been suspended or revoked based on fraud, misrepresentation or deceit. The act also provides for the revocation of a license where the licensee misuses or misappropriates money, or if a payment from the Fund is used to settle a claim based on the actions of the licensee. The act also amends Section 494.071, F.S., to provide for the impounding of property and records of a mortgage broker pursuant to an injunction to restrain violations of the Mortgage Brokerage Act; and to provide for the appointment of a receiver or administrator for such property.

Security Transactions

COMMITTEE SUBSTITUTE FOR HOUSE BILL 295 (CHAPTER 85-259) amends various provisions of Chapter 280, F.S., the Florida Security for Public Deposits Act.

It amends Section 280.02, F.S., the definition section of the law, to include certificates of deposit within the definition of "public deposits," and it amends the definition of "required collateral" to increase the collateralization requirements for those institutions which have public deposits in excess of their regulatory accounts.

The act amends Section 280.03, F.S., to prohibit public funds from being deposited directly or indirectly in negotiable certificates of deposit. This section is amended to exclude from the requirements of Chapter 280, F.S., transfers of funds for the purpose of paying registrars and agents.

The act amends Section 280.04, F.S., relating to collateral for public deposits, to authorize the Treasurer to increase to 125 percent the collateral requirement for depositories that have experienced decreases in their regulatory capital account, that have violated provisions of the "Florida Security for Public Deposits Act," or that have been established less than three years.

It prohibits any public depository from holding the lesser of: 10 percent of that qualified public depository's total deposits received in Florida, or 10 percent of the total public deposits held by all qualified public depositories of the same type (i.e., banks or savings associations). [The

phrase "total deposits received in Florida" is intended to limit those very large out-of-state institutions from using their out-of-state deposits for purposes of determining their 10 percent allotment.]

The act amends Section 280.05, F.S., to expand the authority of the Treasurer with regard to public depositories to include suspension for up to six months; disqualification for a minimum of one year; an administrative fine of \$250 for each violation; and issuance of cease and desist orders.

The act amends provisions in Section 280.09, F.S., relating to the Public Deposit Security Trust Fund:

- (1) to authorize deposit into the Fund of any administrative penalties collected; and,
- (2) to define the term "losses" to include losses of interest or other accumulations to the public depositor as a result of penalties for early withdrawal incurred because of the suspension or disqualification of a qualified public depository. Under this new language, when a public depository is either suspended or disqualified, and an interest loss occurs to the depositor, the Treasurer may order the depository to reimburse the depositor for the loss.

The amendments contained in this new enactment have an effective date of January 1, 1986.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 949 (CHAPTER 85-165) significantly amends Chapter 517,

F.S., the Florida Investor Protection Act which governs all securities transactions and certain investment and commodities transactions in or from Florida. Major revisions include: renaming the act as the Florida Securities and Investor Protection Act; providing additional definitions; amending Section 517.051, F.S., relating to exempt securities, to exempt from the registration provisions of this act "any insurance or endowment policy or annuity contract or optional annuity contract, issued by a corporation subject to the supervision of the Insurance Commissioner, Bank Commissioner, or any agency or officer performing like functions..."; deleting current language providing that the issuance and delivery of any security, in exchange for any other security, is an exempt transaction; requiring that in order to be exempt from registration requirements by virtue of publication, such publication must occur for at least 90 days prior to the transaction in a recognized manual; removing the current exemption providing for any offer or sale of securities pursuant to a registration statement filed under the federal Securities Act of 1933, and substituting in lieu of this provision, notification registration of such securities; increasing application fees; authorizing registration by notification for securities in which the offer and sale are initiated pursuant to an effective registration statement filed under the Securities Act of 1933; expanding the civil powers of the Department of Banking and Finance; creating 56 positions for the Division of Securities for 1985-86 fiscal year and

appropriating \$1,642,852 from the General Revenue Fund to the Department to fund such positions.

Consumer Finance

SENATE BILL 94 (CHAPTER 85-293) is designed to clarify the 1984 changes to Sections 715.04 and 715.042, F.S., the pawnbroker law, made by Chapter 84-367, Laws of Florida. The act specifies that a pawn transaction may include a loan of money or a buy-sell transaction. It specifies that a buy-sell transaction is not a loan of money. Additionally, the act specifies that either pawn transaction, a loan or a buy-sell, must be documented and the record must be made available to law enforcement personnel. The act reduces the period of time in which a pawnbroker may dispose of property under a buy-sell transaction, as defined in the law, from 90 days to 60 days.

The effective date of this act is October 1, 1985.

SENATE BILL 251 (CHAPTER 85-5) amends Sections 501.031, 501.041 and 501.045, F.S., by deleting the provisions in these sections that allow a seller to retain a cancellation fee if a buyer chooses to cancel a home solicitation sale.

COMMITTEE SUBSTITUTE FOR SENATE BILL 715 (CHAPTER 85-93) addresses provisions of Chapter 520, F.S., relating to retail installment contracts, and which include the Motor Vehicle Sales Finance Act, the Retail Installment Sales Act, and the Home Improvement Sales and Finance Act. The changes are designed to remove any doubt that a lender or creditor may have

regarding the interest rate or finance charge that may be levied.

This act creates Sections 520.085, 520.345, and 520.785, F.S., to expressly permit the finance charge permitted under Parts I, II, and IV of Chapter 520, F.S., to be computed at a simple interest rate equivalent to the finance charge permitted on the unpaid balance as it changes from time to time. Due to the nature of the simple interest computation, the existing statutes in Parts I, II, and IV, relating to prepayment refund credit, are not applicable to a contract computed on simple interest. Additionally, if an installment contract is extended, deferred, renewed, or restated, the refinance charge may also be computed on a simple interest basis.

HOUSE BILL 103 (CHAPTER 85-27) repeals Subsection 516.12 (2), F.S. This subsection requires an annual report to be submitted to the Division of Finance of the Department of Banking and Finance by licensees under Chapter 516, F.S., the Florida Consumer Finance Act. [This annual report was designed to provide the Division with information regarding the licensee's financial condition and loan activities for the prior year.]

HOUSE BILL 217 (CHAPTER 85-32) addresses the Florida Consumer Finance Act, Chapter 516, F.S. The current law specifies the maximum interest rates per annum which may apply to loans under this chapter as follows: 30 percent on the first \$500; 24 percent on the next \$500; 18 percent on the next \$1,500; and 18 percent overall for any loan in excess of

\$2,500, i.e., if a loan exceeds \$2,500 the higher incremental rates may not be charged on the first \$2,500 loaned, and 18 percent applies to the entire loan.

This act amends Subsection 516.031(1), F.S., to raise the range in which the graduated interest rates would apply from \$0 - \$2,500 to \$0 - \$5,000. On the amount of the loan exceeding \$1,000, but not exceeding \$5,000, the applicable interest rate would be 18 percent. On loans exceeding \$5,000 the applicable interest rate would be 18 percent per annum simple interest. The higher interest amounts indicated above in the current law would continue to apply to loans which are \$1,000 or less.

The provisions of this act will become effective October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 555 (CHAPTER 85-207) amends Subsection 520.07(6), F.S., to authorize a delinquency charge to be assessed under the terms of Part I of Chapter 520, F.S., relating to motor vehicle sales finance. A delinquency assessment of five percent could be made against a payment in default for a period of not less than 10 days. The act deletes the provision which limits the delinquency charge to five percent or \$5, whichever is less.

This act also amends Section 520.37, F.S., to authorize a delinquency charge to be assessed under the terms of Part II of Chapter 520, F.S., relating to retail installment contracts. It provides that a seller may charge a customer an amount not to exceed five percent of each payment in default for a period

of not less than 10 days. The act deletes the provision which limits the delinquency charge to five percent or \$5, whichever is less. [As a result, assessments on payments which are due and are greater than \$100 would exceed the current limit of \$5.]

The effective date of this act is October 1, 1985.

Unemployment Compensation

SENATE BILL 150 (CHAPTER 85-22) amends Subsection 443.036(31), F.S., to change the definition of wages in the unemployment compensation law. This act provides that after January 1, 1986, the term "wages" includes all tips and gratuities which are received as income when reported by the employee to the employer pursuant to Section 6053(a) of the Internal Revenue Code of 1954. In addition, certain payments made by an employer to or on behalf of an employee for retirement, sickness, or accident disability would be considered as wages.

For sickness or accident disability payments, only those payments received pursuant to a worker's compensation law are excluded from the definition of wages. Any payments which the employee receives for sickness or accident disability, or certain medical or hospitalization expenses, after six months following the last month in which the individual performed services for the employer, are excluded from wages.

With respect to payments made by the employer to or on behalf of the employee for retirement benefits, the act

specifies the conditions under which such payments would be excluded from the definition of wages.

[The provisions of the enactment regarding sick pay and employer contributions to an employee's retirement plan are a result of Pub. L. No. 98-21, Social Security Amendments of 1983. The provisions relating to tips and gratuities are a result of Pub. L. No. 98-369, the Deficit Reduction Act of 1984. These acts amended the Federal Unemployment Tax Act (FUTA) and therefore mandated that such changes be made in the state's unemployment compensation law in order to provide conformity with the federal law.]

SENATE BILL 470 (CHAPTER 85-114) amends Paragraph 443.091(1)(e), F.S., to temporarily decrease the number of weeks worked requirement from 20 to 12 for any person who files a claim for unemployment compensation for benefit years beginning on or after July 1, 1985, but prior to December 1, 1985. Under the provisions of amended Paragraph 443.111(4)(a), F.S., a claimant could collect total benefits equal to 10 times his weekly benefit amount instead of six times his weekly benefit amount which would be the case under the current formula. [Due to certain provisions in the federal unemployment compensation law, those claimants qualifying for benefits under the provisions of this act would not be entitled to any federal extended or supplemental benefits should such benefits become available. This act will permit farmworkers who were detrimentally affected by the January 1985 freeze to collect benefits.]

HOUSE BILL 430 (CHAPTER 85-126) amends Paragraph 443.111(2)(a), F.S., to increase the maximum weekly benefit amount for unemployment compensation benefits from \$150 to \$175. This new benefit amount would apply to benefit years beginning on or after July 1, 1985. In addition, the definition of "wages" in Paragraph 443.036(31)(a), F.S., is amended to include back pay awards.

Burial Needs

SENATE BILL 402 (CHAPTER 85-89) exempts licensed funeral directors, funeral establishments, and direct disposers from the requirements of Section 639.185, F.S., which requires the registration of preneed agents with the Department of Insurance. In addition, the act amends Subsection 639.10(4), F.S., to increase the fee for a certificate of authority to sell certain preneed contracts and the annual renewal thereof from \$50 to \$100.

The provisions of this act become effective October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 382 and 804 (CHAPTER 85-202) amends several sections of Chapter 497, F.S., the Florida Cemetery Act.

This act exempts from the Cemetery Act a columbarium consisting of less than one-half acre which is owned by and immediately contiguous to an existing church facility and is subject to local government zoning. The church must ensure that the columbarium is perpetually kept and maintained in a

manner consistent with Chapter 497, F.S. If the church relocates, then it must also relocate all of the urns and remains of its columbarium.

This act provides that at the time a person files an application to obtain a license to operate a cemetery, he must have the requisite 15 contiguous acres of land. The application fee for a new cemetery license is increased from \$600 to \$5,000. The Department of Banking and Finance may waive certain criteria for the establishment of a new cemetery so that each county may have at least six cemeteries. Also, the Department may, for good cause shown, grant up to two extensions of the 12-month period within which the applicant must meet the criteria as specified in Subsection 497.006(4), F.S.

Under current law, there is no distinction made in an application for change in control based on the identity of the person seeking to acquire control. This act would distinguish between a change among existing stockholders and partners, and persons unaffiliated with the cemetery. In either case, the Department must conduct an investigation on such persons seeking control. If such persons are affiliated with the cemetery, then the application fee is increased from \$600 to \$2,500. If such persons are unaffiliated with the cemetery, then the application fee is increased from \$600 to \$5,000.

This measure would also increase the annual license fees. The new fees would be based on annual gross sales as follows:

<u>GROSS SALES</u>	<u>FEE</u>
Less than \$ 25,000	\$ 250
\$ 25,000 to \$ 100,000	350
\$100,000 to \$ 250,000	600
\$250,000 to \$ 500,000	900
\$500,000 to \$ 750,000	1,350
\$750,000 to \$1,000,000	1,750
More than \$1,000,000	2,650

The fee charged by the Department for financial examinations and audits is changed from a fee not exceeding \$150 per day to a flat \$140 per day, per examiner.

The net income from the Care and Maintenance Trust Fund is to be used solely for the care and maintenance of the cemetery, including the maintenance of monuments. However, the act stipulates that such monument maintenance does not include the cleaning, refinishing, repairing, or replacement of monuments. The act further provides that a cemetery company may assess, at the time of installation, a charge not to exceed 10 cents per square inch of the size of the base of a monument for the maintenance of such monument. Such a fee shall be assessed uniformly without regard to whether the installer is the cemetery company or a person other than the cemetery company. The amount of money to be deposited into the Care and Maintenance Trust Fund for monument maintenance is to be the full amount of such sum when received.

A cemetery company would be prohibited from charging a fee for the installation and maintenance of a monument purchased or obtained from a person other than the licensed cemetery company. The act deletes the maximum statutory amount of 50 cents per square inch which a cemetery company can charge for the installation and maintenance of the monuments it sells and installs.

Noncemetery licensed persons may sell and install or prepare the foundations for monuments on cemetery company property. The cemetery company may require that such noncemetery licensed persons be duly licensed in the county in which the cemetery is located, carry automobile liability insurance, and carry public liability insurance. Also, a cemetery company can establish reasonable rules regarding the style and size of a monument or its foundation.

Cemetery companies would be prohibited from charging a setting or service charge for the placement of a marker or monument where the marker or monument was purchased from someone other than the cemetery company. The cemetery company may, however, charge an inspection fee not to exceed \$25 for monuments not installed by the cemetery company. Also, the cemetery company could not refuse to provide care and maintenance for that marker or monument, nor could it waive liability with respect to damage to a monument after installation. However, no cemetery company may be held liable for the improper installation of a monument not installed by the cemetery company.

Under this act, a purchaser of preneed burial merchandise or services could only cancel the contract within one year from the date of execution. It amends Subsection 196.011(3), F.S., to provide that it is not necessary to make an annual application for a property tax exemption for individually owned burial rights not held for speculation.

Financial Institutions

HOUSE BILL 1321 (CHAPTER 85-82) relates to financial institutions. This somewhat comprehensive act addresses various statutory provisions relating to depository financial institutions with amendments to Chapter 655, F.S. (Financial Institutions Generally); Chapter 657, F.S. (Credit Unions); Chapter 658, F.S. (Banks and Trust Companies); Chapter 660, F.S. (Trust Business); Chapter 663, F.S. (International Banking Corporations); Chapter 664, F.S. (Industrial Savings Banks); and Chapter 665, F.S. (Savings Associations). [The majority of the changes effected by provisions of the act were requested by the Department of Banking and Finance and are designed to assist the Department and the institutions in various technical areas of regulation and operational procedures.]

The act addresses licensing requirements under the Administrative Procedure Act (Chapter 120, F.S.) relating to foreign nationals. Subsection 120.60(5), F.S., is amended to extend the time period for approving or denying applications involving foreign nationals from six months to one year. A

public hearing is required and the failure of the applicant to attend a hearing is grounds for denial of the application.

The act amends Subsection 655.043(2), F.S., to eliminate various provisions which require the Department to determine whether a corporate name proposed by a financial institution is so similar to the name of another institution as to cause public confusion. The proposed name would have to be registered with the Division of Corporations, Department of State.

In response to the passage of the "Regional Reciprocal Banking Act of 1984" (Chapter 84-42), the exchange of banking information with other states is clarified and requires the continual confidentiality of confidential information. The act amends the definition of "financial institution" in Paragraph 655.50(2)(b), F.S., to include Edge Act or Agreement Corporations among those institutions by whom reports of transactions involving currency are to be filed with the Department of Banking and Finance.

The act amends Subsection 657.008(2), F.S., to authorize "national reciprocal branching" of Florida credit unions with credit unions located in another state. Basically, these provisions allow foreign, out-of-state credit unions to establish branches in Florida if that state allows Florida credit unions to establish branches within its borders. The primary criteria for locating in Florida is maintaining insurance of deposits. It amends Section 657.026, F.S., to provide that members of the supervisory committee be appointed

by the board of directors or be elected by the credit union members. The act amends Section 657.031, F.S., to authorize state credit unions to apply for insurance of shares and deposits through the National Credit Union Administration (NCUA). It amends Section 657.258, F.S., to eliminate mandatory coverage by the Florida Credit Union Guaranty Corporation, Inc.

The act amends provisions of the Banking Code and the savings association chapter to require applicants for new institutions to file standardized forms of their articles of incorporation. It substantially rewrites Section 658.48, F.S., relating to bank loans. However, the only substantive change is an increase in the amount of an unsecured loan, which may be made to a person who is not an officer or director of the bank, from 10 percent of the capital accounts to 15 percent of the capital accounts.

Chapter 663, F.S., relating to international banking corporations, is amended to provide that those corporations which do not meet the current capitalization requirements may still have an application for license approved if:

- (1) the international banking corporation has been in the business of banking for at least 10 years;
 - (2) it is ranked by the banking or supervisory authority of the country in which it is organized and licensed as one of the five largest banks in that country;
- and

(3) it receives a certificate issued by the banking or supervisory authority of such country stating that the banking organization is duly organized and existing in good standing.

The act amends Subsection 664.07(1), F.S., to authorize an industrial savings bank to establish a branch office, without having to merge, in any one county within the state in addition to the county in which its main office is located.

The act extends the non-bank bank moratorium passed during the December 1984 Special Session, Chapter 84-544, Laws of Florida, from July 1, 1985, to July 1, 1987.

Miscellaneous

COMMITTEE SUBSTITUTE FOR SENATE BILL 562 (CHAPTER 85-240) amends Chapter 681, F.S., the "Motor Vehicle Warranty Enforcement Act," often referred to as Florida's "Lemon Law." Section 681.104, F.S., is amended to extend from 90 days to six months the statute of limitations relating to suits brought subsequent to final action by the informal dispute settlement mechanisms. In addition, the act amends Section 681.108, F.S., to provide for certification of the dispute settlement mechanisms by the Division of Consumer Services of the Department of Agriculture and Consumer Services, Section 681.110 F.S., is created to authorize the Division to impose civil penalties of up to \$1,000; and Section 681.108, F.S., is amended to provide that if the consumer has notified the manufacturer of a nonconformity and has given the manufacturer

an opportunity to cure it, the dispute settlement panel is not permitted to require that another opportunity to cure be given, but shall find that the consumer is entitled to refund or replacement.

The Division is required to prepare an annual report evaluating the operation of informal dispute settlement procedures established by manufacturers of new motor vehicles, and shall issue a certificate of approval to those complying with certain federal regulations and with Chapter 681, F.S.

The provisions of this act are to take effect on October 1, 1985.

SENATE BILL 721 (CHAPTER 85-115) amends Subsection 288.03(8), F.S., to allow the Division of Economic Development within the Department of Commerce to undertake a Florida-Caribbean Basin initiative program which would provide for industrial recruitment to the noncommunist countries of the Caribbean in order to obtain a direct economic benefit in Florida. The Division would seek to encourage direct investment in Florida by offering Florida as the ideal location for complementary facilities to offshore Caribbean Basin operations.

[In 1984, Chapter 84-294, Laws of Florida, relating to the Department of Commerce, was enacted as a composite of several bills. One such bill created the Columbus Hemispheric Trade Commission. Contained in that bill was a provision which prohibited the use of state funds to carry out the bill's provisions. When that bill was combined with others affecting

the Department, that prohibition on the use of state funds inadvertently and unintentionally applied to other programs in the Department for which the use of state funds is appropriate.] This act repeals this prohibition which appears as Section 5 of Chapter 84-294, Laws of Florida.

This act also repeals obsolete Subsection 288.39(7), F.S., relating to reports by the Department concerning certain economic aspects of small businesses.

COMMITTEE SUBSTITUTE FOR SENATE BILL 927 (CHAPTER 85-335) amends Subsection 482.226(1), F.S., to provide that pest control companies would no longer be required to provide a written report to a customer unless a fee is charged for the inspection or the customer specifically requests a written report. This will allow pest control companies to avoid filling out a long and detailed report on every inspection requested by a customer. The act leaves unchanged the pest control companies' obligation to mandatorily fill out a written report on an inspection for purposes of a real estate transfer.

The act also amends Subsection 482.132(2), F.S., to provide for certain persons to qualify to take the pest control operator's examination based on related experience of lawn and ornamental spraying for a period of 19 years prior to June 1, 1985. This provision is only valid for a period of 30 days after the effective date (June 24, 1985) of this act, at which time it is repealed.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 664 (CHAPTER 85-100) amends Section 859.06, F.S., to extend the current prohibition

against the sale or giving of cigarettes to minors, to include the sale or giving of other tobacco products. [These provisions are basically designed to prohibit the use of such products as chewing tobacco and snuff by minors, but also include cigars.] The act specifies that "cigarette" includes clove cigarettes and tobacco substitutes and therefore their availability to minors is also prohibited. The act repeals Section 859.07, F.S., the provision which authorizes a law enforcement officer to summons testimony of a minor in a court of law relating to the possession and use of these tobacco products.

October 1, 1985, is the effective date of this act.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 690 (CHAPTER 85-74) creates the "Motor Fuel Marketing Practices Act," and repeals Section 526.151, F.S., [the "Retail Divorcement Law"] which provides certain restrictions on petroleum products dealers supplying gasoline and special fuels to retail service station dealers. This enactment provides that all enforcement actions begun pursuant to this section are dismissed.

The provisions of the newly created Motor Fuel Marketing Practices Act prohibit refiners from selling fuel at a retail outlet below refiner cost where the effect is to injure competition. "Refiner cost" is the refiner's posted terminal price plus certain taxes, inspection fees, direct labor costs, and the reasonable rental value of the retail outlet attributable to the retail sale of fuel. Certain isolated and

inadvertent sales, and sales made in good faith to meet competition, are exempted.

The selling of motor fuel to different persons on the same level of distribution at different prices, where the effect is to injure competition, is prohibited. Certain isolated and inadvertent sales, and sales made in good faith to meet competition, are exempted.

Suppliers of fuel are prohibited from limiting or allocating fuel available to resellers unless such allocations or limitations are done in a reasonable and nondiscriminatory method. A refiner or supplier is prohibited from fixing the retail price of fuel at a retail outlet supplied by such refiner or supplier. Price fixing at retail outlets operated by the refiner or supplier is excluded from these prohibitions. Sellers are prohibited from offering rebates if the effect of such rebates is to injure competition, unless a rebate on proportionately equal terms is offered to all persons purchasing for resale in a market area.

Certain motor fuel sales such as clearance sales, final business liquidation sales, sales pursuant to a court order, and grand opening sales not to exceed three days are exempted from the act's provisions.

A civil penalty is provided for violations of this act in the amount of \$1,000 per day, per violation, not to exceed \$50,000. Violators are also liable for attorney's fees and are subject to injunctive relief. The Department of Agriculture and Consumer Services is authorized to investigate any

complaints regarding violations of this newly created Motor Fuel Marketing Practices Act. The results of such investigations are to be turned over to the Department of Legal Affairs for further investigation and action. Any person injured as a result of an act or practice which violates this act may bring a civil action for relief. The measure further provides the statute of limitations for such actions. The Division of Consumer Services must report annually to the Legislature on complaints filed regarding such violations. The Division is also directed to study the operation of this act to determine if it serves the best interest of consumers, and to prepare a report which will include recommendations for legislation. This report and its recommendations shall be presented to the Legislature by November 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILL 806 (CHAPTER 85-323) amends Subsection 526.141(5), F.S., to require full-service gasoline service stations offering self-service at a lesser cost to post a decal no larger than eight square inches on the self-service pumps which states that handicapped persons are entitled to have their gasoline dispensed by a station attendant at the self-service price. For a vehicle to be eligible for this service it must have an "exemption entitlement parking permit" as described in Section 320.0848, F.S.

Section 633.111, F.S., is amended to provide that the fee for a copy of a report of the State Fire Marshal's investigation shall be \$3 and that these reports may be

released at no charge to any state attorney, law enforcement agency, or fire department assisting in the investigation.

The provisions of this act have an effective date of October 1, 1985.

HOUSE BILL 1266 (CHAPTER 85-104) creates the "Florida Small and Minority Business Assistance Act of 1985." Its purpose is to assist small and minority businesses in their relationships with the state and in obtaining state contracts.

The measure addresses small business concerns by:

- (1) establishing the Small and Minority Business Advisory Council within the Department of Commerce to identify issues and concerns of these businesses, and representing them in their relations with state agencies;
- (2) establishing a statewide contracts register by requiring all state agencies to send information regarding contracts open for bid to the Small Business Development Centers throughout the state, which then distribute the information to their participants;
- (3) requiring the state to monitor payments by agencies to contractors to ensure timely payment, and establishing a penalty payment of one-half of one percent which must be made if payment is late;
- (4) requiring agencies to consider the impact of agency rules on small business and to modify those rules

that will have an adverse impact in certain situations (amendment to Section 120.54, F.S.); and (5) enlarging the scope of the Division of Economic Development within the Department of Commerce to assist small and minority businesses.

The act also creates a comprehensive system addressing utilization and assistance to minority businesses by:

- (1) creating the Florida Black Business Investment Board, within the Department of Commerce, which has all corporate powers necessary to assist black business enterprises with obtaining bonding and loans and to stimulate private sector investment in black businesses (The Board will not invest or loan directly to black businesses, but will instead assist existing financial institutions in making such investments and loans.);
- (2) encouraging agencies to spend 15 percent of their expenditures for commodities and services with certified minority businesses;
- (3) permitting agencies to reserve certain contracts for bidding only among certified minority businesses, and authorizing rejection of such bids if they are higher than projected;
- (4) requiring the Department of General Services to certify minority business enterprises and make available to all state agencies a list of such businesses;

- (5) requiring state agencies to adopt minority business utilization plans;
- (6) providing penalties for misrepresentation as a minority business enterprise; and
- (7) creating the Minority Business Enterprise Assistance Office within the Department of General Services to assist minority businesses and promulgate rules relating to agency utilization of minority businesses.

The effective date of this act is October 1, 1985.

CONSERVATION AND NATURAL RESOURCES*

Conservation and natural resource issues dominated much of the 1985 Legislative Session. The Legislature adopted growth management legislation which revised local powers and duties with respect to planning and development regulation, created new controls on coastal development, and revised the process for approval of developments of regional impact. The Legislature also adopted a state comprehensive plan which provides goals and policies for future development of the state. Other environmental matters acted on in the 1985 Session include designation of additional preservation areas and an additional area of critical state concern, regulation of hazardous materials and solid waste, study of the Marketable Record Title Act, sale of lands acquired for the Cross-Florida Barge Canal, and revised fees for vessels, hunting, and fishing.

Growth Management and Planning and Development

COMMITTEE SUBSTITUTE FOR HOUSE BILL 287 (CHAPTER 85-55) attempts to confront the wide range of issues raised by the growth of the state's population. The act divides into three

*Prepared by staff of Senate Legal Research and Drafting Services

areas: local government planning and development regulation, coastal development, and land and water management, including developments of regional impact.

(1) Local government planning and development regulation: The act amends Part II of Chapter 163, F.S., to revise the Local Government Comprehensive Planning Act of 1975 and renames it the "Local Government Comprehensive Planning and Land Development Regulation Act." Applicability of the revised act is limited to counties, municipalities, and the Reedy Creek Improvement District, which is treated as a municipality. Special districts, which were within the scope of the 1975 act, are excluded.

The act provides for the designation by each local governing body of a "land development regulation commission" to develop and recommend land development regulations for the implementation of the adopted comprehensive plan and to review such regulation, and any amendments to them, for consistency with the adopted plan, reporting its findings to the governing body. However, these responsibilities may be performed by the local planning agency.

Deadlines are established for the revision of existing local government comprehensive plans in order to bring the plans into compliance with the revised act. Counties are required to prepare and submit their plans between July 1, 1987, and December 1, 1987; coastal municipalities are required to prepare and submit their plans between January 1, 1988, and December 1, 1988; and other municipalities are required to

prepare and submit their plans between January 1, 1989, and December 1, 1989.

Local comprehensive plans must be submitted to the state land planning agency (Department of Community Affairs) and the appropriate regional land planning agency. If the local government does not submit a revised plan before the specified deadline, a plan will be prepared for it by the regional planning agency.

Under the 1975 law, a local government could exercise authority under the act only after it adopted an ordinance providing for such exercise of authority. The revised act removes this requirement.

The act delineates the responsibilities of local planning agencies. Each local planning agency is required to prepare the local comprehensive plan for recommendation to the local governing body, monitor and recommend changes in the local comprehensive plan, and review proposed land development regulations in certain circumstances. Prior law left the specific responsibilities of the local planning agency within the discretion of the local governing body.

The local comprehensive plan is required to include a capital improvements element which must incorporate principles for construction, extension, or increase in capacity of public facilities; principles for correcting existing public facility deficiencies; estimated public facility costs and revenue sources; standards to assure availability and adequacy of public facilities; and, with respect to areas served by septic

tanks, soil surveys which indicate the suitability of soils for septic tanks. The capital improvements element is subject to annual review. All public facilities are required to be consistent with the capital improvements element.

The act requires the plan to include maps, goals, objectives, and policies for future land use. The conservation element of the plan is required to include a 10-year projection of water needs and sources. The coastal management element of the plan is required to include provision for limitation of public expenditures that subsidize development in high-hazard coastal areas, protection of human life against natural disasters, orderly development of ports for commerce, and historic and archaeological preservation.

The act requires the Department of Community Affairs to adopt rules under which it will determine whether a local plan complies with the act. The rules are to be submitted to the Legislature no later than 30 days prior to the next regular session for approval or modification, and will go into effect as submitted if the Legislature takes no action.

The act requires the coastal management element of the plan to be based on studies, surveys, and data and specifically sets out required components of the coastal management element. The element must contain land use and inventory maps of existing uses, wildlife habitats, wetland and other vegetative communities, undeveloped areas, and areas subject to coastal flooding; analyses of the environmental, socioeconomic, and fiscal impact of development; analysis of the effects of

drainage systems; principles for hazard mitigation and the protection of human life in natural disasters; provision for beach and dune protection; provision for redevelopment, including elimination of inappropriate or unsafe development; provisions relating to shoreline use and access; designation of high-hazard areas; principles for financing of public facilities necessitated by population growth; regulatory and management techniques; and a deepwater port master plan.

The local plan may be adopted only after the Department of Community Affairs issues a notice of intent to find it to be in compliance with the act. After the plan is adopted, the act provides for a hearing under Section 120.57, F.S., on objections from affected parties. If the Department preliminarily determines that the plan as submitted is not in compliance, the Department is required to transmit its objections and recommendations to the local government, which will then hold a hearing on the recommended changes. If the Department issues a notice of intent to determine that a plan is not in compliance, it will hold a hearing under Section 120.57, F.S., on the issue of compliance.

If a plan is finally found not to be in compliance with the act, the Administration Commission is required to specify the remedial action to be taken by the local government. The Administration Commission may order that a noncomplying local government is ineligible for community development block grants, recreational development assistance, revenue sharing, and beach erosion control funding. Also, the Commission may

direct state agencies not to provide funds to increase the capacity of roads, bridges, and water and sewer systems in noncomplying local governments.

Amendments to the plan may be made only twice in any calendar year, except in a specified emergency or in connection with consideration of a proposed development of regional impact. The local planning agency is required to submit periodic appraisal and evaluation reports, upon which the amendments shall be based.

Local land development regulations must be consistent with the plan. If there is a conflict between the regulations and the plan, the terms of the plan are controlling. Local land development regulations must include subdivision regulations; land and water use regulations; provision for potable water wellfield protection; regulation of areas subject to flooding, including drainage and stormwater management; provision for protection of designated environmentally sensitive land; sign regulation; traffic and parking regulation; and provisions relating to availability of public facilities.

Any substantially affected person may, in an informal hearing before the Department of Community Affairs, challenge a land development regulation on the basis that the regulation is inconsistent with the local plan. A prerequisite to such hearing is the filing of a petition with the local governing body affording the local government an opportunity to respond. If the substantially affected person objects to the decision of

the Department, a hearing will be held under Section 120.57, F.S., before a hearing officer of the Division of Administrative Hearings of the Department of Administration. If such hearing officer determines that the regulation is consistent with the plan, the Department of Administration will issue its final order approving the regulation; but if the regulation is determined to be inconsistent, a proceeding before the Administration Commission must occur prior to issuance of a final order approving or disapproving the regulation.

The act also gives any person or local government, which will suffer an adverse effect to an interest protected or furthered by the local government comprehensive plan, the standing to maintain an action for injunctive relief to prevent a local government from taking action on a development order which materially alters the use, density, or intensity of use of a particular property in a manner inconsistent with the plan. The interest may be shared with others, but it must exceed in degree the interest in community good shared by all persons.

Prior to instituting the action, the aggrieved party must file a complaint with the local governing body affording it at least 30 days to respond. However, the failure to comply with this notice requirement does not prevent the issuance of a temporary restraining order to prevent irreparable harm.

The act repeals provisions relating to the optional planning authority of counties and municipalities for future

development (Sections 163.160 - 163.315, F.S.), stating that it is the intent of the Legislature that Sections 163.3161 through 163.3215, F.S., provide the necessary statutory basis for municipal and county officials to carry out their comprehensive planning and land development regulatory powers, duties, and responsibilities.

The Interlocal Cooperation Act of 1969 is amended to authorize the issuance of bonds by a group of municipalities or counties to finance or refinance capital projects. Section 171.062, F.S., is amended to provide that upon annexation of a previously unincorporated area, county zoning and subdivision regulations remain in effect only until the area is rezoned by the annexing municipality to comply with its local plan.

The act amends Section 186.508, F.S., to provide that rules adopting regional policy plans are subject to modification by the Legislature. It also creates a study committee on substate district boundaries which must issue an initial report to the Governor and the Legislature by February 1, 1986, and a final report by December 31, 1986.

The law relating to planning of educational facilities (Section 235.193, F.S.) is amended to require that such planning take into consideration the effects of location of facilities, including the feasibility of keeping central-city facilities viable to encourage redevelopment, efficient use of infrastructure, and discourage uncontrolled urban sprawl.

(2) Coastal management: The coastal management portion of the act amends and creates several new sections of Chapter

161, F.S., relating to beach and shore preservation. Section 161.053, F.S., relating to county regulation of coastal construction and excavation, is amended to provide for a Department of Natural Resources hearing in each affected county prior to the establishment of a coastal construction control line, to be followed by a public hearing before the Governor and Cabinet. Importantly, the setting of the coastal construction control lines are not subject to Subsections 120.54(4) or 120.54(17), F.S., to avoid delays in establishing or updating these lines. Any coastal construction control line not updated since June 30, 1980, will be considered a critical priority for reestablishment.

After October 1, 1985, the act prohibits issuance of a permit for construction of any major structure which will be seaward of the seasonal high-water line within 30 years after the date of application for the permit. Exceptions are provided for areas landward of the coastal construction control line and in specified circumstances for single-family houses. Violation of provisions relating to coastal construction, driving on dunes, or damaging dunes or dune vegetation is punishable as a separate offense each day the violation occurs, rather than each month.

The act amends Section 161.054, F.S., to provide for administrative fines of up to \$10,000 a day for coastal construction seaward of the mean high-water line without a permit, in violation of Section 161.041, F.S. It also provides joint and several liability for damage to sovereignty land

seaward of the mean high-water line or to beaches. Under prior law, such liability attached to damage to beaches only.

The act also creates Sections 161.52 - 161.58, F.S., to establish the Coastal Zone Protection Act of 1985, which provides a series of requirements for construction and other activities within the coastal building zone. The coastal building zone is the area from the seasonal high-water line to a line 1,500 feet landward of the coastal construction control line established under Section 161.053, F.S., and, for coastal areas fronting on the Gulf of Mexico, Atlantic Ocean, Florida Bay, or the Strait of Florida and not included under Section 161.053, F.S., the area from the mean high-water line to a line 3,000 feet landward. The coastal building zone also includes all land on barrier islands, except that areas more than 5,000 feet landward of the coastal construction control line are included only if the local government so elects.

Within the coastal building zone, these requirements shall apply beginning March 1, 1986: Habitable major structures must conform to the Standard Building Code or a specified mobile home code. The structure must be designed to resist loads accompanying a 100-year storm event and to prevent flotation, collapse, or lateral displacement during a 100-year storm event. Except for mobile homes, major structures must be able to resist wind velocities of 140 miles per hour. Major structures in the coastal building zone must have elevated support structures located above the design breaking wave crests of a 100-year storm surge; and no substantial walls are

allowed below the level of the support structures. Within the coastal building zone, nonhabitable major structures and all minor structures must be designed for minimal adverse impact on beaches and dunes.

The act provides that sewage treatment facilities, public water supplies, and underground utilities within the coastal building zone must be floodproofed. An established public accessway to a beach may not be interfered with, except that it may be replaced with another accessway in specified circumstances.

The act provides for enforcement of coastal zone building codes by local governments.

A seller of property located seaward of the coastal construction control line is required to give the buyer an affidavit or survey showing the location of the coastal construction control line.

The act prohibits vehicular traffic on dunes or dune system vegetation. Vehicular traffic on beaches is also prohibited, except that a local government may, by three-fifths vote, authorize vehicular traffic on beaches and may charge a toll for such traffic.

Section 380.27, F.S., is created to stipulate that no state funds may be used for bridges or causeways to coastal barrier islands not currently accessible by bridges or causeways; and that no state funds may be used to increase the capacity of local infrastructure, unless the use of such funds complies with the approved coastal element of the local

comprehensive plan. This section also requires the Department of Community Affairs to furnish an annual report by March 1 of each year to the Governor and Legislature on coastal barrier areas.

The act provides that an exemption from permitting requirements for seawalls under Paragraph 403.813(2)(e) or (o), F.S., does not constitute an exemption from Chapter 161, F.S., relating to coastal management.

Subsection 125.0104(5), F.S., is amended to provide that proceeds of the tourist development tax may be used for beach improvement, maintenance, renourishment, restoration, and erosion control.

(3) Land and water management: The act revises provisions relating to developments of regional impact, creates Florida's Quality Developments Program, and changes other provisions relating to development.

With respect to developments of regional impact, Section 380.06, F.S., is amended to provide that revisions to the present statewide guidelines and standards must be approved by law, rather than by joint resolution of the Legislature. In determining whether a proposed development must undergo the development-of-regional-impact process, the Department of Community Affairs is required to apply the guidelines and standards that were in effect at the time the proposed development received local approval. If the proposal did not receive local approval prior to the effective date of the new

guidelines and standards, the new guidelines and standards will apply.

The act further amends Section 380.06, F.S., to provide fixed thresholds and rebuttable presumptions as to whether a proposal is subject to development-of-regional-impact review. If a proposed development is below or at 80 percent of all numerical thresholds, it will not undergo development-of-regional-impact review; if a proposed development is at or above 120 percent of all numerical thresholds, it will undergo such review. If a proposed development is between 80 percent and 100 percent of the numerical thresholds, there is a rebuttable presumption that it will not undergo development-of-regional-impact review; if a proposed development is between 100 percent and 120 percent of the numerical thresholds, there is a rebuttable presumption that it will undergo such review. The Administration Commission may increase or decrease the numerical threshold of any statewide guideline or standard by no more than 50 percent upon the petition of the state land planning agency, a regional land planning agency, or a local government. Such increase or decrease takes effect when it is approved by general law.

In certain circumstances, a local government or the Department of Community Affairs may require a developer to obtain a binding letter of interpretation as to whether a proposed development is a development of regional impact. A binding letter stating that a development is not a development

of regional impact expires within three years after issuance unless the development has been substantially commenced.

A developer required to undergo development-of-regional-impact review may undertake the development if it has been approved under such review. If the development is within an area of critical state concern, it must also have been approved under Chapter 380, F.S.

If a proposal is undergoing, or will undergo development-of-regional-impact review, state or regional permits may be issued for the development. The permits may take effect upon expiration of time for administrative appeals or upon final expiration of time for such administrative appeals or judicial review, whichever is later. If the development is subject to the requirement of a binding letter, the permits take effect upon receipt of a binding letter that a development is not a development of regional impact or upon issuance of a development order.

Notwithstanding other limitations on amendments to the local comprehensive plan, amendments to the plan relating to a development of regional impact may be considered at the same time as the application for approval of the development of regional impact is considered.

A developer may enter into an agreement with the Department of Community Affairs to proceed with limited portions of the total proposed development. Such agreement is limited to lands the Department finds suitable for development.

The optional coordinated review process is replaced with conceptual agency review which may occur concurrently with development-of-regional-impact review after a preapplication conference. Conceptual review is a general review of the location, densities, intensities of use, character, and major design features of a proposed development and is performed by the Department of Environmental Regulation, water management districts, and other agencies that require construction or operation permits related to potential sources of water pollution, dredging and filling, management and storage of surface waters, or any other matter designated by the agency. Upon conceptual review approval, there is a rebuttable presumption in favor of granting the appropriate permits.

Development orders are required to specify monitoring procedures, establish compliance dates, and establish a date before which a local government may not reduce intensities or densities or downzone without a demonstration of changed conditions. If a development order requires a developer to contribute land or facilities for the public, the need for the facility must be attributable to the development. The developer's contribution may not exceed what the state or local government could reasonably be expected to provide to meet needs created by the development and must be used to mitigate the impact of the development. Effective July 1, 1986, a local government may not require as part of a development order that a development of regional impact make contributions for land or facilities unless a local ordinance makes a similar requirement

applicable to other developments. The need for such exactions must be reasonably attributable to the new development. A local government may not approve a development of regional impact that does not make adequate provision for public facilities it will require, unless the local government commits to providing such facilities. Exactions from developers must be credited against local impact fees, pursuant to procedures adopted by the local government.

Provisions in Section 380.06, F.S., relating to substantial deviations from approved proposals are revised by the act. A substantial deviation will require further development-of-regional-impact review. The act contains a list of numerical criteria for determining whether a deviation is substantial. While review of the changes is proceeding, development may continue in compliance with a previously approved proposal in those portions of the development which are not affected by the proposed change.

Any person claiming development rights because of recordation or permitting prior to July 1, 1973, must give the Department of Community Affairs notice of such claim by January 1, 1986. If such notice is not given, the rights expire on June 30, 1986.

Additional amendments to Section 380.06, F.S., provide that areawide developments of regional impact must submit areawide development plans, including provisions relating to capital improvements, phasing, land development regulation, and covenants and restrictions. The act also creates Section

380.061, F.S., to establish Florida's Quality Developments Program to encourage developments that are "thoughtfully planned to take into consideration protection of Florida's natural amenities, the cost to local government of providing services to a growing community, and the high quality of life Floridians desire." If the Department of Community Affairs, the regional planning agency, and the local government agree to designate a proposed development as one of Florida's Quality Developments, it is exempt from the development-of-regional-impact process.

In order to be designated, the proposal must contain an agreement to donate the fee or a lesser interest to protect in perpetuity wetlands and waterbodies, beaches and dunes, archaeological sites, and habitats significant to threatened or endangered plant and animal species, or, alternatively, a binding commitment running with the land to maintain such areas as open space in their natural condition in perpetuity; prohibition of production or disposal of toxic or hazardous substances; provision for participation in a downtown reuse or redevelopment program; prohibition of dredge and fill operations; provision for open space, recreation, and energy conservation; agreement to provide necessary infrastructure; and provision that the design of the development will be consistent with all applicable comprehensive plans.

The act also creates Section 380.065, F.S., to provide that a local government may petition the Administration

Commission for authority to conduct regional reviews of developments of regional impact.

It creates Section 380.0651, F.S., to adopt guidelines and standards for airports, attractions and recreation facilities, industrial plants and industrial parks, office developments, port facilities, retail, service, and wholesale development, hotels and motels, recreational vehicle developments, multi-use developments, and residential developments.

The act provides by amendment to Section 380.07, F.S., that, in appeals with respect to issues within the permitting programs under Chapters 161 (Beach and Shore Preservation), 373 (Water Resources), or 403 (Environmental Control), F.S., the issue must be specifically identified. If the permit has already been granted, an appeal may proceed only after the Florida Land and Water Adjudicatory Commission determines that statewide or regional interests may be affected.

The Department of Community Affairs is authorized by amendment to Subsection 380.11(2), F.S., to institute an administrative proceeding to obtain compliance with development-of-regional-impact approvals, binding letters, agreements, rules, orders, or development orders. The Department may seek enforcement under Section 120.69 or Subsection 380.032(3), F.S.

An appropriation of \$150,000 is made to the Department of Community Affairs to study undeveloped platted lands and antiquated subdivisions in the State of Florida.

The act takes effect October 1, 1985, except that the amendments to Section 163.3191, F.S. (evaluation and appraisal of local comprehensive plans), and Subsection 380.06(8), F.S. (preliminary development agreements), take effect July 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 15 (CHAPTER 85-42) amends Subsection 163.3177(6), F.S., to add the subject of natural groundwater aquifer recharge to the sanitary sewer, solid waste, drainage, and potable water element of the local government comprehensive plan. The element must contain a topographic map depicting areas of prime groundwater recharge and a topographic map depicting areas adopted by a water management district as prime groundwater recharge areas for the Floridan Aquifer or Biscayne Aquifer. Such areas must be given special consideration in zoning and consideration of future land use.

The current provisions of Section 373.0395, F.S., require water management districts to develop groundwater basis resource inventories. An inventory must include hydrogeologic studies, siting of areas prone to contamination or overdraft, specification of prime groundwater recharge areas, criteria for establishment of seasonal surface water and groundwater levels, areas suitable for future water resource development, existing sources of wastewater discharge suitable for reuse, and potential quantities of water available for consumptive uses. The act amends this section to provide for notice and hearing prior to designation of prime groundwater recharge areas, and prescribes the content of such notice. The governing board of

the water management district is required to adopt a designation of prime groundwater recharge areas to the Floridan and Biscayne Aquifers by rule within 120 days after the public hearing, subject to the provisions of Chapter 120, F.S.

HOUSE BILL 1338 (CHAPTER 85-57) adopts the State Comprehensive Plan mandated by Chapter 84-257, Laws of Florida, to provide long-range policy guidance for the orderly social, economic, and physical growth of the state. The act describes the plan as a direction-setting document which may be implemented only to the extent funds are provided by the Legislature or other sources. The goals and policies of the plan are to be reasonably applied where they are economically and environmentally feasible, not contrary to the public interest, and consistent with the protection of private property rights.

The plan contains goals and policies for the state in the areas of education, children, families, the elderly, housing, health, public safety, water resources, coastal and marine resources, natural systems and recreational lands, air quality, energy, hazardous and nonhazardous materials and waste, mining, property rights, land use, public facilities, cultural and historical resources, transportation, governmental efficiency, the economy, agriculture, tourism, and employment. The act requires that state agency functional plans be consistent with the state plan.

Section 186.022, F.S., is amended to specify deadlines for submission of state agency functional plans to the

Executive Office of the Governor. An amendment to Subsection 186.008(3), F.S., provides for adoption of statutory amendments to the plans by the Legislature. A state comprehensive plan committee is established to study local tax structures and needs and to recommend state and local taxing and finance alternatives needed to implement the provisions of the State Comprehensive Plan for the next 10 years.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1202 (CHAPTER 85-360) creates the "Apalachicola Bay Area Protection Act" which designates Franklin County, less certain lands, an area of critical state concern. The act provides for the removal of the designation after three years if certain conditions are met; and exempts the area designated from certain statutory provisions relating to areas of critical state concern and resource planning and management committees. The Governor is directed to appoint a resource planning and management committee for the Apalachicola Bay Area, and the act sets out the duties of the committee.

It also sets principles to be used by state, regional, and local agencies to guide development of the area; and incorporates by reference and adopts various comprehensive plan elements and land development regulations to be administered in the designated area. It requires that developments of regional impact be approved only if they comply with those provisions. Any land development regulation or comprehensive plan element may be modified by a local government, subject to approval by the Administration Commission. Requirements are provided for

local government sewerage disposal systems, septic tank soil absorption systems, onsite wastewater disposal systems, and stormwater management systems. The act mandates reports by local governments on options to improve the fisheries for the Apalachicola Bay Area and on the implementation of certain provisions of the act. It also provides procedures for applications for grants for sewerage projects.

[Because of the inability of local jurisdictions within the area to generate the funds necessary to receive state and federal matching grants, provision is made for such funds in the General Appropriations Act, SENATE BILL 1300 (CHAPTER 85-119) within the Department of Environmental Regulation allocation.]

The following sums are appropriated from the General Revenue Fund to the departments involved in carrying out the responsibilities of implementing this act:

- (1) \$101,744 and four additional positions to the Department of Community Affairs.
- (2) \$39,188 and two additional positions to the Department of Health and Rehabilitative Services.
- (3) \$29,800 and one additional position to the Department of Environmental Regulation.

[Certain other staff positions are funded through the General Appropriations Act as is an economic development contract between the Department of Community Affairs and Franklin County.]

Preservation Areas

COMMITTEE SUBSTITUTE FOR SENATE BILL 766 (CHAPTER 85-346) amends Section 380.055, F.S., to add an area to be known as the "Big Cypress National Preserve Addition, Florida," to the "Big Cypress Area," which has been designated as an area of critical state concern. The act provides for the acquisition of the Big Cypress National Preservation Addition and for the donation of the addition to the U.S. Government upon the expenditure of federal funds sufficient to pay 80 percent of the cost of acquiring such lands.

COMMITTEE SUBSTITUTE FOR SENATE BILL 762 (CHAPTER 85-345) creates the "Guana River Marsh Aquatic Preserve" and the "Big Bend Seagrasses Aquatic Preserve" as a part of the aquatic preserve system under the Florida Aquatic Preserve Act of 1975. The act amends Section 258.39, F.S., to revise the boundaries of various other aquatic preserves, and amends Section 258.393, F.S., to modify the previous boundary description of the Terra Ceia Aquatic Preserve. It also provides that waters within aquatic preserves may be designated as Outstanding Florida Waters only where the Environmental Regulation Commission determines that the natural attributes of such waters are of exceptional recreational or ecological significance.

COMMITTEE SUBSTITUTE FOR SENATE BILL 331 (CHAPTER 85-363) designates a portion of the Myakka River in Manatee, Sarasota and Charlotte Counties as a wild and scenic river and provides for the development of a management plan for that portion of the river. The act authorizes a permanent

management coordinating council which shall be created by the Department of Natural Resources to provide interagency and intergovernmental coordination in the management of the river, and prohibits the operation of airboats on a portion of the river. This act shall take effect on January 1, 1986.

HOUSE BILL 738 (CHAPTER 85-353) identifies the Indian River Lagoon, defined as the Indian River, Banana River, and Mosquito Lagoon within Volusia, Brevard, Indian River, St. Lucie, Martin, and Palm Beach Counties, as a highly productive ecological system requiring special protection. The Marine Resources Council of East Central Florida is directed to prepare a report describing the legislative and administrative actions necessary for the protection of the Indian River Lagoon which is to be forwarded to the affected legislative delegations no later than February 1, 1986. The Council is to provide services for implementing the act funded through the Florida Sea Grant Program administered by the Institute of Food and Agricultural Sciences of the University of Florida. Universities, recognized institutions of higher learning, and private research foundations are authorized to conduct expanded research on the ecosystem which must be concluded no later than February 1, 1987. Information on the Indian River Lagoon is to be disseminated to public agencies and the public in an organized and coordinated fashion to enhance public awareness of the means by which the Lagoon may be protected.

Water Management Districts

HOUSE BILL 106 (CHAPTER 85-146) amends Section 373.0693, F.S., to provide for regular meetings and special meetings of the Southwest Florida Water Management District basin boards. The district staff is required to include on the agenda of any basin board meeting any item that a member requests, and must also inform the basin boards and counties of any vacancy on the district governing board or a basin board. The district is divided into watershed basins so that certain areas now located in the Hillsborough Basin or the Alafia Basin are annexed into the Peace River Basin, and the assets and liabilities of such areas are transferred. The millage allocation formula for the district in Section 373.503, F.S., is changed to a maximum of 30 percent for district purposes and 70 percent for basin purposes.

Chapter 57-1877, Laws of Florida, concerning the Sumter County Recreation and Water Conservation and Control Authority, is repealed subject to a referendum to be held at a special election in November 1985. The act provides the outline of the ballot to be presented, including a question as to whether or not the Jumper Creek Rehabilitation project should be completed. Moneys presently allocated to this project are not to be expended until the referendum is determined.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1081 (CHAPTER 85-347) amends Subsection 373.089, F.S., to prohibit the sale of certain water management district surplus lands for less than the appraised value. Appraisal reports on

certain lands that water management districts may acquire are exempted by amendment to Section 373.139, F.S., from the public records law during certain negotiations. Section 373.584, F.S., is created to provide that water management districts are allowed to issue revenue bonds and bond anticipation notes.

