FLORIDA LEGISLATURE

SUMMARY OF GENERAL LEGISLATION 1986

REGULAR SESSION APRIL 8 - JUNE 7

SPECIAL SESSION 'B' JUNE 19

HARRY A. JOHNSTON, II
President

JAMES HAROLD THOMPSON
Speaker

THE FLORIDA LEGISLATURE

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September 22, 1986

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

Honorable James Harold Thompson
Speaker, and Members of
the House

Dear Members:

I am pleased to furnish you the Summary of General Legislation 1986, 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 to reflect the principal areas of legislative concern during the session.

Sincerely,

Bill Grant

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FOREWORD

This book highlights, within broad subject areas, the general laws enacted during the 1986 Regular Extended Session of April 8 - June 7, 1986, and the "B" Special Session of June 19, 1986.

The 1986 Regular Session of the Legislature was extended for three hours until past midnight of June 6 to permit enactment of a measure authorizing $16.4969 billion in general appropriations for the year ending June 30, 1987: a 12 percent increase over the preceding year. The one-day special session was held to enact a package of professional regulatory laws. Major legislation for the session includes: regulation of leaking underground petroleum storage tanks, certification of correctional officers in privately operated detention facilities, authorization of the use of state funds to underwrite the cost of statewide campaigns, removal of a number of sales tax exemptions, establishment of an Organ Transplant Advisory Council, revision of insurance laws in response to the liability insurance crisis, and adoption of sophisticated identification and tracking systems in the area of law enforcement.

Those offices and committees which initially prepared the articles are identified respectively with each article. This division is responsible for the final editing and organization of the material. Staff comments and cross-references are enclosed in brackets. In preparing the subject index to this SUMMARY OF GENERAL LEGISLATION, this office adapted the index prepared by the Legislative Information Division.

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

B. Gene Baker

B. Gene Baker

BGB:am

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AGRICULTURE*

Among the most important pieces of legislation in the field of Agriculture enacted during the 1986 Regular Extended Session are the revisions of the "Florida Honey Certification and Honeybee Law," Chapter 586, F.S., and the "Florida Commercial Feed Law," Chapter 580, F.S. The Florida Food Utilization Advisory Council is created to advise the Department of Agriculture and Consumer Services in the area of surplus food distribution so that the Department might make recommendations to the Legislature no later than March 1, 1987. Inspection laws are strengthened to help combat citrus canker. A citrus excise tax is created to help fund canker eradication efforts and additional moneys are allocated in the General Appropriations Act. Killing or maiming registered horses or cows is made a felony offense and every living dumb creature is included in the definition of "animal" with respect to the prohibition against fighting or baiting them. A new law entitles handicapped persons to the service of a gasoline service station attendant at the self-service price.

*Prepared by staff of the Senate Agriculture Committee

Florida Honey Certification and Honeybee Law Revision

HOUSE BILL 928 (CHAPTER 86-62) rewrites Chapter 586, F.S., which, as amended, will be known as the "Florida Honey Certification and Honeybee Law."

[Much of this act is clarification, condensation and rearrangement of existing sections in Chapter 586, F.S., in order to conform to the current situation within the beekeeping industry.]

Other sections are created to: prohibit the introduction of honeybee pests or an unwanted race of honeybees into the state (Section 586.025, F.S.); provide requirements with respect to the sale, offering for sale, distribution, concealment and provision of information regarding all aspects of honeybees (Section 586.035, F.S.); authorize the Department to conduct, supervise or cause the fumigation, destruction, or treatment of infested or infected honeybees, honeybee products, or used honeybee equipment (Section 586.115, F.S.); require the Department of Agriculture and Consumer Services to deposit moneys received, other than appropriated funds, in the State Treasury to the credit of the Plant Industry Trust Fund (Section 586.16, F.S.); and create the Honeybee Technical Council within the Department to consider and study the entire field of beekeeping and recommend changes and policies for the administration of Chapter 586, F.S. (Section 586.161, F.S.).

The provisions of this act become effective October 1, 1986.

Florida Commercial Feed Law Revision

HOUSE BILL 940 (CHAPTER 86-112) rewrites most of Chapter 580, F.S., which is known as the "Florida Commercial Feed Law."

[Much of this act is clarification, condensation and rearrangement of existing sections in Chapter 580, F.S., in order to conform to the current situation within the commercial feed industry.]

Other sections increase: the penalties for nonpayment of required inspection fees, penalties with respect to violations of the law which are payable to the consumer, and the minimum annual inspection fee. The act also authorizes fee charges with respect to requests for sampling and the assignment of certificates of deposit in lieu of posting surety bonds.

The economic impact for increased penalties, additional penalties, and administrative fines for violations of the chapter as applicable to the industry and the consumer is described as follows:

1) Paragraph 580.051(1)(d), F.S., requires that a date of manufacture or code be shown on the label. [This will impose an additional production cost for those firms who do not presently date or batch code their products. The cost involved is not known at this time.] Subsection 580.051(3), F.S., provides for increased penalty for distribution of unlabeled lots from $10 to $25. [A total of 137 violations were penalized ($1,370) during FY 1984-85. At the new

rate this would increase to $3,425. It would be expected that this increase would be a deterrent to further violations of this requirement.]

2) Paragraph 580.061(1)(a), F.S., increases the minimum penalty for false or late filing of inspection fee reports from $10 to $25. [During FY 1984-85, a total of 177 penalties were assessed and $5,824.68 collected. It is anticipated that the increase in penalty will result in a decrease in the number of late reports.] Also, the due date is being changed from the 20th of the following month to the last day of the following month so as to coincide with the registrants record keeping schedule. A minimum annual inspection fee of $25 is established in Paragraph 580.061(2)(a), F.S. Presently, no minimum is required. [During FY 1984-85, 280 registrants reported and paid inspection fees in an amount less than $25. Some paid as little as $1. It is conceivable that some of those registrants could opt not to do business in Florida due to this cost and cancel their registrations and reporting permits. It is unknown as to the amount of fees this would generate at this time.]

3) Subsection 580.091(2), F.S., authorizes the Department to collect a fee, set by rule, for analyzing a sample requested from feed which is exempt from inspection fee payment. [It is unknown

at this time, how many such samples will be requested and subject to the yet-to-be-established fee. This fee would directly impact individuals who request such samples.]

4) Paragraph 580.121(1)(b), F.S., provides for the assessment of an administrative fine of up to $1,000 per occurrence after the issuance of a warning letter for the first violation of any provisions of Chapter 580, F.S. [Based upon the violation level of the past, this could amount to a significant dollar amount which would be collected from the violator. The end result should be improved compliance with the statute and rules as this fine would serve as a deterrent. Should revocation or suspension of the master registration become necessary, it would be the ultimate penalty as it would put a registrant out of business.]

5) The additional and increased penalties proposed in Section 580.131, F.S., present the greatest economic impact for the industry and the consumer. [A total of $36,851 was assessed for deficiencies in protein and fat and excessive fiber during FY 1984-85. Assuming the violation rate is the same under the amended act, the total assessments and payments would be doubled to $73,702. The consumers would receive this amount except in the small percentage

of samples where the consumer is unknown and payment is made to the Department.]

[Data is not available which documents the tonnage represented by samples found in violation of mineral and other nutritive guarantees, or which is adulterated or which failed microscopic examination. The official sample reports reflect this information, however, it is not accumulative and reproductive in summary reports.]

An eight-member Commercial Feed Technical Council is created in new Section 580.151, F.S., and scheduled for legislative review prior to its repeal on October 1, 1996. The Council is empowered to study the entire field of commercial feed and recommend changes to the law and relevant rules.

The provisions of this act become effective October 1, 1986.

Florida Food Utilization Advisory Council

HOUSE BILL 1209 (CHAPTER 86-215) creates a 14-member Florida Food Utilization Advisory Council within the Department of Agriculture and Consumer Services for the purpose of advising the Department concerning proposals relating to surplus food distribution.

The Council shall be composed of the President of the Florida Agricultural Council, Inc., the President of the Retail Grocers Association, the President of the Institute of Food Technologists, and the Executive Director of a food bank. Each of these individuals is given the option of naming a designee.

The Department is authorized to select representatives from recommendations submitted by the department head of each of the following agencies:

1) Department of Agriculture and Consumer Services,
2) Department of Health and Rehabilitative Services, and
3) Institute of Food and Agricultural Sciences.

The remaining members shall be appointed by the Department of Agriculture and Consumer Services from seven private organizations involved in surplus food distribution.

The act provides for meetings of the Advisory Council and requires the Department to report to the Legislature its findings and recommendations and those of the Council. The Department is also required to report to the President of the Senate and the Speaker of the House of Representatives no later than March 1, 1987, concerning the state's role in providing coordination support, the revenues needed to finance such support, proposed legislation to implement Council recommendations and any other recommendation which address the problem. The Council will continue in existence until the completion of its report or until March 1, 1987, whichever first occurs.

These provisions take effect October 1, 1986.

Citrus Canker: Law Enforcement and Eradication Funding

[According to officials in the Department of Agriculture and Consumer Services, the Department is lacking specific

authority to take action against anyone who knowingly distributes or knowingly conceals a regulated plant article that is infected or infested with a pest of quarantine significance, viz. citrus canker.]

HOUSE BILL 910 (CHAPTER 86-17) creates Subsection 581.091(1), F.S., which adds new language making it illegal for any person to sell, offer for sale or distribute noxious weeds, infected plants or other regulated articles. Amended Subsection 581.091(2), F.S., requires that notice be given by such person to the Department of Agriculture and Consumer Services upon receipt of any such item. New Subsection 581.091(3), F.S., also prohibits any person to knowingly conceal, or withhold information about noxious weeds, infected plants or other regulated articles.

[A first degree misdemeanor penalty for such offenses is cited under Section 581.211, F.S., which is punishable by a definite term of imprisonment not exceeding one year and in addition a fine of $1,000 may be levied. Provision is also made for habitual misdemeanants.]

The effective date of this act is October 1, 1986.

HOUSE BILL 403 (CHAPTER 86-98) amends Subsection 581.193(1), F.S., to revise and extend application of the excise tax of 10-cents-per-plant on citrus nursery stock, including limes and lemons, to include movement, distribution or offer for sale or distribution of citrus nursery stock to a commercial citrus fruit producer by a nurseryman. The act also

removes an exemption for intercompany sales between members of an affiliated group.

Subsection 581.193(2), F.S., is created to permit levy of the tax on citrus plants grown by a commercial citrus fruit producer for his own use for movement within or into a grove, or for establishing a new planting, excluding seedlings and liners unless they are used as grove resets or new grove plantings. The tax is payable at the time of movement to the Division of Plant Industry of the Department of Agriculture and Consumer Services.

The Commissioner of Agriculture is given rule-making authority in revised Subsection 581.193(3), F.S., with respect to the tax imposed under the section. [If the revenue generated from this tax is not needed for citrus canker eradication, the funds will be used to reimburse moneys taken from last year's appropriation from the Citrus Advertising Trust Fund and the General Revenue Fund.]

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1226 (CHAPTER 86-128) directs the Department of Agriculture and Consumer Services to adopt rules regulating certain activities as necessary for the control of citrus canker, and specifies that such rules may provide for the conduct of such activities subject to a voluntary destruction agreement.

The act imposes an excise tax on citrus of $.015-per-standard-packed-box for one year beginning August 1, 1986 with the proceeds to be deposited in the Florida Citrus Canker Trust Fund.

The act also provides for the conduct of a financial assistance program for the Department to assist persons whose citrus plants were destroyed or identified to be destroyed as of February 1, 1986.

[To further fund the citrus canker eradication and financial assistance (indemnification) programs conducted by the Department, the General Appropriations Act provides various appropriations amounting to a total of $7.7 million.]

	DISBURSEMENT
$2,130,000	For eradication (Florida Citrus Canker Trust Fund)
4,270,000	For eradication (General Revenue)
433,000	For financial assistance (Florida Citrus Canker Trust Fund)
867,000	For financial assistance (General Revenue)
$7,700,000	TOTAL

[No funds are appropriated out of the Citrus Advertising Trust Fund to fight citrus canker.]

Cruelty to Animals: Definitions and Penalties

SENATE BILL 327 (CHAPTER 86-179) amends Section 828.122, F.S., to expand the definition of "animal" to include every living dumb creature in provisions which prohibit the fighting or baiting of animals by removing Paragraph 828.122(2)(a), F.S., which provides a limited definition, viz. bull, bear or dog.

Animal protection will be expanded to include other animals such as rabbits, gamecocks, etc. The act provides an exemption from Section 828.122, F.S., for recognized animal husbandry and training techniques. [Section 828.122, F.S., further provides that 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.]

The provisions of this act become effective October 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 27 (CHAPTER 86-14) creates Section 828.125, F.S., to provide a felony of the second degree for any person who would willfully and unlawfully kill, maim, mutilate, cause great bodily harm, or permanent breeding disability to any registered animal of the genus Equus (horse) or genus Bos (cattle) or any registered hybrid of the genera.

Any person who attempts, solicits, or conspires to commit any of the acts described above is also guilty of a felony of the second degree.

Any person who threatens to commit any of the acts described above is guilty of a felony of the third degree.

In addition, a civil fine may be imposed upon any person guilty of the crimes listed above which would be equal to twice

the gross economic damages caused or twice the gross fair market value, whichever is greater.

Owners of livestock or any person empowered by the owner are authorized to conduct recognized husbandry practices on his livestock without being liable for violations under provisions of Section 828.125, F.S. [This will allow owners or agents authorized by the owner to continue administering normal treatment practices such as dehorning, castrating, or euthanasia.]

The provisions of this act become effective October 1, 1986.

Egg and Poultry Production: Sanitation, Definitions and Fines

HOUSE BILL 1207 (CHAPTER 86-63) amends Subsection 583.181(2), F.S., in order to delete the requirement that disposal of dead birds and hatchery residue be done on the premises of the poultry and egg producers and hatchery operators. It adds processing in approved rendering plants and sanitary landfill disposal to authorized disposal procedures and makes more specific the disposal procedure of feeding to swine in permitted garbage feeding establishments after adequate heat treatment. If disposal is not done on the premises, dead birds and hatchery residue are required to be transported in sealed containers to prevent spillage.

The provisions of this act become effective October 1, 1986.

HOUSE BILL 395 (CHAPTER 86-56) amends Subsection 583.01(19), F.S., to exempt from the definition of "poultry" for purposes of Chapter 583, F.S., relating to the classification and sale of eggs and poultry, all pigeons other than those raised as domesticated food birds.

HOUSE BILL 1209 (CHAPTER 86-215) provides authority to the Department to impose a fine not exceeding $5,000 against any egg or poultry dealer, as defined in Subsection 583.01(4), F.S., in violation of the guidelines for the Florida seal of quality for eggs or poultry programs and further provides for the deposit of those fines when paid into the General Inspection Trust Fund. The administrative order levying the fine must indicate the amount and time limit for payment (not more than 15 days). Failure to render timely payment on the part of the egg or poultry dealer makes the dealer certificate or permit issued pursuant to Section 583.09, F.S., subject to suspension.

This provision is scheduled to take effect October 1, 1986.

Pesticides: Registration and Application

HOUSE BILL 1205 (CHAPTER 86-116) places the Pesticide Review Council (Section 487.0615, F.S.) under the same Chapter 120, F.S., (Administrative Procedures Act) time schedule for the pesticide registration process as the Department of Agriculture and Consumer Services pursuant to the registration provisions of Section 487.041, F.S.

[Recent changes in federal law necessitates changes in language of the Florida law to comply with federal language especially in the area of exemptions listed in Section 487.081, F.S.] This act amends Subsection 487.081(3), F.S., to clarify an exemption from registration and labeling requirements for pesticides stored or shipped intrastate between manufacturing plants operated by the same person, provided there is proper labeling when poison labels are required.

Under the disciplinary action section, the word "make" is changed to "submit" in Paragraph 487.158(1)(h), F.S., so that pesticide applicators will be required to submit reports to the Department. A new Paragraph (r) is added to Subsection 487.158(1), F.S., to provide as additional grounds for disciplinary action and penalties, failure of applicators to answer a request made by the Department for records as required by Section 487.160, F.S., or to provide free access for inspection and sampling of restricted use pesticides, areas treated with these materials and equipment used in their application.

The effective date of this act is October 1, 1986.

SENATE BILL 785 (CHAPTER 86-72) amends Subsection 487.157(2), F.S., to remove the uncertainty of the requirements for recertification of a pesticide applicator by identifying two options for providing evidence of continued competency. One, found in present law, is by attending training sessions and passing either a written or oral examination, and the second is in new language authorizing the attendance of

approved continuing education classes and seminars thereby receiving a minimum number of recertification credits.

Agricultural Products: Transportation and Sale

HOUSE BILL 930 (CHAPTER 86-70) amends Subsection 534.083(1), F.S., requiring that any person engaged in the business of transporting or hauling for hire livestock on any public road as defined in Subsection 316.003(54), F.S., shall first apply for and obtain from the Department of Agriculture and Consumer Services a permit which has been certified under oath as to the information supplied by the applicant on the application for the permit. The permit shall expire on December 31 of each year. This provision is also included in SENATE BILL 1237 (CHAPTER 86-230).

The act further amends Section 534.49, Subsection 534.52(3), and Paragraph 534.54(2)(a), F.S., to remove the provisions which specify when collections for livestock sold by a livestock market must be made. [This will allow the Department of Agriculture and Consumer Services to conform to the federal standard of allowing seven days for collections.]

The provisions of this act are scheduled to become effective October 1, 1986.

SENATE BILL 1237 (CHAPTER 86-230) amends Subsection 316.515(5), F.S., to provide that width, height, and length limitations set out in the section do not apply to up to three implements of husbandry and any single agricultural trailer with a load not exceeding 130 inches in width used for the

purpose of hauling certain agricultural products from their point of production to the first point of change of custody and return or to a place of long-term storage. Hay and straw are included in the agricultural products already listed in the subsection. The act also requires that these agricultural vehicles operate in accordance with safety requirements prescribed by law and Department of Transportation rules.

The act further amends Subsection 534.083(1), F.S., requiring that any person engaged in the business of transporting or hauling for hire livestock on any public road as defined in Subsection 316.003(54), F.S., shall first apply for and obtain from the Department of Agriculture and Consumer Services a permit which has been certified under oath as to the information supplied by the applicant on the application for the permit. The permit shall expire on December 31 of each year. This language also appears in HOUSE BILL 930 (CHAPTER 86-70).

The provisions of this act are scheduled to become effective October 1, 1986.

COMMITTEE SUBSTITUTE FOR SENATE BILL 157 (CHAPTER 86-8) amends Section 604.33, F.S., to authorize the use of grain on hand, cash, certificates of deposit or other nonvolatile security that can be liquidated in 10 days or less, or cash bonds, surety bonds, letters of credit that have been assigned to the Department of Agriculture and Consumer Services in an amount equal to the value of grain which grain dealers have received from grain producers for which the producers have not

received payment as liquid security for accounting and payment to the producers for grain stored or purchased.

This act takes effect October 1, 1986.

Aquaculture: Development and Implementation of State Plan

HOUSE BILL 914 (CHAPTER 86-111) amends Section 597.003, F.S., to designate the Department of Agriculture and Consumer Services as the lead agency to encourage the development of aquaculture activities in the state and coordinate the development, revision and implementation of a state aquaculture plan.

The act also requires the Department, in cooperation with other agencies, to develop and propose to the Legislature legislation to implement the plan or to encourage the development of aquaculture activities.

The act further grants the authority of the Department of Agriculture and Consumer Services to employ such persons as necessary to perform the duties under Chapter 597, F.S., the "Florida Aquaculture Policy Act."

The effective date of this act is October 1, 1986.

Amusement Devices and Temporary Structures: Safety Standards

HOUSE BILL 929 (CHAPTER 86-164) amends Paragraph 616.091(2)(a), F.S., to require safety standards for the operation of amusement devices and temporary structures at festivals, celebrations, bazaars, and any parking lot still dates. Heretofore, safety standards for the operation of amusement devices and temporary structures were required only

for amusement devices and temporary structures at carnivals and public fairs and expositions (agricultural and livestock). Pursuant to Paragraph 616.091(2)(c), F.S., all amusement devices and temporary structures associated therewith are now required to be registered and inspected by the Department of Agriculture and Consumer Services. A copy of each inspection report is to be kept on file by the fair manager or event coordinator. The cost of the program is to be covered through fees established by rule of the Department. An additional seven salaried positions to implement the expanded responsibilities of the Department resulting from this act are funded by $200,000 appropriated from the General Inspection Trust Fund.

Gasoline Stations: Service for Handicapped

HOUSE BILL 1260 (CHAPTER 86-117) amends Paragraph 526.141(5)(a), F.S., to require full-service gasoline service stations offering self-service at a lesser cost to post a decal on the front of all self-service pumps no larger than eight square inches which states that handicapped persons are entitled to have their gasoline dispersed 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.

The Department of Agriculture and Consumer Services is designated as the enforcement agency for this requirement and a

penalty section is created at Paragraph 526.141(5)(b), F.S., to state that failure to provide this service to the handicapped or to post the decal is a misdemeanor of the second degree.

Open Burning Laws: Enforcement Authority

HOUSE BILL 913 (CHAPTER 86-59) amends Subsections 534.081(3) and 590.02(4), F.S., to empower the livestock investigators and forest special officers in the Department of Agriculture and Consumer Services to make arrests for violations of the open burning laws within the state in addition to their authorization for enforcing the livestock and forest protection laws and laws governing trespass, farm equipment, livery tack, farm and citrus products, wild animal life, freshwater aquatic life, and littering.

The effective date of this act is October 1, 1986.

Departmental Reorganization

HOUSE BILL 909 (CHAPTER 86-61) deletes references in Section 601.28, F.S., to a Fresh Citrus Inspection Bureau and a Processed Citrus Inspection Bureau in the Department of Agriculture and Consumer Services and conforms the language to the name of the bureau which the Department established after the passage of the 1984 departmental reorganization act, Chapter 84-165, Laws of Florida, viz. the Bureau of Citrus Inspection.

The effective date of this act is October 1, 1986.

APPROPRIATIONS*

The 1986 Regular Session of the Legislature was extended for three hours, i.e., until 3 a.m. of June 7th, to permit the enactment of the General Appropriations Act, CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1380 (CHAPTER 86-167) and the accompanying implementation act, CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1381 (CHAPTER 86-168). Total effective appropriations are $16.4969 billion for Fiscal 1987, a 12 percent increase over last year.

Education receives 35.6 percent of all allocations, health and rehabilitative services 23.8 percent, general government 21.4 percent, and transportation 11.3 percent, which represents more than nine out of every ten dollars of authorized spending. Item 1911 of the appropriations act (Land Acquisition Trust Fund) was amended in the one-day special session of June 19th, called to prevent the "Sunset" repeal of statutory chapters regulating various professions.

The following pages are taken from the annual Fiscal Analysis in Brief, prepared by the Appropriations Committees of the House and Senate, and provide a fuller picture of proposed Florida governmental spending in 1986-87.

*Prepared by staff of Legislative Library

SUMMARY OF 1986-87
TOTAL EFFECTIVE APPROPRIATIONS
(In Millions of Dollars)

GENERAL APPROPRIATIONS ACT	GENERAL REVENUE FUND $	TRUST FUNDS $	TOTAL FUNDS $
Operations (Section 01):			
Education			
Public Schools	3,303.6	474.9	3,778.5
Universities	820.9	159.9	980.8
Community Colleges	392.7	.0	392.7
All Other Education	135.9	168.6	304.5
HRS	1,661.4	1,988.6	3,650.0
Transportation	27.2	1,706.4	1,733.6
General Government	410.1	2,886.8	3,296.9
Criminal Justice	700.0	40.9	740.9
Natural Resources & Environmental Reg.	134.7	242.0	376.7
Salary Increases & Fringe Benefits	81.0	23.9	104.9
Fixed Capital Outlay (Sections 02, 03, 04, 05, 06 and 07)	109.4	1,059.8	1,169.2
Total General Appropriations Act	7,776.9	8,751.8	16,528.7
Special Appropriations Bills & Claims Bills	7.4	19.1	26.5
Total Appropriations	7,784.3	8,770.9	16,555.2
Less: Contingent and Reserve Items	27.9	6.6	34.5
Vetoed Items (See Veto Listing on Page 126)	3.9	19.9	23.8
Total Effective Appropriations	$ 7,752.5	$ 8,744.4	$ 16,496.9

HOUSE BILL 1380
Vetoed Appropriations
1986-87

Item No.	Item	General Revenue Recurring $	General Revenue Non-Rec. $	Trust $
SECTION 01				
261	Small Cities Community Development Block Grants			$ 2,700,000
365A	University of Miami Firefighters Health Resource Center	75,000		
524B	Florida Atlantic University/ Broward County	1,000,000		
573	Environmental Toxicology Data Bank/Research			256,400
576	Suwannee River Authority Safety Program		10,000	
588C	Northwest Florida Water Management District for Restoration Program		1,000,000	
1491A	Suwannee River Authority	21,250		
1795	Reconstruct SR 27 Homestead			500,000
SECTION 02				
1856B	Lakeland Parking Garage		1,600,000	
1872A	Sunland, Gainesville Medical Service Center		200,000	
SECTION 04				
1941A	Gulf Coast Community College Student Services Center			400,000
1941B	Florida Atlantic University New Facility/Broward Co.			6,000,000
1941B	Florida State University Campus Lighting/Parking			1,000,000
1941B	University of Florida Police Station			100,000
1942B	Lockhin Vo-Tech Center, Phase II			1,002,451
1942C	Pasco-Marchman Vo-Tech Completion			950,000
1945B	St Petersburg/Clearwater Recreation Complex			2,000,000
1945G	Performing Arts Center Santa Fe Community College and University of Florida			5,000,000
TOTAL VETOES		$ 1,096,250	$ 2,810,000	$19,908,857

FINANCIAL OUTLOOK STATEMENT FROM THE 1986 SESSION
FY 1985-86 AND 1986-87
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 1985-86					
BALANCE FORWARD FROM 1984-85	112.8	119.8	232.6	.0	232.6
ESTIMATED REVENUES	6928.0	.0	6928.0	6949.8	21.8-
MIDYEAR REVERSIONS	25.0	.0	25.0	.0	25.0
FIXED CAPITAL OUTLAY REVERSIONS	1.9	.0	1.9	.0	1.9
WORKING CAPITAL FUND INTEREST	.0	9.5	9.5	.0	9.5
CANCELLATION OF WARRANTS	.7	.0	.7	.0	.7
TRANSFER TO WORKING CAPITAL FUND	112.8-	112.8	.0	.0	.0
CRIMINAL JUSTICE SALES TAX ADJUSTMENT	9.2-	.0	9.2-	.0	9.2-
HOUSING FINANCE AGENCY LOAN REPAYMENT	.0	1.5	1.5	.0	1.5
TOTAL 85-86 FUNDS AVAILABLE	$ 6946.4	$ 243.6	$ 7190.0	$ 6949.8	$ 240.2
EFFECTIVE APPROPRIATIONS 1985-86					
OPERATIONS	3373.1	.0	3373.1	3301.2	71.9
AID TO LOCAL GOVERNMENT	3389.8	.0	3389.8	3383.1	6.7
FIXED CAPITAL OUTLAY	64.1	.0	64.1	.0	64.1
SPECIAL BILLS	41.0	6.0	47.0	40.5	6.5
SPECIAL BILLS 1986 SESSION (A)	11.8	.0	11.8	.0	11.8
BASE STUDENT ALLOCATION GUARANTEE	.0	10.0	10.0	.0	10.0
TOTAL 85-86 EXPENDITURES	$ 6879.8	$ 16.0	$ 6895.8	$ 6724.8	$ 171.0
RESERVES AVAILABLE	$ 66.6	$ 227.6	$ 294.2	$ 225.0	$ 69.2
OBLIGATIONS AND ENCUMBRANCES					
NONE	.0	.0	.0	.0	.0
UNENCUMBERED RESERVES	$ 66.6	$ 227.6	$ 294.2	$ 225.0	$ 69.2
FUNDS AVAILABLE 1986-87					
BALANCE FORWARD FROM 85-86	66.6	227.6	294.2	.0	294.2
ESTIMATED REVENUES (B)	7443.2	.0	7443.2	7454.6	11.4-
MIDYEAR REVERSIONS	10.0	.0	10.0	.0	10.0
UNUSED APPROPRIATIONS	49.7	16.0	65.7	.0	65.7
FIXED CAPITAL OUTLAY REVERSIONS	3.0	.0	3.0	.0	3.0
WORKING CAPITAL FUND INTEREST	.0	14.6	14.6	.0	14.6
TRANSFER TO WORKING CAPITAL FUND	66.6-	66.6	.0	.0	.0
TRANSFER FROM WORKING CAPITAL FUND	154.0	154.0-	.0	.0	.0
CANCELLATION OF WARRANTS	.7	.0	.7	.0	.7
BROWARD COUNTY TAX ROLL DECISION (C)	24.0	.0	24.0	.0	24.0
CHANGES IN REVENUES 1986 SESSION (D)	64.9	.0	64.9	64.5	.4
TRUST FUND TRANSFERS (HB 1381)	3.0	.0	3.0	.0	3.0
TOTAL 86-87 FUNDS AVAILABLE	$ 7752.5	$ 170.8	$ 7923.3	$ 7519.1	$ 404.2
ESTIMATED APPROPRIATIONS 1986-87					
OPERATIONS	3916.4	.0	3916.4	3786.2	130.2
AID TO LOCAL GOVERNMENT	3751.1	.0	3751.1	3727.2	23.9
FIXED CAPITAL OUTLAY	109.4	.0	109.4	.0	109.4
VETOED ITEMS	3.9-	.0	3.9-	1.1-	2.8-
FAILED APPROPRIATIONS CONTINGENCIES	27.9-	.0	27.9-	27.9-	.0
SPECIAL BILLS (E)	7.4	.0	7.4	6.9	.5
BEACH RESTORATION MATCH GUARANTEE	.0	6.0	6.0	.0	6.0
BASE STUDENT ALLOCATION GUARANTEE	.0	10.0	10.0	.0	10.0
ESTIMATED APPROPRIATIONS	$ 7752.5	$ 16.0	$ 7768.5	$ 7491.3	$ 277.2
RESERVES AVAILABLE (F)	$ .0	$ 154.8	$ 154.8	$ 27.8	$ 127.0
OBLIGATIONS AND ENCUMBRANCES					
NONE	.0	.0	.0	.0	.0
UNENCUMBERED RESERVE FUNDS	$ .0	$ 154.8	$ 154.8	$ 27.8	$ 127.0

********** FOOTNOTES **********

(A) INCLUDES THE FOLLOWING 1985-86 SUPPLEMENTAL APPROPRIATIONS-

H 626	$ 1,244,285	TO DEPARTMENT OF HRS (AIDS)
S 449	250,000	SUNSHINE STATE GAMES
S 1322	9,711,927	TO DEPARTMENT OF CORRECTIONS (DEFICIT)
S 1322	600,000	TO JUDICIAL BRANCH (DEFICIT)

(B) THESE ESTIMATES CONTAIN REVENUES THAT ARE SUBJECT TO LITIGATION. THE AMOUNTS ARE AS FOLLOWS-

FY 1986-87

$7.2 MILLION NONRECURRING FROM 1984-85 CONSTITUTIONAL GAS TAX COLLECTIONS SERVICE CHARGES.
$7.5 MILLION NONRECURRING FROM 1985-86 CONSTITUTIONAL GAS TAX COLLECTIONS SERVICE CHARGES.
$7.8 MILLION RECURRING FROM 1986-87 CONSTITUTIONAL GAS TAX COLLECTIONS SERVICE CHARGES.
$0.3 MILLION NONRECURRING FROM AVIATION FUEL TAXES SERVICE CHARGES FROM FOREIGN CARRIERS.

(C) THIS REVENUE IS DUE THE STATE FROM BROWARD COUNTY. THE STATE CONTESTED THE COUNTY'S AD VALOREM TAX ROLL FOR 1980-81 AS TOO LOW, RESULTING IN INADEQUATE LOCAL PUBLIC SCHOOL FUNDING. AN EARLIER COURT RULING FOUND IN FAVOR OF THE STATE AND THE ADDITIONAL TAXES WERE COLLECTED. THE FUNDS ARE NOW IN ESCROW PENDING A SECOND CLASS ACTION SUIT ON BEHALF OF THE TAXPAYERS TO RETURN THE MONEY.

(D) INCLUDES THE FOLLOWING CHANGES TO REVENUE ($ MILLIONS)-

		RECURRING	NONRECURRING
S 206	SERVICE CHARGE	$ 1.1	$ 0
S 311	CORPORATE INCOME TAX	10.1	5.5-
S 312	SEVERANCE GAS TAX	0	0.1
S 313	DOR TAX ADMINISTRATION	27.2	9.2
S 465	TORT REFORM	7.0-	3.4
S 511	INCREASED FINES	3.0	1.0-
S 575	PARIMUTUEL TAX DISTRIBUTION	0.4-	0
S 752	CIGARETTE TAX INCREASE	42.1	1.3-
S 873	TELECOMMUNICATIONS SALES TAX	3.6-	0.9
H 706	ALCOHOLIC BEVERAGE LICENSES	9.1-	0.2-
H 952	AVIATION FUEL	32.7-	0
H 1004	EDUCATIONAL LICENSES	0.2	0
H 1307	SALES TAX EXEMPTIONS	16.8	3.3-
H 1380	ADDITIONAL AUDITORS FOR DOR	16.4	1.9-
H 78	HUNTING AND FISHING LICENSES	0.1-	0
H 88	INCREASED DUI FINES	0.5	0

(E) INCLUDES THE FOLLOWING 1986-87 SUPPLEMENTAL APPROPRIATIONS-

		RECURRING	NONRECURRING
S 67	RELIEF ACT	$ 0	$ 1,049
S 122	PUBLIC GUARDIANSHIP ACT	163,760	0
S 607	ENVIRONMENTAL PROTECTION	764,652	0
S 752	DEPT. OF BUSINESS REGULATION	0	200,000
S 1030	AFFORDABLE HOUSING ACT	3,300,000	0
H 217	DEPT. OF NATURAL RESOURCES	46,378	0
H 252	RELIEF ACT	0	6,500
H 258	RELIEF ACT	0	2,666
H 398	RELIEF ACT	0	100,000
H 1282	DEPT. OF ENVIRON. REGULATION	135,000	100,000
H 1313	DEPARTMENT OF HRS	0	50,000
H 1388	FLORIDA ARTISTS HALL OF FAME	20,000	0
H 1405	DEPT. OF COMMUNITY AFFAIRS	2,100,000	0
H 1405	DEPT. OF GENERAL SERVICES	150,000	0
H 1405	DEPT. OF NATURAL RESOURCES	259,000	0

(F) A CONTINGENCY APPROPRIATION OF $30,000,000 FROM THE WORKING CAPITAL FUND WAS MADE IN SECTION 39 OF HOUSE BILL 1381 FOR THE PURPOSE OF OFFSETTING SIGNIFICANT REDUCTIONS IN FEDERAL FUNDS, PROVIDING SUFFICIENT REVENUES WILL BE AVAILABLE TO FULLY FUND THE GENERAL APPROPRIATIONS ACT AS CERTIFIED BY THE REVENUE ESTIMATING CONFERENCE.

(G) 1987-88 SUPPLEMENTAL APPROPRIATIONS OF $4,950,000 TO THE DEPARTMENT OF COMMUNITY AFFAIRS AND $850,000 TO THE DEPARTMENT OF GENERAL SERVICES WERE MADE IN HB 1405.

GENERAL APPROPRIATION ACT FOR 1986-87
CONTINGENCY ITEMS

Item	Pos.	Approp $	FUND	Contingency	Legislative Action
SECT 01					
22-24	3	173,436	GR	HB 956 or Similar Leg Not Passing	HB 357/passed
52A	4	91,119	GR	HB 838 or Similar Leg	HB 838/died on Calendar
61B	-	300,000	TF	SB 970 or Similar Leg	SB 970/died in Approp
102A &	-	5,131,294	GR		
102B	-	2,565,646	TF	HB 1226 or Similar Leg	CS/HB 1226 passed
113A	2	43,128	GR	HB 24 or Sim. Leg	HB 24/died in Senate ECCA
127A	3	50,300	GR		
		56,700	TF	CS/HB 644 or Sim Leg	CS/CS 644/passed
178, 180, & 182	3	64,478	TF	HB 1255 or Sim. Leg	HB 706/passed
356A	-	100,000	GR	HB 942 or Sim. Leg.	CS/SB 450/passed
367-369	2	43,217	GR	CS/HB 755 or Sim. Leg	CS/HB 755/died on Calendar
383A	-	250,000	GR	CS/HB 755 or Sim. Leg.	CS/HB 755/died on Calendar
386A	-	200,000	GR		
		200,000	TF	CS/HB 734 or Sim. Leg.	CS/HB 17 /passed
584B	6	249,600	TF	CS/HB 270 or Sim Leg	CS/CS/SB 206/passed
584C	-	400,000	GR	CS/SB 586 or Sim. Leg.	CS/SB 60/passed
585A	61	23,024,345	TF	CS/HB 269 or Sim. Leg	CS/CS/SB 206/passed
737, 739 & 741	5	691,192	TF	CS/CS/SB 206 or Sim. Leg	CS/CS/SB 206/passed
900-907	35	-		CS/HB 1371 or Sim. Leg.	CS/HB 1313/passed
935B	18	907,634	TF	CS/CS/SB 465 or Sim. Leg	CS/CS/SB 465/passed
1383A	2	178,000	GR	HB 956 or Sim. Leg.	HB 357/passed
1525A	3	123,844	TF	HB 1198 or Sim Leg	HB 1198/passed
1525C	-	1,200,000	TF	CS/CS/SB 978 or Sim. Leg	CS/CS/SB 978/passed
1569A	2	110,896	TF	CS/HB 254 or Sim. Leg.	CS/HB 254/died in Sen. ECCA
1588B	9	266,771	TF	HB 269 or Sim. Leg.	CS/CS/SB 206/passed
1627A	-	250,000	GR	HB 1360 or Sim. Leg	HB 1360/passed
1634A	-	3,000,000	GR	HB 1194 or Sim. Leg	HB 1194/passed
1634B	4	51,592	GR	CS/HB 240 or Sim Leg	CS/HB 240 died on Calendar
1667A	88	6,224,981	TF	HB 1 or Sim. Leg.	HB 1/died in Sen. Judi/Crim
1695A & 1695B	-	785,000	TF	HB 1258 or Sim Leg	CS/CS/SB 1118/passed
1701A	-	27,200,000	GR	HB 952 or Sim Leg Not becoming law	HB 952/passed
1726A	-	150,000	TF	HB 1258 or Sim Leg.	CS/CS/SB 1118/passed

GENERAL APPROPRIATION ACT FOR 1986-87
CONTINGENCY ITEMS DEPENDENT ON ACTION
OTHER THAN LEGISLATION

Item	Pos.	Approp $	FUND	Contingency
SECT 01				
9	-	132,000	GR	Adoption of HJR No. 386/Nov. 1986 gen election
10	-	250,000	GR	Certification by Commissioner of Agriculture that an agriculture emergency exists and that all other state or fed. agriculture funds are insuff to eliminate the agric. emergency
225	-	8,000,000	TF	Dept of Comm Affairs submitting a specified plan to the Administration Commission by Aug. 1, 1986
696-699	21	1,113,073	GR	The Information Resource Commission establishing standards for uniform cost accounting and cost distribution for state agency data centers in accordance with the Auditor General's Report # 10606
732C	-	300,000	GR	The commitment of an equal amount of funds through a private insurer, a comprehensive geriatric center and an organized pre-paid health organization and acceptance and approval by designated agencies
793A	-	25,000	GR	The reversion of an equal amount in unspent equity funding in FY 1985-86 appropriations
SECT 03				
1914	-	6,000,000	WCF	Funding insufficient to match available federal funds
1916F	-	1,500,000	TF	Requires a local match of 2.1
SECT 06				
1951Y	-	2,000,000	TF	Requires matching funds from HRS.

SPECIAL APPROPRIATION BILLS
1985-86 and 1986-87

Session Law	Bill Number	Subject	General Revenue Recurring $	General Revenue Non-Recurring $	Trust Fund $	Local $
		SENATE BILLS				
86-173	CS/SB 60	Electrical Utilities & School Buses	---	---	759,271	---
86-325	SB 67	Relief of Raul del Portillo	---	1,049	---	---
86-120	CS/CS/ CS/SB 122	Public Gaurdianship Act	163,760	---	---	---
86-332	SB 164	Relief of David G Baker	---	---	---	600,000
86-159	CS/CS/ SB 206	Underground Petroleum Storage Tanks	---	---	31,781	---
86-152	CS/SB 313	DOR Tax Administration	---	---	430,000	---
86-139	SB 449	Florida Commission on International Education	250,000(a)	---	---	---
86-186	CS/CS/ SB 607	Environmental Protection	764,652	---	340,000	---
86-123	CS/CS/ SB 752	3 Cent Cigarette Tax Increase	---	200,000	---	---
86-192	CS/SB 1030	FL Affordable Housing Act	3,300,000	---	---	---
86-302	SB 1322	Dept. of Corrections/ Judicial Branch	---	9,711,927(a)	---	---
			---	600,000(a)	---	---
		HOUSE BILLS				
86-304	CS/HB 217	Old Keys Bridges/Monroe Co	46,378	---	---	---
86-326	HB 252	Relief of G.D. Herbert	---	6,500	---	---
86-327	HB 258	Relief of Father Walsh	---	2,668	---	---
86-328	HB 398	Relief of R.B. McCombs	---	100,000	---	---
86-305	HB 626	Aids Clinic	---	1,244,285(a)	---	---
86-329	CS/HB 857	Relief of P.D. Huddleston	---	---	4,492	---
86-164	HB 929	Safety Standards, Fairs	---	---	200,000	---
86-307	CS/HB 1057	Lake Hancock Restoration Program	---	---	1,000,000	---
86-2	HB 1181	PECO	---	---	2,000,000(a)	---
86-295	HB 1282	Biscayne Bay Aquatic Preserve	135,000	100,000	---	---
86-220	CS/HB 1313	Health, Welfare and Social Services	---	50,000	---	---
86-167	HB 1380	Appropriations Act. Provision to Specific Appropriation 1951Y	---	---	2,000,000	---
86-168	HB 1381	Appropriations Implementing Bill (b)	---	30,000,000	---	---
86-169	HB 1388	Florida Artists Hall of Fame	20,000	---	---	---
86-170	CS/CS/ HB 1405	Areas of Critical State Concern	2,509,000	---	3,100,000	---
86-303	HB 1-B	Amending Specific Appropriation 1911/General Appropriations Act - HB 1380 (86-167)	---	---	10,000,000	---
86-296	HB 3-B	DWI	---	---	1,189,547	---
	TOTAL 1985-86 Appropriations		250,000	11,556,212	2,000,000	---
	TOTAL 1986-87 Appropriations		6,938,790	30,460,215	19,055,091	600,000

(a) 1985-86 Supplemental Appropriation
(b) 30,000,000 are appropriated from the Working Capital Fund.

MEASURES AFFECTING REVENUES AND TAX ADMINISTRATION
ESTIMATED REVENUE INCREASES/(DECREASES)
1986-87
(Millions of Dollars)

Session Law	Bill Number	Description	General Revenue: First Year	General Revenue: Recurring	General Revenue: Non-Recurring	Trust Fund	Local Impact
			$	$	$	$	$
		Senate Bills					
86-3	CS/SB 38	Sunday Racing Days	---	(a)	---	---	---
86-133	CS/SB 101	Ether Regulation Transfer of Penalties	(*)	(*)	---	*	---
Vetoed	CS/SB 115	Alcohol and Drug Abuse Program	---	---	---	.2	(.2)
86-159	CS/CS/SB 206	Underground Petroleum Storage Tanks-Fees, Taxes & Refunds	1.1	1.1	---	16.5	---
86-177	SB 248	Repeal 5 Yr Res/Homestead Exemption for Disabled	---	---	---	---	(**)
86-121	CS/SB 311	Corporate Tax Administration	4.6	10.1	(5.5)	1.0	---
86-178	CS/SB 312	Oil and Gas Production Tax Rewrite	.1	---	.1	.1	.1
86-152	CS/SB 313	DOR Tax Administration	36.4	27.2	9.2	1.9	4.2
86-71	CS/SB 399	Podiatrists Licensing Fees	---	---	---	**	---
86-160	CS/CS SB 465	Tort Reform	(3.6)	(7.0)	3.4	(**)	(**)
86-153	SB 497	Miami Downtown Deveopment Authority	---	---	---	---	**
86-154	CS/SB 511	Fines, Civil Penalties-Traffic Violations	2.0	3.0	(1.0)	6.0	---
86-185	CS/SB 517	Motor Vehicle Registration Licenses	---	---	---	---	**
86-141	CS/SB 520	Ad Valorem Tax Administration	---	---	---	---	**
86-142	SB 575	Race Tax Distributions to Counties	(.4)	(.4)	---	---	4
86-228	CS/SB 601	Beverage Law-Special Beverage License to Civic Centers	*	*	---	*	---
86-186	CS/CS SB 607	Environmental Protection-Drinking Water Testing Permit Fees	---	---	---	2	---
86-171	CS/SB 626	Workers Compensation/ Administrative Fines	---	---	---	**	---
86-144	CS/SB 665	Home Solicitation Sale Permit Fees	---	---	---	**	---
86-123	CS/SB 752	3 Cent Cigarette Tax Increase	40.8	42.1	(1.3)	---	(1.2)
86-31	CS/SB 848	Physical Therapist Licensure Fees	---	---	---	*	---
86-155	CS/SB 873	Telecommunications Services	(2.7)	(3.6)	.9	(.3)	---
86-190	CS/SB 922	TRIM Timetable	---	---	---	---	---
86-243	CS/CS SB 1118	Transportation	---	---	---	**	---
86-193	CS/SB 1149	Private Investigative and Patrol Services License	---	---	---	*	---
86-158	SB 7-8	Non-resident Hunting & Fishing Licenses: Fees	(.1)	(.1)	---	(.9)	---
		House Bills					
86-119	CS/CS/HB 4	Auctioneer Licensing: Fines, Penalties	---	---	---	*	---
86-24	CS/HB 12	Bad Check Diversion Program; State Attorney: Fees	---	---	---	*	---
86-242	CS/HB 26	Talent Agency Licensure	---	---	---	*	---
86-49	CS/HB 40	Seat Belts: Penalty	---	---	---	**	---
86-197	CS/HB 55	County Juvenile Welfare Services: Ad Valorem Taxes	---	---	---	---	**
86-51	CS/HB 70	Returned Checks: Service Fees	**	**	---	**	**
Vetoed	CS/HB 83	Non-resident Fishing & Hunting Licenses: Fees	**	**	---	**	---
86-88	CS/HB 112 & 494	License Plates; Challenger; University: Fees	---	---	---	6.0	---
86-89	CS/HB 115	Worthless Checks: Treble Damages	**	**	---	**	**
86-90	HB 123	Foreign Trained Professionals: License Fees	---	---	---	**	---
86-260	CS/CS/HB 175	Motor Vehicle Safety: Fines	---	---	---	**	**
86-4	CS/HB 271	Local Option Tourist Development Tax	---	---	---	---	**
86-208	HB 292	Coral Reef Restoration Trust Fund: Damages	---	---	---	**	---

(a) GR recurring increase of $2.0 million included in May 12, 1986 REC results.
* insignificant dollar amount < $ 50,000
** indeterminate

MEASURES AFFECTING REVENUES AND TAX ADMINISTRATION
ESTIMATED REVENUE INCREASES/(DECREASES)
1986-87
(Millions of Dollars)

Session Law	Bill Number	Description	General Revenue: First Year $	General Revenue: Recurring $	General Revenue: Non-Recurring $	Trust Fund $	Local Impact $
86-203	CS/CS/ HB 320	Mosquito Control Compensation for County Tax Officers	---	---	---	---	**
86-263	CS/HB 347	Limited Partnerships: Filing Fees	**	**	---	---	---
86-163	HB 357	Records Management Trust Fund: Service Charge	*	*	---	(*)	---
86-204	CS/HB 396	Domestic Violence/Increase Marriage License Fees	---	---	---	.9	---
86-98	HB 403	Citrus Nursery Stock: Excise Tax	---	---	---	.4	---
86-303	HB 453	Local Occupational License Tax: Dade, Broward County	---	---	---	---	**
86-101	HB 607	HRS Child Custody Investigation Fees	---	---	---	**	---
86-244	CS/HB 610	Consumer Protection; Toxic Chemicals: Penalty	---	---	---	**	---
86-268	CS/HB 619	Liquor Salesmen: Registration Fee	---	---	---	*	---
86-84	HB 635	Public Deposits Act	*	*	---	(*)	---
86-85	CS/CS/ HB 644	Securities Transactions: Administrative Fines; Criminal Penalties	(**)	(**)	---	---	---
86-237	HB 679	Handicapped Parking Decals	---	---	---	---	---
86-104	CS/HB 700	Nursing Homes: Penalty	---	---	---	**	---
86-267	HB 706	Alcoholic Beverage Licenses; Surtax: Brand Registration Fees	(9.3)	(9.1)	(.2)	11.4	---
86-271	CS/HB 805	Florida Drug & Cosmetic Act - Fine Increase	(*)	(*)	---	*	---
86-164	HB 929	Safety Standards, Fairs: Inspection Fees	---	---	---	**	---
86-112	HB 940	Commercial Feed: Inspection Fees	---	---	---	**	---
86-165	HB 952	Aviation Fuel: Distribution to STTF	(32.7)	(32.7)	---	32.7	---
86-275	HB 1004	Vocational Technical Schools: License Fees	.2	.2	---	---	---
86-1	HB 1180	Educational Facilities; Obscenity: Penalty	---	---	---	---	**
86-156	HB 1183	School Personnel Certification Fees	---	---	---	**	---
86-276	HB 1194	Election Campaign Financing: Penalty; Fine	(**)	(**)	---	**	---
86-215	HB 1209	Food Seal of Quality Law: Fine	---	---	---	**	---
86-128	CS/HB 1226	Citrus Canker: Excise Tax	---	---	---	2.3	---
86-249	HB 1293	Commercial Fishing Licenses: Fees	---	---	---	**	---
86-	HJR 1305	Homestead Exemption	---	---	---	---	**
86-166	CS/HB 1307	Sales Tax Exemptions Repeal	13.5	16.8(b)	(3.3)	---	1.4
86-223	HB 1314	Ad Valorem Tax Administration	---	---	---	---	**
86-283	HB 1342	Hearing Aid Specialists: License Renewal Fee	---	---	---	**	---
86-284	HB 1352	Nursing: License Fee	---	---	---	**	---
86-285	HB 1355	Chiropractic: Examination Fee	---	---	---	**	---
86-167	HB 1380	Appropriations Act-Auditors	14.5	16.4	(1.9)	**	1.7
86-168	HB 1381	Appropriations Implementation Estimated Sales Tax	---	---	(c)	---	---
86-170	CS/CS/ HB 1405	Tourist Impact Fee: Monroe County)	---	---	---	---	**
86-296	HB 8-B	DUI Fines	5	5	---	1.5	---
		TOTAL	64.9	64.5	.4	79.9	6.4

(b) Sales tax service and other exemptions are sunset effective July 1, 1987. The REC is currently studying the fiscal impact of this sunset.
(c) See CS/SB 313
* Insignificant dollar amount < $ 50,000
** Indeterminate

THREE YEAR COMPARISON - BEFORE AND AFTER 1986 TAX MEASURES

GENERAL REVENUE COLLECTIONS

(MILLIONS OF DOLLARS)

	1984-85 ACTUAL REVENUE	1985-86 REVENUE ESTIMATE*	ANNUAL GROWTH RATE	1986-87 REVENUE ESTIMATE*	LEGIS-LATIVE CHANGES	REVISED 1985-86 ESTIMATE	ANNUAL GROWTH RATE
SALES TAX	$4,242.3	$4,595.5	$ 8.3%	$4,987.9	$ 53.5	$5,041.4	9.7%
CORPORATE INCOME TAX AND EMERGENCY EXCISE TAX	555.0	665.6	19.9	713.6	5.5	719.1	8.0
DOCUMENTARY STAMP TAX	237.9	260.1	9.3	288.4	5.4	293.8	13.0
INTANGIBLES TAX	110.7	137.4	24.1	142.0	1.5	143.5	4.6
ESTATE TAX	102.9	124.8	21.3	131.4	.0	131.4	5.3
SEVERANCE TAX	65.1	59.5	(8.6)	43.2	.1	43.3	(27.2)
INSURANCE PREM. TAX & LIC	112.9	132.6	17.4	141.4	(3.6)	137.8	3.9
BEVERAGE TAX & LIC	429.8	437.6	1.8	450.3	(9.3)	441.0	.8
CIGARETTE TAX	78.0	98.0	25.6	100.3	40.8	141.1	44.0
PARI-MUTUEL TAX	82.1	85.0	3.5	89.7	.0	89.7	5.5
PUBLIC SAFETY LIC. & FEES	32.7	45.6	39.4	47.1	.0	47.1	3.3
AUTO TITLE & LIC. FEES	17.3	18.4	6.4	19.2	.0	19.2	4.3
INTEREST EARNINGS	91.5	82.2	(10.2)	76.8	.0	76.8	(6.6)
MEDICAL & HOSP. FEES	37.0	45.0	21.6	48.0	.0	48.0	6.7
SERVICE CHARGES	72.3	87.0	20.3	109.7	3.2	112.9	29.8
OTHER TAXES, LIC. & FEES	74.8	91.0	21.7	85.1	2.6	87.7	(3.6)
AVIATION FUEL	0	39.7	**	44.3	(44.3)	.0	(100.0)
TOTAL RECEIPTS	6,342.2	7,005.0	10.5	7,518.4	55.4	7,573.8	8.1
LESS REFUNDS	49.3	77.0	56.2	75.2	(9.5)	65.7	(14.7)
NET GENERAL REVENUE COLLECTIONS	$6,292.9	$6,928.0	10.1%	$7,443.2	$ 64.9	$7,508.1	8.4%

* BASED ON THE REVISED MAY 12, 1986 REVENUE ESTIMATING CONFERENCE RESULTS

BUSINESS REGULATION*

The 1986 Legislature enacted various laws dealing with certain industries that are regulated by the State of Florida. The changes made this session range from the licensing of liquor salesmen to the authorization of Sunday horse racing.

In the area of alcoholic beverage regulation the new changes include the establishment of a system of licensure for salesmen of spirituous or vinous beverages for licensed Florida distributors. Other beverage law changes include the repeal of the drinking age exemption for military personnel, which allowed them to possess or consume alcoholic beverages if 18 years of age; redefinition of alcoholic beverages in terms of volume rather than weight; establishment of a trust fund and fees for the operation of the Division of Alcoholic Beverages; allowing special alcoholic beverage licenses issued to civic centers to be transferred to a food service provider under contract to the center; and clarification that the word "Florida" and no other state's name be printed upon the crown or can lid of a malt beverage container. Also pursuant to 1986 legislation, alcoholic beverage distributors will be able to request a statement of reclamation, to be issued by the

*Prepared by staff of House Regulated Industries & Licensing Committee

Division, for unpaid beverages delivered to, and in possession of a licensed vendor.

Acts affecting the pari-mutuel industry and related areas are limited to the authorization of Sunday horse racing for purposes of pari-mutuel wagering; changing the time sequence for pari-mutuel revenues to be distributed to the counties; and requiring any person who is involved in the conduct of bingo to be 18 years of age. Also, any organization conducting bingo would be allowed to refuse entry to any person so long as denial is not on the basis of race, creed, color, religion, sex, national origin, marital status, or physical handicap.

In the area of utilities, legislation passed that provides the Florida Public Service Commission (PSC) with jurisdiction over "shared tenant service" (STS) in the telephone industry and requires the PSC to make a determination by January 15, 1987, as to whether STS is in the public's interest. Additionally, the PSC will now be responsible for safety standards of transmission and distribution facilities of all electric utilities, and the Department of Environmental Regulation will be responsible for the protection of the public health and welfare from electric and magnetic fields of electrical transmission lines rated 230 kilovolts (kV) or more. Also, the size of an electrical power plant required to be certified and subject to the Power Plant Siting Act is set at 75 megawatts.

Alcoholic Beverages

COMMITTEE SUBSTITUTE FOR HOUSE BILL 619 (CHAPTER 86-268) creates Section 561.68, F.S., to provide for the licensing of solicitors and salesmen of distributors of spirituous and vinous beverages by the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation. An application fee of $50 and fingerprinting are required for licensure. Applicants must satisfy the common qualifications for the several types of licenses issued under the authority of Chapter 561, F.S. The Division shall approve or disapprove the application after investigation and, upon issuance, the license shall remain in effect unless the salesman has a break in such employment longer than 90 days. The fee collected for the salesman's license shall go to the Department of Business Regulation to provide funds to administer this act. The Division is given rule-making authority to implement the act. [The cost for fingerprinting is paid by the applicant pursuant to Section 215.405, F.S.]

Section 2 of the act provides that any person employed as a salesman of spirituous or vinous beverages for a licensed Florida distributor on the effective date of the act (October 1, 1986) shall not be required to submit his fingerprints to the Division with his application.

HOUSE BILL 706 (CHAPTER 86-269) clarifies the definition of "alcoholic beverages," "intoxicating beverage," and "intoxicating liquor" found in Section 561.01, F.S., by redefining them in terms of alcohol by volume rather than by

weight. Likewise, wherever a definition or description of alcohol by weight exists throughout the alcoholic beverage statutes (Chapters 561 through 565 and 568, F.S.), the act changes the references to alcohol by volume.

License fees collected by the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation will no longer be paid to the General Revenue Fund as heretofore directed by Section 210.70, F.S. Instead, the law creates the Alcoholic Beverage and Tobacco Trust Fund within the state treasury pursuant to new Section 561.025, F.S., to receive all moneys collected by the Division under alcoholic beverage laws. However, specific counties and municipalities shall continue to receive transfer of license fees and the percentages of license taxes due them from the Division under Section 561.32 and Subsections 561.342(1) and (2), F.S. All moneys shall be used to operate the Division and a proportionate share of the Office of the Secretary of the Department of Business Regulation. The Department shall annually review the balance in the Trust Fund. Funds found to be in excess of the needs of the Division pursuant to annual review shall be transferred to the General Revenue Fund. The Department cannot permit the Fund to retain a fund equity in excess of 15 percent of the prior year's receipts.

The act also amends Section 561.12, F.S., to remove potential conflict in law; and creates Section 563.025, F.S., to provide that each vendor of malt beverages containing alcohol of one-half of one percent or more by volume shall pay

an annual surtax in an amount equal to 40 percent of the beer vendor license fee.

Under new Section 563.045, F.S., manufacturers, brewers, bottlers, distributors and importers of malt beverages must qualify to do business in the state and register the name and brands or labels under which the malt beverages are to be sold or moved. The annual registration fee is $30 for a brand or label. Wholesalers are prohibited from purchasing malt beverages from manufacturers or others who have not complied with these provisions. The Division is authorized to promulgate pertinent rules.

Pursuant to new Section 564.025, F.S., each vendor of beverages containing alcohol of one-half of one percent or more by volume and not more than 14 percent by weight, and wines regardless of alcoholic content, shall pay an annual surtax in an amount equal to 40 percent of the wine vendor license fee. [NOTE: The reference to alcohol by weight in this section is incorrect and was not changed when the original bill, HOUSE BILL 1255, was offered as an amendment. The provision should read: not more than 17.259 percent by volume.]

New Section 564.041, F.S., requires that manufacturers, bottlers, distributors and importers of wines must qualify to do business in the state and register the name and brands under which the wines are to be sold or moved. The annual registration fee is $15 for a brand. Wholesalers are barred from purchasing malt beverages from persons in the trade who

have not complied with these provisions. The Division is directed to promulgate pertinent rules.

Subsection 565.09(2), F.S., is revised to increase the annual brand or label registration fee from $20 to $30 for manufacturers, distillers, rectifiers, processors, blenders, bottlers, distributors and importers of spirituous liquors to qualify to do business in the state.

New Subsection 215.22(39), F.S, provides moneys and income from the surtax on license fees deposited in the Alcoholic Beverage & Tobacco Trust Fund shall be those from which the deductions authorized by Section 215.20, F.S., shall be made.

As stipulated in amended Paragraph 561.20(2)(b), F.S., a specialty center of at least 50,000 square feet of leaseable area built on municipally owned land that contains restaurants, entertainment facilities, specialty shops and which is located next to a navigable body of water will not be limited by the number of alcoholic beverage licenses that can be issued, but shall be subject to the provisions relating to special licenses in Paragraph 561.20(2)(a), F.S.

The act provides by adding Paragraph 561.20(2)(h), F.S., that in addition to any special licenses issued under the Beverage Law, the Division may issue a special license only for consumption on the premises to a civic center authority, authorized by law or by local government ordinance or which is otherwise owned by a political subdivision. Such license may be transferred to qualified applicants who contract to provide

food service at the civic center, but would revert to the civic center upon termination of the food service contract.

Section 563.06(1), F.S., is revised to provide that any taxable malt beverages required to have the word "Florida" printed or lithographed on the crown or lid of the can or bottle, cannot print the name of another state or the abbreviation of the name of another state along with the word Florida.

Finally, the act repeals Section 562.113, F.S., thereby requiring military personnel to be 21 years of age to drink alcoholic beverages in the State of Florida, effective October 1, 1986.

COMMITTEE SUBSTITUTE FOR SENATE BILL 601 (CHAPTER 86-228) creates Section 561.67, F.S., to authorize the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation to issue to a distributor of spirituous, vinous or malt beverages, a written statement of reclamation authorizing such reclamation of beverages delivered to and in possession of a licensed vendor pursuant to unpaid invoices. If reclamation wholly satisfies the unpaid invoices, the vendor shall be considered to have fully paid for all beverages previously purchased from that distributor and the distributor shall provide written notice to the Division. The Division and its employees are given immunity from any cause for any acts under the provisions of this section. The Division is required to promulgate rules to assist in the enforcement of this section.

This act also amends Paragraph 561.20(2)(g), F.S., and adds Paragraph (h) thereto in language similar to that found in HOUSE BILL 706 (CHAPTER 86-269) summarized above. These provisions would permit a special alcoholic beverage license to be issued to any civic center authority authorized by state law, local government ordinance, or owned by a political subdivision. This license will be transferable to a qualified applicant under contract to provide food service for the civic center and will revert to the civic center authority upon termination of the applicant's contract. But this act also adds Paragraph 561.20(2)(i), F.S., to stipulate that a license fee for a special alcoholic beverage license issued to a public fair, exposition, or civic center shall cost no more than $250.

The act has an effective date of October 1, 1986.

Pari-Mutuels and Bingo

COMMITTEE SUBSTITUTE FOR HOUSE BILL 408 (CHAPTER 86-57) revises Subsection 849.093(9), F.S., to prohibit anyone under the age of 18 from becoming involved in the conduct of a bingo game which is operated by a charitable, nonprofit, or veterans' organization. Such an organization conducting a bingo game may refuse entry to anyone who is objectionable to the sponsoring organization, providing refusal is not on basis of race, creed, color, religion, sex, national origin, marital status or physical handicap.

The act takes effect October 1, 1986.

COMMITTEE SUBSTITUTE FOR SENATE BILLS 38 AND 49 (CHAPTER 86-3) amends appropriate sections of Chapter 550, F.S., so as to entitle harness racing, throughbred horseracing and quarter horse racing permitholders to operate on Sundays within their respective authorized racing days, and provides that they operate not more than six days per week. The act provides that Sunday racing must not commence earlier than 1:00 p.m. for thoroughbred racing and not earlier than 7:00 p.m. for harness racing. The act inserts language in Section 550.04, F.S., specifically prohibiting dogracing on Sundays.

SENATE BILL 575 (CHAPTER 86-142) amends Paragraph 550.13(1)(b), F.S., to change beginning and ending dates for distribution to counties of moneys from the Pari-mutuel Tax Collection Trust Fund.

Utilities

COMMITTEE SUBSTITUTE FOR HOUSE BILL 718 (CHAPTER 86-270) creates Section 364.339, F.S., to give the Public Service Commission (PSC) exclusive jurisdiction over shared tenant services (STS) which duplicate or compete with local services provided by an existing local exchange telephone company or which is furnished through a common switching or billing arrangement to tenants within a single building by an entity other than an existing local exchange telephone company. Government entities are exempt from the single building provisions of this act.

The PSC is given authority to prescribe the type, extent, and conditions under which service may be provided and to exempt shared tenant service from Commission regulation, except for appropriate certification.

The act provides that the PSC shall consider the following when determining whether shared tenant service is in the public interest:

a) Number of firms providing service;

b) Availability of service from other firms or local exchanges;

c) Quality of service available from alternative suppliers;

d) Effect on telephone service rates;

e) Geographic extent of service to be provided; and

f) Any other factors deemed relevant by the PSC.

Such determination shall be made by January 15, 1987.

The act allows shared tenant service in existence prior to November 4, 1985, to continue.

If the PSC finds STS to be in the public interest, the PSC may authorize such service beginning July 1, 1987; if not, shared tenant service will cease as of that date.

The offering of STS in a building does not preclude a commercial tenant's right to obtain direct access to the serving local exchange telephone company or preclude such company from serving commercial tenants pursuant to Commission approved tariffs.

Specifically, radio common carriers or cellular radio telephone service are not regulated under this chapter.

This Act is repealed October 1, 1989, pursuant to the Regulatory Sunset Act.

COMMITTEE SUBSTITUTE FOR SENATE BILL 60 (CHAPTER 86-173) amends Subsection 812.14(1), F.S., to state that political subdivisions, including a county, are considered a utility for purposes of trespass and larceny against utility or cable television fixtures.

New Paragraph 403.086(1)(c), F.S., mandates Department of Environmental Regulation (DER) requirements for advanced waste treatment, prior to dumping wastes into Old Tampa Bay and adjacent and surrounding areas, but new Subsection 403.086(5), F.S., allows existing permittees until October 1, 1989, to comply. Advanced waste treatment is defined by new Subsection 403.086(4), F.S. Such treatment is to apply until DER establishes waste load allocation effluent limitations for affected permittees. Section 3 of the act requires DER to conduct specific stormwater demonstration projects assuming federal grants are made available.