Public hearings relating to the Water Management Lands Trust Fund are provided for by amendment to Section 373.59, F.S. The Department of Environmental Regulation is allowed to withhold funds for land purchases that are not consistent with the five-year plan or the intent of the act, or if the purchase price exceeds the appraised value, and an appeal process is provided. The debt service on revenue bonds or notes issued by a district may be paid from the district's share of the Water Management Lands Trust Fund, and the district may pledge its share of the Trust Fund moneys as security for revenue bonds or notes. The state-to-district ratio for funding districts is deleted. The first proceeds of that Trust Fund, amounting to \$500,000, are to be distributed equally among the five districts for development of acquisition plans and management plans. The term "general public recreational purposes" is defined, and certain lands are required to be made available for such purposes. Restrictions are placed on spending money generated pursuant to this act, so that it may not reimburse districts for prior expenditures from certain other sources. The future repeal of Section 373.59, F.S., which was scheduled for July 1, 1992, is abrogated.

The excise tax on deeds and other instruments relating to interests in realty is raised by amendment to Subsection 201.02(1), F.S. A projected tax reduction is canceled, in that the future repeal of the tax increase imposed by Section 1 of Chapter 81-33, Laws of Florida, is abrogated. A change is made in the distribution of taxes collected under Chapter 201, F.S., and 3.1 percent of such taxes are required to be distributed to the Land Acquisition Trust Fund. A revised schedule of future tax distributions is deleted.

This act is to be cited as the "Florida Resource Rivers Act."

COMMITTEE SUBSTITUTE FOR HOUSE BILL 452 (CHAPTER 85-154) amends Section 298.22, F.S., to allow boards of supervisors of water control districts to adopt rules to implement Chapter 298, F.S., and to assess fees. Section 298.29, F.S., is changed to authorize those boards to issue notes, certificates, or similar obligations and securities to borrow money, at interest rates allowed under Section 215.84, F.S. Amendments to Section 403.812, F.S., provide that after the Southwest Florida Water Management District adopts required performance criteria for reviewing the groundwater discharge of stormwater, the Department of Environmental Regulation may not require a separate groundwater permit for permitted stormwater facilities in that district.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 921 (CHAPTER 85-211) amends Section 373.503, F.S., relating to manner of taxation of water management districts, to allow the St. Johns River Water

Management District to levy an additional 0.225 mill for land acquisition and associated capital projects. The allowable apportionment of millage in that district is changed to a maximum of 15 percent for district purposes and 85 percent for basin purposes. Future repeal of the 0.225-millage assessment and its distribution between the district and its basins is provided for on October 1, 1990, pursuant to review under the Regulatory Sunset Act. Section 373.046, F.S., is amended to provide that the St. Johns River Water Management District and the Southwest Florida Water Management District shall enter an interagency agreement relating to certain Polk County permit applications.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 251 (CHAPTER 85-148) mandates the initiation of a pilot project to identify an environmentally sound, economically feasible method of restoring Lake Apopka to a Class III water body. It creates the Lake Apopka Restoration Council within the St. Johns River Water Management District. The Council is to review studies and data, make a recommendation to the district governing board for a Lake Apopka restoration program, and report directly to the Legislature before November 25 of each year with a Lake Apopka restoration progress report and recommendations for the forthcoming fiscal year.

These appropriations are made to the Department of Environmental Regulation for the St. Johns River Water Management District:

- (1) \$765,000 for fiscal year 1985-86 from the Water Resources Restoration and Preservation Trust Fund within the Department of Environmental Regulation to initiate the pilot project for Lake Apopka.
- (2) \$1.5 million for fiscal year 1985-86 from the Aquatic Plant Control Trust Fund within the Department of Natural Resources to implement and evaluate a program to demonstrate the feasibility of utilizing water hyacinths to extract excessive nitrogen and phosphorus from the sediment and water columns of the lake.

Pollution Control

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1190 (CHAPTER 85-277) and COMMITTEE SUBSTITUTE FOR HOUSE BILL 722 (CHAPTER 85-269) each amend Section 403.021, F.S., to declare that the citizens of the state should be afforded reasonable protection from the dangers inherent in the accidental release of toxic or otherwise hazardous vapors, gases, or highly volatile liquids into the environment. This act provides for the assessment by the Department of Environmental Regulation of risk potential in this state due to accidental release of such substances. The Department may require probable owners, producers, users, transporters, and storers of substances within the state which are potentially toxic or otherwise hazardous (including chemical manufacturers, formulators, importers, distributors, and bulk retailers, and persons engaged in operations which

involve the manufacture, distribution, retail sale, or installation of tanks, piping systems, or other containers in which toxic or otherwise hazardous substances may be produced, used, transported, or stored) to submit information required for the assessment. Claims of trade secret or confidential proprietary information may be made, and confidentiality agreements may be executed, under prescribed conditions. Any protected information submitted to the Department is confidential, and criminal penalties are provided for unauthorized disclosure of such information. The Department is also directed to compile a list of toxic or otherwise hazardous substances. The Department must make its preliminary report with respect to the survey to the Governor and Legislature by January 1, 1986, and its final report by January 1, 1987.

An appropriation of \$246,000 is made from the General Revenue Fund to the Department of Environmental Regulation to implement its responsibilities under this act and to fund two additional positions through June 30, 1987.

In addition, with respect to solid waste management, COMMITTEE SUBSTITUTE FOR HOUSE BILL 722 (CHAPTER 85-269) amends Section 403.707, F.S., to:

- (1) Require the Department of Environmental Regulation to establish performance standards for construction and closure of solid waste land disposal areas, sites, and facilities, which standards allow flexibility in design and consideration for site-specific characteristics.

- (2) Require applicants for construction permits for resource recovery and management facilities (after January 1, 1986) to consider sites having temporary backup disposal areas.
- (3) Require a permit for the disposal of solid waste collected from noncontiguous property, except for the disposal of construction and demolition debris or waste from normal farming operations.

[The third requirement was also enacted by COMMITTEE SUBSTITUTE FOR SENATE BILL 782 (CHAPTER 85-334), discussed below.]

Also, with respect to hazardous waste, COMMITTEE SUBSTITUTE FOR HOUSE BILL 722 (CHAPTER 85-269):

- (1) Requires local, regional, and state hazardous waste assessments to be updated by letters sent to each small quantity generator every five years, but permits local and regional assessments to be updated more frequently. (This provision is effected by amendment to Section 403.7225, F.S.)
- (2) Requires each county to transmit to the Department of Environmental Regulation, before June 30 of each year, specified information concerning its hazardous waste management activities in the preceding year. (This provision is effected by amendment to Section 403.7236, F.S.)
- (3) Creates a grant program for establishing local or regional hazardous waste collection centers

throughout the state for the collection and temporary storage of small quantities of hazardous waste. (This program is authorized by creation of Section 403.7265, F.S.)

The sum of \$500,000 is appropriated from the General Revenue Fund to the Department of Environmental Regulation for the purpose of paying expenses necessary to carry out the provisions of this act.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 722 (CHAPTER 85-269)
and COMMITTEE SUBSTITUTE FOR SENATE BILL 782 (CHAPTER 85-334)
both:

- (1) Ratify Rules 17-4.04(9)(f), (h), and (r) of the Florida Administrative Code, relating to certain dredge and fill exemptions, as amended by the Environmental Regulation Commission on October 16, 1984.
- (2) Authorize the Department of Environmental Regulation to amend its rules to make them consistent with any change in a statutory dredge and fill exemption. (This provision is effected by amendment to Subsection 403.817(3), F.S.)
- (3) Establish a deadline of December 31, 1985, for the Department of Environmental Regulation to establish criteria for using certain waters dominated by plant species listed pursuant to Section 403.817, F.S., and to receive and treat domestic wastewater treated to at least secondary standards. (This deadline is

established by amendment to Subsection 403.918(4),
F.S.)

COMMITTEE SUBSTITUTE FOR HOUSE BILL 722 (CHAPTER 85-269) also creates Section 403.0872, F.S., to require the Department of Environmental Regulation and the Department of Health and Rehabilitative Services to jointly establish criteria for voluntary certification of laboratories that perform analyses of environmental water quality samples not covered by the Florida Safe Drinking Water Act. The Department of Health and Rehabilitative Services has the responsibility to operate the certification program and is authorized to charge and collect fees for certifications.

COMMITTEE SUBSTITUTE FOR SENATE BILL 189 (CHAPTER 85-296) amends Section 403.061, F.S., to add the following ports to the list of those for which the Department of Environmental Regulation may develop certain classifications, standards, and criteria for controlling pollution: Port Bartow, Florida Power Corporation's Crystal River Canal, Boca Grande, and Green Cove Springs. Certain provisions of Section 403.816, F.S., relating to maintenance dredging of deepwater ports, are also applied to the additional ports.

SENATE BILL 116 (CHAPTER 85-231) creates Section 403.0861, F.S., to require the Department of Environmental Regulation to adopt and enforce rules regarding the discharge of scallop processing wastes into state waters. A deadline of December 1, 1986, is set for adoption of such rules.

Finally, a joint select committee to study beverage container deposit legislation and other proposals for the promotion of litter control and recycling is established by COMMITTEE SUBSTITUTE FOR SENATE BILL 92 (CHAPTER 85-292). The committee, which is designated the Florida Container Deposit, Litter Control, and Recycling Study Committee, must report to the Legislature by March 15, 1986. The act is to be repealed on July 1, 1986.

Public Lands

COMMITTEE SUBSTITUTE FOR SENATE BILL 673 (CHAPTER 85-83) amends Section 712.02, F.S., to suspend until October 1, 1986, the applicability of the Marketable Records Title Act (MARTA) to certain sovereignty lands or lands granted for school purposes. This act does not apply to pending litigation. The act also establishes a Study Commission on MARTA, which is to report by February 15, 1986, to the Governor and the Legislature on any application of MARTA to sovereignty lands or other state-held lands. The sum of \$50,000 is appropriated from the General Revenue Fund to the Office of the Governor for the operation of the Study Commission.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 120 (CHAPTER 85-84) amends Section 253.025, F.S., to allow the use of an appraisal prepared by the Division of State Lands of the Department of Natural Resources, rather than an outside appraisal, before purchasing a parcel of land the title of which is to vest in the Board of Trustees of the Internal

Improvement Trust Fund, if the estimated worth of the land is \$50,000 or less and the Division director finds an appraisal is not justified. Section 270.09, F.S., is amended to allow the Board of Trustees to designate the day, time, and place for opening certain bids on the land. By amendment to Subsection 475.011(3), F.S., certain employees of the Department are exempted from the real estate license law while acting within the scope of their employment.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 117 (CHAPTER 85-357) amends Chapter 83-80, Laws of Florida, as amended, to extend to September 1, 1987, the time within which the Department of Natural Resources may file a petition to acquire specific parcels of land by exercise of the power of eminent domain. It also deletes parcels from, and adds parcels to, the acquisition list. The act also extends to that date the time within which the South Florida Water Management District may petition to acquire specific parcels of land by eminent domain.

COMMITTEE SUBSTITUTE FOR SENATE BILL 198 (CHAPTER 85-302) amends Sections 253.783, 253.7829, and 374.3001, F.S., to provide for the sale of certain lands acquired for constructing the Cross-Florida Barge Canal. Conservation or recreation are included in the public purposes for which a state agency may retain such lands. The sale price of surplus land bought by a county is no longer to be charged against the repayment due to the county, therefore, counties in which the surplus land lies would be required to pay current appraised value if they choose

to acquire the land for public purposes. Also, the time period for valid offers of surplus land to the counties is extended. The requirement to refund ad valorem taxes plus interest to counties after federal deauthorization of the Canal occurs, is retained, but the accrual of interest to be repaid is stopped as of June 30, 1985. Should the funds derived from the conveyance of lands of the project to the federal government for payment or from the sale of surplus land be inadequate to pay the total of the principal plus interest, first priority shall be given to repaying the principal and second priority to repaying the interest. If, after the repayment, any funds remain from conveyance and sale of lands acquired for the Canal, the excess funds are to be deposited in the Conservation and Recreation Lands Trust Fund.

SENATE BILL 450 (CHAPTER 85-47) creates Section 258.015, F.S., to authorize the establishment of citizen support organizations, which may undertake various activities and expenditures to benefit state parks. The organizations are to be corporations not-for-profit, and the Division of Recreation and Parks of the Department of Natural Resources is to approve such organization. Each organization must submit an annual audit report.

COMMITTEE SUBSTITUTE FOR SENATE BILL 110 (CHAPTER 85-40) amends Paragraph 258.024(1)(a), F.S., to allow certain park officers and the director of the Division of Recreation and Parks of the Department of Natural Resources to make arrests for violations which occur on lands to which title is vested in

the Board of Trustees of the Internal Improvement Trust Fund and which are not under lease to another entity, except for sovereign lands not under the jurisdiction of the Division.

Navigation and Boating

SENATE BILL 48 (CHAPTER 85-287) amends Section 327.22, F.S., relating to the regulation of vessels by municipalities or counties, to allow a county that charges vessel registration fees to have an interlocal agreement with municipalities in the county to distribute the fees for boating-related projects. Vessels owned by the U.S. Government that are used for recreational purposes are exempted from the registration and licensing requirements of Chapter 327, F.S., by amendment to Section 327.11 thereof.

The provisions of this act become effective October 1, 1985.

SENATE BILL 108 (CHAPTER 85-108) amends Chapter 327, F.S., the "Florida Boat Registration and Safety Law," to allow a county with a population of 100,000 or more persons to impose registration fees on vessels registered in its jurisdiction. The Department of Highway Safety and Motor Vehicles is required to collect an additional initial titling fee of \$4 for a vessel previously registered outside this state, and that fee is required to be deposited in the Motorboat Revolving Trust Fund and used for artificial reef construction and other boating-related activities.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 66 (CHAPTER 85-252)

defines the terms "unclaimed vessel" and "marina" as used in Chapters 327 and 328, F.S. If the owner of a vessel has applied to the U.S. Coast Guard for documentation and has paid certain fees and taxes, a temporary certificate of registration may be issued for the vessel. Several activities are prescribed as third degree felonies, including: altering or forging a certificate of title to a vessel; knowingly using an altered or forged certificate; giving a false name, address, or statement in certain documents; knowingly obtaining certain valuables by means of any indicia of ownership of a vessel when such indicia do not truly reflect ownership; and knowingly obtaining certain valuables by means of a certificate that is required to be surrendered. The Department of Natural Resources is allowed to require, by rule, that a notice of satisfaction of a lien on a vessel be notarized. A new procedure is set forth for the nonjudicial sale of certain vessels on which repair charges or storage fees are in default. The criteria for establishing the priority acquisition and improvement program for spoil disposal sites for ports and other navigable waters are revised. Provision is made for disposition of moneys generated from spoil sites, including the payment of reimbursement to the Florida Coastal Protection Trust Fund. Disbursal of moneys from that Trust Fund is authorized for the purpose of funding a grant program to coastal local governments for the removal of derelict vessels

from Florida public waters. Criteria for a derelict vessel grant program are set forth.

This act will become effective October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 248 (CHAPTER 85-200) creates Section 374.975, F.S., as an addition to Part III of Chapter 374, F.S., relating to waterways development, to express the Legislature's recognition of the need for inland navigation districts, and grants those districts the power to undertake programs to help the inland waterways, including projects pursuant to the federal River and Harbor Act of 1960, beach renourishment projects, public navigation projects, and projects beneficial to the environment. Members of the governing bodies of the districts are authorized to receive per diem and travel expenses. The Cross Florida Canal Navigation District is exempted from the act. Sundown Act review and repeal on July 1, 1990, is provided for the Florida Inland Navigation District and the West Coast Inland Navigation District.

The effective date of this act is October 1, 1985.

Wildlife and Freshwater Aquatic Life

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 357 (CHAPTER 85-235) amends several sections of Chapter 372, F.S., relating to fishing and hunting licenses. [The purpose of the act is to provide a new format and procedure to accomplish several improvements such as the reduction of the quantity of licenses being administered, the reduction in

printing costs, the improvements of administrative processes for the sale and reporting of licenses and permit revenue, and the avoidance of fraud.]

[This act streamlines Florida's licensing and permitting program for the taking of freshwater aquatic and wild animal life. The main thrust of this act seeks to eliminate the need for individual licenses and permits through the issuance of one card on which the applicant would affix stamps for each licensed or permitted activity.]

Generally, all persons 16 years old or over must obtain a license or a stamp for certain activities to take game or freshwater fish. The act continues most other exemptions from license requirements previously allowed, including exemptions for persons 65 years old or over. Nonresident fishing licenses are increased from \$10 to \$25, and all short term license options would be eliminated. Nonresident hunting licenses remain at \$50, but the short license option is dropped. County resident hunting licenses are eliminated.

A new \$5 stamp for wild turkey hunting is created and the revenues are earmarked for research and management of the wild turkey.

Overall, the act provides for the consolidation of 36 licenses and permits into 23.

The effective date of this act is delayed until June 1, 1986.

SENATE BILL 1233 (CHAPTER 85-361) authorizes the Game and Fresh Water Fish Commission to regulate the use of

motorboats on Lake Miccosukee in Leon and Jefferson Counties during duck hunting season.

SENATE BILL 675 (CHAPTER 85-188) amends Section 372.6645, F.S., to require a license to sell products composed of materials from an alligator or crocodilia. It provides for a license fee, forbids the selling of alligator products manufactured from endangered species, and provides penalties. It also deletes provisions establishing legislative intent regarding alligator poachers and requiring a permit to engage in the retail sale of alligator products.

Saltwater Fisheries

SENATE BILL 289 (CHAPTER 85-234) modifies penalties for certain violations of Chapter 370, F.S., relating to saltwater fisheries, and provides that the scheduled repeal of provisions of Chapter 370, F.S., is not affected by the act.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 884 (CHAPTER 85-163) advances to July 1, 1985, the date on which Paragraph 370.153(3)(a), F.S., is conditionally repealed. This measure specifies the type and size of trawl that a live bait shrimp producer may use.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 89 (CHAPTER 85-284) requires a license issued by the Department of Natural Resources in order to harvest clams in Brevard County or Indian River County; establishes license fees for residents and nonresidents and procedures and requirements for such licenses; and provides for disposition of such license fees, exemptions

from licensure, and penalties for violation of the act. The provisions of this act shall expire and become inoperative on July 1, 1990.

Forfeitures

COMMITTEE SUBSTITUTE FOR SENATE BILL 335 (CHAPTER 85-306) amends Section 253.03, F.S., to establish the Forfeited Property Trust Fund within the Department of Natural Resources to be used as a nonlapsing revolving fund exclusively for administering, managing, controlling, conserving, protecting, and selling real property forfeited to the state under the Florida RICO (Racketeer Influenced and Corrupt Organization) Act. If the moneys in such Fund are insufficient to satisfy encumbrances on the property and pay the expenses authorized, moneys from the Land Acquisition Trust Fund may be utilized, but that Fund will be repaid such expenses, plus compensation for interest earnings lost, before the revolving fund is repaid. Section 895.09, F.S., relating to disposition of funds from forfeiture proceedings, is amended to provide that any moneys remaining after satisfaction of all valid claims will be divided equally between the Forfeited Property Trust Fund and the general fund of the county in which the court entering the judgment of forfeiture is located. Quarterly, any moneys in the Forfeited Property Trust Fund in excess of \$1 million will be transferred to the General Revenue Fund.

Under SENATE BILL 291 (CHAPTER 85-304) Section 370.061, F.S., relating to saltwater fisheries, is amended to provide

that proceeds from the sale of property pursuant to criminal forfeiture proceedings will be deposited in the Motorboat Revolving Trust Fund to be used for law enforcement purposes, whenever the Department of Natural Resources is the seizing law enforcement agency. Likewise, Subsection 932.704(3), F.S., is amended so that proceeds from the sale of personal property confiscated by the Department in connection with the illegal taking, sale, possession, or transportation of saltwater fish or other saltwater products, and proceeds of bonds or cash deposits given in the case of perishable products, will be deposited in that Fund.

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CONSTITUTIONAL AMENDMENTS*

The 1985 Regular Session of the Florida Legislature adopted only one proposed constitutional amendment to be submitted to the voters at the November 1986 General Election.

COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTION 386 would amend Subsection 4(c) of Article IV of the Florida Constitution to permit the Attorney General to appoint a statewide prosecutor from a list of not less than three names submitted by the Supreme Court Judicial Nominating Commission or as otherwise provided by general law. The prosecutor would be located within the Office of the Attorney General and would have concurrent jurisdiction with state attorneys to prosecute criminal law violations affecting two or more judicial circuits. Section 17 of Article V of the Florida Constitution is amended to recognize this exception to the prosecutorial jurisdiction of state attorneys. Implementing legislation is contained in COMMITTEE SUBSTITUTE FOR HOUSE BILL 387 (CHAPTER 85-179) which statutorily establishes a central office for the statewide prosecution of multi-circuit criminal activities. (For a summary of this act, see the LAW ENFORCEMENT AND CRIMINAL JUSTICE article.)

*Prepared by staff of Legislative Library Services

CORRECTIONS*

Legislative action taken by the 1985 Session of the Florida Legislature in the area of corrections, probation and parole provides a general revision of several of the correctional statutes, and includes the requirement that the Department of Corrections meet federal standards with regard to its inmate grievance process. The Department is to establish the position of assistant secretary to be filled by a physician or public health doctor whose function will be dedicated to the development of health services. All physicians employed by the Department are to be exempt from the Career Service System.

The Department is authorized to provide for nonresidential work release programs, subject to competitive bidding. Private corporations chartered to manage the state's prison industry program are allowed to market its services and goods to the private sector subject to the Governor's approval. Insane criminal offenders are to be transferred to a Department of Corrections' mental health facility rather than to a forensic facility operated by the Department of Health and Rehabilitative Services.

*Prepared by staff of Senate Corrections, Probation and Parole Committee

Laws relating to the Parole and Probation Commission are amended to permit consecutive sentence paroling and to provide that consecutive mandatory minimum sentences must be served before any parole is possible. Certain notification requirements are established, time limits are provided for submission of Commission reports and notice of release orders, and changes are made in some of the procedures relating to Commission hearings.

General Revision of Correctional Statutes

COMMITTEE SUBSTITUTE FOR SENATE BILL 55 (CHAPTER 85-288) amends, revises and/or repeals several sections of the following chapters of the Florida Statutes: Chapter 944 (State Correctional System), Chapter 945 (Department of Corrections), Chapter 946 (Inmate Labor and Correctional Work Programs), Chapter 947 (Parole and Probation Commission), Chapter 948 (Probation and Community Control), Chapter 951 (County and Municipal Prisoners) and Chapter 958 (Youthful Offenders). [This legislation represents a general revision of several of these correctional statutes which was undertaken in 1984 by Committee Substitute for Senate Bill 192 which passed in both chambers of the Legislature but suffered a gubernatorial veto.]

Among the most notable features of this 1985 legislation are amendments to Section 944.09, F.S., relating to rules of the Department of Corrections, and creation of new Section 944.331, F.S., to require that the Department's inmate grievance process meet federal standards. [Achievement of

compliance could minimize inmate filing of federal lawsuits until exhaustion of their state remedies.] Department employees are governed by a new policy on the authorized use of force. The new enactment sanctions the use of force in enumerated circumstances but provides penalties for its violation or the concealment of force.

Agency recordkeeping requirements are strengthened concerning money received from the inmates who are on work release. The new law also prohibits donations to the inmate trust accounts where these would have the apparent effect of being a payment for a reduced disciplinary action. The act provides for the development of a local detention facilities information system to estimate the impact of state criminal justice mandates on local governments. Subject to the availability of funds, the Department may contract with local governments by providing inmates to work on local public service projects. Separate legislation, COMMITTEE SUBSTITUTE FOR SENATE BILL 1031 (CHAPTER 85-340), provided a funding mechanism for this section. (See summary of such act below in this article under the subheading, Work Release Programs.)

Two expiring Parole and Probation Commissioner positions were extended from 1985 to 1987 to coincide with the Sunset date of the agency.

The authority of courts to place convicted defendants on probation with incarceration as a condition, and to impose a split sentence was clarified to settle some conflicting interpretations and case law decisions.

A number of changes were made to the Youthful Offender statute in Chapter 958, F.S. Most important was an identification of dispositional alternatives that courts could use in the implementation of this still discretionary sentencing alternative. Effective July 1, 1986, institutions designed for the housing of youthful offenders are to be as free from other placements as possible. (All other provisions of this act have an effective date of July 1, 1985.) In certain enumerated circumstances, youthful offenders may be assigned to an adult facility. Contained with the youthful offender changes was a statement of legislative intent that parole was inapplicable for all such sentenced offenders following the implementation of sentencing guidelines.

Department of Corrections - Administration

COMMITTEE SUBSTITUTE FOR SENATE BILL 498 (CHAPTER 85-330) amends Section 20.315, F.S., to provide for the establishment of a fourth assistant secretary in the Department of Corrections whose functions will be dedicated to the development of health services. The position may be filled with either a physician or a doctor of public health. The act provides for the appointment of an Inspector General within the Department and amends Section 944.31, F.S., to vest that office with internal investigatory responsibilities, including jail inspections, inmate grievances and management reviews.

HOUSE BILL 1304 (CHAPTER 85-219) amends Subsection 110.205(2), F.S., to exempt physicians employed by the

Departments of Corrections and Health and Rehabilitative Services from the Career Service System. A like measure extending the Senior Management Service, COMMITTEE SUBSTITUTE FOR SENATE BILL 670 (CHAPTER 85-318), contains a similar exclusion.

Work Release Programs

SENATE BILL 1031 (CHAPTER 85-340) amends Subsection 945.091(1), F.S., to authorize the Department of Corrections to provide for nonresidential as well as the current residential work release programs as long as it does so by competitive bidding. The act creates Section 944.597, F.S., to authorize the Department to engage private transport companies for the transfer of prisoners; and amends Section 944.601, F.S., to expand the current program of release assistance to inmates discharged from prison custody. The new law also amends Subsection 945.30(1), F.S., to increase by \$10 the minimum monthly cost of supervision fee paid by parolees and probationers and dedicates it to the funding of the Inmate Work Program authorized by SENATE BILL 55 (CHAPTER 85-288) discussed above. Finally, the act creates Section 944.105, F.S., to authorize both the state and boards of county commissioners to enter into lease/purchase agreements for the operation and maintenance of the criminal justice facilities by private parties. The private contractors will be liable in tort with respect to the care and custody of any inmates or county

prisoners under their supervision and for any breach of contract. A penalty for escape is also authorized.

Prison Industry Program

COMMITTEE SUBSTITUTE FOR SENATE BILL 1221 (CHAPTER 85-194) amends Subsection 946.15(1), F.S., relating to the authority given the private corporation chartered to manage the state's prison industry program. The duly authorized private corporation [P.R.I.D.E, Inc.] is permitted by this act to market its services and goods to the private sector subject to the Governor's judgment as to reasonableness of its competition. Language for the authorized contract between the state agency and the private vendor is specified. The company is permitted to purchase insurance through the Division of Risk Management of the Department of Insurance at its own expense as if it were a public agency by authority of newly created Section 946.083, F.S. [Contract vendors and subcontract vendors are required to purchase through P.R.I.D.E. where price, quality, and availability are equivalent.]

Criminally Insane Inmates

SENATE BILL 1185 (CHAPTER 85-193) amends Section 922.07, F.S., relating to executions, to provide for the transfer of an inmate under the sentence of death who becomes insane to a Department of Corrections' mental health facility under Chapter 945, F.S., rather than to a forensic facility operated by the Department of Health and Rehabilitative Services. This change is in compliance with the intent of the Corrections Mental

Health Act which mandates the separation of civilly committed patients from criminal offenders.

Parole and Probation

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1298 (CHAPTER 85-107) amends Sections 947.16, 947.165 and 942.24, F.S., relating to the Parole and Probation Commission's determination of parole eligibility for certain inmates. [This legislation addresses an Attorney General Opinion (85-11) which found that the Parole and Probation Commission could not parole an inmate from a consecutive sentence which had not yet been served. The Florida Supreme Court in a recent opinion, Lowery v. Florida Parole and Probation Commission, Case No. 66,773, June 13, 1985, held that the Attorney General Opinion (85-11) did not represent the legislative intent and that a parolee is eligible for consideration for parole before he has begun to serve consecutive sentences.] This new act, reflecting the language of Lowery, permits consecutive sentence paroling but requires the Commission to aggravate or aggregate the subsequent consecutive sentences for the purposes of setting a release date. Consecutive mandatory minimum sentences must be served before any parole is possible. Effective October 1, 1985, both the Commission and the Department of Corrections are required to notify local officials of the release of an inmate prior to the actual date of exit from the prison system. In addition, the state attorney is required to notify either the victim or the victim's representative of the inmate's anticipated release

date if such information is requested. (All other provisions of this act became effective on June 11, 1985, the date on which this enactment became a law.)

SENATE BILL 134 (CHAPTER 85-295) amends several sections of Chapter 947, F.S., relating to the Parole and Probation Commission to: require the Commission to select a vice-chairman; extend the time limit within which the Commission is to submit its statistical report to the Legislature; provide a time limit, in cases of retained jurisdiction, in which the Commission shall send notice of a parolee's release order to the appropriate sentencing judge and state attorney; delete the requirement that the Commission chairman sit on certain panels; and to provide for the disposition of alleged parole violators. The enactment authorizes any number of commissioners, or a Commission representative approved by a parole supervisor, to administer oaths, compel attendance of witnesses, issue subpoenas, conduct a hearing and make findings of fact regarding a parole violation. Repealed were provisions relating to competitive examinations of certain full-time employees.

COURTS AND CIVIL LAW*

The 1985 Florida Legislature enacted a variety of legislation in the field of courts and civil law. In the area of courts, the Legislature followed last year's study of alternative means of resolving citizens' disputes with the creation of Citizen Dispute Settlement Centers and provision for further study of the issue. The most significant changes in family law involved the impact of various laws and legal proceedings upon children. Important changes were made in procedures applicable to minors testifying in sexual or child abuse proceedings, detention of children, child support enforcement, and the transfer of property to minors. The state also stated a goal of providing a list of protections to children.

Other changes included the areas of estates and trusts, negligence, garnishment, mechanics' liens, and deceptive and unfair trade practices. The following discussion deals more specifically with each area covered by the field of courts and civil law.

*Prepared by staff of House Bill Drafting Service

PART I: COURTS

Alternative Dispute Resolution

Following last year's study of alternative dispute resolution by the Study Commission on Alternative Dispute Resolution, the Legislature enacted SENATE BILL 44 (CHAPTER 85-228) which creates the "Florida Citizens Dispute Settlement Act" to provide an alternative procedure for the mediation of disputes between citizens. The chief judge of a judicial circuit may, after consulting the governing body of a county or counties, create a Citizen Dispute Settlement Center for one or more counties in the circuit. The Center must be approved by the Chief Justice of the Supreme Court. Each Center shall be administered by a director who is subject to rules adopted by a council having at least seven members. The council shall be chaired and appointed by the chief judge of the judicial circuit and shall include representatives of the public, the state attorney, each sheriff, a county court judge, and each board of county commissioners within the geographic area of the jurisdiction of the Center. The Center shall formulate a plan for the mediation and settlement of disputes, including applicable procedures. Neither a mediator nor the Center may make or impose any adjudication, sanction, or penalty. Any information relating to a dispute obtained by any person performing duties for the Center is privileged and confidential. Each party to a proceeding has a privilege to refuse to disclose and to prevent another from disclosing

communications made during such proceedings. However, the discovery or admissibility of any information, which is otherwise subject to discovery or is admissible under applicable law or rules of court, shall not be prevented or inhibited. Officers and others employed by or functioning for a Center are exempt from civil liability for acts or omissions arising in the scope of their employment or function, unless they have acted in bad faith or with malicious purpose or in a wanton and willful manner. A council is authorized to seek and accept contributions from counties and municipalities within its geographical jurisdiction, from the federal government, from private sources, and from other available funds. Any Center in operation on October 1, 1985, may continue its current operations with approval of the chief judge of the circuit; however, the confidentiality and liability exemption provisions of the act will apply to such Center.

The Study Commission on Alternative Dispute Resolution is recreated to study the feasibility of trial court administered alternative means for dispute resolution and of a one-year alternative dispute resolution pilot project. This nine-member commission shall again be appointed as follows: by the President of the Senate (two members), by the Speaker of the House of Representatives (two members), by the Chief Justice of the Supreme Court (two members of the judiciary), and by 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, 1986, and shall submit a report of its findings and recommendations to the Chief Justice of the Supreme Court, the President of the Senate, and the Speaker of the House of Representatives by February 1, 1986.

Courts

COMMITTEE SUBSTITUTE FOR SENATE BILL 416 (CHAPTER 85-46) amends Section 43.16, F.S., and renames the Judicial Administrative Commission as the Justice Administrative Commission (JAC). The duties of the Commission relating to the various courts are removed and the Commission's duties are limited to assisting the various state attorneys and public defenders and the Judicial Qualifications Commission. Membership on the JAC is limited to two state attorneys and two public defenders.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1260 (CHAPTER 85-218) amends Sections 26.031 and 34.022, F.S., to authorize one additional circuit judge for the fourth, sixth, ninth, eleventh, fourteenth, fifteenth, seventeenth, and nineteenth judicial circuits and one additional county judge for Dade, Orange, Palm Beach, Sarasota, and Volusia Counties. The effective date of this act is October 1, 1985.

HOUSE BILL 1325 (CHAPTER 85-222) and COMMITTEE SUBSTITUTE FOR SENATE BILL 1152 (CHAPTER 85-249) both amend Sections 25.241 and 35.22, F.S., to exempt the state and its

agencies from filing fees in the Supreme Court or any district court of appeal when appearing as appellant or petitioner. Subsection 35.22(1), F.S., is also amended by both acts to provide that the clerk of each district court of appeal shall be paid an annual salary to be determined by the Supreme Court rather than the Legislature. Subsection 25.241(1), F.S., is amended by HOUSE BILL 1325 (CHAPTER 85-222) to make a similar provision regarding the annual salary of the Clerk of the Supreme Court. COMMITTEE SUBSTITUTE FOR SENATE BILL 1152 (CHAPTER 85-249) also amends Sections 28.24 and 35.22, F.S., to increase certain service charges in the Supreme Court and district courts of appeal.

PART II: CHILDREN AND FAMILY LAW

Procedures and rules of evidence applicable to judicial proceedings involving children are changed in a number of ways by COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 290 (CHAPTER 85-53). All criminal child or sexual abuse cases involving a child under the age of 16 are to be heard and disposed of as expeditiously as possible, and the Florida Supreme Court is requested to adopt emergency rules regarding the expeditious handling of such cases.

Subsection 90.606(1), F.S., is amended to allow the judge to permit the use of an interpreter to aid persons such as children or mentally or developmentally disabled persons when they cannot otherwise be reasonably understood or

understand questioning. Subsection 90.605(2), F.S., is amended to broaden the discretion of the court to allow a child to testify without taking the oath.

Subsection 90.803(23), F.S., is created to establish an exception to the hearsay rule and thus allow into evidence out-of-court statements made by a child victim of child or sexual abuse. Such a statement is admissible only if the court finds that the circumstances of the statement safeguard its reliability, and if the child either testifies or is unavailable as a witness and other corroborative evidence of the abuse or offense is available.

Section 90.90, F.S., is amended to expand the circumstances in which the testimony of a victim or witness of child or sexual abuse under the age of 16 may be videotaped. The court may require the defendant to view such testimony from outside the presence of the child and may allow an interpreter to assist the child in his testimony. Videotaped testimony shall not be admissible in evidence if the child testifies outside the courtroom in a proceeding by means of closed circuit television.

Section 92.54, F.S., is created to provide procedures for the use of closed circuit television in proceedings involving sexual offenses against victims under the age of 16. The court may require the defendant to view the testimony from outside the presence of the child.

The Legislature also requested the Florida Supreme Court, by the creation of Section 90.55, F.S., to adopt

emergency rules and amendments to existing rules of criminal, civil, and juvenile procedure designed to protect from severe emotional or mental harm a child under the age of 16, who is a victim or witness in any judicial or official proceeding.

Subsection 119.011(3), F.S., is amended to ensure the confidentiality of certain documents which reveal the identity of victims of sexual abuse or child abuse.

HOUSE BILL 136 (CHAPTER 85-28) amends Section 415.512, F.S., to provide that communications to clergymen are privileged in situations involving known or suspected child abuse or neglect. The act also amends Section 415.109, F.S., to make the same provision in situations involving known or suspected abuse, neglect, or exploitation of aged or disabled persons.

The provisions have an effective date of October 1, 1985.

Section 39.002, F.S., is created by COMMITTEE SUBSTITUTE FOR HOUSE BILL 549 (CHAPTER 85-206) to provide a goal of the state that its children be provided with specified protections. Subsection 39.01(8), F.S., is amended to exclude from the term "child who has committed a delinquent act" a contempt of court arising out of a dependency proceeding. Section 39.412, F.S., is amended to provide that a child subject to deprivation of liberty for contempt in a dependency proceeding is entitled to representation by legal counsel.

Subsection 39.03(2), F.S., is amended to provide that a child taken into custody for a delinquent act shall be handled

as a dependent child if certain named individuals are unavailable and the child is not detained or released to a crisis home. Subsections 39.03(1) and 39.032(2) and (6), F.S., are amended to provide that Sundays and legal holidays are no longer excluded from the 24-hour restriction upon the period of detention of a child without a court order or detention hearing.

Subsection 39.032(5), F.S., is amended to allow the detention of a child in an adult detention facility if the child is wanted in another jurisdiction as an adult. However, no such detention is permitted for a child who is being held for contempt of court for violation of a dependency order.

HOUSE BILL 1419 (CHAPTER 85-178) amends Sections 409.2554 and 409.2561, F.S., to include within child support enforcement provisions children who are receiving public assistance or support under the federal foster care program. Section 61.181, F.S., is amended to place centralized governmental depositories for the collection of alimony and child support payments under the clerk of the court rather than the chief judge of the circuit, unless otherwise provided by law or unless a different entity existed for this purpose prior to June 1, 1985. The depository may require users to apply for certain federal support enforcement services.

The Department of Health and Rehabilitative Services will fund three comprehensive child support enforcement demonstration projects in Dade County, Manatee County, and Palm

Beach County, respectively, and provide the Legislature with an evaluation thereof on March 1, 1986.

SENATE BILL 196 (CHAPTER 85-328) creates Section 768.35, F.S., to abrogate the common law doctrine of interspousal tort immunity with regard to the intentional tort of battery so as to allow one spouse to sue the other for damages for battery, effective October 1, 1985.

HOUSE BILL 60 (CHAPTER 85-95) creates a new Chapter 710, F.S., to replace the "Florida Gifts to Minors Act" with the "Florida Uniform Transfers to Minors Act," effective October 1, 1985. The differences between the new and former uniform acts include:

1. Expansion of the types of property subject to the act to include property of any kind rather than just securities, money, life insurance policies, and annuity contracts.
2. Raising the age of majority from 18 to 21 for purposes of the termination of custodianship under the act.
3. Expansion of the act to cover "transfers" rather than "gifts" since the act applies to distributions other than gifts, such as distributions from trusts or estates or from persons indebted to a minor.
4. Authorization for the nomination of a custodian and provisions authorizing the custodian to perform certain functions, including those of a guardian or conservator.
5. Limitation of liability of a minor or custodian to third persons.

6. Provision for the validity of existing transfers.

PART III: CIVIL ACTIONS

Garnishment

COMMITTEE SUBSTITUTE FOR HOUSE BILL 889 (CHAPTER 85-272) creates Section 77.055, F.S., to require the plaintiff who has obtained a writ of garnishment to provide the defendant and other persons disclosed in the garnishee's answer with specified documents, including the writ and notice that the garnishee must move to dissolve the writ within a specified time and that he may assert certain defenses.

Subsection 77.06(2), F.S., is amended to require the garnishee to report in its answer, and retain, any deposit, account, or tangible or intangible personal property in his possession or control, and to disclose the name and address of persons having an interest in the property. This amendment deletes the duties of banks and other financial institutions to disclose such accounts, deposits and property in their control after service of a writ of garnishment. Subsection 77.07(2), F.S., is amended to provide that the failure of the defendant or other person having an ownership interest in property to timely file and serve a motion to dissolve a writ of garnishment may result in entry of a default. Section 77.28, F.S., is amended to provide for payment of a service fee by the applicant for a writ of garnishment to the clerk of the court.

Section 222.061, F.S., is created to provide a method for exempting personal property from levy under a writ of execution, writ of attachment or writ of garnishment. The debtor claiming such exemption shall make an inventory, attest by affidavit that the information is correct, designate the exempt property and file both the inventory and affidavit with the court. A procedure for objection by the judgment creditor to the filed inventory is provided mandating a hearing on the objection and the use of an appraiser if necessary. The sheriff is required to safeguard the property seized under the writ, and to sell, pursuant to law, that which is not ordered exempt. Attorney's fees and certain costs are available to the prevailing party.

Section 222.11, F.S., relating to exemption of wages from garnishment, is amended to provide that the wage exemption shall apply to any wages deposited in any bank account maintained by the debtor when said funds can be traced as wages.

The effective date of this act is October 1, 1985.

Judicial Sales

HOUSE BILL 607 (CHAPTER 85-267) amends Section 45.031, F.S., relating to procedures for sales of property under a court order or judgment, to require the successful high bidder to post with the clerk, at the time of sale, a deposit equal to five percent of the final bid or \$1,000, whichever is less. The deposit shall be applied toward the sale. If final payment

is not made when required, the deposit shall be used to pay the costs of resale, with any remaining funds to be applied toward the judgment. These provisions have an effective date of October 1, 1985.

Lis Pendens

SENATE BILL 375 (CHAPTER 85-308) amends Subsection 48.23(1), F.S., effective October 1, 1985, to provide that the filing of a notice of lis pendens operates to bar the enforcement against property described in the notice of any unrecorded interest in the property under certain circumstances, except for interests of persons in possession of the property or easements in use. [Lis pendens is an equitable action which operates to preserve the status of any property involved in any action in any state, or in any federal court in Florida.]

Mechanics' Liens

HOUSE BILL 1098 (CHAPTER 85-103) amends Section 713.10, F.S., relating to mechanics' liens to provide that when a lease expressly provides that a lessor is not subject to a mechanics' lien for improvements made by the lessee, the lessee must so notify the contractor or the contract between the lessee and the contractor is voidable. The lessor is given an additional method of protecting his interest from mechanics' liens by recording certain specified information in county public records.

Subsections 713.03(1) and (2), F.S., are amended to include interior designers among those professionals who have a lien on real property for services rendered. Section 713.79, F.S., is created to provide interior designers with a lien upon articles of furniture or items of furnishing and upon all articles manufactured or converted from such furnishings, when the furnishings are rendered in accordance with a written contract and under direct contract with the owner.

Provisions of this act become effective October 1, 1985.

Negligence

HOUSE BILL 703 (CHAPTER 85-132) amends Section 768.136, F.S., effective October 1, 1985, to extend to bona fide charitable or nonprofit organizations which accept food from a good faith donor or gleaner for free distribution, immunity from criminal penalties or civil damages arising from the condition of the food, unless an injury is caused by gross negligence, recklessness, or intentional misconduct by an agent of the organization.

PART IV: ESTATES

Probate

HOUSE BILL 1240 (CHAPTER 85-79) amends Subsection 731.110(2), F.S., to provide that when a caveat is filed in court in a county by a person seeking notice of the administration of an estate or the admission of a will to probate, and that person is a nonresident of the county, he may name a member of The Florida Bar to serve as his agent.

Section 731.201, F.S., is amended to define "residuary devise" to clarify, for purposes of the Probate Code, that failure to make a specific devise does not defeat a purported residuary devise.

Section 732.402, F.S., is amended to provide that the children of a decedent, if there is no surviving spouse, are entitled to the same exempt property, which is exempt from claims against the estate, except perfected security interests thereon. The exemptions may be defeated by a specific or demonstrable devise of the property in the decedent's will. The exemptions are also waived unless the person entitled thereto files a petition for determination of exempt property within four months of notice of administration, or within 40 days from the termination of estate proceedings.

Subsection 733.702(3), F.S., is amended to provide that cross-claims or counterclaims by creditors may be brought against an estate three months after notice of administration, but that recovery in such an action shall be limited to the amount recovered by the estate. Section 733.703, F.S., is amended to prohibit a claimant from imposing any additional charge on the estate due to the claimant having to file a claim against the estate. Section 733.816, F.S., is amended to provide that the personal representative of an estate shall sell unclaimed property and deposit the proceeds with the clerk. A personal representative is allowed to retain from the proceeds an amount sufficient to cover costs. Subsection 733.707(1), F.S., is amended to increase the maximum amount of

funeral expenses to be paid by the personal representative, from \$1,500 to \$3,000.

The effective date of this act is October 1, 1985.

HOUSE BILL 414 (CHAPTER 85-72) amends Section 733.604, F.S., effective October 1, 1985, to provide that an inventory or amended or supplemental inventory filed by the personal representative is subject to inspection only by the clerk of the court or his representative, the personal representative and his attorney, or other interested persons, unless otherwise ordered by the court.

Wrongful Death

HOUSE BILL 343 (CHAPTER 85-260) amends Subsection 768.21(6), F.S., relating to damages recoverable under the Florida Wrongful Death Act. The personal representative may now recover for the estate prospective net accumulations (the part of the decedent's income that probably would have been left as part of the estate had he lived a normal life expectancy), if the decedent was an adult survived by a parent and there are no lost support or services recoverable under the act.

PART V: MISCELLANEOUS

Deceptive and Unfair Trade Practices

COMMITTEE SUBSTITUTE FOR SENATE BILL 154 (CHAPTER 85-3) effects a number of changes in the "Florida Deceptive and Unfair Trade Practices Act." Section 501.206, F.S., is amended to delete the requirement that the enforcing authority (state

attorney or Department of Legal Affairs) exercise certain of its investigative powers in accordance with the Florida Rules of Civil Procedure. A method is provided by which a person subpoenaed by the enforcing authority may seek a circuit court order modifying or setting aside the subpoena. Provisions relating to the immunity provided to persons ordered to testify under the act are changed to conform to the state's general immunity statute.

Section 501.207, F.S., is amended to delete the requirement that the enforcing authority must determine probable cause pursuant to an administrative hearing prior to bringing an action for declaratory relief or consumer reimbursement. However, prior to bringing such actions, the enforcing authority must conduct an investigation, notify the parties being investigated of the substance of the alleged violation, and afford such parties an opportunity to respond. The enforcing authority must also determine in writing that the action serves the public interest.

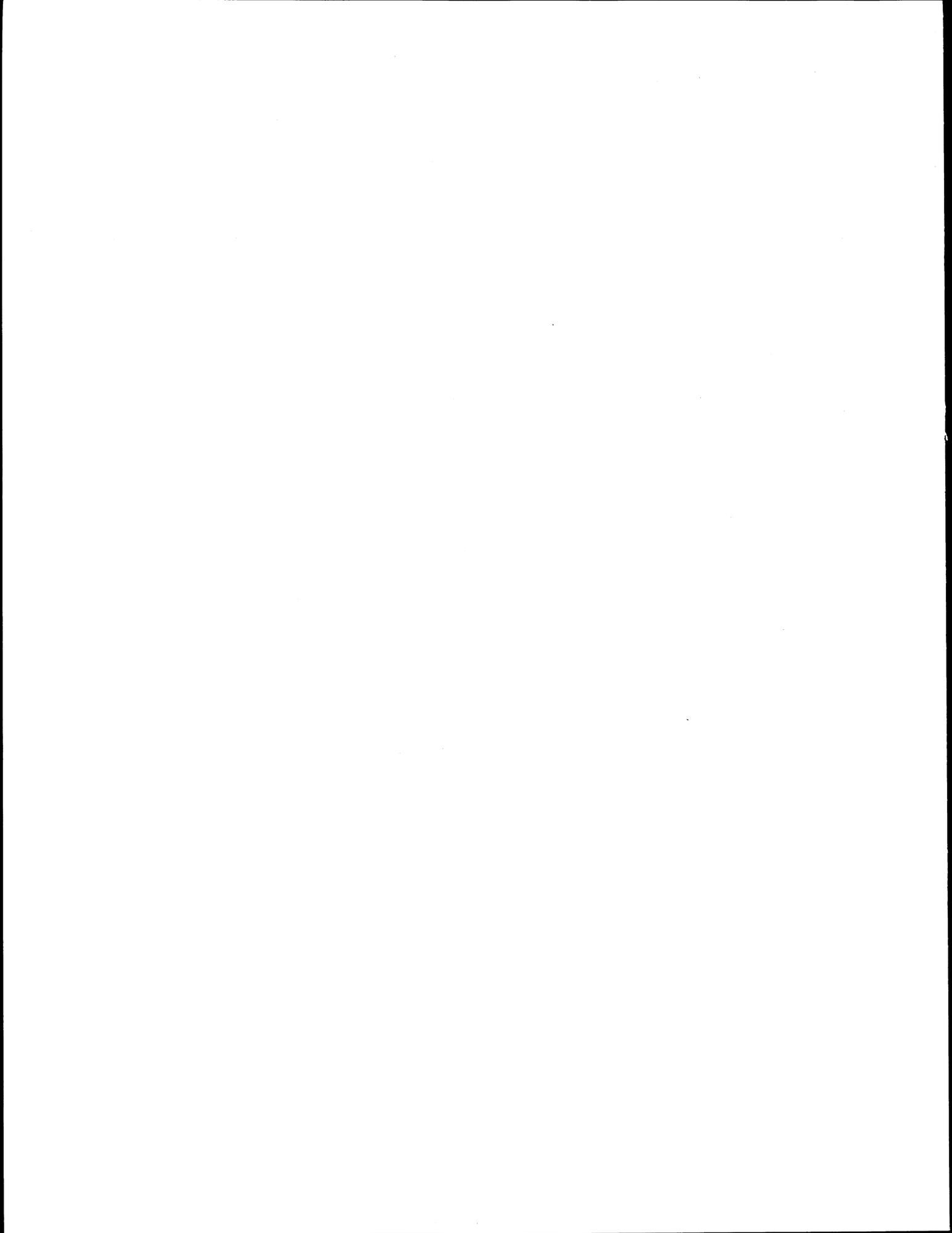
Injunctive orders issued by a court upon motion by the enforcing authority shall be effective throughout the state. Certain defenses and settlement options are extended to all violators of the act, rather than just to "suppliers" (defined in the act as persons who regularly engage in consumer transactions).

October 1, 1985, is the effective date of these provisions.

Fictitious Name Statute

SENATE BILL 234 (CHAPTER 85-64) amends Section 865.09, F.S., to provide that the failure of a business to comply with the Fictitious Name statute shall not impair the validity of any contract, deed, mortgage, security interest, lien, or act of the business, nor prevent the business from defending any action, suit, or proceeding in any court in the state. A party aggrieved by a noncomplying business may recover reasonable attorney's fees and court costs. In addition to the noncomplying business itself, no successor or assignee of the business may maintain an action, suit, or proceeding on any right, claim, or demand arising out of any transaction of the noncomplying business until the statute is complied with. The amendments to Section 865.09, F.S., are to be given prospective application only and shall not apply to any actions pending on the effective date of this act (June 5, 1985).

"Public property" is redefined for purposes of supplemental procedures for the removal and destruction of abandoned property to include sovereignty submerged lands located adjacent to a county or municipality in SENATE BILL 264 (CHAPTER 85-88) which revises Paragraph 705.16(2)(c), F.S.



EDUCATION K-12*

Legislation regulating public schools and education in Florida passed by the 1985 Legislature provides clarification to previously enacted reforms contained in the 1983 RAISE (Raising Achievement in Secondary Education) Act and the 1984 Education Omnibus Act, by amending statutes relating to the extended school day, attendance requirements, adult education graduation requirements, instructional materials councils, age of entry into the first grade, and various aspects of vocational education including accountability measures, instructional fee payments, basic skills testing and vocational course substitution. Changes are made in laws relating to designation of Florida Academic Scholars, regulation of regional centers of excellence, and duties of the Department of Education relating to teacher recruitment and referral. The Department is also charged with the new duty of developing a master inservice plan to provide professional and technical updating for vocational instruction in school districts and community colleges.

Laws are changed to provide conditions which allow a home education program to comply with the compulsory school

*Prepared by staff of House Education K-12 Committee

attendance law. Guidelines are established for conducting biological experiments on living subjects in public schools. Other enactments broaden the authority of school boards to enter into risk management programs; address several areas relating to educational reporting; strengthen laws relating to noninstructional staff sick leave; increase security in high schools and postsecondary schools; and revise gross receipts tax law by providing a new part to clarify the collection procedure for gross receipts tax on interstate and international telecommunications services.

New programs created include the Florida Career Education Act to be administered by the Commissioner of Education, and the Teacher Aide Task Force, functioning from August through December 1985, to provide and recommend to the Commissioner and the State Board of Education teacher aide training programs. Also created are three pilot innovative school improvement programs: School-focused Staff Development, Professional Development Plans, and the Florida Model School Consortia. (No funding is provided for implementation of these three programs.)

[Teacher certification regulations, Sections 231.17 and 231.24, F.S., stand to be repealed, effective October 1, 1985, under Section 30, Chapter 82-242, Laws of Florida, pursuant to the Regulatory Sunset Act, Section 11.61, F.S. The teacher certification regulations were revised and modified by the Legislature in COMMITTEE SUBSTITUTE FOR HOUSE BILL 1357. This bill was passed unanimously by both houses of the Legislature

but was vetoed by the Governor on June 18, 1985. Thus, Florida's teacher certification law will cease to exist in October 1985.]

Readoption, revision for clarification of responsibilities, and extension of Sunset/Sundown repeal is provided for: the Education Standards Commission, Education Practices Commission, Teacher Education Centers, Florida Council on Educational Management, Florida Academy for School Leaders, Center for Interdisciplinary Advanced Graduate Study, the Educational Facilities Act, and the statute which allows districts to create obligations to eliminate major emergency conditions.

Summaries of these and other measures are presented below.

Clarification of Enacted Educational Reforms

COMMITTEE SUBSTITUTE FOR SENATE BILL 148 (CHAPTER 85-109) addresses a number of issues that arose as a result of the Education Omnibus Act of 1984, Chapter 84-336, Laws of Florida, and the RAISE (Raising Achievement in Secondary Education) Act, Chapter 83-324, Laws of Florida. These issues which are discussed below include: the seventh period; attendance requirements; high school graduation requirements for adult education students; student participation in interscholastic extracurricular activities; PRIME (Progress in Middle Childhood Education); instructional materials councils; age of entry into first grade; and various aspects of vocational education.

(1) Seventh Period. [The Education Omnibus Act of 1984 (Chapter 84-336, Laws of Florida) contained a provision which mandated that all school districts offer a 7th period or the equivalent for students beginning on July 1, 1985.] This 1985 act eliminates that mandate and continues the policy of allowing each district the option of implementing, with additional funding, a 7th period or extended school day.

(2) Attendance Policy. [Legislation enacted during the 1984 Session provided that a student may not be awarded a credit if he has not been in attendance for a minimum of 135 hours, unless he has demonstrated mastery of student performance standards identified by rules of the district school board. The statute was silent as to whether or not excused absences were to be counted against a student in meeting this standard.]

This measure amends Subsection 232.2462, F.S., to specify that excused absences shall not be counted against a student in meeting the 135-hour attendance requirement. These include absence due to sickness, injury or other insurmountable condition, absence due to participation in an academic class or program, and absence for religious instruction or religious holiday. Students who have an excused absence are required to make up missed school work.

In addition to these provisions, each full credit course offered during a summer term must be established for a minimum of 120 hours.

(3) Adult Education Graduation Requirements. [Because of the RAISE requirements that were enacted in the 1983 Legislative Session, and the special circumstances involved in the delivery of adult education programs, a number of problems had surfaced which impeded adult students from obtaining courses needed for graduation.] Legislation was therefore passed this session to address those problems by making refinements to the high school graduation requirements for adult students in Section 232.246, F.S.

[One such problem concerned the physical education requirement. Because adult students of various ages have different physical needs, and facilities did not exist in many places where adult education courses are delivered, requiring physical education was deemed inappropriate for adult students.] The physical education requirement is eliminated by this act, and an elective credit is substituted.

[The lack of facilities also presented problems in fulfilling the laboratory component that is included in the science requirement.] By provision of this act, districts are given the option of eliminating the laboratory requirement for adult students when facilities are inaccessible or do not exist.

[Although adult students can benefit from fine arts instruction, specifying that instruction as a performance course did not seem reasonable. Band, theatre, and choir presentations are not readily accessible and do not fit into adult schedules.] Courses that may be taken to fulfill the

performing fine arts requirement will now be expanded to include any fine arts course listed in the Department of Education Course Code Directory.

[Finally, because the phase-in period incorporated in RAISE had not taken into account that adult students frequently take longer than four years to graduate, a grandfathering provision was incorporated into this act.] This new measure allows adult students to graduate under the requirements that were in effect at the time of their initial enrollment if that enrollment occurred between the 1978-79 and 1984-85 school years.

(4) Student Standards - Interscholastic Extracurricular Activities. [The RAISE Act (Chapter 83-324, Laws of Florida) enacted during the 1983 Session set forth criteria by which students in grades 9-12 were able to participate in interscholastic extracurricular activities. These standards specified that in order to be eligible for participation in an interscholastic extracurricular activity a student must maintain a 1.5 grade point average (on a 4.0 scale) and pass five subjects for the grading period immediately preceding participation. Some school districts applied these standards to students who were in the last semester of the 8th grade; others applied them to students in the first semester of the 9th grade. Thus, nonuniformity in the application of student standards resulted as the RAISE Act was silent on this issue.] This 1985 measure amends Section 232.425, F.S., to clearly establish that the student standards for participation in

interscholastic extracurricular activities are to be applied beginning with the student's first semester of 9th grade.

(5) PRIME. [The Progress in Middle Childhood Education Program (PRIME) was enacted in the Education Omnibus Act of 1984 and stipulates general requirements for students in grades 4 and 5 and separately for grades 6 through 8. In addition, this legislation required that each school district develop and submit to the Commissioner of Education, a five-year master plan for inservice education training. The original intent was that these requirements were to become effective beginning with the 1986-87 school year; however, a scrivener's error placed them into effect beginning with the 1984-85 school year, thus allowing inadequate time for school districts to plan for the change.]

This 1985 measure amends Section 230.2319 and Subsection 236.0811(2), F.S., to provide that the requirements for grades 4 and 5, and discretely for grades 6 through 8, plus the requirement for submission of the inservice education plans by districts, be delayed until the 1986-87 school year.

(6) Instructional Materials. [The instructional materials councils have heretofore been prohibited from considering for statewide adoption any instructional materials which, by design, are written for pupils who function below grade level. This has been problematic for classroom teachers who find that some of their pupils are unable to read at grade level. In addition, instructional materials councils were not

expressly granted the power to consider for adoption textbooks for gifted or academically talented students.]

This new enactment deletes statutory language from Paragraph 233.09(4)(e), F.S., which prohibits an instructional materials council from recommending for adoption materials designed and written for pupils functioning below grade level, and inserts language which provides that materials developed for academically talented students may also be considered for adoption.

(7) Age of Entry Into First Grade. This act amends Subsection 232.01(1), F.S., to conform the date of eligibility for entrance into first grade to that for entrance into kindergarten. Any child who has completed kindergarten and who is six years old on or before September 1 will be eligible for entry into first grade. A "grandfather" clause, effective for the 1985-86 school year only, allows a child who has completed kindergarten and who is six years old on or before January 1, or who has demonstrated a readiness to enter the first grade in accordance with State Board of Education rule, to be admitted to first grade any time during the school year.

(8) Vocational Education Legislation. The act contains a number of changes that affect vocational education in the areas of accountability measures, instructional fee payments, basic skills testing, and vocational course substitutions. More specifically, these provide as follows:

(a) Vocational Education Accountability. [The evaluation procedures that were previously stated in Section

229.551, F.S., will undergo a number of changes as a result of this measure. "Productivity" had previously been specified as an evaluation component of vocational education; however, the term had not been defined and the measurement procedure had never been identified.] In order to eliminate confusion, the term "productivity" is eliminated by this act in reference to evaluation components.

Other changes in this section of law address program accountability as measured by the job placement of students who complete job preparatory programs. One such change increases the annual placement requirement for secondary programs from 50 to 60 percent. [This makes the requirement consistent with that of postsecondary programs.] If this annual requirement is not achieved, the Department of Education is directed to review the program and develop a plan for improving it.

In order for any job preparatory program to receive funding within each three-year period, the program must show that 70 percent of the completers from one school year can be counted as placements. The language pertaining to this provision is clarified, stating that the first three-year period will consist of the 1984-85, 1985-86, 1986-87 school years. Provisions to allow the placement percentages to be adjusted through statistical procedures to account for district variables such as unemployment, disadvantaged, and minorities, are also included. This provision makes unnecessary a previously required report (Section 229.558, F.S.) that compared those district variables to vocational education

student placements. That report requirement is therefore eliminated.

Another change that will affect placement rate computation is concerned with the definition of a job placement. As a result of this change, program completers who continue their education in any area of postsecondary education will be considered as placements.

Other adjustments to the placement computations will now be made for special student groups classified under exceptional students and nonresident aliens. Special problems exist in placing exceptional students in employment positions. In order for vocational programs to avoid being penalized for exceptional student participation, provisions are made so that exceptional students will be included in the placement rate computations only when they achieve employment. If exceptional student program completers do not fit the criteria to be considered as placements, they will not be counted in the placement rates. Nonresident aliens are excluded from the placement rate computations altogether because of the difficulties in follow up of such students when they leave the country.

Still another change specifies that a new survey form be developed in order to increase the number of responses received from program completers to determine if they are, in fact, placements. The new survey instrument will consist of a postcard with five simple questions that are relevant to placement information.

Finally, as an accounting measure to determine if the evaluation information is accurate, Paragraph 229.551(3)(g), F.S., is amended to provide that the Auditor General will be directed to conduct annual audits on the placement statistics. The main purpose of these audits will be to ensure that the individual vocational programs, the local education agency, and the state level reports are consistent with each other and the law.

(b) Vocational Education Instructional Fee Payments.

The provisions enacted by this law relating to instructional fee payments (Sections 230.645 and 240.35, F.S.) will allow those payments to be made through in-kind contributions. This allows community colleges and vocational-technical centers to negotiate with businesses, industries, and apprenticeship committees so that their employees and members can receive vocational training without paying fees. Instead, the business or apprenticeship committee would be responsible for making an in-kind contribution in the form of personnel, facilities, equipment, or other resources in lieu of the fees. The provision also contains a reporting requirement which specifies that the local market value of the contribution must be reported to the Department of Education. The provision allowing in-kind payments is enacted for one year and will expire on July 1, 1986.

(c) Basic Skills Testing. [Legislation enacted by the 1984 Legislative Session required a basic skills pretest to be given upon enrollment into postsecondary vocational education

programs offered in vocational-technical centers. That legislation also required the completers of those programs to pass an approved basic skills test in order to receive a certificate of completion. The exit tests adopted by the Department of Education were specified in rule as being at an eighth grade literacy level.]

The changes made by amendment to Subsection 233.0695(2), F.S., will allow the pretest to be given within the first six weeks after enrollment. [This will allow student test anxiety to be dealt with more effectively and improve the retention rate of incoming students.] The measure also specifies that the basic skill level that is necessary for certificate of program completion is to be consistent with that level necessary to perform in the occupation for which the student trained. The Department of Education is required to assess the vocational training programs and determine the basic skills competency levels needed for the various occupations.

(d) Vocational Education Course Substitutions. [The Department of Education 1985-86 Course Code Directory contains guidelines to allow vocational education courses to be substituted for nonelective credits that are required for high school graduation when those courses contain similar competencies. These guidelines specify that one substitution can be made in each area of English, math, and science. Previous legislation allowed districts the option of providing for vocational education course substitutions and specified that when such substitutions are made, the substituting

vocational course had to be funded at the basic course cost factor level.]

The course substitution provisions passed in this measure make a number of changes to the situation described above. Paragraph 236.081(1)(h), F.S, is amended to mandate districts to provide students with vocational education course substitution options. When such substitutions are made, under the guidelines of the 1985-86 Course Code Directory, the vocational course will be funded at the weighted cost factor appropriate for the program. Provisions are also included in this measure that will allow for two credits of vocational education course substitutions per area until such time that the Department of Education develops and approves more courses with competencies similar to those of the nonelective courses required for graduation.

Other provisions of SENATE BILL 148 (CHAPTER 85-109) include revision of certain qualification requirements for designation as a Florida Academic Scholar, rule making powers of the State Board of Education concerning the regional centers of excellence, and the duties of the Department of Education in teacher recruitment and referral. A discussion of these provisions follows:

(1) Florida Academic Scholars. [One of the requirements that must be met by a public school student in order to be eligible for designation as a Florida Academic Scholar is achievement of a score of 1100 or more on the Scholastic Aptitude Test of the College Entrance Examination

Board. This requirement is stipulated in Rule 6A-1.93(6), Florida Administrative Code. However, for a nonpublic school student to be eligible for designation as a Florida Academic Scholar, a score of 1200 must be achieved. This requirement is statutorily mandated.] This act amends Paragraph 232.2465(1)(b), F.S., to conform the score that a nonpublic school student must achieve for designation as a Florida Academic Scholar to that required of a public school student. Thus, all students, public and nonpublic, must now score 1100 on the Scholastic Aptitude Test in order to be eligible for appointment as a Florida Academic Scholar.

(2) Regional Centers. [Section 228.086, F.S., authorizes the State Board of Education to adopt rules concerning the implementation of regional centers of excellence. These rules must specify criteria for evaluation of proposals and provide that final selections result in one center being located in each of the five regions of the Department of Education.] This act amends language in Subsection 228.086(2), F.S., relating to the final selections of such centers, by providing that at least one center will be located in each of the Department of Education regions.

(3) Teacher Shortage Recruitment and Referral. [In recent years, much effort has been directed at recruiting qualified teachers in areas where teacher shortages exist.] The Department of Education is directed in this act to expand its career information system and to concentrate on teacher recruitment. A teacher referral and recruitment center shall

be established to perform functions relating to placement of teachers in designated areas of need. The center is mandated to sponsor an annual job fair in a central part of the state to match in-state and out-of-state educators with teaching opportunities in Florida.

Public Education Capital Outlay

The COMMITTEE SUBSTITUTE FOR SENATE BILL 848 (CHAPTER 85-116) readopts most of Chapter 235, F.S., the "Educational Facilities Act," with a number of revisions. The act also addresses and revises Chapter 203, F.S., relating to gross receipts taxes, and Section 236.25, F.S., relating to district school tax. Although most of the revisions are technical in nature, several of the changes also have substantive impact. The following listing represents changes that are made to Chapter 235, F.S., concerning Public Education Capital Outlay (PECO):

(1) Some of the definitions previously contained in PECO are eliminated while other terms are added and defined (Section 235.011, F.S.).

(2) The specified activities of the Office of Educational Facilities of the Department of Education are amended to include the establishment of minimum and maximum square footage requirements, evaluation and approval of facilities used for ancillary purposes, and the task of providing an estimate of available funds to the State Board of Community Colleges and the Board of Regents that may be used in

developing their three-year priority list. The minimum utilization rate for postsecondary classroom usage is also increased (Section 235.014, F.S.).

(3) The Board of Regents is permitted to authorize construction projects on short term leased property (Section 235.055, F.S.).

(4) The language pertaining to the acquisition, funding and use of joint-use and community education facilities is revised and clarified. In cases where state matching funds are to be used, the percentage of funds will now be determined by the Office of Educational Facilities in proportion to the percentage of use by participating institutions, up to a maximum of 50 percent (Sections 235.195 and 235.196, F.S.).

(5) The titles of state-owned relocatable classroom facilities are transferred to the districts in which the relocatable units are located (Section 235.197, F.S.).

(6) Previous provisions that required the State Board of Education to develop and provide certain prototype construction designs to district boards are deleted from statute (Section 235.211, F.S.).

(7) Language pertaining to the use of natural ventilation in new educational facilities utilizing low-energy construction designs is clarified, and the use of low-energy mechanical equipment will now be permitted in these designs (Section 235.212, F.S.).

(8) The State Board of Education is required to adopt a statewide building code for the construction of educational and

ancillary facilities. This responsibility had previously been required of the Commissioner of Education. This building code will preempt any codes that are developed at the local level (Section 235.26, F.S.).

(9) Supervision and inspection is extended to remodeling, renovation, and demolition projects, clarifying previous language which applied to construction (Section 235.30, F.S.).

(10) Permissible project costs that are done on a day labor basis are increased from \$50,000 to \$100,000 (Section 235.31, F.S.).

(11) Provisions relating to the advertising and awarding of contracts and the prequalification of contractors are eliminated from statute. Also, districts are given the option of setting aside 10 percent of their capital outlay funds that will be used for projects in which only minority contractors may be involved in the competitive bidding process (Section 235.31, F.S.).

(12) Contractors will now be required to include a payment bond as well as a performance bond in negotiated construction contracts (Section 235.32, F.S.).

(13) All boards, including the Board of Regents, are required to submit a three-year plan for capital outlay expenditures instead of the long range plan that was previously required (Section 235.41, F.S.).

(14) A new allocation formula will now be used to distribute construction funds to school districts. The new

formula uses the base year of 1981-82 to identify the capital outlay full-time equivalent membership by grade level organization and distributes 40 percent of the appropriated funds on a pro rata basis to the districts. The remaining 60 percent of the appropriated funds are distributed based on each district's share of the pro rata positive increase in this FTE over the base year for the 1984-85 fiscal year. The requirement passed by the 1984 Legislative Session that districts must levy their local optional property tax to receive state funds from PECO was repealed (Section 235.435, F.S.). [In reality, since its effective date was July 1, 1985, it never went into effect.]

(15) The language throughout Chapter 235, F.S., was revised to include ancillary facilities with public education facilities in reference to inventory requirements, construction funding, safety inspections, survey reports, building code specifications, life cycle analyses, planning projections, contract procedures, and various other activities related to capital outlay.

(16) The requirement specifying that a maintenance manual be developed to provide guidance for districts is repealed (Section 235.065, F.S.).

(17) The readopted sections of Chapter 235, F.S., are scheduled to undergo Sunset review and repeal as of July 1, 1995.

A number of sections in Chapter 203, F.S., are also amended by this act, present Sections 203.01 through 203.10,

F.S., are designated as Part I of the chapter, and a new Part II is added to clarify the collection procedure for the Gross Receipts Tax on Interstate and International Telecommunications Services. [This tax serves as a basis for funding the Public Education Capital Outlay and Debt Service Trust Fund.]

Another change resulting from this measure is effected by amendment to Paragraph 236.25(2)(a), F.S., which expands the purpose for which local school boards may expend their 1.5 mill local option property tax levy funds to allow equipment purchases that are not directly related to new construction or remodeling projects. However, based on an average from three previous years, the use of these funds must not supplant expenditures from operating funds that have been previously used for equipment purchases.

The final sections of this act list appropriations from the PECO Trust Fund that are to be used for specified projects.

Providing for Emergency Obligations

The statute (Section 237.162, F.S.) which has allowed districts to engage loans to correct emergency conditions that are deemed hazardous to students, personnel, or school facilities was scheduled for Sunset repeal and review on July 1, 1985. This provision was considered useful to districts and is therefore extended by HOUSE BILL 432 (CHAPTER 85-127) to October 1, 1995. The only change that is made to this provision is that the allowable payback period for such a loan is extended from three to four years. [This is done to account

for the increase in construction costs that has occurred over the last 10 years.]

Education Standards Commission

HOUSE BILL 577 (CHAPTER 85-266) amends and reenacts Sections 231.545 and 231.546, F.S., relating to the Education Standards Commission, which were due for Sunset/Sundown repeal. [The Education Standards Commission (ESC) sets standards for many areas of public elementary and secondary education, conducts annual reviews of manpower studies of teaching personnel, evaluates teacher education centers, and develops codes of professional ethics and performance.]

Paragraph (c) of Subsection (1) of Section 231.454, F.S., is amended and new Paragraph (d) is added to change the membership composition of the Commission. The new Commission membership will consist of twelve teachers, one superintendent, one principal, one inservice director, four citizens, three representatives from higher education, one community college representative, and one school personnel officer. The school personnel officer will replace one of the two principals presently on the Commission upon the first expiration of a principal's term.

Subsection (5) of Section 231.546, F.S., is amended to direct the Commission to present its recommendations to the Legislature as well as to the State Board of Education. A new review and repeal date of October 1, 1995, is set.

Education Practices Commission

HOUSE BILL 1316 (CHAPTER 85-221) amends and reenacts Sections 231.261, 231.262, and 231.28, F.S., which were due for Sunset repeal on October 1, 1985. These statutes provide for the regulation of certificated (licensed) school personnel by the Education Practices Commission. The 1985 act reestablishes the regulatory structure which operates as follows:

- (1) The Professional Practices Services Section of the Department of Education investigates complaints (criminal, moral, or competency) against a certificate holder.
- (2) The Commissioner of Education determines probable cause.
- (3) An administrative hearing is held.
- (4) Final adjudication is made by the Education Practices Commission which could result in suspension or removal of certificate.

Subsections (2) and (7) of Section 231.261, F.S., are amended to change the terms of Commission members from three to four years, and to require the Commission to meet with the Education Standards Commission at least once a year.

Section 231.262, F.S., is amended to provide for notification of the certificate holder and the district superintendent prior to the initiation of an investigation, provide for a conference prior to the determination of probable cause, authorize the Commissioner of Education to enter into deferred prosecution agreements within guidelines, and allow

the certificate holder more access to the substance of the allegations.

Subsection (5) of Section 231.28, F.S., is amended to clarify the responsibility of district superintendents to report the names of certificate holders to the Department of Education for investigation.

A new Sunset review and repeal date of October 1, 1995, is set for these three sections of Chapter 231, F.S.

The Education Practices Commission, created by Section 231.261, F.S., was also scheduled for review and repeal on October 1, 1985, under the Sundown Act; however, under the provisions of this act such action is delayed until October 1, 1995.

Teacher Education Centers

COMMITTEE SUBSTITUTE FOR SENATE BILL 365 (CHAPTER 85-238) reenacts and amends Sections 231.600 - 231.609, F.S., relating to Teacher Education Centers (TECs), which were due for Sunset/Sundown repeal on October 1, 1985. A new date of October 1, 1995, is set for review and repeal. [Teacher Education Centers were originally mandated by the Legislature in 1973 as a collaborative effort by school districts, colleges, and universities for coordinating and implementing staff development programs of educational personnel.] This act amends several statutes relating to TECs and staff development for school personnel, and creates three pilot innovative school improvement programs: School-focused Staff Development,

Professional Development Plans, and the Florida Model School Consortia.

Sections 231.601 and 231.602, F.S., are amended to clarify the intent and purposes of Teacher Education Centers and the personnel to be served. School personnel for whom TECs are directed to provide services include teachers, substitute teachers, certified support personnel, and certified and non-certified administrators and supervisors.

Section 231.603, F.S., is amended to clarify the responsibilities of Teacher Education Centers and the Education Standards Commission. The Commission is responsible for developing standards for rules relating to district master plans. Needs assessment by TECs is to focus on individuals and school centers, and is to be based on empirical data as well as the perceptions of district educators. TECs are directed to design and implement programs: to help instructional personnel assume new and expanded roles, to increase utilization of district staff for conducting inservice activities, to provide summer inservice institutes and evaluation in terms of impact on students, and to provide new models for systematic school-focused inservice and individual development programs. The TEC-developed inservice training plan is to be incorporated as part of a total district inservice training plan.

The roles of superintendents and school boards in TEC activities are delineated by amendments to Section 231.606, F.S. Membership of TEC councils is specified, and the statute is clarified to ensure that the TEC council recommends policy

to the superintendent, who in turn, is responsible for recommendations to the school board. Section 231.608, F.S., is amended to permit more sophisticated impact evaluation measures than pre-test/post-test data.

The Department of Education's responsibility is defined by amendments to Section 231.609, F.S., in regard to budget requests, technical assistance, dissemination, and the implementation of proposed new inservice models. Also, Board of Regents' rules are required for postsecondary faculty credit (for salary adjustments, tenure, promotions) for TEC service. Stronger accounting and reporting procedures for institutions expending TEC funds are instituted, including annual fiscal reports. Community colleges are included as institutions which may provide services to TECs, provided such services are coordinated with a college or university.

Funding of Teacher Education Centers is addressed through amendments to Section 236.081, F.S. A total of \$6 per FTE is allocated to each district for inservice activities. Four dollars of the allocation must be for TEC-related programs and for carrying out the Beginning Teacher Program. Obsolete language regarding funding is deleted from Section 237.34, F.S.

Section 231.532, F.S., the District Quality Instruction Incentives Program, is amended to delete language requiring standardized tests. The statute as amended now provides that a meritorious school must be in the upper quartile of the district's schools pursuant to a local school district plan

based on verifiable progress in the accomplishment of established goals and objectives.

Two new sections of the Florida Statutes are created to pilot innovative staff development programs. Section 231.612, F.S., creates "School-focused Staff Development." This section requires the Department of Education to develop models and pilot programs which assist public schools in developing their capacity for school-focused program improvement. Such a program aims at infusing validated research and development products and practices into individual schools to assist the schools in solving self-identified problems. Section 231.6125, F.S., creates a pilot program for "Professional Development Plans." This program would pilot the use of individual professional development plans. Such plans would include a description of the individual competencies to be acquired, strategies for achieving these competencies, and procedures for ascertaining the achievement of these competencies. The Department is directed to submit an interim status report on the implementation of both of these programs to the Legislature and the Governor by April 1, 1986; and shall submit a final evaluation report with recommendations for full implementation by April 1, 1987. [Note: Although these programs were created, no funding was provided for implementation by the 1985 Legislature.]

The statute regarding Inservice Training Institutes, Section 231.613, F.S., is amended to allow districts to substitute or add approved subject areas for institutes.

The act further directs the Department to develop a master inservice plan to provide professional and technical updating for vocational instructional personnel in school districts and community colleges.

[Proposed SENATE BILL 342, "Florida Model School Consortia Act of 1985," was incorporated into this act.] The Model School Consortia Act mandates that the Commissioner of Education develop a statewide comprehensive plan for the development of prototype schools. This plan is to be submitted to the Legislature by February 15, 1986, for funding. A Trust Fund for the Model School Consortia is created. Money from General Revenue Fund is to be transferred into the trust fund which is to be administered by the Department. Such funds are to be used specifically for the operation of model schools.

Management Training Act

SENATE BILL 391 (CHAPTER 85-239) amends and reenacts Section 231.087, F.S., relating to the Management Training Act, the Florida Council on Educational Management, the Florida Academy for School Leaders, and the Center for Interdisciplinary Advanced Graduate Study. This section relates to the training of principals, assistant principals, and other school managers and was due for Sunset/Sundown repeal on October 1, 1985. A new review and repeal date of October 1, 1995, is set.

A support system for school managers is created which includes a performance-based management training program, a

performance-based evaluation and compensation program, and a research and service center. Guidelines are specified for the approval of district training programs for the certification of principals. A network is established to facilitate communication and mutual assistance among school managers. The Florida Council on Educational Management is directed to report yearly to the Commissioner of Education, the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairmen of the Senate and House Committees on Education regarding objectives, programs, and recommendations for funding. The provision that each district fund the training programs at the rate of \$1 per FTE is deleted. The statute now states that the cost of the program shall be paid "in part by the district and in part by the department."

The effective date of this act is October 1, 1985.

Home Schools

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 50 AND 326 (CHAPTER 85-144) amends Section 228.041, F.S., by including a definition of "Home Education Program" in the School Code. [Both HOUSE BILL 50 and HOUSE BILL 326 amended Section 232.02, F.S., to allow a child attending a home school to be in compliance with compulsory school attendance laws. These bills were combined into a committee substitute by the House Education K-12 Committee and were the result of the tremendous upsurge of interest by parents in educating their children at home.]

Section 232.02, F.S., is amended to include attendance by a pupil in a home education program as a way of complying with the compulsory school attendance law. Conditions for conducting a home education program are specified by this measure. In order to teach in a home school, the parent must hold a valid regular Florida certificate to teach the subjects or grades in which instruction is given. If the parent is not certified to teach in Florida, then he or she must:

- (1) Notify the superintendent of schools in the county in which the parent resides that he or she intends to establish and maintain a home education program.
- (2) Maintain a portfolio of all records and materials used by the child in the home education program. This portfolio is to be preserved by the parent for two years and shall be available for inspection by the superintendent or his agent upon 15 days' written notice.
- (3) Provide for an annual educational evaluation of the child which reflects that the child is progressing at a level commensurate with his or her ability. This evaluation may be accomplished by several means, at the option of the parent, and must be filed annually with the district school board office.

The act provides that a child may be removed from a home education program if he or she does not demonstrate educational progress at a level commensurate with his or her ability. The

parent shall have a one-year probationary period in which to provide remedial education if such is the case. Continuation in the home education program shall be contingent upon the pupil demonstrating progress at the end of the probationary period.

Finally, the measure provides a repeal date of July 1, 1987.

Animal Experimentation

COMMITTEE SUBSTITUTE FOR HOUSE BILL 135 (CHAPTER 85-70) articulates a state policy and establishes guidelines for conducting biological experiments on living subjects in the public schools. The act sets forth legislative intent which reflects the notion that biological experimentation, properly conducted under appropriate supervision, is essential in order that students gain an understanding of the complexity and diversity of life processes.

The measure prohibits students in grades K-12 from performing surgery or dissection on any living mammal or bird. Dissection or surgery may be performed on nonliving mammals or birds provided that they are secured from a recognized source of such specimens. The dissection or surgery must further be performed under the supervision of qualified instructors.

Experimentation on living non-mammalian vertebrates, such as snakes and lizards, may be performed provided that no physiological harm results from the experiment.

Permissible activities, in addition to those mentioned above, include any experimentation using lower orders of life (protozoa, etc.), invertebrates, and studies of vertebrate animal cells.

Observational studies of animals in the wild or in zoological parks and gardens, aquaria, or of pets, fish, domestic animals or livestock may be conducted.

The act exempts from prohibited instruction the conventional instruction in the normal practices of animal husbandry or exhibition of livestock in connection with any agricultural program. Instruction of advanced students participating in advanced research, scientific studies, or projects is also permitted.

Penalties are set forth for those instructional employees who knowingly or intentionally fail to comply with the provisions of the act.

Authority of School Boards

COMMITTEE SUBSTITUTE FOR HOUSE BILL 786 (CHAPTER 85-135) amends Section 230.23, F.S., to broaden the authority of school boards to enter into risk management programs managed by district school boards, school-related associations, or insurance companies in order to provide protection against loss. The risk management program into which a school board enters must provide for an accounting of all funds to the members of school boards for an annual audit by an independent

certified public accountant of all receipts and disbursements.

Educational Reports and Career Education

SENATE BILL 1003 (CHAPTER 85-191) addresses several areas relating to educational reporting, comprehensive management information systems, career education, the district quality instruction incentives program, and duties of the superintendent.

Section 231.087, F.S., is amended to delete provisions requiring the Commissioner of Education to report to the Legislature the status of compensation plans for those educational managers who have satisfied competency criteria established by the Florida Council on Educational Management. In addition, an appraisal of programs and activities, and recommended levels of funding for execution of the Management Training Act are eliminated.

The State Board of Education is mandated to review each educational report required in rule and to determine whether the cost of producing the report is justified by the perceived benefit to the state. All reports deemed by the Board to be unnecessary are to be eliminated. Prior to requiring any new report by rule, the Board is mandated to analyze the projected cost of the report and annually transmit such information to the House and Senate Education Committees.

Section 229.555, F.S., is amended to require the district school superintendents to review the annual report and recommendations of the Reports-control and Forms-control

Management System Committee. Following such review, the superintendent is required to submit a response by June 15 to the House of Representatives and Senate indicating the district's response to the Committee's recommendations.

The "Florida Career Education Act" is created by this measure. The Commissioner of Education is directed to establish and administer a career education program within the state educational system. The responsibilities of the Commissioner include: coordinating efforts of the various disciplines, developing programs for preservice and inservice training, and integrating career education into the general curricula of all public schools.

Section 231.532, F.S., the District Quality Instruction Incentives Program, is amended to provide that a meritorious school must be at least in the upper quartile of the district's schools pursuant to a local school district plan based on verifiable progress in the accomplishment of established goals and objectives.

Finally, the act amends Section 233.43, F.S., eliminating the superintendent's duty to compile comments from teachers on instructional materials in the classroom and submit them annually to the Commissioner of Education.

Teacher Aide Task Force

[A teacher aide is defined as any paid person appointed by a school board to assist instructional staff in their instructional and professional duties (Subsection 228.041(23),

F.S.). At the present time, teacher aides are accorded the same protection of law as a certified teacher while rendering services under the supervision of a certified teacher. Each district school board is required to develop training programs in cooperation with the Department of Education for teacher aides, and the aides are required to attend these training programs.]

HOUSE BILL 351 (CHAPTER 85-124) creates the Teacher Aide Task Force. The purpose of this Task Force is to provide and recommend to the Commissioner and the State Board of Education teacher aide training programs. These training programs are to include:

- (1) Teacher aide and teacher assistant training.
- (2) Teacher aide certification.
- (3) The role of the teacher aide and the teacher assistant.
- (4) A comprehensive plan designed to more fully utilize teacher aides and teacher assistants in the educational process.

The Task Force is to consist of five teacher aides, four teachers, three school administrators, and three teacher education center directors. The recommendations from the Task Force are to be given to the Commissioner and the State Board of Education no later than January 1, 1986. Based on such recommendations, the State Board shall recommend to the 1986 Legislature a funding program sufficient to implement a program of teacher aide and teacher assistant training and

certification for the 1986-88 biennium. The Task Force will meet on a monthly basis from August 1985 through December 1985 and shall end on January 1, 1986.

Non-Instructional Staff Sick Leave

[Current law provides that any member of the instructional staff who is employed on a full-time basis is eligible for sick leave. Other employees of a district school system who are employed on a full-time or a part-time basis are eligible for sick leave, subject to school board rule. Such sick leave is cumulative from year to year (Paragraph 231.40(2)(a), F.S.).] COMMITTEE SUBSTITUTE FOR HOUSE BILL 586 (CHAPTER 85-131) amends this paragraph to ensure that each employee, other than instructional staff, will be credited with four days of sick leave at the end of the first month of employment of each contract year, and afterwards will be credited for one day of sick leave for each month of employment. This day will be credited to the employee at the end of the month and cannot be used before it is earned and credited to the employee.

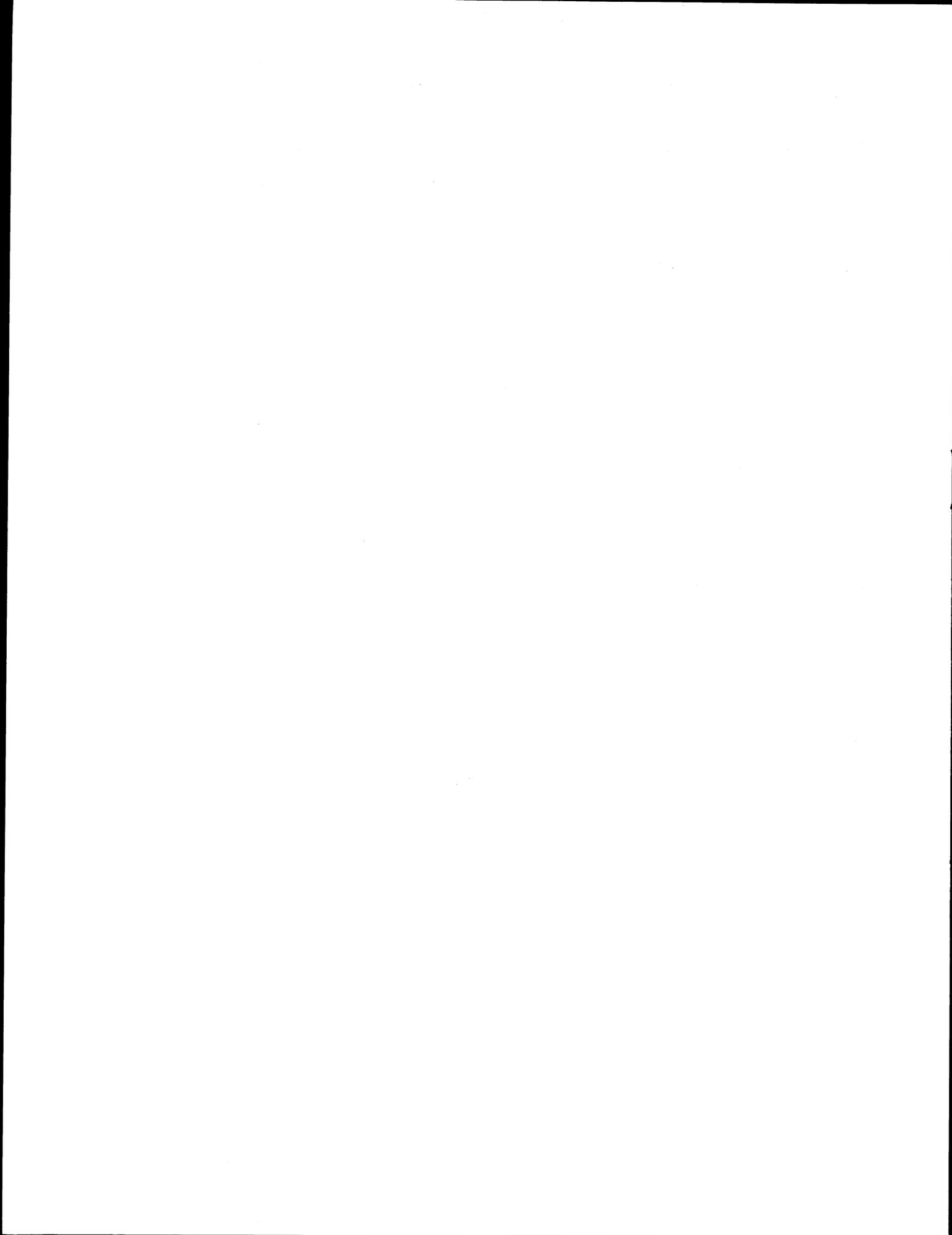
Members of the instructional staff and other employees will be entitled to earn no more than one day of sick leave times the number of months they are employed during the first year of employment. If employees terminate their employment and have not accrued the four days they are entitled to, the school board may withhold the average daily amount for the sick

days utilized but unearned by the employee.

Providing for Secondary School Security Programs

[Vandalism, drug abuse, and other crimes present current problems for many school districts. Although the Safe School Fund currently supplies qualifying districts with \$10,000,000 to assist with this problem, many secondary schools are left with inadequate security.]

The objective of HOUSE BILL 404 (CHAPTER 85-125) is to increase school security in high schools and postsecondary schools, and to incorporate more community involvement in providing that security. This is accomplished by creating Section 228.088, F.S., mandating all secondary schools to develop and implement some type of security program that would function during school operating hours. These programs may consist of security guards, school resource officers, teachers, volunteers, and neighborhood crime watch units. The State Board of Education is directed to develop rules to support this measure. This act will become effective October 1, 1985.



EDUCATION - POSTSECONDARY*

The principal attention of the 1985 Legislature in the area of higher education was focused on funding, particularly with general revisions and new programs dealing with financial aid. COMMITTEE SUBSTITUTE FOR HOUSE BILL 121 (CHAPTER 85-196) was the major vehicle for such provisions as well as for funding of high technology education; providing impetus for community college foundations and academic improvement trust funds; creating two new challenge grant programs for state universities; and creating a center for educational statistics within the Department of Education. Summaries of the many provisions of this act and those of other related measures are discussed below under the appropriate subheadings.

Financial Aid - New Programs

The COMMITTEE SUBSTITUTE FOR HOUSE BILL 121 (CHAPTER 85-196) contains provisions for four new financial aid programs, the first of which creates Section 240.4068, F.S., to establish the "Chappie" James Most Promising Teacher Scholarship Program. One Chappie James Scholarship-Loan is set aside for each public high school in the state. Each high school principal is

*Prepared by staff of House Higher Education Committee

responsible for nominating three candidates from the school, based on specified criteria, for program eligibility. The Commissioner of Education then selects recipients from the nominees. Recipients receive \$4,000 per year for a maximum of four years to attend public or eligible private postsecondary institutions. Recipients who fail to teach in public schools for a number of years at least equal to the number of years of award receipt will be required to repay the balance of the scholarship-loan with interest.

This act also creates Section 240.4066, F.S., to provide for the Masters' Fellowship-Loan Program for Teachers. The Program is intended to attract liberal arts and sciences graduates to teaching careers. Among the eligibility criteria are requirements that the applicant have earned a 3.0 grade-point average in major coursework, scored at least 1,000 on the Graduate Record Examination, and be a candidate for admission to a Masters' Program for Teachers at a public or eligible private postsecondary institution. The Commissioner of Education selects the recipients. Persons so selected will receive a \$6,000 stipend and sufficient funds to offset tuition and fees for a maximum of two semesters and two summer sessions. Recipients who do not complete three years of public school teaching within five years after graduation from the program will be required to repay the balance of the fellowship-loan with interest.

The third new program is the Medical Education Loan Reimbursement Program, established by creation of Section

240.4067, F.S. Through this Program, the Department of Education will repay loan principal on student loans for physicians who practice primary care specialties in underserved areas. Such repayment is limited to a maximum of \$5,000 per year or the cost of tuition and fees, whichever is greater, for three years. The Program will be applicable only to those students who complete their medical studies after July 1, 1987.

The last of the newly created programs is the Florida Graduate Scholars' Fund established in new Section 240.4025, F.S. In order to be eligible for grants from this Fund, students must have received a Florida Academic Scholars' Scholarship throughout their undergraduate career or they must have earned a 3.5 grade-point average for their last two years of coursework and have scored 1200 or higher on the Graduate Record Examination (or its equivalent on other graduate examinations). In addition, the student must enroll as a first-time graduate student in a high technology-related area of study at a public or eligible private postsecondary institution in Florida. Awards will be distributed to eligible students on a first-come, first-served basis, except that Florida residents will have first priority in such distribution. Recipients will be entitled to a \$10,000 annual grant for a maximum of two years; however, grant renewal will require the maintenance of a cumulative 3.2 grade-point average.

[Other provisions of this act are discussed below under the appropriate subheadings.]

Financial Aid - General Revisions

The COMMITTEE SUBSTITUTE FOR HOUSE BILL 121 (CHAPTER 85-196) amends Subsection 201.08(3), F.S., to exempt federally- and state-guaranteed loans from documentary stamp taxes. Further, this act amends Section 240.414, F.S., the Latin American and Caribbean Basin Scholarship Program, to remove the \$3,000 per year cap and allow the cap to be set in the Appropriations Act. Student eligibility is extended from ten to eleven semesters, three of which may consist of intensive English instruction. In addition, the measure authorizes waivers of recipients' nonresident fees.

The COMMITTEE SUBSTITUTE FOR HOUSE BILLS 1122 and 805 (CHAPTER 85-139) requires that state financial aid or scholarships to male students under Part IV of Chapter 240, F.S., be limited to students who have registered with the Selective Service System. Affidavits showing proof of such registration are to be submitted to the postsecondary institution where application for admission is made; notification of failure to send such proof of compliance must be sent by the institution to the Department of Education for final disposition of the matter.

Board of Regents' Authority Revision

The COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 617 (CHAPTER 85-241) is a comprehensive revision of

the authority of the Board of Regents and presidents of state universities. Generally, the act addresses three areas of responsibility - personnel, budgeting and operations, and construction. In the latter of these categories, Section 240.225, F.S., is amended to grant the Board of Regents, rather than the Department of General Services, authority over the maintenance and construction of facilities within the State University System.

The act provides authority for the Board of Regents to maintain systemwide personnel programs and the university presidents to implement such programs. It further requires that the Board develop a plan in conjunction with the affected collective bargaining units to transfer career service employees from the Department of Administration to the State University System. If the plan is agreeable to both the Board and the affected units, and if it is subsequently approved by both the President of the Senate and Speaker of the House of Representatives, it will become effective July 1, 1986. At that time, all university and Board personnel will be subject to Board-adopted classification and pay plans; however, such plans must be consistent with applicable collective bargaining agreements. Thereafter, the Board of Regents will become the public employer for collective bargaining purposes.

In the budgeting and operations areas, the act authorizes the Board of Regents and university presidents to enter into installment and lease-purchase contracts, and reassigns powers and duties assigned to universities to the

university presidents. It creates Section 240.270, F.S., to allow universities to carry forward to the next fiscal year a maximum of five percent of their respective operating budgets if such funds are not allocated during the current fiscal year. In addition, the measure exempts budget entities within Auxiliary Enterprises and Contracts, Grants, and Donations from certain reporting requirements contained in Section 216.023, F.S. Finally, the act exempts the State University System from automatic salary rate purge, but rather, specifies that such salaries will be maintained at the average rate funded in the Appropriations Act. The act is repealed October 1, 1990, subject to legislative review pursuant to Section 11.61, F.S., the Regulatory Sunset Act.

High Technology

The COMMITTEE SUBSTITUTE FOR HOUSE BILL 121 (CHAPTER 85-196) contains several sections dealing with high technology and interactions between postsecondary institutions and the business community. The first of these sections creates Section 159.445, F.S., to provide for the Florida High Technology Innovation Research and Development Fund. Through this Fund a maximum of \$50,000 will be granted to new and existing high technology small businesses for the purposes of acquiring technical and management assistance and conducting research and development activities. The Fund will be administered by the Florida High Technology Innovation Research and Development Board.

Another section of the act creates Section 229.8052, F.S., to authorize a state satellite network. The network will consist of satellite receiving equipment at public postsecondary institutions in each of the 28 community college districts. The network will offer public and private entities access to one-way audio and video transmissions. The Department of Education will be responsible for coordinating the network and developing fee schedules for network use.

The enactment further creates Section 240.334, F.S., to provide the authority for community colleges to establish technology transfer centers which will serve universities and the business community by conducting new research application and product development activities. The boards of trustees of community colleges that choose to establish such centers will be responsible for administering the centers. [Statutory regulation of the centers will be much like that of divisions of sponsored research within the state universities.]

The act creates Section 240.539, F.S., to provide for an Advanced Technology Fund to be administered by the Board of Regents, based on recommendations of the Florida High Technology and Industry Council. The Fund is primarily intended to provide matching grants for research programs that have secured private or federal funds; however, universities may also receive grants for research planning and program development.

The act creates Section 240.540, F.S., to authorize research and development park authorities to establish

incubator facilities within their parks. These facilities will provide small businesses with common space, equipment, and support personnel, as well as access to professional consultants for technical and business advice. Residence in such a facility is limited to two years.

Finally, the measure creates Section 240.356, F.S., to provide for the Sunshine State Skills Program. The Program will be administered by the State Board of Community Colleges with the advice of its appointed Economic Development Advisory Committee. The Board will allocate matching grants to community colleges for the provision of instructional programs consistent with employer needs. The maximum grant for any such program will be \$200,000.

The COMMITTEE SUBSTITUTE FOR SENATE BILL 492 (CHAPTER 85-313) amends Part V of Chapter 159, F.S., relating to research and development authorities, to clarify the relationship between research and development parks and their affiliated universities. The president of the university will serve as an ongoing member of the Research and Development Park Authority. University foundations will be authorized to administer the funds and property of the park authorities. Further, the act authorizes the authorities to contract with public and private entities for the use of state resources.

Miscellaneous Community College Provisions

The COMMITTEE SUBSTITUTE FOR HOUSE BILL 121 (CHAPTER 85-196) contains two general provisions for community colleges.

The first of these amends Subsection 240.311(3), F.S., to require the State Board of Community Colleges to encourage activities that will advance statewide and individual community college foundations. The second provision amends Section 240.36, F.S., to remove the \$100,000 cap on the Academic Improvement Trust Fund and to direct the State Board of Education to adopt rules concerning minimum and maximum grant awards to be earmarked for each of the community colleges. In addition, the measure specifies the conditions under which such funds may be used to provide scholarships.

SENATE BILL 572 (CHAPTER 85-331) amends Section 240.313, F.S., to authorize single-service district community colleges to expand their boards of trustees to seven members. This act further amends Paragraph 240.343(1)(c), F.S., to collapse the categories of "emergency" and "personal" leave into the singular "personal" leave.

SENATE BILL 852 (CHAPTER 85-69) amends Section 11.061, F.S., to include community college lobbyists with recognized state employee lobbyists and requires that they register as such.

The COMMITTEE SUBSTITUTE FOR SENATE BILL 76 (CHAPTER 85-10) provides that the penalties for assault and battery on a community college security officer will be a first degree misdemeanor and a third degree felony, respectively.

Miscellaneous University Provisions

The COMMITTEE SUBSTITUTE FOR HOUSE BILL 121 (CHAPTER 85-

196) creates two new challenge grant programs for state universities, the Trust Fund for New Donors and the Trust Fund for Major Gifts. The Trust Fund for New Donors established by Section 240.259, F.S., provides that a state university will receive \$10 for each person who contributes a minimum of \$20 to the university and who has not previously donated money to that university. Use of the state funds and accrued interest will be limited to support for academic programs, nonathletic scholarships, or libraries. Through the Trust Fund for Major Gifts, created by Section 240.2605, F.S., a state university will receive \$50,000 for each \$100,000 donated by private sources. Contributions of \$20,000 with written pledges of \$20,000 for the subsequent four consecutive years will also qualify for receipt of the challenge grants. Use of the state funds and accrued interest is restricted to endowing existing professorships.

The COMMITTEE SUBSTITUTE FOR SENATE BILL 211 (CHAPTER 85-362) establishes a new challenge grant program for women's athletics through the Women's Athletics Trust Fund. A state university will receive a \$5,000 grant for each \$7,500 donation from private sources. Use of the grants and donations is restricted to scholarships, facility enhancement, and major equipment purchases.

In other general legislation, SENATE BILL 1102 (CHAPTER 85-341) creates Section 240.278, F.S., to establish a Quality Assurance Fund, through which state universities will be able to open additional sections of otherwise-filled required

courses offered during the summer. Such sections will be funded only if a minimum of ten students enroll in the additional section. The act also provides an appropriation of \$247,000 to the Florida Keys Community College from the Public Education Capital Outlay and Debt Service Trust Fund for renovation of campus buildings.

The COMMITTEE SUBSTITUTE FOR SENATE BILL 340 (CHAPTER 85-307) amends Section 458.303, F.S., to provide automatic certificate renewal for full-time medical faculty who are licensed to practice in another state. No more than five such faculty at each medical school in Florida will be eligible for certificate renewal.

Finally, a few acts addressed specific state universities. HOUSE BILLS 1349 (CHAPTER 85-371) and 1366 (CHAPTER 85-368) and SENATE BILL 951 (CHAPTER 85-370) name facilities for Dempsey Barron, Ralph Turlington, and Jack Haskins, respectively. SENATE BILL 844 (CHAPTER 85-480) amends Section 2 of Chapter 82-247, Laws of Florida, relating to the deed for certain property at the Florida Atlantic University West Palm Beach Center conveyed to the United Way of Palm Beach County, Incorporated. The act provides that such deed shall include a reverter or restrictive covenant sufficient to ensure its use for a human service center, without inhibiting any financial arrangements necessary for construction of such a center. The Board of Trustees of the Internal Improvement Trust Fund is authorized to execute title documents necessary to facilitate use of such land for public purposes deemed

proper by the Board. SENATE BILL 1255 (CHAPTER 85-355) authorizes the Board of Regents to enter into contracts and issue bonds for the construction of parking facilities at the University of Florida. The act further provides priorities for use of the funds remaining after payment of the bond debt service.

Miscellaneous General Provisions

The COMMITTEE SUBSTITUTE FOR HOUSE BILL 121 (CHAPTER 85-196) amends Section 240.1201, F.S., to provide that active members of the armed services stationed in this state, full-time public instructional and educational administrative personnel, and their spouses and dependent children will be considered residents for tuition purposes. The enactment further creates the Florida Center for Educational Statistics to be assigned to the Department of Education for administrative purposes. The Center will serve as the official central data bank for all public education in Florida.

SENATE BILL 845 (CHAPTER 85-365) amends Section 3 of Chapter 19133, Laws of Florida, 1939, to provide that certain described state-owned lands situated in Palm Beach County may be used for construction and operation of a performing educational arts center in addition to park and forest purposes.

SENATE BILL 188 (CHAPTER 85-350) approves the admission of Oklahoma into the Southern Regional Education Compact, given

the approval of its Legislature and Governor and upon approval by the other Compact members.

HOUSE BILL 1304 (CHAPTER 85-219), by amendment to Subsection 110.131(2), F.S., exempts bona fide, degree seeking students in an accredited secondary or postsecondary educational program from the yearly hour limitation on the employment of other-personal-services temporary employment with the state.

THE UNIVERSITY OF CHICAGO

PHILOSOPHY DEPARTMENT

PHILOSOPHY 101

LECTURE NOTES

BY [Name]

DATE [Date]

TOPIC [Topic]

SECTION [Section]

LECTURER [Lecturer]

LECTURE [Lecture]

DATE [Date]

TOPIC [Topic]

SECTION [Section]

LECTURER [Lecturer]

LECTURE [Lecture]

ETHICS AND ELECTIONS*

The 1985 Regular Session of the Legislature produced revisions to the Florida Election Code which were concentrated in the area of campaign financing although there were amendments to the statutory law concerning elections generally, voting methods and procedures, the conduct of elections and tallying of results, presidential electors and violations of the Election Code.

Omnibus Revision Act

A number of statutory provisions relating to elections, voting methods and campaign financing are altered by SENATE BILL 22 (CHAPTER 85-226).

UNOPPOSED CANDIDATES

Subsections (14) and (15) are added to Section 106.011, F.S., to provide definitions for "filing officer" and "unopposed candidate" respectively, for purposes of Chapter 106, F.S., relating to campaign financing.

Revised Subsection 106.08(1), F.S., provides first and second primaries and general elections are no longer to be considered separate elections with respect to campaign

*Prepared by staff of Legislative Library Services

contribution limits for unopposed candidates. Subsection 106.08(2), F.S., is amended to require the return of contributions received after a candidate becomes unopposed.

Subsection 106.11(4), F.S., is added to stipulate that no funds may be expended from the campaign account of an unopposed candidate unless obligated or encumbered prior to the date when the candidate becomes unopposed, except for a 10-day period immediately after becoming unopposed in which "thank you" advertising may be purchased, or except for disposition of surplus funds pursuant to Section 106.141, F.S.

New Subsection 106.141(3), F.S., requires an unopposed candidate to dispose of campaign funds within 90 days of reaching such status and bars the acceptance of any contributions as soon as such status is attained.

Paragraph 106.07(1)(b), F.S., is amended to provide that an unopposed candidate need only file a report containing specified information within 90 days after the date the candidate becomes unopposed.