The law provides in new Subsection 366.04(4), F.S., that the Public Service Commission (PSC) adopt safety standards for electric public utilities, as described in the 1984 National Electrical Safety Code (ANSI C2), with adoption of subsequent editions of the Code as it is published. The PSC is given exclusive jurisdiction to prescribe and enforce safety standards of transmission and distribution facilities of all

public utilities, including rural electric cooperatives and municipally owned utilities.

Under new Subsection 403.061(30), F.S., the Department of Environmental Regulation (DER) shall establish requirements for protecting the health and welfare of the public from electric and magnetic fields associated with electric transmission lines (230 kilovolts (kV) or greater). The definition of "standard" in Subsection 403.803(13), F.S., is amended to reflect this added responsibility. The DER is given exclusive jurisdiction over the regulation of electric and magnetic fields associated with electric transmission and distribution lines and substation facilities.

Section 6 of the act appropriates $170,000 from the PSC Regulatory Trust Fund to the Grants and Donations Trust Fund of the DER for determination and establishment of standards for electric and magnetic fields.

As provided by amended Subsection 501.122(2), F.S., except for DER jurisdiction over electrical transmission and distribution lines and substations, the Department of Health and Rehabilitative Services (DHRS) will continue to regulate the control of nonionizing radiation.

DER powers and duties will be narrowed pursuant to revised Subsection 403.523(14), F.S., to the protection of public health and welfare in connection with electric and magnetic fields of transmission lines, by excluding the public "safety" which now will be the responsibility of the PSC.

The act states that amendments to Sections 403.061, 403.803, 501.122 and Subsection 403.523(14), F.S., are not intended to reflect prior legislative intent.

Subsection 234.051(2), F.S., is amended to require school buses of specific dimensions to meet the Federal Motor Vehicle Safety Standards. Under new Subsection 234.101(2), F.S., school board districts may provide a bus driver training program and may have it available by contract to nonpublic school bus drivers.

Revised Section 316.615, F.S., authorizes the Department of Education to conduct a pilot program using qualified private contractors for inspection of nonpublic school buses. Nonpublic school buses will be allowed to deliver and pick up students in either the same area or adjacent areas where public school buses pick up and deliver students.

Subsections 403.503(7) and 403.506(1), F.S., are amended to provide that electrical generating facilities of less than 75 megawatts (instead of 50) will not be considered an "electrical power plant" for purposes of the "Florida Electrical Power Plant Siting Act" (Sections 403.501-403.517, F.S.).

Section 16 of the act appropriates $419,271 and 12 positions from the PSC Trust Fund to carry out the new PSC responsibilities in Section 1 of this act. [NOTE: The reference should be to Section 4.]

COMMERCE*

Laws enacted by the 1986 Legislature in the area of commerce dealt generally with the regulation of financial institutions, limited partnerships, mortgages and mortgage brokerage, sales, and consumer finance. In addition, legislation was passed relating to child labor, toxic substances in the workplace, unemployment compensation, worthless checks, and workers' compensation.

More specifically, laws enacted in the area of financial institutions include: enhancing the effectiveness of the public deposit security program by strengthening the law governing public deposits and clarifying ambiguous provisions; authorizing savings and loan associations in Florida to merge with savings and loan associations in other states on a reciprocal basis; making several housekeeping amendments to the Florida Savings Association and Savings Bank Act; permanently prohibiting certain ownership of non-bank banks by deleting the provision of current law which would have repealed the prohibition on July 1, 1987; and, permitting the establishment of non-profit international development banks under the banking laws of Florida.

*Prepared by staff of House Commerce Committee

In the mortgage and mortgage brokerage area, the powers, duties and functions of administering the "Home Equity Conversion Act" were transferred from the Department of Community Affairs to the Department of Insurance and certain amendments were passed extending the term of the mortgage loans permitted under the Act and the length of time the Act will be effective; two sections of Chapter 697, F.S., were amended clarifying existing ambiguities and simplifying the law relating to balloon mortgages and real property; the Mortgage Brokerage Act was substantially revised by restructuring the current licensing procedure and the Act was also amended to extend the current exemption status of registered securities dealers.

In sales regulation, legislation made it illegal for a seller in a consumer transaction, where the value of goods is over $100, to misrepresent used goods as new, and all arts and crafts materials sold or distributed in Florida are required to carry labels which identify any toxic substances contained in the materials. In addition, anyone engaging in home solicitation sales must first obtain a permit from the clerk of the county in which the sales are to be made.

A major piece of legislation, the Securities Industries Standards Act, amended Chapter 517, F.S., in an effort to enhance the protection of Florida investors.

In the area of unemployment compensation, the authorization to pay unemployment compensation benefits by mail was extended to October 1, 1988 and the two year exemption from

unemployment compensation coverage for alien agricultural workers was extended. Also in the labor area, Chapter 440, F.S., the Workers' Compensation Law, was substantially amended.

Other commercial areas addressed by the Legislature during the 1986 Session include: a major restructuring of the Uniform Limited Partnership Act; increasing the damages that may be recovered for worthless checks; requiring every public food service establishment to include on the face of their bill whether or not an automatic gratuity has been included; amending the Sale of Money Orders Act to increase disciplinary and investigative powers of the Department of Banking and Finance; and, amending the Florida Consumer Finance Act to permit licensees to offer lines of credit.

Legislation also addressed enhancing economic development in the state through commercial interaction with the Far East; studying privatization (government contracting with private enterprise for the provision of goods and services); establishing statutory guidelines for the sale of art; extending motor vehicle warranty protection to leasing operations; and adding consumer protection safeguards to public lodging and food service establishments.

The above described enactments are set out in more detail below.

Child Labor

SENATE BILL 170 (CHAPTER 86-13) amends Section 450.081, F.S., in Part I of Chapter 450, the Child Labor Law, with

respect to the hours that a minor in school and one not in school may work. When school is in session, children would be allowed to work no more than 30 hours a week; 16- and 17-year-old students and certified dropouts until midnight; 12- through 15-year-old students until 9 P.M. No working hour restrictions would be placed on 16- and 17-year-old graduates or children of any age who were deemed by the school superintendent to be economic hardship cases. During holidays and vacations, minors could work as long and as late as they wished.

Financial Institutions

HOUSE BILL 635 (CHAPTER 86-84) enhances the effectiveness of the Public Deposit Security Program by strengthening the law governing public deposits and clarifying ambiguous provisions. It amends Subsection 280.02(6), F.S., to redefine the term "required collateral" so as to more clearly reflect the original intent of the "Florida Security for Public Deposits Act" regarding its application. The measure clarifies that collateral eligible for usage in the program must have a market value equal to 50 percent of the greater of two computations set forth in the act. Additionally, the law revises Subsection 280.04(1), F.S., to provide that the market value of the required collateral of a qualified public depository shall be 125 percent of all public deposits which exceed the total amount of the capital accounts of a bank or the regulatory net worth of a savings association.

The enactment deletes the prohibition found in Subsection 280.04(6), F.S., against qualified public depositors holding the lesser of 10 percent of that qualified depository's total deposits or 10 percent of the total deposits held by all qualified public depositories of the same type. [The prohibition resulted in a significant adverse economic impact on numerous smaller banks and savings associations.] However, the market value of the required collateral of a qualified public depository shall be 125 percent of the excess amount where the deposits exceed, by 10 percent, the total deposits held by all depositories of the same type.

Subsection 280.043(1), F.S., is revised to change the requirements for collateral required if contingent liability is prohibited or inadequate.

This session law also protects public depositors by amending Subsection 280.09(2) and Section 280.11, F.S., to extend the authority of the State Treasurer to pay, from the Public Deposit Security Trust Fund, losses which public depositors experience due to voluntary early withdrawal from the program by qualified public depositories. The payment of losses was previously limited to early withdrawal because of suspension or disqualification.

Additionally, the act removes the requirement in Subsection 280.09(1), F.S., that moneys from administrative penalties be deposited in the Public Deposit Security Trust Fund, while authority to invest other moneys is added. Funds from administrative penalties are to be deposited into general

revenue unallocated. Finally, the law amends Paragraph 280.16(2)(b), F.S., to require savings and loan associations to submit quarterly reports to the Treasurer.

HOUSE BILL 645 (CHAPTER 86-58) creates Section 665.0315, F.S., to authorize savings and loan associations in Florida to merge with savings and loan associations in other states on a reciprocal basis. It also permits the acquisition of a Florida savings and loan association by any association located in another state through amendment to Subsection 665.034(5), F.S. Both the merger and the acquisition provisions are contingent upon enactment of reciprocal legislation in other states. New Section 665.0345, F.S., permits the Department of Banking and Finance to enter into cooperative agreements with other regulatory agencies concerning foreign associations doing business in Florida. Finally, the measure amends the current prohibition found in Subsection 665.1001(2), F.S., against foreign savings and loan associations conducting business in Florida to permit the continued operation of the Florida offices of an association that is merged into or acquired by an out-of-state association. Provisions of the act are assigned a "Sunset" date of October 1, 1991.

The effective date of the act is January 1, 1987.

HOUSE BILL 1271 (CHAPTER 86-278) amends four provisions in Chapter 665, F.S., the Savings Association Act. First, Subsection 665.028(5), F.S., exempts notice of application for a branch office of a savings association from publication in the Florida Administrative Weekly. Second, revised Subsection

665.0335(2), F.S., allows the Department of Banking and Finance to take corrective steps earlier to protect depositors in the case of failing institutions. Next, new Subsection 665.093(2), F.S., permits the Department to require an association to maintain reserves if it determines that the association has overvalued property it owns. Finally, by repealing Section 665.046, F.S., the act makes a transfer of statutory language governing indemnification of officers and directors. Indemnification is still permitted, but the controlling language is found in the "Florida General Corporation Act," Chapter 607, F.S., rather than the "Florida Savings Association and Savings Bank Act" pursuant to the provisions of Section 665.047, F.S. The difference between the two acts is minimal; however, the general corporations language does allow a corporation to purchase insurance on behalf of any officer or director whether or not it has the ability to indemnify against liability.

The act takes effect October 1, 1986.

SENATE BILL 579 (CHAPTER 86-301) permanently prohibits a bank holding company from controlling a bank unless that bank is a bank as defined in the Federal Bank Holding Company Act of 1956 (12 U.S.C. Sections 1841-1850, 26 U.S.C. Sections 1101-1103 (1982)) by deleting the provision of current law which would have repealed the prohibition on July 1, 1987 (Section 3 of Chapter 84-544, Laws of Florida, as amended by Section 56 of Chapter 85-82, Laws of Florida). A bank, as defined in the

federal law, is one that takes deposits and makes commercial loans.

In addition, this law, through the action of deleting the repealer, prohibits any company not a bank holding company from controlling any bank which is defined for the purposes of this prohibition as any company that accepts deposits insured by the Federal Deposit Insurance Corporation. The effect of this legislation is to bar the ownership of a non-bank bank (one that either takes deposits or makes commercial loans but does not do both) by any in- or out-of-state company.

COMMITTEE SUBSTITUTE FOR SENATE BILL 842 (CHAPTER 86-82) creates Part II of Chapter 633, F.S., to permit the establishment of nonprofit international development banks under the banking laws of Florida.

Section 663.301, F.S., defines "international development bank" and "foreign business enterprise" as used in the Part and adopts by reference definitions provided in statutory Chapters 655 (Financial Institutions Generally), 658 (Banks and Trust Companies) and Part I of 663 (International Banking Corporations) for terms used in the Part without being defined.

A schedule of provisions of Chapters 655 and 658, F.S., applicable to the Part is provided in Section 663.302, F.S.

Sections 663.303 through 663.306, F.S., authorize the formation of an international development bank when an application has been approved by the Department of Banking and Finance. Specified information is to be supplied on the

written application with a nonrefundable filing fee of $2,500. The Department is to investigate all matters deemed appropriate including the proposed officers and directors and must see that designated criteria are satisfied before approving the application.

Requirements and restrictions concerning the name of an international development bank are provided in Section 663.307, F.S. Misrepresentation as an international development bank permits the levying of a daily fine of $5,000.

Under Section 663.308, F.S., an international development bank must have one principal place of business but may establish foreign branches after giving 30 days notice to the Department and securing the approval of appropriate foreign governmental authorities.

Permissible and prohibited activities for an international development bank are set out in Section 663.309, F.S.

Section 663.310, F.S., fixes the number of directors of an international development bank at not less than five nor more than seven who may be U.S. or foreign citizens and need not be Florida residents.

Sections 663.311 through 663.313, F.S., provide for the issuance of international development bank capital stock, reduction or increase of shares of such stock and ownership of the stock.

Sections 663.314 and 663.315, F.S., respectively tie lending and investments limits for international development

banks to corresponding provisions relating to state banks in Chapter 658, F.S.

Under Section 663.316, F.S., an international development bank may borrow money and issue evidences of indebtedness and must have capital accounts equal to not less than eight percent of its liabilities, which may be increased to 10 percent by rule of the Department.

International development banks are permitted to lend and borrow foreign currency by Section 663.317, F.S.

Section 663.318, F.S., requires international development banks to set up and keep adequate loan loss reserves but not liability reserves.

Paragraph 517.051(5)(e), F.S., exempts a security issued or guaranteed by an international development bank or the initial subscription for equity securities of such a bank from the registration requirements of Chapter 517, F.S., the "Florida Securities and Investor Protection Act."

By amendment to Subparagraph 658.74(2)(a)3., F.S., international development banks are added to those banking businesses whose names may not be used in an unauthorized manner.

The provisions of this new part are subject to legislative review prior to October 1, 1991.

[Such banks would be authorized to engage in operations fostering the development of small business enterprises in Latin America and the Caribbean. International development banks would not be permitted to take deposits from individuals

or make domestic loans. With the enactment of this legislation, the Pan American Development Foundation, a non-profit organization, plans to contribute $5 million to assist in the establishment of an international development bank in Miami. The remainder of the necessary start-up capital, approximately one-half million dollars, is expected to come from the private sector. The anticipated borrowers will be national development foundations in the Caribbean and Latin America which in turn will lend to small manufacturers, farmers, artisans and entrepreneurs who are willing to assume the risk of starting or expanding small scale rural or urban enterprises.]

Limited Partnerships

COMMITTEE SUBSTITUTE FOR HOUSE BILL 347 (CHAPTER 86-263) would essentially replace Parts I and II, Chapter 620, F.S., with the "Uniform Limited Partnership Act (1985)." This represents an updated version of the "Uniform Limited Partnership Act (1916)" as it was adopted by Florida in 1943. The version herewith adopted would be cited as the "Florida Revised Uniform Limited Partnership Act (1986)." The substituted language will govern the formation, organization, and internal affairs of limited partnerships and the transaction of business in this state by both domestic and foreign limited partnerships.

Among the more significant changes, this measure: (1) creates several "safe harbors" for the protection of a limited

partner's limited liability status; (2) adds a provision for reservation of name; (3) eliminates many burdensome filing requirements; (4) allows contributions in the form of services; and (5) allows the partnership agreement to control all other important matters. Before a limited partner may be held liable to third parties, the third party must actually rely on the limited partner's representations.

The enactment differs from the Uniform Act by requiring annual reports, by requiring an affidavit of the amount of capital contributed by the limited partners for purposes of calculating filing fees, by providing the Secretary of State with the means necessary to obtain a list of the limited partners, and by providing for service of process. The act also adopts language from the Delaware Limited Partnership Act in the area of voting rights for both general and limited partners, the liability of limited partners to third parties, the rights and limitations on assignment of partnership interests, and penalties for failure of a limited partner to contribute to the limited partnership as obligated.

The act takes effect January 1, 1987.

[The law is likely to further the purpose of attracting new job-producing industries and research and development facilities to Florida. It should also increase the attractiveness of limited partnerships as a form of business entity and facilitate capital formation for business ventures.]

Mortgages and Mortgage Brokerage

HOUSE BILL 572 (CHAPTER 86-267) transfers the powers, duties and functions of administering Sections 697.20 through 697.206, F.S., the "Home Equity Conversion Act" from the Department of Community Affairs to the Department of Insurance. This Act is primarily designed to provide the elderly with a mechanism to convert the equity they had built up in their homes to a steady stream of income over the term of their life expectancy. This measure furthers those intentions by extending the term of the conversion loan as set out in Paragraph 697.204(2)(d), F.S., to an indefinite period allowing for more flexibility in individual situations. Such loans can be granted for a time period equal to or greater than the life expectancy plus one year of the applicant.

The original act was to have a five-year window of effectiveness; however, the administration of the act has consumed a portion of that time. For that reason, this enactment extends the cutoff date from July 1, 1990, to July 1, 1993, to accurately reflect that five-year time period by revising Subsections 697.203(5) and 697.204(7), F.S., and Paragraph 697.205(2)(a), F.S.

This act takes effect October 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 612 AND 313 (CHAPTER 86-39) amends two sections of Chapter 697, F.S., "Instruments Deemed Mortgages." The legislation clarifies existing ambiguities and simplifies the law relating to balloon mortgages and real property. It allows the legend which

identifies the instrument as a balloon mortgage to substantially comply with the form provided in the statutes at Subsection 697.05(2), F.S. Amending the disclosure requirements relating to a mortgage which contains a balloon feature, the law provides with specificity that the dollar amount to be shown in the legend as due on maturity is the "principal" balance. Additionally, language requiring the disclosure statement to be overprinted or rubber stamped in type as large as the largest type used in the mortgage is deleted. However, such statement must be conspicuous.

When the mortgagee or creditor does not comply with the law governing balloon mortgages, an automatic extension of the maturity date is granted. This legislation continues the extension but provides a simpler method of computing the time period of the extension through revision of Subsection 697.05(3), F.S. During the extension period, the act allows for the prepayment of the mortgage without a penalty. However, the language which required the forfeiture of interest by the mortgagee is deleted. New exemptions to balloon mortgage provisions are added in renumbered Subsection 697.05(4), F.S.

This legislation also addresses liability for errors in the mortgage deed or note. Current law found at Section 697.10, F.S., is amended to allow a court to award costs in action in the liability for an inaccurate or improper legal description in a mortgage deed or note. Additionally, it provides that only actual damages incurred as a result of the inaccurate or improper description may be awarded.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 837 (CHAPTER 86-68) substantially revises the Mortgage Brokerage Act, Chapter 494, F.S., by restructuring the current licensing procedure. [The intent of the changes is to develop a regulatory framework which provides maximum protection to the public without placing undue burdens on the mortgage brokerage industry.] Under current law, a distinction between the licensing of mortgage brokers and mortgage brokerage businesses does not exist. The new law requires mortgage brokers to be licensed (Section 494.037, F.S.) and mortgage brokerage businesses to be registered (Section 494.039, F.S.). Qualifications for individual licensees are clearly delineated in this measure at Subsection 494.037(1), F.S. Although individual licensees are limited to one license, the mortgage broker may continue to be employed by more than one registered mortgage broker business under Subsection 494.037(3), F.S. In addition, the enactment provides for a biennial renewal system for mortgage brokers and mortgage brokerage businesses at Subsections 494.038(2) and 494.0391(2), F.S., respectively. Provisions for the placement of the broker and the business on an inactive status are also established in Subsections 494.038(3) and 494.0391(3), F.S.

Enhanced protection for the public is also obtained by requiring in new Subsection 494.08(10), F.S., brokerage agreements to include a statement notifying the public of the limitations on recovery from the Mortgage Brokerage Guaranty Fund. Further, the act allows flexibility in the estimation of

the mortgage brokerage costs but places a cap on the degree of error that is permitted in revised Subsection 494.08(5), F.S.

This legislation establishes clear lines of administrative and civil responsibility for mortgage brokerage transactions. The Department of Banking and Finance is given a needed increase in enforcement powers in new Section 494.035, F.S, The range of penalties for violations is expanded in new Section 494.052, F.S., including the authority to impose a fine of up to $5,000 for each violation of the statutory chapter. Authority to impose fines on unlicensed persons is also included at new Paragraph 494.055(1)(l), F.S. Remedies for non-compliance with the department subpoena are placed in the law at rewritten Section 494.07, F.S. Criminal penalties for violations of the chapter are increased from misdemeanors to felonies in amended Section 494.10, F.S.

A limited exemption from sections of this act is provided to a narrowly defined group in new Section 494.082, F.S. Federally approved and regulated mortgage sellers and lenders are granted an exemption as a method of avoiding regulatory duplication. Further, the exemptions address the structural differences which exist between various lenders licensed under the Mortgage Brokerage Act.

SENATE BILL 322 (CHAPTER 86-28) amends the Section 494.03, F.S., of the Mortgage Brokerage Act dealing with exemptions. It extends the current exempt status of registered security dealers. The enactment clarifies that securities dealers registered under Section 517.12, F.S., would enjoy the

same exemptions from the provisions of this act that banks, trust companies, pension trusts, credit unions, insurance companies, and federally licensed small business investment companies have, when they are dealing with both their corporate and individual clients in the normal course of their securities business.

Additionally, the term "small loan companies" was changed to "consumer finance companies" to more clearly identify the type of loan entity being exempted and to conform the language to CHAPTER 86-68, Laws of Florida, summarized above.

Sales Regulation

HOUSE BILL 288 (CHAPTER 86-53) creates Section 501.2045, F.S., to make it illegal for a seller to misrepresent used goods as new in a consumer transaction where the value of the goods is over $100. In addition to both oral and written statements, misrepresentation includes failure to speak. Violators may be found guilty of a first degree misdemeanor.

The effective date of the act is October 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 610 (CHAPTER 86-244) requires all arts and crafts materials sold or distributed in Florida to carry labels or have package inserts which identify any toxic substances contained in the materials. Labels must also warn of potential health hazards associated with use of the materials. It is the intent of the Legislature that

primary responsibility for labeling be assigned to manufacturers, repackagers and principal importers.

In order to facilitate compliance the act requires the Department of Health and Rehabilitative Services (DHRS) to notify the manufacturers, repackagers and principal importers of these materials about the requirements of this law. In addition, DHRS is empowered to levy a civil fine of $1,000 for each violation of the law. The legislation was amended to include labeling requirements for any toxic materials used in the process for affixing artificial nails. The effective date for manufacturers, repackagers and principal importers is October 1, 1986 and for wholesalers and retailers January 1, 1987.

[It is likely that this enactment will cause some, as yet undetermined, increase in the cost of labeling arts and crafts supplies. These costs could be passed on to consumers. However, consumers should realize a decrease in overall health care costs due to reduced expenditures associated with long-term chronic illnesses. Any cost to government will be minor. DHRS estimates the cost of notification, rulemaking, and administration to be about $1,500. Furthermore, the cost of investigating complaints and holding hearings on violations is to be defrayed by the fines collected which the law assigns to a DHRS trust fund.]

COMMITTEE SUBSTITUTE FOR SENATE BILL 665 (CHAPTER 86-144) creates Section 501.22, F.S., which requires anyone engaging in "home solicitation sales" as redefined in amended

Subsection 501.021(2), F.S., to first obtain a permit from the clerk of the county in which the sales, leases or rentals are to be made. Applicants are required to submit to a background investigation including a fingerprint check. The measure provides for a state-wide sales certificate to be issued by the Division of Consumer Services of the Department of Agriculture and Consumer Services based upon a valid local county permit. Affected businesses are required in revised Section 501.046, F.S., to ensure their employees comply with permit requirements. [The cost of obtaining permits for some sales organizations could be increased by this law. However, there should be no increased cost to government because permit fees are set to cover administrative costs.]

[The act is intended to help protect certain segments of the population, such as the elderly, from criminals or unscrupulous salespersons who gain entrance to the home and then use intimidation or high pressure tactics to sell shoddy or unnecessary goods, or to commit crimes. Various categories of salespersons are exempt from the permitting requirement. Generally these exempted categories either do not involve the potentially intimidating situation just described, or they are regulated by another chapter of Florida law.]

The penalty for any violation of this law has been increased from a second to a first degree misdemeanor in revised Section 501.055, F.S. The penalty for a second or subsequent conviction for conducting a home solicitation sale without a valid permit; using or attempting to use an expired,

suspended, or revoked permit; or, falsely obtaining a permit, is a third degree felony.

The act takes effect October 1, 1986.

Securities and Investor Protection

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 644 (CHAPTER 86-85) creates the Securities Industry Standards Act (SISA). Based on recommendations of the Comptroller's Task Force, the Act amends Chapter 517, F.S., the "Florida Securities and Investor Protection Act," in an effort to enhance protection of Florida investors. It accomplishes this by adding Subsection 517.12(16), F.S., requiring that all securities brokers in the state be registered with both the state and federal government. [This assures that all customer accounts will be insured for up to one-half million dollars.]

New Section 517.122, F.S., permits a registrant to offer an aggrieved party arbitration before the American Arbitration Association.

A loophole in the law is closed by refining the definition of "investment" in new Subsection 517.301(2), F.S., so that fraudulent boiler room operations will no longer be able to escape prosecution. Moreover, greater authority to restrict, suspend or deny registration of securities dealers accused of serious misconduct is granted the Department of Banking and Finance under new Subsection 517.161(6), F.S.

SISA increases and clarifies the penalties for violations of securities laws, including prescribing criminal

sanctions for fraudulent investment operations in rewritten Section 517.302, F.S. Additionally, alternative fines of treble damages are prescribed for certain offenses. An Anti-Fraud Trust Fund is created to help defray expenses encountered in investigation and prosecution of securities fraud cases. A "Sunset" repeal date of October 1, 1990 is provided.

The effective date of the act is October 1, 1986.

Toxic Substances in the Workplace

COMMITTEE SUBSTITUTE FOR SENATE BILL 582 (CHAPTER 86-45) is a 'clean up' of several sections of Chapter 442, F.S., popularly known as Florida's "right-to-know" law, first enacted in 1984. The measure modifies the definition of the term "article" found at Paragraph 442.102(1)(c), F.S., to clarify that the law does not apply to finished products used in the workplace which do not expose workers to toxic substances under normal conditions of use.

In addition, the law eliminates language found at Subsection 402.108(2), F.S., relating to exclusions for certain employers clarifying that when they use toxic substances which are on the Florida Substance List they are subject to the provisions of the "right-to-know" law, but that they are otherwise exempted when using toxic substances, e.g., pesticides and hazardous waste, which are regulated by certain other state and federal laws. The act also provides by amendment to Section 442.125, F.S., a time certain, i.e., 45 days prior to the beginning of the regular legislative session,

by which the annual evaluation report by the Secretary of Labor and Employment Security is to be submitted to the Governor and Legislature.

[Although this legislation does not have a significant quantifiable fiscal impact on industry or government, it is probable that these changes to the "right-to-know" law will reduce employer confusion and aid in the efficient administration of this law.]

Unemployment Compensation

SENATE BILL 8 (CHAPTER 86-10) extends authorization for payment of unemployment compensation benefits by mail to October 1, 1988, pursuant to Subsection 443.111(1), F.S. In addition, claimants will continue to be permitted to report by mail to certify for payment of benefits. That is, by attesting in writing as to the fact of their availability and ability to work and work search progress.

The effective date is October 1, 1986.

[Prior to the enactment of Chapter 82-23, Laws of Florida, as amended, claimants were required to report in person to the local claims office to certify for payment of benefits and to collect the check. In 1984, the original temporary authorization for the mail claims system was extended by the Legislature for an additional two-year period with the enactment of Chapter 84-21, Laws of Florida.]

[The Department of Labor and Employment Security estimates that the cost of operating the unemployment

compensation program would increase by more than a million dollars without the mail claims system, authorization for which had been due to expire on October 1, 1986.]

SENATE BILL 564 (CHAPTER 86-227) allows for a two-year continued exemption from unemployment compensation coverage for alien agricultural workers. [These employees, who are primarily from Jamaica and Haiti, harvest sugar cane during the season and return to their homeland. Because they would be unavailable to work in Florida, under Florida law, they are ineligible for benefits. The current exemption expired in January 1986. Federal legislation enacted in early 1986 permits the state to continue the exemption for two more years and apply it retroactively to January 1986.]

Workers' Compensation

COMMITTEE SUBSTITUTE FOR SENATE BILL 626 (CHAPTER 86-171) amends several provisions in Chapter 440, F.S., the Workers' Compensation Law. Four bills relating to workers' compensation (WC), which had been introduced in the 1986 Session, were incorporated into this final product.

For purposes of determining post-injury wages and benefits, any large commissions or irregular payments will be allocated evenly over no more than a 12 month period rather than attributing the large amount to the first month and nothing to the subsequent months pursuant to an amendment to Paragraph 440.15(3)(b), F.S. This method will save the system money without denying the claimant's rightful benefits.

In making an award of attorney's fees, the deputy commissioner will only be able to consider the benefits secured and the time reasonably spent in securing them as provided in amended Subsection 440.34(3), F.S. [This language has no economic impact, but does require attorneys to be somewhat more specific in reporting their time.]

In third-party tortfeasor suits, an employer has a right of subrogation against any amounts recovered from the third-party under revised Subsection 440.39(2), F.S. [Prior to the enactment, such right was permitted as long as the settlement of the suit was made after the workers' compensation claim had been filed. Now the recovery will be allowed to be made before the claim is filed. This entitles employers to recover the amount of WC they had to pay from the third party and prevents the employee from recovering both WC and damages.]

Construction design professionals (architects, engineers, etc.) will have a limited exemption from general civil liability for injuries resulting from the employer's failure to comply with safety standards with the addition of Subsection 440.09(5), F.S. The exemption does not apply if WC benefits are not recoverable, the construction design was negligently prepared or responsibility for safety is contractually assumed by the design professional. [Savings to construction design professionals should be realized, but at this time, such amount is indeterminable.]

Vocational educational training will be available for spouses of deceased workers' compensation claimants under

Paragraph 440.16(1)(c), F.S. The training would be done by either a public vocational-technical center or community college, could be for up to two years, and the cost would be borne by the employer. If the employer was the state, a fee waiver will be provided under new Subsection 230.645(5), F.S., and Paragraph 240.345(2)(d), F.S. These educational benefits will terminate upon the spouse's remarriage, when the other WC benefits expire or seven years after the deceased employee has died. [At the time of the legislation's passage, the maximum an employer would have had to pay for vo-tech training would be $396 per student (plus a possible 10% discretionary amount). For community college training, the cost would be approximately $1,100 (plus or minus the discretionary amount).]

Standards for hospital and doctor workers' compensation fee schedules are prescribed. The use of the most cost effective reimbursement system for treatment, care and attendance of injured workers is authorized by amendments to Subsection 440.13(4), F.S. Moreover, provision is made for a reimbursement charge which is 80 percent of the usual cost of hospital services. For those services which are scheduled, reimbursement of the lesser of the scheduled amount or the usual charge is prescribed. For monitoring purposes, utilization review of hospital services rendered pursuant to the workers' compensation law is mandated. Hospitals are specifically prohibited from improperly charging or overcharging for their services and will be subject to administrative sanction for so doing. A fine of up to $5000

could be imposed for such violation. [It is estimated this act will save the workers' compensation system $14,806,585 by reducing revenue to hospitals by that amount.]

The reporting section of the law, 440.185, F.S., is returned to the pre-1980 procedure of having only the carrier, not both the employer and carrier, report the notice of injury to the Division of Workers' Compensation of the Department of Labor and Employment Security. Also, timely reporting of such notice is imposed on the carrier. Further, the "Sunset" for controverted wash-out cases is extended two years to 1988 by revision of Subparagraph 440.20(12)(b)2., F.S. Between now and then, the chief commissioner will be required to make a report to the Legislature of all controverted wash-out cases by March 1 of each year. [The economic impact of these provisions is nominal.]

Not contained in any previously filed bill, but found herein, is a provision (Subsection 440.45(7), F.S.) which allows the Governor to permanently reassign deputy commissioners of the Division of Worker's Compensation (if they agree) to other parts of the state. [There is no cost attendant with this measure.]

Miscellaneous

COMMITTEE SUBSTITUTE FOR HOUSE BILL 115 (CHAPTER 86-89) amends Section 68.065, F.S., to increase the damages that may be recovered for worthless checks refused by the drawee because of a lack of funds, credit, or an account. In a civil action,

the holder of a dishonored check, draft, or order of payment may recover triple the amount owed. However, the penalty may not be less than $50 nor more than $2,500, and the maker of the worthless check must have failed to make restitution in cash to the payee within 30 days following a written demand for payment.

Additionally, the maker of the worthless check is liable for the amount of the check, a service charge, court costs, reasonable attorney's fees, interest on a judgment or decree, and any incurred bank fees. Where failure to pay the dishonored check is due to economic hardship, the court or jury is granted authority to waive all or part of the statutory damages.

Revised Paragraph 832.07(1)(a), F.S., provides in a criminal action, the service charge applied to a dishonored check is the greater of $10 or an amount up to five percent of the face value of the check.

This act takes effect October 1, 1986.

HOUSE BILL 556 (CHAPTER 86-207) amends Chapter 560, F.S., the Sale of Money Orders Act, by increasing the investigative and disciplinary powers of the Department of Banking and Finance. This chapter was created to specify the authority of the Department in issuing licenses to vendors and regulating the sale of money orders.

This law creates Section 560.135, F.S., to provide for the issuance of subpoenas and subpoenas duces tecum (command to produce documents) by the Department and supplies remedies for

non-compliance with these subpoenas. Under new Section 560.138, F.S., the Department may also issue cease and desist orders and impose administrative fines where violations are occurring or suspected.

Authority is given to the courts upon petition by the Department to grant injunctive or other relief (Section 560.137, F.S.), to issue a writ of ne exeat (an order to restrain a person from leaving the area) requiring sufficient bond (Subsection 560.135(5), F.S.), to impound and appoint a receiver or administrator for certain property, and to issue an order staying all pending suits and enjoining other suits (Subsection 560.137(3), F.S.).

A "Sunset" date of October 1, 1991, is provided.

HOUSE BILL 560 (CHAPTER 86-100) amends several provisions of Chapter 516, F.S., the "Florida Consumer Finance Act," which regulates the activity of lenders licensed under the Act. By adding Subsection 516.02(3), F.S., the legislation authorizes such licensed lenders to offer lines of credit up to $25,000. However, it prohibits the offering of a credit card by those lenders. Additionally, the measure exempts lines of credit from the interest parity law (Section 687.12, F.S.).

Due to their structure, lines of credit are also exempt from provisions requiring a loan by a licensee to disclose the maturity date and term of the loan (Subsection 515.15(1), F.S., and Section 516.16, F.S, respectively). The act further excludes such loans from the provisions requiring monthly installment payments (Section 516.36, F.S.). Finally, the

enactment repeals provisions which restrict the repayment periods for loans of specified amounts made by licensees (Subsection 516.20(2), F.S.).

This act takes effect October 1, 1986.

The Florida Council on Far East Research and Development is created by HOUSE BILL 1210 (CHAPTER 86-216) to accomplish the intent of the Legislature: (1) to promote development of the state's economy by coordinating cooperative commercial, research and development ventures with the Far East utilizing the resources of the state's postsecondary institutions, executive agencies and high technology, business, industry and agricultural leaders and (2) to improve the state's access to international markets by establishing compatible research and development initiatives with the Far East by coordinating available resources and technical facilities and capabilities through the State University System. The act defines the Council as an economic development agency and provides for the appointment of its 15 members by the University System Chancellor, who with the Secretary of Commerce is an ex-officio member, and the presiding officers of the Legislature no later than July 31, 1986. Provision is made for the organization of the Council and the reimbursement of its members who are not required to file financial disclosure statements. The keeping of appropriate records open to public inspection and the regular publicizing of the Council's transactions are mandated. A final report on the Council's activities is to be made to the Legislature, Commissioner of Education and Secretary of

Commerce prior to January 1, 1988, the date of expiration for the Council.

The act also creates a Privatization Study Commission to examine governmental contracting with private enterprise for the providing of goods and services. Twelve of the Commission's 18 members are to be named singly or jointly by the Presiding Officers of the Legislature. The Governor, Commission of Education, Auditor General, Chairman of the Advisory Council on Intergovernmental Relations (ACIR), Executive Director of the Department of General Services and Executive Director of the Florida Chamber of Commerce may serve ex-officio or designate a member. For administrative purposes, the Commission is assigned to the ACIR whose Executive Director is to call an organizational meeting no later than August 1, 1986, at which a chairman is to be elected. Members are to receive per diem and travel allowances in conducting the study which is to include items of information enumerated in the law. The Commission is to report to the Legislature its conclusions and recommendations by March 1, 1987, and is abolished July 1, 1987.

Finally, this measure amends Subsection 159.705(10), F.S., to permit research and development authorities to execute agreements with state and local "agencies or entities" for the use of resources on a fee-for-service basis or cost-recovery basis.

New statutory language relating to the sale of art through a dealer is provided in HOUSE BILL 1287 (CHAPTER 86-

118). For purposes of the act, definitions include "art," "artist," "art dealer," "author" or "authorship," and "counterfeit." The conditions of a consignment relationship and minimum contract provisions are set out. Circumstances which create an express warranty of authenticity of authorship are described and the meaning of terminology in construing the degree of authenticity is prescribed for sales within the state. The rights and liabilities resulting from this enactment are declared to be in addition to other legal rights and liabilities. Persons who violate the act are guilty of a second degree misdemeanor. Works of art offered for sale for $100 or less are excluded from application of the law as are works of art sold directly by an artist to a consumer. The act takes effect October 1, 1986.

SENATE BILL 902 (CHAPTER 86-229) amends various provisions of Chapter 681, F.S., the Motor Vehicle Warranty Enforcement Act, to cover the leasing of motor vehicles. Subsection 681.102(3), F.S., is amended to include "lessees" within the definition of "consumer" for purposes of the chapter and new subsections (6), (7) and (8) are added to define "lease price," "lessee" and "lessee costs," respectively, in the same context. Paragraph 681.104(2)(b), F.S., is revised to permit refunds to lessor and lessees and to provide the formula for determining such refunds. Certain lessors are excluded from the operation of the motor vehicle financial responsibility law, Chapter 324, F.S., by the addition of Paragraph 324.021(9)(b), F.S.

SENATE BILL 551 (CHAPTER 86-24) creates Section 502.214, F.S., which requires every public food service establishment to include on the face of each bill notice as to whether or not an automatic gratuity has been included.

This act takes effect October 1, 1986.

COMMITTEE SUBSTITUTE FOR SENATE BILL 97 (CHAPTER 86-174) creates new statutory language which addresses disorderly conduct on the premises of a public lodging establishment as defined by Chapter 509, F.S. The operator would be permitted to take a person into custody in a reasonable manner and for a reasonable period of time, if the operator has probable cause to believe that the person is engaging in disorderly conduct in violation of Section 877.03, F.S., endangering the violator's life or the life of others. The operator is required to summon a law enforcement officer immediately who is authorized then to make a warrantless arrest on or off the premises of the public lodging establishment if the officer feels there is probable cause. Under such circumstances, the operator and officer would be exempt from civil or criminal liability for false arrest, false imprisonment or unlawful detention. Resistance to reasonable efforts of the operator or officer constitutes a first degree misdemeanor unless the subject is ignorant of the identity of the operator or law enforcement officer.

The exemption to the real estate licensing provisions of Chapter 475, F.S., accorded to operators of public lodging establishments under certain conditions by Subsection

509.241(3), F.S., is extended to cover the list of classified public lodging establishments in Section 509.242, F.S.

Section 509.302, F.S., is amended to direct the director of the Division of Hotels and Restaurants of the Department of Business Regulation to employ the Director of Education for the Lodging and Food Service Industry with the advice of the Advisory Council of the Department. Heretofore the Advisory Council hired such person with the concurrence of the Board of Regents and his office was located at the Florida State University School of Business. The Director of Education would continue to operate the Hospitality Education Program for the lodging and food service industry with the advice of the Advisory Council and the Division director rather than the Board of Regents. The components of the Hospitality Education Program are revised to include: management training, training and instruction in the application of state and federal laws, regulations, and rules, and such other programs as may be deemed appropriate by the Division director, the Advisory Council and the Director of Education.

Subsection 509.211(1), F.S., which requires that building or remodeling plans for public lodging or food service establishments be submitted to the Division prior to the work being undertaken is repealed.

National Fire Protection Association (NFPA) standards and codes relating to sprinklers and smoke detectors applicable to public lodging establishments, condominiums or time-share units of three stories or more having interior corridors

without direct access from the guest area to exterior means of egress for which the construction contract was let after September 30, 1983, and which standards and codes are adopted by reference in Subsection 509.215(1), F.S., are updated and made applicable to buildings over 75 feet in height with direct access from the guest area to exterior means of egress for which the construction contract was let after September 30, 1983. Exemption from sprinkler installation requirements are accorded certain closets and bathrooms. Single station smoke detection is not required when smoke detectors in guest rooms and time-share units are connected to a central alarm system.

Section 553.895, F.S., is amended to conform its provisions to those of Subsection 509.215(1), F.S.

Subsection 509.215(2), F.S., is revised to update the NFPA standards and codes applicable to public lodging establishments, condominiums and time-share units of three stories or more for which the construction contract was let before October 1, 1983.

Section 509.216, F.S., is created to require public lodging establishments, condominiums and time-share units for which the construction contract was let after July 1, 1986, be equipped with showerheads which have no more than a 3.5-gallon-per-minute flow rate when measured at a line pressure of 82 p.s.i. and which contains a built-in flow control valve. The Commodity Testing Laboratory of the Florida Department of Agriculture and Consumer Services is to certify the 3.5-gallon-per-minute flow rate, the good quality of the workmanship and

materials, the shower spray's nature is satisfactory or above and the flow control valve cannot be removed without special tooling. A five-year retrofit period is provided for building units with contracts let prior to July 1, 1986.

CONSERVATION AND NATURAL RESOURCES*

The 1986 Florida Legislature acted to protect the waters of the state, enacting laws designed to reduce the threat of pollution from petroleum storage systems and hazardous wastes, to clean up polluted groundwater, and to improve wastewater treatment facilities. The Legislature also made a variety of revisions in growth management laws and amended provisions relating to state acquisition and disposal of public lands. Legislation was adopted to aid the restoration and reclamation of mined lands and damaged coral reefs. Other environmental matters acted on during the 1986 Session include building, dredging, and filling requirements within aquatic preserves; designation of new aquatic preserves; treatment and recovery of wastewater by water supply authorities; use of daylight-fluorescent orange clothing by deer hunters; licenses for hunting and fishing; safe boating requirements; the authority of the Marine Fisheries Commission; use of saltwater fishing nets; inspection of ships while on the water; and designation of sea turtle nesting areas.

*Prepared with aid of Senate Legal Research and Drafting Services

Environmental Control

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 206 (CHAPTER 86-159) addresses the problems of pollution from petroleum storage systems. It creates the "State Underground Petroleum Environmental Response Act of 1986." In creating Section 206.485, F.S., it directs the Department of Revenue to specify by rule the information needed to track the movement of petroleum products and the manner in which such information is submitted to the Department.

The act requires, in new Section 206.9930, F.S., that persons producing or importing taxable pollutants into the state be registered or licensed and provides criminal penalties for failure to register.

Pursuant to revised Subsection 206.9935(1), F.S., an excise tax of two cents per barrel is levied for the privilege of producing or importing into the state pollutants for sale, use, or otherwise. Such taxes are to be deposited into the Coastal Protection Trust Fund. Certain exemptions from the tax are specified. The excise tax is levied until the balance in the Trust Fund reaches $25 million, at which time the excise tax is not levied until the fiscal year following the year when the balance in the Fund is less than or equal to $20 million. In the event of a major discharge, the Governor and Cabinet may relevy the tax in an amount not to exceed 10 cents per barrel in order to maintain a balance of $25 million. If the Trust Fund is unable to pay any proven claims against it, the tax

must be levied at five cents per barrel until all such claims are paid and the trust fund contains $10 million.

The act imposes two other excise taxes pursuant to Subsections 206.9935(2) and (3), F.S., respectively, for the privilege of importing or producing pollutants for sale, use, or otherwise. The proceeds of one of these taxes goes into the Water Quality Assurance Trust Fund, and the proceeds of the other goes into the Inland Protection Trust Fund. The act exempts the Department of Revenue from certain public printing requirements of Chapter 283, F.S., and the bidding requirements of Part I of Chapter 287, F.S., for purposes of acquiring forms necessary to implement the tax collections. The Department is also authorized to promulgate emergency rules to implement the provisions of the act.

The act establishes the Port Trust Fund in new Section 376.22, F.S., and transfers moneys accrued in the Florida Coastal Protection Trust Fund for spoil site acquisition to the Port Trust Fund pursuant to Subparagraph 376.11(3)(b)2., F.S. The new trust fund is to be used by certain deepwater ports for compliance with permit conditions, environmental mitigation, acquisition of spoil acquisition sites, and improvements.

New Subparagraph 376.30(3)(c)1., F.S., authorizes the Department of Environmental Regulation to provide potable drinking water to persons when their drinking water becomes contaminated. The Department may supply bottled water, install a filtering system, or replace the water system by drilling a new well or making a connection to a potable water source. The

provision of safe drinking water is to have first priority from the Inland Protection Trust Fund. No more than $10 million may be expended, except for the provision of bottled water, in any one county in any given year. Subparagraph 376.30(3)(c)3., F.S., authorizes the Department to reimburse the Department of Health and Rehabilitative Services for costs of providing field and laboratory services relating to investigating drinking water complaints.

The act revises Section 376.303, F.S, to provide for registration of petroleum storage tanks. The Department of Environmental Regulation must develop a compliance verification program, to be implemented no later than October 1, 1987. The Department must develop a postcard notification form for persons having tanks with a capacity of 550 gallons or less. Persons completing and returning this form by October 1, 1987, are eligible to participate in the Early Detection Incentive Program. The Department of Environmental Regulation is not required to pursue recovery of cleanup costs for removal of discharges if the amount of discharges involved is small or recovery is unlikely.

Subsection 376.305(1), F.S., is revised to provide that the action of a person to contain, remove, or abate a discharge is not an admission of responsibility for the discharge.

Revised Subsection 376.307(2), F.S., permits the Water Quality Assurance Trust Fund to be used to provide potable water to persons whose drinking water systems have been contaminated and to investigate, assess, maintain, or monitor

contaminated sites. New Paragraph 376.307(4)(b), F.S., specifies priority for funding from the Trust Fund.

The act creates Section 376.3071, F.S., to establish the Inland Protection Trust Fund, to be used for investigation, assessment, rehabilitation, maintenance, and monitoring of contaminated sites; restoration or replacement of potable water supplies; inspection and supervision activities; cost-recovery expenses; and payment of administrative costs to the Department of Health and Rehabilitative Services. The Department of Environmental Regulation must establish criteria to prioritize contamination sites for cleanup and to determine the level at which a site rehabilitation is deemed completed.

Under new Subsection 376.3071(9), F.S., the Department of Environmental Regulation is directed to conduct an incentive program beginning July 1, 1986, and ending October 1, 1987, for the purpose of encouraging early detection, reporting, and cleanup of contamination from leaking petroleum storage tanks. Cleanup costs for sites eligible under this program will be paid from the Inland Protection Trust Fund.

Subsection 376.3071(10), F.S., provides criminal penalties for falsification of inventory or reconciliation records with intent to conceal a serious leak or intentionally damage a petroleum system.

Persons are authorized by Subsection 376.3071(11), F.S., to conduct their own site rehabilitation through responsible response action contractors or subcontractors. Certain costs

of such cleanup may be eligible for reimbursement pursuant to Subsection 376.3071(12), F.S.

The Financial and Technical Advisory Committee is created in Subsection 376.3071(13), F.S., to review site rehabilitation projects and water restoration or replacement projects, to provide the Department of Environmental Regulation with comments on appropriate technical procedures and new technologies and improvements, and to review expenditures or actions that obligate the Inland Protection Trust Fund in excess of $500,000 for one project.

New Section 376.3073, F.S., directs the Department, whenever possible, to contract with local governments to perform services related to site investigation and assessment, restoration and replacement of water supplies, site rehabilitation, maintenance and monitoring of contaminated sites, and inspection and supervision activities.

The act removes from Section 376.309, F.S., the requirement that operators of pollutant storage facilities establish and maintain evidence of financial responsibility. New Subsection 376.313(4), F.S., requires the plaintiff in civil actions against petroleum storage system owners or operators filed after July 1, 1986, to prove negligence if certain conditions are met and provides that noncompliance with certain laws and rules is prima facie evidence of negligence.

New Section 376.319, F.S., permits the Department of Environmental Regulation to hold harmless and indemnify a response action contractor contracting with the Department, or

a local government contracting with the Department, for certain civil damages to third parties. State employees and employees of a political subdivision who provide response action services for their public employer are not liable for actions of the Department, the political subdivision, or the response action contractor during site rehabilitation.

New Subsection 489.113(7), F.S., requires the Construction Industry Licensing Board to adopt rules for certifying pollutant storage systems specialty contractors and specifies requirements for such rules. New Subsection 489.113(8), F.S., provides for temporary certification for certain persons who have operated as pollutant storage system speciality contractors during the five years preceding September 1, 1986. It provides that certain registered or certified mechanical or plumbing contractors may receive temporary certificates. New Subsection 489.113(9), F.S., requires that, beginning October 1, 1986, all pollutant storage system contractors must be certified in order to continue operating. Building officials may not issue a tank installation permit after that date unless the installer is certified.

Pursuant to the subsection cited immediately above, the Department of Environmental Regulation may inspect any tank installation and is required to contract with local governments, whenever possible, to provide inspection services. The Department may enjoin the installation or use of a tank installed or used in violation of Part I, Chapter 489, F.S.

The Department is directed to establish a pilot program for inspecting tanks in a county of less than 300,000 in population.

The act provides for notification to all registered or certified mechanical or plumbing contractors of the new certification requirements. New Subsection 489.127(3), F.S., provides criminal penalties for illegal operation as a pollutant storage systems contractor.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 607 (CHAPTER 86-186) creates Paragraph 20.261(2)(d) and Section 403.8081, F.S., to establish the Division of Environmental Operations within the Department of Environmental Regulation to handle duties involving the cleanup of underground storage tanks and protection of groundwater. The need for the Division will be reviewed by the Legislature in 1992, and the Division will be abolished unless reauthorized.

The act creates Section 373.414, F.S., to require water management districts with the responsibility for administering the Department's stormwater rule to establish specific permitting criteria for certain small isolated wetlands not within the Department's dredge-and-fill jurisdiction.

The act provides in amended Subsection 403.0861(1), F.S., that the Department has until July 1987, rather than December 1986, to adopt rules regulating the discharge from scallop processing.

Pursuant to new Section 403.0862, F.S., the discharge of waste from a state-authorized groundwater cleanup operation may

be put into a publicly owned treatment system upon agreement between the local government and the Department. If the local government incurs damages or costs because of this, the Department must pay to bring the facility into compliance with any state or federal requirements.

The Department may require a processing fee to cover the costs of reviewing and acting upon an application for a permit for site-specific alternative criteria or for an exemption from water-quality criteria pursuant to revised Paragraph 403.087(5)(a), F.S. The act establishes a special permit coordination and processing unit within the Department to handle complex projects more expeditiously and allows for an expedited administrative hearing process. It appropriates $764,652 and authorizes 20 positions for enforcement activities and six for the special permit processing unit.

If a discharge from a sewage treatment plant is permitted pursuant to Chapter 403, F.S., and by a local pollution control program, new Subsection 403.088(5), F.S., provides that the discharge be deemed lawful. If the capacity of such a plant is increased pursuant to permit or authorizations under this chapter, no action may be taken by the state attorney to restrain, enjoin, or otherwise prevent such construction or increase. New Section 403.0891, F.S., provides for assessment of stormwater management systems by the Department, provides for reports, and Section 403.0893, F.S., authorizes local governments to adopt stormwater utility fees or assess property owners within benefit areas. Revised

Subsection 403.101(3), F.S., allows for automatic renewal of certification for wastewater plant operators and exempts renewals from Subsection 120.60(3), F.S., if written notice is provided.

Section 403.165, F.S., is amended to broaden the eligible uses of pollution recovery funds. These funds may be used to enhance pollution control activities in the polluted area, and 10 percent of the pollution recovery fund must be used for monitoring sites of past restoration. The act also expands the eligible uses for state pollution control bonds set out in Subsection 403.1834(1), F.S., include stormwater control and treatment facilities.

A trust fund with revolving loan provisions is created in revised Section 403.1835, F.S., to financially assist local governments with construction of sewage treatment facilities. Grants from the federal government may be used to start up the fund.

Section 403.201, F.S., is amended to prohibit certain variances from hazardous waste management requirements. A fee is authorized for the granting of any variance.

The threshold for the applicability of the provisions of the Electrical Power Plant Siting Act is increased from 50 megawatts to 75 megawatts by revision of Subsection 403.503(7), F.S.

New Subsection 403.201(2), F.S., provides that no modification to a certification may be granted that constitutes a variance from standards or regulations of the Department

applicable under any federally delegated or approved permit program, except as expressly allowed in such program.

Chapter 403, F.S., is amended to maintain compliance of Florida's hazardous waste management program with changes in federal law or rule. Also, clarification is provided by amended Subsection 403.7265(4), F.S., for the local hazardous waste collection grants program. An additional amnesty day period is provided in revised Paragraph 403.7264(3)(c), F.S., during the month of May 1987.

The act revises provisions relating to designation of Outstanding Florida Waters in Paragraph 403.061(27)(b), F.S., and amends provisions in Subsection 403.813(2), F.S., relating to exemptions for certain permits. Specific dock-size exemptions are specified in Subparagraph 403.813(2)(b)1., F.S., for areas designated as Outstanding Florida Waters and for areas not in Outstanding Florida Waters. Floating docks are specifically referred to as well as those held in place by pilings in Subparagraph 403.813(b)2., F.S., and provisions in Subparagraph 403.813(b)5., F.S., limit the distance between docks automatically granted exemptions. Also newly exempted from permitting in new Paragraph 403.813(2)(g), F.S., are certain stormwater management facilities designed to serve single-family residences of less than 10 acres of total land area and less than two acres of impervious surface.

The Department of Environmental Regulation is authorized by revised Paragraph 403.853(1)(b), F.S., to require additional primary drinking water regulations for schools, mobile home

parks, and recreational vehicle parks and pursuant to amended Subsection 403.861(7), F.S., to increase application fees not to exceed $1,000 for larger drinking water systems by developing a sliding fee scale. The Department may mail permit copies to a designated person in the city or county by regular mail rather than certified mail as previously provided in Subsection 403.916(1), F.S., and the act gives the local governments more time to respond under revised Subsection 403.916(2), F.S.

Amended Subsection 403.931(3), F.S., requires the Department to establish a special general permit for alteration of mangroves in certain man-made canals and allows a municipality to alter mangrove trees without a permit pursuant to revised Subsection 403.932(1), F.S. It extends the Vegetative Index Review Committee created by Subsection 8 of Section 9 of Chapter 84-79, Laws of Florida, for an additional year and adds the review of soil reports to the Committee's duties.

The Department is directed by new Subsection 403.061(30), F.S., to establish requirements to protect the public health from electric and magnetic transmission lines. The act appropriates $170,000 from the Regulatory Trust Fund of the Public Service Commission to the Department to establish standards for electric and magnetic fields.

The act names the channel at the mouth of the Suwannee River the "Perry C. McGriff Channel."

The act provides for protection and improvement of water quality in Biscayne Bay and its major tributaries (Subparagraphs 258.397(3)(e)6., 7. and 8., F.S.), provides for appropriations for this purpose (Section 61 of this act), and modifies the dredge-and-fill permitting process in the Biscayne Bay area (new Subsection 403.814(2), F.S.).

This act provides that if substantially similar appropriations to those contained in Section 61 of the act become law pursuant to the enactment of HOUSE BILL 1282 or similar legislation, then the provision of Section 61 are null and void. HOUSE BILL 1282 was enacted as CHAPTER 86-295 with identical appropriation provisions.

Most provisions of the act do not take effect until October 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 825 (CHAPTER 86-213) creates the "Waste Treatment Cost Efficiency Act of 1986." It requires the Department of Environmental Regulation, after consultation with local governments, affected state and federal agencies, environmental interests, and persons with technical expertise in wastewater treatment, to submit to the Governor and Legislature a report making recommendations as to problems regarding construction, operation, funding, and permitting of water treatment facilities and environmental issues relating to the operation of such facilities. It requires that interests having input into the report be given the opportunity to comment on the report prior to its submission. The act also adds Subsection 403.021(11), F.S., to provide legislative

intent as to application of water quality standards, stating that the Department of Environmental Regulation may not consider deviations from water quality standards as violations when the deviations would occur in the absence of any man-induced discharges or alterations of the water body.

Section 36 of COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 978 (CHAPTER 86-191) creates the "Environmental Efficiency Act of 1986" and establishes the Environmental Efficiency Study Commission. It provides for appointment of members, the hiring of Commission staff, and the administrative assignment of the Commission to the Joint Legislative Management Committee. The Commission must hold at least five public hearings at various locations in the state to receive input as to the operation and administration of state environmental and public health laws and regulations. The Commission must report to the Legislature, by February 1, 1987, any duplication in the administration of state environmental and public health laws and regulations and make recommendations to eliminate such duplication and to promote efficient enforcement of such laws. Each of certain specified state agencies must, by September 1, 1986, submit a report to the Commission stating programs, activities, or regulations it administers which duplicate a program, activity, or regulation of another state or regional agency. These agency reports must also point out weaknesses and deficiencies in enforcement and identify any program, activity, or regulation administered by more than one division, bureau, section, subsection, office, or

program office of the agency. These agencies must also submit, by December 1, 1986, a report to the Commission recommending ways to eliminate the duplication. Substantively identical language creating the Environmental Efficiency Study Commission and specifying its powers and duties is contained in Section 16 of COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 432 AND 281 (CHAPTER 86-138) and in Section 62 of COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 607 (CHAPTER 86-186).

HOUSE BILL 1282 (CHAPTER 86-295) adds Subsection 403.814(2), F.S., to authorize the Department of Environmental Regulation, upon meeting certain notice and hearing requirements, to issue a general permit in the Biscayne Bay Aquatic Preserve for the placement of riprap waterward of vertical seawalls or as replacement for vertical seawalls, for the purpose of enhancing water quality and fish and wildlife habitats of the area. It prohibits the issuance of other general permits in the area.

Provisions of Section 258.397, F.S., relating to the Biscayne Bay Aquatic Preserve are amended to reflect means of improving water quality in the Bay and its major tributaries and better management of resources of the Bay.

The act also appropriates moneys for the purpose of identifying and prioritizing stormwater outfalls damaging the Miami River and Biscayne Bay areas, retrofitting stormwater outfalls along the Miami River and Biscayne Bay, providing administrative expenses for the Miami River Coordinating

Committee, increasing law enforcement on the Miami River and in the Biscayne Bay area, and providing enforcement personnel and equipment for state environmental laws and regulations that affect water quality in the Miami River and Biscayne Bay area. The appropriation provisions are identical to those in Section 61 of COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 206 (CHAPTER 86-159). Pursuant to that law, its funding provisions are superseded by those in this act.

Geophysical Operations

With respect to exploration for oil, gas, or minerals by means of geophysical activities, COMMITTEE SUBSTITUTE FOR HOUSE BILL 386 (CHAPTER 86-34) amends Section 377.2424, F.S., effective October 1, 1986, to require an applicant for a permit to post a surety bond with the Department of Natural Resources in an amount adequate to protect the areas upon which the geophysical activities are to be conducted from failure by the applicant to restore the area. The law requires applicants for geophysical permits to contract with persons who must accompany and witness each geophysical crew's operations with respect to explosives and who must report these activities to the Bureau of Geology. The act also requires the Department to provide geophysical permit information to counties and municipalities upon request.

Land Use Planning and Land Development Regulation

As a follow-up to the comprehensive growth management legislation enacted in 1985, COMMITTEE SUBSTITUTE FOR COMMITTEE

SUBSTITUTE FOR SENATE BILL 978 (CHAPTER 86-191) makes a variety of major and minor revisions to growth management laws.

With respect to coastal construction, revised Subsection 161.053(12), F.S., provides the Department of Community Affairs may issue a permit for a more landward relocation of an existing structure, rather than rebuilding within the confines of the existing structure if such relocation would not cause further harm to the beach-dune system and otherwise complies with the provisions of the subsection. The act also amends Section 161.54, F.S., (definitions) to provide that, in certain areas, the "coastal building zone" is the land area seaward of the most landward velocity zone (V-zone) line shown on flood insurance rate maps. The term "construction" is redefined to mean "building, clearing, filling, excavation, or substantial improvement," rather than "building, clearing, filling, excavation, or the making of any material change." The term "Standard Building Code" is replaced with the term "state minimum building codes," meaning the model building construction codes identified in Section 553.73, F.S. An extensive definition of "substantial improvement" is also provided.

Section 161.55, F.S., of the coastal construction law is also amended to require that major structures be designed, constructed, and located in compliance with National Flood Insurance Program regulations or with more stringent local regulations. Major structures outside the Florida Keys are required to be constructed to withstand a wind velocity of 110

m.p.h.; in the Keys, major structures must be constructed to withstand a wind velocity of 115 m.p.h. The act also provides exceptions relating to erosion computations and construction of walls or partitions. The law also provides that minor structures and nonhabitable major structures need not comply with National Flood Insurance Program regulations.

The act substantially revises the definition of coastal building zones on barrier islands found at Subsection 161.55(5), F.S., and provides the Land and Water Adjudicatory Commission with powers relating to designation of coastal building zones on barrier islands. The act also revises Paragraph 161.55(6)(b), F.S., to require departmental approval of certain improvements, consolidations, or relocations of public accessways.

In revising Subsection 161.56(1), F.S., the requirement that local governments adopt coastal construction standards is delayed from March 1, 1986, until January 1, 1987. New Subsection 161.56(4), F.S., provides for a coastal building zone construction training program to assist local governments in the implementation and enforcement of coastal construction regulations. The act also amends Subsection 161.58(2), F.S., to expand the purposes for which vehicular beach access fees may be used.

With respect to comprehensive planning, the act revises deadlines for submission of local plans found in Section 163.3167, F.S. The Department of Community Affairs is required to adopt a schedule for submission of local plans, providing

for submission by coastal counties and municipalities within coastal counties between July 1, 1988, and July 1, 1990, and providing for submission by all other counties between July 1, 1989, and July 1, 1990. The act also allows the Department to establish later deadlines for areas of critical state concern and authorizes the Administration Commission to impose sanctions on local governments that do not meet applicable deadlines.

New Subsection 163.3177(10), F.S., revises comprehensive planning requirements by defining the concept of consistency with the State Comprehensive Plan and by establishing standards for construing Chapter 9J-5, Florida Administrative Code (FAC). The act provides that supporting data are not subject to the compliance review process. Legislative intent language is provided indicating that local governments have the responsibility for setting levels of service for public facilities. The act provides that public facilities and services are sufficient if the facilities or services of a development are phased-in, or the development is phased-in, so that services or facilities are available concurrent with the impacts of development. The act also limits rule challenges to Chapter 9J-5, FAC, and removes the requirement of submission to the Legislature of future changes to such rules.

For purposes of the coastal element of a comprehensive plan applicable to a deepwater port, the act revises Subsection 163.3178(2), F.S., to define "appropriate local government" as the municipality within which the port lies, or, if the port is

not within a municipality or is within two or more municipalities, as the county within which the port lies.

The act substantially revises the process for adoption of local comprehensive plans and amendments to local plans set out in Section 163.3184, F.S. The revised procedure requires a local government, after a public hearing, to submit its entire plan or plan amendment to the Department of Community Affairs. After submission of the plan or amendment to the Department, the plan or amendment is to be reviewed by various state departments and regional and local agencies. The Department is required, after review of comments from other governmental agencies, to submit its written comments, objections, and recommendations to the local government. Within 60 days after receipt of the Department's comments, objections, and recommendations, and after a public hearing, the local government must adopt the plan, with or without recommended changes. The Department is required to give the local government advance notice of its intent to find that a local plan is or is not in compliance with statutory requirements. Administrative hearings are provided to determine whether a plan is in compliance. The Administration Commission is given final authority to determine compliance and authority to impose sanctions against a local government which does not comply. Plans relating to areas of critical state concern must also be approved pursuant to Section 380.05, F.S.

New Paragraph 163.3187(1)(c), F.S., provides that comprehensive plan amendments relating to small-scale

development may be adopted without regard to statutory limits on the frequency of consideration of plan amendments under certain circumstances.

Local planning agencies are required to submit reports on the comprehensive plan to the Department at least once every five years pursuant to amended Subsection 163.3191(1), F.S. Local governments are prohibited from issuing development orders or permits that result in a reduction of the level of services after one year after the due date of local plans or the submission of a local plan according to revised Paragraph 163.3202(2)(g), F.S. The act provides for administrative challenges to regional policy plans in revised Section 186.508, F.S.

With respect to developments of regional impact, the act specifies in revised Subparagraph 380.06(8)(a)10., F.S, the information to be contained in a notice of a preliminary development agreement and requires filing of the notice in each county in which land covered by the agreement is located. Provisions relating to preliminary development agreements are also made applicable to Florida Quality Developments. Amended Subsection 380.06(13), F.S., stipulates that developments in areas of critical state concern which had pending applications and had been noticed or "agendaed" by a local government during September 1985, are exempt from the requirements of Section 380.06, F.S., relating to development order approval.

The act provides additional circumstances in new Subparagraphs 380.06(19)(b)14. and 18., F.S., for subjecting

changes in a previously approved development to development-of-regional-impact review, and it provides in revised Subparagraph 380.06(19)(f)6., F.S., circumstances under which a change that is not a substantial deviation will not subject a development to further review. The act deletes the requirement found at Subparagraph 380.06(25)(b)1., F.S., that the petition for authorization to submit a proposed areawide development of regional impact include proof of actual, timely notice to each landowner within the area of the proposed development, and instead amends Paragraph 380.06(25)(e), F.S., to require such actual notice 30 days before the public hearing on the petition.

Provisions relating to statewide guidelines and standards for developments of regional impact are clarified. The act revises Subsection 380.0651(1), F.S., to provide that only those guidelines and standards previously adopted by the Administration Commission which address the same development as addressed by statute are superseded and that other standards previously adopted, including residential standards and guidelines, are not superseded. The membership of the Quality Developments Review Board described in Paragraph 380.061(6)(a), F.S., is expanded to include the Secretary of Transportation. Local government comprehensive plan amendments relating to Florida Quality Development are allowed to be considered at the same time as the application for development approval pursuant to new Subsection 380.061(8), F.S., notwithstanding limits on the frequency of consideration of amendments to the plan.