The provisions of renumbered Subsection 106.141(6), F.S., which dictate the transferral to the campaign account of funds on deposit in a campaign savings account or certificate of deposit within seven days of a candidate's withdrawal, elimination or election are made applicable to an unopposed candidate.

The provisions of renumbered Subsection 106.141(8), F.S., which permit the establishment of an office account in limited amounts of campaign account funds by an elected

candidate, are revised to include unopposed candidates. The Secretary of State is required to provide a separate income tax identification number for each such account upon request of the account owner.

Renumbered Subsection 106.141(11), F.S., is amended to subject an unopposed candidate or his agent who accepts contributions after the candidate becomes unopposed, to the penalty for a first degree misdemeanor.

CAMPAIGN REPORTS

Subsection 106.04(4), F.S., is amended to more clearly conform the filing conditions for reports required of committees of continuous existence to those required of candidates by this statutory chapter and to make a committee's failure to file a report when due subject to the provisions of new Subsection 106.04(8), F.S. Further revision of Subsection 106.04(4), F.S., eliminates the requirement that such a committee file a duplicate copy of each report with the supervisor of elections if the filing officer is located within the same county as the supervisor.

New Paragraph 106.04(8)(a), F.S., provides for a fine of \$50 per day for any committee of continuous existence failing to file a report when due which is to be collected by the filing officer and deposited in the General Revenue Fund. Paragraph (b) provides for notification to the committee treasurer of the fine by the filing officer, computation of the fine once the report is filed and payment of the fine within 15 days of receipt of payment due, unless an appeal is made to the

Florida Elections Commission pursuant to Paragraph (c) which permits the committee treasurer to ask for a hearing within the 15-day period and to provide written notification of the request to the filing officer. Paragraph (d) requires the filing officer to notify the Commission of repeated late filing, failure to file after notice of levy of a fine, or the failure to pay a fine imposed.

Paragraph 106.07(1)(a), F.S., is revised to fix the filing dates for reports of contributions received, required of all candidates and political committees (PACs) on the 4th, 18th and 32nd days immediately preceding the first and second primaries and on the 4th and 18th days immediately preceding the general election. New Paragraph (c) requires the Division of Elections to provide each candidate with a schedule of reporting periods and due dates.

Paragraph 106.07(2)(a), F.S., is altered to permit the filing of a contributions report with a U. S. Postal Service postmark no later than midnight of the due date or to establish proof of timely mailing by execution of a Certificate of Mailing.

Paragraph 106.07(4)(f), F.S., is amended to clarify the items of information required in reports of contributions received, and a new Paragraph (n) requires the Division to provide candidates and committees with a form for reporting contributions received but returned to the contributors instead of being deposited.

The requirement that PACs file a report 45 days after a general election is deleted by the repeal of Subsection 106.07(5), F.S.

New Subsection 106.07(10), F.S., sets out the provisions for a fine for failure by a candidate or PAC to file a contributions report in a timely manner; for disposition of moneys collected; for notification of fine being assessed by the filing officer; for right of appeal of the fine to the Florida Elections Commission; and for notification to the Commission by the filing officer for failure to file or pay a fine. These provisions are applicable to candidates and PACs and are substantially the same as those applicable to committees of continuous existence set out in Subsection 106.04(8), F.S., described above, except for a lesser fine for candidates under certain circumstances, the requirement that payment of a candidate's fine be made from the candidate's personal funds, and the designation of depositories by the level of office sought, i.e., state or political subdivision.

Current penalties for failure to file the reports required of candidates and PACs contained in Section 106.20, F.S., are repealed, and Subsection 106.18(3), F.S., is amended to reflect this change.

CAMPAIGN CONTRIBUTIONS

Subsection 106.08(1), F.S., is revised to conform the limits on contributions to persons or political committees to those limits for committees of continuous existence and to delete contribution limits for political committees supporting

or opposing ballot issues since they have been ruled unconstitutional (see Winn-Dixie Stores, Inc. v. State of Florida, 408 So.2d 211 (Fla. 1981)). In a revised Subsection 106.08(4), F.S., the first degree misdemeanor penalty for violating the limits on contributions set out in Subsection 106.08(1), F.S., are specifically made applicable to political committees and committees of continuous existence.

POLITICAL ACTION COMMITTEES

By revision of Subsection 106.12(2), F.S., the campaign treasurer of each political committee is permitted to withdraw a stipulated amount from the primary campaign account for the establishment of a petty cash fund from the close of the last day for qualifying until the last election in a given election period in which the committee participates. This allowance is \$500 per week for candidates for statewide office, and for all other candidates \$100 per week. This allowance is permitted from the close of the last day for qualifying until the candidate is eliminated, elected or becomes unopposed. Subsection (3) is amended to raise the ceiling on each petty cash expenditure from less than \$20 to less than \$30 per week.

ABSENTEE BALLOTS

Subsection 101.051(3), F.S., is revised to delete the prohibition against any supervisor of elections, his deputies or member of his staff from assisting an absentee elector handicapped by blindness, disability or illiteracy.

Subsection 101.621(4), F.S., is amended to require the supervisor of elections to deliver or mail an absentee ballot

if requested by an elector, but prohibits a candidate from being authorized to pick up an absentee ballot for any elector other than a member of the candidate's immediate family.

The instruction sheet for the completion of the voter's certificate appearing on the mailing envelope for an absentee ballot is revised in Section 101.65, F.S., to bar a candidate from serving as an attesting witness to an elector's signature on an absentee ballot, and reference notes on the certificate are revised to reflect these changes.

[HOUSE BILL 553 (CHAPTER 85-73) which provides a procedure for the examination of ballots pursuant to the "Public Records Law," Chapter 119, F.S., is summarized in the STATE GOVERNMENT article.]

COUNTY AND DISTRICT OFFICERS

Subsection 100.041(1), F.S., is changed to delete the provision that terms of county offices, other than members of the Legislature, shall begin on the first Tuesday after the first Monday in January following the general election held in each even-numbered year which is not a multiple of four.

Subsection 100.041(4), F.S., is amended to provide that the term of office for each county and district officer shall begin on the second Tuesday following his election unless otherwise provided by law, except for the term of office for tax collector which is to begin on the first Tuesday after the first Monday in January following his election.

This act is effective January 1, 1986.

Polling Places

HOUSE BILL 749 (CHAPTER 85-38) adds Subsection 101.71(5), F.S., to require public, tax-supported buildings to be made available as polling places if requested by the supervisor of elections.

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 541 and 866 (CHAPTER 85-205) amends Section 101.121, F.S., to restrict persons not in line to vote from coming within 50 feet of a polling place rather than 15 feet as present law provides, and to exempt businesses and homes located within 50 feet of the polling place from this restriction.

Section 102.031, F.S., is amended to incorporate language presently appearing in Section 102.081, F.S., which requires each sheriff to deputize a deputy for each precinct to maintain peace and order at the polls during an election by his presence, makes the deputy subject to the lawful commands of the clerks and inspectors of the precinct election boards, and authorizes the deputy to seek aid from bystanders in the performance of his duties. New language mandates any person, political committee, committee of continuous existence, group or organization which intends to solicit voters within 100 feet of a polling place on election day to notify the supervisor of elections at least three days in advance with specific items of information, whereupon the supervisor must take action necessary to maintain order at affected polling places. Section 102.081, F.S., is repealed. The act takes effect

January 1, 1986.

Tabulation of Votes

SENATE BILL 258 (CHAPTER 85-17) amends Paragraph 101.5614(2)(a), F.S., to permit the tabulation of votes at no more than three regional locations within a county instead of a central site. Paragraph 101.5614(3)(a), F.S., is revised to extend the county canvassing board's authority over the regional locations and requires a member or representative of the board to be present at each such place during the testing of tabulation devices and the actual counting of the ballots. New Paragraph 101.5614(3)(b) permits the transmission of the results under rules adopted by the Department of State from regional sites via teleprocessing lines to a central computer for the production of complete returns. The law is effective October 1, 1985.

Presidential Electors

The deadline for presidential electors to report to the Governor set out in Section 103.061, F.S., is revised by SENATE BILL 724 (CHAPTER 85-19) from noon on the day prior to the day fixed by Congress for election of a President and Vice-President to 10 a.m. of the election day, thereby eliminating a "grace period" for absent electors to report and requiring the immediate vote by present electors to fill any vacancy or vacancies.

Election Code Violations

HOUSE BILL 844 (CHAPTER 85-210) adds new language to Section 104.271, F.S., to provide that maliciously making a false statement or causing such a statement to be made about an opponent by a candidate in any election is a violation of the Florida Election Code (Chapters 97 - 106, F.S.). An aggrieved candidate may file a complaint with the Division of Elections of the Department of State as provided by the Code. The Division is required to adopt rules for the expeditious hearing of such a complaint before the Florida Elections Commission. The Commission is required to assess a civil penalty of up to \$5,000 against any candidate found guilty, which moneys are to be deposited in the General Revenue Fund.

FINANCE AND TAXATION*

Even though there were no major tax issues facing the 1985 Legislature, a great deal of legislation was adopted in this area.

With respect to specific taxes, the application of the municipal public service tax, gross receipts tax, and sales tax to telecommunications services was revised. A tax was imposed on smokeless tobacco products and loose smoking tobacco, and the cigarette tax was revised. In addition, new provisions were enacted for the taxation of aviation fuel. In response to recent problems with fraud, the entire motor fuel tax administrative structure was revised.

The great bulk of tax legislation dealt with administrative matters. Chapter 197, F.S., relating to ad valorem tax collection, and Chapter 199, F.S., relating to the intangible tax, were completely reorganized and streamlined. New provisions for uniform administration of local discretionary sales surtaxes were adopted. Strict sales-price reporting requirements with respect to occasional sales of motor vehicles and recreational-type vehicles were enacted. Various sales tax exemptions and their application were revised

*Prepared by staff of House Bill Drafting

by several acts. With respect to homestead exemptions, property appraisal adjustment boards were authorized to accept applications that are late due to postal error. In addition, repeal of the emergency excise tax was delayed a year.

In the general area of financial matters, numerous trust funds were transferred or abolished, and provisions for the allocation of private activity bonds were adopted. Also, seven consensus estimating conferences were created for the purpose of developing planning and budgeting information.

Tax on Telecommunications Services

Various taxes as they apply to telecommunications services are the subject of HOUSE BILL 1340 (CHAPTER 85-174). These include the municipal public service tax, gross receipts tax, and sales tax.

The act amends Section 166.231, F.S., to authorize municipalities to levy, in lieu of the up to 10-percent tax on telephone service purchased within the municipality, a tax of up to 10 percent on recurring local telephone service charges, or a tax of up to seven percent on an expanded base which includes cellular and radio telephone services and intrastate long distance charges. Purchases of local telephone service or other telecommunications service for use in the conduct of a telecommunications service for hire or otherwise for resale are exempt. The seller is allowed to retain one percent of revenue collected as compensation for collecting the tax and keeping records. Municipalities must elect which tax rate to levy by

ordinance, and the election cannot be changed within 12 months after such election.

With respect to the gross receipts tax, the act amends Subsection 203.01(1), F.S., to impose a 1.5 percent tax (equal to the gross receipts tax) on any person who purchases, installs, rents or leases an independent telephone system or telecommunications system, and requires such persons to register with the Department of Revenue. Use by any local telephone company or any telecommunications carrier of its own telephone system or telecommunications system to conduct a telecommunications service for hire is exempt. If the private system crosses state lines, the tax is applied to the cost of operating the equipment located in Florida. Subsection 203.01(4), F.S., is created to specify that gross receipts from sale or lease of telecommunications service for use in the conduct of telecommunications service for hire are exempt from tax. New Subsections 203.01(5) and (6), F.S., allow telecommunications companies to separately state the gross receipts tax on a customer's bill. New Subsection 203.01(7), F.S., imposes a second degree misdemeanor penalty on persons who provide telecommunications services and fail, neglect, or refuse to collect or remit the gross receipts tax, and makes them liable for the tax.

The act also revises the definitions applicable to the gross receipts tax found in Section 203.012, F.S. It excludes maintenance and equipment charges related to cellular and radio telephone service from the tax. It includes telegram or

telegraph service within the meaning of "telecommunications service." It removes language in Section 203.013, F.S., which provides a formula for imposing the gross receipts tax on telecommunications services (except teletypewriter or computer exchange services) which originate but do not terminate in this state or which terminate but do not originate in this state, when the charge for such service is billed or charged to a Florida telecommunications number or device, Florida telephone or number, or Florida customer. The method of taxing such services is provided in a new Part II of Chapter 203, F.S., consisting of Sections 203.60 - 203.63, F.S. Provision is made for separately stating the tax on the customer's bill. A second degree misdemeanor penalty is imposed upon a telecommunications service provider who fails, neglects, or refuses to collect or remit the tax.

With respect to the sales tax, the act amends Paragraph 212.05(1)(e), F.S., and creates a Paragraph (h). It extends the application of the sales tax to private communication service, customer access line charges and other service charges, and cellular mobile telephone and other mobile services. The exemption for out-of-state telephone and telegraph service is removed and the sales tax imposed on telegraph messages and telecommunications services which originate or terminate in Florida and are billed to a customer, telephone number, or device located in Florida. Local service provided through a pay telephone is exempt. In addition, any person who purchases, installs, rents or leases his own

telephone system or telecommunications system must register with the Department of Revenue and pay a five percent tax on the cost of operating the system. Use by any local telephone company or any telecommunication carrier of its own telephone system or telecommunication system to conduct a telecommunication service for hire is exempt. If the private system crosses state lines, the tax is applied to the cost of operating the equipment located in Florida.

The act repeals Section 203.05, F.S., which imposes the gross receipts tax on express companies. It also creates Subsection 337.401(3), F.S., to limit the franchise fee municipalities may impose on telephone companies to one percent of the gross revenues from recurring local service provided within the municipality. Existing contracts for franchise fees greater than one percent are "grandfathered" into the law.

Sales Tax Exemptions

SENATE BILL 434 (CHAPTER 85-310) amends Paragraph 212.031(1)(a), F.S., to exclude from the tax on the lease or rental of real property, recreational property or the common elements of a condominium, when subject to a lease between the developer or owner thereof and the condominium association in its own right, or as agent for the owners of individual condominium units or the owners of such units. However, only such lease payments are exempt, and any other use made by the owner or the condominium association is fully taxable. A related amendment to Paragraph 212.02(6)(h), F.S., excludes

such leased recreational property or common elements from the definition of "real property" under the sales tax law. This act takes effect October 1, 1986.

SENATE BILL 115 (CHAPTER 85-230) extends the scope of charitable institutions which are granted sales tax exemption under Paragraph 212.08(7)(a), F.S., to include nonprofit organizations that provide free or reduced-cost food, shelter, or medical care for animals, or adoption services, cruelty investigations, or education programs concerning animals. It also creates Paragraph 212.08(7)(v), F.S., to exempt from the sales tax nonprofit corporations which hold current exemptions from federal corporate income tax pursuant to Section 501(c)(3) of the Internal Revenue Code, and which either qualify as homes for the aged pursuant to Subsection 196.1975(2), F.S., or are licensed as a nursing home or hospice under the provisions of Chapter 400, F.S.

The act amends Paragraph 212.08(5)(f), F.S., to revise requirements relating to the sales tax exemption for purchase or lease of certain motion picture, television, and sound recording equipment used in production activities, and provides that the exemption shall inure only through refund, with a copy of each refund application provided to the Department of Commerce. It specifies that this exemption shall expire July 1, 1988. It also amends Subsection 212.08(12), F.S., to provide definitions of "recording industry" and "motion picture or television industry" with respect to the partial exemption for master tapes, records, films, and video tapes, and to

specify that this exemption shall also expire July 1, 1988. It corrects erroneous references in Chapter 84-324, Laws of Florida, in provisions relating to a report on these exemptions by the Department of Commerce, and deletes certain erroneous repeal citations originally intended to apply to the expiration of these exemptions.

Included in COMMITTEE SUBSTITUTE FOR SENATE BILL 1176 (CHAPTER 85-342) are various provisions relating to sales tax exemptions and the administration thereof.

Paragraph 212.06(5)(a), F.S., is amended to provide that submission to the Department of Revenue of an aircraft manifest is no longer required in order for an aircraft exported under its own power to qualify for the sales tax exemption. In the case of parts and equipment installed on aircraft of foreign registry, submission to the Department of documentation, the extent of which shall be provided by rule, showing the departure of the aircraft from the continental United States, will be required to qualify.

Paragraph 212.08(4)(a), F.S., is amended to provide that the partial tax on fuels used by railroad locomotives and vessels in interstate or foreign commerce shall be computed on the basis of the interstate or foreign mileage traveled by the carrier's railroad locomotives or vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous year; fuels used exclusively in intrastate commerce do not qualify for the proration of tax. Similarly, Subsection 212.08(8), F.S., is

amended to provide that the partial tax on vessels engaged in interstate or foreign commerce shall be computed on the basis of the interstate or foreign mileage traveled by the carrier's vessels which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous year; vessels and parts thereof used exclusively in intrastate commerce do not qualify for the proration of tax. Also, Paragraph 212.08(9)(b), F.S., is created to specify that the partial tax for vehicles which are licensed as common carriers by the Interstate Commerce Commission or by the U.S. Department of Transportation and used to transport persons or property in interstate commerce shall be computed on the basis of the interstate or foreign mileage traveled by the carrier's vehicles which were used in interstate or foreign commerce and which had at least some Florida mileage during the previous fiscal year; vehicles used exclusively in intrastate commerce do not qualify for the proration of tax.

In another area, the exemption for general groceries under Subsection 212.08(1), F.S., is revised. Included in the list of nonexempt products are food and drinks sold in or by amusement parks, racetracks, taverns, or concession stands at arenas, auditoriums, carnivals, fairs, stadiums, and theaters; drinks prepared on the seller's premises and sold for immediate consumption on or off the premises; and sandwiches for immediate consumption. Exempt are bakery products sold for off-premise consumption and products intended to be mixed with milk. A definition of "seller's premises" is provided.

Provisions relating to medical exemptions under Subsection 212.08(2), F.S., are also revised. Language describing such exemptions is clarified to include prescription eyeglasses and incidental items, and to exclude cosmetics and toilet articles, which are defined. Additionally, Subsection 212.08(14), F.S., is created directing the Department of Revenue to establish a technical assistance advisory committee with public and private sector members to advise it and the Department of Health and Rehabilitative Services in determining the taxability of specific grocery and medical products.

The exemption for sales made to governmental entities under Subsection 212.08(6), F.S., is revised. It is specifically provided that the exemption applies only when payment is made directly to the dealer by the governmental entity, and does not apply when payment is made by a government employee who is subsequently reimbursed by the entity.

Sales Tax Administration

HOUSE BILL 1425 (CHAPTER 85-142) reenacts Section 212.11 and Subsection 212.12(2), F.S. [Sections 57 - 59 of Chapter 83-310, Laws of Florida (the Water Quality Assurance Act of 1983), amended these sections to provide for the "speed-up" of sales tax collections by requiring estimated tax payments by dealers. The inclusion of these sections in the 1983 act was held unconstitutional as violative of the single-subject requirement of Article III, Section 6 of the State Constitution in a recent First District Court of Appeal decision (See Pilot

Equipment Company, Inc. v. Miller, 10 F.L.W. 1224 (Fla. 1st DCA May 16, 1985).]

For the same reason, the act confirms the repeal of Subsection 212.12(5), F.S., relating to extensions for making returns and certain estimated tax payments, effected by Section 59 of Chapter 83-310, Laws of Florida. The act specifically validates and affirms all collections made under Chapter 83-310, Laws of Florida, and Chapter 84-549, Laws of Florida, which further amended these provisions.

Several portions of COMMITTEE SUBSTITUTE FOR SENATE BILL 1176 (CHAPTER 85-342) deal with aspects of sales tax administration. With respect to the transient rentals tax, Paragraph 212.02(6)(f), F.S., is amended to include mobile home parks and recreational vehicle parks along with trailer camps among the entities subject to the tax. Also, Subsection 212.03(6), F.S., is amended to impose the tax on the lease or rental of tie-down or storage space for aircraft at airports.

Subsection 212.12(3), F.S., is amended to specify that interest on delinquent sales tax shall be calculated beginning on the 21st day of the month following the month in which the tax is due. The formula for disposition of the local government half-cent sales tax is revised in an amendment to Subsection 218.61(2), F.S.; new language specifies that 9.697 percent of the proceeds remitted pursuant to Part I of Chapter 212, F.S., shall be transferred to local government, and "proceeds" is defined.

COMMITTEE SUBSTITUTE FOR SENATE BILL 995 (CHAPTER 85-348) also contains provisions relating to the sales tax. It revises the definition of "business" under Subsection 212.02(9), F.S., to specifically include occasional or isolated sales of aircraft, boats, and mobile homes, in addition to motor vehicles. It amends Subsection 212.02(12), F.S., to include mobile homes within the definition of "tangible personal property."

Paragraph 212.05(1)(a), F.S., is amended to specify that occasional or isolated sales of mobile homes are subject to tax. In addition, requirements regarding occasional sales of used motor vehicles and recreational vehicle-type units are imposed. If any party to an occasional or isolated sale of such a vehicle reports to the tax collector a sales price which is less than 80 percent of the average loan price for the specified model and year of such vehicle as listed in the most recent NADA Official Used Car Guide, the sales tax is to be computed by the Department of Revenue on such average loan price unless the parties to the sale have provided to the tax collector an affidavit or other substantial proof stating the actual sales price.

Reporting less than the actual sales price is a second degree misdemeanor, and such person must pay any tax due and any penalty and interest assessed, plus a mandatory penalty of not less than \$500, or an amount equal to 100 percent of the tax, whichever is greater. The sum of \$174,220 is appropriated to the Department to implement these requirements relating to

the occasional or isolated sales of aircraft, boats, mobile homes, or motor vehicles.

Sales Tax on Fuel

HOUSE BILL 1386 (CHAPTER 85-14) amends Subsection 212.62(3), F.S., to change from June 1 to July 1 the annual date by which the Department of Revenue must determine the appropriate sales tax applicable to motor fuel and special fuel. This same amendment is also made by COMMITTEE SUBSTITUTE FOR SENATE BILL 1176 (CHAPTER 85-342).

[Exemption of aviation fuel from the sales tax is discussed below in this article under the subheading Excise Tax on Fuel in the description of COMMITTEE SUBSTITUTE FOR SENATE BILL 995 (CHAPTER 85-348).]

Discretionary Local Sales Taxes

Two provisions of COMMITTEE SUBSTITUTE FOR SENATE BILL 1176 (CHAPTER 85-342) affect the discretionary tax authorized for criminal justice facilities. A new Subsection 212.11(5), F.S., specifies that this tax shall not be included in computing estimated tax liability for 1986. Section 212.058, F.S., which imposes the tax, is amended to exempt all long distance telephone service, rather than just intrastate calls. Language relating to administration of the tax is revised, particularly with reference to tangible personal property subject to the tax. It is also provided that after the expiration date of the tax, sufficient revenues shall be retained in the Criminal Justice Facilities Tax Trust Fund to

pay for refunds. After June 30, 1986, the Trust Fund shall be eliminated and any proceeds of the tax or refunds of the tax shall be transferred into or deducted from the Local Government Half-cent Sales Tax Clearing Trust Fund; proceeds are earmarked for distribution to the appropriate county.

Language relating to the administration of the discretionary tax for indigent health care is revised by the act in an amendment to Subsection (2) of Section 1 of Chapter 84-373, Laws of Florida. Revisions deal with the tangible personal property subject to the tax. This amendment will only be in effect for the period July 1, 1985, to January 1, 1986, at which time this subsection is repealed as part of the general revision of the administration of discretionary sales surtaxes discussed below.

Related to these revisions in administrative language, Subsection 212.02(23), F.S., which defines "transaction" to mean the same as "sale," is repealed.

This act also contains provisions which are intended to consolidate and make uniform the administration of the various discretionary local sales surtaxes, effective January 1, 1986. It creates Section 212.054, F.S., to provide general administrative provisions applicable to all such taxes. Included are: method of computing the tax; exemptions for sales above \$1,000 and long distance telephone service; a method of taxing certain utility and communications services; contractors' refunds; guidelines for determining when a transaction occurs in the county; collection and enforcement;

provision for costs of administration; a uniform effective date of January 1; and a requirement that the levy be by ordinance. In addition, Section 212.055, F.S., which presently relates only to the rapid transit surtax, is substantially revised and expanded to become the section under which any discretionary sales surtax must be authorized. Authorization for any such tax must be published as a subsection of said section, and the general requirements to be included in such sanction are specified. Provisions relating to the levy of a surtax for rapid transit by certain charter counties are transferred from Section 125.0165, F.S., and become Subsection (1) of the section. Subsection (2) relates to the indigent health care surtax and includes provisions which are transferred from Chapter 84-373, Laws of Florida. Language of these transferred provisions is revised to provide uniform levying procedures and requirements.

Legislative intent regarding implementation of these revisions is provided. It is specifically stated that the governing body of any county imposing the indigent health care tax prior to January 1, 1986, shall not be required to adopt an ordinance providing for imposition of the surtax, and that the provisions of the act be construed to convert the tax to a surtax effective January 1, 1986, and that all other provisions of the original ordinance shall remain in effect as though adopted pursuant to the new provisions. It is also specified that a qualified county may, prior to January 1, 1986, submit for approval to the electors a proposal to impose the charter

county transit system surtax, and adopt an ordinance providing for imposition of the surtax if approved.

Excise Tax on Fuel

COMMITTEE SUBSTITUTE FOR SENATE BILL 1176 (CHAPTER 85-342) addresses the state's recent problems with fuel tax fraud, substantially revising fuel tax administration under Part I of Chapter 206, F.S.

In place of the present classification of distributor, three new classifications of handlers of fuel are created: refiner, importer, and wholesaler (which would include most current distributors). Definitions are provided for retail dealer and jobber. Revised definitions are provided by Section 206.01, F.S. Detailed license application requirements for refiners, importers, and wholesalers are specified under Section 206.02, F.S., and an annual \$30 license tax is imposed. Section 206.021, F.S., is created to provide license application requirements for jobbers and carriers and impose a \$30 annual license tax. Section 206.022, F.S., is created to provide license application requirements for terminal facilities, also including a \$30 annual license tax.

Numerous statute sections which applied only to distributors are amended to apply to refiners, importers, and wholesalers. These include: Section 206.025, F.S. (application by person whose license has been cancelled; applies to all licensees); Sections 206.03 and 206.04, F.S. (licenses, license numbers and cards, and related penalties);

Section 206.05, F.S. (bond requirements); Section 206.055, F.S. (cancellation of license); Section 206.06, F.S. (department estimate of taxes due and unpaid; also deletes a 10-day notice requirement and provides a \$100 penalty for incomplete reports); Sections 206.07 and 206.075, F.S. (suits and warrants for collection of unpaid taxes); Section 206.12, F.S. (record retention; applies to all licensees); Section 206.13, F.S. (refunds or credits); Subsection 206.14(2), F.S. (inspection of records; applies to all and specifies no written notice is necessary when tax is in jeopardy); Section 206.18, F.S. (discontinuance or transfer of business; includes provisions for treatment of assets of a delinquent dealer in possession of other persons, and provides a second degree misdemeanor penalty); Section 206.19, F.S. (Department of Revenue not to compromise); Section 206.23, F.S. (tax stated separately); Section 206.406, F.S. (disposition of license tax money); Section 206.426, F.S. (resale and exemption certificates; additional offenses are provided); Section 206.43, F.S. (monthly reports; also specifies taxes are due on first day of month); Section 206.44, F.S. (penalty for failure to report); Section 206.48, F.S. (reports required); Section 206.49, F.S. (required invoice; applies to refiners and importers, and also specifies joint liability of sellers and purchasers convicted of conspiring to defraud the state); Section 206.56, F.S. (failure to account for tax); Subsection 206.605(1), F.S. (municipal tax on motor fuel); and Section 206.62, F.S. (sales

to United States tax exempt; provides for refunds to wholesalers or jobbers).

Section 206.026, F.S., is created to prohibit any business entity from being licensed if specified officers or members of the entity are determined to be not of good moral character or have been convicted of a felony. However, a license may be issued or restored to such business entity if divestiture of the convicted person's holdings is made or if the relationship with the specified officer or member is terminated. Circuit courts are granted authority to decide a petition if divestiture terms cannot be agreed upon. Section 206.027, F.S., is created to require Department approval of license transfers in accordance with the requirements of Section 206.026, F.S. New Section 206.028, F.S., is created to authorize the Department to charge applicants for costs of determining the applicant's eligibility.

Section 206.08, F.S., is amended to require reports of persons, including jobbers, who are not required to be licensed as a refiner, importer, or wholesaler and who purchase motor fuel and sell it for delivery in Florida. Reports are due on the 20th, rather than the 15th day of the month and must include the license number of the seller. A \$100 penalty is imposed for incomplete reports. Section 206.09, F.S., is amended to revise carrier report requirements, specifying required information, changing the due date to the 20th day of the month, and providing a \$100 penalty. Section 206.095,

F.S., is created to impose similar reporting requirements on terminal facilities.

Subsection 206.11(2), F.S., is amended to increase penalties for evasion, false statements, collection of any refund not due, or any other violation of Parts I or II of Chapter 206, F.S., from a second to a first degree misdemeanor for a first offense, and from a first degree misdemeanor to a third degree felony for subsequent offenses. Recordkeeping requirements under Section 206.27, F.S., are revised to provide for public access to records under Part II of Chapter 206, F.S., and Part II of Chapter 212, F.S. (Tax on Sales of Motor and Special Fuels). Also, the Department is directed to prepare monthly lists of current licensees for use in exemption verification. Section 206.404, F.S., is amended to impose the license tax on retail dealers.

Provisions relating to tax-exempt sales are revised in amendments to Section 206.41, F.S. Refiners, importers and wholesalers may purchase fuel tax free. Refiner-to-refiner sales are not considered first sales. Sale of fuel for export by a refiner or importer is exempt if both the seller and exporter are licensed refiners or importers. Sale for export by wholesalers or jobbers is exempt if exempt under the U.S. or State Constitution or if the purchaser is a refiner or importer. Provision is made for refunds or credits for taxes paid on fuel exported. Tax-exempt export to a licensee's own location is allowed if adequate documentation is maintained. Amendments to Section 206.42, F.S., provide for tax-exempt

purchase of aviation motor fuel and allow refunds or credits for refiners and wholesalers. Section 206.425, F.S., also deals with exempt purchases. It allows refiners or importers to include the purchaser's license number on the sales invoice in lieu of obtaining an affidavit. The provisions of the section are applied to sales of aviation motor fuel to aviation motor fuel dealers.

Distribution of the county tax on motor fuel is revised by amendments to Section 206.60, F.S.; such distribution will be made in the same manner as for the constitutional gas tax. Also, specific administrative costs are included in the Department's expenses of collection. Section 206.626, F.S., is created to provide for refunds to ethanol dealers.

Section 206.97, F.S., is amended to provide for applicability of these new provisions to Part II of Chapter 206, F.S., relating to the excise tax on special fuel. Sections 212.61, 212.62, 212.66, and 212.67, F.S., are amended to conform provisions relating to the sales tax on fuels.

Department investigative power is applied to Part II of Chapter 212, F.S., in an amendment to Subsection 206.59(2), F.S. Application of confidentiality provisions to said part and Chapter 206, F.S., is revised in an amendment to Subsections 213.053(1) and (7), F.S.

Any business licensed as a distributor on the effective date of the act with a business location in Florida is to be issued a motor fuel wholesaler's license. Any distributor licensed on the effective date of the act with no business

location in Florida is to be issued a motor fuel importer's license. Any person wishing to qualify as a refiner of motor fuel may make a new application to the state any time after July 1, 1985.

Similar amendments are made to both Subsection 336.021(1), F.S., relating to the county 1-cent voted gas tax, and Subsection 336.025(2), F.S., relating to the 1-, 2-, 3-, or 4-cent county local option gas tax. These taxes are to be collected and remitted by persons engaged in using or selling fuel at retail in the county and distributed monthly by the Department to the county. A three-percent allowance is granted to retail dealers, reduced to one percent on amounts above \$1,000.

These revisions in fuel tax administration take effect January 1, 1986.

In addition to this major revision, two other provisions of this act relate to the excise tax on special fuel. Paragraph 206.87(3)(b), F.S., is amended to exempt sales at a dealer's place of business of not more than 1,000, rather than 110, gallons to a person who is not a licensed dealer, if the fuel is placed in a receptacle not connected to the fuel supply system of a vehicle and is solely for consumption other than use. Paragraph 206.87(3)(f), F.S., is amended to exempt special fuel consumed by a power takeoff or engine exhaust used to unload bulk cargo by pumping.

Aviation fuel taxation is the subject of COMMITTEE SUBSTITUTE FOR SENATE BILL 995 (CHAPTER 85-348). A new Part

III of Chapter 206, F.S., is created to provide for this tax. Section 206.9815, F.S., defines "aviation fuel" to include aviation gasoline and aviation turbine fuels. Section 206.9825, F.S., imposes an excise tax of 5.7 cents per gallon on such fuel, and exempts such fuel from the county discretionary voted gas tax under Section 336.021, F.S., and the local option gas tax under Section 336.025, F.S. Section 206.9835, F.S., provides for administration in the same manner as the excise tax on motor fuel. Section 206.9845, F.S., directs that tax proceeds be credited to the General Revenue Fund. Section 206.9855, F.S., authorizes a refund on aviation fuel purchased by any carrier that is in the business of transporting persons or property for hire by air, such refund not to exceed six-tenths of one percent of the wages paid by the carrier to employees located or based within this state who are covered by the provisions of Chapter 443, F.S., the Unemployment Compensation Law. Section 206.42, F.S., is amended to specify that aviation gasoline is subject to tax under the newly created Part III of Chapter 206, F.S., and Section 212.635, F.S., is created to specify that aviation fuel is exempt from the sales tax on fuel. For the purpose of acquiring forms for initial implementation of the act, the Department of Revenue is exempted from the purchasing requirements imposed under Chapter 283, F.S. (Public Printing and Stationery), and Part I of Chapter 287, F.S. (Commodities, Insurance, and Contractual Services).

Tax on Cigarettes and Tobacco Products

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 99 (CHAPTER 85-294) amends Section 210.02, F.S., to increase cigarette taxes as follows:

1. Weight of 3 pounds per 1000 or less, from 10.5 to 18.5 cents per package for packages of 10 or less; and from 21 to 37 cents for packages of 10-20.

2. Weight of more than 3 pounds per 1000 and not more than 6 inches long, from 21 to 37 cents per package for packages of 10 or less; and from 42 to 74 cents for packages of 10-20.

3. Weight of more than 3 pounds per 1000 and more than 6 inches long, from 42 to 58 cents per package for packages of 10 or less; and from 84 to 116 cents for packages of 10-20.

However, the act allows a credit against the tax for any federal tax liability existing on October 1, 1985, under Sections 5701(b)(1) and 5701(b)(2) of the Internal Revenue Code paid by the manufacturer upon said cigarettes, within specified limitations.

The act amends Section 210.11, F.S., to authorize credits to dealers, in addition to refunds. It also amends Paragraph 210.20(2)(a), F.S., to revise the distribution of the tax proceeds.

HOUSE BILL 1365 (CHAPTER 85-141) creates Part II of Chapter 210, F.S., consisting of Sections 210.25 - 210.75, F.S. It imposes a tax on loose smoking tobacco, snuff, and chewing tobacco. Cigarettes and cigars are excluded. The tax is at

the rate of 25 percent of the wholesale sales price, or 25 percent of the cost of tobacco products used or stored by consumers. Use or storage of less than one pound is exempt, and sale to members of the Armed Services at post exchanges, and sales or gifts to patients in veterans' hospitals, are also exempt. In addition, a tax of 25 percent of the wholesale sales price is imposed on tobacco products on hand on July 1, 1985.

The act requires distributors to be licensed and imposes a \$25 application fee. It also requires at least a \$1,000 bond. The Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation is authorized to revoke or suspend licenses or to impose civil penalties not exceeding \$1,000 for violations.

Taxpayers are required to make monthly returns and remittance for tax liability. Protest hearing procedures are provided. Interest and penalties are provided for delinquent taxes and false returns. A one-percent distributor's allowance is provided, and refunds are allowed for taxes paid on products sold outside the state. Distributors are required to keep books and records for three years. A first degree misdemeanor penalty is provided for violation of the part, and a third degree felony for subsequent violations. A first degree misdemeanor penalty applies to retailers who purchase tobacco products from unlicensed distributors. Tax proceeds are to be paid into the General Revenue Fund.

This act also creates Section 859.09, F.S., to prohibit the sale or use of clove cigarettes.

The amount of \$230,528 and 13 positions are appropriated to the Division to administer the act.

Homestead Exemption

SENATE BILL 184 (CHAPTER 85-232) amends Subsection 196.031(1), F.S., to delete a requirement that for property owned by more than one owner the homestead exemption be reduced in proportion to the number of owners who are not permanent residents of the state.

SENATE BILL 529 (CHAPTER 85-315) amends Subsection 196.011(1), F.S., and adds a new Subsection (7) thereto, directing property appraisal adjustment boards to grant homestead exemption to otherwise eligible late applicants who can document that failure to meet the March 1 deadline was the result of postal error. The act also amends Subsections 196.111(1) and 196.131(1), F.S., to conform. It applies beginning with 1986 assessment rolls.

Ad Valorem Tax Administration

Chapter 197, F.S., is completely restructured by COMMITTEE SUBSTITUTE FOR SENATE BILL 1176 (CHAPTER 85-342). Numerous statute sections are repealed, with new sections created to take their place, and numerous sections are transferred. In addition, various sections are amended to correct cross references to Chapter 197, F.S. The bulk of the amendments are intended as a reviser's bill to reorganize the

chapter into a format which is intended to facilitate administration of laws covering property taxes, tax liens, tax deeds, delinquent taxes, tax redemptions, tax certificates, and tax sales.

However, a few substantive changes are included. New Section 197.222, F.S. (former Section 197.0155, F.S.), provides that ad valorem taxes on real property with more than \$100, rather than \$25, of estimated tax due, may be prepaid in installments. New Section 197.2301, F.S. (former Section 197.0158, F.S.), revises provisions which allow estimated property tax payments when the tax roll cannot be certified before January 1, to provide that no additional billing is required for underpayment of \$5 or less. The tax collector's fee schedule for collection of delinquent personal property taxes in current law is replaced with a flat \$1 fee in new Subsection 197.413(10), F.S. Under new Section 197.433, F.S. (former Section 197.132, F.S.), the fee for issuance of a duplicate tax certificate is increased from \$2 to \$5. New Subsection 197.462(4), F.S., increases the tax collector's fee for endorsing the transfer of a tax certificate from \$0.50 to \$1. New Section 197.502, F.S., includes several changes to current law. It allows consolidated applications for tax deed on more than one tax certificate, which is presently prohibited. It requires the payment of current taxes, if due, when a certificateholder other than the county makes application for a tax deed. Also, it revises the date by which the county shall make application for a tax deed. New Section

197.522, F.S. (former Section 197.256, F.S.), provides that no notice need be mailed to the owner advising that application for a tax deed has been made if no address is listed in the tax collector's statement, deleting a requirement for a search of the records. New Section 197.542, F.S. (former Section 197.266, F.S.), revises provisions relating to sale at public auction. It eliminates the requirement that the sale be held at the courthouse door. It requires full payment, rather than a reasonable deposit, within 24 hours, and requires readvertisement if payment is not received. It also provides readvertisement procedures in the event of cancellation of a sale.

This revision of Chapter 197, F.S., takes effect December 31, 1985, and applies beginning with 1986 tax rolls.

SENATE BILL 743 (CHAPTER 85-322), also discussed in the Summary article PUBLIC OFFICERS AND EMPLOYEES, amends Section 196.295, F.S., to provide for partial abatement of property taxes when a house or other residential structure is so damaged by fire as to be unsuitable for use. The owner must submit an application under oath to the property appraiser between January 1 and March 1 of the year following the year during which the damage occurs. If the property appraiser determines the applicant is eligible, he will notify the tax collector of the number of months the building was unusable, and the tax collector will reduce the tax due on the property accordingly. The section is scheduled for repeal on July 1, 1986.

Intangible Personal Property Tax

COMMITTEE SUBSTITUTE FOR SENATE BILL 1176 (CHAPTER 85-342) includes a complete revision of Chapter 199, F.S., relating to intangible taxation. It reorganizes the chapter and renumbers statutory provisions in order to separate provisions relating to the annual one-mill tax from those provisions which apply to the nonrecurring two-mill tax. It also amends several statute sections to conform cross references. The numerous technical changes are designed to clarify or simplify the law and the application of the intangible tax. These technical changes reflect current law or rules or administrative practices required by court case decisions and interpretations of the chapter by the Attorney General.

In addition, several substantive changes are included. Subsection 199.052(9), F.S., provides that an election to file a consolidated return by an affiliated group shall be binding for the tax year. New Section 199.135, F.S., requires that the two-mill nonrecurring tax due on obligations secured by Florida realty be paid upon recordation or, if not recorded, within 30 days of creation of the obligation, rather than upon recordation or enforcement of the obligation. New Paragraph 199.185(1)(e), F.S., exempts from taxation intangibles held in individual retirement accounts (IRAs). Section 199.222, F.S., is revised to delete a requirement that the Department of Revenue destroy tax returns four years after the tax is paid. Section 199.282, F.S., contains revised penalty provisions.

Delinquency and interest penalties are made applicable to the two-mill tax, and a flat \$100 late reporting penalty is provided for not timely filing required notices and position statements.

The revision of Chapter 199, F.S., takes effect December 31, 1985.

Emergency Excise Tax

COMMITTEE SUBSTITUTE FOR SENATE BILL 1176 (CHAPTER 85-342) amends Subsections 220.03(6), 221.01(2), 221.02(2), and 221.04(2), F.S., to delay the expiration of the emergency excise tax from June 30, 1985, to June 30, 1986.

General Tax Administration

Various aspects of the administration of tax laws by the Department of Revenue are included in COMMITTEE SUBSTITUTE FOR SENATE BILL 1176 (CHAPTER 85-342). The act revises provisions which authorize taxpayers to file an action in circuit court or a petition under Chapter 120, F.S., to contest certain tax assessments. It amends Section 72.011, F.S., and creates Subsection 120.575(3), F.S., to replace the requirement for good faith payment of taxes admitted to be owing with a requirement for payment of uncontested taxes. With respect to petitions under Chapter 120, F.S., it deletes a requirement for filing a bond for the contested amount. With respect to actions in circuit court, it allows the executive director of the Department to waive the bond requirement. It also repeals

Section 72.021, F.S., which provides a penalty for gross underpayment of taxes admitted in good faith to be owing.

Section 72.041, F.S., is created to authorize actions in Florida courts to enforce sales, use, and corporate income taxes of another state that grants similar rights to Florida.

Subsections 95.091(4), 212.14(6), and 213.21(1), F.S., are amended to provide that statutes of limitations on actions to collect taxes, issuance of final assessments, and assessment of sales taxes are tolled during taxpayer protest proceedings under Section 213.21, F.S. Paragraph 213.21(2)(a), F.S., is also amended to allow the Executive Director to approve compromises resulting in a tax reduction of \$100,000 or less, rather than less than \$25,000.

With respect to estate taxes, the act amends Subsection 198.13(1) and Section 198.15, F.S., to conform the dates for filing the Florida return and paying the Florida estate tax to the dates for filing the initial federal estate tax return and paying the tax pursuant thereto.

Regarding tax administration generally, Section 213.23, F.S., is created to authorize consent agreements with taxpayers to extend the time during which an assessment may be issued or return claim filed. A new Section 213.24, F.S., provides that when a taxpayer makes payment within 30 days of notice, interest shall not be imposed for the period after the date of notice. Section 213.25, F.S., is created to authorize the Department to reduce a taxpayer's refund or credit to cover amounts due for the same or other taxes. Under the provisions

of new Section 213.27, F.S., the Department may contract with debt collection agencies or attorneys for the collection of delinquent taxes. A bond not in excess of \$100,000 is required of such debt collection agencies. Breach of confidentiality by such agencies is a first degree misdemeanor. New Section 213.29, F.S., provides that any person who willfully fails to collect or truthfully account for and pay, or willfully attempts to evade or defeat any documentary stamp tax, motor or special fuel tax, or sales tax is subject to a penalty of 100 percent of the tax evaded. This is in addition to other penalties provided by law but is to be reduced to the extent the tax is paid.

In the corporate tax area, Section 220.53, F.S., is amended to make the provisions of Section 213.06, F.S. (relating to departmental rulemaking authority), and Section 213.21, F.S. (relating to informal conferences to resolve taxpayer disputes), applicable to the corporate income tax, except for those portions relating to compromise of estimated tax penalties and certain adjustments. Also, Subsection 214.09(4), F.S., which allows extension of the time period for issuance of notice of deficiency, and Subsection 214.16(2), F.S., which allows extension of the time period for filing a claim for refund, are repealed.

This act also deletes from Subsection 192.091(2), F.S., all references to tax collectors' commissions for issuance of state and county licenses. In the same area, SENATE BILL 832 (CHAPTER 85-324) increases a variety of service fees collected

by tax collectors, effective October 1, 1985. The statute provisions affected and fee changes are as follows:

Subsection 319.32(2), F.S. (issuance of motor vehicle title certificate), \$3 to \$4.25.

Paragraph 320.04(1)(a), F.S. (issuance of motor vehicle license), \$1.25 to \$2.50.

Subsection 320.065(3), F.S. (registration of certain semitrailers used to haul agricultural products), \$1.25 to \$2.50.

Subsection 320.0815(2), F.S. (issuance of sticker for mobile homes and recreational vehicles taxed as real property), \$1.25 to \$2.50.

Subsections 327.11(2) and 327.25(4), F.S. (registration of vessels), \$1 to \$2.25.

Subsection 328.03(6), F.S. (vessel title certificates), \$1.50 to \$3.75.

Paragraph 372.57(17)(a), F.S. (fishing, hunting, and trapping licenses), \$0.25 per license costing \$3 or less, and \$0.50 for those costing more than \$3, to a flat fee of \$1.

*Subsection 372.5712(2), F.S. (waterfowl stamp), \$0.25 to \$0.50.

*Subsection 372.573(2), F.S. (permit to use Game and Fresh Water Fish Commission land), \$0.50 to \$1.

*Section 372.60, F.S. (duplicate licenses), \$0.25 to \$1.

*Subsection 372.65(3), F.S. (various freshwater and exotic fish and frog licenses), \$0.50 to \$1.

*Effective June 1, 1986.

Financial Matters

HOUSE BILL 1227 (CHAPTER 85-138) creates Paragraph 18.10(2)(i), F.S., to authorize the investment of state funds for not more than 90 days in intermediate term notes of any U.S. corporation, if the long term obligations of such corporation are rated by at least two nationally recognized rating services in any one of the three highest classifications approved by the Comptroller for the investment of the funds of national banks. If such obligations are rated by only one nationally recognized rating service, then the obligations must be rated in any one of the two such highest classifications.

This act also creates Subsection 18.10(6), F.S., designating the Treasurer as the cash management officer for the state, with the duty to provide for the efficient handling of financial assets of the State Treasury and the various state agencies. It also amends Subsection 18.101(1), F.S., to authorize the Treasurer to designate an account to which moneys collected by the state may be transmitted from clearing accounts. An amount sufficient to create one position to implement the act is appropriated to the Treasurer.

Numerous trust funds of various state agencies are affected by HOUSE BILL 893 (CHAPTER 85-164). Specified replacement trust fund assets and liabilities of the following agencies are transferred to the General Revenue Fund: the Department of Corrections, the Department of Health and

Rehabilitative Services, and the Judicial Branch. In the following agencies, specified replacement trust funds are abolished and assets and liabilities transferred to a consolidated replacement trust fund within the agency: the Departments of Corrections, Natural Resources, Administration, State, Environmental Regulation, General Services, Insurance, Community Affairs, Labor and Employment Security, and Health and Rehabilitative Services, and the Game and Fresh Water Fish Commission. Replacement trust funds within the State University System are abolished, with assets and liabilities transferred to a consolidated replacement trust fund in the Division of Universities. Specified trust funds of the following agencies are abolished and disposed of as provided in the act or by general law: the Departments of Agriculture and Consumer Services, State, Environmental Regulation, General Services, Natural Resources, Revenue, Community Affairs, Labor and Employment Security, Education, and Law Enforcement. In the following agencies, specified trust funds are abolished, with funds deposited in the General Revenue Fund: the Departments of Agriculture and Consumer Services, Natural Resources, Labor and Employment Security, Education, Health and Rehabilitative Services, and Law Enforcement, the Judicial Branch, and the Parole and Probation Commission. Inactive trust funds are abolished in the following agencies: the Departments of Agriculture and Consumer Services, Administration, Business Regulation, State, General Services, Revenue, Transportation, Community Affairs, Education, Health

and Rehabilitative Services, and Natural Resources, the Game and Fresh Water Fish Commission, the Public Service Commission, and the Legislative Branch. Subsections 206.60(2) and 206.875(1), Section 207.026, and Paragraph 265.26(4)(b), F.S., are amended to conform language and names of funds.

Section 403.725, F.S., relating to the Hazardous Waste Management Trust Fund, is amended to delete the requirement that certain permit and excise tax fees and fines be deposited therein, and to delete authority to recover moneys expended from the Fund. Sections 240.509, 288.32, and 420.425, F.S., relating to the Agricultural College Trust Fund, the Urban Planning Assistance Revolving Trust Fund, and the Neighborhood Housing Services Grant Fund, are repealed.

HOUSE BILL 1313 (CHAPTER 85-282) creates Sections 159.801 - 159.815, F.S., designated as Part VI of Chapter 159, F.S., and entitled the "Florida Private Activity Bond Allocation Act," effective January 1, 1986. Its purpose is to allocate the statewide volume limitation imposed on private activity bonds under Section 103(n) of the Internal Revenue Code, and it prohibits the issuance of private activity bonds in Florida without written confirmation pursuant to the act. The Division of Bond Finance of the Department of General Services is directed to determine the amount of private activity bonds permitted to be issued in Florida annually. The total amount is initially divided into a county allocation (50 percent), a state allocation pool (45 percent), and a small issuer pool (5 percent). Each county has a county allocation

based on its population, and in issuing confirmations of such bonds, the Division shall first use the county allocation for the county in which the issuing agency is located. However, prior to April 1, the state allocation pool shall be available to finance priority projects (waste resource recovery, sewage or solid waste disposal, or air or water pollution control facilities, or projects in enterprise zones). After April 1, the state allocation pool is used after a county allocation has been exhausted. The state pool is also used for bonds issued by state agencies. Prior to September 1, the small issuer pool is to be used only with the written approval of the Governor for bonds issued by an agency in a small (50,000 or less population) county when the county and state allocations therefor are exhausted.

The act requires any agency wishing to issue private activity bonds to file a notice of intent with the Division, accompanied by a fee of no more than \$500, such fee to be set by the Division to cover costs of administration of the program. (Fee requirements take effect July 1, 1985.) Except for priority projects, confirmations are to be issued in the order in which notices of intent are received. Confirmation expires if bonds are not issued within 90 days after confirmation is issued or December 31, whichever is earlier. However, time limits do not apply to priority projects or projects of \$50,000,000 or more. Unused and excess amounts become available for reallocation. On September 1, unused county and small issuer pool allocations are added to the state

allocation pool. Pursuant to Internal Revenue Code requirements, carryforwards are provided for qualified priority projects and, after December 1, for qualified nonpriority projects. Written confirmations or carryforwards issued in 1984 or 1985 pursuant to specified executive orders are not affected by the act. Executive orders are authorized to conform the act to future federal amendments until conforming amendments are adopted. The Division is authorized to prescribe forms and adopt rules, and up to \$50,000 and one position are appropriated to administer the act.

Retroactive to December 1, 1984, this act also amends Subsection 159.26(3), F.S., to include the promotion of improved transportation within the purposes of the Florida Industrial Development Financing Act, and Subsection 159.27(5), F.S., to include mass commuting facilities among the authorized projects thereunder. Such facilities are defined in a newly created Subsection 159.27(23), F.S., to have the same meaning as in Section 103(b)(4) of the Internal Revenue Code.

COMMITTEE SUBSTITUTE FOR SENATE BILL 507 (CHAPTER 85-26) creates seven consensus estimating conferences. Each conference is to develop official information, including 10-year forecasts, within its area of responsibility, to be used by all state agencies in carrying out their duties under the state planning and budgeting system. Each conference consists of principals, who preside over and convene sessions, specify topics to be included, and release official information, and participants, who are invited to participate by the principals.

The conferences created are:

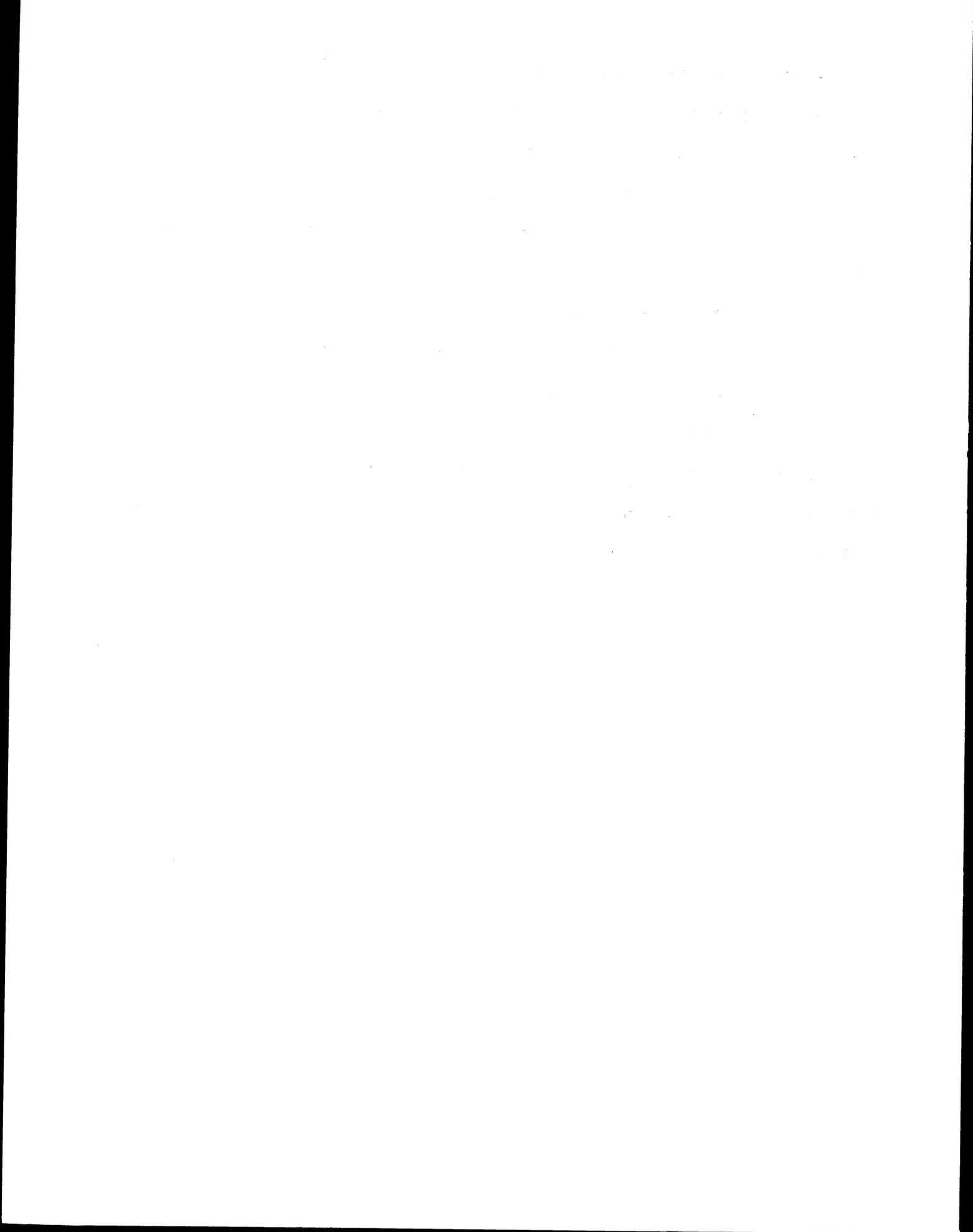
1. Economic Estimating Conference -- to develop information with respect to the national and state economies, including trend and cycle forecasts. Its principals are the Executive Office of the Governor, the director of the Division of Economic and Demographic Research of the Joint Legislative Management Committee, and professional staff of the Senate and House of Representatives who have forecasting expertise, or their designees.
2. Demographic Estimating Conference -- to develop information with respect to the population of the nation and the state. Its principals are the same as above.
3. Revenue Estimating Conference -- to develop information relating to anticipated state and local government revenues. Its principals are the same as above.
4. Education Estimating Conference -- to develop information relating to the state educational system, including student enrollment forecasts, capital outlay needs, and Florida Education Finance Program formula needs. Enrollment projections are to be forwarded to the school districts prior to legislative sessions, and procedures for making adjustments are provided. Its principals are the

Associate Deputy Commissioner for Educational Management and those listed above.

5. Criminal Justice Estimating Conference -- to develop information relating to the criminal justice system, including forecasts of prison population and supervised caseload. Its principals are as above, plus professional staff of the Department of Corrections.
6. Social Services Estimating Conference -- to develop information relating to state social services, including caseload forecasts. Its principals are as above, plus professional staff of the Department of Health and Rehabilitative Services.
7. Transportation Estimating Conference -- to develop information relating to transportation planning and budgeting, excluding transportation revenue estimates. Its principals are as above, plus professional staff of the Department of Transportation.

A session of a consensus estimating conference may be convened to develop information on behalf of the Governor for use in preparing legislative budget recommendations; to develop information for legislative budget deliberations; to review official conference information; or to consider special impacts. Each conference is to convene following the close of a legislative session to revise its official information.

The act also provides that prior to the distribution of any funds appropriated in the General Appropriations Act for the Florida Education Finance Program formula and for the formula-funded categorical programs, the Commissioner of Education shall conduct an allocation conference. Conference principals shall include representatives of the Department of Education, the Executive Office of the Governor, and the Appropriations Committees of the Senate and the House of Representatives. Conference principals shall discuss and agree to all conventions and methods of computation to be used to calculate the districts' Florida Education Finance Program and categorical entitlements for the fiscal year for which the appropriations are made.



HEALTH AND REHABILITATIVE SERVICES*

Laws relating to health and rehabilitative services enacted during the 1985 Legislative Session address a wide range of subjects. Landmark legislation on child care was enacted into law, which is the product of both the Child Care Task Force established during the December 1984 Special Session and by this year's Legislature. Other legislation affecting children which passed relates to adoption and child abuse and neglect.

The "Florida Clean Indoor Air Act" was created to prohibit the smoking of tobacco products in public meetings and in public places except in designated areas. Other legislation pertaining to health includes: the regulation of bottled water; continuing education courses for septic tank contractors; notification of emergency medical technicians who come in contact with patients who are diagnosed as having an infectious disease; consideration of nurse anesthetists for clinical privileges; the study and prevention of the disease known as Acquired Immune Deficiency Syndrome (AIDS); funding for Emergency Medical Services training through the increase in fines for driving under the influence of alcohol or a

*Prepared by staff of House HRS Committee

controlled substance; establishment of a project to educate and inform medical professionals, law enforcement agencies and officers, and the public regarding anatomical gifts; the regulation of public swimming pools and bathing places; and changes in the reimbursement methodology for regional and perinatal intensive care centers (RPICCs) for critically ill newborns and their mothers throughout the state.

Significant legislation was enacted in the area of aging, and includes: changes in the law related to protective services for aged and disabled persons; clarification of the responsibilities of nursing homes for residents' funds and property held in trust; amendments to the statute relating to adult congregate living facilities; strategies for addressing the problem of Alzheimer's Disease, including the creation of an Alzheimer's Disease Advisory Committee; providing for the reporting of certain financial and residential data by nursing homes; and the creation of the Adult Foster Home Care Act.

Legislation passed which adds spina bifida as one of the categorical handicapping conditions to developmental disabilities, as well as the establishment of an umbrella trust fund for the benefit of developmentally disabled and mentally ill persons. Minors under the age of 14 years, who are admitted to any public or private hospital, will be separated from adults and shall not be placed in a bed, room, or ward with adults. The Department of Health and Rehabilitative Services (DHRS) will license and regulate alcohol prevention

and treatment programs and facilities as a result of legislation passed.

Laws were enacted addressing issues related to: the licensure of crisis stabilization units and residential treatment facilities; home health agencies; the management of client trust funds; head injuries; emergency medical services funding; mentally retarded or mentally ill forensic clients of DHRS, chiropractic and podiatric health care, and a study on hunger.

Legislative findings related to the purposes of the 1975 reorganization of the Department of Health and Rehabilitative Services resulted in the passage of an act calling for a joint House and Senate review of the agency with emphasis on the effect of the organizational structure on departmental programs. Legislation was passed relating to tangible personal property which provides relief to the Department from inventorying prescriptive medical personal property purchased by the Department for use or benefit of a particular client of the Department, and authorization is provided for fee collections for monies held in trust for Department clients to pay for care and maintenance and to meet the needs of clients. A District Advisory Council Statewide Coordinating Committee, consisting of eleven members (one for each district), is created to meet at least quarterly to discuss legislative matters and Department recommendations.

Children

COMMITTEE SUBSTITUTE FOR SENATE BILL 489 (CHAPTER 85-54) amends Chapters 39, 110, 393, 394, 396, 397, 402, 409, and 415, F.S. Most of the changes pertain to standards for programs serving children; however, some changes in Chapter 415, F.S., relate specifically to issues of child abuse.

Throughout the act changes are made that determine who can operate, be employed in, and volunteer in programs which serve children in Florida. Screening, including fingerprinting, is required for all current employees, operators, and volunteers, as well as those applying to work in programs operated by the Department of Health and Rehabilitative Services, developmental services day care or residential facilities, mental health, alcohol and drug abuse treatment programs, child day care settings, and residential child care settings. Based upon the information received from the fingerprint check and the FDLE (Florida Department of Law Enforcement) check, if a person has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to specified felonies, then that person cannot be utilized in the program. The language also extends to persons who have been judicially determined to have committed abuse against a child pursuant to Chapter 39, F.S., or to have committed spouse abuse, to persons who have juvenile records for any of the offenses cited for exclusion if committed by an adult, and to those persons who have substantiated indicated reports of abuse. Provisions are made

for persons who have committed certain misdemeanors, who have committed spouse abuse, or who have a substantiated indicated report of abuse to be exempted from exclusion from employment by proof of rehabilitation. Provision is made for an administrative hearing. Penalties are provided for the use of information obtained from screening of individuals in a manner, or for a purpose, not consistent with the requirements of the act.

If an operator, employee or volunteer is retained by a program after notification of failure to comply with the screening, then the program is threatened with loss of certification, registration, or licensure as well as possible civil and criminal penalties. Due process is provided for those wishing to contest the validity of the record or the denial of an exemption through the administrative hearing proceedings of Chapter 120, F.S.

Other than screening, four additional areas in minimum standards are addressed for child care facilities licensed pursuant to Sections 402.301 - 402.319, F.S.:

- (1) Minimum age of operator and employee: 21 for operators; 16 for employees, with an allowance for utilization of younger persons under certain circumstances;
- (2) Minimum training: 20 hours mandatory introductory course and then eight hours of inservice training per year; provides for training of qualified child care professionals; provides exemption based on

educational credentials or competency examinations; training requirements do not apply to certain support staff;

- (3) Child discipline: prohibits forms of discipline associated with food, toileting, rest, or discipline that is severe or humiliating; prohibits corporal punishment; requires age-appropriate discipline; requires parents to be notified in writing of disciplinary practices prior to enrollment; and
- (4) Daily plan of activities: requires each facility to have and to implement a written plan of activities that are varied and age appropriate.

This legislation makes several other changes pertaining to child day care. The major changes: prohibit a county or municipality from issuing an occupational license without proof of a license for operation as a child care facility; provide that if a county has a local licensing agency it shall bear at least 75 percent of the cost of its program instead of the current requirement that it must bear 100 percent; establish a Child Care Facility Trust Fund for the purpose of providing low cost loans to persons who wish to expand existing day care facilities or to build new facilities; create a Child Care Advisory Council within the Department of Health and Rehabilitative Services (DHRS) to make recommendations to the Department and the Legislature on various areas impacting the quality and affordability of day care; and require child care facilities, all secular non-public schools and all day camps to

maintain a surety bond or liability insurance, or to deposit cash or securities with DHRS, in the amount of \$100,000.

The law addresses the area of family day care homes by clarifying the definition, requiring registration of family day care homes, requiring the homes to meet screening requirements for child care personnel, and requiring the operators to take a three-hour introductory course in child care. This legislation also requires DHRS to prepare an educational brochure for family day care and to conduct a media campaign to inform family day care operators of requirements relating to such care. DHRS is also required to evaluate the registration and licensure system for family day care homes.

In the area of foster care and residential care, Section 409.175, F.S., is amended to provide that health inspections will be done upon the determination of need by the licensing agency, that the licensing study by a licensed child-caring agency of its foster homes is sufficient, and that DHRS does not have to reinspect them.

Three changes are made to Chapter 415, F.S., relating to child abuse and neglect reports and investigations, that do not pertain to screening requirements mandated in other parts of this law. Two changes are made in Section 415.504, F.S., which is amended to require that the DHRS notify specified persons of the completion of its abuse investigation and its outcome, and to provide a mechanism for contesting an indicated report of abuse by any person who is a subject of the report. The third change creates Section 415.5095, F.S., requiring DHRS to

develop a model plan for community intervention and treatment of intra-family sexual abuse. The plan is to be developed in conjunction with the Florida Department of Law Enforcement, Department of Education, the Attorney General, State Guardian Ad Litem Program, Department of Corrections, representatives of the judiciary, and professionals and advocates from the mental health and child welfare community.

Finally, although the effective date of the legislation is July 1, 1985, with the exception of children's programs operated by DHRS, the fingerprinting and screening provisions are not effective until after January 1, 1986.

SENATE BILL 822 (CHAPTER 85-189) amends Chapter 63, F.S., pertaining to adoption, to accomplish the following:

- (1) Require that the petitioner in an adoption case be provided with a copy of the Department of Health and Rehabilitative Services' (DHRS) or a licensed child-placing agency's recommendation on the placement of the child;
- (2) Require the intermediary or petitioning adoptive parent to petition the court for a determination of suitability within 20 days of receipt of a copy of the written recommendation when the recommendation is unfavorable;
- (3) Reduce the time in which DHRS or a licensed child-placing agency must determine the status of a child for whom adoption has not been finalized from one

year to six months from the date of the initial petition for adoption; and

- (4) Require the court to give notice of hearing to DHRS or the licensed child-placing agency, whichever is appropriate, in order for them to give a recommendation to the court on disclosure of information in adoption records.

The act also amends Chapter 627, F.S., to require health insurance and group health insurance policies which provide family coverage to cover adopted children from the moment of placement in the residence of the insured.

The effective date of this act is October 1, 1985.

SENATE BILL 967 (CHAPTER 85-338) amends Section 39.404, F.S., to require the state attorney or his designate to review a dependency petition involving child abuse for legal sufficiency when the petition is filed by a person who is not an attorney. In addition, Section 415.505, F.S., is amended to require the Department of Health and Rehabilitative Services, upon request, to furnish child protective investigation reports to the state attorney and the local law enforcement agency. The section is also changed to require that the Department recommend to the state attorney that he consider whether prosecution is justified and appropriate in indicated cases of child abuse where the alleged offender has a prior indicated case of child abuse. Finally, the act mandates the state attorney to report to the Department within 15 days of completion of his investigation the findings in certain cases

reported to him, including in his report a determination of whether or not prosecution is justified and appropriate.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1147 (CHAPTER 85-248) creates the "Child Abuse Prevention Training Act of 1985" to encourage primary prevention training for children in grades K-12, parents of school children, teachers, and guidance counselors. The primary prevention and training program, by definition, is directed toward preventing the occurrence of child abuse, including sexual abuse, physical abuse, child neglect, and drug and alcohol abuse. The Department of Education (DOE), in consultation with the Department of Health and Rehabilitative Services (DHRS), is to select and award grants by January 1, 1986, for the establishment of three private, nonprofit prevention training centers: one in North Florida, one in Central Florida, and one in South Florida. The training centers are to provide assistance to DOE and to DHRS and its respective districts in areas of primary prevention and training. DOE is required to monitor and evaluate the prevention and training programs established in the local school districts as well as monitor and evaluate the three training centers.

Section 231.17, F.S., is amended to require that an applicant for certification as a teacher must demonstrate the ability to recognize signs of child abuse and neglect and of alcohol and drug abuse, of what to do in cases when abuse is evident or suspected, and of instructional techniques regarding prevention of such abuse and neglect.

Section 233.011, F.S., is amended to require DOE to develop, as part of the curriculum framework, intended outcomes relating to child abuse and neglect prevention and to alcohol and drug abuse prevention.

Section 236.0811, F.S., is amended to require each school district to include within its five-year master plan for inservice educational training needs competency requirements in child abuse, drug abuse, and alcohol abuse prevention. Classroom teachers and guidance counselors are required to participate in the training.

Finally, the prevention training programs provided for in this legislation are not intended to duplicate existing efforts or to suspend existing efforts.

Public Health

COMMITTEE SUBSTITUTE FOR HOUSE BILL 281 (CHAPTER 85-257) creates the "Florida Clean Indoor Air Act." The act which becomes effective on October 1, 1985, prohibits the smoking of tobacco products in public meetings and in public places except in designated areas. "Public places" is defined broadly in the act to include the following enclosed indoor areas used by the general public: government buildings, restaurants, retail stores, public means of mass transportation and their associated terminals not subject to federal regulation, elevators, hospitals, nursing homes, educational facilities, libraries, courtrooms, jury waiting and deliberation rooms, grocery stores, school buses, museums, theaters, auditoriums,

arenas, recreational facilities, and places of employment. Structural modifications to buildings to minimize the transfer of smoke are not required, nor are heating, ventilating, and air conditioning (HVAC) alterations. In places of employment, the smoking policy must be designed to take into account the proportion of smokers to nonsmokers. Restaurants may exempt themselves from the law. The government entity that manages a building used for government purposes must enforce the law in that building; the Department of Business Regulation shall inspect for compliance with certain provisions of the law as it relates to restaurants; and the Department of Health and Rehabilitative Services is responsible for inspecting for compliance with specified provisions of the law all the facilities it licenses or regulates. When a smoking area is designated by the person in charge of a public place, signs must be posted stating that smoking is permitted in such area. Certain facilities, however, will not be allowed to have a designated smoking area in any case. Violation of the act is a noncriminal violation punishable by a fine of not more than \$100 for the first occurrence and \$500 for each subsequent violation. In addition, this act repeals Section 255.27, F.S., relating to state policy concerning smoking in public buildings.

COMMITTEE SUBSTITUTE FOR SENATE BILL 454 (CHAPTER 85-300) creates Section 381.285, F.S., the "Bottled Water Act," effective October 1, 1985, and provides specific regulatory authority for the bottling, sale, and labeling of bottled

water. The act requires that anyone who operates a bottled water plant or imports water into the state to sell must obtain a permit from the Department of Health and Rehabilitative Services (DHRS). Section 500.455, F.S., is created to provide definitions for the different types of bottled water, as well as labeling requirements and processing standards to be enforced by the Department of Agriculture and Consumer Services. That Department and DHRS are directed to cooperate in enforcing the provisions of the law. A cooperative agreement is to be established between the two departments by July 1, 1986.

COMMITTEE SUBSTITUTE FOR SENATE BILL 519 (CHAPTER 85-314) requires the Department of Health and Rehabilitative Services (DHRS) to conduct an annual 12 classroom hour continuing education course for septic tank contractors, pumpout operators, master plumbers who install septic tanks, and state environmental health specialists. Successful completion of the course would permit the participants to use the term "state sanctioned" in their advertisements. The act also amends Subsection 381.272(6), F.S., to clarify provisions of the on-site sewage disposal system law [that had been requested by DHRS officials] relating to the allowable distance between a public well and a disposal system.

October 1, 1985, is the effective date of this act.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 627 (CHAPTER 85-157) creates Section 395.0147, F.S., which requires hospitals to notify emergency medical technicians, paramedics, or their

employers if these personnel come in contact with a patient who is subsequently diagnosed as having an infectious disease. Notification of the personnel is required within 48 hours after diagnosis of the disease, as well as advice as to the appropriate treatment, if any.

Subsection 395.509(11), F.S., is amended to provide that mandatory reductions in hospitals' budgets that have exceeded allowed rates of increase shall not apply in fiscal year 1986 to hospitals opened since May 18, 1982.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 639 (CHAPTER 85-99) amends Section 395.011, F.S., to require hospitals to establish rules for considering applications by nurse anesthetists for professional clinical privileges. The legislation requires that Certified Registered Nurse Anesthetists (CRNAs) administer anesthesia only under on-site medical direction which specifically addresses the needs of the individual patient. The act provides that application by CRNAs for hospital professional clinical privileges shall be considered individually according to the criteria set forth in the Nurse Practice Act, Chapter 464, F.S. Hospitals are required to consider applications for clinical privileges from psychologists licensed under Chapter 490, F.S. Finally, the language limits the liability of any hospital relating to any action the hospital takes in complying with the provision of the act, so long as the action is taken in good faith.

The provisions of this act take effect on October 1, 1985.

SENATE BILL 1038 (CHAPTER 85-52) creates Section 381.606, F.S., to authorize the Secretary of the Department of Health and Rehabilitative Services (DHRS) to declare that a threat to the public health exists when there is the occurrence of an infectious disease that may be transmitted through serologic or other means [such as Acquired Immune Deficiency Syndrome (AIDS)]. Under such declaration, the Secretary would be empowered to direct that certain steps be accomplished to prevent the spread of such an infectious disease in Florida. As one of those steps, the act permits the Secretary to authorize the establishment of sites to offer serologic tests for infectious diseases as alternatives to the state's blood banks and plasma centers. [To encourage individuals in high-risk groups and others who wish to receive the serologic tests not to donate blood in order to obtain the test, the alternative sites would be required to notify the individuals immediately of their test results.] The confidentiality of test results is explicitly created and a penalty is provided for the unauthorized disclosure of such results.

COMMITTEE SUBSTITUTE FOR SENATE BILL 964 (CHAPTER 85-337) amends Sections 316.061, 316.192, 316.193, 318.18 and 401.113, F.S., to increase fines for reckless driving, for driving under the influence of alcoholic beverages or a controlled substance, for fleeing the scene of an accident, and for certain noncriminal traffic infractions. [See summary of COMMITTEE SUBSTITUTE FOR HOUSE BILL 1020 (CHAPTER 85-167), under subheading Alcohol, Drug Abuse and Mental Health of this

article, for similar provisions.] These fines and penalties are increased by \$25 for driving under the influence of alcohol or a controlled substance (DUI) and by \$5 for other traffic violations (criminal and noncriminal). These additional fines will be deposited into an already existing Emergency Medical Services (EMS) Trust Fund, which will be administered by the Department of Health and Rehabilitative Services to improve and expand EMS in the state.

Section 401.113, F.S., is amended to provide that the funds shall be disbursed as follows:

- (1) Forty-five percent to the counties (apportioned according to the amount deposited in the Trust Fund from each county);
- (2) Fifty percent for matching grants to counties, municipalities or private nonprofit EMS organizations for EMS research and training; and
- (3) Five percent to defray the Department's administrative expenses.

The act also exempts this Trust Fund from the six percent service charge of Section 215.20, F.S.

The provisions of this act have an effective date of October 1, 1985.

SENATE BILL 1083 (CHAPTER 85-247) amends Section 732.921, F.S., providing that a two-year project established pursuant to Chapter 83-171, Laws of Florida, become a continuing program of the Department of Health and Rehabilitative Services (DHRS), with the concurrence of the

Department of Highway Safety and Motor Vehicles. The program is intended to educate and inform medical professionals, law enforcement agencies and officers, and the public regarding the need for anatomical gifts and the laws relating thereto. The act directs that the programs shall include a demonstration project incorporating activities targeted at providing information to non-white, Hispanic and Caribbean populations of Florida. DHRS shall submit a report to the Legislature on the effectiveness of the program by March 1 of each year.

An appropriation of \$175,000 is made from the General Revenue Fund to DHRS for fiscal year 1985-86 to implement the continuing program provided for in this act. Of such sum, \$25,000 is to be used for the demonstration project.

HOUSE BILL 1319 (CHAPTER 85-173) reenacts with amendments Chapter 514, F.S., the public swimming pools and bathing facilities act, which was scheduled for repeal under the Regulatory Sunset Act on October 1, 1985. A new repeal and review date is set for October 1, 1995. This measure provides for the continued regulation of public swimming pools and bathing places by the Department of Health and Rehabilitative Services (DHRS). The law requires that anyone desiring to construct, modify or operate such facilities obtain a plan of approval or an operating permit from DHRS. Before such approval or permit will be granted, the facility must be in compliance with health and safety standards promulgated by DHRS pursuant to Chapter 514, F.S.

Section 514.011, F.S., is created to provide definitions of "department," "public swimming pool or public pool," "private pool," and "public bathing place." This section also exempts from regulation pools serving 32 or less condominiums or cooperative living units, except for water quality which continues to be regulated. Section 514.045, F.S., is created to provide for an advisory review board appointed by the Governor to recommend agency action on variance requests, rule and policy development, and other technical review problems. This board is subject to review on October 1, 1995, pursuant to Section 11.611, F.S., the Regulatory Sundown Act.

The effective date of this act is October 1, 1985.

HOUSE BILL 1376 (CHAPTER 85-225) amends Sections 383.16 through 383.19, F.S., to provide for a change in the reimbursement methodology for regional perinatal intensive care centers (RPICCs) for critically ill newborns and their mothers throughout the state. The act discontinues the current funding mechanism of equalization funding and minimum support grants and directs the Department of Health and Rehabilitative Services (DHRS) to develop and implement a neonatal care group (NCG) payment system. This NCG system is to be a prospective payment system for funding in-center neonatal hospital services which places patients into homogenous groups based on clinical factors, severity of illness, and intensity of care. DHRS is also directed to evaluate the role of health planning in neonatal intensive care services. In addition, the Hospital Cost Containment Board and DHRS are directed to cooperate in

the development of studies on the funding and quality of neonatal care in each hospital offering such care. The reports of these studies shall be submitted by December 1, 1986, to the Governor, the President of the Senate, the Speaker of the House of Representatives and to certain other designated legislative officers.

Aging and Adult Services

COMMITTEE SUBSTITUTE FOR HOUSE BILL 12 (CHAPTER 85-143) creates Section 415.113, F.S., which clarifies Sections 415.101 through 415.112, F.S., relating to protective services for aged and disabled persons, by providing that an individual shall not be considered to be abused, neglected or in need of emergency or protective services for the sole reason that he relies upon spiritual means for treatment. This provision does not, however, prevent someone from reporting such a case to the Department of Health and Rehabilitative Services (DHRS), prevent the DHRS from investigating such a case, or preclude a court from ordering medical treatment. This legislation applies only to Sections 415.101 - 415.112, F.S., addressing protective services for aged and disabled adults, and does not in any way impact the sections of Chapter 415, F.S., dealing with child abuse.

Subsection 415.104(1), F.S., relating to protective services investigations of cases of abuse, neglect or exploitation of aged or disabled persons, is amended to provide that DHRS shall begin a protective services investigation

within 24 hours after receipt of a report alleging such abuse or neglect, and shall notify the appropriate law enforcement agency and human rights advocacy committee when such action is perpetrated by a second party. It also directs DHRS to notify the state attorney when probable cause of abuse, neglect or exploitation by a second party is determined.

SENATE BILL 40 (CHAPTER 85-286) amends Section 400.162, F.S., to clarify the responsibilities of a nursing home with regard to disbursement of a resident's personal property and funds which are held in trust by the nursing home. Paragraph 400.162(5)(a), F.S., is revised to specify that funds and property belonging to a resident are to be held in trust by a nursing home. Subsection 400.162(6), F.S., is amended to provide that, in the event of the death of a resident, a nursing home shall return all funds and property held in trust to the resident's personal representative or to the resident's spouse or adult next of kin as named in a beneficiary designation form. This act is to become effective on October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 62 (CHAPTER 85-251) amends Part II of Chapter 400, F.S., relating to adult congregate living facilities (ACLFs). Paragraph 400.411(2)(g), F.S., adds the requirement that applicants for an ACLF license must provide documentation that the facility complies with local zoning ordinances, and Section 400.413, F.S., is created to prohibit expansion of the size of existing structures unless it is documented that such construction complies with local

zoning requirements. In addition, this act amends Section 400.452, F.S., to require ACLF administrators and designated facility staff to complete an educational and training program established by the Department of Health and Rehabilitative Services, and provides a penalty for failure to complete the program.

This act becomes effective on October 1, 1985.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 77 (CHAPTER 85-145) provides for the creation of an Alzheimer's Disease Advisory Committee to consult with the Department of Health and Rehabilitative Services (DHRS), and directs the DHRS to award research grants should funds be available in the Alzheimer's Disease Research Trust Fund, also created by this act. It directs the Legislature to fund memory disorder clinics for the purpose of conducting research and training. In addition, DHRS is directed to contract for three specialized model day care programs and for the provision of respite care. This act also provides for a research component.

Part II of Chapter 400, F.S., relating to adult congregate living facilities (ACLFs), is also amended. Section 400.402, F.S., relating to definitions, is amended to clarify the role of a nurse in supervising self-administered medication in an ACLF by allowing a nurse to observe a resident, document observations, and report such observations to the resident's physician. In addition, a definition of "mechanical restraint" is added to this section. Paragraph 400.441(1)(h), F.S., is

added to limit the use of such restraints to a half bed rail when prescribed and documented by a resident's physician.

Subsection 400.411(3), F.S., is amended to require an applicant for an ACLF license to demonstrate certain financial stability for the first 12 months of operation. Finally, Subsection 400.426(1), F.S., is amended to clarify that the owner or administrator of an ACLF is responsible for determining the continued appropriateness of a resident in the facility.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 235 (CHAPTER 85-298) creates Sections 400.341 - 400.346, F.S., to provide for the reporting of certain financial and resident data by nursing homes in Florida. Each licensed nursing home is directed to file an annual cost report with the Hospital Cost Containment Board which analyzes the data and reports its findings to the Legislature. Facilities certified by Medicaid or Medicare have certain reporting requirements waived in exchange for cost reports and audits already submitted. In addition to reporting to the Legislature for use in its long-range planning, the Board is also directed to inform the public of nursing home costs through pamphlets and other means.

Nursing homes will also report certain patient data related to the experience of converting to Medicaid. [Such information is especially relevant to the development of long term care insurance within the private insurance industry.]

The cost to the Hospital Cost Containment Board of implementing this legislation will be recovered in an increased licensure fee to each facility.

The Executive Office of the Governor is authorized to establish up to 10 positions and an associated approved budget for the Hospital Cost Containment Board to implement the provisions of this act.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1258 (CHAPTER 85-195) creates Part VI of Chapter 400, F.S., the "Adult Foster Home Care Act" (consisting of Sections 400.616 - 400.623, F.S.). The adult foster home program has been in existence for several years and is used by the Department of Health and Rehabilitative Services as a placement alternative for three or fewer non-related aged or disabled adults who do not require institutional care but who need some assistance with their activities of daily living and whose families are unable to care for them. This act provides the Department the statutory authority necessary to guarantee that adult foster homes licensed by the Department meet and maintain certain health and safety standards to protect the welfare of the residents. It also directs the Department to perform abuse registry checks on all persons applying for licensure, and gives the Department the authority to deny, suspend or revoke a license under certain circumstances.

Part VI of Chapter 400, F.S., created by this act, is scheduled for repeal on October 1, 1995, pursuant to review under the Regulatory Sunset Act.

Under the provisions of COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 247 (CHAPTER 85-299) the Department of Health and Rehabilitative Services is directed to establish a statewide computer-based volunteer service credit program under which persons 60 years of age or older may volunteer their services to provide respite care, homemaker care, or related service to other persons, aged 60 or older, who are determined by the Department to need such care. Earned credit for services within the program may then be drawn upon by the volunteers or their spouses when a need for such services is determined by the Department. The program is to be coordinated with that of the volunteers program existing under Part V of Chapter 110, F.S.

A computerized skills bank is to be created by the Department with: the names, skills, and interests of persons earning service credit, an accounting system for credits earned, and the capability to produce a monthly statement of credit balance for each volunteer. The Department is charged with the responsibility of recruiting and training sufficient volunteers for a viable program and is to utilize departmental personnel and programs in the event of a lack of appropriate volunteers.

Up to five program sites may be established to judge the effectiveness of the program, and the Department is required to report specified information on the implementation of the program initially by January 1, 1987, and each January 1 thereafter to the President of the Senate and the Speaker of

the House of Representatives. The Department is authorized to award grants through specific appropriations to public or private entities for the establishment of service credit programs. Such programs are to report specified information to the Department which is to analyze the programs in its annual report to the Legislature.

An appropriation of \$50,000 is made to the Department for implementation of the statewide program and annual report.

The act takes effect October 1, 1985.

Developmental Disabilities

HOUSE BILL 169 (CHAPTER 85-147) amends Chapter 393, F.S., to include "spina bifida" as one of the categorical handicapping conditions to developmental disabilities as defined in Chapter 393, F.S. It specifies that the development of programs for persons with spina bifida shall not reduce the state funding for programs and services to persons with mental retardation, cerebral palsy, autism or epilepsy. It further prohibits the reduction or replacement of other federal or state programs because of the availability of services under this chapter.

HOUSE BILL 151 (CHAPTER 85-253) creates Section 402.175, F.S., to require the Department of Health and Rehabilitative Services to establish an umbrella trust fund for the benefit of developmentally disabled and mentally ill persons. By complying with certain criteria, families of such persons may establish an individual trust within the state funded umbrella

trust fund. This allows families who do not have the resources to create individual trusts of adequate size to have access to a trust which would benefit their developmentally disabled or mentally ill family member.

The Department is directed to contract for the administration of the umbrella trust and to provide by rule for establishment of specific expenditure categories within which disbursements may be made by the trustee.

The provisions of this act take effect on October 1, 1985.

Alcohol, Drug Abuse and Mental Health

COMMITTEE SUBSTITUTE FOR HOUSE BILL 171 (CHAPTER 85-254) amends Section 394.4785, F.S., to require that minors under the age of 14 years, who are admitted to any public or private hospital be separated from adults and not be placed in a bed, in a room or ward in a mental health unit with adults. Minors over the age of 14 years would be allowed to share a room or a ward in a mental health unit with an adult if medically indicated or for reasons of safety; however, this placement must be reviewed by the attending physician on a daily basis and documentation for continued placement must be entered into the case record.

The effective date of this act is October 1, 1985.

COMMITTEE SUBSTITUTE FOR SENATE BILL 755 (CHAPTER 85-333) amends Section 396.042, F.S., and creates Sections 396.172 through 396.179, F.S., to provide for the licensure and

regulation of alcohol prevention and treatment programs and facilities by the Department of Health and Rehabilitative Services. It establishes procedures for issuance, renewal and revocation of a license, allows for fee assessment, provides for rules and enforcement and creates the Alcoholism Resource Licensing Trust Fund in the State Treasury. Sunset Review of the licensure provisions is required before October 1995.

This act is to become effective on January 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1020 (CHAPTER 85-167) addresses several issues relating to licensure of mental health crisis stabilization units and residential treatment facilities, home health agencies, management of client trust funds, head injuries, emergency medical services funding, the mental health forensic act, chiropractic and podiatric health care, and a study on hunger.

This act amends Section 394.67, F.S., to add definitions, and creates Sections 394.875 through 394.93, F.S., which provide for the licensure of crisis stabilization units and residential treatment facilities by the Department of Health and Rehabilitative Services (DHRS). It provides procedures for applying for license, for collection and disposition of fees, and for enforcing rules establishing licensure standards. Additionally, it provides receivership proceedings, and for creation of the Mental Health Facility Licensing Trust Fund. With the exception of the right of the DHRS to enter and inspect any premises that it has probable cause to suspect may be operating as an unlicensed crisis

stabilization unit or residential treatment facility, all other provisions created by this act which relate to such activities will not become effective until January 31, 1986. A repeal date of October 1, 1995, is set, pursuant to review under Section 11.61, F.S., the Regulatory Sunset Act.

In addition, the act amends Chapter 400, F.S., to require all Florida home health agencies to apply for and obtain state licensure. [Since the 1983 Sunset review of the home health statute, the majority of home health agencies, which are not Medicare-certified, have not been regulated.] This legislation requires all currently unlicensed agencies to be licensed but exempts them from having to obtain a certificate of need and prohibits them from participating in Medicare. Existing home health agencies are given up to one year to obtain a license.

This legislation amends Chapter 402, F.S., to extend to DHRS authority to deposit client moneys in any bank, credit union, or savings and loan association insured and authorized to do business in Florida, in addition to banks qualified as state depositories. It allows investment of client moneys and welfare trust funds in insured credit unions.

In addition, it creates Sections 413.611 and 413.612, F.S., to require that certain data on persons who have suffered head injuries be reported to the state vocational rehabilitation central registry for purposes of facilitating entry into the treatment system. It creates an advisory council on head injuries that is directed to prepare a report

on the needs of head injured persons by July 1, 1986, for consideration by the Secretary of DHRS. The provision for the advisory council is repealed on October 1, 1995, subject to review by the Legislature pursuant to Section 11.611, F.S., the Sundown Act.

This legislation also amends Sections 316.061, 316.192, 316.193, 318.18 and 401.113, F.S., to increase by \$25 the fine for driving under the influence of alcohol or a controlled substance (DUI) and by \$5 the fines for other traffic violations, including reckless driving, leaving the scene of an accident, and noncriminal traffic infractions. Revenues raised by these additional fines will be deposited into an existing EMS (Emergency Medical Services) Trust Fund, which revenues will be administered by DHRS to improve and expand EMS in the state. [See summary of COMMITTEE SUBSTITUTE FOR SENATE BILL 964 (CHAPTER 85-337), under subheading Public Health of this article, for similar provisions.] The funds shall be disbursed as follows:

- (1) Forty-five percent to the counties (apportioned according to the amount deposited in the trust fund from each county);
- (2) Fifty percent for matching grants to counties, municipalities, or private nonprofit EMS organizations for EMS research and training; and
- (3) Five percent for administrative expenses of DHRS.

In addition, the act removes from Part I, Chapter 394, F.S., the "Florida Mental Health Act" or the "Baker Act," all

references to persons under criminal charges, thus making this act a civil commitment statute. It amends Chapter 916, F.S., relating to mentally deficient and mentally ill defendants, creating several new sections to establish the "Forensic Client Services Act." The legislative intent as stated in the act is that DHRS establish and maintain separate and secure facilities for treatment of mentally retarded or mentally ill forensic clients; that such facilities are to be strictly controlled by staff responsible for security in order to protect the client, hospital personnel, and citizens in adjacent communities; and that evaluation and treatment of such clients be provided in community inpatient and outpatient settings, in community residential facilities, or in civil, nonforensic facilities whenever this is a feasible alternative to treatment in a state forensic facility. The act transfers sections relating to persons held in jails to Chapter 916, F.S., thus codifying in one chapter the laws concerning those mentally ill persons who are involved with the criminal justice system (except for inmates of correctional facilities). This act provides clarification on the treatment of forensic clients in facilities other than institutions, on the transportation of forensic clients and on the computation of the fifteen day holding period. Additionally, the measure addresses the rights of clients, including clarification of the right to refuse treatment, the right of the facility to restrict communication, and the need for the establishment of a system of evaluation by experts trained in assessment.

Chapter 455, F.S., relating to regulation of professions, is amended to provide that a chiropractic physician or podiatrist cannot be denied payment for his services solely because he is not a member of a preferred provider organization or exclusive provider organization that is composed of other chiropractic physicians or podiatrists.

The Department of Health and Rehabilitative Services is required to design and conduct a study on hunger in Florida and report its findings to the Legislature by April 1986.

HOUSE BILL 1427 (CHAPTER 85-354) states legislative findings with respect to the purposes of the 1975 reorganization of the Department of Health and Rehabilitative Services and calls for a joint House-Senate review of the agency with the intent to review the effect of the organizational structure on departmental programs. Special emphasis will be placed on vocational rehabilitation programs authorized by Part II of Chapter 413, F.S.

SENATE BILL 632 (CHAPTER 85-186) provides exemption of Chapter 273, F.S., relating to state-owned tangible personal property, and provides relief to the Department of Health and Rehabilitative Services from inventorying prescriptive medical personal property purchased by the Department for the use or benefit of a particular client of the Department.

SENATE BILL 674 (CHAPTER 85-187) amends Sections 402.17 and 402.33, F.S., to provide for the Department of Health and Rehabilitative Services to use moneys held in trust for Department clients to pay for care and maintenance and to meet

current needs of clients. The act provides a definition of "benefit payments" and makes discretionary the current requirement that the Department actively assist clients in attaining benefits. The Department may also assign benefits complying with rules it has adopted. A lien for unpaid fees shall be filed by the Department if cost effective.

This act has an effective date of October 1, 1985.

HOUSE BILL 767 (CHAPTER 85-270) amends Section 20.19, F.S., directing the Secretary or Deputy Secretary of the Department of Health and Rehabilitative Services to attend at least one meeting of each local departmental District Advisory Council (DAC) during each fiscal year. The act also creates a District Advisory Council Statewide Coordinating Committee, consisting of eleven designated DAC members (one from each district), who will meet at least quarterly for the purpose of analyzing client needs statewide, identifying and proposing responsive program policies to the Department, and integrating and expressing views of the district councils on interdistrict service delivery matters. The secretary or deputy secretary is to attend at least two Statewide Coordinating Committee meetings each fiscal year. During one of these meetings the legislative budget request and Department recommendations will be discussed.

INSURANCE*

Legislation enacted during the 1985 Session touched on many different areas of insurance, the most popular issue being health insurance. In this area, legislation was passed which: increases regulation of Multiple Employer Welfare Arrangements (MEWAs) and Health Maintenance Organizations (HMOs); contains a mandatory refund provision for individuals reaching age 65 who have paid an annual or semiannual premium for health insurance after reaching their 64th birthday; requires that health insurers make payments directly to a recognized hospital, physician or other provider of medical services if the insured so desires; and allow pharmacists and pharmacies to become members of Preferred Provider Organizations (PPOs).

A related major enactment creates the Comprehensive Medical Malpractice Act of 1985, which addresses the major areas of prevention, resolution and insurance.

Insurance company regulation was a principal source of legislation and included: an attempt to resolve constitutional and federal preemption problems cited in a recent U.S. District Court decision concerning a Florida statute which regulates the acquisition of controlling stock in domestic insurers; changing

*Prepared by staff of Senate Commerce Committee

venue to Leon County for insurance companies filing for bankruptcy; reinforcement of current statutes by providing additional guarantees that insurance companies doing business in Florida remain solvent; and allowing the Department of Insurance to treat foreign insurers as domestic insurers under certain circumstances, based upon their premium volume in Florida.

There was very little legislation relating to motor vehicle and title insurance. However, legislation was enacted that prohibits insurance companies from cancelling policies or raising motor vehicle liability rates due to minor noncriminal traffic infractions, and that exempts taxicabs and limousines from the requirements of Florida's "no-fault" law.

Title insurance agents are now licensed and regulated by the Department of Insurance. In addition, title insurers are prohibited from excluding certain liens, encroachments or claims from insurance coverage.

In the area of insurance agent regulation, the following changes to the law were made: military personnel can now be licensed as life and health agents if they maintain an office off-base and do not sell policies to personnel of a lower rank or pay grade; the primary license for health and life agents is eliminated; and the Department of Insurance is authorized to issue limited licenses to employees or authorized representatives of lessors to sell insurance to those who rent motor vehicles, trailers or self-service storage facilities.

There were several miscellaneous changes to the insurance laws that included: provisions for the review and readoption of certain sections of Chapter 633, F.S. (Fire Prevention and Control), pursuant to the Regulatory Sunset Act; a requirement that the Department of Insurance adopt a plan that would assist in the placement of applicants who are unable to obtain property or casualty insurance; legislation that would allow any authorized representative of a surety insurer to execute a bail bond for an automobile club member not in excess of \$5000; the authorization of insurers to give five days notice prior to cancellation of a binder, if the binder does not exceed 60 days or is replaced; and the authorization for the Florida Medical Malpractice Joint Underwriting Association to carry surpluses forward and apply them against accrued deficits.

Health Insurance

SENATE BILL 427 (CHAPTER 85-182) amends provisions relating to Preferred Provider Organizations. [Legislation in 1983 enacted Sections 627.6375 and 627.6695, F.S., for individual and group health insurance policies, respectively.] This legislation allows insurers and self-insurers to enter into contracts for alternative rates of payment with licensed health care providers; limit payments under policies to such alternative rates, regardless of the providers chosen by the insureds; and to offer the benefit of such alternative rates to insureds who select the designated providers.

[Also enacted in 1983 was Subsection 626.9541(2), F.S., which provides that nothing in the Unfair Insurance Trade Practices Act prohibits insurers from negotiating alternative rates of payments under policies pursuant to agreements with insureds, as long as the insurer offers the benefit of such alternative rates to insureds who select designated providers.]

[These three above-mentioned sections are generally intended to allow what is commonly referred to as preferred provider arrangements under which an insured is provided incentives to receive treatment from designated providers whose services are utilized, rather than nondesignated providers.]

[Each of the three statutes specifically excluded from the definition of "licensed health care providers" persons or facilities licensed under Chapter 465, F.S., relating to pharmacists and pharmacies.]

This new enactment deletes the exclusion of pharmacists and pharmacies from the health care providers with whom health insurers are expressly authorized to enter into contracts for alternative rates of payment.

COMMITTEE SUBSTITUTE FOR SENATE BILL 960 (CHAPTER 85-244) amends Subsection 627.4235(4), F.S., to clarify which health insurer is to pay benefits in the event that an insured is covered by two health insurance policies which contain coordination of benefit provisions. The effective date of this provision is October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 977 (CHAPTER 85-212) amends and creates several sections of Chapter 624, F.S., to

increase the regulation of Multiple Employer Welfare Arrangements (MEWAs) which are plans of group self-insurance established by two or more employers for providing health insurance benefits to their employees (See Sections 624.436 - 624.44, F.S.). The act requires such plans to be maintained in accordance with sound actuarial principles and establishes requirements with regard to excess insurance, loss reserves, minimum deposits with the Department of Insurance, competency and trustworthiness of trustees, annual reporting of financial condition, and triennial actuarial certification. Grounds are listed for the suspension and revocation of approval of a MEWA and additional penalties are provided with regard to unlicensed MEWAs. These provisions have an effective date of October 1, 1985.

[In 1983, the Florida Legislature enacted Chapter 83-203, Laws of Florida, providing for the regulation of MEWAs and third party administrators. Such legislation was made possible by 1982 Congressional amendments to the Employee Retirement Income Security Act (ERISA) authorizing states to regulate multiple employer plans to the extent not inconsistent with ERISA. (However, individual employers self-insuring employee benefit plans pursuant to ERISA's requirements remain exempt from state law.)]

HOUSE BILL 984 (CHAPTER 85-136) amends Section 627.6401, F.S., to create a limited mandatory refund provision that would apply to persons attaining 65 years of age who had paid an annual or semiannual premium for an individual health insurance

policy after reaching their 64th birthday. This refund would be a refund of unearned premium, and would apply only in the event that the health insurance coverage terminates or is reduced upon the insured's attainment of age 65. [The primary intent and effect of the act is to provide refunds to persons who become eligible for Medicare and who have individual health insurance policies that reduce or terminate coverage upon attainment of such eligibility.]

SENATE BILL 322 (Chapter 85-305) authorizes the Department of Administration to solicit bids and select a state-licensed insurance company to offer and administer a Medicare supplement policy to eligible retirees of the Florida Retirement System and health insurance coverage for other retirees of the System, and provides an appropriation of \$20,000 in other-personal-services funds to the Department to implement this act. All premiums are to be paid by the retiree.

The act additionally directs the Department to provide health insurance coverage in the State Group Health Insurance Plan for persons who retired prior to January 1, 1976, under any of the state-administered retirement systems and who are not covered by Social Security, and for the spouses and surviving spouses of such retirees who are also not covered by Social Security. An appropriation of \$15,311 is made from the State Employees Insurance Trust Fund to the Department to fund one position for purposes of administration of the retiree health insurance program.

HOUSE BILL 1387 (CHAPTER 85-177) includes a rewrite of Part II of Chapter 641, F.S., regulating Health Maintenance Organizations (HMOs), which is intended to enhance the solvency and consumer protection provisions of the law. Some of the major provisions of the act are as follows:

1. Requires HMOs to be licensed as Florida corporations.
2. Provides procedures for an existing HMO expanding into a new geographic area.
3. Requires HMOs to have formal and informal grievance procedures.
4. Changes the HMO minimum surplus requirements.
5. Creates a Rehabilitation Administrative Expense Fund for the payment of administrative expenses during court-ordered rehabilitation of an HMO.
6. Provides the Department of Insurance with authority to seek injunctions.
7. Changes deposit requirements.
8. Requires HMO contracts to provide certain coverage for emergencies that occur outside the service area.
9. Places restrictions on HMOs expelling or refusing to issue or renew coverage for a member of a group.
10. Requires the Department to implement a subscriber grievance program.
11. Revises provisions that define which assets or liabilities may be considered in determining an

HMO's financial condition and changes the types of investments which an HMO may make.

12. Increases the criminal penalty for the unauthorized issuance of an HMO contract.

13. Specifies prohibited unfair practices for HMOs.

In addition to revising the regulation of HMOs, the act creates Part XVIII of Chapter 627, F.S., relating to insurance rates and contracts, to provide for the regulation of life maintenance contracts, for minimum standards for such contracts, and for benefits to insurers issuing such contracts. This newly created part of Chapter 627, F.S., is repealed on October 1, 1991, subject to Sunset review by the Legislature pursuant to Section 11.61, F.S.

The act also adds Section 641.155 to Part I of Chapter 641, F.S., relating to health care service plans, to abolish the authority of the Department of Insurance to issue certificates of authority to nonprofit health care service plans.

The effective date of this act is October 1, 1985.

HOUSE BILL 740 (CHAPTER 85-160) amends statutory provisions relating to payment of insurance benefits. [Currently, Section 627.638, F.S., authorizes health insurance policies to provide for payment of benefits directly to any recognized hospital, doctor, or other person who provides the services, in accordance with the terms of the policy. Therefore, in order for health insurance benefits to be paid directly to the provider, the policy must expressly allow it.]

This act amends Section 627.638, F.S., to require that health insurers make payments directly to any recognized hospital, physician, or other person providing medical and related services whenever the insured specifically authorizes such payment in any health insurance claim form. [Therefore, even if the policy did not expressly provide for direct payment to the provider, the insured could require it by authorizing it on a claim form.] The act also provides that an insured could authorize in a claim form direct payment to a provider unless otherwise provided in the insurance contract.

The effective date of this act is October 1, 1985.

Medical Malpractice Insurance

HOUSE BILL 1352 (CHAPTER 85-175) is a comprehensive measure relating to medical malpractice. This act, which creates the "Comprehensive Medical Malpractice Reform Act of 1985," addresses the major areas of prevention, resolution, and insurance. The significant provisions include:

I. Medical Risk Management (Prevention)

A. Responsibility for medical practices and accountability for medical injuries are encouraged through increased duties placed on hospitals, the Department of Health and Rehabilitative Services (DHRS), the Department of Professional Regulation (DPR), and doctors themselves.

- B. Hospitals are given increased protection from medical staff reprisal suits concomitant with their obligation to investigate suspected grounds for discipline.
- C. Risk management efforts are intensified, including required certification of risk managers, who must oversee increased reporting to DHRS of adverse medical incidents. A statewide data system of incidents and claims is established.
- D. Improving the quality of doctors is attempted through more stringent licensure and educational requirements and investigation of those with recurrent malpractice incidents.

II. Claims Management (Resolution)

- A. Efficient, responsible, and prompt management of malpractice claims is promoted through increased hospital duties to handle claims.
- B. Early dispute settlement is fostered in an attempt to reduce costly litigation. Presuit screening is initiated. Plaintiff's attorney's fees increase as a suit progresses. Both sides face penalties for refusal to reasonably settle.
- C. Frivolous suits are discouraged by a requirement that plaintiff's attorney file a certificate of good faith. Punitive damages may not be pleaded absent an evidentiary showing.

D. The tort system is adjusted to achieve more equitable results by changes made in the medical standard of care to increase the doctor's discretion, provision for periodic payment of large verdicts, and modification of joint and several liability to make more equitable the contribution among defendants.

III. Medical Loss Indemnification (Insurance)

A. Mandatory insurance is imposed to more evenly spread malpractice risks and provide an adequate source of compensation for injured patients.

B. A system for access to affordable medical malpractice insurance is to be studied by the Department of Insurance, and a report shall be submitted to the Legislature by March 1, 1989. A preliminary report is also required by March 1, 1987.

Insurance Company Regulation

COMMITTEE SUBSTITUTE FOR SENATE BILL 490 (CHAPTER 85-312) [attempts to resolve constitutional and federal preemption problems cited in a recent U.S. District Court decision concerning Section 628.461, F.S., which regulates the acquisition of controlling stock in domestic insurers.] The act amends Section 628.461, F.S., to provide for retrospective notice of tender offers to the Department of Insurance and eliminates references to protection of shareholder interests,

[and thereby brings the statute into conformity with the scope of the intent of the federal Williams Act and McCarran-Ferguson Act.]