According to Subsection 380.07(2), F.S., the appeal period for a development of regional impact within the jurisdiction of more than one local government does not commence until all of the local governments have rendered their development orders.

Sections 19 through 31 of the act also create the "Florida Local Government Development Agreement Act," which authorizes local governments to enter into development agreements with developers after notice and public hearing. Such an agreement must be in writing and may not have a duration in excess of five years, unless extended by mutual consent of the developer and government after a public hearing. The agreement must be consistent with the local government's comprehensive plan and land development regulations. Local laws and policies in effect at the time the agreement is entered govern the development for the duration of the agreement, except under specified circumstances. The local government is required to annually review the agreement to determine whether it is being complied with in good faith. The agreement may be modified or canceled by mutual consent of the parties. The agreement must be recorded, and a copy must be submitted to the Department of Community Affairs. The agreement must be modified to conform to subsequently adopted state or federal law. The act provides for injunctive relief to compel compliance with the agreement or to challenge legality of the agreement.

The act also amends Subsection 190.007(1), F.S., to provide that it is not a conflict of interest under Chapter 112, F.S., for a member of a board of supervisors of a community development district to be a stockholder, officer, or employee of a landowner.

The act also revises the components of the State Minimum Building Codes in Subsection 553.73(2), F.S., by replacing the 1982 edition of the Standard Building Codes with the 1985 edition plus 1986 accumulated revisions thereto, and deleting the National Building Code from inclusion. It also provides in new Subsection 553.73(8), F.S., that the firesafety regulations specified in the State Minimum Building Codes may not be superseded or supplemented except as provided in Subsections 553.73(3) and 633.05(8), F.S. The act also amends Subsection 633.021(9), F.S., the definition of "high-hazard occupancy" for purposes of Subsection 633.085(1), F.S., relating to inspection of state-owned or state-leased buildings, to exclude any residential condominium in which the declaration or bylaws prohibit the rental of units for periods of less than 90 days.

Subparagraph 627.351(2)(c)3., F.S., is added to supply the criterion that extending windstorm insurance coverage to an area for purposes of risk apportionment must be consistent with and implement and further the policies and objectives set forth in applicable state laws, rules, and regulations governing coastal management, coastal construction, comprehensive planning, beach and shore preservation, barrier island

preservation, coastal zone protection, and the Coastal Zone Protection Act of 1985.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1405 (CHAPTER 86-170) creates Section 380.0663, F.S., to authorize any county in which an area of critical state concern is located to establish by ordinance a land authority. The governing body of the county must be the governing body of the land authority.

The chief purposes of a land authority established in new Section 380.0666, F.S., are to analyze county land planning needs within areas of critical state concern, to acquire or dispose of real or personal property to protect the environment, to provide public access or public recreational facilities, to preserve wildlife habitats, and to provide affordable housing, to borrow money through the issuance of bonds, and to make feasibility and design studies relating to solid waste management. Pursuant to new Section 380.0668, F.S., the bonds must be revenue bonds and must be in compliance with the State Bond Act and the additional provisions contained in this act.

The authority is required by new Section 380.0671, F.S., to submit an annual report to the Governor and Legislature. Property of the land authority, its transactions and operations, and income therefrom, are exempt from taxation by the state and its political subdivisions under new Section 380.0673, F.S.

Section 125.0108, F.S., is created to permit a county that establishes a land authority to impose, within areas of critical state concern within the county, a one-percent tourist impact tax on transient rentals, sales of food or beverages at public food service establishments, and admissions. Half of the proceeds of the tax are to be transferred to the land authority for land acquisition, and the remaining half must be used by the county to offset the loss of ad valorem taxes arising from the acquisition of land by the land authority. The tax is to be imposed by ordinance, which must be approved by referendum of the electors within the area of critical state concern within the county.

If a county creates a land authority, the Department of Natural Resources is required to impose surcharges on admissions to state parks within areas of critical state concern within the county. Proceeds from the surcharge are to be transferred to the land authority for the purpose of land acquisition.

The act also substantially revises Section 380.0552, F.S., relating to designation of the Florida Keys as an area of critical state concern. Major new features in the revised section are provision for removal of such designation (Subsection 380.0552(4), F.S.), creation of a resource planning and management committee (Subsection 380.0552(6), F.S.), and establishment of principles for guiding development of the area (Subsection 380.0552(7), F.S). The act also requires that any modifications to land development regulations or local

comprehensive plans in the Florida Keys be approved by the Department of Community Affairs as provided in Subsection 380.0552(9), F.S. Section 380.051, F.S., is created to provide for coordinated agency review of proposed developments of regional impact in the area.

This act makes total appropriations of $11,309,000 for the current fiscal year, 1986-87, and next fiscal year, 1987-88, some of which are contingent upon the passage of other legislation or action on the part of certain state agencies. The purposes for such spending include land acquisition, comprehensive planning and land development regulations within the Florida Keys area of critical state concern, a feasibility and design study for a solid waste management facility in Monroe County, planning and land acquisition for additional space in a regional service center in Monroe County, and an evaluation study of the population and dynamics of the queen conch.

Navigation and Boating

COMMITTEE SUBSTITUTE FOR SENATE BILL 203 (CHAPTER 86-35) contains several provisions relating to boating safety. The act adds Subsection 861.065(5), F.S., to prohibit the display of divers-down flags in a manner that unreasonably constitutes a navigational hazard on a river, inlet, or navigation channel and also adds Subsection 861.065(6), F.S, to require divers in such areas to make reasonable efforts to stay within 100 feet of the divers-down flag. The act revises Subsection

861.065(7), F.S., to make willful violations of the diving restrictions a second-degree misdemeanor.

Amended Subsection 327.50(1), F.S., requires all vessels on the waters of the state to conform to federal lighting and safety equipment regulations.

Section 327.73, F.S., is created to provide that specified violations of boating laws are noncriminal infractions, and to provide for punishment of violators. The noncriminal infractions include violations relating to registration, careless operation, night water skiing, interference with navigation, restricted areas, regattas and races, safety equipment, and muffling devices.

Revised Section 327.65, F.S., provides that a county may impose additional noise pollution and exhaust regulations by ordinance and specifies the substance of such additional regulations.

Subsection 327.33(2), F.S, is amended to expand the elements of the noncriminal offense of careless operation of a vessel to include violation of posted speed and wake restrictions.

This law takes effect October 1, 1986.

PUBLIC LANDS

Acquisition and Disposal

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 607 (CHAPTER 86-186) includes miscellaneous provisions

relating to the acquisition and disposal of public lands. These provisions:

(1) Permit the Governor and Cabinet, in acquiring lands in the Big Cypress Area and Addition, to use the acquisition procedures prescribed in Chapter 337, F.S., instead of Chapter 253, F.S. (New Subsection 380.055(10), F.S.)

(2) Permit the Governor and Cabinet, acting as the Board of Trustees of the Internal Improvement Trust Fund, to enter an interagency agreement with the Department of Transportation pursuant to which the Department may acquire lands in the Big Cypress Area and Addition on behalf of the Governor and Cabinet and be reimbursed in a share proportionate to the value of the interest acquired. The title to the property so acquired must be placed in the name of the Board of Trustees, except that the Department will retain title to that portion of the property needed for highway right-of-way. (New Subsection 380.055(10), F.S.)

(3) Permit the Board of Trustees of the Internal Improvement Trust Fund to accept less than a special warranty deed from a county or another state agency. The Board may accept a quitclaim deed in the event of a gift if it determines that acceptance is in the best interest of the public, or it may do so to clear title or boundary questions. (Revised Subsection 253.025(10), F.S.)

(4) Permit the Board of Trustees of the Internal Improvement Trust Fund to purchase tax certificates or tax

deeds with respect to property that is eligible for purchase under Section 253.025, F.S. (New Subsection 253.025(11), F.S.)

(5) Permit the Board of Trustees of the Internal Improvement Trust Fund, in disposing of state-owned uplands of five acres or less, to procure, through open listings, real estate sales services. (New Subsection 253.115(5), F.S.)

(6) Prohibit the Board of Trustees of the Internal Improvement Trust Fund from opening sealed bids for the leasing of lands until the day, time, and place designated by the Board in the required notice, at which time all bids must be opened and any person may be present. (Amended Section 253.53, F.S.) On the date specified in the advertisement of sale, the Board must consider at the public meeting, all bids submitted prior to that date. (Revised Section 253.54, F.S.).

(7) Provide that, when disclosure of persons having beneficial interests in nonpublic corporations is required pursuant to Section 286.23, F.S., with respect to real property being conveyed to a public agency, the corporation is not required to disclose persons holding less than five percent of the stock. (Revised Paragraph 286.23(3)(a), F.S.)

(8) Limit the condemnation power of the Division of Recreation and Parks of the Department of Natural Resources to the acquisition of property or property rights that may be required for state park purposes for parks under the jurisdiction of the Division on July 1, 1980. No more than an aggregate of 40 acres or 10 percent of the total acreage of the respective park as it existed on that date, whichever is less,

may be acquired; and only properties that are wholly surrounded by state park property may be acquired. (Amended Subsection 258.007(1), F.S.)

The act also directs the Board of Trustees of the Internal Improvement Trust Fund to convey to the City of Wildwood a parcel of land in Sumter County conveyed by the city to the Board of Commissioners of State Institutions on December 15, 1965.

The foregoing provisions take effect October 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 371 (CHAPTER 86-16) revives and readopts Chapter 80-536, Laws of Florida, which had been given a "Sundown" date of October 1, 1986, pursuant to Section 11.611, F.S. Sections 1 and 2 of the 1980 act are renumbered as Subsections 258.255(1) and (2), F.S., and are amended to create the Judah P. Benjamin Memorial at Gamble Plantation Historical Site Advisory Council, rather than a commission as originally provided. The Council's function is to advise the Division of Recreation and Parks of the Department of Natural Resources in the operation, restoration, development, and preservation of the site. New language makes the four-year terms of the Council members staggered ones. These changes conform this body's description to that of a "council" as set out in Subsection 20.03(7), F.S., which the Legislature determined to be a more accurate description for the entity than "commission" as defined in Subsection 20.03(10), F.S.

A new "Sundown" date of October 1, 1996, is provided for the act which takes effect October 1, 1986.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 607 (CHAPTER 86-186) and HOUSE BILL 1198 (CHAPTER 86-294) each authorize in Sections 71 and 10, respectively, effective October 1, 1986, the Department of Natural Resources to acquire through eminent domain, lands within the Save-Our-Coast land acquisition project known as "North Shore Open Space," lands within the "Collins Avenue Tract," and lands within the "Pier-2nd Street Parks Addition," all in Dade County. In addition, HOUSE BILL 1198 (CHAPTER 86-294) amends Subsection 375.041(2), F.S., to prohibit debt service on Save-Our-Coast bonds from being paid out of moneys transferred to the Land Acquisition Trust Fund from the Conservation and Recreation Lands Trust Fund.

HOUSE BILL 519 (CHAPTER 86-205) amends Section 270.11, F.S., to permit the Board of Trustees of the Internal Improvement Trust Fund to execute a full or partial release of a phosphate, mineral, metal or petroleum interest reserved to the state in any parcel of land and to permit the State Board of Education to do so with respect to any interest reserved to the State Board before September 1, 1967. The act also releases the right of entry in respect to any interest in phosphate, minerals, and metals or in petroleum "heretofore or hereafter reserved" in favor of the Board of Trustees or the State Board of Education as to any parcel that is, or ever has

been, a contiguous tract of less than 20 acres in the aggregate under the same ownership.

Effective October 1, 1986, HOUSE BILL 11 (CHAPTER 86-257) amends Section 270.11, F.S., to require a local government, water management district, or other agency of the state, when executing a contract or deed for the sale of land, to reserve an undivided three-fourths interest in, and title in and to, an undivided three-fourths interest in all the phosphate, minerals, and metals in, on, or under the land and an undivided one-half interest in all petroleum in, on, or under the land, the same as the Board of Trustees of the Internal Improvement Trust Fund is required to do. Upon petition for the purchase of the reserved interest in a parcel of land, a local government, water management district, or agency of the state may sell or release the reserved interest upon its submitting a statement of reasons justifying the sale or release. The act also provides that any state agency, except a water management district, that receives royalties for parcels must remit them to the General Revenue Fund, unless otherwise provided by law.

HOUSE BILL 446 (CHAPTER 86-293) creates Section 375.075, F.S., to authorize the Department of Natural Resources to establish the Florida Recreation Development Assistance Program to provide grants to qualified local governmental entities for acquisition or development of land for public outdoor recreation purposes. Each year, the Department is required to develop and plan a program based upon using at least five

percent of the documentary stamp tax revenues credited to the Land Acquisition Trust Fund in that year. The Department is also required to adopt procedures to govern the grant program, including a competitive project selection process that ranks the extent to which the project would implement the goals, objectives, and priorities of the state comprehensive outdoor recreation plan and the extent to which the project would provide for priority resources or facility needs in the region as specified in the state comprehensive outdoor recreation plan.

Aquatic Preserves

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 607 (CHAPTER 86-186) amends Paragraph 258.42(3)(e), F.S., to allow certain multislip docks that do not produce revenue or income to be erected in an aquatic preserve in order to allow riparian owners reasonable ingress and egress. The act also provides that erection of a structure may not be prohibited under that paragraph or under Chapter 253, F.S., solely because the local government has not adopted a marina plan or other policies dealing with the siting of such structures in its local comprehensive plan. The act amends Section 258.39, F.S., to establish the "Rainbow Springs Aquatic Preserve" in Marion County and creates Section 258.3925, F.S., to establish the "Lemon Bay Aquatic Preserve" in Charlotte and Sarasota Counties as parts of the aquatic preserve system under the "Florida Aquatic Preserve Act of 1975."

The foregoing provisions take effect October 1, 1986.

With respect to the maintenance of the "Biscayne Bay Aquatic Preserve," COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 607 (CHAPTER 86-186) and HOUSE BILL 1282 (CHAPTER 86-295) each amend the permit authority of the Board of Trustees of the Internal Improvement Trust Fund found in Section 258.397, F.S., to permit the Board to allow dredging or filling of submerged lands in the preserve to alter physical conditions, including the placement of riprap, necessary to enhance both the quality and the utility of the preserve; to prohibit the Board from issuing permits for dredge and fill projects for creation and maintenance of marinas, piers, and docks and attendant navigation channels and access roads except when the Board is assured that the projects will be constructed and operated in a manner that will not adversely affect the water quality and utility of the preserve; and to remove the authority of the Board to issue dredging permits for the purpose of eliminating unsightly mud flats. The acts also provide that permits may be approved only after public notice and, if requested by any person, a public hearing in the area affected. In addition to any public notice required by law, notice must be given by United States mail to any person who submits a written request to the Department of Environmental Regulation that his name be placed on the mailing list to receive such notice. The acts authorize the Board of Trustees to grant approval of the seaward relocation of bulkhead lines or further establishment of bulkhead lines or construction,

replacement, or relocation of seawalls by letters of consent; to conduct restoration and enhancement efforts in Biscayne Bay and its tributaries; to stabilize eroding shorelines in Biscayne Bay and its tributaries which are contributing to turbidity by planting natural vegetation and by placing riprap, as determined by Dade County in conjunction with the Department of Environmental Regulation; and to request the South Florida Water Management District to enter into a memorandum of understanding with the Department of Natural Resources, the Department of Environmental Regulation, the Biscayne National Park Service, the Metro-Dade County Department of Environmental Resources Management, and, at its option, the Corps of Engineers to include enhanced marine productivity in Biscayne Bay as an objective when operating the Central and Southern Florida Flood Control projects consistent with the goals of the water management district. The acts also direct the Department of Environmental Regulation to investigate stormwater management practices within the watershed and develop a corrective plan for management and treatment of stormwater, including retrofitting of stormwater outfalls causing the greatest environmental damage to the bay, and to develop a program to regulate the use of pumpout facilities in the bay area and along the Miami River; direct the Department of Natural Resources to develop a program to eliminate, to the greatest extent possible, the discharge of oil and other pollutants from ships; and to remove derelict vessels from the Miami River and bay area; and direct the Metro-Dade County

Department of Environmental Resources Management to aid in enforcing state regulations through the establishment of a "full-time enforcement presence" along the Miami River.

Reclamation and Restoration

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 432 AND 281 (CHAPTER 86-138) amends Section 161.101, F.S., to provide for state and local participation in a management plan for beach restoration and renourishment. The act revises Section 161.021, F.S., to reassign regulatory powers over beaches and shores from the Division of Marine Resources of the Department of Natural Resources to the Division of Beaches and Shores and defines "beach renourishment" as maintenance of a restored beach by replacement of sand and "beach restoration" as placement of sand on an eroded beach to restore it as a recreational beach and provide storm protection for upland properties.

Section 161.054, F.S., is amended to include liability for damages caused by a person, firm, corporation, or governmental agency that by gross negligence violates Section 161.041, Section 161.052, or Section 161.053, F.S., relating to coastal construction and excavation regulations. The prior law restricted liability to damages caused by those who knowingly violated such statutes.

The act creates Section 161.088, F.S., to declare the public policy with respect to beach erosion control and beach restoration and renourishment projects.

The act amends Section 161.091, F.S., by adding beach restoration and renourishment as part of the statewide management plan for which Erosion Control Trust Fund disbursements may be made. It also deletes the provisions that such disbursements be considered in regard to federal and nonfederal aid projects.

The act revises Section 161.101, F.S., to require the Department of Natural Resources to determine those beaches that are critically eroding in order to authorize expenditure from the Erosion Control Trust Fund of up to 75 percent of the actual costs of restoration and renourishment of such beaches, with the balance of such costs to be paid by the local governments. Section 161.101, F.S., is also amended to authorize the Department to pay up to 100 percent of the cost of sand source data and up to 100 percent of the construction and maintenance costs for emergency projects if the state is the upland riparian owner or for the establishment and maintenance of a system of feeder beaches. Further revision of this section provides that local governments may be reimbursed from state funds for erosion control projects if the projects are approved before construction is initiated and if they help to develop and maintain the long-term management plan for beaches as set forth in Section 161.161, F.S. The Department may expend funds from the trust fund to alleviate state shoreline emergencies declared by the Governor and Cabinet pursuant to new Subsection 161.101(11), F.S. New Subsection 161.101(12) requires 25 percent of the funds appropriated for

beach projects to be held by the Department until the last quarter of the fiscal year for use in such emergencies.

New Subsection 161.101(13), F.S, requires the Department to maintain a current project listing and authorizes it to revise the listing based upon availability of resources and changes in criteria for approval of projects.

The act amends Section 161.131, F.S., by providing that all sections in Part I of Chapter 161, F.S., i.e., Sections 161.011-161.212, F.S., be liberally construed to best accomplish the beach and shore preservation purposes and programs. Under prior law, such construction only referred to Sections 161.011-161.121, F.S.

The act amends Section 161.141, F.S., to reflect the public policy of the state to achieve the additional goals of beach restoration and renourishment and adds that no construction on any beach restoration or renourishment project may be initiated without receiving the required consent from the Board of Trustees of the Internal Improvement Trust Fund authorizing the proposed use.

Section 161.142, F.S., declares the need for maintaining navigation inlets to promote commercial and recreational uses of coastal waters and their resources. It also establishes guidelines for the placement location, quantity, and quality of sand needed to provide nourishment to downdrift beaches.

Certain areas of construction located within one mile of the centerline of navigation channels or inlets that provide access to ports used for deepwater commercial navigation are

exempted from the permitting requirements and coastal construction and excavation regulatory prohibitions of Subsections 161.053(2), (5), and (6), F.S.

The act also requires timing and sequence of construction in coastal areas to provide protection to nesting sea turtles and their hatchlings and habitats and for endangered plant communities and native salt-resistant vegetation.

The act amends Section 161.161, F.S., to change the procedure for project approval. The Division of Beaches and Shores of the Department of Natural Resources must develop and maintain a comprehensive long-term management plan for the restoration of critically eroding beaches which addresses long-term solutions, evaluates each improved coastal beach inlet to determine if it is a significant cause of beach erosion and make recommendations for the mitigation of the erosive impact of the inlet, specify design criteria for beach restoration and renourishment projects, evaluate the establishment of feeder beaches as an alternative to restoration, and establish a list of beach restoration and renourishment projects, arranged in order of priority, and the funding levels needed for such projects. In establishing the list of projects, the Division must consider and balance criteria prescribed in the act. If local participation is required, the Department must obtain approval from the local government before undertaking the project.

If a federal plan or project is for a coastal inlet, the Department of Environmental Regulation must first consult the Division of Beaches and Shores of the Department of Natural Resources for a determination of the impact of the plan or project on sandy beaches pursuant to amended Paragraph 373.026(8)(a), F.S. If the Department of Environmental Regulation determines that there will be a significant adverse impact, it may not approve the project unless it is revised to mitigate those impacts.

The act amends Section 403.816, F.S., to authorize the Department of Environmental Regulation to establish a system for issuance of maintenance dredging permits with respect to beach restoration projects approved pursuant to Chapter 161, F.S.

The act amends Section 403.8163, F.S., to give priority to an adjacent sandy beach or coastal barrier dune system for sites for disposal of spoil for maintenance dredge operations if the Division of Beaches and Shores of the Department of Natural Resources determines that the spoil or some substantial portion may be placed as compatible sediment into that littoral system for its preservation and protection.

HOUSE BILL 292 (CHAPTER 86-202) establishes the Coral Reefs Restoration Trust Fund of the Department of Natural Resources for the deposit of all damages recovered by or on behalf of the state for injury to or destruction of the coral reefs off Dade, Monroe, Broward, and Palm Beach Counties.

Moneys in the fund may be expended only to provide funds to the Department for reasonable costs incurred in obtaining payment of damages for injury to, or destruction of, the coral reefs; to pay for restoration or rehabilitation of the damaged or destroyed coral reefs by a state agency or through contract with any qualified person; to pay for the development or restoration of natural resources similar to those damaged or destroyed; and to pay for alternative projects selected by the Board of Trustees of the Internal Improvement Trust Fund on the basis of their anticipated benefits to residents who use the coral reefs or who will benefit from such projects.

All claims for trust fund reimbursement for reasonable costs incurred in obtaining the payment of damages for injury or destruction of coral reefs must be made within 90 days after payment of damages is made to the state. The act requires a private recipient to agree in advance that its accounts and records be subject to audit by appropriate state officials at any time and to submit a final written report of expenditures within 90 days after the funds are expended.

Payments made to any state agency from the trust fund will be considered as extraordinary expenses and may not reduce any agency appropriation.

The act grants the Department of Natural Resources rulemaking authority for administration of the act.

HOUSE BILL 1198 (CHAPTER 86-294) enacts the "Phosphate Land Reclamation Act," (Part III of Chapter 378, F.S.) the "Resource Extraction Reclamation Act," (Part IV of Chapter 378,

F.S.) and the "Florida Institute of Phosphate Research Competitive Negotiation Act," (Part II of Chapter 378, F.S.) as follows:

(1) Pursuant to Section 378.202, F.S., the "Phosphate Land Reclamation Act" (Sections 378.201-378.212, F.S.) establishes a program to reclaim mined lands in a timely manner that recognizes a variety of land and mining operations and types of lands mined. The act applies to land subject to the mandatory reclamation obligation for severance of solid mineral phosphate rock and to lands initially used after July 1, 1984, as areas for clay settling or as dams for use with clay settling areas. It does not apply to land disturbed by the severance of phosphate rock before July 1, 1975.

Section 378.205, F.S., provides that the act is to be administered by the Department of Natural Resources, which is authorized to issue conceptual reclamation plans and reclamation program approvals requiring a mine operator to take actions necessary to comply with the act. The term "conceptual reclamation plan" is defined in Subsection 378.203(3), F.S., as a graphic and written description of general activities to be undertaken across the whole mine to comply with reclamation standards and criteria, and in Subsection (11), the term "reclamation program" is defined as a detailed graphic and written description of a reclamation plan for a segment of a mine that is consistent with the applicable approved conceptual reclamation plan and that shows with specificity how that segment will be reclaimed to comply with the reclamation

standards and criteria. The Department is also authorized to inspect for compliance and to prescribe forms for conceptual reclamation plans and reclamation program applications under Subsection 378.205(1), F.S.

In Subsection 378.205(2), F.S., the Department is designated the lead agency responsible for phosphate mine reclamation. The Department must accept all permits issued by the Department of Environmental Regulation or water management districts for work on land subject to reclamation if the permit conditions are consistent with the standards and criteria adopted pursuant to the act.

The deadline for the Department of Natural Resources, the Department of Environmental Regulation, and the appropriate water management districts to agree on the establishment of rules, the review of applications, and the implementation of provisions for reclamation is January 1, 1987.

The act provides for final agency action by the Board (i.e., the Governor and Cabinet sitting as the head of the Department of Natural Resources) on applications for conceptual reclamation plans, modifications to approved plans, variances, and certain reclamation programs. The executive director must exercise final agency action on applications for all reclamation programs that do not require approval by the Board.

Under Section 387.207, F.S., the Department is to adopt, by rule, statewide criteria and standards for reclamation which provide for the return of the natural function of wetlands, habitats, or conditions to that in existence prior to mining.

Section 387.208, F.S., requires mine operators to give financial assurance to the state that reclamation of lands subject to the mandatory reclamation obligation will be completed in a timely manner. The form of security posted (liens, letters of credit, surety bonds, cash deposits or trust funds, donations of land) may be selected by the operator, but must cover the number of acres which the operator is delinquent in reclaiming in the required time period as well as the number of acres that the operator must reclaim in the current five-year period. The amount of financial responsibility will be established by the executive director but may not exceed $4,000 an acre.

Pursuant to Section 387.209, F.S., time periods are established for timely completion of reclamation with the specification that time periods and reclamation rates may be modified or waived for experimental programs or in the event of temporary shutdowns, physical restraints, unreasonable delays in processing reclamation applications, or extreme economic hardship on the operator.

Section 387.211, F.S., authorizes the Department to institute a civil action for injunctive relief or damages to enforce compliance with the act, or for both injunctive relief and damages. The Department may institute a civil action to impose a civil penalty, within specified limits, for violation of the act or violation of a rule adopted or order issued pursuant to the act. These remedies do not apply to the failure to comply with timing of reclamation criteria. The

Department must determine that the operator is unable or unlikely to comply within a reasonable time before it may proceed in a civil action to recover against the security provided. The act specifies that any civil penalties collected be deposited to the credit of the Phosphate Research Trust Fund.

The Board may grant variances upon application for specified reasons. Variances issued for five or more years must be reviewed by the Board every five years.

(2) The "Resource Extraction Reclamation Act" (Sections 378.401-378.412, F.S.) provides for the extraction of valuable resources for commercial, industrial, or construction use while also providing for the public's health, safety and welfare, the protection of the state's environment, and subsequent beneficial use of disturbed and reclaimed land.

Section 378.405, F.S., provides that, within 30 days after receipt of a mine operator's conceptual reclamation plan, the plan must be reviewed by the Department of Natural Resources, the executive director, or the affected agency and a request for submission of any additional information required must be made. The act also provides for a hearing upon request to determine whether the additional information requested is needed. The plan must be approved or denied within 90 days after receipt of the original plan, the last item of additional information requested in a timely manner, or the applicant's written request to begin processing the plan.

Section 378.406, F.S., provides that information relating to prospecting, rock grades, or secret processes or methods of operation is confidential and exempt from Chapter 119, F.S. The act specifies that it is the applicant's responsibility to inform the Department about information alleged to be confidential and the legal basis for such confidentiality. This exemption from disclosure is subject to the Open Government Sunset Review Act (Section 119.14, F.S.).

Section 378.411, F.S., provides guidelines for granting certification to a local government or the Department of Transportation to receive notices of intent to mine, to review, and to inspect for compliance. In deciding whether to grant certification to a local government, the executive director of the Department of Natural Resources must determine whether prescribed criteria are being met.

The act, according to Section 378.412, F.S., supplements other laws regarding resource extraction and does not limit, alter, abridge, or preempt such laws.

After January 1, 1987, no operator may begin limestone resource extraction at a new mine without notifying the executive director of the intention to mine pursuant to Section 378.501, F.S. Section 378.503, F.S., provides performance standards for limestone reclamation, and after January 1, 1989, under Section 378.502, F.S., all operators of existing limestone mines must meet the standards with respect to any new surface area disturbed. Section 378.601, F.S., requires that, after July 1, 1987, each operator intending to extract for

heavy minerals must receive approval from the Department of a conceptual reclamation plan before clearing the land. Reclamation standards for heavy minerals will be adopted by the Department, but the standards adopted may not be more stringent than current standards and the Department must consider prescribed criteria in its regulations. Section 378.701, F.S., requires that, after January 1, 1987, operators give the executive director notice of intent to extract fuller's earth clay at new mines and Section 378.703, F.S., provides performance standards for fuller's earth clay reclamation. Section 378.702, F.S, requires existing fuller's earth clay mines to meet the standards on all mines that increase the diameter of an existing mine effective October 1, 1986.

After January 1, 1987, no operator may begin the extraction of clay, peat, gravel, sand, or other solid substance, excluding fuller's earth clay, heavy minerals, limestone, or phosphate, without giving notice to the executive director of intention to mine as provided by Section 378.801, F.S. The notice requires giving the operator's estimated life of the mine and the operator's signed acknowledgement of the performance standards for these resources. Performance standards for these resources are prescribed in Section 378.803, F.S. Section 378.802, F.S., stipulates that after January 1, 1989, all operators of existing mines for the extraction of such resources must meet the prescribed performance standards. Section 378.804, F.S., provides an exemption for operators who extract peat for agricultural

purposes or who extract resources from one acre or less at one site in a given year, not exceeding five acres over the life of the mine.

New statutory language adds Paragraph 378.101(4)(f), F.S., to require the board of directors of the Florida Institute of Phosphate Research to adopt rules necessary to fulfill the duties and responsibilities of the Institute.

(3) The "Florida Institute of Phosphate Research Competitive Negotiation Act" regulates the procurement of research services in connection with research performed for the Florida Institute of Phosphate Research.

Provision is made for: definitions, public advertisement of research services contracts to be purchased by the Institute, qualifications firms must have in order to compete for such contracts, competitive selection procedures for choosing firms, procedures for competitive negotiation on the part of the Institute, prohibition of contingent fees, penalties for violating the act and exemption of existing contracts from the provisions of the act.

Section 211.32, F.S., is amended to delete prior provisions empowering the Department of Natural Resources to institute a civil action to compel a taxpayer or any person claiming a fee interest in land subject to reclamation to comply with mandatory reclamation provisions.

The effective date of this act is October 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1057 (CHAPTER 86-307) directs the Department of Natural Resources and the Board

of Trustees of the Internal Improvement Trust Fund to evaluate the potential of restoring Lake Hancock from its eutrophic condition, to identify the most probable mining companies to assist in the restoration, to negotiate with such companies to develop a proposal to restore the lake, and to contract for the restoration.

The act creates the Lake Hancock Advisory Council to advise the Department of Natural Resources and the Florida Institute of Phosphate Research concerning the major problems to be addressed, the most desirable results to be achieved, the geographic extent of the boundaries of the project necessary to achieve optimum restoration within the means available, the permits and statements required, and the information and data required to prepare applications for such permits or statements. The Council is directed to study the feasibility of other restoration techniques.

The act directs the Institute to conduct, or contract for, the assessment of the mineral reserves of Lake Hancock and its environs and the preparation of a mining and reclamation program to restore the lake.

The act also creates the Lake Hancock Restoration Trust Fund, which is to be funded by excise taxes payable on the severance of the phosphate rock mined pursuant to the act and by royalties to the state in an amount equal to the excise tax for the severance of the phosphate rock. Upon completion of the restoration of Lake Hancock, the Trust Fund will be available for appropriation to assist reclamation of other

eutrophic sovereignty water bodies within Lake Hancock's drainage system.

HOUSE BILL 750 (CHAPTER 86-306) amends Section 2 of Chapter 85-148, Laws of Florida, relating to the Lake Apopka Restoration Council to provide for voting and nonvoting members and to increase the membership from 11 to 12 by adding the director of the Lake County Pollution Control Department as a nonvoting member. The Orange County nonvoting member is specified as the director of the Orange County Department of Environmental Protection rather than a "scientific representative" from the county as originally provided. Voting members of the Council, which is advisory to the St. Johns River Water Management District governing board, are to be appointed by the Governor. The term of any member of the Council who could not qualify under the provisions of the act terminated on the effective date of the act (June 13, 1986).

Water Management Districts and Water Supply Authorities

SENATE BILL 467 (CHAPTER 86-22) adds Paragraph 373.1962(2)(c), F.S., to authorize regional water supply authorities to collect, treat, and recover wastewater. Revised Section 373.047, F.S., authorizes water management districts to advise flood control districts and other water management districts in processing matters with the federal government and to render technical assistance. Amended Section 373.056, F.S., authorizes water management districts to receive conveyances of

land from, and convey land to, other governmental entities for the purposes of the district.

Sections 7 and 8 of HOUSE BILL 1198 (CHAPTER 86-294) relate to acquisition of land by water management districts. Subsection 373.139(3), F.S., is revised to provide that a district and the Division of State Lands of the Department of Natural Resources may share and disclose appraisal reports or information when they contemplate joint acquisition of real property. The act also amends Section 373.59, F.S., to expand the purposes of the Water Management Lands Trust Fund to include management, maintenance, and capital improvements. No more than 10 percent of the moneys in the fund may be used for such additional purposes.

The act takes effect October 1, 1986.

WILDLIFE AND AQUATIC LIFE

SENATE BILL 7-B (CHAPTER 86-158) reenacts several sections in Chapter 572, F.S., relating to issuance of duplicate licenses and stamps for taking wild animal life or freshwater aquatic life, freshwater fish dealer's licenses, Florida waterfowl stamp revenues, and management area stamp revenues [to resolve statutory construction problems resulting from amendments to these sections by both Chapter 85-235 and Chapter 85-324 during the 1985 Regular Session. The act reenacts the sections in the manner they were amended by Chapter 85-235, and the reenactments operate retroactively to

June 1, 1986, the date on which Chapters 85-235 and 85-324 took effect.]

The act establishes at Paragraph 372.57(2)(b), F.S., a freshwater fishing license that entitles a nonresident to take freshwater fish for 10 consecutive days at a fee of $10, at Paragraph 372.57(2)(g), F.S., a hunting license that entitles a nonresident to take game in a private hunting preserve for 10 consecutive days at a fee of $15, and at Paragraph 372.65(1)(h), F.S., an aquaculture game fish license that entitles a resident, for a $25 fee, to culture and sell game fish as food pursuant to Game and Fresh Water Fish Commission rules. In addition, this paragraph authorizes the Commission to require each game fish sold under an aquaculture game fish license to be tagged and to charge a fee not exceeding five cents for each tag furnished. The act also amends Subsection 372.561(4), F.S., to increase the fee charged by the issuing tax collector for the issuance of a license or management area stamp to take wild animal life or freshwater aquatic life from 50 cents to $1. The fee charged for issuance of any other type of stamp remains at 50 cents.

Effective October 1, 1986, SENATE BILL 334 (CHAPTER 86-136) creates Section 372.5716, F.S., to make it unlawful, during the open season for taking deer on public lands, for a person to hunt deer, or to accompany a person hunting deer, unless the person is wearing an outer garment, which may include a head covering, that has at least 500 square inches of daylight-fluorescent orange material above the waistline.

HOUSE BILL 1292 (CHAPTER 86-219) and HOUSE BILL 1293 (CHAPTER 86-240) amend Subsection 370.027(2), F.S., to divest the Marine Fisheries Commission within the Department of Natural Resources of exclusive authority to regulate marine life in the following matters: closed areas for public health purposes, quality control of oysters, clams, mussels, and crabs, and oyster and clam relaying. In addition, both acts restrict the former authority of the Department of Natural Resources to regulate sanitary practices pertaining to saltwater products found in Section 370.071, F.S., to the regulation of such practices with respect to oysters, clams, mussels, and crabs only. Using similar language in this same section, both acts authorize the Department to license or certify facilities used for processing oysters, clams, mussels, and crabs; to suspend or revoke such licenses or certificates; and to seize and destroy adulterated or misbranded shellfish products, and HOUSE BILL 1293 (CHAPTER 86-240) requires any facility in which oysters, clams, mussels, or crabs are to be processed to obtain a shellfish processing plant certification license from the Department. Both acts revise the list of statutory provisions relating to marine fisheries which are repealed upon adoption of appropriate rules by the Governor and Cabinet, by deleting specified provisions relating to saltwater product sanitary practices, oyster and clam relaying, and oyster culture, and provide that specified rules of the Commission relating to oyster labeling, saltwater product

sanitary practices, oyster and clam relaying, and oyster culture remain in force as rules of the Department.

Beginning October 1, 1986, pursuant to revised Paragraph 370.06(2)(a), F.S., in HOUSE BILL 1292 (CHAPTER 86-219) any person, firm, or corporation not licensed as a retail or wholesale dealer is required to have a saltwater products license in order to sell, offer for sale, barter, or exchange for merchandise any saltwater products and prohibits such a licensee from selling saltwater products to anyone other than a licensed wholesale dealer. Beginning July 1, 1987, pursuant to the same revised paragraph HOUSE BILL 1293 (CHAPTER 86-240) requires any person, firm, or corporation not licensed as a retail or wholesale dealer to have a saltwater products license in order to harvest saltwater products with certain gear or equipment and to have the license in his possession or aboard the vessel whenever harvesting is being conducted. That revised paragraph further provides that, commencing July 1, 1987, a resident must pay an annual saltwater products license fee of $25 for a license issued in the name of an individual or $50 for a license issued to a boat registration number, that a nonresident must pay an annual fee of $100 for a license issued in the name of an individual or $200 for a license issued to a boat registration number, and that an alien must pay an annual fee of $150 for a license issued in the name of an individual or $300 for a license issued to a boat registration number. When a saltwater products license is issued to a boat registration number, the act also provides for the issuance of

a decal, indicating the period of its validity, in the same color as the vessel registration decal issued that year. The decal must be placed beside the vessel registration decal and, if the vessel is undocumented, placed so that the latter decal lies between the saltwater products license decal and the vessel registration number.

Effective October 1, 1986, HOUSE BILL 1292 (CHAPTER 86-219) revises Subsection 370.07(1), F.S., to replace the terms "wholesale seafood dealer" and "retail seafood dealer" with the terms "wholesale dealer" and "retail dealer," respectively, and defines a "wholesale dealer" as a person, firm, or corporation that sells saltwater products to any person, firm, or corporation except the consumer and a "retail dealer" as a person, firm, or corporation that sells saltwater products directly to the consumer, with the exception of saltwater products consumed on the premises or prepared for immediate consumption and sold to be taken out of a restaurant licensed by the Division of Hotels and Restaurants of the Department of Business Regulation. The act repeals existing provisions in Subsection 370.07(3), F.S., relating to the transport of saltwater products and replaces them with provisions requiring a person transporting saltwater products in this state to have in his possession invoices, bills of lading, or similar instruments showing the number of packages, boxes, or containers and the number of pounds of each species. If the products were produced in this state, the instruments must also show the names, physical address, and Florida wholesale dealer

number of the dealer of origin. If the products were produced outside this state and are to be delivered in this state, the instruments must also show the name and physical address of the dealer of origin and the name, physical address, and Florida wholesale dealer number of the Florida dealer to whom delivery is to be made, or, if the products were produced outside this state and are to be delivered outside this state, the instruments must also show the names and physical addresses of the dealer of origin and the dealer to whom delivery is to be made. Each instrument must display the wholesale dealer license number and the name and physical address of the dealer, distributor, or producer of the lot covered by the instrument. The act deletes the requirement that the wholesaler's permit number appear on saltwater product containers. Both this act and HOUSE BILL 1293 (CHAPTER 86-240) prohibit a wholesale or retail dealer from selling oysters produced in this state unless they are labeled so that they can be traced to the point of harvesting and provide that records required to be kept by wholesale dealers under Subsection 370.07(6), F.S., are confidential and exempt from Subsection 119.07(1), F.S.

Effective July 1, 1987, HOUSE BILL 1293 (CHAPTER 86-240) repeals Subsection 370.082(2), F.S., relating to marking of gill nets, wing nets, or similar devices, and adds Subsection 370.06(3), F.S., to require all nets used to take finfish, except cast nets and bait seines of 100 feet in length or less and having a mesh of 3/8 inch or less, to be licensed or registered. Nets used to take finfish for commercial purposes

must be licensed under a saltwater products license and bear the number of that license, and nets used to take finfish for noncommercial purposes must be registered and bear the name of the person in whose name the net is registered. Beginning July 1, 1987, new Subsection 370.06(4), F.S., requires a person seeking to use special gear or equipment in harvesting saltwater species to purchase a special activity license, which the Division of Marine Resources of the Department of Natural Resources may issue if it is in the best interests of conservation and will result in a more efficient use of offshore fisheries resources as provided by revised Subsection 370.08(8), F.S. The Division may also issue such a license to catch and possess protected fish for use as stock for artificial cultivation pursuant to amended Subsection 370.101(2), F.S. The act permits the Department to prescribe the terms, conditions, and restrictions of special activity licenses.

HOUSE BILL 1293 (CHAPTER 86-240) revises Paragraph 370.13(1)(d), F.S., to define the term "stone crab" to mean "the species Menippe mercenaria or any other species of the family Xanthidae as the Marine Fisheries Commission may define by rule." Beginning July 1, 1987, the act requires any person taking stone crabs or blue crabs by trap to have a saltwater products license pursuant to amended Paragraph 370.13(2)(e) and revised Subsection 370.135(1), F.S., respectively.

Effective July 1, 1987, the act removes the authority of the Division of Law Enforcement of the Department of Natural

Resources to issue a special permit for wringing crawfish tails in state waters formerly set out in Paragraph 370.14(2)(b), F.S., but permits the Department to issue a special activity license for wringing crawfish tails outside state waters until a permit system for wringing crawfish tails is instituted by the federal government.

Beginning July 1, 1987, revised Subsection 370.15(6), F.S., requires any person, firm, or corporation desiring to trawl for shrimp within areas where trawling is permitted to have a saltwater products license. Amended Subsection 370.15(8), F.S., provides that live bait shrimp may be caught only under a live bait shrimping license issued by the Department, instead of the permit now required, and repeals the provision prohibiting charges for issuing such permits. In addition, the act revises provisions relating to the taking of shrimp in the Tortugas shrimp beds; in the areas of the Gulf closed to shrimping in Santa Rosa Sound, off Snipe Point in Monroe County, and off Cape San Blas and Cape St. George; and in the Florida East Coast Shrimp Bed. (Section 370.151, Subsections 370.15(7) and (9), Section 370.155, and Section 370.156, F.S., respectively.)

Effective July 1, 1987, the act amends Subsections 370.16(4) and (15), F.S., to repeal provisions pertaining to permits to suspend oyster or clam planting operations and licenses to use scrapers or dredges in removing oysters from reefs; requires a special activity license to be procured for each vessel or boat using a dredge or machinery in gathering

clams or mussels; requires lessees of bedding grounds to obtain special activity licenses to use implements in such grounds instead of the permits now required; revised Subsection 370.16(17), F.S., permits oysters, clams, and mussels to be taken for relaying or transplanting at any time during the year so long as the public health is not endangered; provides that the amount of oysters, clams, and mussels obtained for relaying or transplanting, the area relayed or transplanted to, and relaying or transplanting time periods be established by the Division of Marine Resources; requires special activity licenses to be obtained to relay oysters, clams, or mussels from closed shellfish harvesting areas to shellfish or aquaculture leases in open areas or certified controlled purification plants or to transplant sublegal-sized oysters, clams, or mussels to shellfish aquaculture leases for growout or cultivation purposes; requires all relaying and transplanting operations to take place under the surveillance of the Division; amended Subsection 370.16(19), F.S., requires a person seeking to operate an oyster, clam, or mussel canning factory to obtain a seafood processing license; revised Subsection 370.16(32), F.S., prohibits the dredging of dead shell deposits anywhere in the state and repeals the authority of the Division to authorize such dredging by permit; amended Subsection 370.16(35), F.S., requires holders of leases and grants who desire to retain the shell produced by them for planting purposes to procure special activity licenses; and provides for deposit of moneys derived from the sale of shell

into the Marine Biological Research Trust Fund for shellfish programs instead of the General Revenue Fund.

Beginning July 1, 1987, revised Subsection 370.17(1), F.S., requires a nonresident who desires to engage in the business or occupation of sponge fishing, either for himself or another person, to procure a nonresident saltwater products license instead of the license now required.

Subsection 370.06(5), F.S., is amended to allow the Department of Natural Resources to establish a procedure for issuing licenses to individuals according to their birthdays and Subsection 370.06(7), is revised to permit the Department to establish a reasonable processing fee for the issuance of any free license or permit required under Chapter 370, F.S.

Section 15 of COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 432 AND 281 (CHAPTER 86-138) requires the Department of Natural Resources to designate, by July 1, 1988, coastal areas used by sea turtles for nesting and to adopt by rule guidelines for local ordinances that control beachfront lighting to protect sea turtle hatchlings.

Pursuant to Paragraph 370.021(5)(b), F.S., as added by COMMITTEE SUBSTITUTE FOR SENATE BILL 99 (CHAPTER 86-132), effective October 1, 1986, a Department of Natural Resources law enforcement officer having probable cause to believe that a vessel has been used for fishing prior to an inspection may open and inspect containers or areas where saltwater products are normally kept while a vessel is on the water, but may not open or inspect containers located in sleeping or living areas.

CONSTITUTIONAL AMENDMENTS*

HOUSE JOINT RESOLUTION 1305 proposes to amend Section 6 of Article VII of the Florida Constitution to provide that homestead exemption be changed from $25,000 to $5,000 plus one-half of the assessed value over $5,000, the total exemption not to exceed $25,000. Section 20 of Article XII would be added to provide that the amendment would take effect January 1, 1987, if ratified by the general electorate at the November 1986 General Election.

COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTION 71 would add Section 10 to Article IV of the State Constitution requiring the Attorney General to solicit an opinion of the Supreme Court as to the validity of any initiative petition circulated pursuant to Section 3 of Article XI of the Constitution. This resolution also would amend Section 3 of Article V of Florida's Organic Law Requiring the Court to render an advisory opinion pursuant to such a request from the Attorney General. If approved by the voters at the November 1986 General Election, the amendment would take effect January 6, 1987.

*Prepared by staff of Legislative Library Services

CORRECTIONS*

During the 1986 Session several statutes relating to corrections, probation and parole were revised, the most significant being COMMITTEE SUBSTITUTE FOR SENATE BILL 485 (CHAPTER 86-183) which addresses 10 different subject areas by:

1. Mandating that correctional officers in privately maintained and operated jails and prisons must be certified by the Criminal Justice Standards and Training Commission; allowing counties to contract with private companies to operate and maintain detention facilities, provided a majority plus one vote of the county commissioners is obtained; subjecting private companies operating and maintaining state facilities to a performance audit by the Auditor General; and providing state retirement benefits to officers who are initially employed by county government, transfer to a private firm, then later return to government.
2. Authorizing local governments to use industrial revenue bonds to finance local correctional or detention facilities.

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

3. Authorizing two or more counties to establish a regional jail which would be supervised by a board consisting of one county commissioner and the sheriff from each county.

4. Creating a Correctional Education School Authority and transferring all inmate education programs and personnel responsible for such programs from the Department of Corrections to the newly created separate School Authority; requiring the correctional education curriculum to be standardized and approved by the Department of Education; and requiring all correctional education personnel to be certified in accordance with Department of Education standards.

5. Creating a five-member Correctional Medical Authority to operate independently of the Department of Corrections, and to assist in the delivery of health care services for inmates.

6. Reducing the number of parole commissioners from nine to five through attrition by July 1, 1987, and creating a Board of Clemency Review composed of three of the five remaining commissioners who will make recommendations to the Governor and Cabinet regarding clemency petitions; extending the "Sunset" of the Parole Commission from 1987 to 1989; and providing that the Commission consider written objections to parole release filed by the sentencing

court as possible grounds for extending a projected parole release date.

7. Allowing the Parole Commission to consider inmates for parole, on the parole eligible sentence only, who have mixed parole eligible and parole ineligible sentences.
8. Placing correctional probation officers (defined to include parole, probation and community control officers) under the jurisdiction of the Criminal Justice Standards and Training Commission for training purposes.
9. Requiring Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE) to identify its certified products by using the Department of General Services commodity number.
10. Allowing the use of purchase orders by state agencies for health care services if agencies are not able to contract in advance.

Several other statutes relating to the general area of corrections were revised during this past session. County and municipal jail administrators are permitted to incarcerate two inmates per cell provided certain conditions can be met. The state inmate population capacity is raised from 98 to 99 percent, and the early supervised release of certain inmates from work release programs is permitted, provided the inmates are within 90 days of final expiration of their sentences. The Department of Corrections is required to adopt new inmate

population capacities for county and municipal detention facilities, provided the higher inmate capacity figure is established by the appropriate federal court. Offenders who participate in the pretrial intervention program will be considered as state employees for workers' compensation purposes. Finally, the Department of Corrections is authorized to secure emergency surgical or nonpsychiatric medical care in certain cases for inmates who refuse or are unable to give consent for such treatment.

General Revision To Corrections, Probation And Parole Statutes

COMMITTEE SUBSTITUTE FOR SENATE BILL 485 (CHAPTER 86-183) amends, creates and/or repeals several sections of the following chapters of the Florida Statutes: Chapter 20 (Organizational Structure), Chapter 121 (Florida Retirement System), Chapter 159 (Bond Financing), Chapter 229 (Functions of State Educational Agencies), Chapter 242 (Specialized State Educational Institutions), Chapter 287, Part I (Commodities, Insurance and Contractual Services), Chapter 768, Part I (Negligence: General Provisions), Chapter 943 (Department of Law Enforcement), Chapter 944 (State Correctional System), Chapter 946 (Inmate Labor and Correctional Work Programs), Chapter 947 (Parole and Probation Commission), Chapter 950 (Jails and Jailers) and Chapter 951 (County and Municipal Prisoners). Additionally, the act amends Sections 33 and 34 of Chapter 83-131, Laws of Florida.

Following is a detailed analysis of each of the major provisions contained in this 1986 legislative act with statutory reference:

Major provisions of Sections 1-11 of the act include amendments to Sections 944.105, 951.06, 943.10, 943.13, 943.133, 121.021 and Subsection 159.27(5), F.S, and create Sections 951.061, 951.062 and 951.063, F.S., relating to privately maintained and operated jails and prisons. The enactment mandates that private correctional officers in such facilities must be certified by the Criminal Justice Standards and Training Commission. Certification ensures that the qualifications and training of such officers will meet the same standards required of officers employed by the Department of Corrections, counties and municipalities.

Counties can contract with a private company to operate and maintain a detention facility only with a majority plus one vote of the county commission. [Previous law authorized boards of county commissioners to enter into such contracts without the majority plus one vote.]

Other provisions of these sections of the act subject private companies operating and maintaining state facilities to a performance audit by the Auditor General, and provide state retirement benefits to correctional officers who are initially employed by county government, transfer to a private firm, and later return to government within specified periods of time.

Local governments are also authorized to use industrial revenue bonds to finance local correctional or detention facilities.

Section 12 of the act creates Section 950.001, F.S., to authorize two or more counties to establish a regional jail which would be supervised by a board consisting of one county commissioner and the sheriff from each county. Counties would be allowed to withdraw from regional jail agreements under certain conditions set by the regional jail board and the boards of county commissioners of all participating counties.

Sections 13-16 of this legislation create Section 242.68, amend Subsection 229.565(3), and repeal Paragraph 20.315(8)(b) and Section 944.19, F.S. This portion of the act represents a major reorganization of the Inmate Education Program, and creates Section 242.68, F.S., to provide a Correctional Education School Authority responsible for all educational and vocational programs for inmates. The Authority's policies are set by a Board of Correctional Education, empowered to employ personnel or contract with education providers and to make rules where necessary. The seven-member board includes the Commissioner of Education, Secretary of the Department of Corrections, and five members appointed by the Governor and confirmed by the Senate. The Secretary of the Department of Labor and Employment Security and the President of PRIDE are non-voting ex-officio members.

The correctional education portion of the enactment further creates a position of Director of Correctional

Education, requires the Department of Education to evaluate the correctional education program, and requires that inmate education programs be operated in compliance with Florida school laws and rules of the State Board of Education. The act requires development of a five-year comprehensive correctional education plan and identification of one existing facility for conversion into a vocational-technical center. This section of the legislation also requires that pay for correctional education staff be competitive with school district salaries, including a step-pay plan, and requires that such staff be certified in accordance with Department of Education standards. Finally, this section provides for an inmate education funding formula based on the school district funding formula.

Sections 17-22 of the act create a five-member Correctional Medical Authority appointed by the Governor and confirmed by the Senate, to operate independently of the Department of Corrections in assisting in the delivery of health care services for inmates. The Authority is empowered to contract with those necessary to provide such health care, and is available to resolve disputes between the Department and health care providers.

Sovereign immunity is recognized for those who have contractually agreed to act as agents of the Department to provide health care services to inmates, and a certificate of need exemption is provided for any state-funded health care facility built by the Department. This provision results in an amendment to Section 768.28, F.S.

Sections 23-37 of the act amend several sections of the statutes, which include Sections 944.30, 947.005, 947.01, 947.03, 947.04, 947.06, 947.10, 947.13, 947.165, 947.1745, 947.25, 947.26, F.S., and Sections 33 and 34 of Chapter 83-131, Laws of Florida. This portion of the act provides for a reduction in the number of parole commissioners from nine to five through attrition by July 1, 1987. Section 947.081, F.S., is created to provide a Board of Clemency Review composed of three of the five remaining commissioners. The Board is to make recommendations to the Governor and Cabinet regarding clemency petitions. The "Sunset" of the Parole and Probation Commission is extended from July 1, 1987, to July 1, 1989. Further, a written objection to parole release filed by the sentencing court is to be considered as possible grounds for extending a projected parole release date.

Section 38 of the enactment creates Section 947.168, F.S., which allows the Parole and Probation Commission to consider for parole those inmates serving combinations of parole eligible and parole ineligible sentences on the parole eligible portion of the sentences. This consideration would have no impact on the length of the parole ineligible (sentencing guidelines) sentence, but simply allows the Commission to grant parole on the eligible sentence so that the inmate can begin serving the ineligible sentence. The act allows the Secretary of the Department of Corrections to recommend clemency reviews for appropriate inmates in certain

instances. (See amended Section 944.30, F.S., in section 23 of this act.)

Sections 39-45 of this legislation amend Sections 943.085, 943.10, 943.13, 943.131, 943.133, 943.135 and 943.19, F.S., and place correctional probation officers (defined to include parole, probation and community control officers) under the jurisdiction of the Criminal Justice Standards and Training Commission. The Commission will now become responsible for training, certifying and decertifying these officers as in the case of correctional officers. [The cost of such training will be paid from the Criminal Justice Training Trust Fund.]

Section 46 of the act amends Section 946.15, F.S., by requiring certain language in contracts if an article identified by Department of General Services Commodity Number is certified by PRIDE.

Section 47, which is the final substantive section of the enactment, amends Section 287.058, F.S., and allows the use of purchase orders by state agencies for health care services for which the agencies are not able to contract in advance.

Sections 1-22 of the act have an effective date of July 1, 1986. Sections 23-48 take effect October 1, 1986.

Bedspace Capacities

COMMITTEE SUBSTITUTE FOR HOUSE BILL 276 (CHAPTER 86-235) amends Section 951.23, F.S., and permits the incarceration of two inmates per cell (double bunking) in county and municipal jails provided certain conditions are met. It also requires

Department of Corrections review of jail construction or renovation plans and recognizes the Jail Review Committee within the Department. The Department is required to contract with health care providers for medical inspections of county and municipal detention facilities, and local governments are required to contract with certified firesafety inspectors for firesafety inspections of such facilities.

COMMITTEE SUBSTITUTE FOR SENATE BILL 870 (CHAPTER 86-46), amends Sections 944.598 and 945.091, F.S., by raising the state inmate population capacity from 98 to 99 percent, and providing for early supervised release from community correctional centers (work release programs) for selected inmates who are within 90 days of their final release dates.

SENATE BILL 308 (CHAPTER 86-80), amends Section 951.23, F.S., to permit local detention facilities to exceed their inmate population capacity set by the Department of Corrections if a higher limit is established by a federal district court for that particular county.

Workers' Compensation/Pretrial Intervention

HOUSE BILL 781 (CHAPTER 86-106) amends Subsection 948.01(6), F.S., to designate all offenders in the pretrial intervention program administered by the Department of Corrections pursuant to Section 944.025, F.S., as state employees and therefore eligible for workers' compensation medical benefits.

Inmate Rights/Medical Care

HOUSE BILL 1320 (CHAPTER 86-241), amends Section 945.48, F.S., and authorizes emergency surgical or medical care for inmates in correctional mental health facilities under certain circumstances if they refuse to or are unable to give consent for such treatment. Treatment would be authorized only with the approval of the administrator of the facility or his designee and with the concurrence of the inmate's attending physician. [Currently a court order must be obtained in order for emergency medical treatment to be provided without the inmate's permission. This requirement can result in potentially dangerous delays.]

COURTS AND CIVIL LAW*

The most significant changes in civil law enacted during the 1986 Session are those civil action reform measures which, together with significant insurance reforms discussed in the article entitled INSURANCE, were designed to respond to the liability insurance crisis. These major civil action reforms are designed to substantially reduce excessively large jury awards and judgments in most civil actions and include a cap on noneconomic damages, modification of the doctrine of joint and several liability, provision for periodic payments of certain large judgments, and limitations on collecting punitive damages.

Other important legislation discussed in this summary includes civil remedies for victims of certain criminal activity, child support enforcement modifications, provision for public guardianship, and changes in condominium, cooperative, and mobile home regulations. The remaining legislation spans a broad spectrum of topics from antenuptial agreements and mortgages held by a husband and wife to United States Park Service concurrent jurisdiction over federal lands

*Prepared by staff of House Bill Drafting Service

in the state. Due to the disjointed nature of these subjects, they will all be discussed separately and alphabetically.

Antenuptial Agreements

SENATE BILL 1115 (CHAPTER 86-150) amends Section 61.052, F.S., to authorize the court to enforce an antenuptial agreement to arbitrate a dispute in accordance with the law and tradition chosen by the parties. This provision applies to actions for dissolution of marriage that arise after January 1, 1987, the effective date of the act.

Arbitration

HOUSE BILL 562 (CHAPTER 86-266) creates Chapter 684, F.S., known as the "Florida International Arbitration Act." The act encourages the use of arbitration to resolve disputes arising out of international relationships and to assure access to the courts of this state for legal proceedings ancillary to such arbitration. Any person may enter into a written undertaking to arbitrate any dispute then existing or thereafter arising between that person and another. If the dispute is within the scope of the act, the undertaking shall be enforced by the courts of this state without regard to the justiciable character of the dispute. To qualify, the dispute must involve a person who is a nonresident of the United States or an interest outside the United States, or must bear some other relation to a foreign country. Exemptions are also specified, including political disputes between two or more governments.

General powers are granted to the arbitral tribunal, whether located within or without the state. The parties are authorized to fix in writing the rules for arbitration. Procedures for commencing and undertaking arbitration are specified, including appointment of the arbitral tribunal. Provision is made for the consolidation of arbitrations having common questions or arising out of a single transaction or enterprise so long as at least one of the disputes is to be arbitrated under the act. Agreement to such consolidation by all parties is required.

Parties to arbitration have a right to representation by counsel. The tribunal is authorized to grant interim relief under certain circumstances pending a final award. The parties may agree upon the applicable law to decide the merits of a dispute. Provision is made for the issuance of final awards and changes thereto.

Procedures are specified whereby a party may initiate judicial proceedings in this state to compel arbitration. The circuit court is authorized to enjoin a party from proceeding with an action in court within or without the state involving a dispute that is subject to a court order compelling arbitration. The circuit court may appoint an arbitral tribunal and may enforce orders of the tribunal.

Parties subject to the act may apply to a circuit court for an order to confirm or vacate any final award of an arbitral tribunal. Restrictions upon such orders and grounds

for vacating an award or declaring it not entitled to confirmation are specified.

Provision is made for consent to the exercise of in personam jurisdiction by the courts of this state. Arbitrators are granted immunity from liability for the performance of their duties.

New Section 48.196, F.S., specifies procedures for service of process in actions under the Florida International Arbitration Act.

Finally, one change which applies to all arbitration, rather than just international arbitration, is an amendment to Section 95.051, F.S., which provides that applicable limitations upon the commencement of a civil action are tolled by the pendency of any arbitral proceeding pertaining to a dispute that is the subject of the action.

The act takes effect October 1, 1986.

Child Custody

HOUSE BILL 607 (CHAPTER 86-101) amends Section 61.20, F.S., to provide that when the Department of Health and Rehabilitative Services is requested by a court in a child custody proceeding to make an investigation and social study of the child and each parent, the Department shall provide all parties of record in the proceeding with its report and recommendations. The Department is authorized to bill for its services based upon a fee schedule the development of which is authorized by this act.

The act is effective October 1, 1986.

Child Support

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1313 (CHAPTER 86-220) includes many provisions designed to bring the state into compliance with requirements imposed by the federal Social Security Act to improve the collection of child support. The state would have faced substantial penalties had it failed to comply with these requirements.

Section 61.181, F.S., is amended to provide that local enforcement and depository services relating to child support shall be performed by the Department of Health and Rehabilitative Services or its contractual representative. Child support enforcement and collection are strengthened by a variety of other changes. Section 61.1301, F.S., is amended to require the court to enter an income deduction order upon entry of an order establishing, enforcing, or modifying an alimony or child support obligation. The income deduction order may be modified but its term is coexistent with the order of support or until further order of the court. New enforcement procedures for income deduction orders are specified in new Section 61.13015, F.S., including the enforcement and contesting of income deduction orders on successor payors (employers). Civil penalties are provided for any employer who discharges, refuses to employ, or takes disciplinary action against a person because he is obligated by an income deduction order.

New Section 61.1352, F.S., provides that a delinquency in payment of support creates a lien against all nonexempt real and personal property of the obligor. New Section 61.1354, F.S., provides for information sharing between the Department and consumer reporting agencies when the amount of overdue support exceeds $500.

Conforming changes are made in Chapter 88, F.S., relating to the interstate enforcement of support obligations and Chapter 409, F.S., relating to support of dependent children.

Other changes relating to child support which were not required for compliance with federal law include amendments to Section 61.13, F.S., which prohibit persons obligated to pay child support from withholding support because the custodial parent refuses to honor visitation rights. Similarly, custodial parents are prohibited from preventing visitation for failure to pay support. Remedies are provided for failure to comply. Section 61.183, F.S., is created to provide for mediation in proceedings in which the issue of custody, primary residence, or visitation of a child is contested.

Church Property

SENATE BILL 716 (CHAPTER 86-25) provides for the vesting of title to real property in the trustees of unincorporated churches. The trustees are granted the power to convey or mortgage such property. The trustees may be identified by affidavit of the pastor or other authorized person. Any

conveyance or mortgage, the validity of which is contested within the next two years, is exempt from the act.

Civil Actions

In response to the liability insurance crisis found to exist in the state, the Legislature enacted COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 465, 349, 592, 698, 699, 700, 701, 702, 956, 977, and 1120 (CHAPTER 86-160), known as the "Tort Reform and Insurance Act of 1986." This comprehensive response contains significant reforms to laws dealing both with insurance and civil actions. The insurance provisions are discussed under the separate summary entitled INSURANCE. The civil action provisions are designed to reduce the size of exorbitant damage awards and thus reduce the cost of liability insurance and increase its availability.

Some of the civil action reforms apply to all civil actions, whether in tort or contract, while others are limited to certain torts. All of the reforms apply to causes of action arising on or after July 1, 1986. In light of these changes, many provisions in Chapter 768, F.S., dealing with medical malpractice actions were rendered unnecessary and are repealed to conform to the act.

Both major and minor reforms were enacted, the former relating to the doctrine of joint and several liability, a cap on noneconomic damage awards, a presumptive cap on punitive damage awards, and periodic payment of future economic damage awards. These four reforms are scheduled for repeal and review

by the Legislature in 1990. The minor reforms relate to pleading punitive damages, remittitur and additur, optional settlement conferences, collateral sources of indemnity, itemized verdicts, and offers of and demands for judgment.

Joint and Several Liability

New Section 768.81, F.S., limits the applicability of the doctrine of joint and several liability, under which jointly liable defendants are each liable for the entire award rather than just their proportionate share. In civil actions based on negligence (defined to include negligence, strict liability, products liability, professional malpractice, or breach of warranty), the doctrine is replaced with a model which provides for proportional liability with respect to noneconomic damages (such as pain and suffering), proportional liability for economic damages with respect to defendants who are found to be less at fault than the claimant, and joint and several liability for economic damages with respect to defendants whose fault is equal to or more than that of the claimant. Joint and several liability shall also continue to apply in cases where the total damages are less than $25,000 and to pollution cases, actions for intentional torts, and actions under the RICO Act (Racketeer Influenced and Corrupt Organization), environmental protection, anti-trust, land sales practices, and securities fraud provisions.

Noneconomic Damages

New Section 768.80, F.S., limits the amount of noneconomic damages in any civil action to $450,000.

Punitive Damages

New Section 768.73, F.S., provides that in any civil action based on negligence, strict liability, products liability, professional liability, or breach of warranty that involves willful, wanton, or gross misconduct, punitive damage awards in excess of three times the compensatory damage award are presumed to be excessive. This limit may only be exceeded if the claimant demonstrates to the court by clear and convincing evidence that the actual award is not excessive in light of the facts and circumstances of the case. This limitation does not apply to any class action.

The distribution of punitive damage awards is also changed by limiting the claimant to 40 percent of the award. The remaining 60 percent is payable to the General Revenue Fund or, in personal injury or wrongful death cases, to the Public Medical Assistance Trust Fund. Claimant's attorney's fees may only be paid from the claimant's share of the award. The jury is not to be informed of the provisions of this section.

Periodic Payment of Future Economic Damages

New Section 768.78, F.S., authorizes the court, upon the request of either party, to order the periodic payment of future economic damages in excess of $250,000 in any civil action. The defendant is required to post sufficient security

to assure full payment of such damages. If the claimant dies prior to expiration of the period over which the future damages are to be paid, the remaining amounts, reduced to present value, shall be paid in a lump sum to the claimant's estate. No extension of payments is provided, however, if the claimant lives beyond such period.

Minor Civil Action Reforms

New Section 768.72, F.S., prohibits the claimant in any civil action from pleading punitive damages unless there is a reasonable showing by evidence in the record or proffered by the claimant which would provide a reasonable basis for recovery of such damages. New Section 768.74, F.S., extends to all civil actions provisions authorizing the court to order remittitur or additur (i.e., reduce or increase the award) if the court determines that a jury award is either excessive or inadequate. Criteria are specified for consideration by the court. New Section 768.75, F.S., authorizes the court in any civil action to order a pretrial settlement conference. New Section 768.76, F.S., requires the court in any civil action to reduce the total amount of the award by the total amount paid to the claimant from all collateral sources available to him. This reduction does not apply to collateral sources for which a subrogation right exists and the provider of any such collateral source has a limited right of reimbursement from a claimant who has recovered all or part of the collateral sources from a tortfeasor.

New Section 768.77, F.S., requires the court in any civil action to itemize the amount awarded to the claimant into punitive damages, past and future economic damages, and past and future noneconomic damages. The court shall also specify the period of years over which future damages are based. Future economic damages are to be computed before and after reduction to present value.

New Section 768.79, F.S., is designed to encourage settlement of civil actions by providing incentives for claimants to accept offers of judgment and for defendants to accept demands for judgment. The party who rejects such an offer or demand is liable for reasonable attorney's fees and costs from the date of the offer or demand if the final judgment is, with respect to offers, at least 25 percent less than the offer and, with respect to demands, is at least 25 percent more than the demand.

Civil Action Law Study

All of these reforms are included within the study of insurance and tort laws to be conducted by the Academic Task Force for Review of the Insurance and Tort Systems created by the Tort Reform and Insurance Act of 1986. The Task Force shall present its final recommendations to the 1988 Legislative Session.

Civil Fines and Penalties

COMMITTEE SUBSTITUTE FOR SENATE BILL 511 (CHAPTER 86-154) primarily revises the distribution formulas and authorized

local uses of fines, forfeitures, and costs for civil traffic infractions. Subsection 316.008(5), F.S., is created to allow a county or municipality to increase the fine for illegal parking near a fire hydrant or fire station and use the excess fines to fund a firefighter education program.

Section 318.14, F.S., is amended to delete the authority of a person charged with a noncriminal traffic offense to post a bond in lieu of signing the citation. Persons so charged who do not elect to appear at a hearing are given 30 rather than 10 days to pay the civil penalty. Section 318.15, F.S., is amended to require the clerk of the court to notify the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles of any person who fails to comply with civil traffic infraction penalty provisions and the Division shall suspend the person's driver's license until he complies and pays an additional $25 fee.

The amount of civil penalties for noncriminal traffic offenses specified in Section 318.18, F.S., are increased. New distribution formulas for civil traffic penalties are provided in Section 318.21, F.S., and counties and municipalities are authorized to use funds for local criminal justice training and education programs, school crossing guard programs, or for any other lawful purpose. Section 401.113, F.S., relating to the Emergency Medical Services Trust Fund and Section 943.25, F.S., relating to the Criminal Justice Training Trust Fund are amended to conform insofar as such trust funds are funded from civil penalties for traffic infractions.

Section 27.3455, F.S., which imposes an additional court cost upon persons found guilty of any felony, misdemeanor, or criminal traffic infraction for deposit in the Local Government Criminal Justice Trust Fund is amended to delete the requirement that the costs be paid before the granting of gain time. Also deleted are provisions which require the court to sentence indigent persons to community service in lieu of such costs.

The act takes effect October 1, 1986.

Civil Remedies For Criminal Practices

HOUSE BILL 1270 (CHAPTER 86-277) creates Chapter 772, F.S., known as the "Civil Remedies for Criminal Practices Act." The act prohibits any person from using funds derived from a pattern of criminal activity (the commission of at least two crimes specified in the act within a five year period) or from collecting unlawful debts to acquire or maintain an interest in any enterprise or real property. The act also prohibits a person from being employed by or associated with any enterprise through a pattern of criminal activity or the collection of an unlawful debt.

Any person who proves by clear and convincing evidence that he was injured by any person engaged in any such prohibited activity may collect three times the amount of actual damages sustained, plus reasonable attorney's fees and costs. A minimum award of $200 is provided. Punitive damage awards are prohibited. The defendant may collect reasonable

attorney's fees and costs if the action is found to be without substantial fact or legal support. A similar cause of action is provided to victims of theft.

If the defendant in the civil action has been adjudicated guilty of the same criminal conduct involved in the civil action, he is estopped from denying the plaintiff's allegations. On the other hand, a verdict or adjudication of not guilty in such a criminal case shall be admissible in the civil action but shall not estop the plaintiff.

A five-year statute of limitations is provided for civil actions under the act but the limitation is suspended pending any state or federal civil or criminal proceeding based upon the same criminal conduct and for two years following the termination of the proceeding.

The civil remedies provided are cumulative of other remedies. The state and its agencies and subdivisions are exempt from liability under the act.

The civil remedy provisions of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act in Subsection 895.05(7), F.S., are amended to conform to the act. Provision is made through revision of Subsections 895.09(2) and (5), F.S., for the distribution of certain funds collected through forfeiture under the RICO Act to the county or municipality responsible for the forfeiture. A distribution formula is provided for funds recovered under the RICO Act by the Attorney General or a state attorney.

The act takes effect October 1, 1986.

Condominiums and Cooperatives

COMMITTEE SUBSTITUTE FOR SENATE BILL 192 (CHAPTER 86-175) amends numerous provisions in Chapters 718 and 719, F.S., relating to condominium and cooperative associations, respectively.

Paragraph (e) is added to Subsection 194.011(3), F.S., to authorize a condominium or cooperative association to file with the property appraisal adjustment board a single joint petition on behalf of association members who consent to such petition and who own substantially similar parcels. Subsection 194.013(1), F.S., is amended to require that a single filing fee be charged for such joint petitions. This fee is to be calculated as the cost of the special master for the time required to hear the joint petition, but may not exceed $5 per parcel. New Subsection 194.034(6), F.S., requires the property appraisal adjustment board to consider each parcel as a separate petition at the hearing. Such separate petitions are to be heard consecutively and assigned to the same special master.

Sections 718.1035 and 719.1065, F.S., are created to clarify that the use of a power of attorney is subject to the provisions of the Condominium and Cooperative Acts, respectively, as well as to all condominium or cooperative documents and rules in force at the time the power of attorney was executed.

Section 718.111, F.S., is amended to empower condominium associations to participate in actions in eminent domain; to

include ballots, sign-in sheets, and all other papers relating to elections, as documents constituting the association's official records; and to require the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation to adopt rules requiring the association to deliver to unit owners a financial statement for the preceding fiscal year. Section 718.112, F.S., is amended to delete language regarding the vote required to amend the bylaws; to state that with regard to the transfer fee that may be charged by the association to approve the sale or lease of a unit, a husband and wife or a parent and dependent children are to be considered as one applicant and therefore only one fee may be charged in such instances; and to provide that internal disputes requiring voluntary binding arbitration shall include those involving developers, as well as unit owners, associations, and their agents and assigns.

Subsection (4) is added to Section 718.3025, F.S., to exclude contracts for services, such as those involving coin-operated laundry, food, soft drink, and telephone vendors, made for the benefit of unit owners by lessees or licensees of the association, from provisions which impose restrictions upon contracts for the provision of maintenance and management services. Paragraph 718.302(1)(e), F.S., relating to contractual agreements for laundry-related vending equipment to be used in common by unit owners, is repealed.

New Paragraph 718.501(1)(j), F.S., requires the Division to adopt uniform accounting standards to be used by all

associations in preparing their required financial statements. Section 718.608, F.S., is amended to require that a tenant is entitled to terminate his rental agreement after notice of conversion of an apartment to condominium if the agreement has an unexpired term of 180 days or less.

The balance of this act generally makes the parallel changes in the Cooperative Act (Chapter 719, F.S.), where appropriate, that were previously made to the Condominium Act. These include:

1. In new Subsection 719.104(5), F.S., the association is granted the power to make and collect assessments, but is prohibited from charging a use fee of a unit owner for use of any of the common areas.

2. In new Subsection 719.104(6), F.S., the association is granted the power to purchase land or recreational leases. If the cooperative documents do not otherwise provide for such acquisitions, the vote required to approve the purchase shall be the same as that which would be required to amend the documents to permit the purchase.

3. Paragraph 719.106(1)(d), F.S., is amended to allow notice of the annual meeting to be mailed by regular mail or hand delivered to each unit owner if an officer of the association provides an affidavit stating that the notice was mailed or hand delivered to the address last furnished to the association.

4. Paragraph 719.106(1)(i), F.S., is amended to prohibit the charging of fees relating to the transfer of a

unit (such as for approvals for sale or lease of a unit) unless provided for in the cooperative documents. If so provided, the fee may not exceed $50, and no charge shall be made for renewals of leases with the same lessee.

5. Paragraph 719.106(1)(k), F.S., is added to require officers and directors of cooperatives with over 50 units to be bonded for no less than $10,000 each.

6. Paragraph 719.106(1)(l), F.S., is created to require cooperatives to provide for voluntary binding arbitration of internal disputes.

7. Under new Section 719.114, F.S., ad valorem taxes are to be assessed against the cooperative parcels and not the cooperative property as a whole.

8. Paragraph 719.301(1)(d), F.S., is amended to allow the developer to elect at least one board member of the association if he holds for sale at least five percent in a cooperative with fewer than 500 units or two percent in a cooperative with 500 or more units.

9. Under Subsection 719.301(4), F.S., the developer is liable for expenses related to relinquishing control to the association.

10. Subsection 719.301(5), F.S., is amended to provide that prior to turnover of control of the association to the unit owners the developer is responsible for violations of Chapter 719, F.S., or the rules adopted by the Division.

11. Subsection 719.303(3), F.S., is added to provide that if the cooperative documents so allow, the association may

levy fines against unit owners for failure to comply with the documents or rules of the cooperative. No fine shall exceed $50 and no fine shall become a lien against a unit.

12. Subsection 719.606(3), F.S., is amended to provide that tenants residing in rental units which are being converted to a cooperative have the right to terminate the rental agreement or an extension thereof, upon 30 days' written notice. The amendment limits this right to terminate to those leases or extensions having an unexpired term of 180 days or less.

13. Paragraph 719.612(1)(c), F.S., is amended to provide to tenants who have lived in a rental unit for six months prior to notice of conversion of the premises to cooperative, a right of first refusal to purchase the unit. The amendment excepts from the right of first refusal requirement those units for which a sale is made of more than one unit to one purchaser.

14. Paragraph 719.616(3)(a), F.S., is amended to require a developer converting a cooperative to disclose, among several items already required, the condition of the structure and fireproofing and fire protection system.

Conservation Easements

Conservation easements are rights or interests in real property which are appropriate to retain land or water areas predominantly in their natural, scenic, open, or wooded condition, retain such areas as suitable habitat for fish,

plants, or wildlife, or maintain existing land uses and prohibit specified activities thereon. The term "conservation easement," as defined in Section 704.06, F.S., is expanded by COMMITTEE SUBSTITUTE FOR SENATE BILL 352 (CHAPTER 86-44) to include rights or interests appropriate to retain the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance. Acts or uses detrimental to the preservation of such structural integrity or physical appearance are prohibited.

Section 193.501, F.S., relating to assessment of environmentally endangered lands or lands used for outdoor recreational purposes, is amended to conform to Section 704.06, F.S.

Dissolution of Marriage

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1313 (CHAPTER 86-220) amends Section 61.021, F.S., to provide that one of the parties to a marriage must reside in the state for six months before filing a petition for dissolution. Section 61.052, F.S., is amended to allow the court to establish the primary residence of a child in a dissolution of marriage proceeding. Section 28.101, F.S., is amended to impose a $5 surcharge on petitions for dissolution of marriage for deposit in the Child Welfare Training Trust Fund.

Federal/State Jurisdiction Over Federal Lands

HOUSE BILL 372 (CHAPTER 86-67) authorizes the Governor to enter into written agreements with the United States Department of the Interior, National Park Service for the exercise of concurrent jurisdiction with the state for the enforcement of criminal laws on lands owned by such federal agency within the State of Florida. Provision is made for the relinquishment of such concurrent jurisdiction back to the state and for the acceptance thereof.

Guardianship

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 122 (CHAPTER 86-120) creates the "Public Guardianship Act" as Part IX of Chapter 744, F.S. The chief judge of each judicial circuit is authorized to establish an office of public guardian within the circuit. Qualifications are specified for appointment of the public guardian, and nonprofit corporations may be so appointed subject to certain limitations. The public guardian may serve as guardian of the person or property, or both, of persons adjudicated incompetent who have no person willing and qualified to serve as their guardian and who meet certain assets and income limitations. All costs of administration, including filing fees, shall be paid from the budget of the public guardian rather than from the assets or income of the ward. The public guardian is required to submit periodic reports to the chief judge of the judicial circuit.

The caseload of the professional staff of the public guardian is limited to a ratio of 40 wards to each professional. Each public guardian must file a surety bond with the clerk of the court. The Chief Justice of the Florida Supreme Court shall appoint an Advisory Committee on Public Guardianship to assist the judicial circuits. A pilot program is funded in the amount of $163,760 for the Second and Seventeenth Judicial Circuits.

Changes affecting guardianship in general include the following:

Subsection 744.441(16), F.S., is amended to increase the funeral, interment, and gravemarker expenses which a guardian may pay from the ward's estate. Section 744.521, F.S., is amended to allow a guardian to be discharged if he is unable to locate the ward through diligent search. Section 744.534, F.S., is created to provide procedures whereby a guardian whose guardianship is terminated may dispose of unclaimed funds of the ward. Under certain circumstances such funds may be used for the benefit of public guardianship.

An effective date of October 1, 1986 is provided.

Husband and Wife; Mortgage an Estate by the Entirety

SENATE BILL 615 (CHAPTER 86-29) provides that a real property mortgage, or an assignment of a real property mortgage, made to a husband and wife creates an estate by the entirety in such mortgage and the obligation secured thereby

unless a contrary intention appears in the mortgage or assignment. The provisions are made severable.

Judges

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1296 (CHAPTER 86-279) amends Sections 26.031 and 34.022, F.S., to authorize one additional circuit judge for the seventh, twelfth, thirteenth, eighteenth, nineteenth, and twentieth judicial circuits and one additional county court judge for Dade, Marion, Palm Beach, and Pinellas counties. A time schedule is provided for creation of the judgeships.

Juveniles; Appeals by State

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 730 (CHAPTER 86-251) amends Subsection 39.14(1), F.S., and creates Sections 39.145 and 39.146, F.S., to provide the state with the right to appeal from certain court orders in juvenile cases. The circumstances in which such appeals may be taken parallel those in adult criminal cases. The trial court may release the juvenile pending the state's appeal of certain preadjudicatory hearing orders and, if not released, the juvenile may petition the appellate court for expedited consideration of the appeal. Appellate courts are required to decide questions of law which are the subject of a ruling adverse to the state.

Libel and Slander Actions

COMMITTEE SUBSTITUTE FOR HOUSE BILL 832 (CHAPTER 86-272)

and COMMITTEE SUBSTITUTE FOR SENATE BILL 1239 (CHAPTER 86-231) amend Section 95.11, F.S., to reduce from four to two years the period within which an action for libel or slander must be commenced.

This provision takes effect October 1, 1986.

Mobile Homes

The Florida Mobile Home Act, Chapter 723, F.S., which regulates tenancies in mobile home parks, is amended by COMMITTEE SUBSTITUTE FOR SENATE BILL 137 (CHAPTER 86-162). Section 723.003, F.S., is amended to exclude from such act mobile homes originally sold as a recreational vehicle. Subsection 723.004(4), F.S., is amended to authorize civil actions after exhaustion of administrative remedies for the enforcement of provisions of Chapter 723, F.S., which specify the mobile home park owner's and mobile home owner's general obligations. Subsection 723.006(3), F.S., is amended to exempt from public records laws any books or other financial records of a mobile home park acquired by the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation. Sections 723.011 and 723.012, F.S., are amended to require the park owner to make additional disclosures in each prospectus provided to a homeowner and to obtain the Division's approval of the prospectus.

Section 723.031, F.S., is amended to prohibit arbitrary or discriminatory lot rental increases.

Section 723.037, F.S., is amended to require the park owner to provide notice only to affected homeowners and the homeowners' association of changes in rental amounts or of a reduction in services or utilities. Section 723.041, F.S., is amended to prohibit the park owner from charging an entrance fee upon the buyer of a home in the park offered for sale by a park resident. Section 723.059, F.S., is amended to provide that existing lifetime leases and those entered into after July 1, 1986, are nonassumable unless otherwise provided in the rental agreement or the transferee is the homeowner's spouse.

One of the most significant changes is an amendment to Section 723.061, F.S., relating to eviction, which requires park owners to provide tenants with a one year notice of a projected change of land use. Procedures are provided for homeowners' objections to the change, and the park owner has the option to pay as damages either the actual cost of relocation to a comparable park within a 50-mile radius or the value of the mobile home as determined by statutory guidelines.

New Section 723.0615, F.S., prohibits retaliatory conduct by a park owner against a homeowner. Other minor changes to the Mobile Home Act are also made.

Paternity

Section 95.11, F.S., is amended by COMMITTEE SUBSTITUTE FOR HOUSE BILL 1313 (CHAPTER 86-220) to provide that the four year limitation on the initiation of a paternity action shall not commence until the child reaches the age of majority.

Section 742.011, F.S., is amended to allow a child or a man who has reason to believe he is the father of a child to initiate a paternity action rather than just a woman. Section 742.10, F.S., is amended to provide that Chapter 742, F.S., shall provide the primary, but not exclusive, jurisdiction and procedures for determining paternity. Section 742.12, F.S., is created to provide for scientific testing to determine paternity. A statistical probability of 95 percent or more pursuant to such tests creates a rebuttable presumption of paternity. If the test results show that the alleged father cannot be the biological father, the case shall be dismissed with prejudice.

Products Liability Actions

COMMITTEE SUBSTITUTE FOR HOUSE BILL 832 (CHAPTER 86-272) amends Section 95.031, F.S., to remove the 12-year limitation upon the initiation of products liability actions.

Sheriffs' Liability Coverage

SENATE BILL 513 (CHAPTER 86-184) amends Subsection 768.28(13), F.S., to allow sheriffs to jointly purchase insurance or join together as self-insurers to protect against any tort claims rather than just police professional liability claims.

Wills and Trusts

SENATE BILL 406 (CHAPTER 86-248) amends Section 737.3053, F.S., which provides that if a will or trust

instrument granting income to the grantor's or testator's spouse for life with a general power of appointment in the spouse is silent as to the time of distribution of income and the frequency thereof, the trustee is required to distribute all net income to the income beneficiary at least annually. The requirement that the will or trust instrument provide a general power of appointment in the spouse is deleted. Section 737.306, F.S., is amended to limit the liability of a trustee by providing that a trustee succeeding a trustee who was also the grantor of the trust shall not be held personally liable for any action taken or omitted to be taken by the prior trustee. The successor trustee would also be under no obligation to institute any action against the prior trustee, or file any claim against the prior trustee's estate, for any of the prior trustee's acts or omissions as trustee. These limitations of liability are limited to trusts that are revocable during the time the grantor serves as trustee.

COMMITTEE SUBSTITUTE FOR SENATE BILL 536 (CHAPTER 86-249) amends Section 733.705, F.S., to require the personal representative to pay all creditors' claims against an estate within one year from the date of first publication of notice of administration and provides for extensions of such period with respect to claims in litigation, unmatured claims, and contingent claims. The section is further amended to delete the provision that an objection filed against an unmatured claim against an estate would mature the claim for the purpose of bringing an action on the claim, and in its stead, provides

that, with respect to a claim which is not due but is certain to become due in the future, the claimant has 30 days from the date of service of the objection to the claim in which to file a declaratory action to establish the validity and amount of the claim.

For unmatured claims that have not become due before the time of distribution of the estate, and for contingent claims whose cause of actions have not accrued, the court is precluded from discharging the personal representative unless the claimant and personal representative file an agreement disposing of the claim or the court makes provisions for the disposition or satisfaction of the claim.

The act takes effect October 1, 1986.

EDUCATION*

Education legislation enacted by the 1986 Florida Legislature generally reflected continued refinement of reforms initiated in years past and attention to correcting administrative problems in order to enhance program operations. There were, however, some important new initiatives passed affecting public schools including: a preschool intervention program designed to help three- and four-year olds overcome social and economic disadvantages prior to beginning regular school, an after-school or "latch key" program for public school students, and a comprehensive drop-out prevention program. Public school refinement legislation includes enactment of teacher certification laws following a gubernatorial veto of 1985 "Sunset" legislation on the subject, and replacement of the State Master Teacher Program with a career ladder system for teachers. Changes at the postsecondary level include: continuation of the transition of Board of Regents employees from the State Career Service System to a board operated personnel system, authorization of modifications in admission standards for persons with learning disabilities, and clarification of the many laws affecting

*Prepared by staff of Senate Education Committee

student financial aid. Details of these actions and several others are presented on the following pages.

EDUCATION - HIGHER

Student Records

SENATE BILL 73 (CHAPTER 86-65) amends Section 228.093, F.S., to allow educational agencies to release personal, identifiable information without the written consent of the pupil or his parent to the following: a postsecondary institution where a pupil or student plans to enroll; school officials with a legitimate educational interest in the information in the records; federal and state authorities who are authorized to receive such information; financial aid officials; individuals or organizations conducting research, provided the results will not identify individual students; accrediting organizations; school boards, for expulsion hearings; appropriate persons connected with emergencies involving a student; the Auditor General; a court or an attorney with a lawfully issued subpoena; and credit bureaus, to enforce the terms or conditions of a financial aid agreement. All other information released by an educational agency must be directory information. Credit bureaus may not release information received from an institution to any person.

The act amends Section 232.23, F.S., to direct principals to allow only the persons identified in Section 228.093, F.S., to inspect student records. This directive is

also made applicable to community colleges and universities by amendments to Sections 240.323 and 240.237, F.S., respectively.

Veterans' Benefits

SENATE BILL 248 (CHAPTER 86-177) creates Section 295.017, F.S., to extend educational benefits to children whose parent died or suffered a service-connected 100 percent disability as a member of the Multinational Peace Keeping Force in Lebanon from September 17, 1982, through February 3, 1984, or as a participant in Operation Urgent Fury in Grenada during the period from October 23, 1983, through November 2, 1983, provided the serviceman was a resident of the state during those periods of military action.

Section 295.018, F.S., is created to extend these educational benefits to dependent children of servicemen who were killed in the crash of a military transport airplane in Gander, Newfoundland on December 12, 1985, provided the servicemen entered the military service from Florida.

Sections 230.645, 240.235, and 240.345, F.S., are amended to include veterans receiving benefits under Chapters 30 and 31, Title 38 U.S.C. and Chapter 106, Title 10 U.S.C. among those who are eligible for a deferment of fee payments each time their benefit payments are delayed. This policy applies to students enrolled in community colleges, state universities, or postsecondary vocational programs.

Sections 196.081 and 196.101, F.S., are amended to change the residency requirement for homestead exemption for

disabled veterans and for totally and permanently disabled persons. Such persons are eligible if they are residents of the state on January 1 of the tax year for which exemption is claimed.

The act directs the Division of Veterans' Affairs of the Department of Administration, in consultation with the Commission on Veterans' Affairs of the Executive Office of the Governor, to establish a demographic needs assessment for state veterans' nursing home facilities. A report of the findings is to be provided to the President of the Senate and the Speaker of the House of Representatives on or before January 1, 1987.

The effective date of this act is October 1, 1986.

Latin American Scholarships

SENATE BILL 449 (CHAPTER 86-139) creates an Office of International Education within the Department of Education. The duties of the Office include: serving as a clearinghouse on international education resources, providing liaison with federal and state entities related to international education, and administering the Latin American and Caribbean Basin Scholarship Program.

There is established the Florida Commission on International Education. Its purpose is to plan, coordinate, and assist educational entities in developing and implementing the role and scope of international education. The Commission has a membership of 11 persons, representing all levels of education and the international business community.

The duties of the Commission include: advising the state on activities of international perspective, recommending to the state the needs and resources of international education, and providing guidance to the Office of International Education relative to the Latin American and Caribbean Basin Scholarship Program.

The Commission will be staffed by Department of Education employees. It shall annually produce a report detailing all business transactions and its financial condition. All sectors of education are encouraged to provide educational activities of an international nature to embrace the international education and intercultural efforts of the Commission and the office of International Education. International magnet high schools are also authorized. They shall develop international programs which will draw from the resources of the international business community, postsecondary institutions, and other agencies interested in international and intercultural affairs.

The legislation amends Section 14.22, F.S., which expands the activities of the Governor's Council on Physical Fitness and Sports and Sunshine State Games. The expanded areas include national and international amateur athletic competitions and Olympic training centers. The Olympic training centers will be managed by the Sunshine State Games and Olympic training centers direct-support organization. The centers will promote national and international amateur athletic competitions. The sum of $250,000 is appropriated

from General Revenue for the Sunshine State Games and Olympic training centers.

Section 240.1201, F.S., is amended to allow students from Latin America and the Caribbean, enrolled full time in Florida institutions of higher education on government scholarships to pay in-state tuition. Section 240.414, F.S., is amended to allow the institutions participating in the scholarship program and the Department of Education to seek private funds to supplement the scholarship program. It mandates that the scholarship recipients meet the eligibility criteria of the agency administering the program, in this case, the Department of Education. It also permits recipients of federal grants who are participants in the Latin American and Caribbean Basin Scholarship program to be exempted from paying out-of-state tuition.

The legislation establishes a consortium of public and private higher education institutions to coordinate efforts related to the acquisition and allocation of state and federal funds for international education.

The Postsecondary Education Planning Commission shall study the feasibility of establishing a hemispheric studies center in Florida higher education institutions. The study due date is February 1, 1987.

The legislation allows the Department of Education to contract for the development of a volunteer corps to provide short-term educational activities to Latin American and Caribbean regions. The Office of International Education shall

provide an evaluation of this effort. The Florida Commission on International Education "Sundowns" October 1, 1996.

New World School of the Arts

SENATE BILL 498 (CHAPTER 86-226) amends Section 1 of Chapter 84-192, Laws of Florida, which created Section 240.535, F.S., to change the name of the "South Florida School for the Performing and Visual Arts" to the "New World School of the Arts." It mandates a governing board for the school with representation from all participating institutions. The act allows the school to affiliate with other public and private educational or arts institutions. The school's service areas and clients served will be established within state appropriations and limitations determined by the respective educational institutions.

Board of Regents Authority

COMMITTEE SUBSTITUTE FOR SENATE BILL 726 (CHAPTER 86-145) amends Subsection 240.209(3), F.S., to grant the Board of Regents the authority to expand its systemwide personnel classification and pay plan system to include support personnel. The university system's support persons are presently under the personnel system of the Department of Administration. The retirement and insurance benefits for these university employees will remain with the Department of Administration.

Section 240.2111, F.S., is amended to permit the Board of Regents and each university to promulgate rules for

meritorious service awards in the following areas: eliminating or reducing expenditures, improving operations, generating additional revenue, and making superior accomplishments in fields of discipline.

The legislation authorizes the amount which should be expended for service awards. It identifies types and cost of nonmonetary awards which may also be awarded to Board of Regents and university personnel. In addition, a report of all service awards must be submitted annually to the Legislature.

The legislation amends Subsection 447.203(2), F.S., to designate the Board of Regents as the public employer of the State University System's support employees.

The act amends Paragraph 228.093(3)(d), F.S., to allow personal, identifiable data to be released without the written consent of the student or guardian to the following: school officials; officials at an institution where the student intends to enroll; federal and state officials; financial aid officials at a postsecondary institution; officials conducting research; accrediting organizations; appropriate persons connected with an emergency involving a student; the Auditor General; a person or entity with a court ordered subpoena; school boards, for expulsion purposes; and credit bureaus, to enforce the terms of a financial aid agreement. The credit bureaus may not release information so obtained. This procedure affects public schools, community colleges, and universities. [This provision is similar to HOUSE BILL 73

(CHAPTER 86-65), discussed above in this section under the heading Student Records.]

The Florida Endowment Trust Fund for Eminent Scholars Act (Section 240.257, F.S.) is amended to allow the Board of Regents to authorize universities to use a portion of their carryforward funds, a maximum of $5 million for the system, to match private funds secured for endowed chairs. [The money can only be used if the full private contribution of $600,000 has been obtained.]

University police officers are included in the definition of a law enforcement officer by amendment to Subsection 394.455(14), F.S. This will allow university police officers to make campus arrests and transfer persons in their custody to mental institutions.

Paragraph 112.313(12)(h), F.S., is added to provide that upon the approval of the Chancellor and the affected university president, university personnel may negotiate patents and contracts with their universities. The Chancellor must submit to the Governor and the Legislature all such transactions.

By amendment to Section 240.247, F.S., the date for the submission of the salary discrimination report to the Board of Regents is changed from March 15 to September 15, effective in 1986.

The Trust Fund for Major Gifts is amended (Subsection 240.2605(3), F.S.) to include expenditures for library resources, scientific and technical equipment, and scholarships other than athletic.

Subsection 282.308(1), F.S., is revised to stipulate that information technology resources purchased primarily through contracts and grants and used exclusively for research or experimental purposes by a state university are exempted from the Board of Regents procedure which requires that a plan be submitted prior to such purchases. Each university must report to the Board of Regents all such purchases by February 1 each year.

The act amends Section 240.118, F.S., to clarify the fact that developmental or remedial instruction taught in community colleges and the Florida Agricultural and Mechanical University is now referred to as college preparatory instruction. [This language does not change the mandate (See: Subsections 228.072(6) and 240.117(2), F.S.) that universities must contract with their local community college for such instruction.]

The act amends Section 2 of Chapter 82-247, Laws of Florida, to allow the Board of Trustees of the Internal Improvement Trust Fund to sell 10 acres of land at the Florida Atlantic University's West Palm Beach Center for a minimum of $2 million. This sale must have the approval of the Board of Regents.

The legislation amends Subsection 240.271(5), F.S., to allow the Board of Regents to reduce enrollment without reducing enrollment-based funding on a pilot basis. Each participating university must have an approved plan which suggests improvements in undergraduate education. Biennial

reports must be submitted to the Legislature from the Board. The authority to reduce enrollment without reducing enrollment-based funding "Sunsets" July 1, 1989. [This provision is also found in SENATE BILL 45 (CHAPTER 86-172) summarized below in the EDUCATION K - 12 section under the heading Athletic Scholarship Opportunties.]

The legislative intent of the college-level communication and computation skills test is provided in Section 240.107, F.S., created by this act.

The admission standards for the university system are amended in Subsection 240.233(1), F.S. Changes include a deferral of the foreign language standard until August 1, 1989, and provide an exemption for students completing the associate of arts degree prior to September 1, 1987, or students enrolled in a community college full-time prior to August 1, 1989. Students not exempted from the foreign language standard and enrolled in a university after August 1, 1989, must meet the standard prior to being admitted to upper division status in any public university.

Section 246.013, F.S., is created to provide that private postsecondary institutions are permitted to participate in the Common Course Designation and Numbering System. Rules for such participation must be jointly agreed to by the Board of Regents and the State Board of Community Colleges. Participating private postsecondary institutions must bear the cost associated with including their courses in the system.

The act amends Subsection 246.021(4), F.S., to change the definition of an "agent," which will impact persons representing Florida-based and non-Florida-based private institutions which are subject to Florida's licensure requirements.

The legislation also amends Paragraph 246.031(1)(a), F.S., to change the composition of the State Board of Independent Colleges and Universities. It decreases from two to one the required representation of licensed colleges on the nine-member Board.

Section 246.081, F.S., is amended to provide that private colleges operating in the state for reasons other than educational may do so either by authorization of the State Board of Independent Colleges and Universities or by licensure. An amendment to Subsection 246.091(2), F.S., requires the Board to promulgate rules for the approval of program expansions of licensed colleges.

The State Board of Independent Colleges and Universities is required by amendment of Section 246.111, F.S., to promulgate rules for denial, probation, and revocation of any license of a private postsecondary institution. The Board may fine such institutions up to $5,000, and said fine must be deposited into the State Treasury.

The act requires the State Board of Education to adopt rules which provide a schedule for the purge of courses from postsecondary institutions' catalogs and the common course numbering system. The rules must also provide a waiver for

courses which have not been taught for five years but for good cause should remain in catalogs and in the common course numbering system.

The enactment directs the State Board of Community Colleges and the Board of Regents to develop plans for implementing a statewide computer-assisted student advising network. The Boards must consider the information provided through the Florida Information Resource Network (FIRN) in their plans.

The Board of Regents must adopt rules specifying the criteria for designating university programs as limited access programs. The Board must also devise a process to periodically review the limited access programs to determine if such status should remain or be removed.

Each university is directed to establish an orientation program for transfer students and to provide transfer students access to high demand courses comparable to that provided their native students.

The act directs the Postsecondary Education Planning Commission to conduct a study to determine the feasibility of developing an articulation agreement between public and private postsecondary institutions. A report to the Legislature is due by February 1, 1987.

Subsection 240.227(8), F.S., is amended to direct university presidents to develop university admissions standards consistent with rules of the Board of Regents.

The measure amends Subsection 235.056(2), F.S., to allow any board to lease or sell any land it owns. The lease or sale must be within the parameters of State Board of Education rules and must be executed after a public hearing which provides the public an opportunity to inspect the agreement. [This provision is also found in SENATE BILL 45 (CHAPTER 86-172) summarized below in the EDUCATION K - 12 section under the heading Athletic Scholarship Opportunities.]

Postsecondary Admissions

COMMITTEE SUBSTITUTE FOR HOUSE BILL 10 (CHAPTER 86-194) allows all public educational sectors to provide reasonable substitutions for any requirement for admission for persons with dyslexic, visual, or hearing impairments, or learning disabilities. These sectors must also provide reasonable substitutions for any graduation requirements for the above disabilities and impairments. The legislation requires the State Board of Education, the Board of Regents and the State Board of Community Colleges to adopt rules implementing the provisions of this act. The Boards must also develop substitute admissions and graduation requirements where appropriate.

Financial Aid

COMMITTEE SUBSTITUTE FOR HOUSE BILL 17 (CHAPTER 86-195) amends several of the financial aid statutes in Chapters 232 and 240, F.S. The act changes the name of the Florida Academic Scholars' Program to the Florida Academic Scholars' Certificate

Program. It also changes the name of the Florida Academic Scholars' Fund to the Florida Undergraduate Scholars' Fund.

The legislation allows credit from any subject acceptable for graduation to be used to qualify for participation in the Florida Undergraduate Scholars' Fund. Students enrolled in dual enrollment programs and students enrolled in postsecondary early admissions programs are also eligible to participate in the Fund. Students who do not accept the scholarship may reapply at a later date. The Fund now has definite award amounts rather than a range of amounts.

The enactment amends Paragraph 240.404(1)(a), F.S., to mandate that participants in the state's grants programs comply with the two-year residency requirement. Subsection 240.4045(1), F.S., is amended to provide that male financial aid recipients must demonstrate compliance with the Selective Service System registration requirements. The evidence is provided to the postsecondary institution in which he is enrolled.

Section 240.4068, F.S., is amended to clarify that the "Chappie" James Most Promising Teacher Scholarship Act is a scholarship loan program. The legislation deletes the requirement that 15 percent of the participants in this program must be minorities in order for the program to be operational. Now the program can become operational if the percent of minority candidates is less than 15 percent, with the stipulation that each minority candidate shall participate in the program.

The enactment amends Section 240.465, F.S., to expand the various types of loans which must be considered by the Department of Education in collecting delinquent and defaulted loan notes. The Department is authorized to use collection agencies to assist in the collection of unpaid notes. Institutions may withhold the academic records of any loan defaulters until the loan is paid in full or the default status removed.

The enactment amends Section 240.60, F.S., to clarify the purpose of the college career work experience program. Students participating in the program work in areas consistent with their declared majors or areas of career interest.

Section 240.601, F.S., is amended to provide that students involved in either the college or public schools work experience programs will be allowed to work during breaks between consecutive terms and during the summer months provided certain conditions are met.

Participating community colleges and universities in the public schools work experience program may use 10 percent of the funds received for training and supervising student mentors as provided by amendment to Subsection 240.604(3), F.S.

Section 240.408, F.S., is created to provide for the Challenger Astronauts Memorial Scholarship Program to be administered by the Department of Education. A $1,000 per year scholarship for four years is made available to public school students who meet certain criteria and choose to pursue a liberal arts or teaching degree at a Florida community college

or state university. Also created for the purposes of the Program is the Challenger Astronauts Memorial Scholarship Trust Fund. [This same program and fund are created by HOUSE BILL 1183 (CHAPTER 86-156) summarized below in the EDUCATION K-12 section of this article under the heading Teacher Certification.]

This act also became the vehicle for the Christa McAuliffe Ambassador for Education Act as a means of promoting the teaching profession and honoring the memory of Christa McAuliffe who epitomized the challenge and inspiration of teaching. The act provides the means for outstanding teachers to tour the state as advocates of public education and teaching as a career. The teacher of the year is to be the Ambassador for Education, and for the first two years of the program Florida's NASA Teachers in Space shall also serve as ambassadors. The program is to be administered by the Department of Education through the Center for Career Development Services. [This program is also created by HOUSE BILL 1183 (CHAPTER 86-156) discussed below in the EDUCATION K-12 section of this article under the heading Teacher Certification.]

Proprietary Schools

HOUSE BILL 1004 (CHAPTER 86-275) amends and reenacts Sections 246.201-246.231, F.S., relating to the State Board of Independent Postsecondary Vocational, Technical, Trade, and

Business Schools, which were scheduled to "Sunset" on October 1, 1986. A new "Sunset" date of October 1, 1996 is set.

Section 246.207, F.S., is amended to require the Board: (1) to recommend rules to the State Board of Education, rather than to the Department of Education; (2) to submit an annual report including specified information; and (3) to assure that no school meeting licensure requirements be made to operate without a current license due to scheduling of board meetings or application procedures for license renewal.

This legislation removes the Board's authority to borrow money and permits the Board to establish, with the approval of the State Board of Education, a branch office in the southeastern region of the state.

Section 246.217, F.S., is amended to authorize the Board to issue a temporary or provisional license to a new institution, and the Board's staff is required to conduct a site visit to each new school within its first six months of operation. The Board may grant biennial licenses under rules to be adopted by the State Board of Education and may extend valid licenses for up to four months for the purpose of managing workloads. A provisional license may be issued in certain circumstances under rules to be adopted by the State Board of Education. Section 246.217, F.S., is further amended to require: (1) that each license application be submitted on a notarized form furnished by the Board, and (2) that each school and agent have a separate license. In order to modify existing approved courses, a school will have to file an

amendment to the application, and the amendment must be approved by the Board.

Section 246.219, F.S., is amended to provide that the fee range for annual license renewal is increased from between $100 and $200 to between $250 and $400. The biennial license fee shall be twice the amount of the annual license renewal fee. The ceiling on the delinquent application charge is increased from $50 to $250.

Section 246.220, F.S., is amended to authorize the Board to require surety bonds or insurance to insure the train-out or issuance of refunds to the number of students projected to be enrolled.

Section 246.223, F.S., is repealed to remove the special status accorded to certain independent postsecondary accredited institutions which allowed them to submit an annual report in lieu of a license renewal application.

Disciplinary proceedings are established in the newly created Section 246.226, F.S. This section specifies required Board procedures relating to the following: the handling of complaints, confidential investigations by trained investigators of alleged violations of law and rule, and the determination of probable cause by a panel consisting of Board members.

Subsections (3) and (4) are added to Section 246.227, F.S., to authorize the Board to issue a cease and desist notice to any person not licensed by the Board who has violated Sections 246.201-246.231, F.S., or any rule adopted pursuant

thereto. The Board is also authorized to seek the imposition of a civil penalty through the circuit court of not less than $500 and not more than $5,000 for each offense.

Section 246.228, F.S., is created and establishes specific grounds for disciplinary action. The Board is authorized to impose one or more of the following penalties: denial, revocation, or suspension of a license, imposition of an administrative fine not to exceed $1,000 for each offense, placement of the licensee on probation, and issuance of a written reprimand to the school.

The effective date of this act is October 1, 1986.

EDUCATION K - 12

Athletic Scholarship Opportunities

SENATE BILL 45 (CHAPTER 86-172) creates Section 232.426, F.S., to provide that any rules governing school district athletic activities for which the State University System offers scholarships shall be designed to promote such scholarship opportunities. Nothing in the act, however, is to be construed to affect academic requirements for participation or to prevent a school board from offering nonscholarship activities.

This act also served as the vehicle for a number of other actions, as follows:

(1) Environmental Education - A 15-member Council on Environmental Education is created to serve in an advisory capacity to the Commissioner of Education, the State Board of

Education, and the Legislature. Council membership is to consist of one member each from the four state agencies dealing with environmental issues, one member from the Department of Health and Rehabilitative Services, one member each from five statewide environmental organizations, three professional educators, and two representatives of the business community. Assigned to the Division of Community Colleges of the Department of Education for administrative purposes, the Council is to:

(a) Review existing public and private environmental education programs and report on their status to the Legislature and State Board of Education by January 1, 1987.

(b) Develop a comprehensive plan for enhancing environmental education for submission to the State Board and the Legislature by March 1, 1987.

(c) Advise the Commissioner of Education on the means for incorporating environmental education into public school curriculum frameworks.

The Council is to be repealed October 1, 1989, pending legislative review.

Current law authorizing an environmental education competitive grant program for public schools is repealed, and new language is adopted into Section 229.8055, F.S., to direct the Department of Education to provide the resources necessary to assist school districts in incorporating environmental education and ecological issues in all phases of the school program. The Department is also required to include items on

ecology in the student assessment program provided by Subsection 232.2454(1), F.S.

(2) Employment after Retirement - Paragraph 121.091(9)(a), F.S., is amended to provide that community college boards of trustees are authorized to employ retired instructors as adjunct instructors after such persons have been retired at least one calendar month. There are limits on the number of hours the reemployed persons can work without penalty during their first year of retirement and, although the employing agency must make a retirement contribution on behalf of the reemployed instructor, the employee's retirement benefits do not increase. [A similar provision for public school teachers is already in law.]

(3) Lease of Educational Lands - Subsection 235.056(2), F.S., is amended to extend to all public education boards the authority to lease land to persons or entities for educational purposes. A board does not have to determine the land is unnecessary for public educational purposes; however, an open, public hearing must be held on the lease proposal. [Prior to this act only local school boards had authority to let land. This provision is also found in COMMITTEE SUBSTITUTE FOR SENATE BILL 726 (CHAPTER 86-145) summarized above in the EDUCATION - HIGHER section under the heading Board of Regents Authority.]

(4) University Enrollment Reduction - The act amends Subsection 240.271(5), F.S., to allow the Board of Regents to reduce enrollment without reducing enrollment-based funding on a pilot basis. Each participating university must have an

approved plan which suggests improvements in undergraduate education. Biennial reports must be submitted to the Legislature from the Board. The authority to reduce enrollment without reducing enrollment-based funding sunsets July 1, 1989. [This provision is also found in COMMITTEE SUBSTITUTE FOR SENATE BILL 726 (CHAPTER 86-145) summarized above in the EDUCATION - HIGHER section under the heading Board of Regents Authority.]

Writing Skills Act

SENATE BILL 217 (CHAPTER 86-224) amends Paragraph 236.1223(3)(a), F.S., which provides that districts may receive additional categorical funding for writing skills courses that are required as a prerequisite for graduation. The maximum number of students per class is increased from 25 to 28. The maximum number of students per teacher per day remains 100. [This change allows more scheduling flexibility in districts.] The Commissioner of Education still can approve an alternative plan upon a showing of need.

Section 231.532, F.S., relating to the district quality instruction incentives program, is amended to delete the requirement that meritorious schools be in the upper quartile of district schools. The new criterion is that a meritorious school must exceed its statistically verifiable expectancy level on an approved standardized test.

Dropout Prevention

The purpose of COMMITTEE SUBSTITUTE FOR SENATE BILL 450

(CHAPTER 86-225) is to phase out the current alternative education program, with its emphasis on punitive programs, and replace it with a more positive and comprehensive dropout prevention program. The Dropout Prevention Program is defined as including alternative education, teen parent, substance abuse, disciplinary, and youth services programs. To be eligible to receive FEFP (Florida Education Finance Program) funding for dropout prevention programs, districts must submit a comprehensive plan, including specified components, to the Commissioner of Education for approval. Districts whose plans are approved will be eligible to receive state funding beginning with the 1987-1988 school year. In the interim, districts may continue to receive state funding for any program meeting the statutory requirements for alternative education.

The act also authorizes the distribution of grants to nonprofit community-based organizations wishing to implement dropout prevention programs. These grants are to be awarded on a competitive basis by the Commissioner of Education.

Finally, the Florida Center for Dropout Prevention [originally established at the University of Miami through proviso in the General Appropriations Act] is authorized in statute as Section 232.302, F.S. [Similar provisions relating to the creation of a dropout prevention program appear in COMMITTEE SUBSTITUTE FOR HOUSE BILL 1240 AND 984 (CHAPTER 86-157) summarized below under the heading Raymond B. Stewart Career Achievement Program of 1986.]

A number of other measures were added to COMMITTEE SUBSTITUTE FOR SENATE BILL 450 (CHAPTER 86-225) through the amendatory process. Those provisions, and a brief description of each, are as follows:

(1) The Learning Development and Evaluation Center at Florida A & M University - The verbal communications laboratory at FAMU is established as the Learning Development and Evaluation Center and is dedicated to providing academic support to learning disabled students for the purpose of assisting such students in meeting the instructional demands of postsecondary education. Center services are to include: problem identification, training, counseling, and follow-up. The Center is also to provide outreach services to other educational institutions and agencies and to learning disabled students attempting to make the transition from high school to college. The president of FAMU is to present a detailed report of Center activities including the number of students served, program activities, and the accomplishment of objectives. This report is to be made annually, beginning November 1, 1987, to the Board of Regents and the Legislature.

(2) School-Age Child Care Programs - Section 228.061, F.S., is amended to provide statutory authorization to school districts to establish child care programs before and after school and during school holidays for school-age children.

Section 229.65, F.S., is created to encourage districts to implement school-age child care programs. Funding will be made available on a competitive grant basis to districts

wishing to establish school-age child care programs during the second half of the 1986-1987 school year and the 1987-1988 school year.

Districts wishing to receive a grant will be required to submit a proposal to the Department of Education including specified program information. Priority for funding will be given to proposals which provide service to: (a) elementary school children, (b) low-income families, and (c) areas of the state underserved by before- and after-school child care programs. The Department is required to approve at least three proposals, including one each from a small, medium, and large school district. For the programs approved, state funds will be provided to fund up to 75 percent of first-year program costs and up to 50 percent of second-year program costs.

The Department of Education is directed to develop a "request for proposal" for the competitive acceptance of proposals to establish and operate a statewide clearinghouse for school-age child care programs. The clearinghouse will be operated by a private, nonprofit organization and will provide information and technical assistance related to child care, disseminate information on successful child care programs, and facilitate the establishment of local school-age child care programs. A seven-member council--comprised of two school district representatives, two representatives of the Department of Health and Rehabilitative Services, two providers of school-age child care, and one parent--will be created to serve in an advisory capacity to the clearinghouse.

By March 1, 1988, the Department of Education is to make a report to the Legislature which shall include recommendations relating to the desirability and cost of licensing school-age child care programs and implementing such programs on a statewide basis. [This is similar to a provision contained in COMMITTEE SUBSTITUTE FOR HOUSE BILL 35 (CHAPTER 86-258) summarized below under the heading School-Age Child Care Programs.]

(3) Student Loan Forgiveness Program - Effective August 1, 1988, the existing student loan forgiveness program is expanded by amendment to Section 231.621, F.S., to include teachers gaining certification through any state-approved method. The current program is limited to graduates of teacher preparation programs. The change grants the loan forgiveness opportunity to graduates of any baccalaureate program as long as they meet state certification requirements.

(4) Reporting of Out-of-Field Teachers - Each school district is required to report annually to the Department of Education the number of teachers in the district assigned to teach outside such teacher's field of certification. A teacher is considered assigned out-of-field if he teaches on a regular basis at least one class for which he is not certified. The report must also include the number of teachers estimated to be assigned out-of-field the ensuing school year and the number of classes not offered due to teacher shortages in specific areas. Each district is to have a plan to assist out-of-field teachers in gaining proper certification and such teachers are to be

given priority in summer inservice institutes. The Department of Education is to provide the Legislature with a composite of district reports annually on or before November 1. The parents or guardians of children in classes taught by out-of-field teachers shall be notified of this situation through each school's annual progress report.

(5) Capital Outlay Maintenance of Effort - Paragraph 235.435(1)(d), F.S., is amended to provide that school boards will be allowed to use an average of the prior three years' operating fund expenditures for remodeling, renovation, maintenance, repair, and site improvement in determining their required maintenance of effort expenditure for such purposes in each upcoming budget fiscal year. This provision becomes effective October 1, 1987. The Board of Regents and community colleges must still maintain the same percentage of the operating budget devoted to such expenditures in the prior fiscal year for each new budget year.

(6) State Satellite Network - Effective October 1, 1987, Section 229.8052, F.S., is amended to expand the satellite network to include all educational institutions with compatible satellite receiving equipment. The existing law confines the network to postsecondary institutions.

(7) Board of Public Schools - Effective October 1, 1987, Sections 229.86-229.89, F.S., are created to establish within the Department of Education a Board of Public Schools comprised of the Commissioner of Education and 12 citizens appointed by the Governor, approved by the State Board of

Education, and confirmed by the Senate. One member of the Board must be a teacher, one a school administrator, and one a school board member. The Board's duties include reviewing the duties and responsibilities of the Department of Education, specifically the Division of Public Schools, and any other government entities affecting public schools. The Board is also to report annually to the Legislature on the condition of teacher compensation within the state, advise school boards on fiscal policies adopted by the Legislature, submit a long-range plan for public education to the State Board and Legislature, evaluate the work of statewide advisory councils and advise the Legislature on council modification and continuation, and recommend means of improving partnerships between public education and business. The Board of Public Schools is to appoint an executive director from nominations submitted by the Commissioner of Education.

(8) Summer Inservice Institutes - Section 231.613, F.S., is amended to make a number of administrative changes in the existing law on summer inservice institutes. Districts will no longer be allowed to substitute or add instruction areas to those areas authorized annually by the Legislature. Training must be on consecutive weekdays except for holidays; districts are encouraged to utilize university and community college personnel to conduct training; and the deadline for the submission of district plans is changed from December to February, which gives the districts more planning time.

(9) Vocational Education Program Evaluations - Paragraph 229.551(3)(g), F.S., is amended to revise certain educational accountability provisions which relate to follow-up procedures to determine job placement status for students from vocational preparatory programs. Statutory language is clarified so gifted students may be considered in placement computations, and inmates in correctional facilities are specifically excluded. Follow-up procedures for determining school district and community college student placements are expanded to include such techniques as exit interviews, questionnaires, telephone interviews, and other efforts which may be approved by the State Board of Education. School districts and community colleges will be required to document the follow-up procedures used.

Subsection 230.645(7), F.S., is added to provide that active duty members of the United States Armed Services stationed in Florida and their families, and full-time instructional and administrative personnel employed by public education agencies and their families, are to be considered state residents for postsecondary institution tuition purposes.

(10) Jose Marti Scholarship Challenge Grant Fund - Section 240.412, F.S., is created to establish the Jose Marti Scholarship Challenge Grant Trust Fund for the purpose of awarding scholarships to Hispanic American students attending public or private colleges and universities in Florida. Scholarship recipients must have been state residents for at least two years, be accepted at a university or college, enroll

as a full-time student, and meet certain grade point average standards. Undergraduate and graduate students are eligible; awards are $2,000 per year for up to eight semesters for undergraduates and four semesters for graduate students. Priority is to be given students with the greatest need, and other eligibility standards are to be determined by the Department of Education.

Paragraph 240.404(1)(a), F.S., is amended to require two-year state residency for student financial aid eligibility for the following programs: state tuition vouchers, Florida Academic Scholars' Fund, State Student Assistance Grant Fund, college career work experience program, public school work experience program, and the Jose Marti Scholarship Challenge Grant Fund.

School Board Awards

SENATE BILL 667 (CHAPTER 86-77) amends Section 230.23, F.S., to authorize school boards to recognize the outstanding or meritorious service of district employees, students, school volunteers, and advisory committee members. The boards are to adopt rules regulating awards programs, and monetary awards are limited to persons who propose ways to reduce school district expenditures or improve operating efficiency. Nonmonetary awards may include such items as plaques, medals, ribbons or photographs.

School Transportation

SENATE BILL 784 (CHAPTER 86-146) revises portions of

Chapter 234, F.S., relating to transportation of school children, and the procedures for funding school transportation in Chapter 236, F.S., to make them consistent with current practice and to resolve some issues such as eligibility for transportation. More specifically, the act clarifies by amendments to Section 234.01, F.S., which students school boards must transport and which the boards may transport at their own discretion. The boards must provide transportation for students living beyond a State-Board-of-Education-defined reasonable walking distance from school and for elementary school students facing hazardous walking conditions. All other students and persons are transported at a board's option.

In revised Section 234.061, F.S., school boards are authorized to delegate, by rule, the designation of school bus routes and the establishment of school bus stops.

It is made clear that state funding is provided to the districts for transporting students in membership in kindergarten through grade 12 as well as in migrant and preschool exceptional programs. Additional language is added to Section 236.083, F.S., to further explain the funding eligibility of students transported from one school center to another for vocational programs, approved dual enrollment, or exceptional education services called for in a student's individual educational plan.

The transportation allocation formula is amended by replacing the numerical values with constants which reflect the transportation costs of salaries, benefits, purchased services,

materials and supplies, other expenses, and the cost of replacing 10 percent of the buses per eligible transported membership. The allocation formula is to be recomputed annually using the latest data available for the density index and data from two years past for the constants. The mileage allowance for transporting students is extended to boats, as well as cars, and to situations when it is more efficient to transport a handicapped person by car rather than bus.

The provision for school district pilot programs to transport the elderly or physically or mentally handicapped is deleted. A district, at its discretion, may transport these persons if they meet the transportation disadvantaged definition in Section 427.011, F.S., pursuant to new Paragraph 234.01(1)(d), F.S.

The Commissioner of Education is required by amended Section 236.0835, F.S., to calculate bus replacement costs on the basis of the price of a diesel-powered unit. In addition, districts are required to participate in the state pool purchase of replacement buses. [This participation has been required in proviso language of the General Appropriations Act.]

School buses with a seating space of more than 10 lineal feet are required by amendment to Subsection 234.051(2), F.S., to meet all applicable Federal Motor Vehicle Safety Standards as well as other specifications as may be prescribed by the State Board of Education. In addition, Section 234.101, F.S., is amended to authorize school boards to provide school bus

driver training programs and make the programs available, on a contract basis, to nonpublic school bus drivers.

The Department of Highway Safety and Motor Vehicles is authorized by amendment to Section 316.615, F.S., to conduct pilot programs using private contractors to carry out mandatory inspections of nonpublic school buses. Nonpublic buses are also authorized to pick up and deliver students at the same areas used by public school buses, or at adjacent areas as designated by the appropriate government entity.

A final provision of the act amends Subsection 235.055(2), F.S., to authorize public education boards, including the Board of Regents, to enter into short-term leases with private owners or developers for land on which to utilize temporary or relocatable facilities when sufficient government-owned land is not available.

Toxic Art and Craft Materials

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 1180 & 1230 (CHAPTER 86-242) requires the State Board of Education to adopt, by January 1, 1988, a list of art and craft materials approved for school district purchase. In developing the list the State Department of Education is to consider the toxicity of materials, the age of the children normally using the materials, and the conditions under which the materials would normally be used.

The Department of Health and Rehabilitative Services is to be responsible for providing the list of approved art and

craft materials to all licensed prekindergarten schools. By July 1, 1988, use of nonapproved materials by prekindergarten schools is prohibited and this restriction is to be enforced by the appropriate state and local licensing agencies.

The act also repeals the requirement (Section 402.3197, F.S.,) that licensed child care facilities, private secular schools, and all day camps maintain a $100,000 surety bond against personal injuries, a $100,000 liability insurance policy, or have $100,000 on deposit with the Department of Health and Rehabilitative Services to satisfy liability claims.

School-Age Child Care Programs

COMMITTEE SUBSTITUTE FOR HOUSE BILL 35 (CHAPTER 86-258) provides statutory authorization to school districts by amendment to Section 228.061, F.S., and creation of Section 229.65, F.S., to establish child care programs before and after school and during school holidays for school-age children. Two different programs are created to encourage districts to implement school-age child care programs. Funding will be made available on a competitive grant basis to districts wishing to establish school-age child care programs during the second half of the 1986-1987 school year and the 1987-1988 school year.

Districts wishing to receive a grant will be required to submit a proposal to the Department of Education including specified program information. Priority for funding will be given to proposals which provide service to: (a) elementary school children, (b) low-income families, and (c) areas of the

state underserved by before- and after-school child care programs. The Department is required to approve at least three proposals, including one each from a small, medium, and large school district. For the programs approved, state funds will be provided to fund up to 50 percent of first- and second-year program costs.

The Department of Education is directed to develop a "request for proposal" for the competitive acceptance of proposals to establish and operate a statewide clearinghouse for school-age child care programs. The clearinghouse will be operated by a private, nonprofit organization and will provide information and technical assistance related to child care, disseminate information on successful child care programs, and facilitate the establishment of local school-age child care programs. A seven-member council--comprised of two school district representatives, two representatives of the Department of Health and Rehabilitative Services, two providers of school-age child care, and one parent--will be created to serve in an advisory capacity to the clearinghouse.

By March 1, 1988, the Department of Education is to make a report to the Legislature which shall include recommendations relating to the desirability and cost of licensing school-age child care programs and implementing such programs on a statewide basis. [This act is similar to a provision contained in COMMITTEE SUBSTITUTE FOR SENATE BILL 450 (CHAPTER 86-225) discussed above under the heading Dropout Prevention.]

Summer Camp Programs

HOUSE BILL 36 (CHAPTER 86-48) amends Subsection 228.087(1), F.S., to open to all elementary and secondary school students, public and private, those summer camp programs in mathematics, science, and computers funded through grants awarded by the Department of Education.

Reading Resource Specialists

COMMITTEE SUBSTITUTE FOR HOUSE BILL 302 (CHAPTER 86-261) amends Section 233.057, F.S., relating to the responsibilities of reading resource specialists. Up to 50 percent of a reading resource specialist's time may be spent conducting special reading classes or reading laboratories. However, at the discretion of the school district, the reading resource specialist may devote full time to work with content area teachers.

Several measures were added to this legislation through the amendatory process. Those provisions are described below:

(1) Florida Academic Scholars' Program - Section 232.2465, F.S., was amended to provide that State Board of Education rules relating to the Florida Academic Scholars' Program shall include specific course requirements as defined by the Course Code Directory. The State Board may establish alternative areas of study provided that adopted curriculum frameworks indicate that the alternative is equivalent to, or more advanced than, the established area of study.

(2) Prekindergarten Early Intervention Program - Section 228.0615, F.S., the Prekindergarten Early Intervention Program, is created to provide state funding to school districts for the establishment of preschool programs for children who are three and four years old. The objective of this program is to enhance the readiness of program participants to enter the primary grades and to provide early intervention for educationally and economically disadvantaged children who are at risk of educational failure in subsequent grades.

In order to receive funding to establish prekindergarten programs, districts must develop a proposal for submission to the Commissioner of Education. Each proposal must be developed in cooperation with a local inter-agency coordinating council. In order for a program to receive state funding, at least 50 percent of the children to be served by the program must be educationally or economically disadvantaged.

An 11-member State Advisory Council on Early Childhood Education is created to advise the Commissioner of Education on all matters relating to early childhood education and implementation of the Prekindergarten Early Intervention Program.

(3) Interim Instructional Materials Study Commission - A newly created 10-member Interim Instructional Materials Study Commission is to be appointed by the Commissioner of Education. The Commission is to conduct a study of Florida's instructional materials adoption process and report its findings and

recommendations to the Legislature by March 16, 1987. Commission members are entitled to travel and per diem expenses.

Bicycle Safety Training

HOUSE BILL 550 (CHAPTER 86-99) amends Section 230.2319, F.S., to include bicycle safety training as an optional component of fourth grade physical education. This training includes both classroom and on-bike instruction.

Safe Schools Act

HOUSE BILL 738 (CHAPTER 86-210) creates Section 232.257, F.S., to provide a School Safety Trust Fund for the purpose of assisting eligible school districts in developing preventive and educationally sound solutions to the problems of maintaining a safe and orderly learning environment. Funding is provided by annual legislative appropriation. The formula for distributing funds is the same as that which appeared in the 1985 General Appropriations Act: any school district with a total crime index (Part I crimes) of 15,000 or more criminal offenses or a crime rate of 7,000 or more Part I offenses, per 100,000 population, is eligible to receive moneys from the Trust Fund. [As defined by the Department of Law Enforcement, Part I crimes include: murder, non-negligent manslaughter, forcible rape, robbery, aggravated assault, breaking and entering/burglary, larceny, and motor vehicle theft. According to the Department of Law Enforcement's 1985 Uniform Crime Reports, the following counties would meet one or both of these

eligibility criteria: Alachua, Brevard, Broward, Dade, Duval, Escambia, Hillsborough, Leon, Manatee, Monroe, Orange, Palm Beach, Pinellas, Polk, Sarasota, St. Lucie, and Volusia.]

The act establishes a formula for determining the percentage of Trust Fund moneys each district shall receive. In order to receive school district safety funds, schools would be required to offer education programs, compensatory education programs, and inservice training programs on innovative classroom management techniques.

Each district eligible and wishing to participate would be required to submit its school safety plan to the Commissioner of Education. The Commissioner would review and approve or disapprove each plan, make recommendations for amendments to the proposed plans prior to approval or disapproval, and disseminate information concerning school safety programs to school districts. Under the provisions of this act, each participating district would make an annual report on its program to the Commissioner and to the education committees of the House and Senate.

The Department of Education is to adopt rules for the implementation of the Safe Schools Act.

The act also directs the Department of Education of study the feasibility of providing a registered nurse in each public school. A report of its recommendations is to be submitted to the Speaker of the House and the President of the Senate by February 1, 1987.

Section 231.06, F.S., is amended to make students subject to the same penalties for assault upon a district school board employee as heretofore applied to parents and other persons.

Teacher Certification

HOUSE BILL 1183 (CHAPTER 86-156) reestablishes and revises teacher certification laws (Sections 231.15, 231.17, and 231.24, F.S.) which had been automatically repealed October 1, 1985, as a result of the Governor's veto of the 1985 reenacting legislation (Committee Substitute for Committee Substitute for House Bill 1357). The new act restores the old certification laws for two years and then, beginning July 1, 1988, new standards go into effect. Persons applying for initial certification will have to be successful on tests covering general knowledge, professional knowledge, and knowledge of the subject area in which they are seeking licensure. Successful completion of the year-long beginning teacher program will continue to be a requirement. The certificate validity period remains at five years, and acceptable activities for renewal will be broadened to include subject area tests, summer work in approved business or industrial programs, and participation on regulatory and advisory boards. College courses and inservice work continue as renewal mainstays; however, all efforts will have to be in the field or fields of licensure or assignment. At least three semester hours or an approved equivalent will be required for

each area in which a person holds a certificate. Provision is made for persons certified in more than two areas. An evaluation of teaching performance is not required for certificate renewal; however, the statutory requirements for the annual performance evaluation of certificated personnel have been made more comprehensive and strengthened. Districts will be required to assist personnel having job performance difficulties; however, the names of persons with two consecutive unsatisfactory performance evaluations will be submitted to the state for possible competency review. Other changes have been made in the certification process including: expansion of the temporary certificate validity period to two years, special provisions for vocational teachers without college degrees, and a renewal procedure for persons not currently working in the schools. A new repeal date of October 1, 1995, is set for Sections 231.15, 231.17 and 231.24, F.S., subject to review by the Legislature pursuant to the "Regulatory Sunset Act."

The teacher certification act became the vehicle for a number of other actions affecting public education. Those provisions are as follows:

(1) The Christa McAuliffe Ambassador for Education Act - As a means of promoting the teaching profession and honoring the memory of Christa McAuliffe, the act provides the means for outstanding teachers to tour the state as advocates of public education and teaching as a career. The teacher of the year is to be the Ambassador for Education, and for the first two years

of the program Florida's NASA Teachers in Space shall also serve as ambassadors.

The act also creates Section 240.08, F.S., to provide for the Challenger Astronauts Memorial Scholarship Program--a $1,000 per year scholarship for four years available to public school students who meet certain criteria and choose to pursue a liberal arts or teaching degree at a Florida community college or state university.

[Identical language concerning the Christa McAuliffe Ambassador for Education Act and the Challenger Astronauts Memorial Scholarship Program appear in COMMITTEE SUBSTITUTE FOR HOUSE BILL 17 (CHAPTER 86-195) summarized above under the subheading Financial Aid, in the HIGHER EDUCATION section of this article.]

(2) The Education Management Improvement Act - Subsection 230.303(5), F.S., is created to provide a voluntary professional development program for Florida public school superintendents. Participants who meet certain performance standards are eligible for incentive pay in amounts from $3,000 up to $7,500. The act also authorizes the temporary assignment of professional staff among public education agencies.

(3) Fee Waivers - Various sections of Florida Statutes are amended which relate to fees assessed by school districts and community colleges for participation in adult general and vocational programs offered at the postsecondary level. Students studying to achieve basic literacy, a high school

diploma, or G.E.D. diploma, and students enrolled in vocational preparatory courses are exempted from paying fees. All other students are required to pay fees. Districts and colleges are authorized to waive fees for a percentage of students. [This is established in the General Appropriations Act for the 1986-1987 school year as eight percent for school districts and five percent for community colleges.] In-kind contributions accepted in lieu of fees are defined as a fee waiver and are subject to these percentage limitations.