COMMITTEE SUBSTITUTE FOR SENATE BILL 734 (CHAPTER 85-321) expands the scope of the Florida Insurance Code to encompass the following: Motor Vehicle Service Agreement Companies, Home Warranty Associations, and Service Warranty Associations (Chapter 634, F.S.); Optometric, Pharmaceutical and Dental Service Contracts (Chapter 637, F.S.); Ambulance Service Contracts (Chapter 638, F.S.); Preneed Funeral Merchandise or Service Contracts (Chapter 639, F.S.); Health Maintenance Organizations (Part II of Chapter 641, F.S.); Legal Expense Insurance (Chapter 642, F.S.); and Continuing Care Contracts (Chapter 651, F.S.). (The Code previously included only Chapters 624 through 632, F.S., and Part I of Chapter 641, F.S.) The act also provides for certain statutory exemptions and for the applicability of certain laws; sets standards for the issuance of licenses to engage in business as premium finance companies; provides requirements for investment companies that hold escrow accounts; and adds clarifying language to Chapter 651, F.S., relating to continuing care facilities.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 973 (CHAPTER 85-245) amends Chapters 624, 625, 626, 627 and 629, F.S., of the Florida Insurance Code, to provide additional guaranties that insurance companies doing business in Florida remain solvent. Most importantly, the act: (1)

requires annual audited financial statements to be filed with the Department of Insurance; (2) increases capital and surplus requirements; (3) provides new limitations on the gross and net written premiums that may be written; (4) increases deposit requirements; (5) requires insurers to file annually certain information with the Department for transmittal to the National Association of Insurance Commissioners; (6) requires reinsurance contracts on direct risks to be filed with the Department; and (7) disallows as an asset certain past due premiums held by a "controlled" or "controlling" person.

An appropriation of \$123,250 is made from the Insurance Commissioner's Regulatory Trust Fund for the 1985-86 fiscal year, and three positions are authorized within the Division of Insurance Company Regulation to implement the provisions of this act.

COMMITTEE SUBSTITUTE FOR SENATE BILL 974 (CHAPTER 85-339) amends Chapter 631, F.S., relating to insurer insolvency, to clarify present law with regard to rehabilitation and liquidation of insurance companies. It also requires that the venue of all delinquency or summary proceedings against a domestic insurer be in Leon County Circuit Court. October 1, 1985, is the effective date of this act.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1026 (CHAPTER 85-214) amends pertinent sections of the Florida Insurance Code and corporation statutes to give the Department of Insurance the authority to treat certain foreign insurers, based on their premium volume in Florida compared to other states, as if they

were Florida domestics for certain purposes and activities. The measure further provides for the redomestication of both foreign and domestic insurers, and legitimizes the authority of the Department to register and regulate members of holding companies doing business in this state. An effective date of October 1, 1985, is set for this act.

Motor Vehicle Insurance

COMMITTEE SUBSTITUTE FOR SENATE BILL 960 (CHAPTER 85-244) creates Section 627.0652, F.S., to require the rate filings of motor vehicle insurers to provide for an appropriate reduction in premium charges for insureds 65 years of age or over who successfully complete a motor vehicle accident prevention course approved by the Department of Highway Safety and Motor Vehicles. The premium reduction will be presumed appropriate unless proven otherwise by credible data, and will be effective for a three-year period, except that it can be discontinued if the insured is involved in an accident for which he is at fault or is convicted or pleads guilty or nolo contendere to a moving traffic violation. This section shall apply to policies issued or renewed after January 1, 1986.

SENATE BILL 267 (CHAPTER 85-233) amends the Florida "Unfair Insurance Trade Practices Act," found in Part VIII, Chapter 626, F.S. It amends Section 626.9541, F.S., to prohibit the imposition or request for an additional premium for, or refusing to renew, a policy for motor vehicle liability insurance solely because the insured committed a noncriminal

traffic infraction, unless: (1) the infraction is the second or subsequent infraction committed within an 18-month period; (2) the infraction was for driving more than 15 miles per hour over the speed limit.

These provisions have an effective date of October 1, 1985.

COMMITTEE SUBSTITUTE FOR SENATE BILL 713 (CHAPTER 85-320) amends Subsection 627.732(1), F.S., to exempt taxicabs and limousines from the requirements of the "Florida Motor Vehicle No-Fault Law," so that owners of these types of vehicles no longer must maintain PIP (Personal Injury Protection) coverage on them. The act also amends Chapter 324, F.S., relating to financial responsibility, to increase the amount of unencumbered net worth that must be maintained by entities other than natural persons which self-insure against motor vehicle liability, and specifies the amount of a surety bond or deposit placed with the Department of Insurance in order to satisfy financial responsibility requirements. The provisions of this act become effective October 1, 1985.

Title Insurance

COMMITTEE SUBSTITUTE FOR SENATE BILL 132 (CHAPTER 85-20) creates Section 627.7842, F.S., to prohibit title insurers from excluding certain named items from coverage. The act provides:

- (1) If the survey meets the minimum technical standards for surveying required by the Department of Professional Regulation, is certified to the title

insurer by a registered Florida surveyor, and is conducted within 90 days before closing, the title policy may only except from coverage any encroachments, overlays, boundary line disputes and other matters actually shown on the survey;

(2) the title policy shall not exclude from coverage claims of parties in possession not shown by the public record if the seller signs an affidavit swearing that no such other person is in possession or has a claim for possession; and

(3) any lien or right to a lien for services, labor or materials shall not be excluded from the policy if the seller signs an affidavit swearing that no improvements have been made to the property within the last 90 days for which payment has not been made.

The act allows the insurer to exclude from coverage any of the above encumbrances if the insurer knows that the survey is erroneous or that facts alleged within the seller's affidavit are false. The provisions of this act are effective on October 1, 1985.

SENATE BILL 520 (CHAPTER 85-185) provides for the licensing and regulation of title insurance agents by the Department of Insurance, and makes technical amendments to existing statutory provisions in accordance with this purpose. The licensing and regulatory provisions are similar in most

respects with those provisions dealing with other types of insurance agents.

Two new sections are added to Part XIII of Chapter 627, F.S., relating to title insurance contracts: Section 627.7773, F.S., provides for an annual accounting and special auditing of outstanding forms by a title insurer of its title insurance agents or members of a business trust title insurer; and Section 627.7776, F.S., prohibits the furnishing of certain supplies to persons not under contract with a title insurer and not licensed or approved as members of a business trust title insurer.

The provisions of this act become effective October 1, 1985.

Insurance Agents

COMMITTEE SUBSTITUTE FOR SENATE BILL 345 (CHAPTER 85-112) amends Subsections 626.321(1) and (3), F.S., to authorize the Department of Insurance to issue a limited license to employees or authorized representatives of lessors who rent or lease motor vehicles, trailers or self-service storage facilities. The employees or authorized representatives, after being issued the limited license, will be permitted to provide certificates or other evidence of personal property insurance to lessees who place personal property in such leased motor vehicles, trailers or self-service storage facilities. The employees or authorized representatives will also be subject to the same qualifying requirements and responsibilities as apply

to general lines agents, but will not be required to take an examination.

The law further provides that written notice be given to a prospective lessee that insurance coverage may be available under his homeowner's insurance policy.

October 1, 1985, is the effective date of the act.

COMMITTEE SUBSTITUTE FOR SENATE BILL 511 (CHAPTER 85-67) amends Sections 626.789, 626.834, 626.391, 626.785, and 626.831, F.S., to allow active military personnel to be licensed as life and health insurance agents only if such personnel maintain an off-base office and do not sell policies to military personnel of lower rank or pay grade, or to the families of such personnel.

HOUSE BILL 677 (CHAPTER 85-208) amends Chapters 624, 626, 632, 634, 642 and 648, F.S., to make a number of primarily technical changes to the licensing laws for insurance agents and bail bondsmen. Among others, these changes include: elimination of the primary license for life and health agents; conforming amendments to the change from in-house testing of agents to outside contracting; providing for a uniform registration date for all licenses; and providing for a simple nonrenewable temporary license for life and industrial fire agents.

Miscellaneous

SENATE BILL 593 (CHAPTER 85-92) creates Section 627.3515, F.S., to require the Department of Insurance to adopt

by October 1, 1986, a market assistance plan to assist in the placement of risks of applicants who are unable to procure property or casualty insurance from authorized insurers when such insurance is otherwise generally available. All property and casualty insurers licensed in Florida are required to participate in the plan, and to fund and staff the plan. They are also permitted to charge a fee for their services, approved by the Department. The plan is specifically not required to assist in the placement of any workers' compensation, employer's liability, malpractice or motor vehicle insurance coverage. This act becomes effective October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1095 (CHAPTER 85-274) amends Section 627.351, F.S., to expressly authorize the Florida Medical Malpractice Joint Underwriting Association (FMMJUA) to carry surpluses forward from year to year and to apply them to accrued deficits prior to the levy of an assessment against FMMJUA members to cover the deficits.

The act also adds new capitalization requirements under Section 629.401, F.S., to permit a corporation, known as a "Pooled Underwriting Member," to become a syndicate member of an insurance exchange if such member is a party to a "Reinsurance Underwriting Pooling Agreement" (RUPA). [The rationale behind the "pooled member" concept is to create a program whereby pooled members of an exchange will be treated by the IRS as being directly engaged in the insurance business so that they can utilize the liberal tax accounting rules applicable to insurance companies under Internal Revenue Code

Section 832.] Prior to admission of any such member to the exchange, the exchange shall provide in its constitution and bylaws, subject to approval by the Department of Insurance, procedures and regulations governing the admission and operation of pooled underwriting members and minimum standards for a reinsurance underwriting pooling agreement.

SENATE BILL 508 (CHAPTER 85-48) amends provisions of Section 627.758, F.S., relating to automobile club arrest bonds. [Currently the law states that when someone is arrested and is required to post bail as a condition of release, another person may act as a surety for the release of the person on bail. Professionally, this is done by authorized surety insurers, whose contracts are subject to Part XII of Chapter 627, F.S., and by professional bail bondsmen licensed under Chapter 648, F.S. Limited surety agents of surety insurers are also licensed under Chapter 648, F.S.]

[A special provision exists with respect to automobile club arrest bonds. Section 627.758, F.S., allows surety insurers to become a surety in a certain amount with respect to any guaranteed arrest bond certificate issued by an automobile club or association. The surety insurer must file with the Department of Insurance the name and address of the automobile club and the unqualified obligation of the surety insurer to pay the fine or forfeiture in a certain amount for any person who fails to appear after posting the guaranteed arrest bond certificate. This certificate is in the form of a printed card issued by the automobile club to its members stating that the

club and a named surety company guarantee the appearance of the person whose signature appears on the card, and that they will pay up to a certain amount as a fine in the event the person fails to appear.]

[Chapter 903, F.S., the general chapter on bail, contains Section 903.36, F.S., providing that a guaranteed arrest bond certificate provided for in Section 627.758, F.S., shall be accepted as bail in a certain amount for violation of a motor vehicle law or ordinance. However, this section provides an exception for driving while under the influence of intoxicants or any felony, which qualification is not contained in Section 627.758, F.S.]

This new enactment increases from \$200 to \$500 the amount an authorized surety insurer may, in any year, become surety on with respect to any guaranteed traffic arrest bond certificate issued in such year by an automobile club. The act specifies that this certificate is for traffic arrest bonds.

The act also creates an exception to the licensing requirements for bail bondsmen in Chapter 648, F.S. [In 1983, amendments to Chapter 648, F.S., eliminated the authority for a general lines agent to write bail bonds, unless such agent was a bail bondsmen or limited surety agent licensed under Chapter 648, F.S.] The act amends Section 903.36, F.S., to allow any "authorized representative" of a surety insurer to execute a bail bond for an automobile club member identified in the guaranteed traffic arrest bond certificate in an amount not in excess of \$5000.

The measure also extends provisions for traffic bonds to include traffic violations specified in Chapter 316, F.S., with certain exceptions; requires guaranteed arrest bond certificates to be accepted as bail in certain amounts for certain violations; requires bail bonds executed by general lines agents of surety insurers to be accepted as bail in certain amounts for certain violations; and requires automobile clubs to file names of licensed general lines agents with certain persons.

HOUSE BILL 465 (CHAPTER 85-128) relates to fire prevention and control. Chapter 633, F.S., deals with licenses, permits and certifications required of organizations and individuals servicing, recharging, repairing, testing, inspecting, or installing fire extinguishers and fire protection systems.

This new enactment reviews and readopts designated provisions of Chapter 633, F.S., pursuant to the Regulatory Sunset Act which established October 1, 1985, as the date of automatic repeal of these sections unless reviewed and readopted by the Legislature. October 1, 1995, is the new date set for repeal of designated sections of this chapter, pursuant to review under the Regulatory Sunset Act.

COMMITTEE SUBSTITUTE FOR SENATE BILL 961 (CHAPTER 85-51) amends Section 627.420, F.S., relating to insurance contracts, to authorize insurers to give five days notice prior to cancellation of a binder of motor vehicle insurance if the binder does not exceed 60 days duration, unless it is replaced

by a policy or another binder in the same or another company.
Technical changes are made to other statutory provisions to
conform them with this amendment.

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LAW ENFORCEMENT AND CRIMINAL JUSTICE*

Legislative activity in the area of law enforcement and criminal justice during the 1985 Regular Session resulted in enactments combating organized crime by creating a central office for the statewide prosecution of multi-circuit criminal activities; providing state-funded legal representation to indigent death row inmates for their collateral appeals; ensuring that the rights of victims and witnesses are protected by creating the Office of Comprehensive Crime Victims and Witnesses Services within the Bureau of Crimes Compensation; addressing the need for an automated fingerprint identification system capable of reading and classifying latent fingerprints; clarifying that perjured testimony given under a grant of immunity can be used in a subsequent perjury prosecution; and requiring more fiscal accountability by law enforcement agencies under the Contraband Forfeiture Act. Other acts which lawmakers addressed include clarifying and strengthening laws relating to public defender and state attorney costs, child pornography, domestic violence, controlled substances, substantive criminal law, weapons and bulletproof vests, and

*Prepared by staff of Senate Judiciary-Criminal Committee

fighting and baiting animals.

Organized Crime

COMMITTEE SUBSTITUTE FOR HOUSE BILL 387 (CHAPTER 85-179) amends Sections 27.14, 27.36, 27.37, 905.33, 905.34, 905.36, and 110.205, F.S., and creates Section 16.56, F.S., to establish the Office of Statewide Prosecution in the Department of Legal Affairs. The Attorney General shall appoint the statewide prosecutor from a list of at least three persons nominated by the Judicial Nominating Commission for the Supreme Court. The statewide prosecutor, who will be in charge of the Office of Statewide Prosecution, shall serve a four-year term concurrent with the term of the Attorney General. The statewide prosecutor must be an elector of the state, a member in good standing of The Florida Bar for the preceding five years, and may not engage in the private practice of law while in office. He may be removed from office by the Attorney General before the end of his term. Upon vacating the office, the statewide prosecutor may not be elected or appointed to a statewide office for two years.

The statewide prosecutor or his designated assistants may conduct hearings anywhere in the state, summon and examine witnesses, require the production of physical evidence, sign informations, indictments, and other official documents, as well as confer immunity, move the court to reduce the sentence of someone convicted of drug trafficking who provides substantial assistance to the state, serve as legal advisor to the

statewide grand jury, and exercise other powers granted to state attorneys.

If the statewide prosecutor determines that he is not qualified to represent the state in a specific investigation or matter pending in the courts of this state, or a court of competent jurisdiction disqualifies him from representing the state, the Governor may, by executive order, assign a state attorney to discharge the prosecutor's duties with regard to the specified investigation or matter. The assignment of the state attorney will expire after six months unless the Supreme Court approves an extension of time.

The Office of Statewide Prosecution may investigate and prosecute crimes enumerated in the statutes but only when the offense is occurring or has occurred in two or more judicial circuits as part of a related transaction, or when the offense is connected with an organized criminal conspiracy affecting two or more judicial circuits.

The membership of the Council on Organized Crime is amended to specifically include the statewide prosecutor.

The jurisdiction of the statewide grand jury has been amended slightly under this legislation. The offenses which the statewide grand jury investigates are changed from crimes occurring in two or more counties to crimes occurring in two or more judicial circuits.

[A constitutional amendment pertaining to the statewide prosecutor, COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTION 386, was passed by the Legislature this session and will be

placed on the ballot at the November 1986 election. The constitutional amendment would make the necessary changes in the State Constitution to authorize the statewide prosecutor to prosecute crimes at the trial level when the crimes are of a multi-circuit nature.]

This act shall take effect on the effective date of the amendment to the State Constitution proposed by COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTION 386 or any similar joint resolution.

Capital Punishment

COMMITTEE SUBSTITUTE FOR SENATE BILL 616 (CHAPTER 85-332) amends Section 27.51, F.S., and creates Part III of Chapter 27 (Sections 27.701 - 27.708), F.S., by creating the Office of Capital Collateral Representative. The capital collateral representative and his staff will provide legal representation to indigent defendants sentenced to death who do not have counsel and are unable to secure counsel as they make their collateral appeals. [Collateral appeals are those appeals which raise fundamental legal or factual issues and attack the validity of the judgment and sentence imposed against the appellant.] The capital collateral representative must be a member of The Florida Bar, in good standing, for the preceding five years. The person will be appointed by the Governor, subject to confirmation by the Senate, from nominations submitted by the elected public defenders of the state. The term of office will be four years but the Governor

may reappoint the same person to serve additional terms. The capital collateral representative is prohibited from the private practice of law while in office and may not hold an elected or appointed state office for two years after vacating the position.

Section 43.16, F.S., is amended to place the Office of Capital Collateral Representative within the group of offices to which the Judicial Administrative Commission provides assistance and administrative services.

Section 790.25, F.S., is amended to place the investigators of the capital collateral representative's office amid the group of persons to which Sections 790.05 and 790.06, F.S., relating to firearm licensing provisions, do not apply.

Immunity

SENATE BILL 308 (CHAPTER 85-41) makes it clear that perjured testimony given under a grant of immunity pursuant to Section 914.04, F.S., can be used in a prosecution for that perjury and for any perjury subsequently committed. [This act is the result of a recent Florida Supreme Court decision which held that a grant of immunity prohibits the use of immunized statements in a subsequent perjury prosecution. This meant that a witness granted immunity could perjure himself and not be prosecuted for that perjury.] Consequently, under the act, if a witness lies while testifying under immunity before a grand jury, that witness' perjured testimony can be used to prosecute him for that perjury. If, on the other hand, the

witness gives truthful testimony while immunized before the grand jury and later lies at trial while immunized, that earlier truthful testimony can also be used to help establish the perjury committed at trial.

Section 837.021, F.S., perjury by contradictory statements, is also amended to provide that if contradictory statements are made in separate proceedings, and the most recent statement is immunized, the prosecution can not rely upon the mere contradiction to establish perjury. [Thus, this section is made consistent with the Fifth Amendment guarantee that immunized testimony can not be used against a witness to prove a prior criminal act. To do so violates the witness' Fifth Amendment protection against self-incrimination, since potentially a truthful immunized statement can be used to prove a prior lie. Therefore, prosecution for perjury must be accomplished by using Section 837.02, F.S., perjury in official proceedings, because it requires proving that the actual falsity occurred in the most recent proceeding.]

Victim-Witness Compensation

SENATE BILL 106 (CHAPTER 85-326) extends eligibility for victim compensation awards under Chapter 960, F.S., the Florida Crimes Compensation Act, to the following persons: non-residents injured or killed by criminal acts in Florida; victims of crimes committed in Florida but which are under exclusive federal jurisdiction; victims injured or killed by drunk drivers; and victims who are minors and are either

related to the offender within a certain degree of consanguinity or are living with the offender. Furthermore, unreimbursed expenses for psychological counseling resulting from a crime can now be compensated for as "out-of-pocket losses." [As a result of these changes, Florida is now eligible to receive federal funds for victim compensation and assistance.]

The act creates the Office of Comprehensive Crime Victims and Witnesses Services within the Bureau of Crimes Compensation, which now is to be known as the Bureau of Crimes Compensation and Victim and Witness Services, to protect and emphasize the rights and needs of crime victims and witnesses statewide. The act also raises the current \$15 court cost assessed against all criminal defendants to \$20. This change results in an additional \$5 going into the Crimes Compensation Trust Fund.

Court Costs

HOUSE BILL 1023 (CHAPTER 85-213) amends Chapters 27 and 914, F.S., as they relate to services provided to state attorneys and public defenders, and Section 939.07, F.S., as it pertains to the right of a defendant to summon witnesses. The state attorneys and public defenders will receive the following services from the counties, in addition to services currently provided by statute: pretrial consultation fees for expert or other potential witnesses; travel expenses incurred while taking out-of-jurisdiction depositions; out-of-state travel

expenses incurred while attempting to locate and interrogate witnesses; court reporter costs incurred in investigations and trials when the costs are included in the judgment; and the cost of copying witness depositions taken by the opposing party, if the trial court finds the copies were necessary in the disposition of the case and the cost is included in the judgment.

Section 27.3455, F.S., is created by this legislation to impose additional court costs on persons pleading guilty or nolo contendere to, or persons found guilty of, felonies, misdemeanors, and criminal traffic offenses. Felonies are increased by \$200, misdemeanors by \$50, and criminal traffic offenses by \$50. The legislation also provides the manner in which these funds will be distributed. This section is repealed effective October 1, 1988.

Section 914.06, F.S., is amended to provide that when the state or an indigent defendant in a criminal case requires the services of an expert witness, the witness' compensation shall be paid by the county. Section 914.11, F.S., is amended to provide that when a court determines from an affidavit that an indigent defendant in a criminal case is unable to pay the cost of procuring the attendance of witnesses, the defendant may subpoena the witness, and the costs associated with the witness, including the copying of depositions and transcripts certified as useful, shall be paid by the county. If the depositions are taken outside the circuit in which the case is pending, travel expenses will also be paid by the county.

Section 939.07, F.S., clarifies that the county will pay the cost of an indigent or discharged defendant's copy of all depositions and transcripts which are certified by the defendant's attorney as serving a useful purpose in the case. The previous limitation on the number of witnesses summoned by the defendant to prove the same fact is removed.

Protection of Children and Spouses

HOUSE BILL 1054 (CHAPTER 85-273) creates Subsection 827.071(5), F.S., making it illegal to knowingly possess a depiction that includes any sexual conduct by a child. Whoever knowingly possesses a photograph, motion picture, exhibition, show, representation or other presentation which the possessor knows to include sexual conduct by a child is guilty of a felony of the third degree.

This act has an effective date of October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1036 (CHAPTER 85-216) amends Section 741.30, F.S. [The act clarifies certain provisions enacted last session relating to injunctions for protection against domestic violence pursuant to Section 741.30, F.S., and attempts to resolve certain constitutional issues raised by a few Florida circuit courts.]

[Rule 1.611(a), Florida Rules of Civil Procedure, requires that every application for temporary alimony, child support, attorney's fees or suit money be accompanied by an affidavit specifying the party's financial circumstances.] As a result of this act, such financial affidavit is required to

be filed at the same time and in conjunction with the petition for an injunction for protection. The actual petition provided for in Paragraph 741.30(4)(b), F.S., is substantially altered to include additional facts to be considered by the court in issuing an injunction.

Furthermore, in a hearing ex parte to obtain an ex parte temporary injunction, the court can no longer take oral testimony to support the application for the injunction. No evidence other than the verified pleading or affidavit can be used as evidence unless the respondent appears at the hearing or has received reasonable notice of the hearing. The ex parte injunction can not be effective for more than 30 days, rather than 10 days, and a continuance can be granted for good cause. The petitioner or respondent can move the court to modify or dissolve the injunction at any time after issuance.

Section 901.15, F.S., is also amended to authorize the warrantless arrest of a person who violates an injunction only when an act of domestic violence occurs, rather than when a violation or refusal to comply with the injunction occurs. [Acts of domestic violence include assault, battery, or sexual battery committed against a spouse.]

Controlled Substances and Drug Abuse

COMMITTEE SUBSTITUTE FOR SENATE BILL 618 (CHAPTER 85-242) amends Florida's schedule of controlled substances which is contained in Chapter 893, F.S. [This is done to conform to the recent changes made in the federal schedule of controlled

substances.] By creating Section 893.035, F.S., the act also authorizes the Attorney General, in the interim between legislative sessions, to temporarily place by rule, certain chemical analogs (sometimes called designer drugs) within Florida's schedule of controlled substances because of their high potential for abuse. Furthermore, the Attorney General is authorized during the interim to adopt rules rescheduling controlled substances to a less controlled schedule, or deleting those substances from a schedule, upon a finding that reduced control of such substances is in the public interest.

The act also repeals Subsection 893.13(7), F.S., which prohibited anyone from possessing a lawfully dispensed controlled substance in any container other than the container in which the controlled substance was originally delivered. [This subsection was recently held unconstitutional by the Florida Supreme Court.]

SENATE BILL 696 (CHAPTER 85-319) makes it unlawful to manufacture, distribute, sell, give, or possess with the intent to manufacture, distribute, sell or give an imitation controlled substance. A definition is provided for an imitation controlled substance which is a non-controlled substance that is subject to abuse and which, by appearance, would cause the likelihood that it would be mistaken for a controlled substance or which, by representations made, purports to act like a controlled substance on the central nervous system. Factors which a court or concerned authority may consider in determining whether a substance is an imitation

controlled substance are enumerated. Whoever violates this provision is guilty of a felony of the third degree. Whoever places an advertisement or solicitation in a publication for the purpose of advertising or soliciting imitation controlled substances is guilty of a first degree misdemeanor. Whoever manufactures or dispenses placebos in accordance with the laws of this state is exempted from liability under this act.

This act shall take effect on October 1, 1985.

HOUSE BILL 134 (CHAPTER 85-8) amends Section 893.147, F.S., to prohibit the sale to minors of hypodermic syringes and needles or similar objects used to parenterally inject a substance into the human body. The syringes may be dispensed to a minor by a licensed practitioner, parent, legal guardian, or a pharmacist when provided with a valid prescription. Whoever violates this provision is guilty of a misdemeanor of the first degree.

This act has an effective date of October 1, 1985.

Forfeiture of Contraband Property

COMMITTEE SUBSTITUTE FOR SENATE BILL 658 (CHAPTER 85-316) amends the Florida Contraband Forfeiture Act, Sections 932.701 - 932.704, F.S. [This act is intended to provide more protection for innocent property owners and to require more accountability by law enforcement agencies.] Seizure of contraband property by law enforcement agencies is discretionary rather than mandatory. A property owner now has the right to bring a replevin action if the seizing agency has

not instituted a forfeiture proceeding within 90 days from the time the property is seized. Property titled jointly between spouses can not be forfeited if the innocent spouse establishes lack of knowledge as to the property's use in criminal activity.

The act demands more accountability from law enforcement agencies receiving and expending proceeds from forfeited property by requiring such agencies to document those receipts and expenditures on forms promulgated by the Florida Department of Law Enforcement. The act also specifies that trust fund monies can be expended for automated fingerprint identification equipment and for a uniform offense reporting system.

This act takes effect on October 1, 1985.

Law Enforcement Officers and Procedures

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1358 (CHAPTER 85-224) amends Chapter 943, Section 415.51, and Section 382.35, F.S. This legislation provides a mandate for the Florida Department of Law Enforcement (FDLE) to pursue the acquisition of an automated fingerprint system capable of reading and classifying latent fingerprints. The plan for such a system is to be submitted on or before February 1, 1986, to the legislative committee chairmen specified in the act. Uniform reports will be prepared and furnished by all law enforcement agencies in the state. These reports and the automated fingerprint identification system will become the basis for tracking criminal offenders, for preparing criminal activity

reports, and for conducting crime analyses based upon the type of crime and the geographical area where the crime occurred.

Officers employed under the Temporary Employment Authorization or the exemption of training provisions will be required to qualify with a firearm before they begin work.

The savings clause of Section 943.19, F.S., is amended to protect officers who do not have a high school degree or were convicted of a crime from being denied employment or appointment as a law enforcement officer.

Under revised Section 943.25, F.S., court cost assessments received from convicted persons and forfeited bail bonds will be increased and the money will go to the Law Enforcement Training Trust Fund, the Correctional Officer Training Trust Fund, the Trust Fund for Grant Matching, and the Administrative Trust Fund which will be created July 1, 1985, to provide payment for expenses incurred in operating the Division of Criminal Justice Standards and Training. On July 1, 1986, the Law Enforcement Training Trust Fund and the Correctional Officer Training Trust Fund will merge to become the Criminal Justice Training Trust Fund.

Section 415.51, F.S., is amended to permit FDLE to have access to the Department of Health and Rehabilitative Services' (DHRS) confidential child abuse records on a routine basis so that FDLE may assist local law enforcement agencies and DHRS in identifying and investigating certain crimes against children. These crimes include prostitution, sexual or physical abuse, pornography, pedophilia, and child homicide. The child abuse

records are to remain confidential while in the control of FDLE. These changes to Section 415.51, F.S., take effect October 1, 1985.

Section 943.26, F.S., is amended to create the Crimes Against Children Criminal Profiling Trust Fund within FDLE. The Fund will be used for investigative, intelligence, research, and training activities related to crimes against children. Money for the Fund will come from an additional \$2.50 fee assessed against each request for birth certificates issued by the state or local registrars. Two dollars of the \$2.50 will be deposited quarterly by DHRS in the Fund, and the remaining 50 cents will be available for appropriation to DHRS for administration of Chapter 382, F.S. This section of the act has an effective date of October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 165 (CHAPTER 85-198) amends Section 901.15, F.S., by creating another instance in which a law enforcement officer may make an arrest without an arrest warrant. A law enforcement officer is authorized to make a warrantless arrest when he has "probable cause" to believe that a misdemeanor has been committed on federal military property over which the state has maintained exclusive jurisdiction. The "probable cause" to believe that the misdemeanor has been committed shall be based upon a signed affidavit provided to the law enforcement officer by a law enforcement officer of the United States Government or a United States military law enforcement officer, in whose presence the misdemeanor was committed.

This act will be repealed two years after its effective date of October 1, 1985.

HOUSE BILL 137 (CHAPTER 85-13) amends Section 812.062, F.S., as to the procedure for notifying the owner of a stolen motor vehicle that his motor vehicle has been recovered. When a law enforcement agency recovers a stolen motor vehicle it has 72 hours to notify the law enforcement agency which initiated the stolen vehicle report. The agency which initiated the report then has seven days to notify the registered owner, the insurer, and any registered lienholder, if known, that the vehicle has been recovered. If the law enforcement agency which initiated the stolen vehicle report has not notified the proper people within the seven day period, it must do so immediately by certified letter, return receipt requested.

Weapons and Bulletproof Vests

COMMITTEE SUBSTITUTE FOR HOUSE BILL 282 (CHAPTER 85-258) creates Section 790.225, F.S., to illegalize the manufacture, display, sale, ownership, possession, or use of a self-propelled knife. A self-propelled knife is a device that projects a knifelike blade by means of a coil spring, elastic material, or compressed gas. Whoever violates this provision is guilty of a misdemeanor of the first degree. The self-propelled knife is a deadly weapon and a contraband item, subject to seizure and disposition pursuant to Subsections 790.08(1) and (6), F.S.

HOUSE BILL 146 (CHAPTER 85-29) creates Section 775.0846, F.S., to prohibit the unlawful wearing of a bulletproof vest. Whoever wears a bulletproof vest, as defined in the legislation, and possesses a firearm while attempting or committing a murder, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, breaking and entering with intent to commit a felony, or aircraft piracy is guilty of a felony of the third degree.

The effective date of this legislation is October 1, 1985.

Fraud and Theft

HOUSE BILL 550 (CHAPTER 85-43) amends the Credit Card Crime Act which is contained in Sections 817.57 - 817.68, F.S., to provide more severe penalties and to strengthen enforcement of the credit card statute.

It is now a second degree felony to traffic in or attempt to traffic in 10 or more counterfeit credit cards, invoices, vouchers, sales drafts, or other manifestations of such cards, or someone else's credit card account numbers in any six month period. Furthermore, possession, with the intent to defraud, of a counterfeit credit card or any invoice, sales draft, voucher, or other manifestation of such card constitutes credit card forgery, a third degree felony. The act creates a presumption that possession of two or more counterfeit credit cards by an unauthorized person is credit card forgery.

Section 817.61, F.S., which proscribes fraudulent use of credit cards, provides that a person fraudulently using a credit card two or fewer times within a six month period, or using it to obtain goods valued at less than \$100, is guilty of a first degree misdemeanor. However, a person fraudulently using a credit card more than twice within a six month period, or using it to obtain goods valued at \$100 or more, is guilty of a third degree felony. The act also creates new Section 817.612, F.S., specifically proscribing fraudulent use of expired or revoked credit cards as a first degree misdemeanor. Possession or transfer of credit card making equipment with the intention of producing counterfeit cards, is a third degree felony in accordance with new Section 817.631, F.S.

Finally, new Section 817.685, F.S., provides that the business records of a credit card issuer are deemed authentic for evidentiary purposes if they are supported by testimony from the issuer's designated representative. Such representative is also qualified to testify about the records for purposes of the business records hearsay exception.

This act has an effective date of October 1, 1985.

HOUSE BILL 373 (CHAPTER 85-34) amends Section 812.081, F.S., to provide that all instances of theft of trade secrets shall be a felony of the third degree, regardless of the value of the stolen information. In addition, Section 812.035, F.S., is amended to make the civil remedies available in other types of theft available in trade secrets situations. Such remedies include treble damages, attorneys fees, and court costs.

This act becomes effective on October 1, 1985.

HOUSE BILL 1181 (CHAPTER 85-39) creates Section 817.554, F.S., defining the crime of fraudulently offering the sale of tour or travel related services. A person who is engaged in the tour or travel business, who provides courses on becoming a travel agent in conjunction with selling tours or travel services, who offers for sale a single tour or limited number of tours, or who serves as the principal of a corporation or partnership engaged in selling tours or travel services, and who knowingly makes representations relating to his tour or travel service with the intent to defraud someone of a fee or valuable consideration is guilty of a second degree misdemeanor. Anyone who offers educational courses relating to the tour or travel service business and who makes claims relating to those courses with an intent to defraud is guilty of a second degree misdemeanor. Similarly, anyone who fraudulently offers his services as a tour or travel service consultant to someone engaged in the tour or travel service business is guilty of a second degree misdemeanor. Any individual or group which defrauds five or more victims of an aggregate value of \$50,000 is guilty of organized fraud, a felony of the first degree.

The provisions of this act take effect October 1, 1985.

Assault and Battery

COMMITTEE SUBSTITUTE FOR SENATE BILL 76 (CHAPTER 85-10) enhances the penalties for anyone convicted of knowingly

assaulting or battering a community college security officer while the officer is actively performing his duties. The penalty for an assault is increased from a second degree misdemeanor to a first degree misdemeanor and the penalty for a battery is increased from a first degree misdemeanor to a third degree felony.

An effective date of October 1, 1985, is provided.

HOUSE BILL 352 (CHAPTER 85-33) amends Section 784.07, F.S., to include an enhanced penalty for anyone who is convicted of knowingly assaulting or battering an intake officer actively engaged in the performance of his duties. [Section 784.07, F.S., currently increases the penalties for assaulting law enforcement officers and firefighters.] The assault penalty is increased from a second degree misdemeanor to a first degree misdemeanor and the battery penalty is increased from a first degree misdemeanor to a third degree felony.

This act is scheduled to become effective October 1, 1985.

Protection of Animals

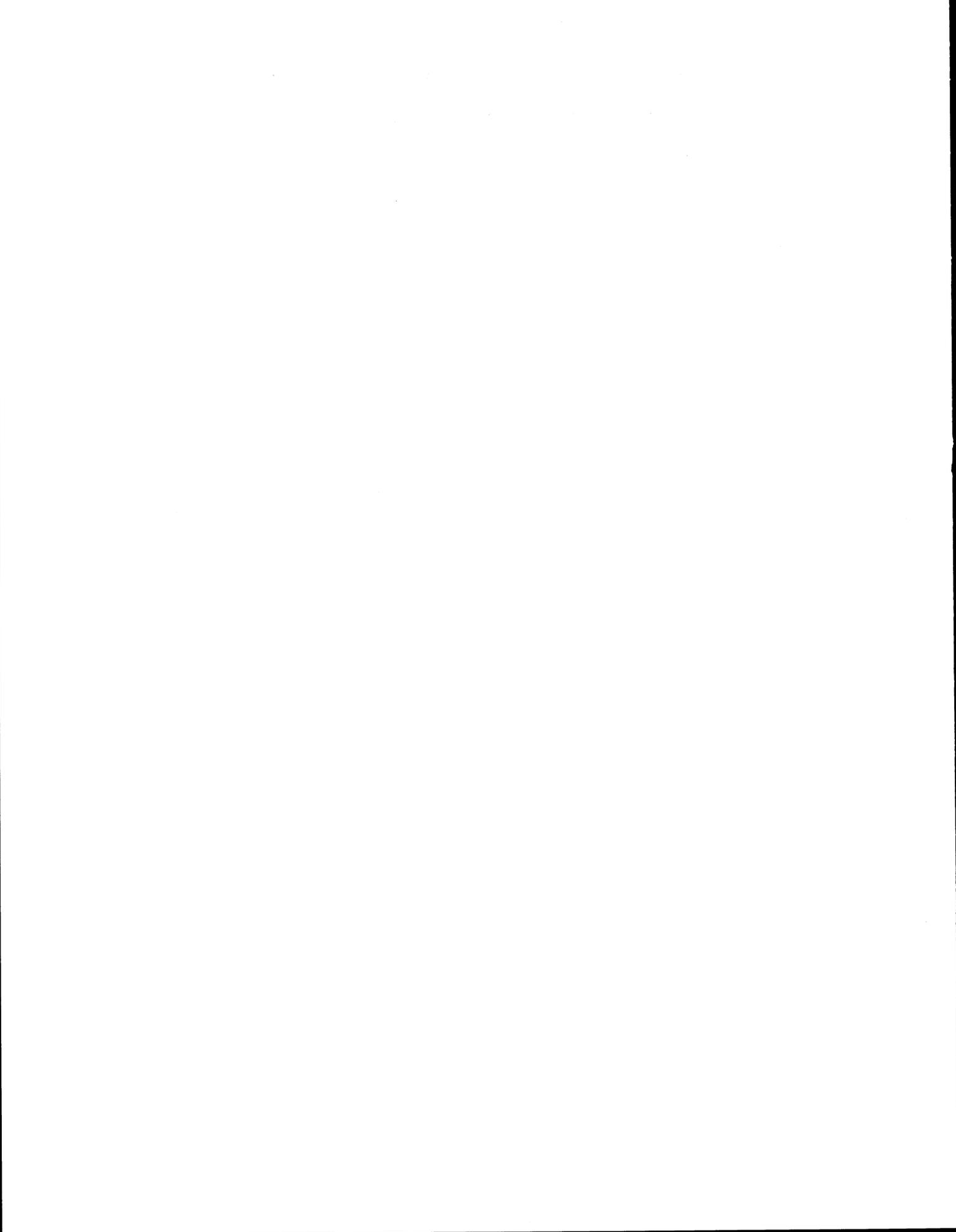
SENATE BILL 83 (CHAPTER 85-289) amends Section 828.122, F.S., to increase the penalties for fighting or baiting animals. Whoever fights or baits an animal, owns or operates a facility for fighting or baiting animals, or promotes or charges an admission to a fighting or baiting of animals is guilty of a felony of the third degree. Whoever willfully bets

or wagers on the fighting or baiting of animals or attends the fighting or baiting of animals is guilty of a misdemeanor of the first degree.

These provisions become effective October 1, 1985.

SENATE BILL 373 (CHAPTER 85-106) creates Section 586.145, F.S., to create a three-year pilot program to determine whether battery-operated protection devices (electric fences) are effective in preventing destruction of apiaries by bears. Also, through separate maintenance and labelling of several identical devices, the program seeks to determine whether state ownership is a significant factor in the occurrence of theft of such devices or batteries.

This act takes effect on October 1, 1985.



LOCAL GOVERNMENT*

The 1985 Florida Legislature enacted a variety of laws concerning local government.

With regard to community revitalization, the Legislature modified the Florida Small Cities Community Development Block Grant Program and merged two closely related programs (the Farmworker Housing Assistance Program and the Rural Land Acquisition Assistance Program) into a single program by combining their grant and loan authorities and eligible activities. In addition, the Neighborhood Housing Finance Services Act was modified for more private sector involvement and eligibility requirements applicable to lay members of the Florida Housing Finance Agency were modified.

In the area of building codes and construction, the Legislature authorized any state agency with building construction responsibilities to delegate its code enforcement responsibilities to another unit of government. The Legislature also modified building standards to allow for greater accessibility for handicapped persons; broadened the authority of local code enforcement boards; and clarified the

*Prepared by staff of House Community Affairs Committee

law with respect to local government jurisdiction over state-certified contractors and electrical contractors.

The 1985 Legislature enacted, as part of growth management legislation, other changes relating to building codes and land development regulations of local government. These changes are discussed in detail in the CONSERVATION AND NATURAL RESOURCES article of the Summary compilation. Among the changes are requirements that certain coastal communities which have a coastal building zone as defined by law must adopt a building code to meet the performance standards required in COMMITTEE SUBSTITUTE FOR HOUSE BILL 287 (CHAPTER 85-55). Also, all local governments are required to adopt certain land development regulations needed to carry out their local comprehensive plans, which under the new law have many new requirements. These are just some of the numerous additional obligations placed on local governments by the 1985 growth management legislation.

The 1985 Legislature enacted numerous changes relating to local occupational licenses. These changes include revising provisions relating to exemptions for certain disabled persons and veterans; authorizing additional license taxes for specified purposes; and requiring all professionals regulated by the Department of Professional Regulation to exhibit proof of state licensure before a local occupational license can be issued.

Other laws concerning local government that were enacted by the 1985 Florida Legislature limit the antitrust liability

of local governments and their officials and employees; authorize counties to impose a fee to pay for the "911" emergency systems; prohibit counties from discontinuing utility service or placing a lien on rental property because of a former tenant's delinquency; authorize counties to contract with motor carriers to provide a wider range of services; and direct the Board of Trustees of the Internal Improvement Trust Fund to sell and purchase certain lands in the Miami area or to exchange equivalently valued land.

Community Revitalization

HOUSE BILL 1335 (CHAPTER 85-223) amends various sections of Chapter 290, F.S., relating to the Florida Small Cities Community Development Block Grant (CDBG) Program. Under the provisions of the act: (1) the Neighborhood and Commercial Revitalization category formerly contained in Subsection 290.044(3), F.S., is now separated into two distinct categories; (2) applications may be submitted by each eligible local government during each annual funding cycle under either the housing program category or the neighborhood revitalization category, but not both; (3) for purposes of competitive ranking and applicant scoring, the weight given to community need is reduced from 40 to 25 percentage points, while the weight given to program impact is increased from 50 to 65 percentage points; (4) specific circumstances are provided in Section 290.0475, F.S., under which applications may be rejected without scoring:

- a) the application is not received by the Department by the

deadline as stated in the administrative rule and application manuals; or b) the proposed project does not meet one of three national objectives contained in federal and state legislation; or c) the proposed project is not an eligible activity as contained in the federal legislation; and (5) authority to establish criteria related to the economic development program category is transferred from the Department of Commerce to the Department of Community Affairs.

The term "administrative costs" is defined as used in Sections 290.041 - 290.049, F.S., and maximum administrative cost percentages are established with regard to such costs. [By defining "administrative costs" to include both general and project administrative costs, a loophole is eliminated and grantees will be prohibited from exceeding the established grant ceilings.]

COMMITTEE SUBSTITUTE FOR HOUSE BILL 552 (CHAPTER 85-265) amends various provisions in Parts III, IV, V, and VI of Chapter 420, F.S., the "Florida Housing Act of 1972."

With respect to Parts III and IV, the "Rural Housing Land Acquisition and Site Development Act" and the "Farmworker Housing Assistance Act," the act merges two closely related programs (the Farmworker Housing Assistance Program and the Rural Land Acquisition and Site Development Program) into a single program, covering both farmworker housing and low-income housing in rural areas of the state, by combining the grant and loan authorities and eligible activities of the two programs. In order to accomplish this merger, Part III of Chapter 420,

F.S. (consisting of Sections 420.20 - 420.211), is repealed and various provisions therefrom are added to Part IV of Chapter 420, F.S. (formerly consisting of Sections 420.40 - 420.413; now consisting of Sections 420.40 - 420.417).

Besides those changes necessary to accomplish the merging of provisions as described in the preceding paragraph, additional changes are made throughout Part IV to: provide a more specific definition of "farmworker"; clarify that eligible activities for grant and loan assistance include rehabilitation of housing; provide that grants paid out of activities which are reimbursed from another source shall be repaid to the Farmworker Housing Assistance Trust Fund; authorize loans, in addition to grants, for site acquisition and site improvements to assist in farmworker housing development; restrict state assistance available under the program to rural persons of low-income, rather than low- and moderate-income; and provide assurance that funding for farmworker housing assistance will continue at the same level at which it has been provided.

With respect to Part V, the "Neighborhood Housing Services Act," Sections 420.422, 420.423, 420.424, 420.26, 420.27, and 420.28, F.S., are amended to provide for involvement of any private sector entity (rather than just private financial institutions) and to change project eligibility requirements for, and authorized uses of, housing grants under the act.

Project eligibility requirements are changed to authorize the provision of grants to local governments for:

newly incorporated Neighborhood Housing Services Corporation (NHSC) projects; expansion of an existing NHSC project to include new geographical areas; and continuation of an existing NHSC project, but only if at least one-third of the total operating budget is funded by the private sector.

Authorized uses are modified to allow use of housing grants to: pay the Neighborhood Reinvestment Corporation for the fee charged to develop a NHSC; fund the operation of a NHSC by payment of salaries and other administrative expenses; and fund a revolving high risk loan fund administered by a NHSC to finance the rehabilitation of property in the NHSC's targeted area.

With respect to Part VI, the "Florida Housing Finance Agency Act," Section 420.504, F.S., is amended to relax eligibility requirements applicable to lay members of the Florida Housing Finance Agency.

Building Codes and Construction

HOUSE BILL 116 (CHAPTER 85-97) amends Sections 553.73, 553.79, and 553.80, F.S., to authorize any state agency with building construction responsibilities [such as the Department of General Services, the Board of Regents, and the Office of Educational Facilities within the Department of Education] to delegate by agreement its code enforcement (inspection) responsibilities governing the construction, erection, alteration, repair, or demolition of any state building to another unit of government. The act further allows the

expenditure of public funds for the purpose of paying permit and inspection fees to the unit of government performing the inspection.

This act has an effective date of October 1, 1985.

SENATE BILL 1041 (CHAPTER 85-192) creates Section 533.485, F.S., relating to building standards [for handicapped accessibility] applicable to new construction. Under this section, counties and municipalities are authorized to enact an ordinance requiring that all interior bath and toilet room doors in all living units, in all hotels and motels and similar structures at ground floor level, and on all other floors serviced by elevators, have a minimum of 29 inches clear opening. Storage rooms and closets are exempt.

The effective date of this act is October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 328 (CHAPTER 85-150) amends Chapter 162, F.S., the "Local Government Code Enforcement Boards Act." Section 162.02, F.S., is amended to allow a code enforcement board to enforce any code or ordinance which has no criminal penalty where a pending or repeated violation continues to exist. These boards may enforce codes including, but not limited to, codes governing occupational licenses, fire, buildings, zoning and signs. Section 162.09, F.S., is amended to provide that a lien created as a result of a fine may not be foreclosed on real property which is a homestead under Article X, Section 4 of the State Constitution. Section 162.11, F.S., provides that an appeal of any final administrative order of the code enforcement board shall be

limited to appellate review of the record before the enforcement board.

COMMITTEE SUBSTITUTE FOR SENATE BILL 88 (CHAPTER 85-290) amends Sections 489.105, 489.113, 489.505, and 489.511, F.S., providing for the establishment in cities and counties of "local construction regulation boards" composed of not fewer than three residents of that county or municipality and authorizing such boards to deny permits to certified contractors and electrical contractors if, through the public hearing process, such contractor has been found guilty of fraud or a willful building code violation within the local jurisdiction the board represents. Notice and information must be submitted to the Department of Professional Regulation within 15 days of such denial.

[This measure attempts to clarify the law with respect to local government jurisdiction over state-certified contractors and electrical contractors.]

This act has an effective date of October 1, 1985.

Occupational Licenses

HOUSE BILL 691 (CHAPTER 85-159) amends Chapter 205, F.S., relating to local occupational licenses. Subsection 205.162(1), F.S., is amended to change the term "confirmed cripples or invalids" to "disabled persons." In addition, Subsection 205.162(2), F.S., and Subsection 205.171(5), F.S., are amended to eliminate obsolete language relating to the operation of slot machines, punch boards, or any other gaming

or gambling devices. Amendments to Subsection 205.171(1), F.S., clarify who may qualify as a disabled veteran in order to be exempt from the provisions of the section.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 835 (CHAPTER 85-209) amends Section 205.033, F.S., relating to local occupational license taxes. It authorizes each chartered county, as defined in Section 125.011(1), F.S., in the state and any county adjacent to a chartered county to impose an additional occupational license tax up to 100 percent of the existing maximum license tax presently imposed.

The act requires that the additional revenues generated by this tax increase be placed in a separate interest-earning account, and that this revenue, plus accrued interest, be distributed each fiscal year as follows: 50 percent to a private nonprofit group selected for the creation and operation of a major symphony orchestra and 50 percent to an organization or agency to oversee and implement an economic development strategy through advertising, promotion activities and other sales and marketing techniques.

This act is scheduled to take effect October 1, 1985.

HOUSE BILL 1219 (CHAPTER 85-278) creates Section 205.194, F.S., relating to local occupational licenses. Beginning with the October 1, 1985, licensing period, this act requires that any person applying for or renewing a local occupational license to practice any profession regulated by the Department of Professional Regulation, or any board or commission thereof, shall exhibit an active state certificate,

registration, or license, or proof of copy of the same, before such local occupational license may be issued. Thereafter, only persons applying for the first time for a local occupational license shall be required to exhibit such certification, registration, or license. Subsection 205.194(2), F.S., requires the Department of Professional Regulation, by August 1 of each year, to supply a current list of professions it regulates to the local occupational licensing official as well as information about those persons whose state licensure may have been revoked, suspended, or inactivated and therefore should not be renewed. Duplicative language is eliminated and exemptions to Section 205.194, F.S., are provided.

Miscellaneous

HOUSE BILL 369 (CHAPTER 85-261) amends Section 542.17, F.S., and creates Section 542.235, F.S., which limit antitrust actions, penalties, and forms of relief against local governments and their officials and employees. Criminal actions and actions for civil penalties, damages, interest on damages, costs or attorneys' fees are no longer permitted against any local government. Injunctive or other equitable relief pursuant to Section 542.23, F.S., shall not be granted against a local government or its officials or employees acting within the scope of their lawful authority, if the official conduct which forms the basis of the suit bears a reasonable relationship to the health, safety, or welfare of the citizens

of the local government. However, such relief may be granted if the court finds that the actual or potential anticompetitive effects outweigh the public benefits of the challenged action.

Criminal actions and actions for civil penalties, damages, interest on damages, costs, or attorneys' fees shall not be permitted against any local government official or employee for official conduct within the scope of his lawful authority, unless the official or employee has violated the provisions of Chapter 542, F.S., for personal financial or professional gain, or professional or financial gain of his immediate family, or of any principal by whom the official is retained.

The provisions restricting recovery of civil penalties, damages, interest on damages, costs, or attorneys' fees may be applied retroactively only if the defendant establishes and the court determines that it would be inequitable not to do so.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 668, 1054, 1106 (CHAPTER 85-317) adds subsections to Section 365.171, F.S., the "Florida Emergency Telephone Act of 1974," which authorize any county, following referendum approval, to impose a fee upon the local exchange subscribers within its boundaries to pay for nonrecurring costs incurred for the addition or initiation of "911" system service and/or equipment. Such fees may be imposed for a period not to exceed 18 months and insofar as it is practicable, at a rate not to exceed 50 cents per month per line (up to a maximum of 25 exchange lines). The telephone company is entitled to retain a

portion (equal to one percent) of the "911" fees collected to cover its administrative costs and shall have no obligation to enforce collection. All local governments are authorized to indemnify the telephone company's lawfully filed tariff against liability.

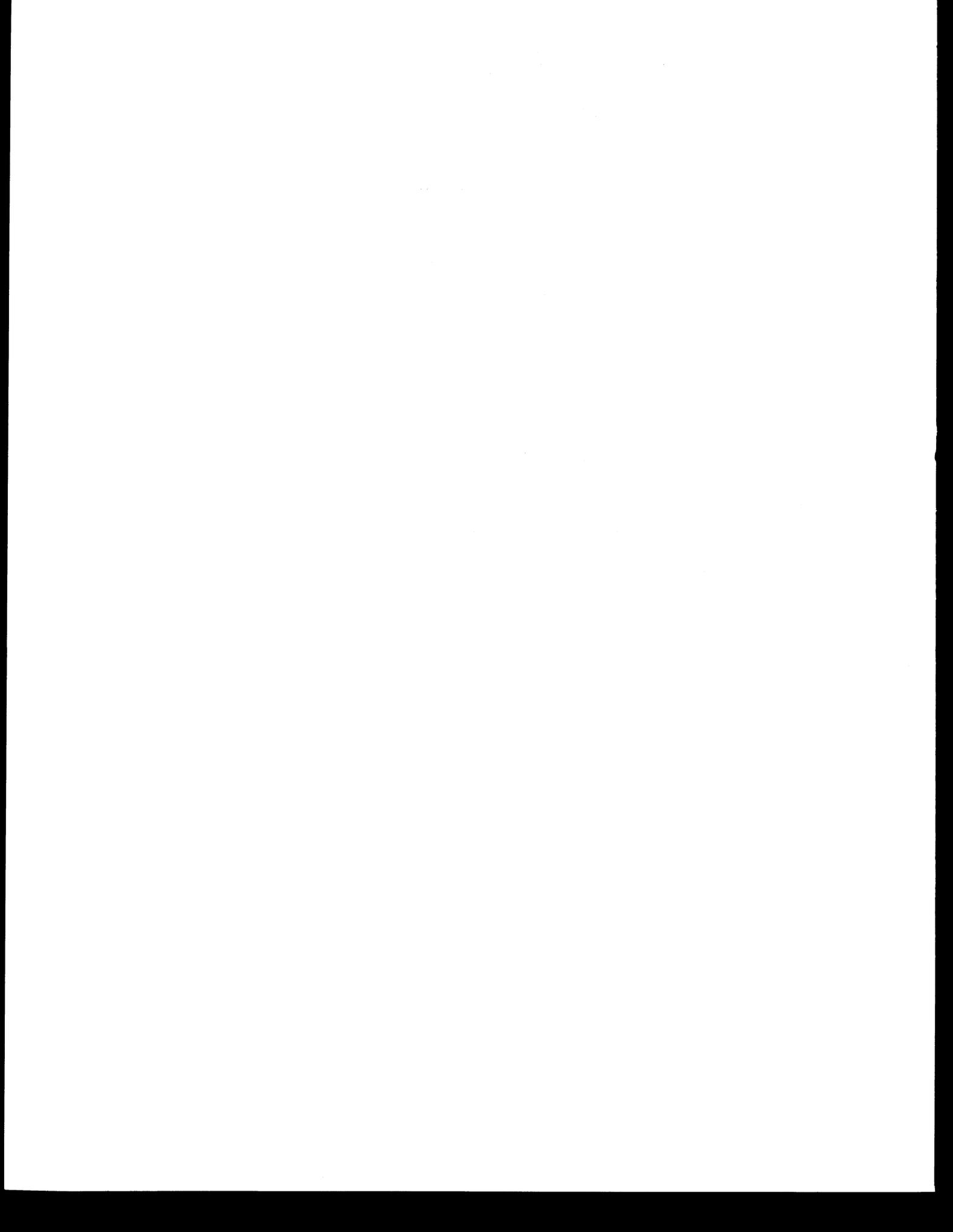
This act has an effective date of October 1, 1985.

HOUSE BILL 94 (CHAPTER 85-96) creates Section 125.485, F.S., which prohibits counties, under specified circumstances, from discontinuing or refusing to provide utility services to the owner or tenant of a rental unit because of a former occupant's nonpayment of service charges. The act further disallows liens against the rental property based upon such unpaid service charges, except to the extent that the present owner has benefited directly from the service provided to the former occupant.

This act takes effect on October 1, 1985, and applies only when the former occupant contracted for such services with the county.

SENATE BILL 453 (CHAPTER 85-113) amends Section 331.15, F.S., relating to motor carrier transportation service between county airports and all points within the county. Under the old law, counties owning and operating an airport could enter into agreements or contracts to provide motor carrier service to and from points within the county which were designated in the contract. This act provides that such agreements or contracts may authorize transportation of passengers between airports and points within the county generally.

HOUSE BILL 302 (CHAPTER 85-201) amends Section 253.033, F.S., relating to property of the former Inter-American Center Authority, known as "the Graves tract," which was previously transferred from the Authority to the Cities of Miami and North Miami and Dade County. The act directs the Board of Trustees of the Internal Improvement Trust Fund to sell certain described portions of "the Graves tract" as soon as feasible for not less than the appraised value determined in accordance with appraisal procedures set forth in Subsection 253.025(7), F.S. The proceeds from the sale are to be used by the Board to purchase certain lands within "the Graves tract" owned by the City of North Miami. As an alternative, and at the option of the Board, an exchange of equivalently valued portions of such lands is permitted.



MOTOR VEHICLES AND TRANSPORTATION*

The 1985 Legislature enacted numerous revisions in the statutes concerning operating procedures and revenue producing methods for the Department of Transportation all of which were incorporated in the "Transportation Reform, Accountability and Cooperation Act of 1985." Measures were enacted authorizing the issuance of six-year driver licenses and requiring the replacement of motor vehicle license plates every five years. Several acts dealt with refinement of provisions relating to parking spaces for the handicapped and the identification and disposition of traffic infractions. License plate registration fee exemptions were reenacted for certain Indian tribes, not-for-profit corporations and military personnel. New special license plates were provided for ex-POWs and Medal of Honor recipients. Standards for protective headgear for motorcyclists were stipulated and bicyclists were made subject to the same penalties for traffic violations as motor vehicle operators. Laws dealing with trafficking in vehicles with no identification numbers and the exporting of motor vehicles were enacted.

*Prepared by staff of House Transportation Committee

Transportation Reform, Accountability, and Cooperation Act

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1392 (CHAPTER 85-180) creates the "Transportation Reform, Accountability and Cooperation Act of 1985" (TRAC). [It implements various methods to reduce expenditures and enhance revenues to enable the Department of Transportation (DOT) to accomplish the original program objectives adopted by the 1983 Legislature.]

DOT MANAGEMENT AND ORGANIZATION

The act revises Section 20.23, F.S., to provide legislative intent that DOT be a decentralized agency and for the assignment of responsibility and accountability for the decision-making process. New Subsection 20.23(5), F.S., makes the central office responsible for the establishment and modification of the Department's policies, procedures, guidelines and standards and the district offices responsible for the implementation of the Department's transportation programs. The DOT district funding formula for new construction is revised to ensure there is no penalty for local governments taking the initiative to solve transportation problems.

New Subsection 20.23(6), F.S., allows the Department of Administration to exempt positions within the DOT from Career Service that are comparable to positions within Senior Management Service.

Monthly management reports to the secretary from districts and other upper level management is required by new Subsection 20.23(7), F.S.

Paragraph 334.19(1)(a), F.S., is amended to require that the Department's comptroller be licensed to practice public accounting in Florida or hold an advanced degree in an appropriate related discipline. The comptroller is to be responsible for the supervision and direction of the Department's budget and certification of the accuracy of the data used to prepare all comparative cost studies.

Revision of Subsection 337.16(1), F.S., allows DOT to revoke or suspend the certificate of qualification of a contractor for late completion of work, and amended Subsection 337.18(3), F.S., allows DOT to reward contractors that finish early. The maximum penalty or reward is raised from \$2,000 per day to \$10,000 per day and the maximum effective period for a penalty or reward is reduced to 60 days from 100 days. The handling of bid protests is expedited so that a hearing will be held within 15 days.

ENCOURAGEMENT OF LOCAL GOVERNMENT INITIATIVE

New Section 335.20, F.S., creates the "Local Government Cooperative Assistance Program" (LCAP) which will provide matching funds to local governments on a basis of 20 percent state funding and 80 percent local funding for projects either on the State Highway System or which substantially reduce congestion on the State Highway System. Highest priority for projects to be funded is assigned to those which were in the 1983 Five-Year Construction Plan of DOT or which are located in counties levying six cents of local option fuel taxes.

New Section 338.251, F.S., creates the Toll Facilities Revolving Trust Fund to encourage the construction of toll facilities such as expressways and bridges by advancing funds for design, right-of-way acquisition, studies and construction of these projects. Repayment must be made within seven years with interest. A maximum of \$500,000 can be advanced by DOT to any one recipient without formal approval by the Legislature.

Revised Subsection 336.025(1), F.S., extends the local option motor fuel tax from 10 to 30 years and allows counties to enact up to six cents in motor fuel taxes (the previous limit was four cents). Only the third through sixth cent can be pledged for the issuance of bonds.

New Section 338.165, F.S., allows the continued collection of tolls on toll facilities after bonds are retired, provided that these revenues are used for local transportation projects. Tolls from facilities on the State Highway System must be used for improvements to state highways in the county in which they are collected; tolls from county roads may be used on any state or county road in the county or counties in which the revenue producing facility is located.

New Part VI of Chapter 163, F.S., authorizes the establishment of Metropolitan Transportation Authorities (MTAs) in one or more Metropolitan Planning Organization (MPO) counties which are eligible for attributable urban federal funds and which have adopted four cents of local option gas taxes. MTAs are authorized to levy up to an additional four cents per gallon fuel tax and up to one-mill ad valorem tax by

referendum. An MTA will have jurisdiction over certain urban minor arterial roads on the county road system but not on the State Highway System, other roads subject to an agreement between the MTA and other units of government, and bus systems. Existing expressway authorities may be merged with an MTA three years after formation upon approval by referendum.

RIGHT-OF-WAY

Right-of-way acquisition procedures are streamlined and amended Paragraph 73.092(1)(f), F.S., requires the condemnee's attorney to submit a statement of the time, services rendered and expenses to the court and to the condemnor before the state can reimburse these costs.

New Subsection 73.071(5), F.S., prohibits any increase or decrease in the value of property acquired through eminent domain which is due solely to knowledge of the forthcoming project's location. [This is known as the "Scope of the Project" rule.]

New Paragraph 28.24(13)(c), F.S., limits the fee charged by clerks of the county court to \$100 per filing in eminent domain proceedings, and revised Subsection 74.051(3), F.S., requires that 90 percent of all interest earned on eminent domain deposits by clerks of the court be returned to the condemnor.

REVENUE ENHANCEMENT MEASURES

Revised Paragraph 212.62(3)(b), F.S., establishes a floor of 5.7 cents per gallon on motor fuel and special fuel sales. [This provision has the effect of preventing the motor

fuel tax from falling below the level in effect at the time of enactment.]

New Subsection 316.545(4), F.S., provides a penalty for noncompliance with Chapter 207, F.S. (fuel use taxes), by large trucks and establishes a procedure to levy penalties for failing to register a commercial vehicle. The penalty for improperly registered trucks provided in revised Paragraph 316.545(2)(b), F.S., is to be assessed at a rate of five cents for each pound over 35,000 pounds or its declared weight.

Amended Section 324.26, F.S., requires commercial motor vehicles as defined in Subsection 207.002(2), F.S., to have proof of insurance beginning January 1, 1986. Administration of the International Registration Plan (IRP) which allows commercial vehicles to pay license fees on an apportioned basis of fleet miles operated in various states, is transferred to the Department of Highway Safety and Motor Vehicles from the Department of Revenue pursuant to revised Subsection 320.03(7), F.S.

New Subsection 320.07(4), F.S., imposes delinquent fees for the late registration of all vehicles. The fee schedule is graduated from a minimum of \$5 to a maximum of \$250 for license fees over \$600. The provisions take effect October 1, 1985.

The act abolishes the Advanced Construction Interstate (ACI) Revolving Trust Fund and transfers all assets to the State Transportation Trust Fund in a revision of Subsection 339.08(4), F.S. The \$25 million per year of license fees heretofore deposited in the ACI Revolving Trust Fund are to be

deposited in the State Transportation Trust Fund under amended Subsection 320.20(2), F.S. Priority use of these funds is completion of the Interstate System in Florida, but excess funds are allowed to be used for general transportation purposes.

Revised Section 338.232, F.S., directs DOT to begin the expeditious defeasance of the bonded indebtedness of the Florida Turnpike. The Division of Bond Finance of the Department of General Services is authorized to issue revenue bonds to finance the cost of turnpike improvement projects in new Subsection 338.227(3), F.S., such as construction of feeder roads, interchanges, widenings and toll plazas. Proceeds of the bond sales are to be expended in each DOT district according to factors such as the district's vehicle miles traveled, toll collections and miles of turnpike. Projects are to be consistent with the Florida Transportation Plan and the DOT Five-Year Work Plan.

MISCELLANEOUS PROVISIONS

The measure corrects minor technical difficulties with existing transportation statutes.

The act establishes the Gray Market Study Committee to examine the issue of titling and registering imported automobiles that have been modified for use in the United States. The 12-member Committee is to be composed of four members appointed by the President of the Senate, four members appointed by the Speaker of the House of Representatives and

the remainder appointed by the Governor. The Committee is to make a report to the Legislature by March 1, 1986.

Amended Subsection 316.515(5), F.S., requires the Department to issue permits for various types of overlength vehicles.

Revised Subsection 338.01(5), F.S., allows transportation and expressway authorities to locate service plazas on the right-of-way of limited access facilities.

Driver Licenses

COMMITTEE SUBSTITUTE FOR HOUSE BILL 291 (CHAPTER 85-98) amends Section 322.18, F.S., to provide that driver licenses will be issued for a period of six years to original license applicants and safe drivers (those who have had no traffic convictions in the preceding three years). All other drivers will continue to receive four-year driver licenses. To implement the six-year driver license program, safe drivers whose licenses expire between November 1, 1985, and October 31, 1989, will have the option of obtaining a one-time four-year driver license extension by mail, upon payment of a \$15 service fee, or a six-year driver license renewal at a driver license examination station upon payment of the same fee and passing the required examinations. Knowing possession of a forged, stolen, fictitious, counterfeit, or unlawfully issued license extension sticker is made a misdemeanor of the second degree.

The \$3 fee heretofore required for examination and reexamination of applicants is stricken from Subsections

322.12(2) and 322.121(3), F.S., respectively, but the additional \$4 fee for first-time driver license applicants is retained in Paragraph 322.21(1)(d), F.S.

The cost of a duplicate license is raised to \$5 by revision of Subsection 322.17(1), F.S., and this subsection, as well as Subsection 320.08(2), F.S., is amended to require proof of identity when applying for a driver's license.

Under new Paragraph 322.13(1)(b), F.S., an instructor of driver's education courses at a secondary school is permitted to conduct examinations for original driver's licenses for applicants enrolled in driver's education courses at the instructor's school. Such instructors may be personnel of the school system or commercial driving instructors under contract to the school board whose designation as driver's license examiners is to be accomplished through rule of the Department of Highway Safety and Motor Vehicles. Limited liability is provided for the examiners, the schools where examinations are given and the school boards employing the examiners.

Those provisions of the act which amend Subsection 322.18(8), F.S., to provide for the implementation of the six-year driver license program have an effective date of November 1, 1985. All other provisions take effect July 1, 1985.

SENATE BILL 263 (CHAPTER 85-181) revises Subsection 322.12(3), F.S., to provide that a driver license eyesight examination may be administered by an ophthalmologist, optometrist, physician, or driver license examiner. The provisions of Section 322.12, F.S., are made applicable to the

periodic reexamination of drivers addressed in Subsection 322.121(2), F.S.

The act has an effective date of October 1, 1985.

HOUSE BILL 85 (CHAPTER 85-121) amends Paragraph 322.16(2)(c), F.S., to allow a restricted motor vehicle operator to drive after dark for the last six months before the operator's 16th birthday when accompanied by a licensed operator not less than 18 years of age, rather than 60 days before the restricted operator's 16th birthday as previously provided.

HOUSE BILL 1236 (CHAPTER 85-78) amends Subsection 322.20(9), F.S., to permit the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles to assist a person in a search of departmental records. Revised Paragraph 322.20(10)(a), F.S., establishes a fee of \$2 for supplying a driver's history record or assisting persons in searching an individual's driver record at a terminal located at the Department's headquarters in Tallahassee.

Motor Vehicle Documentation

HOUSE BILL 542 (CHAPTER 85-155) revises Paragraph 319.33(1)(d), F.S., to provide that it is unlawful to possess, sell, offer for sale, conceal, or dispose of a motor vehicle or motor home, or major component thereof, on which the motor number or identification number has been knowingly destroyed, removed, covered, altered, or defaced except in certain salvage situations.

New Subsection 319.33(5), F.S., prohibits the possession, manufacture, sale, exchange, supplying in blank, or giving away of any counterfeit manufacturer's identification number plates or serial plates or any decals used for motor vehicle identification.

In new Subsection 319.33(7), F.S., motor vehicles or mobile homes made unidentifiable by the destruction, removal, covering, alteration, or defacement of identifying numbers are to be considered contraband subject to confiscation and sale under the provisions of the "Florida Contraband Forfeiture Act," Sections 932.701 - 932.704, F.S. If such a motor vehicle is taken from a licensed motor vehicle dealer, the dealer's license must be revoked.

New Subsection 320.015(2), F.S., provides that any mobile home classified by a seller or a lender as personal property at the time a security interest was granted therein shall continue to be so classified for all purposes relating to the loan and security interest as long as any part or extension of the obligation remains outstanding. Such classification shall not prevent the owner from having the mobile home classified and taxed as real property.

Section 723.007, F.S., is revised to increase from \$1 to \$3 the annual fee for each mobile home lot payable to the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation by mobile home park owners.

The definition of the length of a mobile home for tax purposes is amended in Subsection 320.01(2), F.S., to exclude drawbars, couplings, and hitches. If the owner lacks proof of the length of such components, then the tax collector may either inspect the home or assume a length of four feet for the drawbar, coupling or hitch.

HOUSE BILL 543 (CHAPTER 85-264) revises provisions contained in Section 319.36, F.S., which require a person to obtain a certificate of right of possession before exporting a motor vehicle.

New Paragraph 319.36(1)(b), F.S., specifies that such provisions apply to motor vehicles and certain other self-propelled machinery and equipment. For purposes of the section, "United States" is redefined to mean only the several states and exclude all territories, possessions and protectorates in an amended Paragraph 319.36(1)(d), F.S. All references to "mobile home" are deleted throughout the section and the term "export" is substituted for the word "transport."

Subsection 319.36(4), F.S., is revised to increase the application fee for obtaining a certificate of right of possession by a vehicle owner from \$2 to \$10 and to permit the substitution of a notarized bill of sale or certified copy of a lienholder's title, together with written permission of the lienholder to export the vehicle, in place of a certificate of title and registration certificate. Such documentary evidence must be surrendered in making application for a certificate of right of possession. Physical inspection of the vehicle,

shipment container, or equipment is required prior to issuance of the certificate. New Subsection 319.36(5), F.S., provides that the certificate must be recognized as the basis for reapplication for a certificate of title upon reimportation of the vehicle. New Subsection 319.36(9), F.S., specifies that placement of a vehicle at a dock is prima facie evidence of intent to export the vehicle and under new Subsection 319.36(10), F.S., the Department of Highway Safety and Motor Vehicles is authorized to seize vehicles for failure to have a right-of-possession certificate when needed. Payment of any storage charges levied pending procurement of a certificate is the responsibility of the shipping party and constitutes a lien on the vehicle.

The effective date of the act is January 1, 1986.

Motor Vehicle Specifications

SENATE BILL 221 (CHAPTER 85-87) amends Subsections 316.516(1) and 316.545(1), F.S., to change the title of field enforcement personnel in the Department of Transportation's Bureau of Weights to "weight and safety officer." The distance that weight and safety officers may require a vehicle to be driven for weighing on public scales is increased from two to five miles by further amendment to Subsection 316.545(1), F.S. Refusal to submit to weighing is deemed a first degree misdemeanor, while willful resistance, obstruction, or opposition to a weight and safety officer with violence is designated a third degree felony. Sections 843.01 and 843.02,

F.S., are revised and Subsection 318.17(7), F.S., is added to conform the statutes to these new criminal offenses. Each is punishable according to the appropriate provisions in Chapter 775, F.S. The new minimum penalty for an overweight vehicle is \$10 when the excess weight does not exceed the maximum by more than 200 pounds in an amended Paragraph 316.545(3)(a), F.S.

The act takes effect October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 633 (CHAPTER 85-158) creates Section 316.251, F.S., to require both front and rear bumpers and establish a table of maximum bumper heights on motor vehicles of not more than 5,000 pounds net shipping weight. Antique cars, horseless carriages, and street rods as defined by statute are exempt from these requirements. Violation of this section is defined as a moving violation subject to the penalty provided in Subsection 318.18(3), F.S.

The act takes effect October 1, 1985.

License Plates Generally

HOUSE BILL 1383 (CHAPTER 85-176) revises Paragraph 320.06(1)(b), F.S., to require that motor vehicle license plates be replaced every five years. At the completion of the five-year period, a new license plate must be purchased for \$3, in addition to the cost of annual renewal for that year. The fee is to be deposited into the Motor Vehicle License Plate Replacement Trust Fund created by the Department of Highway Safety and Motor Vehicles for the purpose of funding the replacement program.

Under amended Subsection 319.24(1), F.S., the Department's electronic data base record of certificates of title is to serve as the required duplicate title certificate.

The act substantially rewords Section 320.131, F.S., to expand the utilization of temporary license tags to include, among other provisions, uses previously requiring an "in-transit tag." Statutory provisions found at Section 320.132, F.S., regarding such tags is repealed.

Section 320.27, F.S., is amended to expand the definitions of "motor vehicle dealer," "wholesale motor vehicle dealer," and "motor vehicle broker" and creates a new definition of "motor vehicle auction." Anyone selling a motor vehicle in violation of the dealer licensing provisions shall be deemed guilty of an unfair and deceptive trade practice. Certain dealer license fees are increased. Licensed dealers are required to permit an inspection of their business records by any law enforcement officer. Information on dealer license applications is to be checked by the Department through the records maintained in the Florida and National Crime Information Centers. Motor vehicle dealers are required to execute dealer reassignments in order to facilitate the establishment of the chain of ownership of a vehicle. Dealers in their annual applications may substitute an irrevocable letter of credit for the surety bond heretofore required, either of which must be in the amount of \$25,000. The act specifies aggregate liability and authorizes issuers for each instrument.

Substantial increases in various license fees are accomplished in the revision of Sections 320.62, 320.77 and 320.8225, F.S., relating to motor vehicle manufacturers, factory branches, distributors or importers and to mobile home and recreational vehicle dealers and manufacturers.

Those provision of the act concerning the five-year license plate program take effect January 1, 1986, while all others are effective July 1, 1985.

Special License Plates

SENATE BILL 1204 (CHAPTER 85-343) amends Section 320.10, F.S., to reenact existing exemptions from the payment of an annual license plate registration fee for motor vehicles owned by certain not-for-profit corporations and motor vehicles or mobile homes owned by active duty military personnel living in Florida who are domiciled in another state. The exemption for privately owned, local transit system motor buses is eliminated. New exemptions are provided for certain enumerated not-for-profit corporations. Maintenance of not-for-profit status is required in order to continue an exemption.

Subsection 320.01(1), F.S., is revised to adopt new definitions, length limitations, and measurement procedures for a "travel trailer" and a "park trailer." A revised license tax fee structure for such vehicles based upon length is established in revised Subsections 320.08(9) and (10), F.S. The new length limitation of revised Subsection 316.515(3), F.S., is made applicable to recreational vehicle-type units.

Fees collected on trailers over 35 feet in length are to be disbursed to local government entities in the same manner as mobile home fees pursuant to revised Section 320.081, F.S.

The use of dealer license plates by a dealer trading exclusively in mobile homes is prohibited in amended Paragraph 320.77(1)(a), F.S. The U.S. Department of Housing and Urban Development standard for park trailers and the Federal Manufactured Home Construction and Safety Standards are adopted where applicable in Chapter 320, F.S. The repair and remodeling code for mobile homes shall not be more stringent than that applied to the manufacture of new mobile homes under revised Section 320.8232, F.S. Amended Section 320.8325, F.S., creates a statutory cause of action against a dealer or distributor of anchors and tie-downs.

SENATE BILL 484 (CHAPTER 85-66) creates Subsection 320.089(2), F.S., to provide that Florida citizens who are former prisoners of war may obtain, without fee, a license plate stamped "Ex-P.O.W." for placement on a recreational vehicle, or motor vehicle weighing 5,000 pounds or less, which is not used for commercial purposes. Each applicant must furnish proof that he was a prisoner of war while a citizen serving in the U.S. Armed Forces or an allied nation. A non-citizen in the U.S. Armed Forces, or civilian serving with consent therein may obtain such a license plate upon payment of the appropriate license tax. A Florida resident who was awarded the Medal of Honor may, upon submission of proof, be issued a license plate without fee upon which is stamped the

words "Medal of Honor" followed by the serial number as provided in new Section 320.0893, F.S.

The act has an effective date of October 1, 1985.

SENATE BILL 938 (CHAPTER 85-190) reenacts Section 320.0841, F.S., which permits the provision of free license plates to members of the Seminole and Miccosukee Indian Tribes.

The reenactment takes effect on the date of scheduled repeal, October 1, 1985.

SENATE BILL 217 (CHAPTER 85-110) amends Section 320.025, F.S., to permit the issuance of a confidential motor vehicle registration certificate and license plate under a fictitious name to any state public defender's office upon proper application to the Department of Highway Safety and Motor Vehicles. Existing law permits the issuance of such certificates and plates to state, county, municipal and federal law enforcement agencies. In addition, this act affords the public defender application and supporting records current statutory exemptions from the inspection and examination requirements of the Public Records law, Section 119.07, F.S., as well as the present exemptions from statutory prohibitions against the personifications, fabrications, and creation of false identifications necessary for the performance of covert operations on the part of the public defender's office.

Traffic Infractions

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 1183 AND 885 (CHAPTER 85-250) creates Subsection

318.14(9), F.S., to permit a driver cited for a traffic infraction to elect attendance at a driver improvement course in lieu of paying a civil penalty or appearing in court. In such cases adjudication and points are withheld. Only one such election may be made every 12 months, with a lifetime maximum of three. Court costs of \$20 are assessed for such an election with \$12 returned to the political subdivision where the offense occurred and \$8 disbursed to the affected county.

New Subsection 318.14(10), F.S., provides that a driver cited for certain criminal license and registration offenses may elect to enter a plea of nolo contendere and provide proof of compliance to the clerk of the court or traffic violations bureau in lieu of payment of a fine or court appearance, thereby permitting the withholding of adjudication. The limitations on the number of elections and the assessment and distribution of a \$20 court cost are identical to those previously described.

In revised Section 318.18, F.S., increased penalties for civil infractions are provided: \$10 for bicycle and pedestrian offenses, \$25 for nonmoving violations, and \$35 for moving violations.

Amended Subsection 318.19(1), F.S., deletes the requirement for a mandatory infraction hearing subsequent to an accident involving only property damage or nonserious injury, but new Subsection 318.19(2), F.S., requires a hearing in the case of "serious bodily injury."

Revised Subsection 320.07(3), F.S., prescribes that the failure to attach a current registration to a motor vehicle or mobile home is punishable as a second degree misdemeanor.

Various provisions of Chapters 318, 943, and 960, F.S., are amended to require that surcharges for law enforcement training and victims' crime compensation be assessed upon a withholding of adjudication.

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 213 AND 321 (CHAPTER 85-255) adds Subsection 318.18(7), F.S., to authorize the imposition of a civil penalty of up to \$4 per noncriminal traffic infraction for the purpose of funding a county or municipal school crossing guard program. This penalty is in addition to any other civil penalties set out in Section 318.18, F.S. New Subsections 34.191(5) and 316.660(4), F.S., permit the revenues from this additional penalty to be paid to any local government entity administering a school guard crossing program.

The act takes effect October 1, 1985.

SENATE BILL 49 (CHAPTER 85-229) creates Section 316.6135, F.S., to prohibit the parent, legal guardian, or other person responsible for a child under the age of six years from leaving the child unattended or unsupervised in a motor vehicle for a period in excess of 15 minutes. If the vehicle's motor is running, or the health of the child is in danger, the child may not be left unattended for any length of time. Any person violating the provisions of this act is guilty of a noncriminal traffic infraction and is subject to a fine of not

more than \$100 or, if the vehicle's motor is running or the health of the child is in danger, a fine of not less than \$50 or more than \$500.

Law enforcement officers who observe a violation of this provision are authorized to use whatever means are reasonably necessary to protect and remove the child from the vehicle. If a law enforcement officer is unable to locate the parents, legal guardian or other person responsible for the child, the officer is to remand the child to the custody of the Department of Health and Rehabilitative Services.

The act has an effective date of October 1, 1985.

SENATE BILL 458 (CHAPTER 85-184) creates Section 316.1001, F.S., to provide that failure to pay a toll at a toll facility is a noncriminal traffic infraction punishable as a moving violation, but no points, as provided in Subsection 322.27(3), F.S., will be assessed against a driver's license for a conviction.

Parking for Disabled Persons

SENATE BILL 33 (CHAPTER 85-227) amends various parts of Chapter 316, F.S., the "Florida Uniform Traffic Control Law," and Chapter 320, F.S., relating to motor vehicle licenses, with respect to provisions concerning parking places for the disabled and the issuance of exemption entitlement parking permits for such persons.

Subsection 316.008(4), F.S., is amended to permit a county or municipal ordinance to provide for the separate

deposit of fines levied for violations of statutory provisions relating to parking places for the disabled provided by governmental and nongovernmental entities (Sections 316.1955 and 316.1956, F.S., respectively), which moneys are to be used one-third for administering the levy and two-thirds for the improvement of accessibility and equal opportunity for disabled persons and to conduct public awareness programs.

Section 316.1955, F.S., is revised to add the provisions of Section 316.195, F.S., which relate to roadway parallel and angle parking, as authority for the issuance of exemption entitlement parking permits; and to provide new ratios of required accessible spaces for the disabled to total spaces in each parking lot. This amended section and Section 316.1956, F.S., are revised to stipulate the posting of above-grade signs at parking places for the disabled; to replace references to the "internationally accepted wheelchair symbol" with the phrase "international symbol of accessibility"; and to provide references to Section 316.1958, F.S., created by this act, which requires the recognition of out-of-state vehicles bearing handicapped identification on a reciprocal basis.

This act also creates Section 316.1957, F.S., which declares a vehicle found parked in a properly designated handicapped parking place in violation of Sections 316.1955 or 316.1956, F.S., to be prima facie evidence that the vehicle was parked and left by the person, firm or corporation in whose name the vehicle is registered and licensed.

New Section 316.1959, F.S., requires state, county and municipal authorities to enforce handicapped parking provisions in the same manner as other parking laws and ordinances.

Section 320.0848, F.S., is revised to make more specific references to the authorities for certifying persons eligible for exemption entitlement parking permits and to provide a more specific description of the parking permit metal taglet. The provision permitting the transfer of such taglets from one vehicle to another is stricken and a \$5 issuance fee is provided for each permit to be divided between the Department of Highway Safety and Motor Vehicles and the appropriate county tax collector in the amounts of \$3.50 and \$1.50, respectively. Additional permits are available at \$1 each. The reference to aged persons is stricken from the description of an organization which qualifies for a permit by providing transportation services to disabled or severely handicapped persons.

The act takes effect October 1, 1985.

SENATE BILL 895 (CHAPTER 85-325) amends Subsection 316.008(4), F.S., to increase the fine that local governments may impose for illegally parking in a handicapped space from \$100 to \$250. The method of notification of a parking violation and the procedure for collection of fines are revised in Section 316.1967, F.S.

Revisions to this section also provide that any county may by ordinance require the tax collector and license tag agents be furnished a list of persons with five or more parking

violations by the clerk of the court or the traffic violations bureau. Under new Subsection 320.03(8), F.S., if a license plate applicant's name appears on the list no plate or sticker may be issued until the applicant furnishes a receipt showing the fines have been paid or his name no longer appears on the list. Provisions are made for reimbursement of administrative costs.

Transportation Authorities

HOUSE BILL 329 (CHAPTER 85-351) revises Paragraph 348.772(2)(a), F.S., to require that the member of the Palm Beach Expressway Authority appointed by the Palm Beach County Board of County Commissioners must be a member of that Board.

HOUSE BILL 504 (CHAPTER 85-263) amends Subsection 349.03(3), F.S., to provide that any member of the Jacksonville Transportation Authority appointed for two consecutive full terms shall not be eligible for appointment to the succeeding term.

COMMITTEE SUBSTITUTE FOR SENATE BILL 608 (CHAPTER 85-364) directs the Department of Transportation to increase to 50 cents the tolls collected at the eastern and western ends of the Pinellas Bayway upon completion of Phase I construction of improvements which consists of widening to four lanes the Bayway from the eastern toll booth to State Road 679. Tolls are to be used in order of priority to pay annual operating costs, discharge current bonded indebtedness, and establish a reserve construction account for Phase II of the Bayway

improvements which is the widening to four lanes from State Road 679 west to Gulf Boulevard. Thereafter, toll moneys are to be used by the Department to cover maintenance costs for the Bayway. Motorists may purchase a \$50 annual pass in lieu of paying tolls. Public safety vehicles are exempt from the tolls.

Transportation Maps

SENATE BILL 447 (CHAPTER 85-183) revises Subsection 335.02(2), F.S., to provide that once right-of-way maps have been used for the acquisition of property rights for roadways and monumentation has been completed, the maps shall be filed with the clerk of circuit court in the appropriate county pursuant to Section 177.131, F.S. The requirement that survey maps, done in anticipation of roadway acquisition, be filed in the circuit court is deleted.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 314 (CHAPTER 85-149) amends Section 337.241, F.S., to provide that any expressway authority having eminent domain authority may prepare maps of reservation for the acquisition of rights-of-way for the construction of roads within its jurisdiction. These maps establish building setback lines and place restrictions on the issuance of development permits. This act extends to expressway authorities the power that formerly had been solely that of the Department of Transportation with respect to the State Highway System. Paragraph 332.007(5)(a), F.S., is revised to provide that the Department may initially fund up to

75 percent of the cost of land acquisition for the expansion of an existing airport which had in excess of one million annual enplanements in 1984.

Bicycles and Motorcycles

SENATE BILL 268 (CHAPTER 85-329) amends Subsection 316.211(5), F.S., to authorize the Department of Highway Safety and Motor Vehicles to approve for use on Florida roads and highways, motorcycle protective headgear made to specifications drawn, devised, or approved by one of several equipment standard organizations. The Department is authorized to publish lists of approved safety equipment to be made available, upon request, to all users of the equipment. The act also adds Subsection 316.211(5), F.S., to allow the use of protective headgear that includes speakers, listening devices or microphones and revises Section 316.304, F.S., to allow operators of emergency vehicles to wear ear protection devices while operating a motor vehicle.

An effective date of October 1, 1985, is provided.

SENATE BILL 417 (CHAPTER 85-309) amends Paragraph 163.3177(6)(b), F.S., to require that bicycle and pedestrian ways be included in the traffic circulation element of local comprehensive plans. Chapter 316, F.S., is amended to provide that: a bicyclist may signal a right turn by extending his right arm horizontally; bicyclists must stop for a school bus and when directed by a police officer; all bicycles must be equipped with a working brake system which meets certain

standards; and that a bicycle may not be sold at retail without an identification number.

In the repeal of Section 316.207, F.S., bicyclists are made subject to the same penalties for traffic violations as motor vehicle operators except points, as provided in Subsection 322.27(3), F.S., will not be assessed against the bicyclist's driver record.

The act changes the designation of motorcycle and motor-driven cycle engines from brake horsepower to cubic centimeters in various provisions of Chapters 316, 320, and 322, F.S.

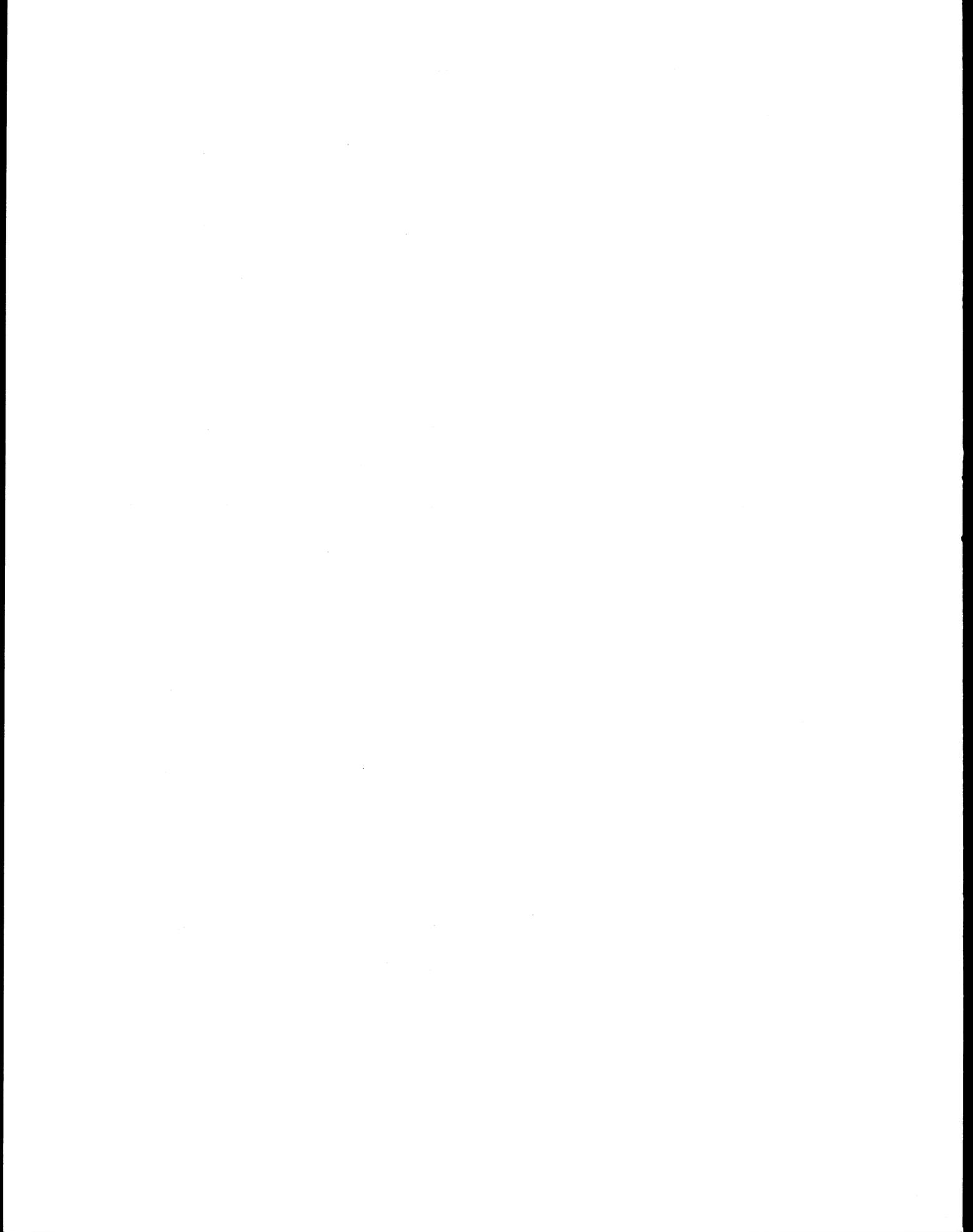
New Paragraph 322.16(2)(d) prohibits a restricted motor vehicle operator from operating a motorcycle with an engine larger than 150 cubic centimeters displacement.

The act takes effect October 1, 1985.

Miscellaneous

SENATE BILL 631 (CHAPTER 85-356) permits the selling of Florida Highway Patrol (FHP) mementos at the FHP training academy the proceeds of which shall be placed in an employee benefit fund established pursuant to Section 112.217, F.S.

HOUSE BILL 808 (CHAPTER 85-358) designates the Florida Museum of Transportation and History in Fernandina Beach as the official state transportation museum. The Department of Transportation is directed to erect an identifying marker.



PROFESSIONAL REGULATION*

The 1985 Florida Legislature enacted laws on a variety of regulatory matters. Among the most notable of these were several acts relating to licensure of out-of-state physicians and graduates of foreign medical schools; restrictions on the prescription and dispensing of certain drugs; and revisions of the laws regulating accountancy, barbering and cosmetology, massage practice, naturopathy, and veterinary medicine.

Department of Professional Regulation

SENATE BILL 487 (CHAPTER 85-311) creates Section 455.232, F.S., to prohibit any officer or employee of the Department of Professional Regulation or a board within the Department, or any person under contract with the Department or a board, from disclosing any confidential information to a person not legally entitled to such disclosure. Violation is a misdemeanor of the first degree, and the violator must be removed from office, employment, or the contractual relationship.

The act also amends Subsection 455.225(9), F.S., relating to confidentiality of complaints and information

*Prepared by staff of Senate Legal Research and Drafting Services

discovered during disciplinary investigations, to authorize disclosure of such information to any law enforcement agency or any other regulatory agency.

Accountancy

COMMITTEE SUBSTITUTE FOR SENATE BILL 30 (CHAPTER 85-9) revives and readopts Chapter 473, F.S., relating to regulation of accountancy, notwithstanding its scheduled repeal under the Regulatory Sunset Act.

The act provides in a revision of Section 473.303, F.S., that appointments to the Board of Accountancy are subject to Senate confirmation, and repeals obsolete appointment stipulations. The late renewal penalty is renamed a reactivation fee in Section 473.305, F.S. The Board is given authority to determine what constitutes a passing grade for each subject or part of the licensure examination with the addition of Paragraph 473.306(3)(a), F.S. In refusing to license an applicant because of lack of good moral character under Subparagraphs 473.306(4)(b)1. and 2., F.S., the Board must find a reasonable relationship, rather than a substantial connection, between the lack of character and the professional responsibilities of an accountant; and such finding must be supported by competent substantial evidence, rather than by clear and convincing evidence.

Subsection 473.308(2), F.S., is revised to require all applicants to pass the licensure examination and to specify the applicability of Sections 473.309 and 473.3101, F.S., to firms.

The fact is made clear that firms as well as individuals may be refused certification for violation of prohibited acts under Chapter 473, F.S.

In addition to meeting continuing education requirements, an applicant for renewal of licensure must pass an examination covering Chapter 455, F.S. (Regulation of Professions), Chapter 473, F.S. (Public Accountancy), and related rules under the provisions of revised Subsection 473.311(1), F.S.

Subsection 473.313(1), F.S., is amended to authorize a fee for reactivation of a license.

The failure to maintain good moral character is added to the grounds for disciplinary action in new Paragraph 473.323(1)(m), F.S.

All licenses valid on the effective date of this act, October 1, 1985, shall remain in full force and effect and are renewable as provided by the act.

Chapter 473, F.S., is repealed on October 1, 1995, and is subject to Sunset review prior to that date.

Architecture

SENATE BILL 487 (CHAPTER 85-311), discussed in part above under the subheading Department of Professional Regulation, also grants to the Board of Architecture authority to make rules to carry out its responsibilities and to protect the public health, safety, and welfare under new Section

Barbering and Cosmetology

COMMITTEE SUBSTITUTE FOR SENATE BILL 218 (CHAPTER 85-297) saves the "Barber's Act" (Chapter 476, F.S.) and the "Florida Cosmetology Act" (Chapter 477, F.S.) from Sunset repeal and provides for future review and repeal of those acts on October 1, 1995. "Barber" and "barbering instructor" are defined, and exemptions from the "Barber's Act" are clarified. Obsolete language about the initial Barbers' Board and language that prohibits a Board member from having a connection with a school of barbering is deleted. A quorum of the Board is set at four members. Barbers' licensure qualifications and examination requirements are revised, and provision is made for the licensing in this state of qualified barbers who have been licensed and practicing in another state since January 1, 1980. Rules pertaining to license examinations are authorized, and barbers' examination requirements and content are modified in part by mandating compliance with equal opportunity guidelines. Biennial license renewal requirements are revised. Inactive status is allowed for barbering instructors and their continuing education requirement for license reactivation is deleted. New statutory Sections 476.158 and 476.178, F.S. provide for examining and licensing barbering instructors, and for licensing, operating, and inspecting barber schools. Requirements for licensing barber shops are amended, and provisions for inspections are established. A new statute,

Section 476.192, F.S., imposes the maximum amount allowed for fees to be set by the Board, and makes provision for depositing excess fees in the Professional Regulation Trust Fund. The list of prohibited acts is expanded and penalties are prescribed. Barbers' assistants and barber instructors registered before September 30, 1985, are "grandfathered" into prior law.

Chapter 477, F.S., is changed by amending the definition of "cosmetology" and adding definitions of "specialist," "specialty," and "specialty salon." Licensed masseurs and certain cosmetics salespersons are exempted from the Florida Cosmetology Act. Provisions concerning the Board of Cosmetology are amended, and obsolete language is deleted. Qualifications for licensure as a cosmetologist are set forth, and license renewal requirements are modified. New statutory Section 477.020, F.S. provides for specialists' qualifications, licensure, and license renewal. License renewal requirements for cosmetology instructors are revised, and continuing education requirements for reactivating a license are deleted. A student enrollment permit fee for cosmetology schools is deleted and those schools are required to retain certain records which are subject to inspection by the Department of Professional Regulation. Provision is made for specialty shop licensure, license renewal, and inspection. License fees for specialists are provided, and license fees for duplicate licenses are deleted. The disposition of fees is changed. Certain acts are prohibited in the practice of a specialty, and

penalties are provided. Provisions for disciplinary proceedings against a specialist are set out. A savings clause that extended certain cosmetology licenses the right to practice without additional application or fee through June 30, 1980, is repealed.

Dentistry

COMMITTEE SUBSTITUTE FOR HOUSE BILL 548 (CHAPTER 85-156) amends Chapter 466, F.S., to direct the Board of Dentistry to establish an administrative mechanism to verify compliance with training, education, experience, equipment, or certification requirements of dentists, hygienists, and dental auxiliaries, and authorizes the imposition of a fee to help pay for such verification. The act provides that a dentist may delegate remediable tasks, so defined by law or the Board, to a dental hygienist or dental auxiliary when such tasks pose no risk to the patient. New Section 466.0135, F.S., is created to provide for continuing education requirements for dentists, effective January 1, 1986. This provision is to be repealed October 1, 1986, subject to legislative review under the Sunset Act, Section 11.61, F.S. The act also allows dental applicants who have failed specified portions of the dental licensing examination to take other parts of the examination under certain circumstances.

Embalming

HOUSE BILL 714 (CHAPTER 85-133) amends Subsection 470.008(2), F.S., to change the requirements for registration

as an embalmer intern. The applicant must be at least 18 years old and never have been convicted of a crime relating to the ability to practice embalming or to embalming. Under prior law, the applicant had to be 18 years old and have completed a course of study in mortuary science.

Engineering

COMMITTEE SUBSTITUTE FOR HOUSE BILL 742 (CHAPTER 85-134) amends several provisions in Chapter 471, F.S., relating to regulation of engineers. The act exempts from registration requirements employees of state, county, or municipal government, or of any other governmental unit of the state if the employees are subordinates of a person in responsible charge who is a registered engineer, and if the supervision meets standards specified by rule of the Board of Professional Engineers.

The act provides that an applicant will be deemed to have passed the equivalent of Part I of the engineering examination if he has been a registered engineer in another state for 15 years and if he has 20 years of continuous professional-level engineering experience. An applicant will be deemed to have passed the equivalent of Parts I and II of the engineering examination if he has been a registered engineer in another state for 25 years and if he has 30 years of continuous professional-level engineering experience.

The act also creates additional grounds for disciplinary action. Violation of any provision of Chapter 471, F.S., is

subject to disciplinary action, as is the violation of any rule of the Board of Professional Engineers or the Department of Professional Regulation, or violation of any order of the Board or Department previously entered in a disciplinary hearing.

Health Care Providers

COMMITTEE SUBSTITUTE FOR HOUSE BILL 33 (CHAPTER 85-6) amends Chapters 458, 459, 461, 462 and 466, F.S., to prohibit physicians, osteopathic physicians, podiatrists, naturopaths, or dentists from prescribing or supplying certain drugs for the purpose of musclebuilding or enhancing athletic performance.

HOUSE BILL 100 (CHAPTER 85-7) amends Section 455.24, F.S., to require that health care providers who advertise discounted or reduced fees also include a disclosure statement in the advertisement stating that the patient may refuse to pay for certain other services performed as a result of responding to the advertisement. This disclosure was previously required only in advertisements for free services.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 421 (CHAPTER 85-262) adds Subsection (5) to Section 468.308, F.S., relating to certification of radiologic technologists, to require the Department of Professional Regulation to issue a general radiographer's certificate to certain basic certificate holders who were employed by a state mental hospital, institution, or facility on October 1, 1984.

Hearing Aids

COMMITTEE SUBSTITUTE FOR HOUSE BILL 421 (CHAPTER 85-262)

amends Section 484.0501, F.S., to transfer the duty to adopt rules and standards relating to procedures and equipment used in the fitting and dispensing of hearing aids, and the duty to inspect such equipment, from the Department of Health and Rehabilitative Services to the Department of Professional Regulation. It also establishes certain standards for audiometric tests.

Massage

HOUSE BILL 1254 (CHAPTER 85-280), revives and readopts Chapter 480, F.S., pertaining to the massage profession, notwithstanding its scheduled October 1, 1985, Sunset repeal. It defines "board-approved massage school" and "colonic irrigation" and allows masseurs to practice colonic irrigation according to rules adopted by the Board of Massage. Obsolete language relating to the initial appointees to the Board is deleted. Modifications are made to the qualifications and requirements for taking the licensure examination and to the requirements for provisional licensure. New statutory Section 480.0415, F.S. provides for biennial license renewal and imposes continuing education requirements. Transfer of a license for operating a massage establishment is prohibited. A maximum amount is prescribed for fees that the Board is to set. Further grounds for disciplinary action against a masseur are provided, and penalties are set forth. New statutory Section 480.0465, F.S., requires placing a licensee's license number in advertisements. Section 480.053, F.S., pertaining to

continuation of licenses existing on June 30, 1978, is repealed. The act provides for Sunset repeal of Chapter 480, F.S., on October 1, 1995, and legislative review prior to that date.

Medical Practice

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1132 (CHAPTER 85-56) amends Subsections 458.313(1) and (2), F.S., to authorize the licensure of certain physicians by endorsement if they are on the faculty of not-for-profit corporations which meet certain requirements. The number of such endorsements is limited to 35 current employees of the corporation. The amendments to this subsection have a repeal date of October 1, 1990, subject to Sunset review by the Legislature. The act also adds Subsection (3) to Section 617.01, F.S., to provide conditions under which certain not-for-profit corporations may provide medical services in this state.

COMMITTEE SUBSTITUTE FOR SENATE BILL 340 (CHAPTER 85-307) amends Section 458.303, F.S., to permit certain physicians licensed in other states, who are on certain medical school faculties in this state, to obtain limited licenses to practice medicine in Florida by renewing their medical faculty certificates. Previously, such certificates were issued for a two-year period and were nonrenewable. The effective date of this act is October 1, 1985.

COMMITTEE SUBSTITUTE FOR SENATE BILL 783 (CHAPTER 85-344) amends Section 458.311, F.S., to allow certain graduates

of foreign medical schools whose clinical training does not meet current requirements established by the Board of Medical Examiners to take the Federation Licensure Examination through June 1986.

Naturopathy

SENATE BILL 246 (CHAPTER 85-303) revives and readopts, with changes, Chapter 462, F.S., relating to naturopathy, notwithstanding the scheduled October 1, 1985, Sunset repeal of the act. The act abolishes the Board of Naturopathic Examiners and transfers certain functions of the Board to the Department of Professional Regulation. Provisions relating to the Board's membership, licensing power, members' oaths, powers and duties, recording of licenses, and authority to pass on naturopathic schools are repealed; and Section 462.023, F.S., is created to provide for the powers and duties of the Department in carrying out the purposes of this chapter. The act provides for the deposit of fees collected into the Professional Regulation Trust Fund and authorizes an increase, from \$100 to \$250 in the maximum fee for reissuance of a license.

The act provides for Sunset repeal of Chapter 462, F.S., on October 1, 1995, and legislative review prior to that date.

Pharmacy

COMMITTEE SUBSTITUTE FOR HOUSE BILL 392 (CHAPTER 85-35) amends Chapter 465, F.S., the "Florida Pharmacy Act," to create Section 465.186, F.S., which provides for a committee to establish a formulary of medicinal drugs which can be made

available to the public upon the order of a pharmacist issued pursuant to a dispensing procedure established by the committee for each such drug. The act authorizes the inclusion of specified categories of products in the formulary. The Board of Pharmacy, the Board of Medical Examiners, and the Board of Osteopathic Medical Examiners shall adopt by rule a formulary of medicinal drugs and dispensing procedures as established by the Committee. The act requires the keeping of certain records and the affixing of certain labels for medicinal drugs so dispensed. It authorizes the reimbursement of pharmacists by third party prescription programs and provides penalties for ordering and dispensing medicinal drugs in violation of this section. These provisions will become effective October 1, 1985, and are scheduled for repeal on October 1, 1986, subject to Sunset review by the Legislature pursuant to Section 11.61, F.S.

The act also amends Subsection 465.003(13), F.S., to broaden the definition of "prescription" to include a pharmacist's order for a product selected from the formulary, effective October 1, 1985.

HOUSE BILL 395 (CHAPTER 85-151) amends Section 465.017, F.S., to provide that, except as stipulated in Chapter 465, F.S., relating to pharmacy, Chapter 406, F.S., relating to medical examiners, Chapter 409, F.S., relating to social and economic assistance, Chapter 455, F.S., relating to professional regulation, Chapter 499, F.S., relating to drug, cosmetic, and household products, and Chapter 893, F.S.,

relating to drug abuse prevention and control, records maintained in a pharmacy relating to the filling of prescriptions and the dispensing of medicinal drugs shall not be furnished to any person other than to the patient, his legal representative, or the Department of Professional Regulation pursuant to existing law, or, in the event that the patient is incapacitated, his spouse, except on written authorization of such patient. Such records may be furnished in any civil or criminal proceeding upon the issuance of a subpoena from a court of competent jurisdiction and notice to the patient or his legal representative. This section, as amended by this act, is repealed on October 1, 1986, subject to legislative review under the Sunset Act.

HOUSE BILL 266 (CHAPTER 85-71) amends Section 465.026, F.S., to provide that nothing in the "Florida Pharmacy Act" shall prevent a pharmacist licensed in Florida from filling or refilling a valid prescription which is on file in a pharmacy located in the state and has been transferred from one pharmacy to another by any means, including by way of electronic data processing equipment under certain specified conditions. This provision will take effect on October 1, 1985.