A new section of law (Section 229.13, F.S.) is created specifying information which must be collected and retained by school districts and community colleges when they register adult students.

Changes are made in the statute relating to the Industry Services Training Program (Section 230.66, F.S.) to authorize districts and colleges to lease equipment originally acquired to provide industry training from the Department of Education once the training is completed. Materials related to trade secrets disclosed to the Department of Education, school districts, or community college employees during the provision of an industry services training program are exempted from the Public Records Law (Chapter 119, F.S.).

(4) Exceptional Education - Several sections of Florida law relating to exceptional students and their teachers are amended. School districts are required, rather than authorized, to modify courses required for high school graduation to enable exceptional students to satisfy the

requirements for a regular high school diploma (Subsection 232.246(5), F.S. Technical changes are made in the state scholarship program for exceptional education teachers (Section 240.405, F.S.). A task force is established to conduct a study and make recommendations to the Commissioner of Education, State Board of Education and the Legislature concerning varying exceptionality programs. School districts are required through newly created Section 232.145, F.S., to identify and notify the Department of Health and Rehabilitative Services (DHRS) of any exceptional student who may require services from DHRS after leaving the public schools.

The Raymond B. Stewart Career Achievement Program of 1986

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 1240 AND 984 (CHAPTER 86-157) creates Section 231.5335, F.S., the "Raymond B. Stewart Career Achievement Program Act of 1986." [This measure is the successor to the State Master Teacher Program and, in effect, replaces merit pay with a career ladder concept.]

Participation in the career achievement program is strictly voluntary for teachers and school districts. Scheduled to begin with the 1987-1988 school year, the programs would be negotiated in participating school districts, approved by the Department of Education, and include, among other things, three progression levels and a system of advancement based on meeting subject area test and performance evaluation standards. The evaluation component includes peer and

supervisor evaluations making it broader in scope than the evaluation system in the master teacher program. The three progression levels are as follows:

(1) Level I will consist of all beginning and probationary teachers and any other teachers who choose not to participate in the career achievement program. Compensation is according to the regular salary schedule.

(2) Level II teachers must have served four years, or a State Board of Education approved equivalent, as a Level I teacher, possess a continuing or professional service contract or tenure under a local act, score in the top 60 percent on a subject area test or state board approved equivalent, and have a composite score in the top 50 percent on performance, supervisor's, and peer teacher's evaluations. All individual evaluation scores must be at least in the top 60 percent. Level II designations are good for three years and may be renewed for successive three-year periods. Only 45 percent of the teachers scoring in the top 60 percent on the subject area test can receive the Level II designation.

(3) Level III teachers must have served six years as a Level II teacher, meet the same tenure requirements as Level II teachers, have a master's degree or the state board equivalent, score in the top 30 percent on the appropriate subject area test or state board equivalent, and have a composite score in the top 10 percent on the evaluation component. No score on any of the evaluations (performance, supervisor, or peer teacher) can be below the top 30 percent. Level III

designations are for three years and are renewable for successive three-year periods. No more than 25 percent of the hopefuls scoring in the top 30 percent on the subject area tests can receive the Level III designations.

Level II and III monetary awards are to be determined in the General Appropriations Act each year.

Money for the program is to be placed in a trust fund administered by the Commissioner of Education. The act contains a provision that if $90 million is appropriated for the program by the 1987 Legislature, the limits on the number of Level II and III designees will be removed. A second provision repeals the program July 1, 1988, if the 1988 Legislature doesn't appropriate $90 million for its operation.

Subsection 231.533(7), F.S., is amended to authorize completion of the three-year payment to the original (1984-1985) associate master teachers, and to provide a one-year payment to those persons earning the associate master teacher designation in 1985-1986. The amount of the payments is to be determined in the General Appropriations Act.

Persons designated as associate master teachers may apply their subject area test and performance evaluation scores toward the new career achievement levels. No more applications for the master teacher program are to be accepted, and the program is to be repealed July 1, 1987.

The Career Achievement Act includes some other provisions including the creation of a 12-member (six businessmen, six educators) Professional Teacher Career

Development Council (created by Section 231.5336, F.S.) for the purpose of assisting the Department of Education with the implementation of the Career Achievement Program and providing advice on related teacher issues.

Section 230.2316, F.S., creating a dropout prevention program, is provided comparable to that included in COMMITTEE SUBSTITUTE FOR SENATE BILL 450 (CHAPTER 86-225) discussed above under the heading Dropout Prevention. [The purpose of the provisions of this section is to phase out the current alternative education program, with its emphasis on punitive programs, and replace it with a more positive and comprehensive dropout prevention program.] The Dropout Prevention Program is defined as including alternative education, teen parent, substance abuse, disciplinary, and youth services programs. To be eligible to receive FEFP funding for dropout prevention programs, districts must submit a comprehensive plan, including specified components, to the Commissioner of Education for approval. Districts whose plans are approved will be eligible to receive state funding beginning with the 1987-1988 school year. In the interim, districts may continue to receive state funding pursuant to Section 230.2315, F.S., for any program meeting the statutory requirements for alternative education.

The act also authorizes the distribution of grants to nonprofit community-based organizations wishing to implement dropout prevention programs. These grants are to be awarded on a competitive basis by the Commissioner of Education.

Finally, the Florida Center for Dropout Prevention, originally established at the University of Miami through proviso in the General Appropriations Act, is authorized in statute by creation of Section 232.302, F.S.

MISCELLANEOUS EDUCATIONAL LEGISLATION

Florida School for the Deaf and the Blind

HOUSE BILL 723 (CHAPTER 86-299) Amends Section 242.331, F.S., which permits the Board of Trustees of the Florida School for the Deaf and the Blind to deposit outside the state treasury money received as gifts, donations, or bequests. This legislation prohibits the use of such funds to compensate individuals for lobbying before the House of Representatives, the Senate, or any legislative committee.

Public Education Capital Outlay and Debt Service (PECO)

HOUSE BILL 1180 (CHAPTER 86-1) readopts Chapter 235, F.S. [It is identical to the substantive law portion of Chapter 85-116, Laws of Florida, as passed by the 1985 Legislature. The measure was enacted to assure the continuation of Chapter 235, F.S., in the event the court rules Chapter 85-116, Laws of Florida, unconstitutional.

[The issue surrounding the 1986 act centers on the measure addressing multiple subjects, since it provides for the appropriation of capital outlay funds as well as amending and reenacting Chapter 235, F.S.]

The main changes reenacted in Chapter 235, F.S., are as follows:

(1) Chapter 235, F.S., is reenacted, and all actions taken pursuant to Chapter 85-116, Laws of Florida, which would have been lawful under the provisions of this act (HOUSE BILL 1180, CHAPTER 86-1) are ratified. Provisions of the 1986 act shall apply retroactively from the effective date of Chapter 85-116, Laws of Florida (June 14, 1985).

(2) The public school allocation formula for new construction funds is changed. The method for counting growth in membership is changed from an instructional unit basis to a capital outlay full-time-equivalent student (FTE) basis. The existing three growth time periods are replaced by two more recent time periods, and provision is made to roll these periods forward so they continue to emphasize those counties with the most recent growth.

(3) Definitions of terms related to education construction projects are deleted for the following: educational capital outlay needs, improved educational environment, and relocatable facility. New terms are defined. These include: ancillary plant, auxiliary facility, feasibility study, long-range planning, need determination, site, site development, site improvement, and site improvement incident to construction. The definitions for other terms are amended.

(4) The activities assigned to the Office of Educational Facilities are amended.

(5) Responsibility for fire safety inspections is clarified.

(6) The procedure for requesting construction funds for joint-use facilities to be used by two or more educational boards is amended. Determination of the amount of state funds for which such facilities qualify is amended to reflect only that portion of the facility actually to be jointly used, up to a maximum of 50 percent of the cost of the total project.

(7) The provisions relating to requesting and funding community education facilities are amended. Such projects would be required to be located on grounds owned or leased by an education agency. The request must detail how the facility will be used in the regularly scheduled instructional program. The local match would no longer be allowed to be just the value of the land on which the facility would be constructed. State funding may also be provided for less than one-half of the total cost if the facility is not to be used at least one-half of the time by the educational board requesting the project.

(8) The State Board of Education is authorized to transfer title of state-owned relocatable facilities to local boards on the basis of need and availability.

(9) Language relating to educational facilities design and prequalification of contractors, also contained in State Board of Education rules, is repealed.

(10) Language relating to low-energy use design is amended to allow facilities to be designed for natural

ventilation or a combination of natural and low-energy usage mechanical ventilation.

(11) Language relating to educational plants is amended to include ancillary facilities; i.e., administrative, maintenance, and warehouse type buildings.

(12) Existing language relating to contracting with minority construction companies is amended to clarify that up to 10 percent of the total amount of funds allocated may be set aside for such purposes.

(13) Language limiting the value of projects which can be completed on a day-labor basis are increased from $50,000 to $100,000. For projects on which no bids are received, the limit is raised from $100,000 to $200,000 for a day-labor basis.

(14) Language relating to expending funds for placement, paving, or maintaining any road, byway, or sidewalk is amended to specify that the location of such project must be on property contiguous to or running through the education plant grounds.

(15) Submission of long-range plans is defined as a 3-year plan.

(16) Sources of funds which make up The Public Education Capital Outlay and Debt Service Trust Fund are amended to include General Revenue appropriated to the Fund (PECO) and to delete federal revenue sharing or federal grants and donations.

(17) Language passed by the 1984 Legislature amending Section 235.435, F.S., is deleted. The major provision

affected is the requirement that local school boards would have had to levy the full 1.5 local optional ad valorem tax in order to receive any state PECO funds. This requirement is eliminated and will not become law.

(18) Section 235.065, F.S., is repealed. This required the Office of Educational Facilities of the Department of Education to develop a maintenance manual to serve as a guide for boards.

Public Education Capital Outlay/Debt Service Appropriation Act

HOUSE BILL 1181 (CHAPTER 86-2) reenacts those sections of Chapter 85-116, Laws of Florida, appropriating 1985 funds for public education capital projects, including provisions which were vetoed by the Governor.

The act was passed as a contingency against a possible adverse court ruling in a legal action charging that Chapter 85-116, Laws of Florida, violated the prohibition against legislative acts of multiple subjects. Chapter 85-116, Laws of Florida, contained the reenactment of Chapter 235, F.S., as well as the capital outlay appropriations. Legislation reenacting that portion of Chapter 85-116, Laws of Florida, which reestablishes Chapter 235, F.S., was also passed by the 1986 Legislature. [See summary of House Bill 1180 (Chapter 86-1) above under the heading Public Education Capital Outlay and Debt Service PECO.]

The act appropriates and distributes funds available for public education capital outlay under provisions of Section

9(a)(2), ARTICLE XII of the State Constitution, and for school district and community college capital outlay under provisions of Section 9(d), ARTICLE XII of the State Constitution. Individual projects are provided for as well as funds to be distributed to school districts pursuant to Subsection 235.435(3), F.S., and the funds necessary for debt service on bonds issued in accordance with Section 9(a)(2) and (d), ARTICLE XII of the State Constitution. There is also a section ratifying any actions taken under authority of Chapter 85-116, Laws of Florida, and a severability clause.

Prior to granting approval for HOUSE BILL 1181 (Chapter 86-2) to become law, the Governor vetoed ten specific construction items totaling approximately $4 million. Readers are directed to the Governor's veto message on HOUSE BILL 1181, dated April 22, 1986, for specific details.

ETHICS AND ELECTIONS*

The 1986 Regular Session of the Legislature produced a major addition to the Florida Election Code when Florida joined 18 other states in providing some type of state funding for campaigns for public office. In Florida's case, HOUSE BILL 1194 (CHAPTER 86-276), the "Florida Election Campaign Financing Act," provides public funds to candidates for statewide office qualifying for and requesting such funding. Other revisions to the Election Code passed by the Legislature concerned absentee ballots, election administration, campaign financing, and presidential preference primaries and ballots.

Public Campaign Financing

Sections 106.30 through 106.36 are created by HOUSE BILL 1194 (CHAPTER 86-276) and are cited as the "Florida Election Campaign Financing Act."

This act provides state funds to candidates for statewide office who request such funding and who meet certain requirements. To qualify for funding a candidate must:

--have opposition

--agree to a post election audit

*Prepared by staff of House Ethics and Elections Committee

--abide by the prescribed spending limit

--raise five percent of the spending limit in contributions of $250 or less from individuals after September 1 of the calendar year prior to the election.

Once the five percent threshold is met, the state will match dollar for dollar all contributions from individuals (including the contributions comprising the threshold amount) made after September 1 up to $250 per individual. The state will not match PAC money, party money, union or corporate money, or contributions above $250.

The spending limits are tied to the number of votes cast for the office in the last contested general election -- 75 cents per vote for governor; 25 cents per vote for cabinet office. State funds will be appropriated from the General Revenue Fund to the Election Campaign Financing Trust Fund and penalties are provided for exceeding the spending limit and falsifying reports to qualify for state funds.

The act takes effect January 1, 1987.

Presidential Preference Primary

HOUSE CONCURRENT RESOLUTION 95 urges the 15 southern states to hold a regional Presidential Preference Primary. In addition, HOUSE BILL 374 (CHAPTER 86-97) amends Subsection 103.101(4), F.S., to provide that when there is only one candidate of any political party for nomination for President, neither the name of the candidate nor his delegates shall be printed on the Presidential Preference Primary ballot.

The act takes effect January 1, 1987.

Absentee Ballots

HOUSE BILL 278 (CHAPTER 86-33) amends several areas of the statutes relating to voting and canvassing of absentee ballots. Subsection 101.64(1), F.S., is amended to eliminate the requirement for electors to check a reason for voting absentee and deletes the requirements to designate party affiliation and precinct on the mailing envelope. In addition, Subsections 101.68(1) and (3), F.S., are revised to allow the canvassing of absentee ballots to begin at 7 a.m. on election day. This will allow the absentee ballots to be made ready for counting although the actual counting may not begin until 7 p.m. election day.

HOUSE BILL 219 (CHAPTER 86-199) revises Subsection 101.62(1), F.S., to change the time period for requesting an absentee ballot from one year preceding an election to any time during the calendar year and to allow the initial request to serve as a request for an absentee ballot for all elections to be held during the calendar year.

The provision is effective January 1, 1987.

Election Administration

HOUSE BILL 256 (CHAPTER 86-200) broadens several areas in the "Electronic Voting Systems Act" (Sections 101.5601-101.5615, F.S.), so that the statutes conform to all electronic voting systems currently in use in the state. In addition, this act revises Section 98.461, F.S., to provide an

alternative method of storing the master list of county electors, by allowing the information contained on the registration form, including the signature, to be electronically reproduced and stored.

HOUSE BILL 278 (CHAPTER 86-33), revises Subsection 102.141(2), F.S., to delete the requirement that the county canvassing board meet at the courthouse and allows the Board to convene, with notice, at any building accessible to the public.

HOUSE BILL 127 (CHAPTER 86-7), changes the qualifying period in Subsection 99.061(2), F.S., for special district elections held at the same time as the second primary or general election, to coincide with the qualifying period for other offices.

The provision is effective January 1, 1987.

HOUSE BILL 219 (CHAPTER 86-199), amends Paragraph 98.271(2)(a), F.S., to allow a person to be appointed as a deputy voter registrar if he is a registered elector of the state and resides in or is employed in the county in which he seeks appointment.

A new Section 101.572, F.S., is created to provide for the public inspection of ballots and allows only the supervisor, his employees or the canvassing board to handle such ballots consistent with the public records law. The candidates are to be notified of the time and place of inspection. Additionally, Section 101.253, F.S., is amended to change the last date for a candidate to withdraw and avoid

having his name printed on the ballot from the 39th to the 42nd day prior to election.

These provisions are effective January 1, 1987.

Campaign Financing

HOUSE BILL 127 (CHAPTER 86-7), repeals Subsection 106.141(4), F.S., which places a two year limit on the existence of campaign accounts.

The provision is effective January 1, 1987.

SENATE BILL 129 (CHAPTER 86-134), amends Subsection 106.08(3), F.S., to allow campaign funds to be used to make charitable contributions in lieu of flowers in the memory of a deceased person. This act also clarifies Section 106.125, F.S., by stating that campaign funds may be used for travel advances and reimbursements for authorized expenses. In addition, it eliminates a phrase from the candidate's oath found at Paragraph 99.021(1)(a), F.S., regarding state law violations.

FINANCE AND TAXATION*

The Legislature began a program of review and repeal of the numerous exemptions from the sales tax during the 1986 Regular Session. Exemptions for laundry and dry cleaning services, pool chlorine, and candy costing less than 25 cents were repealed; numerous other exemptions are scheduled for 1987 repeal, and a commission was created to review these repeals, and to review all remaining exemptions prior to the 1988 Regular Session. Also, the tax on cigarettes was increased by three cents per pack.

Various administrative provisions relating to the excise and sales taxes on fuels were revised, and the procedures and requirements for levy of the local option gas tax were substantially revised.

As an aid to enforcement of the documentary stamp tax, a condition for recording a deed transferring an interest in real property was imposed which requires the grantee to file a return with the clerk of the circuit court stating the actual consideration paid. Included in amendments relating to the intangible tax, the Department of Revenue is directed to implement a one-time amnesty program during which taxpayers may

*Prepared by staff of House Bill Drafting Service

avoid criminal penalties by paying delinquent taxes and interest.

Provisions imposing a tax on oil and gas production were completely restructured, and a tax on sulfur production was added. The various taxes on telecommunications services were also revised.

Among the amendments relating to ad valorem tax exemptions, counties were authorized to waive the annual application requirement for homestead exemption under specified conditions.

In the general area of financial matters, various amendments affected the investment of state funds. Also, the creation of one or more Florida Equity Exchanges was authorized, and an Advance Refunding Law was enacted.

Other enactments included amendments relating to enterprise zone tax credits, local occupational license taxes, corporate taxation, the "Florida Private Activity Bond Allocation Act," the "Florida Building and Facilities Act," ad valorem tax administration, and general tax administration by the Department of Revenue and other collection agencies.

Tax on Sales, Use and Other Transactions

Repeal of several sales tax exemptions and future "Sunset" of others is the subject of COMMITTEE SUBSTITUTE FOR HOUSE BILL 1307 (CHAPTER 86-166). Effective July 1, 1986, the following become subject to sales tax: laundry, dry cleaning, linen supply, garment pressing, carpet and upholstery cleaning,

and industrial laundry services (Paragraph 212.05(1)(i), F.S.); pool chlorine (Paragraph 212.08(2)(c), F.S.); and candy costing less than 25 cents (Subsection 212.08(1), F.S.).

Based on amendments and repeals in various portions of Sections 212.02, 212.031, 212.04, 212.05, 212.06, 212.08, 212.096, 212.12, and 288.385, F.S., effective July 1, 1987, the following will become subject to the sales tax: all services including advertising; sales of newspapers and magazine subscriptions; per diem and mileage charges by railroad companies; charges for admission onto fishing boats; charges for admission to cultural events; condominium recreational leases, merchants' association leases, trade show subleases, midway operator leases, and movie theater space rental; charges for admission to school events, nonprofit organization events, or the Superbowl; dues and membership fees imposed by nonprofit organizations; sales of boats to out-of-state residents; certain motor vehicle lease charges; production of video tapes and motion pictures; labor costs of factory-built houses; radio and television broadcasting charges; feminine hygiene products; building materials, business property and electricity used in enterprise zones; purchases by volunteer fire departments; resource recovery equipment operated by local governments; solar energy equipment; State Theater purchases; car sales to nonresidents; flyable aircraft; various public authorities, including their revenue bonds; and the enterprise zone job creation credit will be removed.

The act requires establishment of a 21-member commission by October 1, 1986, to review the public policy and fiscal impact of sales tax exemptions, and to report to the Legislature prior to the 1987 Regular Session on the exemptions repealed by the act, on applicability of the use tax, the definition of the tax base of certain service industries, and exemptions from the cigarette tax for Seminole Indians under Section 210.05, F.S. Prior to the 1988 Regular Session, the commission is to evaluate all remaining sales tax exemptions. Specific criteria for review are provided.

(Another provision of this act is discussed below in this article under the heading Tax on Cigarettes and Tobacco Products.)

Sales tax provisions are also included in COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152). Amendments to Sections 212.02, 212.07, 212.031, 212.06, 212.12, 212.14, 212.17, and 212.18, F.S., apply the sales tax to the granting of a license to use or occupy a building or parcel of real property. Paragraphs 212.02(6)(h) and 212.031(1)(a), F.S., are amended to exclude from the types of real property leases or licenses subject to taxation the following: public or private streets or rights-of-way used by utilities; public streets used for transportation; airport landing, loading, and fueling areas; and port authority docking, loading, and fueling areas.

Under the provisions of new Section 212.0505, F.S., the unlawful sale, use, consumption, distribution, manufacture, derivation, production, transportation, or storage of any

medicinal drug, as defined in Chapter 465, F.S., cannabis, or controlled substance enumerated in Section 839.03, F.S., is subject to tax at the rate of 20 percent of the estimated retail price. Activities by government officers or employees acting in their official capacity are exempt. Assessment of the tax is not to be construed as making the subject transaction lawful. Suppression of evidence or dismissal of criminal charges shall not affect such assessments. The Department of Revenue is directed to notify the state attorney of such assessments, and the tax may be settled or compromised only when the state attorney so requests.

Application of the sales tax to materials used in manufacturing is revised in an amendment to Paragraph 212.02(3)(c), F.S. The exemption for materials that become a component of the finished product includes chemicals and fuels; however, machinery and equipment, purchased electricity, and fuels used to power machinery, which are dissipated in fabricating tangible personal property for sale, are taxable, even though they may become components of the tangible personal property for sale through accident, wear, tear, erosion, corrosion or similar means.

With respect to exemptions, Paragraphs 212.08(2)(a) and (b), F.S., are amended to specify that prescriptions for exempt articles must be written by a prescriber authorized by law to prescribe drugs, rather than a "practitioner of the healing arts." The definition of "religious institution" under Paragraph 212.08(7)(a), F.S., is amended to include synagogues,

and that definition and the definition of "educational institution" under the same paragraph are amended to include state, district or other governing or administrative offices the function of which is to assist or regulate the customary activities of such institutions or members within the state or district organization. The exemption for boiler fuels under Paragraph 212.08(7)(m), F.S., is amended to include sulfur. Exempt fuels must be purchased for use as combustible fuel and used in manufacturing, processing, compounding or producing items of tangible personal property for sale, and the purchaser must sign a certificate stating that the fuel will be used for an exempt purpose. Finally, Paragraph 212.08(7)(v), F.S., is created to provide an exemption for nonprofit corporations exempt under the Internal Revenue Code whose primary purpose is to raise money for military museums.

In the area of sales tax administration, this act transfers provisions regulating resales from Paragraph 212.02(3)(a), F.S., to Paragraph 212.07(1)(b), F.S. Conforming and corrective changes are made in Paragraph 212.02(6)(h), F.S., Subsection 212.02(12), F.S., and Paragraph 212.08(7)(a), F.S. Subsection 212.07(2), F.S., is amended to provide that where it is impracticable, due to the nature of the business practices within an industry, to separately state sales tax on any sales slip or other evidence of sale, the Department of Revenue may establish an effective tax rate for such industry, and amend such rate as necessary.

Subsection 212.06(10), F.S., which prohibits issuance of title or registration without evidence of payment of sales tax, is amended to specifically include mobile homes and motor vehicles. Portions of Section 212.11, F.S., relating to estimated tax liability, inadvertently repealed under the expiration date for Chapter 85-120, Laws of Florida, the general appropriations "implementing act," are revived and readopted. Dealers providing communication services are included under provisions for the dealer's credit in Subsection 212.12(1), F.S.

Language in Paragraphs 212.12(6)(b) and (c), F.S., relating to procedures when a dealer's records are inadequate or adequate but voluminous, is amended to allow purchases, but not fixed assets, to be used for statistical sampling. A penalty for reporting a sales price of a used motor vehicle less than the actual price under Paragraph 212.05(1)(a), F.S., is revised from $500 or 100 percent of the tax due, whichever is greater, to twice the amount of the tax due, and the Department of Revenue is authorized to waive or compromise penalties imposed for such false reporting after July 1, 1985.

(Discussions of other provisions of this act are included under several of the following headings in this article on FINANCE AND TAXATION.)

Discretionary Local Sales Taxes

Under the provisions of COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152), uniform administrative provisions

for local discretionary sales surtaxes are amended. Paragraph 212.054(3)(h), F.S., is created to specify that a transaction is deemed to have occurred in a taxing county if the dealer owing a use tax on purchases or leases is located in the county. Subsection 212.054(4), F.S., is amended to remove an exemption from Subsections 212.07(1), (2), and (4), F.S., but it is specified that dealers need not separately state the surtax on sales slips.

Section 212.0305, F.S., is substantially revised to provide for uniform authorization and administration of local convention development taxes. In addition to the consolidated government tax presently authorized by said section, provisions relating to the following taxes are repealed and transferred to said section: levy by certain home rule charter counties (present Section 212.057, F.S.); and levy by counties levying a tourist advertising ad valorem tax (certain sections of present Chapters 84-67, 84-324, and 84-373, Laws of Florida). Any future convention development tax on transient rentals must be authorized pursuant to said section and administered and collected as specified therein. The section takes effect January 1, 1987.

Finally, this act also deletes an obsolete reference in Section 213.05, F.S.

Tax on Cigarettes and Tobacco Products

The cigarette tax is increased under the provisions of COMMITTEE SUBSTITUTE FOR SENATE BILL 752 (CHAPTER 86-123).

Section 210.02, F.S., is amended to decrease the rates stated therein and to eliminate the credit for any federal tax liability existing on October 1, 1985, under the Internal Revenue Code. [The net result is an increase in the tax per pack of standard cigarettes from 21 cents to 24 cents.] On July 1, 1986, the effective date of the tax increase, each manufacturer, distributor, wholesaler, and vendor is required to inventory cigarettes on hand and pay a three-cent-per-package tax thereon by July 10, 1986.

Paragraph 210.05(3)(a), F.S., is amended to allow the dealer's credit to be based on the actual tax collected rather than on a 21-cent-per-pack tax. Paragraph 210.20(2)(a), F.S., is amended to revise the cigarette tax distribution; after all designated distributions are made the balance of the revenue produced from the tax is deposited in the General Revenue Fund. (See Subsection 210.20(3), F.S.) An appropriation of $200,000 is made to the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation to implement the act.

With respect to the tax on tobacco products, this act also amends Subsection 210.55(1), F.S., to remove a requirement that the monthly return filed by taxpayers with a place of business in Florida show the quantity of tobacco products brought into the state or made in the state for sale.

The commission established to review sales tax exemptions under COMMITTEE SUBSTITUTE FOR HOUSE BILL 1307 (CHAPTER 86-166) is also directed to study the cigarette tax exemption for Seminole Indians under Section 210.05, F.S.

This report is to be presented to the Legislature prior to the 1987 Regular Session.

(Other provisions of this act appear above in this article under the heading Tax on Sales, Use and Other Transactions.)

Excise Tax on Motor and Special Fuel

Various administrative fuel tax provisions are included in COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152). An amendment to Subsection 206.44(2), F.S., provides that delinquent taxes do not begin to accrue interest until the 21st day of the month, the day after the tax is due. Section 206.45, F.S., is amended to require the Department of Revenue to maintain a minimum balance of $50,000 in the Gas Tax Collection Trust Fund. Revenues from the constitutional gas tax are not to be used to maintain this minimum.

Section 206.27, F.S., relating to fuel tax records as public records, is amended to specify that any information concerning audits in progress, or those records and files of the Department of Revenue which are currently the subject of pending investigation by the Departments of Revenue or Law Enforcement are confidential, and a first degree misdemeanor penalty is provided for violation. Section 206.404, F.S., is amended to require retail dealers to report purchases and sales of motor fuel and remit all local option taxes. A penalty of $30 is provided (in addition to any other penalty or interest due) for failure to file a complete report.

With respect to the annual decal fee in lieu of tax for vehicles fueled by liquefied petroleum gas or compressed natural gas, Paragraphs 206.877(1)(a) and (2)(a), F.S., are amended to delete the decal requirement for vehicles principally or exclusively used on farms, and to allow for proration of the decal fee on a quarterly basis. An amendment to Section 72.041, F.S., includes fuel taxes among those taxes that other states may enforce in Florida if they allow Florida to do the same in their state.

Section 206.41, F.S., is amended to provide that the constitutional gas tax becomes state funds at the time of collection. This amendment also clarifies that refiners, importers or wholesalers may purchase tax exempt gas from licensed refiners and importers, but that any sales by a wholesaler or importer to other wholesalers or importers are not tax exempt. The distribution of the constitutional gas tax is revised in an amendment to Subsection 206.47(5), F.S. The distribution to counties with local option gas taxes is based on retail sales, and the distribution to the remaining counties is based on their gallons certified in fiscal year 1984-85 and multiplied times the state's growth rate in gasoline sales. This new formula will apply starting with fiscal year 1985-86.

This act creates Subsection 206.59(3), F.S., to authorize the Department of Revenue to audit inventories, receipts, and disposals of motor fuel. Any unaccounted for motor fuel is subject to all motor fuel taxes. If more taxes were collected than paid when the motor fuel was purchased, the

person collecting the additional tax is liable for the difference, and a 100 percent penalty is imposed if the difference is not remitted properly.

Subsections 206.60(1) and 206.605(1), F.S., are amended to clarify that both the county and municipal taxes on motor fuel are to be collected in the same manner as the constitutional gas tax. Also, reference to the expired gasohol exemption from the county gas tax is deleted. An amendment to Subsection 206.87(5), F.S., relating to refunds of tax on special fuels used for nonhighway agricultural or marine purposes, removes the requirement that such purchases be 26 gallons or more.

Tax on Aviation Fuel

COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152) amends Section 206.9825, F.S., to provide that fuel subject to the aviation fuel tax is not subject to the metropolitan transportation system local option tax levied under Section 336.026, F.S.

Section 206.9845, F.S., is amended by HOUSE BILL 952 (CHAPTER 86-165) to revise the distribution of the aviation fuel tax. Rather than being deposited in the General Revenue Fund, such proceeds, after service charges and refunds, are to be distributed monthly to the State Transportation Trust Fund.

Sales Tax on Fuel

Refunds of the sales tax on fuel are the subject of two provisions of COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER

86-152). Section 212.66, F.S., is amended to provide that the excise tax refund allowed to ethanol dealers for tax paid on fuel used for denaturing also applies to the sales tax.

Section 212.67, F.S., is amended to remove the 26-gallon minimum purchase requirement for refunds allowed under said section. Other amendments to this section require retail dealers to be licensed to be eligible for the refund for shrinkage of motor fuel, require the license number of the purchaser's motor vehicle or boat to be included on the sales invoice, and allow all persons eligible for the sales tax refund to use certain authorized retail stations, rather than just commercial fishermen.

Local Option Fuel Taxes

COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152) includes amendments relating to three of the local option fuel taxes. Subsection 336.021(1), F.S., is amended to require that the voted local option gas tax be collected and remitted by any person engaged in selling motor fuel at retail or using or selling special fuel at retail, and to allow any licensed retail dealer or jobber the collection allowance on motor or special fuels.

A similar amendment to Paragraph 336.026(2)(a), F.S., provides that the local option tax levied by a metropolitan transportation authority shall be collected and remitted by any person engaged in selling motor fuel at retail or using or selling special fuel at retail.

Section 336.025, F.S., relating to the local option gas tax, is substantially amended by this act. The same amendments just described regarding collection and dealer's allowance of the voted gas tax and metropolitan transportation authority tax are made for this tax. Various date changes are made; the tax must be imposed before July 1 to be effective September 1 and the Department of Revenue notified annually of the tax rate or a decision to rescind the tax by July 1, rather than August 15. Dates for establishment of interlocal agreements, adoption of resolutions of intent to levy, or adoption of resolutions approving the tax by municipalities are also moved ahead. (However, for 1986 only, such a tax may be imposed and the Department notified before August 15.) The requirement of a majority plus one vote of the governing body, or majority vote subject to referendum, to impose the third through sixth cents of the tax, is eliminated; the entire tax may be imposed by majority vote or referendum.

Other amendments relate to the method of distribution of the tax. If the tax is extended or the rate changed, a redetermination of the method of distribution must be established for the period of extension or additional tax. If no interlocal agreement exists, a new interlocal agreement may be established prior to August 1, 1986, or June 1 of any year thereafter. When the tax is imposed without an interlocal agreement regarding distribution of the proceeds, the distribution shall be based on transportation expenditures of the immediately preceding five years, and proportions are to be

recalculated every 10 years. Any such recalculation or new interlocal agreement shall not affect existing bondholders' rights.

Also, provision is made for participation in distribution of the tax proceeds by newly incorporated municipalities. Such distribution is to be based on previous per-lane-mile expenditures by the county in the newly incorporated area, or determined in the local act incorporating the municipality, and Subsection 165.071(1), F.S., is amended to allow such determination as part of the law incorporating a municipality.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243) also amends Section 336.025, F.S., to allow the proceeds of the revenue from the entire six-cent-local-option gas tax to be pledged to secure the payment of bonds. See the discussion under the heading Local Option Fuel Tax in the MOTOR VEHICLES AND TRANSPORTATION article of this Summary of General Legislation.

Taxation of Corporations

COMMITTEE SUBSTITUTE FOR SENATE BILL 311 (CHAPTER 86-121) deals with several aspects of the subject of corporate taxation. Sections 214.14 and 214.43, F.S., are amended, and Section 214.425, F.S., is created, to replace the six-percent-interest rate on corporate tax refunds, and the 12 percent rate imposed on late payments, with a single rate, adjusted annually on January 1 and July 1 based on the average prime rate during

the six months through the previous September or March, respectively. The act also reduces from nine to three months the time allowed the Department of Revenue to grant refunds without paying interest, and explicitly states the time from which and to which interest accrues on a tax overpayment. These provisions shall apply to taxable years ending on or after December 31, 1986.

An amendment to Subsection 607.361(2), F.S., increases the fee for filing an annual corporate report from $20 to $25, and Subsection 607.372(2), F.S., is amended to require that five percent of the moneys deposited in the Corporations Trust Fund be transferred to a Corporation Tax Administration Trust Fund created under Section 213.31, F.S., for use by the Department of Revenue for administration of taxes levied on corporations. For Fiscal Year 1986-87, moneys in the Trust Fund are appropriated to the Department for specified purposes, including development and implementation of an automated processing and accounting system for returns; establishment of an integrated computerized data base; development and implementation of a system allowing for the issuance of corporate refunds within 90 days; implementation of current-month processing of tax returns; and integration of the corporate income tax and emergency excise tax return forms and processing procedures.

Explicit language is added to Section 214.40, F.S., relating to penalties for failure to file timely returns, to provide that said section applies to notice of federal change

required under Section 220.23, F.S., and to any tax returns required under Chapter 221, F.S., relating to the emergency excise tax.

Paragraph 214.71(3)(b), F.S., is amended to expand the sales factor for financial institutions to include income from loans secured by property in Florida and rents from real and personal property in Florida. Also, Subsection 220.15(5), F.S., is created to expand the property factor of the apportionment formula for financial institutions to include intangible personal property such as coin and currency in this state; credit card receivables from customers residing in this state; loans where the office at which the initial loan application was made is in this state; and intangible personal property located in this state used to generate business. These amendments to Sections 214.71 and 220.15, F.S., shall apply to taxable years beginning after December 31, 1986.

This act amends Paragraph 214.72(2)(c), F.S., to define the eastern and southern boundaries of Florida for the purpose of computing revenue miles for special industries. Further, Subsection 220.131(5), F.S., is amended to allow special industries which include themselves in a Florida consolidated return with other members of a federally consolidated affiliated group to convert their apportionment formulas using special apportionment factor ratios.

Paragraphs 220.03(1)(n) and (2)(c), F.S., are amended to update references to the Internal Revenue Code to that in effect January 1, 1986.

Subsections 220.03(6), 221.01(2), 221.02(2), and 221.04(3), F.S., are amended to extend the repeal date of the emergency excise tax from June 30, 1986, to June 30, 1987. An amendment to Subsection 221.01(1), F.S., conforms the emergency excise tax to restrictions applicable to the corporate tax with respect to allocation of nonbusiness income. A new Subsection 221.04(2), F.S., is created to authorize the combination of emergency excise tax and corporate income tax returns and forms.

Finally, this act repeals Paragraph 220.13(1)(c), F.S., relating to an installment sales retroactive election that has become obsolete, and Section 220.69, F.S., relating to an obsolete exemption for out-of-state banks.

Provisions relating to the corporate tax are also included in COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152). Section 214.23, F.S., is amended to provide for additional alternative methods of giving notice to taxpayers, by personal delivery or by registered or certified mail to an address designated by the taxpayer.

Enterprise Zone Tax Credits

Several provisions of COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152) deal with enterprise zones. Subsection 220.181(10), F.S., is created to provide that an employee otherwise qualified and eligible for the corporate tax enterprise zone jobs credit prior to December 1, 1986, who is a resident of an enterprise zone designated pursuant to prior law

but not a resident of an enterprise zone approved under the revised law contained in Section 290.0065, F.S., shall continue to be eligible for the credit.

Amendments to Subsections 290.0055(4) and (5), F.S., revise the population limitations and zoning requirements for authorization of an enterprise zone. A population equal to the percentage of families with incomes below the poverty level in the county is allowed, and zones in jurisdictions with a population of less than 2,500 are exempt from zoning requirements. Section 290.0065, F.S., is amended to authorize the Department of Community Affairs to approve up to six, rather than five, areas within each of five, rather than four, population categories, as enterprise zones.

Subsection 290.015(3), F.S., is amended to require that the Auditor General's 1990 review of the Florida Enterprise Zone Act shall critique the enterprise zone program and shall include an analysis of the impact of limiting the application of the corporate and sales tax jobs credits only to businesses located in an enterprise zone, and an analysis of the impact of the program on small business. The appropriate legislative committees are directed to consider legislation to implement the Auditor General's recommendations.

Excise Tax on Documents

A new Section 201.022, F.S., is created by HOUSE BILL 1314 (CHAPTER 86-300) to require that, as a condition precedent to the recordation of any deed transferring an interest in real

property, the grantee or his agent must execute and file a return with the clerk of the circuit court stating the actual consideration paid for the interest in real property. Section 193.074, F.S., is amended to provide for confidentiality of such returns.

(Other provisions of this act are discussed below in this article under the headings Ad Valorem Tax Exemption and Ad Valorem Tax Administration.)

COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152) amends Section 201.02, F.S, to revise wording to provide that the section applies to instruments relating to "real property" rather than "realty." It also provides for taxation of conveyance of real property to a partner from a partnership under specified conditions, unless the taxpayer establishes that the conveyance is not made for the purpose of tax avoidance.

This act also creates an advisory council in each county which has implemented the provisions of Chapter 83-220, Laws of Florida, authorizing the levy by each county [defined in Subsection 125.011(1), F.S.] of a discretionary documentary surtax to assist low and moderate income families in the construction, purchase, or rehabilitation of housing. The council is to advise the county on all documentary surtax issues.

This provision is to take effect on October 1, 1986, and shall expire on October 1, 1993.

Intangible Personal Property Tax

Several administrative revisions relating to this tax are included in COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152). Subsection 199.042(2), F.S., is amended to provide a sliding scale of discounts for early payment of tax ranging from four percent for payment before the last day of February to one percent for payment before May 31. An amendment to Subsections 199.062(2) and (3), F.S., deletes the requirement that corporations file information annually regarding Florida shareholders. Security brokers are required to include additional information in their annual reports and to report their information on a computer-readable medium unless hardship can be demonstrated. Amendments to Paragraphs 199.232(1)(b) and (3)(a), F.S., increase from three to six years the time limit for audits and assessments of annual tax when the return omits an item in excess of 25 percent of the total taxable value, and allow audits and assessments at any time if a return is not filed or is grossly false or fraudulent.

Penalties are revised under an amendment to Section 199.282, F.S. The penalty for willful violation is increased from a second degree misdemeanor to a third degree felony, and a 15-percent penalty, which cannot be waived or compromised, is imposed for failure to file a return by the due date. A second degree misdemeanor penalty is provided for nonwillful failure to file a return or make records available. In addition, a penalty equal to the amount of tax due is imposed on any

officer or director of a corporation who administers the corporation's intangible taxes if he directs an employee to violate any provision of Chapter 199, F.S.

Section 199.103, F.S., is amended to specify that shares of regulated investment companies, including mutual funds and money market funds organized as business trusts or incorporated companies, shall be valued at the offering price of such shares on the last business day of the previous calendar year. Subsection 199.143(3), F.S., is created to provide that if a line of credit is secured by the borrower's residence, the nonrecurring tax shall be paid once on the maximum amount of the line.

The Department of Revenue is directed to implement a one-time amnesty program by July 1, 1987, for taxpayers subject to the intangibles tax, providing a six-month grace period during which a taxpayer may avoid criminal penalties by paying all delinquent taxes and interest. Nine positions and $430,000 are appropriated to the Department for the Fiscal Year 1986-1987 to implement this and various other intangible tax revisions.

Taxes on Telecommunication Services

COMMITTEE SUBSTITUTE FOR SENATE BILL 873 (CHAPTER 86-155) deals with various taxes on telecommunication services. With respect to the municipal public service tax, an unnecessary reference to telegraph service is removed in Paragraph 166.231(1)(a), F.S. Paragraph 166.231(9)(a), F.S.,

is amended to remove a provision that a purchase is within the municipality if the communication originates or terminates within the municipality and is billed within the municipality, and to specify instead that service provided within the municipality is taxable, or, if the location of the service cannot be determined, the tax applies to the total amount billed to an address within the municipality. Also, this amendment exempts foreign exchange service and private line service from the public service tax. New Paragraphs 166.231(9)(d) and (e), F.S., require a municipality taxing telecommunications service to provide to the service provider a current map of the municipality with street locations, and authorize municipalities to audit providers' records.

The same amendment is made in separate provisions which apply the gross receipts and the sales tax to persons who purchase, install, or rent telephone or telecommunication systems for their own use. Both Paragraphs 203.01(1)(b) and 212.05(1)(h), F.S., are amended to delete a requirement that such service be wholly or partially independent of any local telephone system or intrastate or interstate interexchange network. Also, radio systems operated by government agencies are exempt from the gross receipts tax.

Paragraph 203.012(2)(b), F.S., is amended to specify that the gross receipts tax does not apply to any tax collected under Chapter 203, F.S., which is separately stated on a customer's bill. Subsection 203.012(8), F.S., is created to place in the definitions section the present statutory

definition of "interstate," and Paragraphs 203.013(1)(a) and (2)(a) and Section 203.60, F.S., are amended to conform.

Another amendment in this act applies to both the gross receipts and sales taxes; Paragraph 203.013(1)(b), F.S., is created, and Paragraph 212.05(1)(e), F.S., is amended, to specify an apportionment formula for private communication services which subjects to Florida tax 100 percent of the charges for service within Florida and 50 percent of the "channel mileage charge" between the first termination point within Florida and the nearest termination point outside the state. These amendments take effect January 1, 1987.

Paragraph 212.05(1)(i), F.S., is created to provide a $50,000 per calendar year limitation on the amount of sales tax to be paid by users of certain interstate telecommunication services (WATS and private line type services) if the majority of such communications originate outside Florida and terminate in Florida. The limitation is only available to persons who have received a direct pay permit from the Department of Revenue. Also, for calendar year 1986, the limitation is only applicable to the last six months of 1986.

Finally, this act creates Subsection 337.401(4), F.S., to authorize municipalities to enter into agreements with long distance telecommunication service providers to operate a telecommunication route within a municipal right-of-way, and to charge a fee therefor.

Tax on Oil, Gas and Sulfur

COMMITTEE SUBSTITUTE FOR SENATE BILL 312 (CHAPTER 86-178) completely restructures Part I of Chapter 211, F.S., providing for separate taxes on oil and gas production and imposing a tax on sulfur production.

Revised Section 211.02, F.S., provides for the tax on oil production, which remains eight percent of gross value; small well oil and tertiary oil remain taxable at five percent. Provisions for determination of value and measurement of production are included in this section. New Section 211.025, F.S., provides for the tax on gas production. This tax will be determined by the volume of gas produced, rather than percentage of gross value. For the first year, beginning July 1, 1986, the tax rate is $0.162 per mcf (1000 cubic feet). For each fiscal year thereafter, the tax rate will be the gas base rate of $0.171 per mcf times a gas base rate adjustment calculated by the Department of Revenue based on the U.S. Department of Labor gas fuels producer price index. New Section 211.026, F.S., imposes a tax on sulfur production, determined by the long tons produced or recovered. For the first year, beginning July 1, 1986, the tax rate is $2.81 per long ton. For each fiscal year thereafter, the tax rate will be the sulfur base rate of $2.71 per long ton times a sulfur base rate adjustment calculated by the Department based on the U.S. Department of Labor sulfur producer price index.

Exemptions are consolidated in new Section 211.027, F.S. Section 211.06, F.S., is revised to provide for distribution of

tax proceeds through the Oil and Gas Tax Trust Fund. [After deductions for refunds for overpayments the distribution proportions remain the same, and the sulfur tax is distributed in the same manner as the gas tax.] New Section 211.075, F.S., specifies dates and procedures for payment of the taxes. The tax on oil production is due on or before the 25th day of the month following the month production occurred, but the taxes on gas and sulfur production are due on or before the 25th day of the second month following the end of each calendar quarter. Persons subject to the gas or sulfur tax are required to file declarations of estimated tax on or before the 25th day of the month following the month production occurred and to remit to the Department 90 percent of the estimated tax.

Interest and penalty provisions are consolidated and revised under new Section 211.076, F.S. Various interest rates are imposed for nonpayment, failure to file a return, substantial underpayment, and underpayment of estimated tax. Section 211.09, F.S., consolidates and revises provisions relating to collection of the taxes and duties of producers. New Section 211.125, F.S., contains extensive administrative and enforcement provisions. These include: recordkeeping requirements; Department inspection and audit powers; powers to assess deficiencies within stated time limits; credit and refund provisions; and provisions relating to liens and tax executions.

Language specifying that such taxes are exclusive is clarified in amended Section 211.13, F.S. Section 211.25,

F.S., is created to impose criminal penalties. Willful failure to file a return or keep records, filing a fraudulent return, willful failure to produce records, or willful violation of any other provision is a misdemeanor of the first degree. Withholding tax due and willfully failing to make remittance, or purporting to make payments due but willfully failing to do so because the remittance fails to clear the bank, is a misdemeanor of the second degree.

Subsection 253.023(2), F.S., relating to the Conservation and Recreation Lands Trust Fund, is revised to conform. Numerous sections under Part I of Chapter 211, F.S., which contain provisions amended and consolidated under this revision, are repealed.

Local Occupational License Tax

HOUSE BILL 453 (CHAPTER 86-298) amends Subsection 205.033(6), F.S., to reduce the additional tax that may be levied by each county defined by Subsection 125.011(1), F.S., or counties adjacent thereto, from 100 to 50 percent of the appropriate license tax, and to delete use of such additional tax for a major symphony orchestra.

The effective date of this act is October 1, 1986.

Water Control Districts

HOUSE BILL 336 (CHAPTER 86-54) amends Sections 298.365 and 298.54, F.S., to revise the date for certification of levy of an annual installment tax or maintenance tax by a water

control district to the property appraiser from August 31 to June 1.

The effective date of this act is October 1, 1986.

Ad Valorem Tax Exemptions

COMMITTEE SUBSTITUTE FOR SENATE BILL 520 (CHAPTER 86-141) creates Subsection 196.199(9), F.S., to provide that improvements to real property located on state-owned land and leased to a public educational institution shall be deemed owned by the public educational institution for tax exemption purposes if the improvement will become the property of the public educational institution or the state at the expiration of the lease. [This same provision appears in COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152).]

(Other provisions of COMMITTEE SUBSTITUTE FOR SENATE BILL 520 (CHAPTER 86-141) are discussed below in this article under the heading Ad Valorem Tax Administration.)

Several provisions relating to administration of ad valorem tax exemptions are included in HOUSE BILL 1314 (CHAPTER 86-300). With respect to homestead exemptions, an amendment to Section 196.151, F.S., extends the deadline by which the property appraisers must consider all exemption applications from the first Monday in May to July 1. Subsection 196.131(3), F.S., is created to allow a county, at the property appraiser's request and by majority vote of its governing body, to waive the annual application requirement for homestead exemption after an initial application is made and exemption granted.

Reapplication is required when the property is sold or no longer used as the applicant's homestead, and the property owner must notify the property appraiser of a change in the exempt status of the property. Paragraph 196.161(1)(b), F.S., is amended to specify that penalties apply when the property appraiser determines that for any year during the prior 10 years a person was granted a homestead exemption who was not entitled thereto, rather than who was "not a permanent resident of this state."

This act also amends Subsection 196.1995(5), F.S., to require that to be eligible for the economic development ad valorem tax exemption, improvements to real property must be made, or tangible personal property added, on or after the date of adoption of the ordinance granting such exemption.

Subsection 196.295(3), F.S., is amended to clarify that Subsection (2) of said section (relating to tax abatement for buildings damaged by fire) is repealed July 1, 1986, not the entire section. Subsection 196.295(4), F.S., is created to specify that when title to property is acquired by an exempt governmental unit, or for use for exempt governmental purposes, by any means except condemnation, the taxpayer is required to pay all taxes due from prior years. [These same amendments to Section 196.295, F.S., are included in COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152).]

This act also amends Subsection 193.461(2), F.S., to extend the deadline by which the property appraiser must notify a landowner of denial of agricultural classification from June

1 to July 1. Also, Subsection 196.193(5), F.S., is amended to similarly extend the deadline for notification of denial of an application for complete or partial ad valorem tax exemption.

(Other provisions of this act are discussed in this article above under the heading Excise Tax on Documents, and below under the heading Ad Valorem Tax Administration.)

The five-year residency requirement for the homestead exemption for disabled veterans is removed in amendments contained in SENATE BILL 248 (CHAPTER 86-177). See the discussion of this act in the EDUCATION article of this Summary of General Legislation, under the heading Veterans' Benefits in the HIGHER EDUCATION section.

Ad Valorem Tax Administration

COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152) amends Paragraph 145.10(2)(c), F.S., to authorize the executive director of the Department of Revenue to waive continuing education requirements for any property appraiser who has reached 60 years of age and who has been a property appraiser for 20 years.

HOUSE BILL 1314 (CHAPTER 86-300) contains several provisions relating to ad valorem tax administration. An amendment to Subsection 192.037(6), F.S., requires that escrow account agents for time-share ad valorem taxes comply with the provisions of Chapter 721, F.S. (Real Estate Time-Share Plans), relating to escrow agents. Also, this amendment provides that a statement of receipts and disbursements of the

escrow account is to be forwarded to the Division of Florida Land Sales, Condominiums and Mobile Homes of the Department of Business Regulation on or before May 1 of each year. [Former law required that a statement be sent to the Division of Ad Valorem Taxes of the Department of Revenue within 30 days of any disbursement.]

Subsection 194.013(4), F.S., is amended to allow a taxpayer who has filed with the property appraisal adjustment board, but who receives a lower assessment or a reduced exemption through a conference with the property appraiser, to receive a refund of the adjustment board filing fee.

Subsection 195.002(2), F.S., is created to authorize the Department of Revenue to establish committees on admissions and certification and to charge fees for conducting schools to upgrade assessment and collection skills of property appraisers and tax collectors. Subsection 195.087(4), F.S., is created to authorize property appraisers and tax collectors to pay such fees.

New Subsection 193.023(6), F.S., provides that in making his assessment of improved property which is subject to a lease entered into prior to 1965 in an arm's length, legally binding transaction, not designed to avoid ad valorem taxation, and which has been determined by the courts of this state to restrict the use of the property, the property appraiser shall assess the property on the basis of the highest and best use permitted by the lease, and not on the basis of a use not permitted by the lease or income which could be derived from a

use not permitted by the lease; this subsection applies to all assessments which are the subject of pending litigation.

Finally, this act amends portions of Section 200.065, F.S., relating to the method of fixing millage. The method for computing the "rolled-back rate" under Subsection 200.065(1), F.S., is revised to eliminate a provision under which any increase in the assessed value of real property by which a tax increment is measured pursuant to Section 163.387, F.S. (funding of a redevelopment trust fund), is excluded from such calculation. An amendment to Paragraph 200.065(2)(e), F.S., requires notice of the continuation of a final budget hearing that is recessed. Amendments to Paragraphs 200.065(3)(a) and (c), F.S., require that notice of tax increase advertisements include notice that a final decision is to be made on the budget as well as the proposed tax increase.

(Other provisions of this act are discussed above in this article under the headings Excise Tax on Documents and Ad Valorem Tax Exemptions.)

Section 200.065, F.S., is also amended by COMMITTEE SUBSTITUTE FOR SENATE BILL 922 (CHAPTER 86-190). Many of the deadlines contained in said section are revised, as shown in the following table ("Day" indicates number of days after certification of taxable value):

NEW		FORMER		
Date	Day	Date	Day	Action
July 24	24	July 15	15	Superintendent submits tentative budget to school board.

July 29	29	July 25	25	Public advertisement on school board tentative budget and proposed millage.
July 31-Aug. 3		July 27-29		School board conducts public hearing.
Aug. 4	35	July 30	30	Taxing authorities advise property appraiser of proposed millage.
Aug. 24	55	Aug. 19	50	Property appraiser notifies property owners of proposed millage levies.
Sept. 3-18	65-80	Aug. 29-Sept. 13	60-75	Public hearings on final budget for school boards and tentative budget for other taxing authorities.
Oct. 3	95	Sept. 28	90	Other taxing authorities' public advertisements on budget.
Oct. 5-8	97-100	Sept. 30-Oct. 3	92-95	Other taxing authorities' public hearings on final budget and millage.
Oct. 9	101	Oct. 8	100	Taxing authorities certify adopted millage to property appraiser.

Subsection 373.536(1), F.S., is amended to conform to these revised time periods.

In other amendments, Paragraph 200.065(3)(1), F.S., is amended to define "proposed operating budget expenditures" or "operating expenditures" for purposes of a statement that appears in the advertised budget summary. Subsection 200.065(7), F.S., is amended to require the property appraiser to deliver an estimate of total assessed value to each taxing authority on June 1, rather than within 10 days of a request therefor.

With respect to the school district notice of intent to levy additional taxes for capital outlay, Subsection 200.065(9), F.S., is amended to require that projects anticipated to be funded be listed in priority within specified categories. Notice and hearing are required if the school district needs to amend the list of capital outlay projects previously advertised and adopted. An amendment to Subsection 200.065(10), F.S., excludes school millage rates from those rates that are adjusted if a review notice is issued and the roll finally approved is at variance with the certified roll.

This act also amends Subsection 193.1142(4), F.S., to require that a review notice be in writing and set forth with specificity all reasons relied on by the Department of Revenue as a basis for issuing the notice. It shall specify all supporting data, surveys, and statistical compilations for review, and shall set forth with particularity remedial steps which the Department requires the property appraiser to take in order to obtain approval of the tax roll.

COMMITTEE SUBSTITUTE FOR SENATE BILL 520 (CHAPTER 86-141) also relates to ad valorem tax administration. References are corrected in Subsections 197.363(2) and 197.472(8), F.S. Subsection 197.472(2), F.S., is amended to specify that a person redeeming a tax certificate shall pay the interest rate due on the certificate (rather than bid) or the five-percent mandatory charge, whichever is greater, and to provide that said subsection applies to all county-held tax certificates.

An amendment to Subsection 197.473(1), F.S., allows the tax collector a fee of $5, rather than $1, per $100, with respect to disposition of unclaimed redemption moneys. Subsection 197.413(10), F.S., is amended to increase from $1 to $2 the fee for collection of delinquent taxes.

Subsection 197.502(8), F.S., is created to provide that taxes shall not be extended against parcels listed as lands available for taxes, but shall be added to the required minimum bid. This subsection further provides that seven years from the day the land was offered for public sale, the land shall escheat to the county in which it is located, and all tax certificates and liens against the property shall be canceled. [This same subsection is also created by COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152).] Provisions relating to consolidated applications are transferred from Subsection 197.502(1) to new Subsection 197.502(9), F.S. New Subsection 197.502(10), F.S., provides that any fees collected pursuant to said section shall be refunded to the certificateholder in the event that the tax deed sale is canceled for any reason.

Finally, this act creates Subsections 197.592(3) and (4), F.S. These subsections provide that lands acquired by a county for delinquent taxes which have not been previously sold or dedicated by the board of county commissioners, which the board determines are not to be conveyed to the record fee simple owner, and which are located within the boundaries of an incorporated municipality of the county, shall be conveyed to the governing board of the municipality in which the land is

located. It is further specified that liens of record held by a county upon lands not conveyed to the owner or a municipality shall not survive the conveyance of the property to the county.

(Other provisions of COMMITTEE SUBSTITUTE FOR SENATE BILL 520 (CHAPTER 86-141) are discussed above in this article under the heading Ad Valorem Tax Exemptions.)

General Tax Administration

Several general provisions relating to tax administration are included in COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152). An amendment to Section 213.06, F.S., authorizes the Department of Revenue to adopt emergency rules if the effective date of a legislative change occurs sooner than 60 days after the close of the legislative session in which the change was enacted and the change affects a substantial number of dealers or persons subject to the change.

Section 213.21, F.S., is amended, and Paragraph 211.33(1)(g) and Subsection 220.34(3), F.S., are created. The effect of these changes is to remove the prohibition against settling or compromising penalties for estimated installments of severance taxes, corporate income and franchise taxes, and insurance premium taxes.

New Subsection 213.22(4), F.S., authorizes the Department to collect a fee for disclosure of a technical assistance advisement. New Subsection 215.26(5), F.S., provides that failure to comply with time limitations relating to adjudication of tax matters under Sections 72.011 and

120.575, F.S., while a taxpayer is pursuing an administrative remedy before the Department, shall preclude a refund through the Comptroller unless the taxpayer demonstrates that the failure was not due to neglect or an intent to delay payment of taxes and that the failure was due to a reasonable cause.

New Subsection 324.26(6), F.S., relieves the Department of liability for damages due to insufficient or fraudulent proof of insurance (such proof is required in connection with registration of commercial motor vehicles and issuance of decals under Chapter 207, F.S.), and states that the issuance of a decal is not prima facie evidence of insurance coverage.

An amendment to Subsection 213.053(2), F.S., provides for confidentiality of letters of technical advice. New Subsection 213.24(2), F.S., specifies that billings for deficiencies of tax, penalty, or interest shall not be issued for any amount less than the actual costs incurred by the Department to produce a billing, and requires establishment of a minimum billing amount in accordance with an annual study.

Finally, this act creates a new Subsection 213.27(5), F.S., to authorize the Department to contract with any auditing agency to audit mail-order businesses to determine if such businesses have taxable nexus with Florida. The audit agency may not audit on behalf of the Department any Florida domiciled person, person registered in Florida for sales tax purposes, or corporation filing a Florida corporate tax return, if the person or corporation objects in writing to the Department and the auditing agency.

Financial Matters

Section 215.84, F.S., specifies the maximum interest rate applicable to government bonds. HOUSE BILL 76 (CHAPTER 86-15) amends this section to make its provisions applicable to debt instruments whose interest is either taxable or tax exempt from income taxation under federal law existing on the date the bonds are issued. It also provides that if the interest rate on bonds bearing a floating or variable rate of interest as calculated on the date of initial sale does not exceed the maximum interest limitations, and the method for computing the rate does not change during the life of the bonds, subsequent increases in the interest rate in accordance with said method shall not be considered a violation of the interest limitations.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 389 (CHAPTER 86-236) amends Subsection 215.44(6), F.S., to require the Auditor General to conduct performance postaudits of State Board of Administration investments made under repurchase or reverse repurchase agreements and not otherwise authorized under Sections 215.44-215.53, F.S. This act also amends Subsection 215.444(2), F.S., to specify that members of the Investment Advisory Council must possess special knowledge, experience, and familiarity with financial investments and portfolio management, and to remove the prohibition against members serving more than one term.

In addition, this act amends Section 215.47, F.S., to broaden Board of Administration investments authorized

thereunder. It allows investment in short-term obligations not otherwise authorized to be purchased individually or in pooled accounts or other collective investment funds, for the purpose of providing liquidity to any fund or portfolio. It provides for investment with no more than five percent of any fund in corporate obligations and securities of any kind of a foreign corporation, or a foreign commercial entity having its principal office located in any country other than the United States of America or its possessions or territories. It further provides that no more than five percent of any fund may be invested as deemed appropriate by the Board, notwithstanding investment limitations otherwise expressed in said section. However, prior to engaging in any investment activity not otherwise authorized, excluding investments in publicly traded securities, options, financial futures or similar instruments, the Board must present to the Investment Advisory Council a proposed plan for the investment. It also specifies that the Board shall not buy any obligation or security of any South African corporation, of any South African government-owned corporation, or of the South African government.

Finally, Subsection 280.03(2), F.S., is amended to exempt Florida Retirement System Trust Fund deposits and securities from public deposit security requirements under Chapter 280, F.S.

Except for the prohibition against investment in South African securities, COMMITTEE SUBSTITUTE FOR SENATE BILL 313 (CHAPTER 86-152) contains provisions identical to those of

COMMITTEE SUBSTITUTE FOR HOUSE BILL 389 (CHAPTER 86-236) described above. In addition, COMMITTEE SUBSTITUTE FOR HOUSE BILL 313, (CHAPTER 86-152) contains several other provisions relating to financial matters. It specifies that, in a county that does not have an industrial development authority, the public economic development agency that advises the county commission on issuance of industrial revenue bonds shall be subject to the confidentiality requirements of Section 288.075, F.S., with respect to records relating to private businesses. It provides that the Jacksonville Transportation Authority shall have all the powers conferred by the Metropolitan Transportation Authority Act, Part VI of Chapter 163, F.S., and by Subsection 212.055(1), F.S., which authorizes the charter county transit system surtax. It specifies that revenues shall be used to pay principal and interest on bonds for which tolls have been pledged, and provides for expiration of the tax upon retirement of the bonds.

This act also authorizes the creation of one or more Florida Equity Exchanges. The purpose of an exchange is to provide a marketplace for the negotiation, arrangement, exchange, sale, purchase, brokerage, syndication, underwriting, and all activities incidental thereto, of investment opportunities, in an institutionalized, and, to the maximum extent possible, self-regulated fashion. An exchange may be created upon a determination by the Comptroller, based on a feasibility study, that the exchange has a reasonable promise of successful operation, will promote economic development,

will produce net economic benefits in the state, and will not expose the public to undue risk of financial loss. Following such determination, a committee is to be appointed to write the constitution and bylaws of the exchange, to be approved by the Comptroller. The constitution and bylaws shall provide for an elected board of governors, principal offices located in Florida, a security fund, and membership requirements. Upon creation of an exchange, the Legislature is to consider what tax policies and exemptions would facilitate successful operation of the exchange.

Another aspect of this act deals with tax exemption for bonds issued to finance various projects under Chapter 159, F.S. Under Sections 159.15, 159.31, 159.50, 159.621, and 159.708, F.S., state revenue bonds, industrial development bonds, low and moderate income housing bonds, and research and development bonds issued to finance capital projects are exempt from taxation by the state or its subdivisions. These exemptions are amended to specifically include notes, mortgages, security agreements, letters of credit, or other instruments used to secure repayment of such bonds.

In the area of eligibility for investment of public funds, Subsection 159.15(3), F.S., is created to specify that bonds, notes, or obligations of any municipality, political subdivision, or state agency or authority are legal investments for public funds if they are collateralized by any investment otherwise authorized by Section 215.47, F.S., in cases where such collateral is to be utilized to guarantee payment and

performance bond obligations for maritime and other construction projects undertaken by employers in this state, where the employer could not receive a payment or performance bond absent such guarantee, and where the municipality or political subdivision is experiencing economic distress by reason of a high unemployment rate or other factors.

The "Advance Refunding Law," Sections 132.33-132.47, F.S., is created by SENATE BILL 391 (CHAPTER 86-181). This law authorizes counties, cities, towns, special road and bridge districts, special tax school districts, and other taxing districts to issue serial bonds, term bonds, or both, without approval of the electors; and to refund all or any portion of an issue or multiple issues of outstanding general obligation serial bonds, term bonds, or both, issued and outstanding. Specific limitations on the amount of such general obligation refunding bonds are provided, and the form and content of the refunding bond resolution are specified. Levy of an ad valorem tax for payment of such refunding bonds is authorized. No such bonds may be issued unless the chief financial officer of the issuing unit files a certificate setting forth the value of the debt service savings which will result and demonstrating that the refunding bonds are issued at a lower net average interest cost rate than that of the bonds being refunded. The duties and obligations of the escrow agent are specified.

This act also creates Subsection 215.79(3), F.S., which provides that state refunding bonds shall be sold at public sale, unless the Board of Administration authorizes a

negotiated sale. Also created is Paragraph 215.68(5)(e), F.S., which authorizes the Division of Bond Finance of the Department of General Services to sell such refunding bonds.

The definition of "preservation or rehabilitation of a certified historic structure" provided under Subsection 159.27(21), F.S., for purposes of the Florida Industrial Development Financing Act is revised by this act. A specific reference to "certified rehabilitation" under the Internal Revenue Code is deleted, and rehabilitation of a structure in a "registered historic district" is included.

The date for submission of annual reports to the Governor and Legislature by the Division of Bond Finance regarding industrial development and research and development bonds (Paragraphs 159.345(2)(b), 159.475(2)(b), and 159.7055(2)(b), F.S.) is revised from February 15 to March 15.

This act also includes amendments to the "Florida Private Activity Bond Allocation Act." The definition of "director" under Subsection 159.803(3), F.S., is extended to include the designee of the director of the Division of Bond Finance. Subsection 159.804(2), F.S., is amended to specify that each general purpose unit of government may assign a portion of its private activity bond limit to constituted or regional authorities and special purpose units of government located wholly or partially within its borders. The wording of Subsection 159.805(6), F.S., is clarified. Section 159.813, F.S., which authorizes the Governor to issue an executive order revising the private activity bond allocation system in

response to changes in the Internal Revenue Code, is revised, and such authority is extended to allocation of any volume cap imposed by any enacted or proposed federal law or regulation upon bonds authorized to be issued in this state, including, but not limited to, industrial development revenue bonds, single and multifamily housing bonds, qualified redevelopment bonds, and bonds issued for the benefit of a not-for-profit entity.

Portions of the "Florida Building and Facilities Act" are amended by HOUSE BILL 1390 (CHAPTER 86-222). The definition of "pool pledged revenues" under Subsection 255.502(12), F.S., is extended to include all legislative appropriations. Subsection 255.518(1), F.S., is amended to include payment of building acquisition and construction costs as a purpose for issuance of obligations, but to exclude payment of debt service charges and any reserves on obligations during the construction of any facility financed by such obligations. Necessary legislative appropriations for planning and land acquisition, and completion of planning and land acquisition, are required before proceeds of obligations may be used to pay building acquisition or construction costs. Obligation proceeds for building construction, renovation, or acquisition may be requested for appropriation by the Department of General Services only if the Department estimates that such construction, renovation, or acquisition can be initiated during the fiscal year. Also, an amendment to Section 255.52, F.S., directs the Board of Administration, in

approving obligations proposed to be issued, to consider all "proposed and outstanding" obligations rather than "proposed outstanding" obligations.

HOUSE BILL 780 (CHAPTER 86-211) provides that the amounts due to the counties from the National Forest Trust Fund under Subsection 215.551(2), F.S., shall be paid in two equal payments divided between the county for the county general road fund and the district school board for the district school fund.

This amendment to Subsection 215.551(2), F.S., will take effect on October 1, 1986.

HEALTH AND REHABILITATIVE SERVICES*

Laws relating to health and rehabilitative services enacted during the 1986 Legislative Session address a wide range of subjects. Significant laws were enacted addressing aging issues relating to: a civil enforcement provision to expand the list of persons who have a cause of action against a licensee responsible for a violation of the deceased resident's rights, if the violation resulted in the decedent's death; provisions which address the certification of nursing assistants in nursing homes; and clarification of the definition of "nursing home" for the purpose of reporting information to the Hospital Cost Containment Board.

Legislation affecting children which passed requires the Department of Health and Rehabilitative Services to establish an outcome evaluation program to measure annually and report client-outcome and program effectiveness for each program the Children, Youth and Families Program Office operates or contracts; provides that each county may create an independent special district to provide juvenile welfare services; allows a school instructional staff member to be present during a child protective investigation; establishes uniform firesafety

*Prepared by staff of Senate HRS Committee

standards for nonresidential child care facilities and adult congregate living facilities; and creates an Advisory Council on Adoption. Legislation was also passed relating to the definition of controlled substances.

The following laws were enacted addressing public health relating to: a comprehensive rewrite of mosquito control; establishing the Organ Transplant Advisory Council; requiring hospitals to establish rules and procedures for clinical privileges by an Advanced Registered Nurse Practitioner; requiring hospital administrators to request organ/tissue donations; providing for violations relating to the advertising and labeling of drugs, devices and cosmetics; regulating pest control operators; authorizing registered nurses working in county public health units to dispense medication under certain conditions; and expanding the duty of hospitals with fulltime emergency rooms.

Legislation was also enacted relating to: the organizational structure of the Department of Health and Rehabilitative Services; creation of the "Adult Protective Services Act" and the "Handicap Prevention Act;" increased marriage license fees; providing damages and direct medical expenses for injuries caused by shelter or foster children; revising the formula for expenditures from the Emergency Medical Services Trust Fund; specifying third-party Medicaid reimbursement; authorizing medical screenings on children entering shelter care; imposing administrative sanctions on a provider in the Medicaid program; and requiring a court to

order that fees or support payments be made to certain agencies. Legislation was passed relating to: sexually transmissible diseases, warrantless arrest, establishment of a training system for child welfare workers and a juvenile justice training system, repealed liability insurance provisions for child care facilities, secular non-public schools, and day camps. Florida's child support enforcement program was amended to bring it into compliance with federal requirements.

Aging and Adult Services

SENATE BILL 128 (CHAPTER 86-79) amends Section 400.023, F.S., the civil enforcement provision in Part I of Chapter 400, F.S., which regulates nursing homes and related health care facilities to expand the list of persons who have a cause of action against someone licensed under this part. In the event a resident dies, the personal representative of the estate may bring action against a licensee responsible for a violation of the deceased resident's rights, if the violation resulted in the decedent's death.

COMMITTEE SUBSTITUTE FOR SENATE BILL 776 (CHAPTER 86-253) amends Section 400.211, F.S., which addresses the certification of nursing assistants in nursing homes. The Department of Education is directed to issue a certificate to any person who either has successfully completed an approved program, or is at least 18 and has scored at least 75 percent on the certification exam, and either has worked successfully

as a nursing assistant for at least six months within the last three years, or is presently and successfully employed as a nursing assistant. Nursing home facilities may make application for newly employed uncertified nursing assistants to take the state certification exam for nursing assistants in lieu of applying to the district school board for placement of the uncertified employee in a certification program. The Department of Education is authorized to deny, suspend, or revoke a person's certification upon written notification from the Department of Health and Rehabilitative Services of an adjudication of guilt under the Adult Protective Services Act (Sections 415.101-415.113, F.S.). Paragraph 400.23(3)(g), F.S., is revised to provide that a superior rating given a licensee by the Department of Health and Rehabilitative Services for compliance with standards and rules shall continue until replaced by a rating in a later survey, rather than expiring in a year.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 700 (CHAPTER 86-104) amends Section 400.342, F.S., to clarify the definition of "nursing home" for the purposes of reporting information to the Hospital Cost Containment Board and amends Sections 400.407 and 400.427, F.S., to increase certain protections for residents of adult congregate living facilities (ACLFs). Revised Subsection 400.407(1), F.S., makes operating an unlicensed ACLF a third degree felony if the violator either fails to apply for a license after notification by the Department or has previously operated or currently operates an unlicensed ACLF. Pursuant to

amended Section 400.427, F.S., any ACLF whose staff (or other specified persons) is granted power of attorney for a resident is directed to file a surety bond for each resident for whom such power is granted and is directed to issue to the resident and to file a monthly statement of any transactions made on behalf of the resident. The misuse or misappropriation of funds obtained through power of attorney is a third degree felony. Upon a resident's death, an ACLF licensee is directed to return property and funds held in trust to a resident's personal representative, spouse, or adult next of kin unless such person cannot be located, in which case funds are to be placed in an interest bearing account and property held in trust pursuant to distribution under the Florida Probate Code.

The act takes effect October 1, 1986.

Children

HOUSE BILL 28 (CHAPTER 86-196) requires the Department of Health and Rehabilitative Services to establish within the Children, Youth and Families Program Office an outcome evaluation program to measure annually and report client-outcome and program effectiveness for each program the Program Office operates or contracts. It requires the Department to submit to the Legislature and Governor annual program-outcome reports. The Program Office Advisory Council is to review proposed outcome measures annually and advise the Department with regard to the outcome measures, the evaluation process and reports. The Inspector General of the Department is to

evaluate the system to determine if the process is achieving the legislative intent and submit reports every five years beginning December 31, 1990.

The act has an effective date of October 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 55 (CHAPTER 86-197) provides that each county may create an independent special district to provide juvenile welfare services. The independent special district would be governed by a nine-member board of juvenile welfare whose powers and duties are specified. The independent special district may levy an ad valorem tax of up to .5 mill to fund the budget of the board, provided that the authority to levy such a tax has been approved by a majority vote of the electors of a district, voting in an election called by the board of county commissioners. Procedures for the disbursement of funds are set out and a quarterly financial report is mandated. After the initial year of operation, the board of county commissioners may fund the welfare board budget.

The act takes effect October 1, 1986.

COMMITTEE SUBSTITUTE FOR SENATE BILL 194 (CHAPTER 86-176) amends Section 415.505, F.S., permitting the Department of Health and Rehabilitative Services or a law enforcement agency in a child protective investigation or criminal investigation to allow a school instructional staff member who is known by the child to be present during the initial interview with the child, if the initial interview is conducted at school, if the Department or law enforcement agency believes

this will enhance the interview, and if the child requests or consents to the presence of the instructional staff member. School instructional staff are permitted to be present at the interview only under these circumstances. Information regarding the alleged abuse or neglect is confidential. Schools are prohibited from maintaining a separate record of the alleged abuse or neglect. Violation of the provisions of this act constitutes a misdemeanor of the second degree.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 782 (CHAPTER 86-87) amends Sections 400.441 and 633.05, F.S., requiring the State Fire Marshal to promulgate rules to establish uniform firesafety standards for adult congregate living facilities and nonresidential child care facilities, respectively. It expresses legislative intent that the State Fire Marshal consider certain factors in promulgating uniform firesafety standards. Use of a residence as a family day care home is declared to be a valid residential use for purposes of local zoning regulations. Local zoning regulations may not require the owner or operator of a family day care home to obtain any special exemption or use permit or waiver, or to pay any special fee in excess of $50 to operate a family day care home in an area zoned for residential use.

The act takes effect October 1, 1986.

HOUSE BILL 903 (CHAPTER 86-110) creates a 17-member advisory council on adoption within the Department of Health and Rehabilitative Services for the purpose of reviewing, evaluating, and advising the Department with regard to law,

rules, procedures, policies, and practice relating to adoption. The council membership, includes intermediaries, licensed child-placing agencies, a representative of the Department of Health and Rehabilitative Services, a judge, a representative of the family law section of The Florida Bar, the President of the Florida Association of Licensed Adoption Agencies, lay citizens, and persons who have been affected by the system: a birth parent, an adoptive parent, and an adult adoptee. The advisory council on adoption is to report annually its findings and recommendations to the secretary of the Department of Health and Rehabilitative Services and the Legislature. The act is scheduled for "Sundown" review prior to October 1, 1996.

Drug Abuse

HOUSE BILL 300 (CHAPTER 86-94) amends Sections 397.021 and 397.052, F.S., to include in the definition of controlled substances all substances enumerated in the schedules in Section 893.03, F.S. [As the criteria for involuntary treatment for drug dependence require that an individual be an abuser of a controlled substance not pursuant to a lawful prescription, and all substances referred to in Section 893.03, F.S., are dispensed by prescription and have a high potential for abuse, this change makes consistent the definitions in both major chapters of law affecting drug dependence or abuse.]

The act has an effective date of October 1, 1986.

Public Health

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE

BILL 320 (CHAPTER 86-203) provides for a comprehensive rewrite of Chapter 388, F.S., which relates to mosquito control. It amends Section 388.101, F.S., to provide for an expansion in membership of the district mosquito control boards, and revises Section 388.221, F.S., to provide for modification to district taxing procedures. Clear authority is provided in created Section 388.3711, F.S., for enforcement of the provisions of Chapter 388, F.S., by the Department of Health and Rehabilitative Services. The Department is required to adopt and enforce administrative rules relating to Chapter 388, F.S., pursuant to reworded Section 388.361, F.S.

In addition, in new Section 388.4111, F.S., the act subjects certain public lands to control measures approved by the Department, and it provides a mechanism for dispute resolution on mosquito control issues. The Florida Coordinating Council on Mosquito Control is also established in the act under new Section 388.46, F.S. Finally, the act creates Section 388.45, F.S., to authorize the secretary of the Department of Health and Rehabilitative Services to declare a public health threat when an infectious disease is found which may be spread by mosquitoes. Upon declaration, the secretary is empowered to order prevention, ameliorative and treatment measures as may be necessary to protect the public health. "Sundown" review must take place prior to October 1, 1996, for the Council.

HOUSE BILL 628 (CHAPTER 86-208) establishes the Organ Transplant Advisory Council in law. The act requires that the

members of the Council be appointed by the secretary of the Department of Health and Rehabilitative Services. Eight members are to be appointed, each of whom must be a Florida licensed physician. No physician employed by the Department may be appointed to the Council.

Terms are established for appointments of the initial membership of the Council, after which members shall serve two year terms. Election of a chairperson for the Council by council members is provided. Members of the Council receive no compensation but are entitled to reimbursement for travel and expenses.

Responsibilities of the Council include recommending to the Department indications for pediatric and adult organ transplants, and formulating guidelines and standards for organ transplants. Standards and guidelines developed by the Council apply to organ transplants funded by the Department only. The Council is to meet at least once annually or upon the call of the chairperson or the secretary of the Department of Health and Rehabilitative Services. A "Sundown" review of the Council is set prior to October 1, 1996.

The act takes effect October 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 767 (CHAPTER 86-26) amends Section 395.011, F.S., requiring each hospital licensed in the state to establish rules and procedures for consideration of an application for clinical privileges by an Advanced Registered Nurse Practitioner (ARNP). Further, the

act prohibits a hospital from denying clinical privileges solely because the applicant is an ARNP.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 813 (CHAPTER 86-212) creates Section 732.922, F.S., to require hospital administrators (or an appropriately trained designee) to request organ/tissue donation of all suitable candidates.

The request is to be made of the deceased's family or other persons specified in Section 732.912, F.S., according to the priority of request procedures set forth in that section. [These persons are: a) the spouse of the decedent; b) an adult son or daughter of the decedent; c) either parent of the decedent; d) an adult brother or sister of the decedent; e)a guardian of the person of the decedent at the time of his death; or f) a representative ad litem, respectively.] A hospital administrator who receives actual notice of opposition by the family may not request organ or tissue donation.

The act also requires the Department of Health and Rehabilitative Services to establish rules and guidelines concerning education and documentation requirements. It also defines which hospitals are subject to these provisions and releases hospitals, the hospital administrator or his designee from criminal and civil liability under certain circumstances.

The act takes effect October 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 805 (CHAPTER 86-271) amends Chapters 499 and 627, F.S., which set forth a series of acts relating to advertising and labeling of drugs, devices and cosmetics which constitute a violation of Sections 499.001-

499.081, F.S., the "Florida Drug and Cosmetic Act." Included in the prohibited acts listed in new Section 499.0052, F.S., are: the dissemination of false advertising; distribution of products which are labeled or advertised in violation of the chapter; manufacturing, packaging, holding or selling products which are falsely advertised; receiving any product which is falsely advertised or labeled; or advertising a drug or device which is represented to have an effect on any one of a series of conditions, including blood disorders, cancer, high blood pressure, baldness, breast enlargement, stress, or depression.

The act creates Section 499.0053, F.S., which provides three exemptions to the provision which prohibits advertising a drug or device which is represented to have an effect on the specified conditions as listed in the previous paragraph. These exemptions are: 1) an advertisement for a drug or device when the drug or device is established as safe and effective by the United States Food and Drug Administration; 2) an advertisement directed specifically to a health professional; and 3) advertisements for products made available by advances in medical science when such exemption is adopted in rule by the Department of Health and Rehabilitative Services.

Finally, the act increases the maximum fine authorized in Subsection 499.066(4), F.S., for a violation of Sections 499.001-499.081, F.S., from $500 to $1000. Further, it requires that all fines collected pursuant to the chapter be deposited in the Florida Drug, Device and Cosmetic Trust Fund instead of the General Revenue Fund.

Subsection 627.672(2), F.S., is amended to redefine an insurance policy for purposes of the "Florida Medicare Supplement Reform Act," Sections 627.671-627.675, F.S. Section 627.6735, F.S., is created to establish the right of the Department to order discontinuance of advertising by a Medicare supplement policy insurer the Department deems to be in violation of Part X of Chapter 626, F.S., the "Unfair Insurance Trade Practices Act," and to provide optional remedies to the Department when a hearing requested by the insurer finds that the advertising is in violation of the unfair practices act.

The act has an effective date of October 1, 1986.

SENATE BILL 833 (CHAPTER 86-78) amends Subsection 482.051(4), F.S., which relates to the regulation of pest control operators by the Department of Health and Rehabilitative Services. The act amends the law to require that the written notification filed by the licensee before fumigation be filed with the Department inspector within the Office of Entomology instead of with the local county public health unit. [Since it is the Office of Entomology which has responsibility for enforcement, enactment of this legislation should result in more uniform and accessible recordkeeping of the fumigation notification.]

SENATE BILL 858 (CHAPTER 86-83) adds Paragraph 154.04(1)(c), F.S., to authorize a registered nurse working in a county public health unit to assess a patient and order medications under the following conditions: no physician is present in the health unit, the medication is ordered in

accordance with Department rules and pursuant to a previously established physician protocol, the patient is being assessed by the nurse as part of a Department program, and the medication appears on a formulary approved by the Department and is prepackaged and prelabeled with dosage instructions.

The act also requires each health unit to adopt written protocols and provide appropriate medical supervision for the nurse. Each health unit is required to have available for inspection by the Department of Professional Regulation appropriate medical records. Finally, the Department is required to evaluate the program established by the act at the end of its first year of operation. The act is repealed effective July 1, 1990, and is subject to Legislative review prior to that date.

The effective date is January 1, 1987.

SENATE BILL 1036 (CHAPTER 86-125) expands the duty of hospitals with full time emergency rooms for treating persons seeking emergency medical care. The act requires that upon the determination of a hospital physician to admit a patient for emergency care, the hospital may not refuse to admit the patient on the basis of economic criteria or indigency. If the physician responsible for emergency room service determines that the hospital is unable to render appropriate treatment, the hospital is required to contact an appropriate receiving hospital, arrange transportation for the patient, and provide the receiving hospital information on the patient's history and condition. However, the hospital is prohibited from

transferring a patient until the physician considers the patient stable enough for transport.

The act has an effective date of October 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1313 (CHAPTER 86-220) amends Section 20.19, F.S., providing for the reorganization of the Department of Health and Rehabilitative Services by modifying certain duties and responsibilities relating to health, operations and regulatory functions. Major provisions of the law include:

1) New Subsection 20.19(3), F.S., elevates the current position of Assistant Secretary for Operations to Deputy Secretary for Operations (DSO) and strengthens this role.

2) Amended Paragraph 20.19(5)(b), F.S., enhances the role of the district administrators, providing that they shall have the same standing as an Assistant Secretary, as well as enhancing district involvement in decision making through creation of the DSO.

3) Revised Subsection 20.19(4), F.S., creates the position of Deputy Assistant Secretary for Health (DASH); new Subparagraph 20.19(4)(a)8., F.S., names the DASH as the State Health Officer and provides for three Assistant State Health Officers for Public Health and Primary Care, Disease Control, and Interprogram Development and Technical Assistance; amended Subparagraph 20.19(4)(a)2., F.S., eliminates

the Health Program Office consistent with the creation of the DASH.

4) Revised Subsection 20.19(4), F.S., renames the Assistant Secretary for Program Planning as the Assistant Secretary for Programs (ASP); amended Subparagraph 20.19(4)(a)1., F.S., deletes restriction on the number of staff in program offices to provide for the transfer of regulatory functions currently under Operations to the ASP.

5) Revised Subsection 20.19(4), F.S., changes the title of the Deputy Assistant Secretary for Health Planning and Development to Deputy Assistant Secretary for Regulation and Health Facilities and Subparagraph 20.19(4)(a)6., F.S., modifies the responsibilities of this office including certain regulatory functions.

6) New Subparagraph 20.19(4)(b)1., F.S., designates the Assistant Secretary for Administration as the Chief Budget Officer of the Department and new Subparagraph 20.19(5)(g)7., F.S., provides for duplication of this responsibility at the level of district manager for administrative services.

7) Revised Paragraph 20.19(10)(a), F.S., requires the Department to review budget entity designations and the adequacy of delegated authority to transfer funds; revised Paragraph 20.19(10)(b), F.S., deletes limitations on the Secretary's authority to transfer

funds between districts; and amended Paragraph 20.19(10)(d), F.S., removes the district administrator's authority to transfer between programs.

8) Revised Subparagraph 20.19(4)(a)3., F.S., limits the number of providers on groups which advise the Department.

9) New Subsection 20.19(19), F.S., requires the Department to consult with counties in the development of policies and plans for programs that require local government funding.

10) Makes technical changes relating to reorganization and modified responsibilities of the Department of Health and Rehabilitative Services.

11) Transfers Vocational Rehabilitation from the Department of Health and Rehabilitative Services to the Department of Labor and Employment Security as reflected in new Paragraph 20.171(2)(e), F.S.

Sections 154.02, 154.04, 232.032, 381.272, 381.345, 381.605, 383.14, 383.144, 393.066, 393.068, 394.67, 400.304, 401.245, 403.771, 406.02, 410.023, 410.024, 415.501, 20.171, 413.20, 110.215, 229.8361, and 553.49, F.S., are amended to conform to changes in Section 20.19, F.S.

Chapter 415, F.S., is amended to create the "Adult Protective Services Act" which clarifies and strengthens the statutory protections for abused elderly persons and disabled adults. The major revisions to the law include:

1) Provisions for due process protections for alleged victims and perpetrators of abuse at each step of the adult protective services process.

2) Clarified relationships among the several agencies involved in the adult protective services system and among the Department programs.

3) Separate processes to be followed under different sets of conditions, including when the victim consents to services (Subsection 415.105(1), F.S.), withdraws consent (Subsection 415.105(2), F.S.), lacks the capacity to consent (Subsection 415.105(3), F.S.), the caregiver refuses consent to services (Subsection 415.105(4), F.S.), or staff determines that emergency intervention is necessary (Subsection 415.105(5), F.S).

The act also creates the "Handicap Prevention Act," establishing legislative intent regarding the prevention of handicapping conditions, provides definitions, describes the continuum of prevention services and provides for specific responsibilities for the Departments of Education and Health and Rehabilitative Services. It also requires a joint plan by the two Departments to describe available services, areas of duplication, needed services and legislative, administrative and budget recommendations. It requires designation of units in each Department for interagency coordination and designates the Developmental Disabilities Planning Council as the interagency coordinator for monitoring the joint report. The

act also requires the Department to ensure provision of prenatal care, monitor existing services and provide training on improved pregnancy outcome.

Section 415.5015, F.S., relating to child abuse prevention training, is amended to expand the scope of the training.

Subsection 741.01(2), F.S., is amended to increase marriage license fees by an additional $10, and the increase is to be used to fund domestic violence centers.

Subsection 402.181(1), F.S., is amended to provide that damages and direct medical expenses for injuries caused by shelter or foster children shall be paid from the State Institutions Claims Funds.

Parts II and III of Chapter 401, F.S., as amended, revises the formula for expenditures from the Emergency Medical Services (EMS) Trust Fund. The three major changes are:

1) Revised Paragraph 401.113(2)(c), F.S., authorizes the Department to use up to 15 percent of the moneys in the EMS Trust Fund for administrative purposes. The current limit is five percent. [The change will allow EMS regulation to be self-supporting.]

2) It amends various sections of Chapter 401, F.S., to deregulate nonemergency medical transportation (NEMT) services or transport services for persons who are confined to a wheelchair or a stretcher. [The regulation of these services has proven problematic, and the Department has been able to

regulate only about 25 percent of nonemergency medical transport services. Since NEMT service vehicles are prohibited by law from carrying any medical equipment or supplies, the Department suggests that it is not necessary to regulate them as medical transport vehicles,] and

3) Amended Subsection 743.064(1), F.S., authorizes the provision of prehospital emergency medical care by emergency medical technicians and others to minors without parental consent. The current law only allows for physicians to provide emergency medical care to minors without parental consent. [Several court decisions have interpreted existing law as prohibiting prehospital emergency medical care to minors without parental consent.]

Sections 458.348 and 743.064, F.S., are amended to conform to changes in Chapter 401, F.S.

This legislation creates Section 402.24, F.S., and amends Sections 409.266, 627.7372, and 768.50, F.S., with respect to all health services provided by the Department, subrogation rights and enforcement provisions parallel to those provided for the Medicaid program. [This would clearly specify that such third-party reimbursement is primary and would have the effect of facilitating collection from the third-party payers which reimburse for services provided by the Department.] With respect to the Medicaid program, the act clearly specifies in amended Paragraph 409.266(3)(f), F.S.,

that the Department's failure to file a lien for the amount of services provided by the Department would not abrogate their right to subrogation from a third-party payer.

Sections 39.01, 39.407 and 415.507, F.S., are amended to authorize the Department to have medical screenings performed on children entering shelter care, without authorization from the court and without consent from the parents or guardian. Provisions relating to consent for medical treatment of children and financial responsibility of parents for medical treatment are clarified.

As amended, Paragraph 409.266(9)(a), F.S., provides that the Department of Health and Rehabilitative Services may impose administrative sanctions on a provider in the Medicaid program when the provider has been convicted, regardless of adjudication, or found guilty, whether based upon a plea of guilty, not guilty, or nolo contendere, of fraud related to Medicaid or Medicare.

Provisions of Sections 39.01, 39.032, 39.11, 39.111, 39.402, 39.41, 402.33, 409.168, and 409.2554, F.S., are amended to require a court, under certain circumstances, to order fees or support payments be made to the Department of Health and Rehabilitative Services, a child-caring agency, a youth treatment program, an adult relative providing care, or an emergency shelter or detention center.

Creation of a statewide Organ Transplant Advisory Council is established in statute within the Department of Health and Rehabilitative Services. The Council shall

formulate guidelines and standards for organ transplants for adults and children.

Existing language in Chapters 383, 384 and 741, F.S., relating to venereal disease is repealed and a new Chapter 384, F.S., is created relating to the control of sexually transmissible diseases (STDs). Legislative intent is provided and all sections of Florida Statutes relating to chronic disease control in Chapter 385, F.S., are amended.

Paragraph 901.15(7)(a), F.S., is expanded to include warrantless arrest when there is probable cause to believe the person has committed child abuse.

Section 402.40, F.S., is created and Sections 28.101 and 382.35, F.S., are amended to provide for the establishment of a training system for child welfare workers. Funds are generated through: a $1 increase in court costs for persons convicted of a violation of municipal or county ordinances and a $1 increase in collection from bond estreature or forfeited bail bond related to such statutes or ordinances; a $5 additional charge on petitions for dissolution of marriage; and a $1.50 increase in fees for certified birth certificates or birth records.

Creation of Section 959.29, F.S., provides for the establishment of a juvenile justice training system. Funds for the juvenile justice training system will be generated through a $1 increase in court costs for persons convicted of a violation of municipal or county ordinances and a $1 increase in collections from bond estreature or forfeited bail bond related to such statutes or ordinances.

Section 402.3197, F.S., relating to the liability insurance provisions for child care facilities, secular non-public schools, and day camps mandated by statutes, is repealed.

Chapters 28, 61, 88, 95, 409, and 742, F.S., are amended to bring Florida's child support enforcement program into compliance with federal requirements relating to: mandatory wage withholding, expedited processes for establishing and enforcing support, liens on real and personal property for unpaid support, and the establishment of guidelines for support amounts. Major provisions of the law include the following:

1) Amended Section 61.021, F.S., changes residence requirements for obtaining a dissolution of marriage to require that one of the parties, not necessarily the party petitioning for a dissolution, must have resided in the state six months.

2) Under new Subsection 61.13(4), F.S., a custodial parent may not refuse to allow a noncustodial parent visitation rights because of nonpayment of support; a noncustodial parent may not fail to pay support because a custodial parent refuses to honor visitation rights.

3) Reworded Subsection 61.1301(3), F.S., provides income deduction orders for alimony or child support are to be enforced immediately unless the court upon good cause shown finds that the income deduction

order should be enforced upon a delinquency in an amount equal to one month's support.

4) New Subsection 61.1352(1), F.S., provides that effective January 1, 1988, a delinquency in payment of support creates a lien in the amount of the delinquency on all nonexempt real and personal property of the support obligor. New Subsection 61.1352(6), F.S., requires the Department of State to maintain a central file of all support orders and to disclose to any person which depository is monitoring payments. Amended Subsection 28.241(1), F.S., provides an additional charge of $12 for each action in which child support is sought $10 of which is to fund the centralized filing system.

5) The IV-D agency shall make information available to consumer reporting agencies relating to overdue support payments when the amount exceeds $500 pursuant to new Subsection 61.1354(1), F.S.

6) Reworded Subsection 61.181(1), F.S., mandates that the office of the clerk of the court shall continue to operate the local depository for support payments unless it is otherwise created by special act of the Legislature or unless, prior to June 1, 1985, a different entity was established to perform the depository functions.

7) The Supreme Court shall provide quarterly statistical information to the Department of Health

and Rehabilitative Services demonstrating that the courts are making substantial progress toward meeting the federal Department of Health and Human Services mandated time frames for handling child support enforcement services. The Department of Health and Rehabilitative Services shall apply to the federal government for an exemption from the expedited process requirements. The Supreme Court shall on or before February 1, 1987, by rule provide for support enforcement masters to meet federal requirements.

8) Mediation of contested issues of custody, primary residence, or visitation of a child is provided in new Subsection 61.183(1), F.S. Mediation services may be provided by the court or by any court-approved mediator.

9) State attorneys are removed from enforcing interstate child support orders and the IV-D agency is given this responsibility in amended Section 88.211, F.S.

10) Paragraph 95.11(3)(b), F.S., provides the statute of limitations for establishment of paternity shall be four years with the time running from the date the child reaches majority.

11) Section 742.10, F.S., relating to establishment of paternity for children born out of wedlock is amended to provide that when paternity has been

determined in an adjudicatory hearing brought under the statutes governing inheritance, workmen's compensation, etc., it shall also constitute establishment of paternity for purposes of Chapter 742, F.S. If no adjudicatory proceeding was held, a determination of the paternity shall create a rebuttable presumption of paternity.

12) Scientific testing for determining paternity is added in new Section 742.12, F.S. A statistical probability of paternity of 95 percent or more creates a rebuttable presumption of paternity and if the testing shows the alleged father cannot be the biological father, the case shall be dismissed with prejudice.

13) A Study Commission on Child Support Enforcement is created to study and make recommendations regarding support guidelines to be used by the courts, continuation of the child support demonstration projects, and a centralized filing system for liens resulting from delinquent support payments.

14) The sum of $50,000 is appropriated to fund an evaluation of the child support enforcement demonstration projects to be provided to the Legislature on March 1, 1987.

The act takes effect October 1, 1986, except for Subsections 61.181(1) and (2), F.S., relating to local depositories for support payments which are already in effect.

INSURANCE*

The Legislature adopted major insurance reforms in the "Tort Reform and Insurance Act of 1986" in response to the liability insurance crisis. Increased rate regulation, an excess profits law, creation of a joint underwriting association, authorization for commercial self-insurance funds, and other major provisions provide landmark legislation for regulating property and casualty insurance.

All health insurance policies are now required to provide coverage for certain preventive care for children until the age of 16, pursuant to the "Child Health Supervision Act."

Motor vehicle owners and registrants who are required to maintain personal injury protection (PIP) insurance must carry proof of coverage, such as an insurance card, on their immediate person while operating a vehicle. If such proof is not presented by the time of the court appearance, the court would immediately suspend the license and assess a $25 fine.

Other insurance acts include limitations on insurance companies obtaining reinsurance from nonapproved reinsurers; rewriting the law regulating fraternal benefit societies; requiring insurers to notify the Department of Highway Safety

*Prepared by staff of the House Health Care and Insurance Committee

and Motor Vehicles upon cancellation of a PIP policy; providing a uniform procedure for motor vehicle insurers to follow if a policyholder is incorrectly being charged a premium that is too low; addressing certain practical problems which have been discovered with respect to the "Comprehensive Medical Malpractice Reform Act of 1985;" requiring the Department of Insurance to approve the acquisition of five percent or more of the ownership interest of an allied lines insurer; enhancing the ability of the Department to monitor and regulate continuing care contracts, particularly in the area of escrow accounts; revising the regulation of bail bondsmen and related provisions; and strengthening the regulatory control of the Department over the sale of liquefied petroleum gas.

General Insurance Regulation

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 465, 349, 592, 698, 699, 700, 701, 702, 956, 977, AND 1120 (CHAPTER 86-160), "The Tort Reform and Insurance Act of 1986," contains major reforms in the areas of insurance reform and tort reform, intended to address the current liability insurance problem. This summary addresses only the insurance reforms contained in the act. The tort reform provisions of this act are summarized in the COURTS AND CIVIL LAW article of this Summary of General Legislation.

The major insurance reforms in the act include: (1) substantially increased power for the Department of Insurance to regulate property, casualty, and surety insurance

rates; (2) enactment of an excess profits law for commercial property and casualty insurance that returns excess profits to eligible policyholders who comply with risk management guidelines; (3) establishment of a joint underwriting association that guarantees the availability of property and casualty insurance to qualified, primarily commercial, risks; (4) authority for the formation of commercial self-insurance funds and modification of the limited reciprocal law to provide more viable alternatives for two or more persons or businesses to form group self-insurance mechanisms of these types; (5) expansion of eligibility for certain professions to form a professional liability self-insurance trust; (6) authority for property and casualty insurance to be written on a group basis; (7) a requirement that 45 days notice be provided prior to cancellation, non-renewal, or an increase in premium for property and casualty insurance contracts; (8) authority for financial institutions to own or control reinsurance companies and syndicates on the Insurance Exchange; (9) a requirement that certain commercial insurance rates be frozen and be granted a special credit for a specified time period; (10) a requirement that detailed liability claims information be filed by insurers with the Department; and (11) alternate ways for physicians to meet the financial responsibility requirements enacted in 1985, additional exemptions from the requirements, and allowance for physicians to be uninsured if certain conditions are met.

Following, under appropriate subheadings, is a brief discussion of each of these enumerated insurance reforms with citations as to the particular section of the statutes amended and a synopsis of the changes effected by the various provisions of this act:

Rate Regulation

The act substantially revises the standards and procedures for regulating property and casualty insurance rates. Previously, Part I of Chapter 627, F.S., provided for the regulation of rates for property, casualty, and surety insurance. [There are generally three sets of rate regulations in Part I, applicable to: (1) workers' compensation insurance, (2) private passenger motor vehicle insurance, and (3) all other lines of property, casualty, and surety insurance subject to Part I.] The new enactment applies some of the standards applicable to private passenger motor vehicle insurance rates to other lines of property, casualty, and surety rates, but also makes significant changes.

All property, casualty, and surety rates were previously subject to the general prohibition against being excessive, inadequate, or unfairly discriminatory, (Subsection 627.062(1),F.S.). As to all types of property, casualty, and surety insurance, other than workers' compensation and motor vehicle insurance, the primary standards for determining excessiveness or inadequacy are contained in Section 627.062, F.S. This section contained a two-part test that was required

to be met in order for a rate to be held to be excessive: (1) the rate was unreasonably high for the insurance provided, and (2) a reasonable degree of competition did not exist in the area with respect to the classification to which the rate was applicable.

The new standards for property, casualty, and surety rates, like the standards for motor vehicle rates, do not require a finding of a lack of a reasonable degree of competition as a prerequisite to finding a rate to be excessive. The degree of competition among insurers for the risk insured would simply be one factor to be considered. The primary standard for excessive rates in the act is if the rates produce a profit from Florida business that is unreasonably high in relation to the risk involved in the class of business or if expenses are unreasonably high in relation to services rendered.

The standards for regulation of property, casualty, and surety rates in the act are largely taken from Section 627.0651, F.S., which provides the standards and procedures for regulating motor vehicle insurance rates, and from Section 627.072, F.S., providing additional property, casualty, and surety standards. These factors include past and prospective loss experience; past and prospective expenses; the degree of competition among insurers for the risk insured; investment income (including Department of Insurance authority to adopt rules specifying the manner in which investment income is to be calculated); the reasonableness of the judgment reflected in

the filing; dividends, savings, or deposits returned to policyholders; the adequacy of loss reserves; the cost of reinsurance; trend factors; conflagration and catastrophe hazards; a reasonable margin for underwriting profit and contingencies; the cost of medical services; and other relevant factors which have an impact on the frequency or severity of claims or expenses.

The new legislation requires premium credits or discount schedules and surcharge schedules to be filed with the Department in addition to the rates, rating schedules, and rating manuals, which filing was not specifically required under the prior law. In this regard, the act provides a new standard that a rate shall be deemed inadequate if discounts or credits exceed expense savings and reasonably expected favorable loss experience. Similarly, the act provides that a rate shall be deemed unfairly discriminatory if the application of premium discounts, credits, or surcharge schedules does not bear a reasonable relationship to the loss and expense experience of various risks.

The act also provides more specific authority for the Department to take into account the investment income earned by an insurer. The act's consideration of investment income in Subparagraph 627.062(2)(b)4., F.S., is modeled on the current motor vehicle investment income standard in Paragraph 627.0651(2)(d), F.S., with one major difference. [The motor vehicle insurance rating law provides for contemplation of the use of a positive underwriting profit allowance in the rates

that will be compatible with a reasonable rate of return. This means that the Department is directed to approve a rate that will result in an underwriting profit, after claims payments are deducted from premiums, regardless of the level of investment income.] The new rating law, on the other hand, makes no reference to a positive underwriting profit, but requires contemplation of "allowances for an underwriting profit factor and full consideration of investment income which produce a reasonable rate of return," [thereby allowing use of a negative underwriting factor if the level of investment income alone is so high as to produce an unreasonably high rate of return]. As provided in the motor vehicle insurance rating law, only investment income from unearned premium reserves and loss reserves is to be considered, and investment income from invested surplus is expressly not to be considered.

With regard to rate inadequacy, the act provides in Subparagraph 627.062(2)(e)3., F.S., that rates shall be deemed inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply. This is a current motor vehicle rate standard in Subsection 627.0651(5), F.S. This provision replaces the previous standard for inadequate property, casualty, and surety rates which required in Paragraph 627.062(2)(b), F.S., that no rate should be held to be inadequate unless: (1) the rate is unreasonably low for the insurance provided, and the continued use of the rate endangers the solvency of the insurer, or (2)

the rate is unreasonably low for the insurance provided, and the use of the rate will have the effect of destroying competition or of creating a monopoly.

The act provides insurers with two options for filing rates or rate changes with the Department. The first option is a "file and use" procedure, under which rates are filed 60 days prior to when they are used. Within this 60 days the Department can initiate proceedings to disapprove the rate and, if the proceedings are initiated and the insurer so notified, the 60-day period is tolled until final agency action and judicial review. If the Department takes no action during the 60-day period, the rate is deemed approved. The insurer's second option is a "use and file" procedure, under which rates are filed within 30 days after they are already used. If the Department later finds that a "use and file" rate is excessive, the Department must order a refund of that portion of the rate found to be excessive.

The Department is authorized by the act to review a rate or rate change at any time and to notify the insurer if the Department finds on a preliminary basis that a rate may be excessive, inadequate or unfairly discriminatory. However, the Department may not disapprove as excessive any rate that has been deemed approved for a period of one year after the effective date of the filing. Upon notification, the insurer shall, within 60 days, file all information justifying the rate. The insurer carries the burden of proof by a preponderance of the evidence to show that the rate is not

excessive, inadequate, or unfairly discriminatory. After the initial notification, the insurer may not alter the rate (except to conform with the Department's notice) until the earlier of 120 days after the date the notification was provided, or 180 days after the date of the implementation of the rate. A refund could be ordered for an excessive rate only for those rates filed pursuant to the "use and file" procedure as described above.

Excess Profits

The act also creates an excess profits law in Section 627.0625, F.S., for commercial property and casualty insurance, requiring a refund of excess profits to policyholders who comply with risk management guidelines established by the insurer.

Heretofore there were two excess profits laws, one applicable to motor vehicle insurance (Section 627.066, F.S., enacted in 1977) and one for workers' compensation insurance (Section 627.215, F.S., enacted in 1979). The new excess profits law applies to both commercial property and commercial casualty insurance, excluding windstorm coverage. All commercial property and casualty insurers are required to make available to insureds guidelines for risk management. Risk management programs must include, if applicable, safety measures for pollution and environmental hazards, disease hazards, accidental occurrences, fire hazards, slip and fall

hazards, product injury, and training and counseling in safety management techniques.

The act requires excess profits to be returned to policyholders who: (1) have a policy in force on December 31 of the final (fourth) compilation year; (2) have had a policy in force for at least one year; and (3) have complied with the guidelines for the applicable risk management plan which shall include maintenance of favorable loss experience which, as measured by a loss ratio, does not exceed the appropriate permissible loss ratio used in the rate filing. Excess profits are proportionately distributed to each eligible policyholder on the basis of earned premium. Refunds must be in the form of premium credits to eligible insureds in policy renewal notices. Insureds who cancel or fail to renew must receive cash refunds.

The test for excess profits is determined over a four-year period, and excess profits are realized if underwriting gain is greater than the anticipated underwriting profit plus four percent during the four-year period. This is a different test than that used in the prior laws, both of which use a three-year test with a five percent add-on factor (See Paragraphs 627.066(3)(a) and 627.215(2)(a), F.S.). Data filing requirements are imposed in order for the Department of Insurance to determine if excess profits have been realized. As under the two other laws (See Subsections 627.066(7) and 627.215(6), F.S.), the act provides an exemption from refund requirements only if an insurer demonstrates, that the refund would render the insurer impaired or insolvent. For medical

malpractice insurance, the application of the excess profits law would be delayed until 1990, the first year of the four years to be reported.

Joint Underwriting Association (JUA)

The act also authorizes the Department of Insurance to adopt a joint underwriting plan to provide property and casualty insurance to eligible persons who are unable to obtain such coverage through the voluntary market, as provided in new Subsection 627.351(5), F.S.

Part I of Chapter 627, F.S., requires or authorizes the creation of five types of joint underwriting plans which guarantee that certain property and casualty insurance coverages be made available, primarily underwritten by insurers doing business in the state. The five plans are for: (1) motor vehicle insurance, Subsections 627.311(3) and 627.351(1), F.S.; (2) workers' compensation insurance, Subsection 627.311(4), F.S.; (3) medical malpractice insurance, Subsection 627.351(4), F.S.; (4) windstorm coverage, Subsection 627.351(2), F.S., and, (5) casualty insurance for political subdivisions, Subsection 627.351(3), F.S.

The new legislation authorizes the Department of Insurance to adopt a joint underwriting plan for all types of property and casualty insurance risks, except for the types of insurance for which a joint underwriting plan is currently authorized. A joint underwriting association (JUA) would be established if the Department determines, after consultation

with insurers, that any type of coverage of property or casualty insurance is not available at adequate levels in the state or in a particular geographic area. An adequate level of coverage means that level of coverage which is required by state law or by responsible or prudent business practices.

Insurance is available through the plan only to those persons who are eligible, as prescribed by the act. There are three alternative tests that may be met for eligibility. First, if Florida law requires a particular type of property or casualty insurance, the person subject to the requirement is eligible for JUA coverage if the insurance is unavailable in the voluntary market, including the market assistance program and the surplus-lines market. A second test for eligibility is available to commercial risks only. A commercial risk is also eligible if: (1) the insurance is unavailable in the voluntary market, including the market assistance plan and the surplus lines market; (2) failure to secure the insurance would substantially impair the ability of the entity to conduct its affairs; and (3) the risk is not determined by the Risk Underwriting Committee to be uninsurable. As for the third condition, the act requires the plan to establish a three-member Risk Underwriting Committee to review risks rejected by the voluntary market to determine whether an individual risk is so hazardous as to be uninsurable. The act provides a third category of JUA entitlement, for those commercial and residential risks insured under the Federal Crime Insurance Program in the event that the federal program is terminated.

In the event of a deficit, the act provides that any surplus from previous years not reasonably projected to be needed to pay claims for such years shall first be used to offset the deficit. As to any remaining deficit, an assessment is to be made against the policyholders and the participating insurers. One-third of the assessment is levied against the policyholders for the year in which the deficit arose and the remainder of the assessment (including uncollectable amounts from policyholders) is levied against the participating insurers. The policyholder assessments are proportionately based on the amount of premium that the policyholder paid in the deficit year compared to total premiums written in the plan for such year. However, in no event shall a policyholder be assessed an amount greater than one-third of the premium paid for the policy obtained for the deficit year.

The rates are to be actuarially sound and, to the extent applicable, the rate standards set forth in Section 627.062, F.S., as amended by the act, must be considered by the Department in establishing rates to be used by the plan. The limits of insurance that must be provided must be "reasonable" but not less than any amount of insurance required of eligible risks by Florida law.

Commercial Self-Insurance Funds

The act creates Sections 624.460 through 624.488, F.S., authorizing the formation of commercial self-insurance funds for insuring commercial liability insurance risks. The fund

must be established by either a not-for-profit trade association, or by a self-insurance trust already formed under one of the two professional self-insurance trust fund statutes (Section 627.356 or Section 627.357, F.S).

The initial requirements for issuance of a certificate of authority to a commercial self-insurance fund include: (1) competency and trustworthiness of the trustees; (2) proof of competent and trustworthy persons to administer or service the fund; (3) a plan of risk management; (4) an indemnity agreement binding each member to individual, several, and proportionate liability, as further defined in the act; (5) an aggregate net worth of all members of not less than $500,000; (6) a surety deposit or bond in the amount of $100,000; (7) specific and aggregate excess insurance at levels satisfactory to the Department of Insurance in accordance with sound actuarial principles, unless the Department waives this requirement after a determination that the fund will be actuarially sound without obtaining excess insurance; (8) a $50,000 deposit, or 10 percent of the estimated annual premium of the members at the inception, whichever is greater, paid into a common claims fund at least 10 days prior to the proposed effective date of the issuance of any policy; (9) a fidelity bond equal to not less than 10 percent of the funds handled annually by the administrator, subject to a maximum amount of $500,000; and (10) a plan of operation and a statement prepared by an actuary establishing that the operation is based on sound actuarial principles.

The most important requirement for a commercial self-insurance fund is the liability of members for assessments. Members are potentially liable for assessments for payment of actual losses and expenses incurred while their policies were in force. The member is liable for a proportional assessment, based on that member's percentage share of the total premiums of the fund. If one or more members fail to pay an assessment, the other members are proportionately liable for an additional assessment. If the assets of a fund are at any time insufficient to comply with the requirements of law or to discharge its liabilities, or if a judgment against the fund remains unsatisfied for 30 days, the trustees must make up the deficiency or must order an assessment. If the deficiency is not sufficiently made up within 60 days after the date of the order, the fund shall be deemed insolvent and grounds would exist for the fund to be proceeded against by the Department under its rehabilitation and liquidation powers provided by Part I of Chapter 631, F.S.

Limited Reciprocals

As part of the 1982 "Sunset" revisions of the Insurance Code, Sections 629.50 through 629.519, F.S., were created authorizing the formation of a "limited reciprocal." A limited reciprocal could be formed by a group of two to 250 persons for the purpose of pooling and spreading liabilities of its group members in any commercial property or casualty risk. A limited reciprocal is an unincorporated association operating through

an attorney in fact. The new act eliminates the 250-person cap on the number of persons who may form a limited reciprocal and replaces the $500,000 net worth requirement with a $100,000 surplus requirement. A new requirement is imposed for maintaining a sufficient reserve so as to be actuarially sound, including sufficient reserves to cover contingent liabilities in the event of dissolution of the limited reciprocal.

Professional Self-Insurance Trusts

The act expands the authority for participation in a group self-insurance trust fund, as presently authorized for attorneys by Section 627.356, F.S., to certified public accountants, registered architects, professional engineers, land surveyors, insurance agents, and veterinarians; provides for proportionate assessment of trust fund members based on language that is used in the commercial self-insurance fund provisions (See Section 624.474, F.S); and imposes a limited degree of rate regulation by requiring the expense factors associated with the rates utilized in the fund to be filed with the Department of Insurance at least 30 days prior to use, which factors may not be utilized until approved by the Department. The Department must disapprove the rates unless the expense factors are justified and reasonable for the benefits and services provided.

Medical malpractice self-insurance trust funds are authorized by Section 627.357, F.S. The types of "health care providers" who could previously form a medical malpractice

self-insurance trust were those listed in the definition of this term in Paragraph 768.54(1)(b), F.S., which includes hospitals, physicians, osteopaths, podiatrists, health maintenance organizations, ambulatory surgical centers, "other medical facilities" as defined, and associations of physicians, osteopaths, or podiatrists. The new legislation expands this list to include chiropractors, psychologists, optometrists, dentists, physician's assistants, pharmacists, nurses, and associations of such health care providers. The act also requires members of this type of fund to be proportionately liable for assessments for all losses incurred by the fund during the period of time the member participated in the trust fund and the same limited degree of rate regulation.

Notice of Cancellation or Nonrenewal

The act imposes a 45-day notice requirement on insurers prior to the cancellation or non-renewal of a property, casualty, surety, or marine insurance policy, creating Section 627.4133, F.S. Two exceptions to the 45-day notice requirement for cancellations are: (1) when cancellation is for nonpayment of premium, at least 10 days written notice must be given, and (2) when cancellation occurs during the first 90 days the policy is in force, at least 20 days notice of cancellation must be given unless there has been a material misrepresentation or failure to comply with the underwriting requirements established by the insurer.

After the policy has been in effect for 90 days, no policy may be cancelled by the insurer except where there has been a material misstatement, nonpayment of premium, failure to comply with underwriting requirements established by the insurer within 90 days of the date of effectuation of coverage, a substantial change in the risk covered by the policy, or the cancellation is for all insureds under such policies for a given class of insureds. This prohibition applies to mid-term cancellations only. It does not limit the ability of an insurer to refuse to renew a policy, as long as 45 days notice is provided.

Group Property and Casualty Insurance

Section 626.973, F.S., referred to as the "Fictitious Group Statute", generally prohibits property and casualty insurance from being written on a group basis. The act exempts from the prohibitions of the fictitious group statute, property or casualty insurance on commercial risks, under certain conditions. Property and casualty insurance could be written for commercial risks on a group basis, provided that: (1) the policy requires active participation in a plan of risk management, (2) the policy passes on the benefits of reduced losses to plan participants, and (3) rates are actuarially measurable and credible, and sufficiently related to actual and expected loss and expense experience so as to assure that nonmembers are not unfairly discriminated against.

Financial Institutions

The act creates Section 624.45, F.S., to authorize financial institutions to own or control any insurer that transacts only reinsurance in this state and which actively engages in reinsuring risks located in this state. Financial institutions are also authorized by the act to participate as an underwriting member, or as an investor in an underwriting member of an insurance exchange authorized in accordance with Section 629.401, F.S., which underwriting member transacts only reinsurance (for insurers) and excess insurance (for self-insurers).

Rate Freeze and Rollback

The act mandates (See Section 66 of this act) that commercial property and liability insurance rates be frozen on July 1, 1986, at the May 1, 1986, level. Commercial liability rates only are subject to a special credit of 40 percent below this level, applied to one-quarter of the policy term (equal to a 10 percent annual credit on a one year policy). The full credit is to be provided to persons who have a policy in effect for at least three months after October 1, 1986. For policies already in effect on October 1, the credit may be applied upon renewal. However, an insurer may elect not to apply the credit and make a filing with the Department of Insurance showing that the credit results in a clearly inadequate rate. Any such insurer must notify its policyholders that it does not intend to apply the credit, and a 12 percent interest penalty is

assessed against a company by the Department if it determines that the credit is appropriate. New rate filings are required on October 1, 1986, for commercial property and liability rates to be used on January 1, 1987. Although insurers must file 1984 rates adjusted for certain factors, insurers may also file the rate they deem to be appropriate and the Department will approve an appropriate rate under the standards of the new rating law.

This section also prohibits insurers from cancelling or refusing to renew commercial liability and property policies from the date the act became law (June 26, 1986) until January 1, 1987, for the purpose of avoiding the rate freeze or rollback. If an insurer has an excessive amount of cancellations or non-renewals (30 percent greater than their previous two-year average in any one-month period), the insurer must immediately show cause to the Department why it is not in violation of this provision.

Liability Claims Reporting

The act requires liability insurers, on a one-time basis, to submit to the Department of Insurance by September 1, 1986, detailed information regarding liability claims of their policyholders from 1981-1985.

It also requires in newly created Section 627.9126, F.S., that each insurer writing any line of liability insurance maintain specified claims information for each line of insurance and for direct Florida business only. Detailed

information must be maintained, and the Department is required to annually conduct a sampling of claims or actions for damages for personal injury or property damage.

Physician Financial Responsibility

The act provides exemptions and alternatives to the requirement enacted in the "1985 Comprehensive Medical Malpractice Reform Act" that all physicians licensed pursuant to Chapters 458 and 459, F.S., demonstrate financial responsibility in the amount of $100,000 per claim or, if the physician maintains hospital staff privileges, $250,000 per claim. The act amends Section 458.320, F.S., to provide a letter of credit as an alternate form of meeting the financial responsibility requirements. An exemption from meeting the financial responsibility requirements is extended to a person who is an employee of the federal government, a person whose license has become inactive and who is not practicing medicine in Florida, a person holding a limited license pursuant to Section 458.317, F.S., a person who practices only in conjunction with teaching duties at an accredited medical school or its main teaching hospitals, and certain retired or part-time physicians who meet certain qualifications.

The act also includes a major provision for physicians who elect to remain uninsured. This provision imposes a duty on a physician to post a notice indicating his election of the noninsured status, and requires the physician to pay the lesser amount of any medical malpractice judgment or the required

amount of financial responsibility in the event of an adverse medical malpractice judgment or settlement. Failure of the noninsured physician to make such payment within 60 days of the date on which a medical malpractice judgment becomes final and subject to execution subjects the physician to disciplinary action by the Board of Medicine. Such disciplinary action must, at a minimum, include probation with the restriction that the licensee make reasonable payments to the judgment creditor and, at a maximum, suspension of the license for a period of five years.

[This ends the summary of the major piece of insurance legislation for the 1986 Regular Extended Session, the "Tort Reform and Insurance Act of 1986." The following acts also deal with General Insurance Regulation.]

SENATE BILL 514 (CHAPTER 86-140) addresses several insurance issues including fronting companies, reporting requirements and regulation of fraternal benefit societies. The first part amends Section 624.404, F.S., redefining the term "fronting company" and specifying that an insurance company authorized to do business in Florida may not reinsure, or otherwise transfer, its risk of loss on more than 50 percent of its Florida business to one unauthorized insurer which is not an approved reinsurer, or more than 75 percent to two or more unauthorized insurers which are not approved reinsurers. The law also authorizes the Department of Insurance, in its discretion, to approve a transfer of risk in excess of these limits if the Department determines that the transfer would be

in the best interests of the financial condition of the insurer and in the best interest of the policyholders.

The law also amends Section 627.915, F.S., by deleting products liability insurers from certain insurer experience reporting requirements. It amends Section 628.261, F.S., by including specified information in notices of change of a director or officer provided to the Department of Insurance by stock or mutual insurers.

Regarding fraternal benefit societies, the law substantially revises Chapter 632, F.S. [It adopts most provisions of the new Model Fraternal Code offered by the National Fraternal Congress of America. The revisions are intended to modernize Florida's law on fraternal benefit societies and to provide uniformity with other states.] Among its features, the law explicitly authorizes fraternals to carry out their purposes indirectly through subsidiary corporations or affiliated organizations. It expands benefits, including a provision for parity with other insurers by allowing the benefit authority of fraternals to automatically keep pace with new insurance law and product developments. It provides for the establishment of separate accounts necessary for offering variable life insurance and variable annuities. It integrates provisions in the fraternal benefit law with existing laws applicable to life insurers, including such areas as the benefit contract, nonforfeiture benefits, valuation, examination of societies, licensing of agents and unfair methods of competition. Finally, the law maintains such key

fraternal characteristics as the lodge system, the representative form of government, memberships and the traditional elements such as ritual and recognition of part-time agents.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 614 (CHAPTER 86-126) amends Section 624.319(3), F.S., to provide an exemption from the Public Records Act for certain Department of Insurance records. Prior law allowed the Department to withhold from public inspection any examination reports prior to filing, or any investigation report for so long as the Department deemed such confidentiality to be in the public interest or reasonably necessary to protect the person being investigated from injury. This new legislation would additionally allow the Department to withhold from public inspection any list compiled by the Department which identifies insurers or regulated companies which are being monitored by the Department with respect to their solvency, condition or soundness, if the list is prepared for internal departmental coordination of regulatory efforts and if public inspection of the list could impair the solvency, condition or soundness of the insurers or regulated companies.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 671 (CHAPTER 86-86) amends Subsection 624.610(1), F.S., regarding reinsurance, to eliminate the prohibition against insurers obtaining reinsurance on credit life or credit disability insurance covering a Florida risk with any reinsurer not authorized or approved by the Department of Insurance. Insurers writing credit life or credit disability insurance would be subject to

the same restrictions on reinsurance as all other insurers writing other types of insurance.

This law also creates Section 631.0515, F.S., designating a delinquency proceeding as the sole and exclusive method of dissolving, liquidating, rehabilitating, reorganizing, conserving or appointing a receiver of a Florida corporation which owns all of the stock of a Florida domestic insurer and is deadlocked in its management. The law gives the Department of Insurance authority and specifically states that the circuit court shall not have jurisdiction pursuant to Subsections 607.271, 607.274 or 607.277 to dissolve, liquidate or appoint receivers.

SENATE BILL 515 (CHAPTER 86-81) amends Section 627.792, F.S., to provide a method for the apportionment of liability among title insurers for defalcation (embezzlement), conversion, or misappropriation of funds held in escrow by a title insurance agent who represents multiple title insurance companies. The legislation specifies that if a binder, commitment, policy, or title guarantee was issued prior to the illegal act, that insurer shall be liable; but, if no binder, commitment, policy, or title guarantee was issued, each insurer represented by the agent at the time of the illegal act shall be liable in proportion to the relative amount of premium remitted to it by the agent during the one-year period preceding the illegal act.

The provisions of this act are to become effective October 1, 1986.

HOUSE BILL 987 (CHAPTER 86-274) expands the existing limited license for insurance agents transacting business in industrial fire insurance to include burglary insurance, effective October 1, 1986.

[In order to sell any type of property or casualty insurance a person must become licensed as a general lines agent under Parts I and II of Chapter 626, F.S. However, Section 626.321, F.S., lists certain types of limited licenses that a person may obtain in order to sell specialized insurance products.

[As provided in Subsection 626.321(3), F.S., individuals holding certain limited licenses (those that are for property or casualty insurance products), are subject to the same requirements that apply to general lines agents, unless otherwise expressly provided.

[Currently, a limited license can be obtained to sell industrial fire insurance. Industrial fire insurance generally provides low-value dwelling coverage with caps of $20,000 on the building, and $10,000 on the contents, and premiums are paid usually monthly.]

This act includes burglary coverage as within the scope of the existing limited license for industrial fire insurance. [The intent of the act is to make the burglary insurance available to an industrial fire insurance policyholder through the same agent. The existing license and exam for industrial fire insurance would require minor modification to include burglary.]

COMMITTEE SUBSTITUTE FOR SENATE BILLS 415 AND 418 (CHAPTER 86-182) makes four categories of changes to the insurance laws, all primarily affecting motor vehicle insurance: (1) requiring all owners and registrants of motor vehicles who must maintain personal injury protection (PIP) security, to have proof of such security, such as an insurance card, in their immediate possession while operating a vehicle; (2) requiring insurance companies to notify the Department of Highway Safety and Motor Vehicles upon the cancellation of a policyholder's PIP insurance for certain reasons; (3) specifying that lessors of vehicles for one year or longer who provide liability coverage must also offer uninsured motorist coverage regardless of whether the lessor is self-insured; and (4) eliminating the authority for the Department of Insurance to consider factors relating to the need for a new premium finance company in determining whether to issue a certificate for such a company.

The act creates Section 316.646, F.S., to require persons subject to the personal injury protection insurance requirements to maintain proof of such insurance in their immediate possession while operating a vehicle.

The current Florida Motor Vehicle No-Fault Law (Section 627.730, F.S., et seq.) requires all owners and registrants of motor vehicles in Florida to maintain PIP insurance or some other approved method of security. The required PIP coverage provides up to $10,000 in benefits, regardless of fault, for 80 percent of medical expenses and 60 percent of lost wages,

covering the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers, and pedestrians struck by the motor vehicle. The primary method of enforcement is showing proof of insurance at the time of annual registration of the motor vehicle (Section 320.02, F.S).

This act requires an owner or registrant subject to the PIP requirements to maintain proof of PIP security in his immediate possession while operating a vehicle. Such proof would include a proof of insurance card in a form prescribed by the Department of Insurance, or a policy, binder, certificate, or such other proof prescribed by the Department. Law enforcement officers would be authorized to inspect such proof if the operator appears to be the registrant of the vehicle, by a comparison of the license to the registration. If the person does not have proof of PIP security, and does not later provide such proof at or before the scheduled court appearance date, a $25 fine would be imposed and the court must immediately suspend the registration and license of such person. To knowingly present false of proof of PIP would be a first degree misdemeanor.

Persons who are charged with failure to have proof of PIP security in their immediate possession would be entitled to have adjudication withheld and the $25 fine waived if a plea of nolo contendere is entered with the clerk, proof of maintenance of the PIP security is presented, and $5 in court costs are paid. However, only one such election may be made within a 12-

month period, and no person may make more than three such elections.

The section requiring motor vehicle insurers to furnish proof of insurance cards to their policyholders (Section 320.02, F.S.) is amended to require that such cards contain a statement notifying policyholders of the penalties of the Florida law requiring proof of insurance to be maintained in their immediate possession while operating the vehicle.

The act clarifies the present uninsured motorist coverage law with regard to long-term lease arrangements. Current Section 627.727, F.S., requires that if a car is leased for one year or longer, and if the lessor provides liability coverage, then the lessee has the sole privilege to accept or reject uninsured motorist coverage. The amendment to this section specifies that this is required even if the lessor is self-insured.

The act amends Section 627.733, F.S., to require insurance companies to notify the Department of Highway Safety and Motor Vehicles, and the Department is required to suspend the registration and license of an owner or registrant of a vehicle whose PIP insurance is cancelled by the insurer due to nonpayment of premium or underwriting reasons.

Finally, the act addresses the issuance of licenses for premium finance companies and deletes language that was added in 1985 requiring the Department of Insurance to consider the need for a new premium finance company in the geographical area to be served. Amendments to Section 627.829, F.S., in 1985

(Chapter 85-321, Laws of Florida) required the Department to determine that the issuance of an initial premium finance company license "will contribute to and promote the convenience and advantage of the residents of this state by providing a necessary additional market for the financing of premiums." In making this determination, the Department must consider various economic and demographic factors in the area to be served. The new enactment strikes all of these provisions, returning to the version of the statute which appears in the 1983 Florida Statutes and which limits the Department determination of issuance of a license to factors primarily relating to the fitness, competency, and integrity of the applicant.

The effective date of this act is October 1, 1986.

SENATE BILL 768 (CHAPTER 86-252) creates Section 627.7282, F.S., to provide a procedure to be used when an insurer of a private passenger motor vehicle discovers that it is charging a policyholder a premium which is too low for the coverage provided. This legislation requires the insurer to immediately notify the policyholder upon a determination by the insurer that the premium being charged is incorrect. Policyholders would be given 10 days to pay the additional premium (and keep the policy in full force and effect) or cancel the policy and demand a refund of the unearned premium. If the policyholder fails to respond, the insurer is required to cancel the policy and return any unearned premium to the policyholder. Additionally, this legislation prohibits an insurer from unilaterally advancing the expiration date of such

a policy, except pursuant to the procedure for incorrect premiums as specified in the act.

The effective date of this act is October 1, 1986.

HOUSE BILL 333 (CHAPTER 86-262) creates Section 627.7282, F.S., within the Insurance Code to provide that in the event an insured cancels his motor vehicle insurance policy, the insurer shall return the unearned portion of any premium paid within 30 days of the receipt of the cancellation notice. If the unearned premium is not returned to the insured within this time period, the act requires the insurer to pay eight-percent interest on the amount due. If return of the unearned portion of the premium, plus any required interest, is not made within 45 days of the cancellation notice, the insured may bring an action against the insurer pursuant to the civil remedy statute, Section 624.155, F.S.

The effective date of this act is October 1, 1986.

Health and Life Insurance

The Legislature overrode a gubernatorial veto to enact HOUSE BILL 170 of the 1985 Regular Session as CHAPTER 86-40. Subsection 627.419(4), F.S., is amended to require any health insurance policy, health care services plan, or other contract providing for the payment for medical expense benefits or procedures be construed to include payment to a chiropractic physician who provides benefits or procedures which are within the scope of a chiropractic physician's license. Any limitation on payment is to apply equally to all licensed

physicians without discriminating unfairly against any class of physicians.

COMMITTEE SUBSTITUTE FOR SENATE BILL 460 (CHAPTER 86-122) creates Sections 627.6416 and 627.6579, F.S., to be known as the "Child Health Assurance Act." The act requires that all health insurance plans covering family members provide coverage for child health supervision services from birth to age 16. Coverage is to be provided for 18 visits with more frequent visits scheduled in the earlier childhood years.

The services to be covered at each visit include a history, physical examination, developmental assessment, anticipatory guidance and appropriate immunizations and laboratory tests, in keeping with prevailing medical standards. All such services must be physician-delivered or physician-supervised and payment of benefits for these services may be limited to one provider for each visit. To enhance utilization, coverage for the services is exempt from any deductible provision of the policy. The act provides for repeal of newly-created Sections 627.6416 and 627.2579, F.S., on October 1, 1989, pursuant to "Sunset" review by the Legislature.

Finally, the act amends Subsection 627.651(5) and Paragraph 627.6515(2)(c), F.S., to make the act apply to all individual and group health insurance policies including out-of-state policies and multiple-employer welfare arrangements; except the requirements of the law do not apply to disability

income, specified disease, hospital indemnity and medicare supplement policies.

The act applies to policies issued or renewed after October 1, 1986, the effective date of the act.

SENATE BILL 238 (CHAPTER 86-43) amends Section 627.565, F.S., relating to certificates required to be issued to group life insurance policyholders for delivery to each person insured. This section previously required that for group life insurance policies the insurer must issue to the policyholder (employer) for delivery to each person insured (employees) an individual certificate containing a description of the insurance protection to which the certificate holder was entitled, those to whom the insurance benefits were payable, any dependent's coverage included in the certificate, and the rights and conditions relating to the right to convert to an individual policy when the group coverage terminated. The requirement that the certificate describe "to whom the insurance benefits are payable" was interpreted to mean that the certificate must contain the name of the employee covered by the group policy.

This new enactment eliminates the requirement that insurers issuing group life insurance policies to employee groups provide certificates naming the insured employee. The insurer may alternatively provide certificates containing a statement, specified in the act, that the certificate provides life insurance for the employees of the (named) employer, the group contract number, and that the benefits are payable to the

beneficiaries of record designated by the employee. The act also requires the employer and the insurer to maintain current records of all insured persons and beneficiaries.