Podiatry

HOUSE BILL 1218 (CHAPTER 85-217) creates Section 461.0132, F.S., to establish a procedure for the handling of a podiatrist who is impaired by alcohol or medicinal drugs. It also amends Section 461.0134, F.S., to provide for podiatrists

to treat patients with DMSO under certain circumstances. A repeal date of October 1, 1986, is set for both of these sections subject to Sunset review by the Legislature.

Real Estate Practice

SENATE BILL 496 (CHAPTER 85-90) amends Section 475.42, F.S., to clarify the prohibition against a real estate salesman maintaining certain actions for compensation; and amends Section 475.483, F.S., to revise conditions necessary for recovery from the Real Estate Recovery Fund, and authorizes the Florida Real Estate Commission to pay attorney's fees and court costs in certain actions. This act has an effective date of October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 195 (CHAPTER 85-199) creates Section 475.487, F.S., to establish the Florida Real Estate Commission Education and Research Foundation, and the Foundation Advisory Committee; establishes the duties of the Advisory Committee and the Foundation; provides for the appointment of members of the Advisory Committee; and creates a trust fund for the operation of the Foundation. This newly created section of Chapter 475, F.S., is scheduled for repeal on October 1, 1988, subject to review of the Foundation and Advisory Committee by the Legislature pursuant to Section 11.611, F.S., the Sundown Act.

HOUSE BILL 892 (CHAPTER 85-101) amends Section 475.42, F.S., to permit real estate brokers or salesmen to record

certain judgments of courts in this state. The effective date of this amendment is October 1, 1985.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1027 (CHAPTER 85-215) amends Section 475.011, F.S., to exempt the brokerage of radio, television, or cable enterprises regulated by the Federal Communications Commission from the provisions of Chapter 475, F.S., relating to real estate brokers and salesmen. The exemption does not apply to the portion of a transaction involving the sale or purchase of real property of the media enterprise. Section 475.011, F.S., as amended by this act, is repealed on October 1, 1988, subject to legislative review under the Sunset Act.

Veterinary Medicine

COMMITTEE SUBSTITUTE FOR SENATE BILL 91 (CHAPTER 85-291) revives and readopts Chapter 474, F.S., relating to veterinary medical practice, notwithstanding its scheduled Sunset repeal, and amends various provisions of law relating to veterinary medicine. In Section 474.203, F.S. (exemptions), it amends a reference to castration, spaying, and dehorning of cattle to include all herd animals, and provides that only veterinarians may immunize or treat an animal for diseases which are communicable to humans and of public health significance. It excludes certain out-of-state veterinarians from an exemption from regulation. The act removes an examination fee cap, prohibits certain applicants from practicing temporarily, and

requires certain unsuccessful examinees to supplement their education before retaking the licensing examination.

The act amends various provisions relating to impaired veterinarians and provides for the appointment of a licensee to the Impaired Professionals Advisory Committee, the use of impaired professional consultants, and the confidentiality of certain information. It specifies a penalty for attempting to obtain or obtaining a license fraudulently. The act defines "mobile veterinary establishment" and "mobile clinic" and provides for the issuance of mobile clinic permits, and for veterinary licensure by endorsement. It authorizes certain fees and fee caps and provides for temporary licensure of certain out-of-state veterinarians. It authorizes the Department of Professional Regulation to subpoena the records of certain veterinarians and to acquire handwriting samples and medical records. The act repeals a provision relating to the appointment of members of the Board of Veterinary Medicine. The law provides for Sunset repeal of Chapter 474, F.S., on October 1, 1995, and for legislative review prior to that date.

PUBLIC OFFICERS AND EMPLOYEES*

The 1985 Session of the Florida Legislature saw the enactment of several pieces of legislation concerning public officers and employees. Pay raises for members of the Senate and the House of Representatives were authorized, the Senior Management Service was augmented by the creation of the Selected Professional Service System, the employee interchange program was revised, reimbursement rates and methods of calculation for per diem and subsistence were revised, and various amendments affecting the state retirement system were adopted. The overall thrust of legislation in the area of public officers and employees in 1985 seemed to be in the direction of providing uniform statewide personnel procedures for all state agencies as well as refining various programs and practices which have already been adopted.

Compensation of Public Officers

SENATE BILL 743 (CHAPTER 85-322) amends Subsection 11.13(1), F.S., to increase the compensation for members of the Senate and the House of Representatives from \$12,000 to \$18,000 per year and to provide for an annual average

*Prepared by staff of House Bill Drafting Service

percentage increase in such compensation effective July 1, 1986, and each July 1 thereafter. The act also amends Section 11.151, F.S., to increase from \$5,000 to \$10,000 the legislative contingency fund for the President of the Senate and the Speaker of the House of Representatives. Subsection 11.1465(1), F.S., is amended to provide for legal research for members and committees of the House of Representatives and the Senate; and Subsection 11.147(4), F.S., is amended to provide that the rules and procedures adopted by the Joint Legislative Management Committee governing a uniform personnel, job classification, and pay plan for all legislative employees shall be subject to the approval of the President of the Senate and the Speaker of the House of Representatives. All amendments to Chapter 11, F.S., included in this act have an effective date of July 1, 1985.

By amendment to Subsection 145.051(1), F.S., the act revises base salaries for each clerk of the circuit court and each county comptroller; by amendment to Subsection 145.09(1), F.S., it revises base salaries for each supervisor of elections; by amendment to Subsection 145.10(1), F.S., it revises base salaries for each property appraiser; by amendment to Subsection 145.11(1), F.S., it revises base salaries for each tax collector; by amendment to Subsection 145.071(1), F.S., it revises base salaries for each sheriff; and by amendment to Subsection 230.303(1), F.S., the act revises base salaries for each superintendent of schools. These base salary revisions will become effective on October 1, 1985.

[The amendments to Section 196.295, F.S., contained in this act are discussed in the FINANCE AND TAXATION article.]

State Personnel Practices

COMMITTEE SUBSTITUTE FOR SENATE BILL 670 (CHAPTER 85-318) amends Section 110.125, F.S., to provide that amounts paid to the Department of Administration which are attributable to positions within the Senior Management Service and the Selected Professional Service shall be used for the administration of such services, training activities, and the development and implementation of a data base of pertinent historical information on positions exempt from the Career Service System.

The act amends Subsection 110.205(2), F.S., to exempt from the Career Service System those departments in the Executive Office of the Governor which have district or regional offices with department-wide functions assigned to such offices and to exempt positions which require as a prerequisite licensure as a physician, an osteopathic physician or a chiropractic physician, or membership in The Florida Bar (except for attorneys serving as hearing officers for certain hearings under the Administrative Procedure Act). The act also provides that the Department of Administration shall fix the compensation of such exempt positions in accordance with the classification and pay plan established for the Senior Management Service or the Selected Professional Service, unless such salary is otherwise fixed by law.

The act further amends Subsection 110.403(1), F.S., to limit the number of employees in the Senior Management Service to 1500 or fewer employees, to require the Department of Administration to establish and implement recruiting procedures to ensure that vacancies are advertised or otherwise publicized outside the hiring agency, and to direct the Department to institute a program of positive action to ensure full utilization of women and minorities in Senior Management Service positions. The act, by amendment to Section 110.405, F.S., provides for advisory committees to the Department to advise the secretary of the Department on matters affecting the Senior Management Service, and authorizes the secretary to periodically hire a consultant with expertise in personnel management to advise him concerning the administration of the Service.

Further, the act creates Sections 110.406 and 110.407, F.S., to require an annual report on the Senior Management Service by the Department to the President of the Senate and the Speaker of the House of Representatives and requires a performance audit of the system by the Auditor General on a biennial basis.

Finally, the act creates Part VI of Chapter 110, F.S., providing for the creation of a Selected Professional Service System for administration of select positions exempt from the Career Service System. The Department of Administration is directed to adopt pay and benefit programs for the System as well as uniform personnel rules, records, reports, and a

uniform performance appraisal system. The Department is required to report to the President of the Senate and to the Speaker of the House of Representatives on an annual basis, and to the Executive Office of the Governor in even-numbered years, with respect to the System. A biennial performance audit by the Auditor General is required to be furnished to the President of the Senate and the Speaker of the House of Representatives.

Sections 110.401, 110.402, 110.403 and 110.405 of Part IV, Chapter 110, F.S., relating to Senior Management Service System, which were scheduled for repeal on July 1, 1985, are revived and readopted by this act. Instead, a repeal date of October 1, 1990, is provided for Part IV (Senior Management Service System) and newly created Part VI (Selected Professional Service System) of Chapter 110, F.S., subject to review by the Legislature prior to that date.

SENATE BILL 228 (CHAPTER 85-11), by amendment to Section 110.116, F.S., deletes the requirement that the Department of Administration furnish each state agency with periodic employee information reports.

COMMITTEE SUBSTITUTE FOR SENATE BILL 151 (CHAPTER 85-1) amends Section 112.24, F.S., to authorize the Governor or the Governor and Cabinet to enter into employee interchange agreements with the federal government, with another state, with a municipality or a political subdivision, or with a public institution of higher learning to fill, subject to the requirements of Chapter 20, F.S., appointive offices which are

within the executive branch of government and which are filled by appointment by the Governor or the Governor and Cabinet. The act also provides, with respect to employee interchange assignments, that upon agreement of the sending party and the receiving party an assignment or detail of two years may be extended for three months.

SENATE BILL 936 (CHAPTER 85-336) amends Paragraph 216.251(2)(b), F.S., to authorize any state agency to require an employee to perform alternate duties, regardless of whether an established position for such duties exists, when the employee is entitled to temporary partial or temporary total disability benefits and such duties are permissible by medical certification which also certifies that the employee is unable to perform the duties of the employee's regular position. The assignment of such alternate duties shall not adversely affect the employee's retirement credits as a member of the Florida Retirement System, nor abrogate his rights under Chapter 440 (Workers' Compensation) or Chapter 447 (Labor Organizations), F.S.

SENATE BILL 362 (CHAPTER 85-237) abolishes the Florida Administrative Intern Program within the Career Service System by repeal of Section 110.225, F.S.

HOUSE BILL 1311 (CHAPTER 85-140), by amendment to Subsection 112.061(6), F.S., provides the same reimbursement rates and methods of calculation for per diem and subsistence for in-state and out-of-state travel for public employees, public officers and authorized persons, and provides that there

shall be no reimbursement for meals or lodging which are included in a registration fee paid by the state.

HOUSE BILL 1304 (CHAPTER 85-219), by amendment to Subsection 110.131(2), F.S., exempts bona fide, degree seeking students in an accredited secondary or postsecondary educational program from the yearly hour limitation on the employment of other-personal-services temporary employment with the state. The act also amends Subsection 110.205(2), F.S., to exempt physicians employed by the Department of Corrections and the Department of Health and Rehabilitative Services from the Career Service System. [This act is also summarized in the EDUCATION-POSTSECONDARY article.]

HOUSE BILL 1221 (CHAPTER 85-279), by amendment to Section 115.07, F.S., revises state law governing officers' and employees' leaves of absence from state, county, or municipal employment, or employment with a political subdivision thereof, for military reserve or guard training to include applicability to inactive duty. The act also provides that with respect to any officer or employee whose working day consists of shifts measured in hours, each such 12-hour shift or less shall equal one working day leave of absence. When an employee's assigned duties conflict with active or inactive duty training, it shall be the responsibility of the employing agency to provide a substitute employee, if necessary, for the assumption of such duties while the employee is on assignment for such military training.

Retirement

SENATE BILL 1021 (CHAPTER 85-246), by amendment to Paragraph 121.091(4)(e), F.S., provides that a member of the Florida Retirement System who recovers from a disability, has his disability benefit terminated, reenters covered employment and is continuously employed for a minimum of one year of creditable service, may claim as creditable service the months during which he was receiving a disability payment upon payment of the required contribution.

The act further amends Paragraph 121.051(2)(a), F.S., to ratify the decision by certain officers and employees of the University Athletic Association, Inc., who were employed prior to July 1, 1979, to retroactively terminate membership in the Florida Retirement System.

Section 112.362, F.S., is amended to restrict the recomputation of retirement benefits for members of state-supported retirement systems to certain persons who retired prior to July 1, 1985.

Paragraph 121.021(17)(b), F.S., is amended to redefine the term "creditable service" under the Florida Retirement System to provide that on and after July 1, 1985, one month of service credit shall be awarded for each month salary is paid for services performed.

Subsection 121.081(2), F.S., is amended to provide that service performed as a participant of the optional retirement program for the State University System may be used to satisfy

the twelve-continuous-month requirement for prior service under the Florida Retirement System.

Section 240.508, F.S., is amended and renumbered as Section 121.40, F.S., to revise the "Institute of Food and Agricultural Sciences Supplemental Retirement Act," which was adopted to provide a supplement to the monthly retirement benefits paid under the federal Civil Service Retirement System to certain retired employees of the Institute of Food and Agricultural Sciences of the University of Florida whose positions were ineligible for coverage under a state-supported retirement system. A new contribution rate is provided to fund the act.

Finally, the act amends Subsections 122.08(4), 123.07(1), 123.17(4), 238.08(5), and 321.20(5), F.S., relating to optional forms of benefits payable under the State and County Officers and Employees' Retirement System, the Supreme Courts Justices, District Courts of Appeal Judges and Circuit Judges Retirement System, the Teachers' Retirement System of Florida and the Highway Patrol Retirement System, to provide a limitation on the number of times a member may designate or redesignate his spouse as beneficiary with respect to certain retirement options for reduced retirement with payment to the surviving spouse. If a retired member remarries and changes the designation of his spouse as beneficiary, he must notify his former spouse in writing of such change; however, the consent of the retired member's formerly designated spouse to any such change of beneficiary is not required.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1308 (CHAPTER 85-220), by amendment to Subsection 121.111(2), F.S., revises conditions of eligibility for claiming credit for military service under the Florida Retirement System. Paragraph 121.052(1)(d), F.S., is amended to provide that an elected state officer who purchases additional retirement credit in the Elected State Officers' Class from July 1, 1985, through September 30, 1985, shall be required to pay one-half the contributions and interest due the Florida Retirement System Trust Fund, and an equal amount shall be paid from the General Revenue Fund. The act provides an appropriation from the General Revenue Fund in an amount necessary to make the required payments.

Paragraphs 121.091(9)(b) and 238.181(2)(a), F.S., are amended to authorize district school boards to reemploy a retired member of the Florida Retirement System or the Teachers' Retirement System of Florida as a substitute teacher on a noncontractual basis after the member has been retired for one calendar month, and permits such retired member to be so reemployed for no more than 780 hours during the first year of retirement or have his retirement benefits suspended for the remainder of the calendar year.

HOUSE BILL 1030 (CHAPTER 85-137), by amendment to Paragraph 121.091(9)(b), F.S., authorizes district school boards to reemploy a retired member of the Florida Retirement System as a substitute teacher in the same manner as is set

forth in COMMITTEE SUBSTITUTE FOR HOUSE BILL 1308 (CHAPTER 85-220).

SENATE BILL 322 (Chapter 85-305) authorizes the Department of Administration to solicit bids and select a state-licensed insurance company to offer and administer a Medicare supplement policy to eligible retirees of the Florida Retirement System and health insurance coverage for other retirees of the System, and provides an appropriation of \$20,000 in other-personal-services funds to the Department to implement this act. All premiums are to be paid by the retiree.

The act additionally directs the Department to provide health insurance coverage in the State Group Health Insurance Plan for persons who retired prior to January 1, 1976, under any of the state-administered retirement systems and who are not covered by Social Security, and for the spouses and surviving spouses of such retirees who are also not covered by Social Security. An appropriation of \$15,311 is made from the State Employees Insurance Trust Fund to the Department to fund one position for purposes of administration of the retiree health insurance program.

[For additional legislation relating to state employees see State Employees subheading in the STATE GOVERNMENT article.]

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STATE GOVERNMENT*

The action of the 1985 Legislature in the area of state government reflects special concern with public meetings and public records and computer access, including remote access, to these records; the increased use of telecommunications to exchange growth management data between agencies; and changes in several areas of state policy relating to the purchase of commodities and contractual services. Electronic data processing management and computer purchasing was expanded to include the Judicial Administrative Commission, each state attorney, and each public defender in agencies which must prepare two-year projected information technology resource plans for approval by the Information Resource Commission. Agencies are now free to hire new information resource managers provided there is legislative approval.

The state's capital facilities received special attention in acts which establish a shared savings financing program for retrofitting state buildings with energy saving equipment and which allow the use of agency rents and fees to pledge repayment of revenue bonds issued for purchase or construction of office space. State employees received special

*Prepared by staff of Senate Governmental Operations Committee

benefits from free reserved parking for car pools; from a greatly expanded meritorious service awards program, and from a pilot day care center program for employees' children. Additionally, the areas of historic preservation and the endowment of the arts were expanded by imposing new responsibilities on state agencies in the executive branch regarding historic preservation and by creating five fine arts regions in the state. These and other acts relating to functions of the state and its agencies are discussed below.

Administrative Procedure Act

One department of state government was granted exemption from the Administrative Procedure Act. HOUSE BILL 1184 (CHAPTER 85-168) amends the state military code, providing an exemption from Chapter 120, F.S., for the Department of Military Affairs. The act amends Sections 250.35 and 250.37, F.S., revising state law relating to courts-martial procedures to comply with federal law and providing for state payment of court reporter fees, service of process fees, and witness fees for courts-martial proceedings.

Capital Facilities

State policy relating to financing and construction of public buildings was amended to include the establishment of a shared savings financing program for the purpose of retrofitting state buildings with energy saving equipment. Additionally, state government may now use agency rents and

fees to pledge repayment of revenue bonds issued for the purchase or construction of additional state office space.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 244 (CHAPTER 85-256) amends Section 255.252, F.S., allowing state agencies to consider "shared savings financing" for energy saving measures and services, which would split the resulting savings for a specified time between the agency and the private contractor, or permit the state to lower its energy costs. Further, it amends Section 255.254, F.S., to require, after September 30, 1985, that state agencies replace major energy consuming equipment on the basis of life-cycle cost analysis. Finally, it creates Section 255.258, F.S., which requires that state agency shared savings contracts be developed in accordance with a model contract prepared by the Division of Building Construction and Property Management in the Department of General Services in cooperation with the Attorney General, the Comptroller, and the Governor's Energy Office.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1266 (CHAPTER 85-349) creates the "Florida Building and Facilities Act." It implements the use of state agency rents and charges for repayment of the obligations of revenue bonds issued for the financing of state buildings, pursuant to a 1984 amendment to Section 11, Art. VII of the Florida Constitution which removed the prohibition from using agency rents and charges for repayment of debt. This act also creates a Division of Facilities Management (DFM) within the Department of General Services (DGS) to administer this provision, and transfers the

duties for management and maintenance of state buildings to this Division from the Division of Building Construction and Property Management. This latter Division now becomes the Division of Building Construction (DBC) and will specifically administer the state's building construction program.

The Florida Facilities Pool is established which will receive fees and rent moneys from state agencies which choose to participate; however, all DGS-controlled buildings are required to participate. These funds will be used to pledge revenue bonds issued for the construction or purchase of state office buildings. The Division of Bond Finance will work jointly with the Division of Facilities Management to evaluate and incur obligations under this act.

This act provides for the consolidation of deferred-payment purchasing contracts, to allow the Division of Bond Finance and the Comptroller to negotiate and execute agreements to establish master financing. These agreements include both installment sale and lease contracts for equipment purchases. An appropriation of \$100,789 is provided from the General Revenue Fund to the Department of Banking and Finance to create four positions for the purpose of carrying out the provisions of the "Florida Building and Facilities Act" created by this enactment.

Governmental Operation

Several areas of state policy relating to the operation of state government were addressed by the 1985 Legislature.

The membership of the State Athletic Commission was expanded from three to five members. In the area of historic preservation, the state's policy was clarified; the Union Bank Advisory Council was established; and the name for the "Historic Key West Preservation Board of Trustees" was changed to the "Historic Florida Keys Preservation Board of Trustees." The Fine Arts Endowment Program was created and the Fine Arts Endowment Trust Fund established. The responsibility for the registration and regulation of certain game promotions conducted within the state was transferred from the Department of Legal Affairs to the Department of State. The Attorney General was given specific statutory authority to publish opinions and indexes to those opinions, and the rights of handicapped persons who utilize full-service gas stations which offer self-service at a lesser cost were addressed. State policy was clarified as to the payment of medical examiner's fees when an autopsy is ordered upon the body of a person who died while in custody of the state; duplicate statutory authority for the disposal of surplus commodities was deleted; and the "Florida Statutes 1985" were adopted as the laws of this state.

SENATE BILL 141 (CHAPTER 85-21) amends Chapter 548, F.S., 1984 Supplement, which creates the State Athletic Commission in the Department of Business Regulation. The Commission has exclusive jurisdiction over all boxing matches held in the state in which a professional participates. The act expands the Commission membership from three to five. The

two new members are to be appointed on or after October 1, 1985, for staggered terms. The act also provides that the tax payment to the state derived from the gross price charged for the sale or lease of broadcasting, television, and motion picture rights shall not exceed \$40,000 for any single event.

SENATE BILL 551 (CHAPTER 85-91) creates Section 267.073, F.S., to establish the Union Bank Advisory Council within the Division of Archives, History, and Records Management of the Department of State. The Council will advise the Division in matters relating to the preservation and use of the Union Bank Building located in Tallahassee.

The nine-member Council, appointed by the Secretary of State, will serve three-year staggered terms. Initial appointees will be individuals who have served on the Union Bank Restoration Committee of the Florida Heritage Foundation or who have demonstrated an active interest in the Union Bank Building. One member will be associated with the banking industry in Florida. The director of the Division of Archives, History, and Records Management of the Department of State, or his designee, will serve as a nonvoting ex-officio member of the Council. The Division will provide necessary staff assistance to the Council.

The Council is repealed on October 1, 1991, and scheduled for legislative review prior to that date, pursuant to Section 11.611, F.S., the Sundown Act.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 209 (CHAPTER 85-31) amends Sections 266.201, 266.202, and 266.207, F.S., to change

the name of the "Historic Key West Preservation Board of Trustees" to reflect the title "Historic Florida Keys Preservation Board of Trustees." All purposes and functions of the Board remain unchanged.

In addition, Subsection 266.203(1), F.S., was amended to require that, upon the completion of the current Board members' terms, two of seven Board members will reside in areas of Monroe County located north of the Seven Mile Bridge. If the portion of Monroe County north of the bridge consists of more than one county commission district, the two Board members will reside in separate county commission districts.

HOUSE BILL 1283 (CHAPTER 85-281) amends Chapter 267, F.S., which contains the statutory provisions relating to the "Florida Archives and History Act." The Division of Archives, History and Records Management of the Department of State is delegated the responsibility for carrying out the intent of this act.

The act amends Section 267.021, F.S., to add three new terms to the definitions contained in that section. The new terms, with corresponding definitions, are "historic preservation" or "preservation," "historic property" or "historic resource," and "National Register of Historic Places."

Section 267.061, F.S., was amended to elaborate on the state policy relative to historic properties, the responsibilities of the Division and the state archaeologist, and to outline the responsibilities of the state historic

preservation officer. Amendments to that section also impose new responsibilities on state agencies of the executive branch. Each such agency having jurisdiction over a proposed state or state-assisted "undertaking" is required to, in accordance with state policy and prior to the approval of the expenditure of any state funds on the "undertaking," take into account the effect of the "undertaking" on any historic property that is included on or eligible for inclusion on the National Register of Historic Places. Each agency is required to afford the Division a reasonable opportunity to comment with regard to such an "undertaking." Agencies are required to initiate measures in consultation with the Division to assure that when, as a result of state action carried out by such agency, an historic property is to be demolished or substantially altered in a way that adversely affects qualities which contribute to the historical, architectural, or archaeological value of the property, timely steps are taken to determine whether a feasible and prudent alternative to the proposed demolition or alteration exists. If such alternative is determined not to exist, timely steps must be taken either to avoid or mitigate the adverse effects, or to undertake an appropriate archaeological salvage excavation or other recovery action to document the property as it exists prior to demolition or alteration.

The act further amends Section 267.061, F.S., to require that each state agency of the executive branch, in consultation with the Division, establish a program to locate, inventory,

and evaluate all historic properties under the agency's ownership or control which appear to qualify for listing on the National Register of Historic Places. Each such agency is required to exercise caution to assure that any historic property that might qualify for inclusion on the National Register of Historic Places is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.

In addition, each such state agency is required to assume responsibility for the preservation of historic resources which are owned or controlled by the agency. Prior to acquiring, constructing, or leasing buildings for the purpose of carrying out its responsibilities, each such agency is required to use, to the maximum extent feasible, historic properties available to the agency. Agencies are required to undertake, consistent with the preservation of such properties and the mission of the agency, any preservation actions that may be necessary to carry out the expressed intent of the act.

Finally, the measure amends Section 267.061, F.S., to require that each state agency of the executive branch carry out its programs and projects in a manner which is generally sensitive to programs and projects that will further the expressed intent of this act.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 140 (CHAPTER 85-197) amends Section 849.094, F.S., and transfers the responsibility for the registration and regulation of all game promotions, in which the total announced value of the prizes offered is

greater than \$5,000, from the Department of Legal Affairs to the Department of State by a type four transfer, as defined in Subsection 20.06(4), F.S. All of the statutory powers, duties, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds relating to the games promotion program, currently utilized and enforced by the Department of Legal Affairs, are transferred to the Department of State. Registration fees will be deposited into the Department of State's Division of Licensing Trust Fund to be used to pay the costs incurred in administering and enforcing the provisions of Section 849.094, F.S. The Department of State is authorized to promulgate rules and regulations regarding the operation of game promotions and to bring an action in circuit court for violation of this section. In addition, Paragraph 849.094(8)(c), F.S., is deleted, and Subsection 849.094(9), F.S., is amended to authorize the Department of State or the Department of Legal Affairs to institute a civil action for violation of this section.

Provisions of this act become effective October 1, 1985.

HOUSE BILL 202 (CHAPTER 85-2) amends Section 287.042, F.S., to delete duplicate statutory authority for disposal of surplus commodities, removing the responsibility from the Division of Purchasing, Department of General Services.

HOUSE BILL 242 (CHAPTER 85-123) amends Section 16.01, F.S., to provide the Attorney General with specific statutory authority to publish periodically his official opinions and indexes to those opinions. In addition, the act amends Section

16.535, F.S., to allow state agencies contracting for legal services with the Department of Legal Affairs to make advance payments, on a quarterly basis, to the Legal Services Trust Fund.

HOUSE BILL 1154 (CHAPTER 85-59), which is the biennial statutory adoption act, amends Sections 11.2421, 11.2422, 11.2424, and 11.2425, F.S., to adopt the "Florida Statutes 1985" and designate portions thereof that are to constitute the official law of the state. This measure further provides that the "Florida Statutes 1985" will become effective immediately upon publication; that general laws enacted during the 1983 Regular/Special Legislative Sessions, and prior thereto, and not included in the "Florida Statutes 1985," are repealed; and that general laws enacted during the 1984 Regular/Special Legislative Sessions and the 1985 Regular Legislative Session are not repealed by this act.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 398 (CHAPTER 85-152) creates the "Fine Arts Endowment Program of 1985," and establishes the Fine Arts Endowment Trust Fund within the Department of State. The Fund consists of moneys appropriated by the Legislature, contributed from other public or private sources, and interest earned from the corpus of the Fund. [The 1985 General Appropriations Act appropriated \$4,000,000 to this Fund.] The corpus and interest earned from the Fund will be distributed on a prorated basis to each of five newly created fine arts regions in the state. The regions consist of the following county groupings:

1. The Panhandle Region: Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington

2. The Crown Region: Alachua, Baker, Bradford, Citrus, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Marion, Nassau, Putnam, St. Johns, Suwannee, and Union

3. The East Central Region: Brevard, Indian River, Lake, Okeechobee, Orange, Osceola, St. Lucie, Seminole, Sumter, and Volusia

4. The West Central Region: Charlotte, DeSoto, Glades, Hardee, Hernando, Highlands, Hillsborough, Lee, Manatee, Pasco, Pinellas, Polk, and Sarasota

5. The South Region: Broward, Collier, Dade, Hendry, Martin, Monroe, and Palm Beach

The moneys deposited into the Fund are to be divided into five equal parts for distribution within each of the five regions. A sponsoring organization is eligible to apply for the award of one matching fund endowment from the allocation to that region. The endowment must have a total value of \$600,000 of which \$240,000 is contributed by the state and \$360,000 is raised by the sponsoring organization. These contributions must be cash, negotiable securities, or similar liquid assets unless they generate sufficient annual income to make up the required \$360,000. The total endowment is placed under trusteeship with the requirement that the balance of the

program fund cannot fall below \$600,000 on January 1 of any calendar year, and the funds must be invested in United States Government securities or securities insured by the United States Government. The interest earned must be utilized for operating expenses directly related to fine arts activities.

To be eligible, a sponsoring organization must be designated as not-for-profit under federal and Florida law and allowed to receive tax deductible contributions pursuant to the Internal Revenue Code. In addition, the organization must be directly responsible for sponsoring or conducting fine arts events. The Department of State shall adopt rules to implement the act.

The names, addresses, and amounts contributed to the State Fine Arts Endowment Program, or to a local organization's fine arts endowment program fund established under the act are confidential at the request of the donor.

Each sponsoring organization receiving funds must annually submit an audited financial statement to the Auditor General and the Department of State. The audit must be performed by an independent certified public accountant.

HOUSE BILL 617 (CHAPTER 85-268) amends Section 406.08, F.S., relating to the payment of medical examiner's fees. This law requires that if an autopsy is ordered upon the body of a person who died while in the custody of a state facility or institution, the state agency which operates the facility is responsible for any costs of transporting the body to the

district medical examiner and for any costs incurred by the medical examiner.

Public Documents and Public Records

"The Open Government Sunset Review Act" was extensively amended to clarify the procedures to be used for the review and repeal of exemptions beginning in 1986. Trade secrets and related research materials of the Florida Phosphate Institute were exempted from the Public Records law. In addition, the names and addresses of former, as well as current, law enforcement officers, sealed bids submitted to state and local agencies, appraisals and reports related to the acquisition of real property by state agencies, and sensitive computer software were exempted from the Public Records law. Procedures for inspecting ballots were enacted. Finally, records custodians were granted statutory authority to enter into contracts for remote electronic access to public records.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1320 (CHAPTER 85-301) is a major revision to the "Open Government Sunset Review Act," Chapter 84-298, Laws of Florida, which repeals exemptions to the Public Records Act and the Public Meetings law over the 10-year period beginning October 1, 1986, when exemptions in the first 99 chapters of the Florida Statutes are repealed following legislative review.

Legislative intent is added which provides that it is the policy of the state that the public has a right of access to executive branch meetings and records. The 10-year schedule

of repeals (1986-1995) of exemptions to the Public Records and Meetings laws are revised from being grouped by chapters of the statutes to being grouped by titles in the Florida Statutes to avoid splitting the subject matter contained in those titles. The Division of Statutory Revision of the Joint Legislative Management Committee is required, by December 1, 1985, and by August 1 annually thereafter, to certify to the President of the Senate and the Speaker of the House of Representatives a list of exemptions scheduled for repeal in the year following certification, along with the exact statutory language of each exemption. Exemptions not so identified are not subject to repeal under the act. "Exemption" is defined as a provision of the Florida Statutes which applies to the executive branch of state or local government but does not include any provision of a special or local law. In addition, federally mandated exemptions are not subject to repeal under the act.

Only exemptions which serve an identifiable public purpose which has been found during legislative review to override the strong public policy of open government may be maintained. "Identifiable public purpose" is one which: 1) allows the state or its political subdivisions to effectively and efficiently administer a governmental program which administration would be significantly impaired without the exemption; 2) protects information of a confidential nature concerning individuals if its release would be defamatory, cause unwarranted damage or jeopardize the safety of such individuals; or 3) protects information of a confidential

nature concerning entities, including but not limited to trade secrets, and the information is utilized to protect or further a business advantage and its disclosure would injure the affected entity in the marketplace.

Records made prior to the repeal of an exemption will not be made public unless this was provided by law. Uniform language will be contained in all newly created or revived exemptions which clearly states the section in the statutes affected by the exemption, i.e. Chapter 119, F.S., or Section 286.011, F.S. Maximum public access to the meeting or record which is consistent with the purpose of the exemption will be provided, as well as a statement that the exemption is subject to the "Open Government Sunset Review Act." The need for further reviews will be examined by the Legislature prior to the 1995 Legislative Session.

Other sections of the act amend Section 119.07, F.S., to provide that the confidentiality of names and addresses of law enforcement officers and their families extends to former law enforcement officers and their families. Violations of Chapter 119, F.S., and Section 286.011, F.S., are changed from a misdemeanor to a noncriminal infraction punishable by a fine not to exceed \$500, except when the violation is done willfully or knowingly, in which case the violation is a first degree misdemeanor.

SENATE BILL 182 (CHAPTER 85-23) amends Section 378.101, F.S., to authorize the Florida Institute of Phosphate Research to secure patents, copyrights, or trademarks on any work

product it develops. [The Institute, located in Bartow, conducts research related to the environmental effects of phosphate mining and reclamation. The Institute is currently developing potentially patentable processes for handling wastes from the phosphate mining process.] The act also allows the Institute to contract with others for the manufacture or use of the work products it develops and to receive royalties for such use. The act exempts the trade secrets and related materials associated with this research from the Public Records law.

The provisions of this act become effective October 1, 1985.

COMMITTEE SUBSTITUTE FOR SENATE BILL 208 (CHAPTER 85-86) revises certain provisions of the Public Records law in Section 119.07, F.S. [The Joint Committee on Information Technology Resources is a committee of the Legislature which is responsible for assessing the impact of information technology on state and local government and making appropriate recommendations in accordance with its evaluations. During the 1984 interim the Committee conducted public hearings in Tallahassee, Miami, and Tampa to determine the potential impact of computer access to public records.] The act which resulted from the hearings allows a records custodian to charge for the extensive use of information technology resources when they are used to satisfy requests for access to public records.

The act exempts from the Public Records law those portions of state and local software which contain trade secrets under a licensing agreement, are used to produce

payroll or similar information, are used for computer security purposes, or contain information which is otherwise exempted from the Public Records law. Agencies must review their existing software and designate those portions which are sensitive within six months of the effective date of the act, which is July 1, 1985, or upon its becoming a law. Section 119.085, F.S., is created to allow, but not require, public records custodians to enter into contracts for the provision of remote electronic access to public records. These contracts are required to impose a charge which will cover the direct and indirect costs of providing this access. This provision is repealed October 1, 1990, and will be reviewed by the Legislature in advance of that date.

Finally, the charge for a copy of a county map or aerial photograph supplied by a county constitutional officer may include a charge for the labor and overhead associated with its duplication.

COMMITTEE SUBSTITUTE FOR SENATE BILLS 346 AND 575 (CHAPTER 85-18) provides two exemptions from the Public Records law. First, it amends Section 119.07, F.S., to expand the exemption for the home address, telephone number, photographs, and places of employment of spouses and children of law enforcement personnel to include former law enforcement personnel and their families. Secondly, the act exempts executive branch appraisals and related records of state agencies which are prepared in anticipation of the acquisition of real property whether by purchase or through the exercise of

eminent domain. In any event, the records must be available for at least 30 days prior to final action on the acquisition by the agency.

HOUSE BILL 553 (CHAPTER 85-73) amends Subsection 119.07(1), F.S., to provide that when a ballot is inspected pursuant to the Public Records law no person other than the supervisor of elections or his employees may touch the ballot. The supervisor of elections must make a reasonable effort to notify each candidate whose name appears on the ballot to be inspected of the time and place of the inspection. The candidate or his representative is allowed to be present during the inspection. The effective date of this act is delayed until January 1, 1986.

State Employees

Employees of state government received additional benefits in the form of free reserved parking for car pools, a new meritorious service awards program to invite employee suggestions for state agency improvements, and pilot child care centers aimed at children under the age of two, to be located conveniently to the state employee's work place.

SENATE BILL 79 (CHAPTER 85-15) amends Section 272.16, F.S., to authorize the Department of General Services to assign reserved parking spaces to qualified state employee car pools. Qualified state employee car pools will receive preferential assignment of reserved parking spaces and any assessment of reserved parking fees is waived. The Department will establish

guidelines for qualifying as a state employee car pool and for the preferential assignment of reserved spaces to qualified state employee car pools.

In addition, Paragraph 272.161(1)(d), F.S., is created to require the Auditor General to conduct an audit of state employee parking in non-state owned parking lots. He shall make recommendations to the Legislature, before the 1986 Session, for an equitable rate-setting mechanism to insure that state employees, who by job description are required to own an automobile as a condition of employment, are not subjected to higher parking rates than the average rate for employees in state-owned parking facilities.

SENATE BILL 630 (CHAPTER 85-68) amends Section 20.31, F.S., reorganizing the structure of the Department of Administration by abolishing the Division of Human Resource Management and renaming the Division of Personnel as the Division of Personnel Management Services to assume the responsibilities of both of these divisions, except for the functions relating to the Bureau of Insurance of the Division of Personnel.

An Office of State Employees' Insurance is created within the office of Secretary of Administration to administer the state employee health, life, and disability insurance programs and any other insurance programs applicable to state employees. Other duties may also be assigned to this office at the discretion of the Secretary. All functions and responsibilities of the Bureau of Insurance of the Division of

Personnel of the Department of Administration are reassigned by a type three transfer to the Office of State Employees' Insurance.

Additionally, this law amends Section 110.1245, F.S., to establish the meritorious service awards program within the Department for recognition of state employees who either:

(a) propose procedures or ideas resulting in eliminating or reducing state expenditures, or improving operations, or generating additional revenues; or (b) are recognized for their superior accomplishments by making exceptional contributions to efficiency, economy, or other improvements in the operations of state government. Every state agency is required to participate, although component (a) above applies only to career service employees, while component (b) above applies to all state employees. The Department is required to submit an annual report to the Legislature reflecting each agency's participation in the program. Section 240.2111 and Subsection 240.227(13), F.S., are amended to require the Board of Regents and each university to adopt rules to recognize employees and implement a program consistent with the Department's program, and to submit a similar annual report to the Legislature.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1178 (CHAPTER 85-118) creates Section 110.151, F.S., to provide a state officers' and employees' pilot child care program, providing that the Department of Administration establish a minimum of one and a maximum of three child care centers designed to accommodate the child care needs of state employees. The

Department shall locate the centers based on a needs assessment and geographic convenience to the place of employment. The focus of the program is for children aged two and under, and the operators of the centers shall be chosen by competitive bid and are required to be licensed pursuant to state child care laws. The Department received an appropriation of \$100,000 from general revenue in FY 1985-86 for the program. The provisions of this act relating to the pilot child care program are repealed July 1, 1988.

This act also amends Subsection 220.03(1), F.S., to define the term "child care facility start-up costs" with reference to the Florida Income Tax Code; and amends Section 220.12, F.S., to provide for a deduction from the taxpayer's net income for child care facility start-up costs as defined.

[Additional legislation relating to state employees is summarized in the PUBLIC OFFICERS AND EMPLOYEES article.]

State Contractual Services and Purchasing

Several areas of state policy relating to the purchase of commodities and contractual services were amended. Sealed bids or proposals for state contract purchases are specifically exempt from Chapter 119, F.S. Additionally, contracts for installment purchases must be evaluated using present value methodology, and contracts of \$500 or less are now exempt from formal proposal and agreement requirements imposed by statute. Also, for state construction contracts of \$100,000 or less a payment and performance bond is no longer required and for

contracts between \$100,000 and \$200,000 the state has discretion to waive the bonds pursuant to rule adoption. Finally, all acquisitions of computer and related equipment must be reviewed by the Information Resource Commission and the agencies must receive recommendations prior to approval for acquisition by the state agency.

COMMITTEE SUBSTITUTE FOR SENATE BILL 233 (CHAPTER 85-45) amends Subsection 119.07(3), F.S., to provide an exemption to the Public Records law for sealed bids or proposals received by an agency pursuant to invitations to bid or requests for proposals. [Essentially, this provides a statutory clarification of present agency procurement procedures.] Such bids or proposals are exempt from public inspection until such time as they are opened.

SENATE BILL 531 (CHAPTER 85-25) relates to the purchase of information technology resources, and amends Section 287.042, F.S., to provide that the Information Resource Commission shall review and make recommendations on all contracts prior to acquisition by the Division of Purchasing of the Department of General Services. Further, the Information Technology Resource Procurement Advisory Council is required by amendment to Paragraph 287.073(2)(a), F.S., to review and make recommendations related to agency acquisition by other methods, e.g. gifts, grants, or loans, which have a two-year total cost in excess of \$500,000. This review is to be made prior to acquisition. The validity of contracts entered into prior to

the effective date of this act (July 1, 1985) are not affected by these provisions.

HOUSE BILL 203 (CHAPTER 85-30) amends Section 287.058, F.S., to provide that for contracts for services under \$500 a formal purchasing agreement does not need to be executed. The purchase must, however, be evidenced by a written agreement or purchase order and must contain sufficient detail for a proper audit.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 585 (CHAPTER 85-130) amends Section 235.32, F.S., allowing school boards discretion to waive payment and performance bonds on projects of \$200,000 or less. Additionally, this act amends Section 255.05, F.S., providing that for state construction projects of \$100,000 or less, no payment or performance bond shall be required. The Department of General Services is required to adopt rules relating to the waiving of payment and performance bonds with respect to all contracts of \$200,000 or less.

HOUSE BILL 201 (CHAPTER 85-122) requires that state agencies perform an evaluation, using present value methodology, of the cost of state contracts requiring payment for more than one year. The Department of General Services is responsible for developing the methodology and may adopt rules to implement this provision of law. Further, these contracts must include a clause providing that the state's obligation to pay is contingent upon an appropriation by the Legislature.

Sunset/Sundown

SENATE BILL 337 (CHAPTER 85-65) corrects erroneous repeal clauses in certain Laws of Florida which are in conflict regarding future Sunset or Sundown repeal dates. It also includes for repeal sections amending, creating, or reestablishing programs or functions meeting the criteria of Sunset or Sundown which were found to have no future repeal date as required by the Regulatory Sunset Act or the Sundown Act. Newly created programs or functions designated for repeal include: SUNSET - the regulation of water vending machines, and SUNDOWN - the Toxicological Research Coordinating Committee, the Groundwater Protection Task Force, the Florida High Speed Rail Transportation Commission, and the Franchise and Environmental Review Committee.

Information Technology Resources

The Florida Growth Management Data Network was established. The Judicial Administrative Commission, state attorneys, and public defenders are now required, as are other agencies, to prepare information technology resource plans for approval of the Information Resource Commission (Governor and Cabinet). Agencies are allowed to hire new information resource managers provided there is legislative approval.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1168 (CHAPTER 85-276) establishes the "Florida Growth Management Data Communications Network." Agencies participating in the network are the Executive Office of the Governor, the Game and Fresh

Water Fish Commission, the Department of Agriculture and Consumer Services, the Department of Commerce, the Department of Community Affairs, the Department of Environmental Regulation, the Department of Health and Rehabilitative Services, and the Department of Transportation. The network will be operated by the Division of Communications of the Department of General Services for the purpose of sharing data related to growth management through a functional network. This Division's activities associated with the network are to be directed by the Florida Growth Management Data Network Coordinating Council which is composed of the director of the Office of Planning and Budgeting within the Executive Office of the Governor, and the executive directors of the Game and Fresh Water Fish Commission and the Department of Natural Resources. In addition, the Council includes the agency head, or his designee, of the following departments: Agriculture and Consumer Services, Commerce, Community Affairs, Environmental Regulation, Health and Rehabilitative Services, and Transportation. The executive director of the Department of General Services and the executive administrator of the Information Resource Commission serve as non-voting ex-officio members. The director of the Office of Planning and Budgeting, Executive Office of the Governor, is the chairman and will provide administrative and clerical support.

The Council will promote through the functional network, the sharing of data related to growth management and the consistency of data elements. It will establish technical

advisory committees to assist in meeting these objectives. The Council will also develop criteria, policies, and procedures for data transmission through the network. These policies and procedures will be submitted to the Information Resource Commission for approval. An annual report will be made to the Governor and Cabinet, the President of the Senate, and the Speaker of the House of Representatives. The Council is required to establish a pilot project for the network by October 1, 1985. The failure of any specified agency to comply with the provisions of the act without "good cause" will allow the Executive Office of the Governor to withhold releases of appropriations related to the collection and analysis of growth management data.

There is an appropriation of \$338,500 from the General Revenue Fund to the Department of General Services and an appropriation of \$105,000 and three positions to the Executive Office of the Governor for FY 1985-86 to implement the act. The provisions relating to the Council are repealed October 1, 1994, and are subject to legislative review pursuant to Section 11.611, F.S., the Sundown Act, prior to that date.

SENATE BILL 313 (CHAPTER 85-12) amends Section 282.311, F.S., to remove the prohibition against new positions being authorized for information resource managers within the executive and judicial branches of state government. This would, in effect, clear the way for the creation of the position of information resource manager in affected state agencies.

COMMITTEE SUBSTITUTE FOR SENATE BILL 216 (CHAPTER 85-105) amends Section 282.307, F.S., to provide that the Information Resource Commission (IRC), which is composed of the Governor and Cabinet, may delegate certain certification authority to its executive administrator. The Commission is required to establish criteria for this delegation of authority.

Information technology resources used exclusively for research and acquired through grants or contracts are exempted by amendment to Section 282.308, F.S., from the information technology plan requirements but must be reported by each university to the Board of Regents no later than February 1 of each year for the preceding calendar year. Procedures for approval of information technology resource plans are also modified for universities under the jurisdiction of the Board of Regents.

The Judicial Administrative Commission, each state attorney, and each public defender are required to prepare a two-year projected information technology resource plan. These plans must be submitted to the IRC no later than March 1 of each even-numbered year and must be approved or disapproved by the IRC no later than July 1 of that year. Consequently, March 1, 1986, is the date for initial submission of these plans and July 1, 1986, for approval or disapproval by the IRC.

Funding of \$38,840 is appropriated from the General Revenue Fund to provide for one new position to the IRC for FY 1985-86 to carry out the provisions of the act.

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 HB 1159 ----- 85-61
 HB 1161 ----- 85-275
 HB 1168 ----- 85-276

REGULAR SESSION:

BILL NUMBER SESSION LAW

HB 1181 ----- 85-39
 HB 1184 ----- 85-168
 HB 1190 ----- 85-277
 HB 1202 ----- 85-360
 HB 1206 ----- 85-169
 HB 1218 ----- 85-217
 HB 1219 ----- 85-278
 HB 1221 ----- 85-279
 HB 1222 ----- 85-170
 HB 1223 ----- 85-171
 HB 1227 ----- 85-138
 HB 1236 ----- 85-78
 HB 1240 ----- 85-79
 HB 1254 ----- 85-280
 HB 1260 ----- 85-218
 HB 1266 ----- 85-104
 HB 1269 ----- 85-80
 HB 1270 ----- 85-81
 HB 1271 ----- 85-62
 HB 1272 ----- 85-63
 HB 1273 ----- 85-172
 HB 1283 ----- 85-281
 HB 1298 ----- 85-107
 HB 1304 ----- 85-219
 HB 1308 ----- 85-220
 HB 1311 ----- 85-140
 HB 1313 ----- 85-282
 HB 1316 ----- 85-221
 HB 1319 ----- 85-173
 HB 1321 ----- 85-82
 HB 1325 ----- 85-222
 HB 1335 ----- 85-223
 HB 1338 ----- 85-57
 HB 1340 ----- 85-174
 HB 1349 ----- 85-371
 HB 1352 ----- 85-175
 HB 1358 ----- 85-224
 HB 1364 ----- 85-283
 HB 1365 ----- 85-141
 HB 1366 ----- 85-368
 HB 1376 ----- 85-225
 HB 1383 ----- 85-176
 HB 1386 ----- 85-14
 HB 1387 ----- 85-177
 HB 1392 ----- 85-180
 HB 1419 ----- 85-178
 HB 1425 ----- 85-142
 HB 1427 ----- 85-354
 HB 1440 ----- 85-359

STATISTICS REPORT

	SENATE BILLS			HOUSE BILLS			T O T A L S		
	FILED	PASSED		FILED	PASSED		FILED	PASSED	
	SENATE/SENATE & HOUSE			HOUSE/HOUSE & SENATE			FIRST BOTH CHAMBER		
CONCURRENT RESOLUTIONS	17	9	3	18	15	9	35	24	12
RESOLUTIONS(ONE CHAMBER)	45	39	0	86	81	0	131	120	0
GENERAL BILLS	1187	277	187	1122	342	200	2309	619	387
LOCAL BILLS	55	36	32	147	104	98	202	140	130
GEN BILL/LOC APPLICATION	0	0	0	0	0	0	0	0	0
JOINT RESOLUTIONS	30	0	0	40	2	1	70	2	1
MEMORIALS	7	3	1	9	5	2	16	8	3
FILED, NOT INTRODUCED	0	0	0	2	0	0	2	0	0
WITHDRAWN	0	0	0	16	0	0	16	0	0
TOTALS	1341	364	223	1440	549	310	2781	913	533
APPROVED BY GOVERNOR			182			187			369
BECAME LAW WITHOUT SIGNATURE			32			104			136
VETOED BY GOVERNOR			5			7			12
BECAME LAW, VETO NOTWITHSTANDING			0			0			0
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)			4			12			16
BILLS TO CONFERENCE COMMITTEES			4			5			9
BILLS AMENDED			193			245			438
COMMITTEE SUBSTITUTES			293			291			584
COMMITTEE SUB FOR COMMITTEE SUB			31			15			46
RESOLUTIONS ADOPTED			39			81			120
FAILED TO PASS SENATE BY VOTE			0			0			0
FAILED TO PASS HOUSE BY VOTE			1			4			5
UNFAVOR COMMITTEE REPORT IN SENATE			16			0			16
UNFAVOR COMMITTEE REPORT IN HOUSE			0			31			31
BILLS FILED, NOT INTRODUCED			0			2			2
INDEFINITELY POSTPONED			61			0			61
LAI D ON TABLE			171			139			310
WITHDRAWN PRIOR TO INTRODUCTION			0			16			16
WITHDRAWN/FURTHER CONSIDERATION			0			55			55
FAILED OF INTRODUCTION/2ND HOUSE			0			0			0
DIED IN SENATE COMMITTEES			572			105			677
DIED IN HOUSE COMMITTEES			47			444			491
DIED IN CONFERENCE COMMITTEES			0			0			0
DIED ON SENATE CALENDAR			157			11			168
DIED ON HOUSE CALENDAR			40			200			240
DIED IN MESSAGES			14			42			56

Compiled by:
Legislative Information Division

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KFF
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1985

1985 VETOED GENERAL BILLS

Senate Bills:

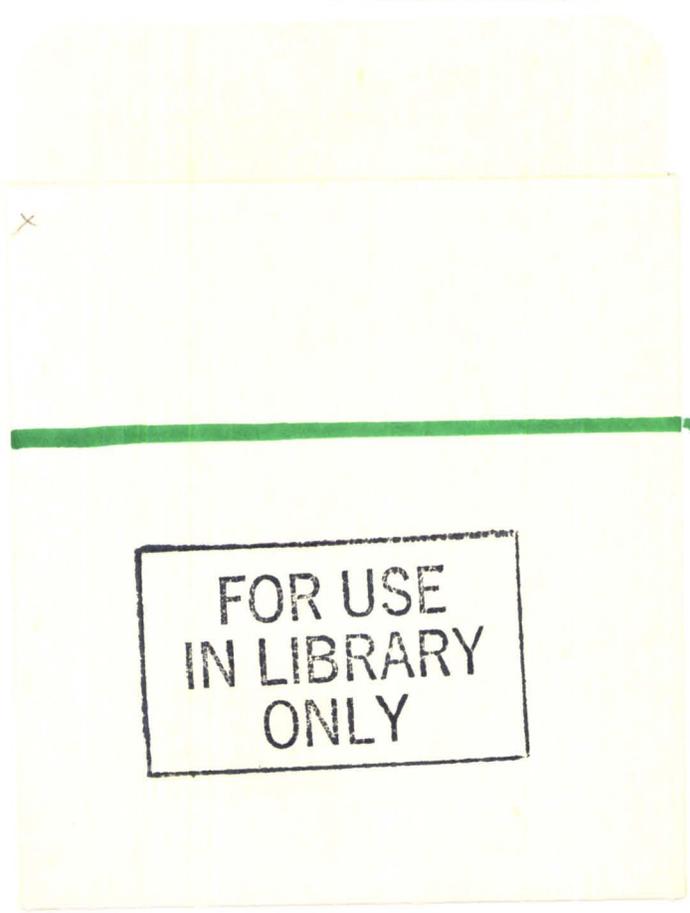
SB 80 - Vetoed 6/18/85
SB 382 - Vetoed 6/19/85
CS/SB 661 - Vetoed 6/25/85
CS/SB 848 - Vetoed 6/14/85
SB 1126 - Vetoed 6/18/85

House Bills:

HB 170 - Vetoed 6/19/85
CS/HB 612 - Vetoed 6/17/85
HB 647 - Vetoed 6/17/85
HB 710 - Vetoed 6/19/85
HB 1081 - Vetoed 6/18/85
CS/CS/HB 1357 - Vetoed 6/18/85

DATE DUE

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