SENATE BILL 333 (CHAPTER 86-246) amends Subsection 626.785(3), F.S., to clarify the authority for a funeral director to obtain a life insurance agent's license, limited to selling policies with a face amount up to $5,000 covering the expense of a prearrangement for funeral services and merchandise. Legislation passed in 1984, which permitted this limited license, did not amend Paragraph 626.9541(1)(t), F.S., within the Unfair Insurance Trade Practice provisions. This new law clarifies that designated prohibitions in Paragraph 626.9541(1)(t), F.S., are superseded by the amended provisions of Section 626.785, F.S.

Medical Malpractice

HOUSE BILL 1383 (CHAPTER 86-287) addresses certain inconsistencies, clarifies ambiguities, and cures certain practical problems which have been discovered with regard to the "Comprehensive Medical Malpractice Reform Act of 1985" (Chapter 85-175). The act amends Section 395.011, F.S., to provide that the standard of immunity relating to actions taken by members of committees reviewing applicants for staff membership and clinical privileges be "without intentional fraud." [This is the standard used in Chapter 85-175.]

Several provisions concern risk management sections of the 1985 legislation. The date on which facilities must have

certified risk managers is amended in Section 395.041, F.S., and clarified to be October 1, 1986. Risk management courses prescribed by the Department of Insurance are required to be "the equivalent" of a one year course. The act clarifies that every health maintenance organization (HMO) which has an annual premium volume of $10 million or more, and directly provides health care in a building owned or leased by the HMO, must hire a certified risk manager. The act clarifies that risk management training, which must be provided by hospitals pursuant to Section 395.041, F.S., applies only to non-physician personnel.

Section 455.213, F.S., is amended to change the previous 60 hours of continuing education, required every three years for physician license renewal, to 40 hours of continuing education biennially [to conform with Department of Professional Regulation license renewal cycles]. Provisions concerning medical malpractice claims information reported to the Department of Insurance by insurers pursuant to Section 627.912, F.S., are amended to include the names of injured persons and to allow for use of additional information for the Medical Malpractice Impact Study required by Section 768.66, F.S.

The act amends Subsection 768.495(3), F.S., to clarify that a court order is unnecessary to extend the statute of limitations upon the certification of reasonable investigation by an attorney, and deeming that a cause of action on which the statute of limitations has run will not be revived upon such

certification. The act also authorizes collection of a filing fee, not to exceed $25, for a petition for the extension of the statute of limitation which is granted to allow for reasonable investigation of a medical malpractice claim by an attorney.

The act amends Subsection 768.58(2), F.S., to clarify that the mandatory settlement conference required in medical malpractice actions is to be held before the court. Section 768.575, F.S., is amended to enhance the arbitration process provided in Chapter 85-175, Laws of Florida. The act addresses arbitration issues including consideration of evidence, awarding of damages, transcription of the arbitration proceedings, payment of members of the arbitration panel, immunity from liability for members of the arbitration panels, and disposition of the decision of the arbitration panel.

The act amends Paragraph 468.302(6)(c), F.S., to provide an exemption from certification for use of radiation for certain persons trained in cardiopulmonary technology. It also provides that certain persons insured with the Florida Patient's Compensation Fund (Section 768.54, F.S.) during the 1982-83 membership year, who had applied and were eligible for deficit assessment coverage from the Florida Medical Malpractice Joint Underwriting Association (Subsection 627.351(4), F.S.) between June 23, 1983 and July 1, 1983, are again eligible to apply for such coverage under certain circumstances.

Allied Lines Insurers

COMMITTEE SUBSTITUTE FOR SENATE BILL 628 (CHAPTER 86-250) creates Section 628.4615, F.S., providing detailed requirements with respect to allied lines insurers and the acquisition of controlling stock, ownership interest, assets or control, merger or consolidation. The law requires that the Department of Insurance approve the acquisition of five percent or more of the ownership interest of an "allied lines insurer," which is defined to include one of the 13 various organizations regulated by the Department of Insurance selling insurance-type contracts. These organizations include: motor vehicle service agreement companies (Part I of Chapter 634, F.S.), home warranty associations (Part II of Chapter 634, F.S.), service warranty associations (Part III of Chapter 634, F.S.), optometric service plans (Part I of Chapter 637, F.S.), pharmaceutical service plans (Part II of Chapter 637, F.S.), dental service plan corporations (Part III of Chapter 637, F.S.), ambulance service associations (Chapter 638, F.S.), preneed funeral merchandise or service contracts (Chapter 639, F.S.), health care service plans (Part I of Chapter 641, F.S.), health maintenance organizations (Part II of Chapter 641, F.S.), prepaid health clinics (Part III of Chapter 641, F.S.), legal expense corporations (Chapter 642, F.S.), and continuing care facilities (Chapter 651, F.S.). The acquisition statute that is created is modeled on existing Section 628.461, F.S., which requires Department of Insurance approval of the

acquisition of five percent or more of the voting stock of a domestic insurance company.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 701 (CHAPTER 86-209) amends Chapter 651, F.S., relating to continuing care contracts. The act enhances the ability of the Department of Insurance to monitor and regulate continuing care contracts, particularly in the area of escrow accounts, and clarifies existing law with respect to procedures to be followed when escrow funds are released. The act provides for issuance of an injunction to prevent disposal of collateral of facilities entering into receivership proceedings, if such collateral need be retained in order to protect the life, health and safety of the residents of the facility. Upon an order of liquidation, the Department of Health and Rehabilitative Services (DHRS) is required to assess the status of residents to determine whether such residents are eligible for assistance. The act, finally, allows the receiver, under certain circumstances, to petition DHRS for the conversion of sheltered nursing home beds to community nursing home beds. DHRS is required to issue a certificate of need with respect to this conversion.

A "Sunset" date of October 1, 1993, is fixed for this act.

SENATE BILL 464 (CHAPTER 86-75) revises Sections 634.308, 634.312, and 634.3123, F.S., to relax the current prohibition against home warranty associations issuing renewable warranty contracts. Under this legislation, home warranty contracts could provide for up to four annual

renewals, provided that the cost of a renewal could not exceed the then current cost for a new contract and provided that no fee could be charged for inspection of the premises at the time of renewal.

The effective date of this act is October 1, 1986.

Bail Bondsmen

COMMITTEE SUBSTITUTE FOR SENATE BILL 1175 (CHAPTER 86-151) makes various changes to Chapter 648, F.S., which provides for the regulation of bail bondsmen by the Department of Insurance and the Bail Bond Regulatory Board, and to Chapter 903, F.S., which provides conditions for bail and conditions of forfeiture of a bond and remission of forfeiture.

The act increases the amount of cash collateral that may be accepted by a surety. Section 648.442, F.S., previously limited to $25,000 the amount of collateral security that could be accepted by a bail bondsman, unless the security consisted of a promissory note, an indemnity agreement, a real property mortgage, or such other type of security approved by the Bail Bond Regulatory Board and reasonable in relation to the amount of the bond. The new enactment raises the cash collateral limitations from $25,000 to $50,000.

Section 903.26, F.S., provides the initial procedures for forfeiture of a bond if a defendant fails to appear or otherwise breaches the bond. Previously, if a defendant failed to appear, forfeiture was to be automatically entered by the clerk, unless the court directed that the forfeiture be set

aside. Within 30 days after the forfeiture, the court was allowed to discharge the forfeiture under certain conditions, including surrender of the defendant if, but only if, in the case of a surety bond, the surrender was substantially procured and caused by the surety and if, but only if, the delay had not thwarted the proper prosecution of the defendant. A discharge was further conditioned upon the payment of costs and expenses incurred by an official in returning the defendant to the jurisdiction of the court. Under the new legislation, Section 903.26, F.S., is amended to provide that it would no longer be required that the surety substantially procure and cause the surrender, but it would still be required that a discharge be conditioned upon the payment of expenses incurred in returning the defendant to the jurisdiction of the court and that the delay not have thwarted the proper prosecution of the defendant. Discharge of forfeiture is permitted within 35 days rather than 30.

Section 903.27, F.S., previously required that if a forfeiture judgment was not paid by a surety within 60 days after notice of the judgment, the clerk was required to furnish the Department and the sheriff of the county in which the bond was executed copies of the judgment and a certificate stating that the judgment remained unsatisfied. The new act amends Section 903.27, F.S., to state that when a judgment is paid, the clerk shall notify the Department and the sheriff if an order to vacate the judgment has been entered, and also to prepare and record in the public record a satisfaction of the

judgment or the order to vacate. The prior law allowed a surety or bail bondsman to file a motion to set aside or stay a judgment within 45 days after notice of the judgment, conditioned upon payment of the amount of the judgment to the clerk to be held in escrow. The actual stay of the judgment lay within the discretion of the court. The new enactment extends the time period to file the motion from 45 to 60 days, and provides for an automatic stay of execution of the judgment, upon the payment of the judgment to be held in escrow by the clerk, until the motion has been heard and a decision rendered by the court.

Section 903.28, F.S., allows a surety or bondsman to seek remission (refund) of a forfeited bond. This section limits the amount of the remission that may be awarded within certain time periods and under certain conditions. Remissions are permitted if, and only if, the surety apprehends and surrenders the defendant, or if the apprehension or surrender was substantially procured or caused by the surety, or the surety has substantially attempted to procure or cause the apprehension or surrender of the defendant and the delay has not thwarted the proper prosecution of the defendant. The new act further allows remission to be granted when the surety did not substantially participate or attempt to participate in the apprehension or surrender of the defendant, when the costs of returning the defendant to the jurisdiction of the court have been deducted from the remission, and if the delay has not thwarted the proper prosecution of the defendant.

Section 648.49, F.S., is amended to authorize the Department of Insurance to require that any bondsman whose license has been suspended, successfully complete a Board-approved, 80-hour certification course in the criminal justice system or a correspondence course, or both.

Section 903.29, F.S., is amended to authorize a surety to arrest a defendant for the purpose of surrendering him to the proper official, within two years from the date of forfeiture of the bond, whether or not the forfeiture has been paid.

Section 903.31, F.S., is amended to provide that an original appearance bond shall not be construed to guarantee the appearance of the defendant during or after a pre-sentence investigation, appearance during or after appeals, or conduct during or appearance after admission to pre-trial intervention programs. Similarly, Section 903.132, F.S., is amended to prohibit an original appearance bond from being continued for the appeal. In the case of an appeal, there would have to be a new bond to reflect the increased risk and probability of longer time considerations.

Liquefied Petroleum Gas Sales

COMMITTEE SUBSTITUTE FOR HOUSE BILL 882 (CHAPTER 86-69) revises Chapter 527, F.S., relating to the sale of liquefied petroleum (LP) gas to clarify the Department of Insurance's authority to regulate the industry.

Subsections 527.01(6) and (7), F.S., are revised to expand the definition of the phrases "installation of appliances and equipment" and "installation of carburetion equipment" to include "servicing, altering or modifying" such appliances or equipment.

Amendments to Subsection 527.02(1), F.S., provide a first degree misdemeanor penalty would be enforceable against anyone who willfully or intentionally engaged in dealing in liquefied petroleum gas, manufacturing, dealing or installing liquefied petroleum gas appliances or equipment or in installing carburetion equipment without a license from the Department. The Department, in addition to existing requirements, is to determine that applicants are "competent, qualified, and trustworthy" and is to promulgate rules specifying untrustworthy acts. New language in Subsection 527.02(2), F.S., requires that every LP business employ a full-time "qualifier" (a person who has passed a departmental competency exam) at all times. A business is to report a qualifier vacancy to the Department immediately, rather than within 30 days as heretofore required. A vacancy of over 20 days is deemed an immediate threat to the public health, safety and welfare and requires the suspension of a license. New Subsection 527.02(3), F.S., requires each business having employees who install, repair, maintain or service LP gas systems also to have a supervisory qualifier for each 10 such employees. Section 527.02(4), F.S., is added to require any person requalifying portable cylinders to pass a Department of

Insurance examination based on requalification criteria established by the National Fire Protection Association. "Portable cylinders" are defined as those containers constructed to required DOT or ASME cylinder specifications and designed to be readily moved.

Section 527.055, F.S., and Subsection 527.06(1), F.S., are created to clarify the Department of Insurance enforcement powers and authorize rule promulgation relating to the safe handling, installing, storing, selling, utilizing, transporting, servicing, testing, repairing and maintaining LP gas, equipment and systems. They also clarify competency standards, licensing, testing and qualifications for all persons dealing with LP gas, equipment and systems. They bestow upon the Department all power and authority implied from the provisions contained in Chapter 527, F.S., including the authority to conduct investigations concerning violations of the statutory chapter or to undertake investigations to secure information for administrative purposes. Further, the Department is authorized to collect, propose, publish and disseminate information related to its legal duties.

Under the provisions of new Section 527.065, F.S., licensees are required to notify the Department of certain accidents involving LP gas and suppliers are required to respond to notification by consumers of a verifiable leak within 24 hours.

Subsection 527.14(1), F.S., is revised to include those persons required to possess a license as liable for suspension

or revocation of their eligibility for licensure for violating any provision of Chapter 527, F.S., or for violating any cease and desist order issued by the Department under the authority of Section 527.12, F.S.

Section 527.175, F.S., is created to require all licensed LP businesses to show proof of licensure prior to the performance of any work and subsequently upon request to any person authorizing the work. Any person authorizing work on equipment or a system by anyone other than the regular dealer who services the system, is required to notify the regular dealer with specific information and "within a reasonable time" prior to the date of the next service for the equipment or system.

The act takes effect October 1, 1986, and is given a "Sunset" repeal date of October 1, 1987.

LAW ENFORCEMENT AND CRIMINAL JUSTICE*

The principal thrust of the Legislature's work this year in law enforcement and criminal justice was to modernize and streamline the system for effectiveness, efficiency and accountability. Law enforcement was given a new technological tool in combating crime: an Automated Fingerprint Identification System (AFIS) which will assist in solving crimes and identifying arrestees. A criminal justice information system was established through mandatory uniform offense reports and arrest reports by all agencies as the foundation of an Offender Based Tracking System (OBTS). Monetary amounts separating a felony from a misdemeanor were increased from $100 to $300 for theft and from $50 to $150 for bad checks; at the same time the various state attorneys were authorized to establish bad check diversion programs to expedite large numbers of these cases.

Local jurisdictions were authorized and encouraged to handle animal control and cruelty issues as non-criminal infractions. In the area of domestic violence, the current statute was clarified on contempt enforcement proceedings, and new arrest authority was given to law enforcement when an

*Prepared by staff of House Committee on Criminal Justice

abusive spouse refuses to vacate the marital home in violation of a court order. The child pornography statutes were updated to conform with applicable constitutional requirements and computer pornography was outlawed. Warrantless arrests were also authorized in misdemeanor child abuse cases.

Changes to criminal sentencing guidelines were approved, increasing penalties for DUI manslaughter and the commission of a new offense while on probation; the guidelines sentence for escape was reduced. Appellate review of departure sentences was restricted. Citizens' rights to jury trials in all criminal cases were established, except where judicial representations are made before trial that the court will not impose an incarcerative sentence.

Other legislative acts regulated the use of ether (used in production of cocaine), conformed the schedules of controlled substances in the "Florida Comprehensive Drug Abuse Prevention and Control Act" to federal schedules, permitted the seizure and forfeiture of boats under certain conditions, redefined prostitution and eliminated archaic language, and increased criminal penalties for destroying public pay phones.

Criminal Activities: Theft, Fraud and Worthless Checks

SENATE BILL 83 (CHAPTER 86-161) amends Section 812.014, F.S., in three specific ways; two of which are evident and one of which is inferred:

1) The theft of any livestock considered to be grazing animals is made a felony of the third degree.

2) The minimum property value necessary for a theft to be classified as a third degree felony is raised from $100 to $300.

3) [Such change in the minimum property value affects Paragraph 812.014(2)(c), F.S., which states: "Theft of any property not specified in paragraph (a) or paragraph (b) is petit theft and a misdemeanor of the second degree,..." The meaning of petit theft, used in this context, is changed from anything valued at less than $100 to anything valued at less than $300.]

Section 812.015, F.S., is amended to modify the definition of "retail theft" to include money or negotiable documents, such as credit card receipts, and to clarify language relating to retail or farm theft.

A new Section 817.037, F.S., is created which, in Subsection (1), makes it a second degree misdemeanor (60 days in jail and/or a fine of $500) for a person to engage in systematic, ongoing conduct to obtain a refund for merchandise from a business establishment by knowingly giving a false or fictitious name or address as his own, or the name or address of any other person without that person's knowledge or approval. Subsection (2) of the new section specifies that, as an element of proof necessary for prosecution, a notice must have been posted in the business establishment in the area where refunds are made advising patrons of the provisions of the new law.

A uniform standard is established for penalties for specific violations of law in which monetary limits define the offense, by amending the following sections to increase the monetary limit from $100 to $300:

1) Subsection 817.481(3), F.S., relating to obtaining goods by use of false, expired, etc., credit cards.
2) Subsection 817.562(3), F.S., relating to fraud involving a security interest.
3) Subsection 817.62(1), F.S., relating to fraud by a person authorized to provide goods or services upon presentation of a credit card by the cardholder.

The following statutes, dealing with stopping payment on worthless checks, drafts, and written orders, are amended to change the monetary limit from $50 to $150:

1) Subsection 832.04(1), F.S., which relates to stopping payment on a check, draft, or written order for purchase of farm or grove products.
2) Subsection 832.041(1), F.S., relating to stopping payment on a check, draft, or written order for payment of goods or services.
3) Paragraphs 832.05(2)(b) and 832.05(4)(c), F.S., relating to worthless checks, drafts, and debit card orders.

Finally, Section 832.07, F.S., which deals with prima facie evidence of intent regarding worthless checks, drafts, or orders, is amended to include a provision which makes the drawer or maker liable for bank fees incurred by the holder of

the check, and potentially liable for court costs and attorney fees in the event of legal action for recovery.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 12 (CHAPTER 86-232) creates Section 832.08, F.S., authorizing state attorneys to establish a diversion program for those accused of issuing worthless checks, as an alternative to criminal prosecution. It would authorize the collections of certain fees or assessments from the defendants to fund the program.

A defendant referred to the program would execute a written agreement with the state attorney which would require:

1) Full payment of the dishonored check.
2) Payment of a diversion program fee (up to $20 for a check of $50 or less, up to $30 for a check over $50 but less than $300, and up to $40 for a check over $300).
3) Attendance at a course to educate the defendant on the law regarding bad checks.
4) Notice that failure to complete the program will render the defendant subject to further criminal prosecution.
5) Waiver of the defendant's right to a speedy trial during the term of the agreement.

Eligibility of a defendant for the diversion program would be determined by the state attorney upon the following criteria:

1) Prior criminal record.
2) Whether other bad check complaints are pending.

3) The amount of the dishonored check.

4) The strength of the State's case in a criminal prosecution.

This act will take effect on October 1, 1986.

HOUSE BILL 171 (CHAPTER 86-198) amends Section 832.07, F.S., to eliminate the requirement that the check-writer's signature on the check be witnessed by the payee and initialed by him, in order to establish prima facie evidence of identity of the check-writer or his authority to issue the check.

This act will take effect on October 1, 1986.

Ether Regulation

COMMITTEE SUBSTITUTE FOR SENATE BILLS 101 and 288 (CHAPTER 86-133) amends Chapter 499, F.S., relating to the regulation of drug, cosmetic and household products, to include the sale of ether as a regulated product by the Department of Health and Rehabilitative Services (DHRS). Section 499.0053, F.S., is created to authorize DHRS to administer oaths, take depositions, and issue subpoenas for the purpose of any investigation or proceeding conducted by the Department. Section 499.066, F.S., is amended to increase administrative fines imposed by the Department from $500 to $5,000 per violation per day, and to provide that all amounts collected shall be deposited into the Florida Drug, Device, and Cosmetic Trust Fund instead of the General Revenue Fund.

Sections 499.001-499.503, F.S., are designated as Part I of Chapter 499, F.S., and Part II of Chapter 499, F.S., is

created to consist of Sections 499.601-499.79, F.S. This part provides for the regulation of either (a chemical used in the clandestine processing of cocaine) by regulating the manufacture, distribution and purchase of more than 2 1/2 gallons of ether, and by requiring those persons dealing in ether to be licensed and to maintain records of any transaction for at least five years. [It is estimated that one gallon of ether is equivalent to 10 sticks of dynamite. According to the Florida Department of Law Enforcement an average of 10 to 15 drums of ether was seized from each cocaine lab in 1984. That is the equivalent of enough chemical explosive power to level two city blocks.] Licensing fees are required and range from $150 to $700 and licenses are valid for one year. Transporters, pharmacists, medical practitioners, hospital personnel, and persons conducting lawful research are exempt from the licensing requirements. Penalties range from a first degree misdemeanor for failure to maintain records to a second degree felony for manufacture or distribution of ether without a valid license.

This act will take effect on October 1, 1986.

Controlled Substances

COMMITTEE SUBSTITUTE FOR SENATE BILLS 854 AND 1050 (CHAPTER 86-147) amends Section 893.03, F.S., to conform the schedules of controlled substances in the "Florida Comprehensive Drug Abuse Prevention and Control Act" to federal schedules found in 21 U.S.C. Sec. 812 (1982). Twelve new

"designer drugs" (new formulas or variations of existing ones with a high potential for abuse) are added to Schedule I. Dronabinol is added to Schedule II and quazepam and midazolam are added to Schedule IV. Nalmefene is excluded from Schedule II.

Animal Control

COMMITTEE SUBSTITUTE FOR HOUSE BILL 346 (CHAPTER 86-96) creates Section 828.27, F.S., providing for local animal control or cruelty ordinances [to encourage local government to decriminalize animal control ordinances by granting them certain enforcement powers and procedures that do not require enforcement by law enforcement officers]. The act defines an "animal" as any living dumb creature; an "animal control officer" as a person who is employed or appointed by a county or municipality to investigate animal cruelty infractions and issue citations; "control" as possession, ownership, care and custody of animals; "cruelty" as neglect, torture or torment; and an "officer" as a law enforcement officer, veterinarian, or animal control officer. A "citation" is defined as a written notice issued by an officer, when probable cause exists, that a civil infraction occurred and specifies the content of the citation. An "ordinance" is defined as an ordinance enacted by a county or municipality that establishes civil penalties (non-criminal) for violations relating to animal cruelty.

Ordinances must provide that violations are civil infractions (the maximum fine is $500), a lesser fine may be

imposed when the citation is not contested, the citation may be contested in county court, and implementing procedures must be established. There is also a provision that any person who refuses to sign and accept the citation is guilty of a second degree misdemeanor. Finally, the act provides that any county or municipality may enact an ordinance relating to animal cruelty that is identical to any state law, except as to penalty; but ordinances shall not conflict with state laws.

Boats and Motors

SENATE BILL 241 (CHAPTER 86-73) amends Sections 328.07 and 860.20, F.S., relating, respectively, to boat and outboard motor identification numbers. [The Third District Court of Appeal has recently held that a boat with altered identification numbers was not in and of itself sufficient to make the boat an instrumentality in the commission of a felony; therefore, the boat was not forfeitable under the contraband forfeiture statute. Cabrera v. Department of Natural Resources, 478 So.2d 454 (Fla. 3d DCA 1985).] This act makes vessels and outboard motors which have nonexisting or altered identification numbers forfeitable as contraband property under the "Florida Contraband Forfeiture Act" (Sections 932.701-932.704, F.S.) if the owner's true identity cannot be determined. Neither the vessel nor the motor can be sold or used until a court orders the Department of Natural Resources to issue replacement identification numbers for the vessel or motor. [The proceeds from the sale of these vessels and motors

would go into the Motorboat Revolving Trust Fund for law enforcement purposes. See Section 932.704, F.S.]

This act also makes it a third degree felony to knowingly possess, manufacture, sell, or give away either counterfeit manufacturers' hull identification number plates or decals, or counterfeit manufacturers' outboard motor serial number plates or decals.

This act will take effect on October 1, 1986.

Radio Equipment (Scanners)

HOUSE BILL 342 (CHAPTER 86-55) amends Subsection 843.16(1), F.S., to authorize the installation of radio receiving equipment (scanners) that are tuned to law enforcement frequencies in crime watch vehicles. Paragraph 843.16(2)(b), F.S., defines a "crime watch vehicle" as a vehicle used by a citizen who is participating in a crime or neighborhood watch program with written authorization by the chief of police or sheriff to be equipped with scanner tuned to a law enforcement frequency assigned to the city or county.

This act will take effect on October 1, 1986.

Search Warrants

HOUSE BILL 210 (CHAPTER 86-93) amends Subsection 933.18(8), F.S., to provide that, when probable cause exists to search a private dwelling that is being used for the unlawful sale, possession, or purchase of saltwater products, a search warrant can be issued.

This act will take effect on October 1, 1986.

Criminal Justice Information, Employment and Expenditures

SENATE BILL 762 (CHAPTER 86-187) amends Section 943.04, F.S., to define investigators and agents as law enforcement officers; amends Sections 921.161, 943.05, 943.052 and 943.0525, F.S., establishing a statewide Automated Fingerprint Identification System (AFIS), requiring the use of uniform offense and arrest reports and requiring user agreements; and amends Sections 943.139, 943.1395, 943.14, 943.17, 943.175, and 943.25, F.S., relating to the employment and training of officers and the administration of various trust funds.

The act establishes a statewide AFIS network that will, by matching rolled or latent fingerprints with prints stored in a central data base, increase arrest and conviction rates. [Since offenders will more readily admit to guilt and negotiate a plea when confronted with fingerprint evidence, it is estimated that there will be savings in court expenses and investigative costs. The AFIS project has a five-year installment purchase cost for a central data base and 26 remote sites. Effective July 1, 1986, the annualized respective costs are $2.6, $4.3, $5.6, $6.0 and $6.3 million dollars for 25 positions and hardware.]

The act also provides that, effective January 1988, all law enforcement agencies shall use and submit uniform offense and arrest reports to the Florida Department of Law Enforcement (FDLE). The reports may, when acceptable to the Department, be submitted in an automated fashion and the data will be used to prepare various crime analysis reports. Each component of the

criminal justice system is also required to file with the Department disposition reports as the offender proceeds through the system. All of the reports are the core of an Offender Based Transaction System (OBTS). [The OBTS process will provide two essential pieces of criminal justice information: first, it will be shown, for each offender, which proceedings have been completed or are pending; and, second, when the data is analyzed, it will be easier to plan criminal justice manpower and cost needs.]

With regard to criminal justice standards and training issues, the act requires that each agency file an affidavit-of-termination where, under oath, the administration specifies the reasons for the termination of an officer. Knowingly submitting a false affidavit of an officer's application, compliance, or termination will constitute grounds to revoke a certification. Criminal justice training schools are authorized to establish specialized training courses which, when approved by the Criminal Justice Standards and Training Commission, can be supported with trust fund money. Court cost assessments shall be deposited in a receiving trust fund and disbursed to the Administrative Trust Fund for the operation of the Commission and the Division of Criminal Investigation, to the Criminal Justice Improvement Trust Fund for research projects, to the Criminal Justice Training Trust Fund for payment of criminal justice training courses approved by the Criminal Justice Standards and Training Commission, and to the

Grant Matching Trust Fund for matching funds for federal grants.

Child Abuse and Pornography

COMMITTEE SUBSTITUTE FOR HOUSE BILL 439 (CHAPTER 86-38) amends certain definitions in Chapters 827 and 847, F.S., relating to the use of children in sexual performances and in pornographic depictions. The definitions have been updated and homogenized to provide consistency between the two chapters. [There had been some confusion as to the difference in definitions within Chapters 827 and 847, F.S., which this act eliminates.]

The definition of "sadomasochistic abuse" is updated and is now defined as the "flagellation or torture by or upon a person, or the condition of being fettered, bound or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself."

A definition of the term "sexual bestiality" is added to Chapters 827 and 847, F.S., to mean "any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus or vagina of the other." In addition, the definition of "sexual conduct" is expanded and clarified by this legislation. The definitions under both chapters have been merged to provide a common definition. "Sexual conduct" means: actual and simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or

sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed.

Finally, the definition of "sexual battery" has been added to both chapters. "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the oral, anal, or vaginal penetration of another by any object, except an act done for bona fide medical purposes.

This act will take effect on October 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 731 (CHAPTER 86-238) is similar to COMMITTEE SUBSTITUTE FOR HOUSE BILL 439 (CHAPTER 86-38), discussed above, in that it contains the same definitions described in that act but rearranges Chapter 847, F.S., to clarify further the provisions of the chapter. It creates a specific definition section rather than defining and redefining terms in each individual section. [In addition, Chapter 847, F.S., has been rewritten by this act to delete obsolete language determined to be unconstitutional by both the Florida Supreme Court and the United States Supreme Court.] Substantively, there are four major changes in Chapter 847, F.S. First, the definitions have been changed as indicated above. Second, under Section 847.011, F.S., the number of obscene articles, for which the knowing possession of may cause any person to be prosecuted, has been reduced from six to three articles. Third, under Section 847.0125, F.S., it is currently

unlawful for any person, offering for sale in a retail establishment any book or other material which is harmful to minors, to knowingly exhibit the material in such a way that it is on open display or within the convenient reach of minors. It is discretionary with the person offering the material for retail display as to whether the items are displayed behind an opaque covering. This act mandates that such material be displayed, either individually or collectively, behind an opaque covering which conceals the printed material.

Finally, the enactment creates at Section 847.0135, F.S., the "Computer Pornography and Child Exploitation Prevention Act of 1986." Any person who knowingly compiles, enters into or transmits by means of a computer certain demographic or other descriptive information on a minor for the purposes of facilitating or encouraging sexual conduct with the minor would be guilty of a first degree misdemeanor.

This act will take effect on October 1, 1986.

SENATE BILL 43 (CHAPTER 86-130) amends Subsection 901.15(7), F.S., to provide authorization for a warrantless arrest when a law enforcement officer has probable cause to believe a person has committed child abuse and finds evidence of bodily harm or reasonably believes there is danger of violence unless the person is arrested without delay.

A new Subsection 901.15(9), F.S., is added to provide that a warrantless arrest may also be made when an officer has determined that he has probable cause to believe that a felony or misdemeanor has been committed, based upon a signed

affidavit provided to the officer by a Florida National Guard law enforcement officer who has probable cause to believe a felony was committed on state property, or a felony or misdemeanor was committed in his presence on such property. The Florida National Guard officer may detain the person until the arrival of the law enforcement officer who has the authority to make the warrantless arrest.

This act takes effect on October 1, 1986.

HOUSE BILL 45 (CHAPTER 86-50) clarifies Section 777.04, F.S., in that it specifically states that the offense of "criminal attempt" includes the act of an adult who, with the intent to commit an offense, tries to persuade or allures a child under 12 years of age to engage in the offense prohibited by law. [There was some question under previous law as to whether an adult who called a child over to his car in an aborted attempt to commit, for example, sexual battery, could be prosecuted under this section. The act would permit the charge of criminal attempt in such cases.]

COMMITTEE SUBSTITUTE FOR HOUSE BILL 846 (CHAPTER 86-109) amends Section 119.07, F.S., to require that certain information on victims of sexual offense not be subject to the open record laws of the state. Currently, under Section 119.07, F.S., certain criminal intelligence and investigative information is exempt from public inspection and examination. This act adds to the exemptions to provide that the identity of the victim of the crime of lewd, lascivious or indecent assault upon or in the presence of a child is nondisclosable under

Chapter 119, F.S. In addition, any criminal intelligence or investigative information or other criminal record which could reveal the identity of a child who is a victim of any sexual offense is exempt from disclosure.

This act will take effect on October 1, 1986.

Spouse Abuse

COMMITTEE SUBSTITUTE FOR HOUSE BILL 396 (CHAPTER 86-264) amends Section 741.30, F.S., relating to action by a spouse for protection against domestic violence, to provide that:

1) It is not a requirement that an assault, battery or sexual battery on a spouse have actually occurred before the victim can obtain a restraining order; if a potential victim has "reasonable cause" to believe that he or she will become a victim, then an appropriate order may be entered by the court.
2) The requirement for a financial affidavit under Rule 1.611(a), RCP, is clarified to apply only if monetary relief is sought so that the document (and its preparation by the petitioner with the assistance of the court clerk) is not required where non-monetary relief is sought (i.e., restraining acts of domestic violence, temporary custody, vacation of the marital home, etc.).
3) The petitioner is required to inform the court, in the original petition for relief, whether any other court proceedings are pending between the parties.

[This provision will allow any subsequent proceeding, including one for the entry of a domestic violence restraining order, to be consolidated so that one judge would exercise jurisdiction over the parties.]

4) Enforcement provisions are clarified by specifying that violations of a restraining order would be punished by either civil or indirect criminal contempt proceedings.

5) A provision is included for the availability of bail for a respondent arrested for violation of a restraining order until a contempt hearing may be held. [As a condition of bail, the court, under Section 903.047, F.S., may require the respondent to "...refrain from criminal activity of any kind" or to "...refrain from any contact of any type with the victim." Violation of these or any other restrictions imposed by the court could result in a revocation of the bond and subsequent jailing of the respondent.]

Section 741.31, F.S., is created to provide a new second degree misdemeanor in situations where a restraining order has been entered ordering a party to vacate the home, and the respondent refuses to comply with the order. [Since arrest authority under current law is confined to an assault, battery or sexual battery offense, this provision is intended to

provide the legal authority for law enforcement to arrest the offender.]

Section 741.01, F.S., is amended to increase the fee charged for each marriage license from $10 to $20, effective July 1, 1986.

The remaining provisions of the act take effect October 1, 1986.

Sentencing Guidelines

HOUSE BILL 868 (CHAPTER 86-273) amends Section 921.001, F.S., to limit appellate review of sentences imposed outside the guidelines by providing that the extent of the departure from the guideline sentence shall not be subject to appellate review. [Other issues such as whether there existed "clear and compelling reasons" for the departure, errors on scoring in computing the guideline sentence, and the applicability of the guidelines (as revised from time to time) to a particular defendant are still subject to appellate review.]

Through the adoption and implementation of specified Rules of Civil Procedure, effective October 1, 1986, principal changes made relating to sentencing guidelines include:

1) An increase in the guidelines sentence for DUI manslaughter.
2) A decrease in the guidelines sentence for escape from a correctional facility.
3) An increase in sentencing points where a defendant, while on probation, commits a new crime.

[All of the technical changes proposed by the Sentencing Guidelines Commission and approved by the Supreme Court were adopted; however, the provision for increasing guidelines sentences for residential burglaries was removed because of its anticipated fiscal impact to the state (over $350 million within the next 10 years).]

Trial by Jury

HOUSE BILL 1179 (CHAPTER 86-115) creates Section 918.0155, F.S., which provides to defendants the right to a trial by jury for any offense punishable by imprisonment. The net effect is generally to grant a right to trial by jury to persons charged with all misdemeanors of the second degree or with violations of local ordinances punishable by any term of imprisonment.

An exception to the right to a jury trial is included for those cases in which the court declares prior to trial that it does not intend to adjudicate or sentence the accused to a term of imprisonment in the event of conviction. This exception does not apply to those cases in which the accused is entitled to a trial by jury under the state or federal constitution [i.e., trials for offenses punishable by a term of imprisonment in excess of six months, for offenses for which a right to trial by jury existed at the adoption of the state's first constitution or under common law, trials for offenses which were classified as malun in se at common law, and trials for offenses involving moral turpitude].

Prostitution

COMMITTEE SUBSTITUTE FOR SENATE BILL 576 (CHAPTER 86-143) amends Section 796.07, F.S., to redefine "prostitution" as "the giving or receiving of the body for sexual activity for hire." "Sexual activity" is defined as "oral, anal or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object, or the handling or fondling of the sexual organ of another for the purpose of masturbation" however, the term does not include acts done for bona fide medical purposes."

Section 796.08, F.S., is created to provide that any person arrested for prostitution may request screening for a sexually transmissible disease and, if infected, shall submit to appropriate treatment and counseling. Any person convicted of prostitution shall be required to undergo screening, treatment and counseling as a condition for release. "Sexually transmissible disease" is defined as "a bacterial, viral, fungal or parasitic disease, determined by rule of the Department of Health and Rehabilitative Services (DHRS) to be sexually transmissible."

Any person who, prior to the commission of prostitution, had tested positive for a sexually transmissible disease, and knew the results of the test and that such disease could possibly be transmitted to another through sexual activity, is guilty of a second degree misdemeanor. A person may be convicted and sentenced separately for violation of this provision and for the underlying crime of prostitution.

The DHRS may examine, or cause to be examined, for a sexually transmissible disease any person or inmate who injures a law enforcement officer, firefighter, or paramedic acting within the scope of employment. Evidence of injury and probability of transmission of a disease constitutes probable cause for issuance of a warrant.

This act will take effect October 1, 1986.

Missing Persons

HOUSE BILL 154 (CHAPTER 86-234) amends Section 406.13, F.S., pertaining to the duties of medical examiners, to require medical examiners to notify the appropriate law enforcement agency of the delivery of an unidentified body to his office. Section 937.032, F.S., has been created by this act to require that the appropriate law enforcement agency take this information from the medical examiner and attempt to establish the identity of the body. If the body is not immediately identified, the law enforcement agency would be required to complete an Unidentified Person Report. The information contained in this report would then be entered through the Florida Crime Information Center into the Unidentified Person File of the National Crime Information Center. [At approximately 2:00 A.M. every day, this National Unidentified Person File is cross-checked with the National Missing Person File to determine if any reported missing person shows up in the Unidentified Person File. This is to facilitate the immediate identification and location of missing persons.]

Criminal Mischief

HOUSE BILL 1303 (CHAPTER 86-281) amends Section 806.13, F.S., to prohibit destruction or substantial damage to any public telephone which renders the telephone inoperative or opens the body of the telephone. A conspicuous notice of the provisions of law and penalty for violation is required to have been posted on or near the instrument at the time the offense is committed. Violation is a felony of the third degree.

This act will take effect on October 1, 1986.

LOCAL GOVERNMENT*

The 1986 Florida Legislature enacted a variety of laws which affect local government.

With regard to affordable housing, the Legislature created the "Florida Affordable Housing Act of 1986" which includes the selection of demonstration areas for pilot projects and requires an inventory of publicly owned lands and buildings in the demonstration areas. Other housing-related provisions which may affect local government involve the development of mobile home relocation parks for low-income persons, and the authorization for housing authorities to administer fair housing ordinances under contract with local governments.

In the area of annexation, the 1986 Legislature streamlined the notice requirements for both nonvoluntary and voluntary annexation.

In the area of building codes and construction, the "Local Government Code Enforcement Boards Act" was streamlined and strengthened. The Legislature also created a Florida Asbestos Committee within the Executive Office of the Governor

*Prepared by staff of Senate ECCA Committee

to set forth specific methods in the construction of Florida's public buildings and in asbestos inspection and abatement.

The mechanics' lien law was revised to require that local governments must not only notice applicants of building permits of the substance of the mechanics' lien law (who are in turn to notify the property owner of such law), but must also directly notify the owners of the real property upon which improvements are to be constructed of the existence and substantial attachment effects of the mechanics' lien law.

Also allowed was an increase in the county local option tourist development tax for Florida counties that have levied the tax at one or two percent for at least three years, by allowing those counties to levy an additional one percent tax by extraordinary vote of the county governing board, or by referendum.

Other laws concerning local government correct glitches in last year's growth management legislation, COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 978 (CHAPTER 86-191); allow counties to create independent special districts to provide juvenile welfare services, COMMITTEE SUBSTITUTE FOR HOUSE BILL 55 (CHAPTER 86-197); and strengthen county animal control, COMMITTEE SUBSTITUTE FOR HOUSE BILL 346 (CHAPTER 86-96). These changes are discussed in detail respectively in the CONSERVATION AND NATURAL RESOURCES, HEALTH AND REHABILITATIVE SERVICES AND LAW ENFORCEMENT AND CRIMINAL JUSTICE articles of the summary compilation.

Affordable Housing

COMMITTEE SUBSTITUTE FOR SENATE BILL 1030 (CHAPTER 86-192) addresses the need for affordable housing in Florida by: creating the "Florida Affordable Housing Act of 1986"; creating the "Florida Mobile Home Relocation Site Acquisition and Development Act of 1986"; authorizing the Florida Housing Finance Agency to privately place unrated bonds; directing the Departments of Community Affairs and Health and Rehabilitative Services to address the housing needs of elderly persons; authorizing one-year extensions of loans from the Farmworker Housing Assistance Trust Fund; and authorizing housing authorities to administer fair housing ordinances.

Part VI of Chapter 420, F.S., consisting of Sections 420.601-420.609, F.S., is created as the "Florida Affordable Housing Act of 1986," providing for a variety of programs and strategies to assist in the provision of affordable housing for very low-income, low-income and moderate-income persons. The Florida Affordable Housing Trust Fund is created under the administration of the Department of Community Affairs (DCA), as a nonlapsing, revolving fund to be used to carry out the provisions of the act. The Florida Affordable Housing Demonstration Program is created as a two-year pilot program designed to demonstrate the effectiveness of cooperation between the public and private sectors in lowering to the greatest extent possible the cost of housing for the target population. By August 31, 1986, the DCA must designate between four and seven demonstration areas for affordable housing

projects. The Affordable Housing Loan Program is established for the purpose of making zero-interest or low-interest mortgage loans for the construction, rehabilitation, or individual purchase of affordable housing units. The DCA is required to provide training and technical assistance to community-based organizations which are formed for the purpose of developing affordable housing. The Community-Based Organization Loan Program is established under the DCA to provide low-interest "seed money" loans to community-based organizations to assist in covering predevelopment expenses associated with the development of affordable housing. The DCA is directed to contract for an inventory of publicly owned lands and buildings in the demonstration areas which may be suitable to be marketed, sold, leased, or exchanged for the development of affordable housing and to determine the feasibility of making such an inventory on a statewide basis. A 17-member Affordable Housing Study Commission is established to analyze solutions for, and programs to address the state's acute need for affordable housing. The sum of $2.7 million is appropriated from the General Revenue Fund to the Florida Affordable Housing Trust Fund and is allocated to implement the various elements of the "Florida Affordable Housing Act of 1986" as described above.

Part VII of Chapter 420, F.S., consisting of Sections 420.701-420.713, F.S., is created as the "Florida Mobile Home Relocation Site Acquisition and Development Act of 1986." The Act provides for the development of mobile home relocation

parks for low-income persons who have been evicted from mobile home parks due to a change in land use. The measure establishes the Mobile Home Relocation Site Acquisition and Development Trust Fund under the administration of the DCA through an appropriation of $600,000 from the General Revenue Fund. The Department is authorized to make loans to sponsors (local governments, housing authorities, and nonprofit organizations) for the acquisition and development of sites for mobile home relocation parks provided that the local government demonstrates the need for such sites and that private funding is not available. [See also the summary of COMMITTEE SUBSTITUTE FOR SENATE BILL 137 (CHAPTER 86-162) which amends the Florida Mobile Home Act. This summary appears in the COURTS AND CIVIL LAW Article.]

Sections 420.503, 420.508, and 420.509, F.S., are amended to authorize the Florida Housing Finance Agency to privately place unrated bonds through negotiated sale. [Private placement of bonds precludes the need for rating the bonds, thereby saving the FHFA money and maximizing the use of the agency's resources in providing for affordable housing.]

In order to address the housing needs of elderly persons, the Department of Community Affairs (DCA), in conjunction with the Florida Housing Finance Agency (FHFA), and in consultation with the Department of Health and Rehabilitative Services (DHRS), is directed to form an advisory group (subject to "Sundown" on October 1, 1996) which will work together with specified public and private organizations and

agencies dealing with housing affairs to gather data and assist in planning to meet the housing needs of older Floridians. The act also directs DHRS to provide services related to housing and living arrangements of elderly persons. These services include counseling services, data collection services (in coordination with DCA), and promotion (through demonstration projects) of the development of various living arrangements designed to meet the needs of the elderly. The DCA and DHRS are directed to report annually to the Senate President and House Speaker on their activities and progress. The Board of Regents is directed to develop a proposal for a multidisciplinary center on housing the elderly to be established at one or more state universities. The Board is required to report its findings to the Legislature by April 1987.

In addition, the enactment amends Paragraph 420.405(4)(b), F.S., to authorize the Secretary of Community Affairs to extend for one additional year the term of a loan under the Farmworker Housing Assistance Trust Fund if the secretary finds that extraordinary circumstances exist.

Finally, the act amends Subsection 421.08(6), F.S., to authorize housing authorities to administer, within their areas of operation, fair housing ordinances and other ordinances as adopted by cities, counties, and other authorities who wish to contract for administrative services.

Annexation

HOUSE BILL 1021 (CHAPTER 86-113) amends Chapter 171, F.S., relating to the procedures for adjusting the boundaries of municipalities through annexations. Subsections 171.0413(2) and 171.044(2), F.S., are amended to streamline the notice requirements for both nonvoluntary and voluntary annexations to:

-- Provide that the notice contain the ordinance number and a brief general description of the area proposed to be annexed, rather than a complete legal description.
-- State in the notice that the full text of the ordinance and a full legal description can be obtained from the office of clerk of the governing body.

Building Codes and Construction

SENATE BILL 233 (CHAPTER 86-135) amends Section 553.77, F.S., to allow the Board of Building Codes and Standards of the Department of Community Affairs to set initial and annual renewal fees for the certification of special inspectors of threshold buildings. Subsection 553.79(5), F.S., is amended to clarify that statewide standards govern the selection of special inspectors by fee owners of a threshold building and the qualifications of special inspectors.

The act also creates the Florida Asbestos Committee within the Executive Office of the Governor to develop an

Asbestos Identification and Remediation Plan. The Asbestos Plan will set forth the specific methods state agencies will employ in the construction of Florida's public buildings and in asbestos inspection and abatement. The Committee shall also develop a certification and continuing education program for asbestos contractors, architects, engineers and consultants. The Plan shall be submitted to the Governor, the Legislature, and the Department of Labor and Employment Security by January 1, 1987, at which time the Committee shall terminate.

Building Codes and Construction

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 274 & 604 (CHAPTER 86-201) substantially revises procedures in Chapter 162, F.S., the "Local Government Code Enforcement Boards Act." Section 162.02, F.S., contains the intent language of Chapter 162, F.S., and provides that code enforcement boards may be created to enforce codes which have no criminal penalty. New language is added which clarifies the intent section of the act, specifying that when a code has both a fine and a non-criminal penalty for noncompliance, code enforcement boards have the authority to impose administrative fines and other noncriminal penalties.

Sections 162.03, 162.04, and 162.05, F.S., are amended to authorize counties or municipalities to create or abolish by ordinance more than one code enforcement board simultaneously. [Currently, several boards are facing workloads that are too extensive to be completed each month. Creating additional

boards will help to disperse this workload, since at present proceedings are less than timely for both the board members and the violators.]

Section 162.06, F.S., is amended to streamline the procedures for enforcement of the codes by allowing the code inspector to schedule hearings through the clerical staff of the code enforcement board instead of having to request an initial hearing in order to set a future hearing date on a violation. Section 162.06, F.S., is also amended to provide that if a violation is corrected and then recurs, the case (a repeat offender) shall be presented to the code enforcement board even if the violation has been corrected prior to the board hearing. [Currently, the code enforcement board cannot require an offender, who has corrected a violation prior to the hearing, to appear before the board. By requiring a repeat offender to attend the hearing, the board will have the authority to impose a fine, if necessary, on offenders who continuously violate and then correct the violation prior to the hearing.] Section 162.06, F.S., is also amended to clarify the hearing procedure for emergency situations. In these cases, the code inspector may immediately notify the enforcement board and request a hearing, but must also make a reasonable effort to notify the violator.

Section 162.07, F.S., is amended to modify the procedures for convening code enforcement boards. Instead of mandating that the boards meet at least once every two months, this act allows the chairman of each code enforcement board to

call a meeting when it is requested by the code inspector, or at such time as may be necessary.

Section 162.09, F.S., is amended to allow the board, upon notification by the code inspector that an order has not been complied with by the set time, to order the violator to pay a fine not to exceed $250 for each day the violation continues, and a hearing shall not be necessary for issuance of the order. [Therefore, offenders will not have to be bought back through the administrative hearing process for the imposition of fines.] Section 162.09, F.S., is also amended to provide that liens may be placed on the land on which the violation exists and on any real personal property owned by the violator. [Therefore, a violator will not be able to avoid payment of fines by asserting homestead status as a defense to foreclosure, since the lien may be placed on property other than the homestead.]

Section 162.10, F.S., is amended to increase the duration that a lien, provided under the "Local Government Code Enforcement Boards Act," shall remain effective, from two to five years.

Section 162.12, F.S., is amended to allow hand delivery of all notices required by this act, not only by sheriffs or other law enforcement officers or code inspectors, but also by any other person designated by the local governing body.

Section 92.525, F.S., is created to address verification of documents and penalties for perjury by false written declaration.

Mechanics' Liens

SENATE BILL 371 (CHAPTER 86-247) amends Part I of Chapter 713, F.S., the mechanics' lien law. Specifically, Subsections 713.135(1) and 713.135(3), F.S., relating to the contents of and fees for an application for a building permit issued by a local government, are amended, as well as Section 713.04, F.S., relating to lienors who perform services or furnish materials with regard to subdivision improvements.

Chapter 713, F.S., provides that persons who perform certain professional services, or certain persons who perform labor or services or furnish materials for the improvement of real property, have rights to a lien on that property for any money that is owed them for the labor, services, or materials furnished in accordance with their contract and with the direct contract.

[Subsection (1) of Section 713.135, F.S., provides that an application for building permit and the actual permit must notify the applicant that "failure to comply with the mechanics' lien law can result in the property owner paying twice for building improvements." The issuing authority must also provide the applicant with a printed statement alerting the applicant to the fact that the property of the person who has contracted for the improvement may be attached. The applicant must forward the statement to the property owner. Subsection (2) of Section 713.135, F.S., provides that no issuing authority under Subsection (1) shall be held liable in any civil action for the failure of the person whose property

is subject to attachment to receive or to be delivered the printed statement.] Paragraph (b) of Subsection (1) of Section 713.135, F.S., is amended by this act to require that the authority issuing building permits must provide "the owner of the real property upon which improvements are to be constructed" with a printed statement, stating that the right, title, and interest of the person who has contracted for the improvement may be subject to attachment under the mechanics' lien law, in addition to the building permit applicant. [This portion of the act provides an additional safeguard for property owners. While present law requires that the contractor, when receiving a permit, forward to the property owner a copy of the notice of the effect of the mechanics' lien law, the notice is not always forwarded. The property owner then pays for the repairs without requiring proof of payment to subcontractors and suppliers who, if not paid, will then acquire a lien on the property. The result is that the property owner then has to pay the subcontractors and suppliers in order to clear his title, without ever having received notice that such a result could occur.] Subsection (3) of Section 713.135, F.S., is also amended, increasing from $2 to $5 the limit on the fees that may be collected for furnishing copies of forms of notice of commencement and the statement explaining the provisions of Florida's mechanics' lien law.

Section 713.04, F.S., specifies the rights and procedures thereof of lienors who perform services or furnish materials with regard to subdivision improvements. This

section does not limit the amount of the lien recoverable by a lienor. Section 713.04, F.S., is amended by this act to limit a lienor's recovery, in the case of subdivision improvements, to the amount of the direct contract under which the lienor furnishes labor, materials, or services. Subsection (2) is created to provide that if a lienor for subdivision improvements, who is not in privity with the owner, serves notice on the owner in accordance with the provisions of Subsection 713.06(2), F.S., payment of lienors by the owner must be in accordance with the procedures set out in Paragraphs 713.06(3)(c), (d), (e), (f), (g), (h), and Subsection 713.06(4), F.S. Subsection (3) is created to mandate that an owner, under this section, shall not make payments under the direct contract until labor, services, or materials have actually been furnished for subdivision improvements.

This act takes effect October 1, 1986.

Local Option Tourist Development Tax

COMMITTEE SUBSTITUTE FOR HOUSE BILL 271 (CHAPTER 86-4) amends Section 125.0104, F.S., relating to the local option tourist development tax which counties may levy. The act primarily authorizes any county (except a county authorized to levy convention development tax, pursuant to Sections 212.0305 and 212.057, F.S., or Section 8 of Chapter 84-324, Laws of Florida, i.e. Dade, Duval and Volusia) that has levied the local option tourist development tax at one or two percent for

at least three years, to levy an additional one percent tax by extraordinary vote of the governing board, or by referendum.

The act restricts the use of revenues obtained from the additional one percent levy; revises provisions relating to the chairman of the Tourist Development Council and its membership and meetings; revises provisions relating to the issuance of bonds; and provides for the issuance of revenue refunding bonds.

Historic Preservation Boards

SENATE BILL 923 (CHAPTER 86-32) creates Section 266.109, F.S., and amends Section 266.107, F.S., dealing with the Historic Pensacola Preservation Board of Trustees and the Pensacola Architectural Review Board.

[Chapter 266, F.S., in general establishes numerous historic preservation boards around the State of Florida. Part II of Chapter 266, F.S., specifically creates the Historic Pensacola Preservation Board of Trustees within the Department of State, subject to the budget review and approval powers of the Secretary of State. The Board is charged with responsibilities such as the acquisition, restoration, preservation, and operation of historic sites and objects of historical interest in Pensacola.]

Section 266.109, F.S., is created to authorize the Board to permit a direct-support organization to use its property, facilities, and personal services. The direct-support organization will be a not-for-profit corporation incorporated

under Chapter 617, F.S., and approved by the Department of State. It will be organized and operated to raise funds, request and receive grants, receive, hold, invest, and administer property, and make expenditures to or for the benefit of the Board, and will be required to have an annual postaudit of its financial accounts conducted by an independent certified public accountant. The report would be submitted to the Auditor General and the Board for review. The act protects and exempts all records of the direct-support organization from the public records law other than the accountant's report and supplemental data requested by the Auditor General. [A primary purpose of the enactment is to allow donors to make a contribution for a specific purpose. Currently, any contributions received must be placed in the Board's trust fund to be appropriated through the state's budget process.]

The membership of the Pensacola Architectural Review Board is also amended in Section 266.107, F.S.

This act takes effect October 1, 1986.

HOUSE BILL 963 (CHAPTER 86-127) revises the membership requirements of the Barrio Latino Commission, the architectural review board for the Ybor City Historic District. Although the Commission will still consist of nine members, the amendment of Subsection 266.408(2), F.S., reduces from three to two the number of appointees from the Ybor City Chamber of Commerce and adds a position for a resident of the Ybor City Historic District. In addition, the act provides that the Commission seat reserved for a member of the Hillsborough County

Historical Commission may also be filled by a member of the Tampa Historical Society, Tampa Preservation, Inc., or the Ybor City Museum Society. Obsolete language relating to the initial appointment of a commission chairman is deleted.

Miscellaneous

HOUSE BILL 1039 (CHAPTER 86-288), relating to county boundaries, amends Sections 7.19 and 7.65, F.S., relating to the location of the boundaries of Franklin and Wakulla counties. The act provides that the boundary line between Franklin and Wakulla county is to be moved from the eastern bank of the Ochlocknee River and Bay to the thread or center line of the river and bay.

This act takes effect October 1, 1986.

HOUSE BILL 133 (CHAPTER 86-259), relating to employment screening prohibitions, prohibits the enactment or enforcement of any ordinance which requires the registration or background screening of any person engaged in or applying for specific types or categories of employment, or which requires the carrying of an ID card issued as a result of such registration or screening. However, an ordinance that regulates any business, institution, association, profession, or occupation, such as the adult entertainment business, by requiring proof of certain skills, knowledge, or moral character as a prerequisite to engaging in a certain type of employment would not be prohibited, provided that such regulation is: (1) not preempted to the state or is not otherwise prohibited by law,

(2) a valid exercise of the police power, (3) narrowly designed to offer the protection sought by the county or municipality, and (4) not unfairly discriminatory against any class of individuals.

SENATE BILL 497 (CHAPTER 86-153) amends Paragraph 200.001(8)(e), F.S., to provide that an appointive or elective downtown development authority established prior to the effective date of the 1968 State Constitution (January 7, 1969) is an independent special district for purposes of setting county millages whether or not the budget is approved by the local governing body, provided the district levies a millage authorized as of the effective date of the 1968 Constitution or such millage is levied for purposes of the authority. The act further provides for the repeal of this language as of July 1, 1987.

[This act, although affecting the Ocala downtown development authority, is designed primarily to affect the Miami downtown development authority by giving them the status of an independent special district, and by allowing the sum of that downtown development authority's millage and that of the municipality to exceed 10 mills.]

HOUSE BILL 323 (CHAPTER 86-95), relating to municipal charter amendments, amends Subsection 166.031(1), F.S., providing clarifying language for the purpose of calculating the number of signatures required on a petition for a proposed charter amendment. This act specifies that the petition must

be signed by 10 percent of the registered electors "as of the last preceding municipal general election."

Prior to this enactment, Section 166.031, F.S., authorized the electors of a municipality to propose charter amendments by a petition signed by 10 percent of the registered electors of the municipality. The statute did not specify the time at which the number of registered electors should be established. [There have been no known judicial interpretations.]

HOUSE BILL 1360 (CHAPTER 86-221), relating to the Local Government/Visions 2000 Act, authorizes counties and municipalities to establish Visions 2000 Committees that would provide a public forum to discuss the direction the community should take. The committee would provide public statements of goals and policies reflecting the desires and will of the people. The goals and policies shall not be inconsistent with the state, regional, or local comprehensive plan.

Committees shall be established by a resolution of a local government and, once established, members are appointed by the members of the Legislature representing the local government. A committee may be established jointly by a county and one or more municipalities within the county.

The Department of State shall distribute grants to eligible committees (subject to the availability of appropriated funds) which may not exceed $50,000, and must be matched, dollar for dollar, by the participating local government.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 776 (CHAPTER 86-105), relating to county real property/private sale, revises the standards and procedure by which a board of county commissioners may effect the private sale of real property. A board of county commissioners may dispose of real property at private sale (without receiving bids or publishing notice as required pursuant to Subsection 125.35(1), F.S.) when, due to the size, shape, location, and value of the parcel, it is determined that the parcel is of use only to one or more adjacent property owners. Subsection 125.35(2), F.S., is amended to raise the appraised value ceiling from $1,500 to $5,000 and to specify that the appraised value be determined by the county property appraiser or by a fee appraiser designated by the board.

HOUSE BILL 871 (CHAPTER 86-214), relating to county authorities/memberships, revises the membership requirements for industrial development authorities (Section 159.45, F.S.), housing finance authorities (Section 159.605, F.S.), research and development authorities (Section 159.703, F.S.), and educational facilities authorities (Section 243.21, F.S.). The act alters the membership of these authorities to require a minimum of five members, rather than requiring exactly five members. Similarly, a minimum of seven members is required for research and development authorities created jointly by two or more contiguous counties. A majority of the membership of each authority constitutes a quorum.

HOUSE BILL 1022 (CHAPTER 86-114), relating to airports and air commerce, creates Section 331.20, F.S., providing specific statutory authority for the county commissioners of every county owning and operating an airport to publicize, advertise, and promote the activities of its airport. This includes the right and power to make known the advantages, facilities, resources, products, attractions and attributes of the airport and to cooperate with other public and private agencies to accomplish these purposes. The county commissioners are authorized to expend funds for such purposes and for meals, hospitality, and entertainment of persons to promote and engender goodwill toward the airport. [Home rule counties established by the Constitution of 1885 and preserved by Article VIII, Section 6(e) of the Constitution of 1968 are already granted such powers pursuant to Subsection 125.012(25), F.S.

MOTOR VEHICLES AND TRANSPORTATION*

The 1986 Legislature enacted numerous provisions impacting upon the Department of Highway Safety and Motor Vehicles: several minor traffic offenses, such as the operation of a motor vehicle with an expired license or registration, were decriminalized; the penalties for the offense of driving while under the influence of alcohol or controlled substances were markedly increased; the penalty for refusing to take a blood alcohol test is also increased, as is the penalty for operating a motor vehicle with a blood alcohol level of .20 (twice the legal limit); a provision will allow repeat offenders to receive a "hardship license"; the Legislature responded to the commercial liability insurance crisis by reducing the amount of insurance coverage which must be carried by the owners of commercial motor vehicles; and, a provision was enacted requiring the use of safety belts by all front seat passengers in certain vehicles.

Provisions in the area of transportation were also enacted this session and include: new procedures for the Department of Transportation for securing rights-of-way; defining the responsibilities of governmental entities and

*Prepared by staff of the Senate Transportation Committee

railroad companies in the signing and signalization of railroad-highway grade crossings; authorization for the Department of Transportation to provide advance funding for rights-of-way acquisition at existing airports; allowing counties to utilize the proceeds of the entire six-cent-local-option fuel tax for matching funds for the "Local Government Cooperative Assistance Act;" authorizing counties to pledge the revenues of the full six-cent-local-option fuel tax for debt service on bonds; authorizing the counties to levy the local-option fuel tax by majority vote of the governing body or by referendum; clarifying the requirements for safety standards for fixed-guideway and bus transit systems; providing that turnpike projects or improvements must be developed in accordance with the Florida Transportation Plan and the Department of Transportation's five-year transportation plan and that certain turnpike projects or improvements must be included in the transportation improvement program of the affected metropolitan transportation authority; providing that the Department of Transportation's five-year transportation plan shall be developed in accordance with Department policies which have been approved by the Legislature; providing that the five-year plan shall include information relating to construction contract time, production capacity, degree of compliance with the Department's program objectives, and planned commitments compared with actual accomplishments; a requirement that the Department of Transportation submit a decentralization plan to the Legislature by October 1, 1986;

and authorization for the Department of Transportation to pledge funds appropriated from the State Transportation Trust Fund as collateral to guarantee the repayment of loans from the Federal Railroad Administration for the development of a commuter rail service in Dade, Broward and Palm Beach Counties.

MOTOR VEHICLES

Traffic Offenses

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243) amends Section 316.545, F.S., to provide that a person who has been assessed the five-cents-per-pound penalty for failure to have a valid vehicle registration pursuant to the provisions of Chapter 320, F.S., is not subject to the delinquent fee authorized in Section 320.07, F.S., if the person obtains a valid registration certificate within 10 working days after the penalty was assessed.

Section 316.605, F.S., is amended to require that trucks of net weight of more than 10,000 pounds must display their registration license plates on the front end.

These provisions will become effective October 1, 1986.

(Other provisions of this act are discussed under numerous headings in both the MOTOR VEHICLES and TRANSPORTATION sections of this article.)

COMMITTEE SUBSTITUTE FOR SENATE BILLS 517, 407, and 540 (CHAPTER 86-185) decriminalizes various statutory provisions in Chapter 318, F.S., relating to the operation of motor vehicles. It provides that operating a motor vehicle while not in

possession of a driver's license or registration constitutes a noncriminal traffic infraction. Further, persons who operate a motor vehicle with an expired registration or driver's license are guilty of a noncriminal traffic infraction if the registration or license has been expired for four months or less. Operation of a motor vehicle with a registration or license which has been expired for more than four months constitutes a misdemeanor of the second degree. Charges which are filed under any of the provisions mentioned above may be dismissed prior to trial by the clerk of the court whenever the person being charged can produce a driver's license or registration valid at the time of arrest. A fee of $5 may be assessed for this service.

The following provisions are also decriminalized by the act: Section 316.2956, F.S., which makes it illegal to operate a vehicle that has certain sunscreening material on its windows; Section 321.05, F.S., dealing with failure to appear at a traffic hearing; Section 322.37, F.S., which penalizes persons who employ unlicensed chauffeurs; and Section 325.02, F.S., which governs violations of vehicle safety equipment requirements adopted under the Vehicle Equipment Safety Compact (Chapter 325, F.S.)

The enactment also creates a new traffic offense. Section 316.253, F.S., requires ice cream trucks to display signs warning motorists of the presence of children. [Pursuant to Section 316.655, F.S., a violation of this provision will constitute a noncriminal traffic infraction.]

Another section of the act amends Subsection 318.14(5), F.S., to codify a current court procedure whereby no court costs may be assessed against persons who successfully contest a noncriminal traffic offense.

The provisions of this act are to be effective October 1, 1986.

(Other provisions of this act are discussed under the MOTOR VEHICLES section, Motor Vehicle Titles, Registration, and License Plates, and Motor Vehicle Dealers/Sales headings.)

Various statutes authorize or require the attendance of persons at approved driver improvement schools. COMMITTEE SUBSTITUTE FOR SENATE BILL 66 (CHAPTER 86-12) amends Paragraph 318.14(9)(a), F.S., to authorize such persons to attend a school in the location of their choice.

The effective date of this act is October 1, 1986.

Section 318.18, F.S., which provides a penalty of $25 for the issuance of a traffic citation to persons who operate a vehicle that lacks the required equipment or is declared unsafe in violation of the safety requirements of Section 316.610, F.S., is amended by COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 175 (CHAPTER 86-260). The act also creates Section 316.6105, F.S., to set up a mechanism whereby persons who are required to correct defects in their vehicles may have those corrections verified by a local police department or sheriff's department. The act provides that after receiving a citation for a defective vehicle, a person has 10 days in which to correct the defects. If the defects

are corrected within that time period, then no points are assessed and the fine is reduced from $25 to $7, of which $2 goes to the clerk of the court, $4 goes to the agency which checks compliance, and $1 goes to the Department of Highway Safety and Motor Vehicles. Commercial motor vehicles and public sector buses are exempt from the provisions of the act.

The effective date of this act is October 1, 1986.

(Other provisions of this act are discussed under the MOTOR VEHICLES section, Commercial Motor Vehicles heading.)

The provisions of the statutes dealing with passing vehicles proceeding in opposite directions, limitations on driving to the left of center of a roadway, driving on divided highways, horns and warning devices, certain required equipment, and violations with respect to return of license or registration to the Department of Highway Safety and Motor Vehicles, have been restructured by HOUSE BILL 109 (CHAPTER 86-36). This act is procedural in nature and adds nothing to the substantive law. (Other provisions of this act are discussed under the TRANSPORTATION section, Miscellaneous heading.)

Section 316.2065, F.S., requires bicycles operated between sunset and sunrise to be equipped with front and rear lights which are visible from at least 500 feet to the front and 600 feet to the rear of the bicycle. SENATE BILL 541 (CHAPTER 86-23) amends this section to additionally require that the bicycle be equipped with a red rear reflector that meets those same visibility requirements. (Other provisions of

this act are discussed in this article under the MOTOR VEHICLES section, Commercial Motor Vehicles heading.)

Section 316.613, F.S., which requires that parents operating a motor vehicle place any of their children five years of age or under in an approved restraint device, is amended by COMMITTEE SUBSTITUTE FOR HOUSE BILL 40 (CHAPTER 86-49) to make it unlawful for any person to operate a motor vehicle in this state unless all passengers under five years of age are using approved restraint devices.

This provision has an effective date of October 1, 1986.

The act creates Section 316.614, F.S., the "Florida Safety Belt Law," which makes it unlawful for any person to operate a motor vehicle in this state unless all passengers under five years of age and all front seat passengers under 16 years of age are using approved restraint devices; and declares it unlawful for any person 16 years of age or older to be a passenger in the front seat of a motor vehicle unless restrained by a safety belt while the vehicle is in motion.

Exceptions to this requirement are provided for persons performing newspaper home delivery service and for persons certified by a physician as unable to wear a safety restraint device for medical reasons.

The restraint device portion of this act becomes effective July 1, 1986, with only warnings issued until January 1, 1987. After January 1, law enforcement agencies may enforce these provisions only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of

Chapters 316, 320, or 322, F.S. For each offense there is imposed a fine of $20.

A violation of these provisions will not constitute negligence per se, nor can it be used as prima facie evidence of negligence in any civil action.

The act also provides that insurance companies must reflect in their rates any savings or other effects resulting from increased seat belt use in Florida.

HOUSE BILL 8-B (CHAPTER 86-296) amends those sections of Chapter 316, F.S., dealing with driving under the influence (DUI) and refusal to take a breath or blood alcohol test, and repeals the offense of driving while intoxicated (DWI). Amendments are also made to the provisions in Chapter 322, F.S., dealing with the suspension and revocation of a person's driver's license for conviction of one of the above offenses.

Several new subsections and paragraphs are added to Section 316.193, F.S., to provide additional DUI offenses and penalties. A new Subsection (3) provides that if a person who is in violation of this section causes damage to property, he is guilty of a first degree misdemeanor; if a person causes serious bodily injury to another, he is guilty of a third degree felony; and if he causes the death of another, he is guilty of DUI manslaughter which is a second degree felony. A conviction of a fourth or subsequent DUI offense is now a third degree felony and punishable by imprisonment for up to five years and a fine of up to $5,000. A new Subsection (4) provides an increased penalty for conviction of a DUI offense

with a blood alcohol level of .20 or higher. A person committing this offense is subject to a fine of from $500 to $1,000 and imprisonment for up to nine months for the first conviction, a fine of from $1,000 to $2,000 and imprisonment up to 12 months for a second conviction, and a fine of $2,000 or more and imprisonment up to 12 months for the third conviction.

Section 316.193, F.S., is also amended to allow a person who has been sentenced to perform community service to pay an additional fine of $10 per hour of assigned service in lieu of performing the work. However, the fine may only be imposed where the court determines, after examining the defendant's place of residence or location, that the payment of a fine is in the best interest of the state.

The final amendment to Section 316.193, F.S., provides that a conviction under the section is not a bar to any civil suit for damages against the person convicted.

Section 316.1932, F.S., is amended to increase the period of a driver's license suspension for refusal to take a test for substance abuse. Upon the first refusal a driver's license will be suspended for one year instead of six months, and for the second refusal the period of suspension is 18 months instead of one year.

When a person who has been convicted of a violation of Section 316.193, F.S., two or more times in the previous five years, or three or more times in the previous 10 years, applies for reinstatement of his driver's license pursuant to Section 322.03, F.S., he is now required to enroll in a substance abuse

education course prior to issuance of the license and must submit proof of financial responsibility as required by Section 324.031, F.S. Should the person not complete the substance abuse course in 90 days, the Department of Highway Safety and Motor Vehicles will cancel the license. The fees collected for the reinstatement of a license as provided in Section 322.12, F.S., are to be distributed to the General Revenue Fund and the Accident Reports Trust Fund.

Section 322.271, F.S., is amended to require reexamination of a licensee before reissuance of a license to allow driving for business or employment purposes. The section defines driving for employment purposes as driving to and from work and any necessary on-the-job driving required by an employer or occupation. Driving for business purposes is defined as driving necessary to maintain livelihood, including driving to and from work, necessary on-the-job driving, and driving for educational, church, and medical purposes.

A person whose license has been revoked pursuant to Paragraph 322.28(2)(a), F.S., for a conviction of a violation of Section 316.193, F.S., will now be eligible for reinstatement of his driving privilege for business or employment purposes. If the revocation is for from five to 10 years the person may petition for a hearing at the end of 12 months, and where the revocation is for 10 years or more the person may petition at the end of 24 months. When a restricted driving privilege is reinstated the licensee must be supervised under a Department-approved DWI school, and must report to the

school at least three times a year for the period of the revocation. The school must report a licensee's failure to comply with these requirements to the Department of Highway Safety and Motor Vehicles, and upon receiving such a report the Department will cancel the person's driving privilege.

Section 322.282, F.S., is amended to provide procedures to the courts and the Department for the handling of court ordered reinstatements of a driving privilege. When the court revokes or suspends a person's driving privilege the driver's license is to be picked up and forwarded to the Department with a record of the conviction. If the court orders reinstatement of the driving privilege the person must present the order of reinstatement, proof of completion of a Department-approved driver training or substance abuse education course, and a request for a hearing. The Department will check its records to verify that there are no previous DUI or DWI convictions, and no suspensions for refusal to submit to a breath, blood, or urine test. If there are no such incidents, and the person is otherwise eligible for a license, a temporary license will be issued. The license is to be restricted to business or employment purposes and is only valid for 45 days or until it is cancelled by the Department. Section 322.271, F.S., requires that the Department hold the reinstatement hearing within 30 days of receipt of the request, except for hearings requested prior to July 1, 1987, in which case the Department is given 90 days to hold the hearing.

Section 782.071, F.S., which defines "vehicular homicide," is amended to make it a second degree felony for a person who has committed vehicular homicide to fail willfully to stop and give information and aid as required in Section 316.062, F.S.

Section 316.655, F.S., is amended to require that a minor not be imprisoned in an adult detention center unless he is convicted of leaving the scene of an accident resulting in the death or injury of a person. If imprisoned in an adult detention center the minor is not to be placed in the same cell as an adult.

Effective October 1, 1986, the act provides an appropriation of $1,189,547 and 58 positions from the Accident Reports Trust Fund to the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles to carry out the provisions of this act.

Commercial Motor Vehicles

SENATE BILL 541 (CHAPTER 86-23) amends Section 316.235, F.S., to allow buses, as defined in Subsection 316.003(3), F.S., to be equipped with a deceleration lighting system consisting of amber lights mounted horizontally at or near the vertical centerline of the rear of the vehicle. These lights are to caution following vehicles that the bus is slowing, preparing to stop, or is stopping, and thus may light and flash during the deceleration, braking, or standing and idling of the bus.

(Other provisions of this act are discussed in this article under the MOTOR VEHICLES section, Traffic Offenses heading.)

HOUSE BILL 953 (CHAPTER 86-18) amends Chapters 324 and 627, F.S., dealing with motor vehicle insurance. The act reduces insurance rates for most commercial motor vehicles by establishing a graduated scale of required coverage based on the gross vehicle weight (GVW) of the vehicle. Vehicles with a GVW of 26,000 pounds or more but less than 35,000 pounds must carry insurance coverage in the amount of $50,000. Vehicles that weigh 35,000 pounds or more but less than 44,000 pounds are required to carry coverage of $100,000. Those vehicles that weigh 44,000 pounds or more must carry coverage in the amount of $300,000. However, any vehicle which is regulated by the federal government must still comply with the limits set by the federal government. The act also allows commercial motor vehicle owners to self-insure pursuant to rules developed by the Department of Highway Safety and Motor Vehicles.

HOUSE BILL 1331 (CHAPTER 86-282) and COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 175 (CHAPTER 86-260) both contain provisions dealing with the size limitations of commercial motor vehicles. HOUSE BILL 1331 provides that agricultural trailers which are used to haul perishable products from their point of production to their first point of change of custody or of long-term storage may carry loads of up to 130 inches in width. (Other provisions of this act are discussed under the TRANSPORTATION section,

Miscellaneous heading.) COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 175 amends Section 316.515, F.S., to authorize the Department of Transportation to issue overlength permits to the haulers of overwide manufactured housing. These haulers may now be able to carry loads of up to 54 feet in length.

The effective date of this provision is October 1, 1986.

(Other provisions of this act are discussed under the MOTOR VEHICLES section, Traffic Offenses heading.)

Motor Vehicle Titles, Registration, and License Plates

Section 320.10, F.S., provides an exemption from the payment of license taxes for vehicles owned by certain enumerated agencies. COMMITTEE SUBSTITUTE FOR SENATE BILLS 517, 407, AND 540 (CHAPTER 86-185) amends this section to add search and rescue units to the list of exempted organizations. (Other provisions of this act are discussed under the MOTOR VEHICLES section, Traffic Offenses and Motor Vehicle Dealers/Sales headings.)

Owners of 100 or more trailers for hire or semitrailers may obtain special indefinite registration license plates pursuant to amendments to Section 320.065, F.S., contained in COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243). Payment of the registration license tax and fees shall be made annually beginning December 1, 1986. Half-year registration and fees are to be provided and assessed to those trailers or semitrailers registering July 1, 1987 for

the June 1, 1987 through November 30, 1987 semiannual registration period.

(Other provisions of this act are discussed under numerous headings in both the MOTOR VEHICLES and TRANSPORTATION sections of this article.)

The Department of Highway Safety and Motor Vehicles is directed by COMMITTEE SUBSTITUTE FOR HOUSE BILLS 112 AND 494 (CHAPTER 86-88) to develop special Challenger and Collegiate license plates. The Challenger plates are to be available to the public for a period of five years beginning January 1, 1987, and may be purchased for a use fee of $15 over and above the license tax set out in Section 320.08, F.S., plus a processing fee of $2. The use fees will be distributed to the Astronauts Memorial Foundation, Inc. to fund a memorial at the Kennedy Space Center located at Cape Canaveral, Florida, honoring those astronauts who have lost their lives while working for the space agency.

The Collegiate license plates will be available beginning in October of 1987 with a distinctive design for each university in the State University System. The additional fee for these plates is $25 (plus a $2 processing fee) and it will be distributed to the state university foundation designated by the purchaser of each plate. The universities receiving these fees must use the funds for academic enhancement, including scholarships and private fund-raising activities, following approval of the plan for expenditure by the Board of Regents.

The act also provides a rewritten Section 320.0607, F.S., which requires the owner of a motor vehicle or mobile home to pay $3 plus applicable service charges for the issuance of a license plate, mobile home sticker or validation decal to replace one damaged, defaced, lost, stolen or destroyed. Prior law permitted the free issuance of a replacement plate in exchange for the damaged or defaced one and provision of a replacement for a lost, stolen or destroyed plate, sticker or decal for a $2 fee. The new language permits free replacement of any plate, sticker or decal lost in the mail and sets a $3 fee for the issuance of an original license plate which is to be deposited in the Motor Vehicle License Plate Replacement Trust Fund. There is a new provision directing that all funds derived from the sale of temporary tags pursuant to Section 320.131, F.S., be deposited in the same trust fund.

Those provisions of the act dealing with Challenger and Collegiate license plates take effect October 1, 1987. The requirements for the issuance of replacement plates, stickers or decals take effect October 1, 1986.

International Registration Plan

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243) amends Subsections 320.0715(2) and (3), F.S., to give the Department of Highway Safety and Motor Vehicles the authority to designate authorized agents to assist it in the issuance of Florida International Registration Plan motor vehicle trip permits, special temporary permits, or 60-

day temporary operational permits. Section 320.26, F.S., is amended to provide that anyone who counterfeits, alters or manufactures International Registration Plan cab cards, trip permits, special temporary permits or temporary operational permits, or who sells or disposes of such cards or permits without the written permission of the Department of Highway Safety and Motor Vehicles is guilty of a third degree felony. (Other provisions of this act are discussed under numerous headings in both the MOTOR VEHICLES and TRANSPORTATION sections of this article.)

Motor Vehicle Dealers/Sales

Section 320.27, F.S., which sets out the requirements for a motor vehicle dealer's license has been amended by COMMITTEE SUBSTITUTE FOR SENATE BILLS 517, 407 AND 540 (CHAPTER 86-185). A dealer will no longer have to carry uninsured motorist coverage, nor make his business records available to all law enforcement officers for inspection. However, these records must still be made available to employees of the Department of Highway Safety and Motor Vehicles. The section is also amended to provide that whenever a motor vehicle is sold at auction, the name and address of the auction must be listed on the reassignment of title form. (Other provisions of this act are discussed under the MOTOR VEHICLES section, Traffic Offenses and Motor Vehicle Titles, Registration, and License Plates headings.)

DOT Administration

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243) amends Section 20.23, F.S., to provide in part that the operations of the Department of Transportation shall be organized into a minimum of six districts with each headed by a deputy assistant secretary. The Department, in responding to recommendations of the Auditor General, is given the flexibility to provide a written explanation to the Legislative Auditing Committee if it determines that one or more of the Auditor General's recommendations should be altered or not implemented. Further, the Department, by October 1, 1986, is required to submit a plan to the Legislature for the decentralization of the Department which must include a description of each function to be decentralized.

(Other provisions of this act are discussed below in this TRANSPORTATION section under numerous headings, as well as above in the MOTOR VEHICLES section under various headings.)

Construction Contract Administration

Supplemental agreements for an original contract in an amount of $150,000 or less may be approved by the deputy assistant secretary of the district administering the contract pursuant to an amendment to Paragraph 337.11(5)(a), F.S., as provided by COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243). Further, Subsection

337.14(1), F.S., is amended to provide that the annual or interim financial statement that is required to be submitted with an application for certification to bid on certain Department of Transportation construction contracts must be audited and accompanied by the opinion of a certified public accountant or a public accountant approved by the Department.

Florida Turnpike

Section 338.223, F.S., is amended by COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243) to provide that any turnpike project or turnpike improvement must be developed in accordance with the Florida Transportation Plan and the Department of Transportation's five-year transportation plan. Projects or improvements which add capacity, alter access, affect feeder roads, or affect the operation of a local transportation system, must be included in the transportation improvement plan of the affected metropolitan planning organization. If the project or improvement does not fall within the jurisdiction of a metropolitan planning organization, then approval by the board of county commissioners of the affected county is required.

Five-Year Transportation Plan/Program Budget

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243) in part amends Section 339.135, F.S., relating to the Department of Transportation's program budget and five-year transportation plan. The Department is

required to develop the tentative five-year transportation plan in accordance with, and include a statement of, the policies contained in the current adopted five-year transportation plan. The adopted policies may not be modified without the prior approval of the Legislature. Further, the Department may not include any project or allocate funds to a program in the five-year transportation plan that is contrary to existing law. The Department may propose changes to the policies contained in the current adopted five-year transportation plan. Such proposed changes shall reflect their effect on the adopted policies. If approved by the Legislature, such changes shall be made in the final program budget and adopted five-year transportation plan.

The five-year transportation plan is amended to require the inclusion of: (a) a five-year plan of average construction contract time for each construction program category within each district; and, (b) a manpower report indicating the Department's current production capacity and the capacity needed for each year of the five-year plan, with projections of the production to be performed by Department personnel and by consultants.

With the five-year transportation plan the Department must submit a report that includes: (a) how the budget request and five-year plan comply with the Department's statutory program objectives; (b) how the commitments of the prior fiscal year and the current fiscal year comply with those same program objectives; (c) an analysis of the variance between the dollars and number of projects committed in the most recent fiscal year

and the adopted five-year plan for that year, and a similar analysis for the variance in the current adopted five-year plan; (d) an analysis of the variance in the actual and planned construction contract time for the most recent six quarters; and, (e) a comparison of the Department's manpower utilization and its accomplishments for the current and most recent fiscal year.

Further, during each regular session of the Legislature the Department must give an oral presentation of this report to the transportation committees of the House and Senate as well as a summary of the tentative five-year transportation plan as submitted.

Beginning with the submission of the 1986-87 adopted five-year transportation plan the Department shall include a statement of the major policies from which the plan is developed. In succeeding years the five-year plan shall be developed in accordance with such policies which have been approved by the Legislature and a statement of the policies shall be included in the plan. Further, the Department may not in any year include any project or allocate funds to a program in the plan that is contrary to existing law for that year.

The effective date of these provisions is October 1, 1986.

Right-of-Way Maps

SENATE BILL 1031 (CHAPTER 86-47) amends Section 336.02, F.S., to give to the counties, and amends Section 337.241,

F.S., to give to the Department of Transportation (DOT), the right to approve rights-of-way maps of reservation delineating the limits of proposed rights-of-way for eventual widening of an existing road or construction of a new road. Before approving the map a county or the DOT must notify all affected property owners and local governmental entities, and must advertise and hold a public hearing. The approved map is to be recorded in the public land records by the clerk of the court. After the map is filed, the county or the DOT may make changes affecting less than five percent of the rights-of-way within the map without complying with the notice and hearing requirements except for providing notice to those property owners directly affected by the change.

Once a map is filed, it establishes a building setback line and an area of proposed road construction, and no development permits may be granted for construction within the setback line or in the area of proposed road construction.

Any affected property owner may petition for a hearing based on the allegation that the property regulation is unreasonable or arbitrary and that its effect is to deny a substantial portion of the beneficial use of the property. If the findings of the hearing are in favor of the property owner, the county or the DOT has 180 days to acquire the property or file appropriate proceedings. (Other provisions of this act are discussed above in this article under the TRANSPORTATION section, Metropolitan Transportation Authorities and Expressway Authorities headings.)

Airports

Section 332.007, F.S., as amended by HOUSE BILL 554 (CHAPTER 86-206), allows the Department of Transportation to participate in up to 75 percent of the land acquisition cost for an existing airport which is owned and operated by a municipality, a county, or an authority. The local entity is then required to reimburse the state up to the normal project share when federal funds become available or within 10 years of the date of acquisition, whichever is earlier. This same provision is contained in COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243).

The act also creates within the Department of Transportation a Florida Aviation Advisory Council. The 13 members of the Council, to be appointed by the secretary of the Department of Transportation, must be residents of the state who are or have been actively engaged in aviation or a related industry. The members are to be appointed for four-year terms and in no case may serve more than two full terms. The Council will function as a body to advise and assist the secretary in his duties relating to aviation and will meet, at a minimum, three times a year. The members are entitled to receive reimbursement for per diem and traveling expenses for each meeting.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243) also amends Paragraph 330.30(2)(e) to authorize the Department of Transportation to issue airport licenses for periods of up to 18 months in order

to facilitate inspection and to improve administrative efficiency.

Transit Safety Standards

Safety standards for fixed-guideway transportation systems and bus transit systems are to be adopted by rule by the Department of Transportation pursuant to amendments to Section 341.061, F.S., provided by COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243). Such standards are applicable to governmentally owned systems and privately owned or operated systems operating in this state which are financed wholly or in part by state funds.

The standards shall be site-specific for fixed-guideway systems and are to be developed jointly by the Department and representatives of the affected systems. Each fixed-guideway transportation system must develop a safety program plan that complies with the established standards and certify to the Department that the plan complies with the standards. Following certification the system shall implement and comply with the plan during the development and operation of the service and shall annually verify in writing to the Department that it has complied with its adopted safety plan. The Department has authority to review the system for safety compliance and, if conditions warrant it, the Department may require the system to suspend service until any necessary corrective action is taken.

The standards adopted by the Department for bus transit systems shall be minimum equipment and operational safety standards and shall be developed jointly with representatives of the transit system. Each bus system must also develop a safety program that complies with the established standards and certify that the plan in fact complies. The bus transit system must then implement and comply with the plan. Each bus system, as part of its safety plan, must require that all of its buses be inspected annually in accordance with the standards and must certify such inspections. The Department has authority to review any bus system for safety compliance and order that any necessary corrective action be taken. If such action is not taken the Department may require the system to suspend service until the defects are corrected.

These provisions are effective October 1, 1986.

Railroad Safety/Signalization

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243) amends several sections of the statutes relating to railroad-highway grade crossings. These include amendments to Section 335.141, F.S., which provide: (1) the requirement that every railroad company that maintains any track intersecting a public road erect, operate, and maintain traffic control devices necessary to provide motorists with warning of the approach of trains; (2) a provision that the Department of Transportation and the railroad companies are not liable for any action or omission in the development of the

program for the construction of projects for the reduction of hazards at public railroad-highway grade crossings, or for the priority given to any crossing improvement; (3) the requirement that the Department, in notifying railroad companies of the need to install traffic control devices at public crossings, shall base its notice on its adopted program for the reduction of hazards at such crossings and on construction efficiency considerations relating to the geographical proximity of crossings in the program; (4) the requirement that prior to commencing the construction, rehabilitation, or maintenance of the railroad grade or highway approaches at a public crossing, the railroad company or governmental entity initiating the work must notify the other party for purposes of coordination of activities; and, (5) the provision that any local governmental entity or other public or private agency planning a public event that involves the crossing of a railroad track shall give the railroad company a minimum of 72 hours advance notice so that the event can be safely coordinated with the railroad's operations.

Section 316.171, F.S., is amended to require railroad companies to erect signs and other traffic control devices at intersections with public roads at grade which are necessary to conform with the uniform system of traffic control devices adopted pursuant to Section 316.0745, F.S.

Sections 351.03, F.S., is amended to require railroad companies to erect and maintain crossbuck grade crossing warning signs at all public or private railroad-highway grade

crossings; and to require advance railroad warning signs and pavement markings to be installed at such crossings by the governmental entity having jurisdiction over the highway or street.

These provisions take effect October 1, 1986.

Tri-County Commuter Rail Service

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243) authorizes the Department of Transportation to pledge funds appropriated from the State Transportation Trust Fund as collateral to guarantee the repayment of loans from the Federal Railroad Administration to the Tri-County Commuter Rail Organization or other legally constituted entity. The purpose of the loan would be to fund the capital costs of rehabilitation and the improvement of rail facilities in order to develop a commuter rail system in Dade, Broward, and Palm Beach Counties.

This provision takes effect October 1, 1986.

Metropolitan Transportation Authorities

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243) amends Section 163.818, F.S, to expand a metropolitan transportation authority's power to succeed to the rights, contract obligations, responsibilities and bonded indebtedness of an expressway authority to include any transit authority created pursuant to Chapter 163, F.S., special act or general law which derives a portion of its

revenues from ad valorem taxes dedicated for transit purposes and approved by referendum.

This provision is effective October 1, 1986.

SENATE BILL 1031 (CHAPTER 86-47) amends Section 163.8075, F.S., to provide that it is the intent of the Legislature that ratification by referendum of a Metropolitan Transportation Authority's regional ground transportation plan constitutes approval of the issuance of bonds for implementation of that plan. The bonds are to be payable in part or in whole from an ad valorem tax of up to one mill. (Other provisions of this act are discussed in this article under the TRANSPORTATION section, Expressway Authorities and Right-of-Way Maps headings.)

Expressway Authorities

SENATE BILL 929 (CHAPTER 86-189) adds a new section to the Broward County Expressway Authority Law. Section 348.25, F.S., exempts the Authority from all property or revenue taxation. The Authority's bonds are also exempted from taxation. This act is to apply retroactively to July 1, 1983.

The 7.5 percent cap on Orlando-Orange County Expressway Authority Bonds imposed in Section 348.755, F.S., is removed by SENATE BILL 1031 (CHAPTER 86-47). [The removal of the cap will make bonds issued by the Authority subject to the interest provisions of Section 215.84, F.S.] (Other provisions of this act are discussed in the article under the TRANSPORTATION

section, Metropolitan Transportation Authorities and Right-of-Way Maps headings.)

Local Government Cooperative Assistance Program

Local governments may use only the proceeds of the local-option fuel tax or the proceeds of the bonds pledged by that tax to match the state funds available under the Local Government Cooperative Assistance Program as a result of amendments to Section 335.20, F.S., contained in COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243). Twice a year the Department of Transportation will announce the availability of funds to be provided to local governments through this act.

This provision takes effect October 1, 1986.

Local Option Fuel Tax

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243) amends Section 336.025, F.S., which authorizes a local-option tax on motor and special fuels. With the amendments a county may pledge the proceeds of the revenue from the entire six-cent-local-option tax for the repayment of bonds. The manner of imposing the tax is changed to allow all of the six-cent tax to be levied by an ordinance adopted by a majority vote of the governing body or by referendum.

This amendment is effective October 1, 1986.

Closing of Roads and Highways

HOUSE BILL 477 (CHAPTER 86-37) provides notice and

permit requirements for the closing of state and local roads. When one or more traveling lanes of a road are to be closed for construction or repair work the contractor is required to provide notice of the closing to the appropriate local law enforcement agency (Subsection 335.15(6), F.S., Section 336.07, F.S.). When an event that will require the closing of the road is to be held on a state highway, a permit for the closing must be obtained from the local governmental entity and the Department of Transportation (Section 337.406, F.S.). If the event is to be conducted only alongside the state highway, but will not require it to be closed, only a local permit is required.

Miscellaneous

HOUSE BILL 1331 (CHAPTER 86-282) amends Section 479.26, F.S., to increase the allowable measurements for certain signs. It allows any business wishing to advertise on an informational panel along the interstate highway system to have an on-premises sign of up to 750 square feet. The previous limit was 150 square feet. (Other provisions of this act are discussed under the MOTOR VEHICLES section, Commercial Motor Vehicles heading.)

Section 336.045, F.S., is amended by COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1118 (CHAPTER 86-243) to provide that curb ramps which are required at all intersections of curbs and sidewalks on public streets and roads shall be constructed so as to be in substantial

conformance with the Uniform Federal Accessibility Standards published by the General Services Administration, Department of Housing and Urban Development, Department of Defense, and U.S. Postal Service. This requirement shall apply to curb ramps let to contract on or after July 1, 1986.

Section 316.251, F.S., is amended by HOUSE BILL 109 (CHAPTER 86-36) to provide an exemption from the bumper height law for "new motor vehicles," as defined in Subsection 319.001(4), F.S. That section defines a new motor vehicle as "a motor vehicle the equitable or legal title to which has never been transferred by a manufacturer, distributor, importer, or dealer to an ultimate purchaser." (Other provisions of this act are discussed under the MOTOR VEHICLES section, Traffic Offenses heading.)

The procedures for issuing handicapped parking permits have been modified by HOUSE BILL 679 (CHAPTER 86-237). The act codifies current procedure whereby a renewal of a parking permit can be obtained by giving the Department of Highway Safety and Motor Vehicles an affidavit attesting to the applicant's continued disability. Upon renewal, an applicant is issued a renewal decal, costing $5. This fee is divided between the Department ($3.50) and the tax collector of the appropriate county ($1.50).

The effective date of this act is October 1, 1986.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 217 (CHAPTER 86-304) directs the Department of Transportation (DOT) to transfer title to the Old Keys Bridges to the Board of Trustees of the

Internal Improvement Trust Fund. The Trustees are directed to manage the bridges for public use through agreements with public and private entities which may provide for recreational, tourist, restaurant, commercial, or public service uses of the bridges. The act specifically directs that agreements be reached for the feasible and prudent management of the Old Long Key and Seven Mile Bridges.

Any agreements for the use of the bridges must allow for their use for transportation purposes in case of an emergency, and for cancellation of the lease on six months notice if the DOT determines that the bridges are needed for transportation purposes.

Utilities are allowed to continue the use of the bridges for existing utility facilities and, with the approval of the entity holding title to the property, may install and maintain new facilities.

Any bridge which the DOT or the Trustees decide to abandon must be posted with a permanent notice informing the public that the bridge is closed to all public use and that the maintenance and inspection of the bridge has been discontinued.

The measure provides for an appropriation of $46,378 and two career service positions to the Department of Natural Resources for meeting the responsibilities set forth in this act.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1104 (CHAPTER 86-308) designates that portion of Calle Ocho (Eighth Street) between Brickell Avenue and the Palmetto Expressway in Dade

County as a state historic highway. The act would prohibit the use of state funds for certain actions, such as the removal of trees. The measure requires the approval of the Division of Archives, History, and Records Management of the Department of State before any alteration may be made on the street. Further, before any such alterations may be made, a public hearing must be held after notification of all affected parties. Certain restrictions are also placed on the erection of signs along Calle Ocho; however, these restrictions do not supersede any more stringent sign ordinance.

PROFESSIONAL REGULATION*

The 1986 Legislature saves from "Sunset" repeal on October 1, 1986, numerous statutes, or sections of statutes, that regulate various professions, including acupuncture, chiropractic, dentistry, hearing aid services, medical practice, nursing, nursing home administration, opticianry, optometry, osteopathy, pharmacy, physical therapy, piloting, and podiatric medicine (formerly podiatry). A regulatory board is created for auctioneers, auctioneer apprentices, and auction businesses. Talent agencies are to be regulated by the state.

Noteworthy changes in regulatory matters include the creation of an impaired practitioners committee and corollary revisions to the procedures for treating impaired practitioners of certain professions regulated by the Department of Professional Regulation. Other highlights include a requirement to obtain certification to engage in pollutant storage systems specialty contracting; authorization for optometrists to administer and prescribe topical ocular pharmaceutical agents, after appropriate training and certification; provisions for giving certain foreign-trained professionals examinations in their native languages;

*Prepared with aid of Senate Legal Research and Drafting Services

requirements for each licensing board within the Department of Professional Regulation to adopt disciplinary guidelines and for the Department to report to the Legislature on the progress toward developing those guidelines; renaming as the Board of Medicine that body which licenses physicians; and making the prescription of laetrile an act subject to disciplinary action.

General Regulations

HOUSE BILL 123 (Chapter 86-90) requires the Department of Professional Regulation to provide procedures for the examination and licensure of certain foreign-trained professionals and provides for the licensure examination to be given in the applicant's native language under certain conditions.

The act also creates Section 455.2273, F.S., to require each board within the Department to adopt disciplinary guidelines in accordance with specified requirements and requires in new Subsection 455.2285(7), F.S., the Department's annual report to the Legislature to include the status of such disciplinary guideline development. Revised Section 455.223, F.S., requires subpoenas issued by the Department to be supported by affidavit and deletes a provision in Subsection 455.225(1), F.S., authorizing the Department to investigate anonymous complaints.

Advertisements by health care providers of free or discounted services in certain directories are exempted from the statement requirement of Section 455.24, F.S.

Beginning October 1, 1986, HOUSE BILL 144 (CHAPTER 86-91) requires the Department to suspend immediately the license of any health care practitioner licensed under any provision of Chapters 458, 459, 460, 461, 462, 463, 464, 465, 466, and Chapter 474, F.S., who is convicted of any of certain drug-related felonies.

The act takes effect October 1, 1986.

Section 1 of COMMITTEE SUBSTITUTE FOR SENATE BILL 848 (CHAPTER 86-31) creates Section 455.25, F.S., to prohibit a health care practitioner licensed under any of Chapters 458, 459, 460, 461, and 466, F.S., from making referrals for physical therapy services or providing medicinal drugs, except on a complimentary basis, if the practitioner has a financial interest or will receive remuneration for such, unless he provides advanced written notice to the patient. Penalties of a first-degree misdemeanor for violation are provided.

Section 24 of HOUSE BILL 4-B (CHAPTER 86-290) creates an Impaired Practitioners Committee, effective October 1, 1986, to work with the Department of Professional Regulation in the treatment of certain impaired practitioners. The Committee is to be composed of a physician, an osteopathic physician, a podiatrist, a nurse, a pharmacist, an addictionologist, a lay person with a background in impairment, and a representative of the Department.

Accountancy

COMMITTEE SUBSTITUTE FOR HOUSE BILL 617 (CHAPTER 86-102)

adds Subsection 473.308(4), F.S., to allow the Board of Accountancy to waive certain education requirements for applicants who are licensed to practice public accounting in another state or territory and who have at least five years of experience. This waiver applies until August 1, 1993. In addition, the Board is authorized to establish experience standards for applicants whose education requirements have been waived.

The act amends Paragraph 473.317(5)(b), F.S., to allow the Legislature to reopen previously terminated negotiations with any one of the three top-ranked public accountancy licensees in a competitive bid for an audit engagement.

Acupuncture

SENATE BILL 178 (CHAPTER 86-5) repeals Chapter 389, F.S., relating to the regulation of acupuncture clinics, effective October 1, 1986. After that date, acupuncture clinics in Florida will no longer be subject to inspection by the Department of Health and Rehabilitative Services. The practice of acupuncture is regulated under Chapter 457, F.S., which was scheduled to "Sunset" on October 1, 1986. The Chapter was readopted, with amendments, by the 1986 Legislature's approval of HOUSE BILL 558 (CHAPTER 86-265).

HOUSE BILL 558 (CHAPTER 86-265) revives and readopts Chapter 457, F.S., which regulates the practice of acupuncture. It revises the definitions of terms found in Section 457.101, F.S., including that of "acupuncture" and "acupuncturist."

Section 457.105, F.S., is revised to prescribe specific requirements for the alternative routes to certification, a two-year course of study or a two-year tutorial program. Maximum fee amounts are prescribed. Inactive status is made automatic if biennial renewal is not timely, and provision is made in new Section 457.108, F.S., for reactivating lapsed certificates. A newly created Section 457.1085, F.S., mandates the adoption of rules for infection control and sets sterilization standards for acupuncture needles. The list of grounds for disciplinary actions found at Section 457.109, F.S., is expanded, prohibited acts are specified, and the commission of prohibited acts is made a second degree misdemeanor through amended Section 457.116, F.S. Chapter 457, F.S., is repealed on October 1, 1996, and is subject to "Sunset" review prior to that date.

Except for the section on infection control, which is already in effect, the act takes effect October 1, 1986.

Auctioneering

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 4 (CHAPTER 86-119) provides for the regulation of auctioneers and establishes a five-member Florida Auctioneers Board within the Department of Professional Regulation. The members are appointed by the Governor and confirmed by the Senate.

The act further provides for the licensing requirements and procedures for auctions and auctioneers; fees; penalties,

certain prohibitions, expense reimbursement for board members, and a "Sunset" provision. Section 20.30, F.S., relating to the organizational structure of state government, is amended to establish the Board of Auctioneers within the Division of Professions of the Department of Professional Regulation.

Sections 839.01, 839.02, and 839.021, F.S., relating to offenses by auctioneers, are repealed. [Sections 839.01 and 839.021, F.S., are in conflict with the penalty provision of this act. The concept of Section 839.02, F.S., relating to default by auctioneers or other receivers of public moneys, is transferred to Section 9 of this act. Sections 839.01 and 839.02, F.S., were originally written in 1889 and Section 839.021, F.S., was written in 1959. There have been no appeals proceedings involving these sections of the statutes, therefore, it is felt that they should be repealed lest for some reason they may conflict with this act.]

Sections 1-12 of this act and Paragraph 20.30(4)(d), F.S., as added by this act, are repealed on October 1, 1996, and are scheduled for review by the Legislature pursuant to Section 11.61, F.S., the Regulatory Reform Act (Sunset).

The effective date of this act is October 1, 1986.

Chiropractic

HOUSE BILL 1355 (CHAPTER 86-285) amends Chapter 460, F.S., concerning the practice of chiropractic, effective October 1, 1986. Pursuant to revised Section 460.403, F.S., it requires a chiropractic physician who is licensed after October

1, 1986, to become certified in order to phlebotomize or use physiotherapy or acupuncture or administer proprietary drugs. It amends Section 460.406, F.S., to set the maximum fee for application and for examination, requires a bachelor's degree for applicants matriculating after July 1, 1990, provides for optional examinations for certification to phlebotomize, or use physiotherapy or acupuncture, or administer proprietary drugs. It allows licensure by endorsement in compliance with specified standards and procedures set forth in a newly created Section 460.4065, F.S.

Continuing education requirements in Section 460.408, F.S., are increased, and eligibility for providing continuing education programs is expanded. The requirements for maintaining, and for reactivating, an inactive license are expanded in Section 460.409, F.S. The grounds for disciplinary action with respect to certain unearned commissions are clarified in Paragraph 460.413(1)(k), F.S., and new grounds related to phlebotomizing or using physiotherapy or acupuncture or administering proprietary drugs are added at Paragraph 460.413(1)(gg), F.S. Chapter 460, F.S., is repealed on October 1, 1996, and is subject to "Sunset" review prior to that date.

Construction Contracting

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 206 (CHAPTER 86-159) amends several provisions in Part I Chapter 489, F.S., relating to construction contracting. The act defines the terms "pollutant storage systems specialty

contractor," "pollutant storage tank," and "tank" and adds them at Section 489.105, F.S. The Construction Industry Licensing Board is required by amended Section 489.113, F.S., to adopt rules providing standards for certification of pollutant storage systems specialty contractors by July 1, 1987, and the Department of Environmental Regulation is required to review and comment on these rules prior to adoption.

The act requires all persons engaged in pollutant storage systems specialty contracting to obtain certification by October 1, 1986. The act provides for the waiver of certain certification requirements and allows temporary certification for contractors who have operated during the preceding five years. Any pollutant storage tank installed after July 1, 1987, is required to be certified according to Department of Environmental Regulation standards. The Department is authorized to inspect the installation of any pollutant storage tank and may enjoin the installation or use of any tank installed in violation of Part I of Chapter 489, F.S.

The act requires the Department to establish a pilot county inspection program, set inspection fees, contract with the county government for inspections, and report to the Legislature upon completion of the pilot program.

The act provides by adding Subsection (3) to Section 489.127, F.S., that any violation of Part I of Chapter 489, F.S., by a pollutant storage systems specialty contractor is a felony of the third degree. The act provides for "Sunset"

repeal of these provisions on October 1, 1988, and legislative review prior to that date.

Dentistry

HOUSE BILL 5-B (CHAPTER 86-291) amends Subsection 466.003(6), F.S., to rename dental auxiliaries as dental assistants and excludes certified registered nurse anesthetists from the definition. It enlarges the Board of Dentistry from 9 to 11 members through revision of Section 466.004, F.S.

It provides for the Board chairman to appoint a Council on Dental Hygiene, a Council on Dental Assisting, and suggests various other councils, which the chairman may appoint with the concurrence of the Secretary of Professional Regulation. A maximum fee of $10 for duplicating a license certification is authorized. After October 1, 1991, a laboratory model exam may not substitute for certain educational requirements according to Subparagraph 466.006(3)(c)2., F.S. Also, the dentists' clinical examination requirements are changed. Clinical examination requirements for dental hygienists are changed in Paragraph 466.006(4)(b), F.S, and a maximum of three failures to pass the exam is allowed. Dentists' continuing education requirements are altered in Section 466.0135, F.S., in part by changing who may approve providers. Dental hygienists must retain, and provide to the Department, proof of continuing education under revised Section 466.014, F.S.

New procedures and fees are provided in Section 466.015, F.S., for inactive license status. New requirements are set

forth for dentists giving anesthesia in Section 466.017, F.S, including the obligation to hold a certification in advanced cardiac life support, and a maximum fee is set for defraying the cost of verifying compliance with these requirements. New procedures for maintaining patient records are spelled out in Section 466.018, F.S., and the owner-dentist in a multidentist practice is obliged to keep a set of such records. Advertising requirements in Section 466.019, F.S., are altered. Peer review is provided for, in detail, by newly created Section 466.022, F.S.

The list of prohibitions in Section 466.026, F.S., that carries criminal penalties is expanded. A corporation is permitted to employ a dental hygienist if it employs a supervising dentist under amended Paragraph 466.028(1)(h), F.S. Additional disciplinary provisions include forced mental and physical examinations pursuant to revised Paragraph 466.028(1)(t), F.S., if inability to practice safely dentistry or dental hygiene is suspected, and Board action authorized by Paragraph 466.028(1)(gg), F.S., for substandard office practice and improper administration of anesthesia. Departmental investigation is required by new Subsection 466.028(6), F.S., in certain circumstances involving dental malpractice. Any person other than a licensed dentist is prohibited by Paragraph 466.0285(1)(b), F.S., from controlling dental equipment or material that is being used to provide dental services. Dental laboratories must register biennially, not annually pursuant to revised Subsection 466.032(1), F.S.

Chapter 466, F.S., is repealed on October 1, 1996, and is subject to "Sunset" review prior to that date.

The act takes effect October 1, 1986.

Detection of Deception Services

COMMITTEE SUBSTITUTE FOR SENATE BILL 1149 (CHAPTER 86-193) amends several provisions of Part II of Chapter 493, F.S., relating to the detection of deception profession, effective October 1, 1986. The act clarifies and redefines certain terms appearing at Section 493.561, F.S. The term "polygraph" is replaced by the term "detection of deception device or instrument," and the term "employee examiner" is replaced by the term "detection of deception instructor."

The act amends Section 493.562, F.S., to require the Department of State to adopt rules and standards for certification of detection of deception examiners employed exclusively by a municipal, county, state, or federal agency. Amended Section 493.564, F.S., requires the Department to designate an advisory council, composed of five members, to advise the Department and make recommendations concerning the operation and regulation of the detection of deception industry. Terms of appointment are provided for the council.

Certain modifications are made to the application requirements appearing at Section 493.565, F.S., for licensure as a detection of deception examiner. The application fee is limited to $40, the application is required to be notarized, the applicant is required to give his social security number or

alien registration number, and the application is required to include a personal inquiry waiver to allow the Department to conduct investigations of applicants. In revised Section 493.566, F.S., the age at which an applicant may be licensed as a detection of deception examiner is raised from 18 to 21, and additional requirements for licensure are provided which include having a physical address in the state and successfully completing an examination administered by the Department. The act creates Subsection 493.566(7), F.S., to provide that any person holding a valid Class "P" license as of October 1, 1986, is not required to satisfy the examination requirement. The act revises Section 493.567, F.S., to provide for licensure of a person holding a valid license from another state or territory who meets age and equivalent examination requirements.

In amending Section 493.568, F.S., the act requires that any detection of deception examiner or detection of deception intern file proof of insurance coverage with the Department prior to licensure. The term "polygraph intern" is replaced by the term "detection of deception intern," and the license period for such internships is changed from one year to two years in revised Section 493.569, F.S. The Department is authorized to adopt criteria relating to examiner sponsorship of interns.

In Sections 493.57 and 493.571, F.S., the term "polygraph school" is replaced by the term "detection of deception school." The act sets examination and license fees

for examiners, interns, and schools. The Department is authorized to establish standards for curriculum and facilities, and qualifications for instructors, in such schools. The act requires a detection of deception school to notify the Department concerning any new or departing persons, partners, instructors, or officers, and, pursuant to revised Section 493.573, F.S., upon a change of location or change of name of the school.

The act requires detection of deception examiners to maintain examination records for at least two years. Any person convicted of a violation of Part II of Chapter 493, F.S., is not eligible for licensure for five years pursuant to amended Section 493.576, F.S. New Section 493.578, F.S., authorizes the Department to publish a newsletter that includes certain information relating to administrative complaints. In revised Section 493.579, F.S., the act adopts by reference procedures for a licensee to cancel his license or place it in an inactive status. Licenses issued under Chapter 493, F.S., are valid for two years. The act provides for "Sunset" repeal of Chapter 493, F.S., on October 1, 1990, and legislative review prior to that date.

Emergency Medical Services

SENATE BILL 422 (CHAPTER 86-74) amends Subsection 401.27(7), F.S., effective October 1, 1986, to allow any physician or dentist, to be certified as an emergency medical technician, if the physician or dentist has passed the required

medical technician curriculum, successfully completed an advanced cardiac life support course, passed the examination for certification as a paramedic, and met other certification requirements of the Department of Health and Rehabilitative Services to be certified as a paramedic.

Funeral Services

COMMITTEE SUBSTITUTE FOR HOUSE BILL 149 (CHAPTER 86-92) creates Section 470.0255, F.S., effective October 1, 1986, to require, at the time of the arrangement for a cremation, the person contracting for cremation services to sign a declaration of his intention with respect to the disposition of the cremated remains of the deceased. Such declaration is to be retained by the funeral or direct disposal establishment.

The act authorizes a funeral establishment to dispose of unclaimed cremated remains after 120 days according to rules provided by the Department of Professional Regulation or the Board of Funeral Directors and Embalmers. The act provides for "Sunset" repeal of Section 470.0255, F.S., on October 1, 1990, and legislative review prior to that date.

Hearing-Impaired Persons, Services for

HOUSE BILL 1342 (CHAPTER 86-283) amends sections of Part II of Chapter 484, F.S., and other sections, relating to services for hearing-impaired persons. It amends Section 484.042, F.S., to expand the Board of Hearing Aid Specialists from seven to nine members and requires that one lay member be over 65 years old. A newly created Section 484.0445, F.S.,

requires the Board to establish a training program, sets program standards, and provides for licensure of trainees. New Section 484.04451, F.S., sets maximum fees. Requirements for licensure by examination and for licensure by endorsement are amended in Sections 484.045 and 484.046, F.S., respectively. License renewal requirements in Section 484.047, F.S., are changed, and a continuing education requirement is deleted. Reactivation requirements are revised in Section 484.048, F.S, including continuing education and payment of fees. Minimal procedures and equipment for fitting and selling hearing aids are revised in Section 484.0501, F.S., in part to change procedures to be followed after the discovery of an infection or any observable anomaly. One who fits or sells hearing aids must itemize prices for the prospective purchaser upon request pursuant to amended Section 484.051, F.S.

New Section 484.0513, F.S., allows the hearing aid purchaser to rescind a transaction because of certain medical conditions that contraindicate the use of such an aid. A new prohibition is established as Subsection 484.053(3), F.S., against a licensee allowing an unlicensed person to sell a hearing aid, and a refund of the purchase money is required. Additional grounds for disciplinary action are provided in amended Section 484.056, F.S., and the Department Of Professional Regulation is allowed to take cease and desist action. Licensees are required, by a new Section 484.058, F.S., to have a regular place of business. Under revised Section 484.059, F.S., employees of medical practitioners may

not dispense hearing aids if they are not licensed hearing aid specialists. Part II of Chapter 484, F.S., is repealed on October 1, 1996, and is subject to "Sunset" review prior to that date.

The Florida Council for the Hearing Impaired, created by Section 229.8361, F.S., is authorized to employ an administrator and to include a deaf services center director in procedures for certifying specified impairments. The Council may lease, rather than sublease, certain equipment.

The act takes effect October 1, 1986, except for those provisions relating to the Florida Council for the Hearing Impaired which are already in effect.

Investigative and Patrol Services

COMMITTEE SUBSTITUTE FOR SENATE BILL 1149 (CHAPTER 86-193) amends several provisions of Part I of Chapter 493, F.S., relating to investigative and patrol services, effective October 1, 1986. In revised Section 493.30, F.S., the definition of an investigative, guard, or patrol agency is expanded to include businesses that utilize dogs in providing security services. The term "private investigator" is clarified so as to exclude certain persons acting as informants. The definition of "private investigation" is expanded to include investigations concerning heirs to estates, abandoned property, and escheated property. The conducting of certain studies or surveys and service of court process are deleted from the definition of "private investigation."

Definitions relating to operating an investigative and patrol service business are added, and in amended Section 493.301, F.S., persons providing security services for the Kennedy Space Center and certain insurance investigators and adjusters are exempted from the provisions of Chapter 493, F.S.

Provisions concerning classes of licenses are amended in Section 493.304, F.S., and obsolete language is deleted. License application and renewal requirements for individuals, firms or partnerships, and corporations are revised in Section 493.305, F.S. Individuals are required by amended Section 493.306, F.S., to have a physical address in the state in order to be licensed; and agencies holding valid licenses on October 1, 1986, must have at least one physical location within the state by October 1, 1987. Firearms proficiency training criteria is revised for Class "G" licensees and firearms instructors. Examination and license fees are set for additional classes of licenses by amendment to Section 493.308, F.S. Certification of physical fitness by a licensed physician is required under revised Subsection 493.309(2), F.S., for Class "G" license applicants; and Class "A", "B", and "E" license applicants are required to file a certificate of insurance coverage with the Department of State by amended Section 493.31, F.S.

The act amends Section 493.311, F.S., to require biennial renewal of all licenses issued under Part I of Chapter 493, F.S., and to direct that certain licenses be posted in the place of business. Certain licensed employees are to be

furnished with identification cards by the employer, and the employer is required to notify the Department upon the employment or termination of licensed employees. License renewal requirements are revised, and range recertification and classroom training is required for certain license renewal in revised Section 493.313, F.S. The act amends Section 493.314, F.S., to provide procedures for a licensee to cancel his license or place it in an inactive status.

Pursuant to revised Section 493.315, F.S., the employment of an armed guard must be terminated immediately if the Department denies such person a Class "G" license. Certain information is required to be submitted to the Department whenever a Class "G" licensee discharges his firearm in the course of employment. In revised Subsection 493.317(6), F.S., the time period within which repossessed property must be reported is reduced from 24 to six hours, and inventory requirements in Section 493.318, F.S., are revised to include repossessed personal property.

The act revises the grounds for disciplinary action found at Section 493.319, F.S. Prohibitions in Section 493.32, F.S., relating to divulging certain information are made to apply to judicial proceedings. Pursuant to amended Section 493.321, F.S., any person convicted for a violation of Part I of Chapter 493, F.S., is ineligible for licensure for a period of five years.

The act revises Section 493.322, F.S., to authorize the Department to adopt rules relating to the retention of records

by licensees and requires that records requested by the Department be made available to the Department within 24 hours of notice unless an extension is granted. The Department is authorized to enjoin unlicensed or unauthorized activities.

The act creates Section 493.327, F.S., to require the Department to maintain the confidentiality of certain residence information of licensees except when required by a law enforcement agency. Under new Section 493.328, F.S., the act authorizes the Department to publish a newsletter that includes certain information relating to administrative complaints.

Medical Practice

SENATE BILL 5-B (CHAPTER 86-245) revives and readopts Chapter 458, F.S., relating to medical practice, notwithstanding its scheduled repeal under the "Regulatory Sunset Act." Numerous changes to the chapter include amending Subsection 458.305(1), F.S., to redesignate the Board of Medical Examiners as the "Board of Medicine" and revising Subsection 458.307(1), F.S., to increase the number of Board members from 12 to 13.

The act exempts certain persons from subsequent Board rules relating to medical education, clinical clerkships, and residencies by amending Section 458.309, F.S.

The provisions dealing with the licensing of foreign medical graduates found in Section 458.311, F.S., are substantially revised, and the $1,000 license fee for nonresident applicants is eliminated.

Guidelines for the certification of foreign educational institutions are established in new Section 458.314, F.S.

In revised Section 458.316, F.S., fees for public health certificates are increased, and the Board is authorized to issue public psychiatry certificates pursuant to new Section 458.3165, F.S. The requirements for a limited license contained in Section 458.317, F.S., and the provisions in Section 458.321, F.S., relating to the reactivation of an inactive license are revised.

The referral of a patient for treatment to an entity in which the physician owns an interest is made a first degree misdemeanor by new Paragraph 458.327(2)(c), F.S., and grounds for disciplinary action under Paragraph 458.331(1)(gg), F.S., unless the patient receives notice of such fact prior to the referral.

Through the amendment of Paragraph 458.331(1)(s), F.S., the act gives the secretary of the Department of Professional Regulation the authority to determine whether a licensee is unable to practice medicine for purposes of requiring a physician to submit to a mental or physical examination.

The act makes prescribing laetrile an act subject to disciplinary action in new Paragraph 458.331(1)(ff), F.S.

The maximum administrative fine is increased from $1,000 to $5,000 by revision of Paragraph 458.331(2)(d), F.S.

Under reworded Section 458.3315, F.S., the Board is required to appoint a licensee to serve on the Impaired Practitioners Committee, which is created under another act.

(Section 24, HOUSE BILL 4-B, CHAPTER 86-290). The act further establishes guidelines for the adoption of rules for the Committee, empowers the Department to retain consultants, establishes procedures for the probable cause panel, and provides for treatment of impaired practitioners.

The act also rewrites Section 458.347, F.S., to revise provisions relating to the regulation of physician's assistants.

The act authorizes the Secretary of Health and Rehabilitative Services to extend the other-personal-services employment of a physician beyond 2,080 hours.

Except for the provision relating to other-personal-services employment, which is already in effect, the act takes effect October 1, 1986.

Nursing

HOUSE BILL 1352 (CHAPTER 86-284) revives and readopts Chapter 464, F.S., relating to nursing, effective October 1, 1986, notwithstanding its scheduled repeal under the "Regulatory Sunset Act." Changes include deleting certain categories of certification of advanced nurse practitioners listed in Paragraph 464.012(2)(c), F.S., and certifying all such categories as "advanced nurse practitioner." It increases the range of certain authorized acts in Paragraph 464.012(4)(b), F.S., and duties of advanced nurse practitioners to comply with the certification revisions.

Substantial changes are made to Section 464.0185, F.S., relating to treatment programs for impaired practitioners; and the Board of Nursing is required to appoint a licensee to serve on the Impaired Practitioners Committee, which is created under another act. (Section 24, HOUSE BILL 4-B, CHAPTER 86-290).

Requirements and procedures relating to inactive licenses are revised in Section 464.014, F.S.

The secretary of the Department of Professional Regulation is authorized under revised Paragraph 464.018(1)(h), F.S., to determine whether a licensee is unable to practice nursing for purposes of requiring a nurse to submit to a mental or physical examination. A "Sunset" date of October 1, 1996, is established for the Chapter, with legislative review required prior to that date.

Nursing Home Administration

COMMITTEE SUBSTITUTE FOR SENATE BILL 179 (CHAPTER 86-223) amends Subsection 468.1645(2), F.S., to require that the licenses for administration of nursing homes operated by certain religious groups that rely on spiritual healing be endorsed for restriction to the facilities that such group operates. The term "nursing home" at Subsection 468.1655(5), F.S., is redefined. Requirements for membership on the Board of Nursing Home Administrators are changed in Section 468.1655, F.S. The Board is required to set up procedures for cooperation with other health professional boards pursuant to revised Subsection 468.1685(8),F.S. Prerequisites to licensure

are increased, both for licensure by examination and for licensure by endorsement by revision of Sections 468.1695 and 468.1705, respectively. The act provides for a temporary license, valid only at the facility for which the license is issued and subject to other restrictions.

The number of hours of continuing education required for biennial license renewal is increased from 20 to 40 in amended Subsection 468.1715(5), F.S., and correspondence courses are required to be offered. In revised Section 468.1725, F.S., license reactivation procedures and fees are changed. Restrictions are placed on provisional licenses, issued when a director's position unexpectedly becomes vacant as specified under revised Section 468.1735, F.S. Compulsory mental and physical examinations are allowed for licensees unable to administer a nursing home with reasonable skill and safety for certain reasons by revision of Paragraph 468.1755(1)(l), F.S. A four-year statute of limitations for certain disciplinary actions is created in new Section 468.1756, F.S. Part II of Chapter 468, F.S., is repealed on October 1, 1996, and is subject to "Sunset" review prior to that date.

The act takes effect October 1, 1986.

Opticianry

COMMITTEE SUBSTITUTE FOR SENATE BILL 894 (CHAPTER 86-254) amends sections of Chapter 484, F.S., effective October 1, 1986. By revising Subsection 484.002(3), F.S., it substantially amends the definition of "opticianry", in part by

specifically authorizing an optician to prepare and dispense contact lenses. Rulemaking authority is expanded through amendment to Section 484.005, F.S. Licensure requirements in Subsection 484.007(1), F.S., are amended to include standards for out-of-state practitioners who seek licensure in this state and to specify that an apprenticeship need not be continuous. The law amends Section 484.012, F.S., to limit to a two-year period the validity of a contact lens prescription and otherwise modifies requirements relating to prescriptions.

Violations relating to contact lenses are added to Section 484.013, F.S. Pursuant to revised Subsection 484.014(1), F.S., the Department of Professional Regulation is authorized to bring a cease and desist action in specified circumstances. Also, Section 484.015, F.S., is amended to permit the Department to inspect an establishment that prepares and dispenses contact lenses. The appropriate state attorney is to prosecute any criminal violation under amended Section 484.016, F.S. Part I of Chapter 484, F.S., is repealed on October 1, 1996, and is subject to "Sunset" review prior to that date.

Optometry

SENATE BILL 3-B (CHAPTER 86-289) amends Chapter 463, F.S. designating the "Optometry Practice Act." The act exempts a person who provides emergency assistance from the provisions of the chapter. It defines "certified optometrist," who may administer and prescribe topical ocular pharmaceutical agents,

and "licensed practitioner," who may not. It elaborates on the rulemaking authority of the Board of Optometry found at Section 463.005, F.S. A newly created Section 463.0055, F.S., sets standards for the administration and prescription of topical ocular pharmaceutical agents, sets certification requirements and fees, and provides for the creation and adoption of a formulary of such agents that are authorized to be prescribed by optometrists.

The act amends licensure requirements in Section 463.006, F.S., and prescribes continuing education requirements, including new ocular pharmacology requirements by revising Section 463.007, F.S. Inactive status, and reactivation, are provided for in amended Section 463.008, F.S. Supportive personnel are prohibited from diagnosis or treatment duties; their appropriate duties are listed, and supervision of them is required with new language in Section 463.009, F.S. Exhibition of a branch office license is required in amended Section 463.011, F.S. Standards for release of prescriptions to patients are prescribed by revision of Section 463.012, F.S. A new Section 463.0135, F.S., provides standards of practice and requires a licensed practitioner to refer a patient to appropriate medical resources in specified circumstances. The list of prohibited acts is increased in Section 463.014, F.S., including a prohibition against performing surgery of any kind. Criminal penalties for third degree felonies are provided for specified violations in amended Section 463.015, F.S. Chapter

463, F.S., is repealed on October 1, 1996, and is subject to "Sunset" review prior to that date.

Osteopathy

HOUSE BILL 4-B (CHAPTER 86-290) revives and readopts Chapter 459, F.S., relating to osteopathy, notwithstanding its scheduled repeal under the "Regulatory Sunset Act." The act establishes general licensing requirements for osteopathic physicians in new Section 459.0055, F.S., revises the provisions pertaining to licensure by examination or endorsement in revised Sections 459.006 and 459.007, respectively, authorizes the Board of Osteopathic Medical Examiners to waive certain supervisory requirements relating to the issuance of limited licenses by amendment to Section 459.0075, F.S., and extends the required review periods for limited licensees from one year to two years.

In new Subsection 459.008(6), F.S., the act requires the Board to establish continuing education requirements for license renewal and, in revised Section 459.009, F.S., increases such requirements for the reactivation of an inactive license and revises the period within which an inactive license expires. Amended Section 459.0095, F.S., requires each licensee to advise the Department of Professional Regulation whether he participates in the Medicaid program and requires a licensee to provide each patient with a duplicate copy of the itemized statement sent to a third party payee for payment.

New Section 459.0122, F.S., establishes requirements for the handling of patient records of a licensee who terminates his practice, and revised Section 459.013, F.S., provides penalties for the unauthorized practice of osteopathy, for the practice which exceeds the scope of certain limited licenses or certificates, and for certain unauthorized practices relating to recordkeeping and the referral of patients to entities in which the licensee has a proprietary interest.

The act amends Paragraph 459.015(1)(x), F.S., to authorize the secretary of the Department to determine whether a licensee is unable to practice with reasonable skill and safety for purposes of requiring him to submit to a mental or physical examination.

It provides in new Paragraph 459.015(1)(ii), F.S., that a licensee's failure to adequately supervise certain persons is grounds for disciplinary action; establishes guidelines for impaired practitioner treatment programs in new Section 459.0155, F.S., which also requires the Board to appoint a licensee to serve on the Impaired Practitioners Committee created under this act.

The act revises Section 459.016, F.S., to require the Department to notify all hospitals in the state of certain disciplinary actions against a licensee, requires any hospital or other such organization that takes disciplinary action against a licensee to notify the Department of such action, and increases penalties for the failure to do so.

New Subsection 459.021(6), F.S., requires a person receiving a hospital resident or intern certificate to be at least 18 years of age. Provisions pertaining to osteopathic physician's assistants found in Section 459.022, F.S., are revised to clarify the responsibility of the supervising physician and to require the Board to adopt rules relating to such supervision. Procedures for the certification of osteopathic physician assistants are established, and an Osteopathic Physician Assistant Committee is established under the Board.

The act authorizes the Secretary of Health and Rehabilitative Services to extend the other-personal-services employment of an osteopath beyond 2,080 hours.

Except for the provision relating to other-personal-services employment, which is already in effect, the act takes effect October 1, 1986.

Pharmacy

HOUSE BILL 1-B (CHAPTER 86-256) revives and readopts Chapter 465, F.S., relating to pharmacy, notwithstanding its scheduled repeal under the "Regulatory Sunset Act." It revises numerous definitions in Section 465.003, F.S., relating to the practice of pharmacy and substantially revises the provisions in Section 465.012, F.S., relating to the inactive status of licenses. Specific responsibilities for consultant pharmacists are established by amendment to Section 465.0125, F.S., and the Board of Pharmacy is required to establish rules for the

supervision of pharmacy technicians pursuant to revised Section 465.014, F.S.

The Board also is required in new Section 465.0155, F.S., to adopt rules enacting standards of practice. Provisions relating to the regulation of mail service pharmacies located outside this state are created in Section 465.0156, F.S., as well as guidelines for impaired practitioner treatment programs in reworded Section 465.0165, F.S. The Board is required to appoint a licensee to serve on the Impaired Practitioners Committee, which is created under another act (Section 24, HOUSE BILL 4-B, CHAPTER 86-290).

The term "radiopharmacy" is changed to "nuclear pharmacy" in Section 465.0193, F.S., and additional general requirements for pharmacy operations are added to Section 465.022, F.S.

Procedures for the emergency refill of prescriptions, and procedures relating to the registration and regulation of dispensing practitioners, are established in new Sections 465.0275 and 465.0276, F.S., respectively.

The sale of prescription drugs is exempted from sales tax in new Section 465.187, F.S.

Distributors and certain repackers are required to be identified on packages of certain finished drug products pursuant to revised Section 499.025, F.S.

Under Section 499.028, F.S., manufacturers and others in the distribution network are required to file reports identifying practitioners to whom complimentary drugs are

provided, the sale of complimentary drugs or samples is prohibited, and penalties are established for violations relating to complimentary drugs.

The act takes effect October 1, 1986, except for provisions relating to transfer of prescriptions on file in another state (Section 465.026, F.S.), which does not take effect until a year later.

Physical Therapy

COMMITTEE SUBSTITUTE FOR SENATE BILL 848 (CHAPTER 86-31) amends Subsection 486.021(6), F.S., to require that a physical therapy assistant be supervised and amends Subsection 486.021(11), F.S., to require that a referring physician approve a plan of treatment. For physical therapists and for physical therapy assistants, revised Sections 486.041 through 486.085 and 486.103 through 486.108, F.S., increase certain fees, authorize the return of a portion of the examination fee to an ineligible applicant, place restrictions on a temporary permit, and limit the number of times an applicant may attempt the examination. In addition, applicants for licensure by endorsement are allowed temporary permits. Procedures governing inactive status and reactivation are substantially revised. In amended Section 486.125, F.S., compulsory mental and physical examinations are provided for upon a finding of probable cause that a licensee is unable to practice. Revisions are made to the list of disciplinary acts and penalties found in this section and to the list of criminal

violations and penalties found in Section 486.151, F.S. Chapter 486, F.S., is repealed on October 1, 1996, and is subject to "Sunset" review prior to that date. In addition, the Physical Therapy Council is abolished on October 1, 1996, and is scheduled for "Sundown" review prior to that date.

The act takes effect October 1, 1986.

Piloting

HOUSE BILL 1299 (CHAPTER 86-280) saves Chapter 310, F.S., relating to pilots, piloting, and pilotage, from "Sunset" repeal and provides for future review and repeal of that chapter on October 1, 1993. Provisions limiting the number of pilots authorized for certain ports in the state are removed from Section 310.061, F.S., and the Board of Pilot Commissioners is required to determine the number of authorized pilots for any port. The act provides for the Board to adopt rules for cross-licensing of pilots between ports.

Qualifications for certification as a deputy pilot in Section 310.071, F.S., are amended. The minimum age requirement for certification is raised from 18 to 21, and a high school diploma or its equivalent is required. Applicants are required to submit to the Board full documentation of sea time and proof of maritime background and experience. The act authorizes the Board to adopt rules for equivalent service and waive certain experience requirements under certain circumstances.

The act provides qualifications for applicants for licensure as state pilots through creation of Section 310.073, F.S., and establishes guidelines for deputy pilot training programs at all ports in the state in new Section 310.075, F.S.

The act revises Section 310.101, F.S., to provide additional grounds for disciplinary action and to set out penalties for violations. Provisions in Section 310.111, F.S., relating to casualty reports are amended to require reports of all marine incidents sustained by vessels employing a licensed state pilot or certified deputy pilot. A provision in Section 310.1115, F.S., requiring a piloted vessel to utilize electronic navigation protection equipment is clarified.

The act creates Section 310.146, F.S., to exempt United States vessels from the provisions of Chapter 310, F.S., under certain circumstances.

The act takes effect October 1, 1986.

Podiatry

COMMITTEE SUBSTITUTE FOR SENATE BILL 399 (Chapter 86-71) revives and readopts Chapter 461, F.S., relating to podiatry, effective October 1, 1986, notwithstanding its scheduled repeal under the "Regulatory Sunset Act." It excludes military practitioners from regulation, by the addition of Subsection 461.002(3), F.S., amends Section 461.003, F.S., to change the name of the Board of Podiatry to the "Board of Podiatric Medicine," and changes the term "podiatry" to "podiatric medicine" where used in the chapter.

Provisions are added in Subsection 461.006(2), F.S., limiting the number of times an applicant for licensure may take the examination, and in Subsection 461.007(5), F.S., the maximum continuing education requirements are increased from 30 to 40 hours biennially.

Pursuant to revised Section 461.008, F.S., the Board is required to adopt rules establishing procedures relating to inactive status, the renewal of inactive licenses, and reactivation of inactive licenses.

The term "repeated malpractice" is defined for purposes of disciplinary actions in amended Paragraph 461.013(1)(t), F.S. The Department is required by new Subsections 461.013(5) and (6), F.S., to investigate certain licensees having claims with indemnities.

Under rewritten Section 461.0132, F.S., guidelines for impaired practitioner treatment programs are established, and the Board is required to appoint a licensee to the Impaired Practitioners Committee, which is created under another act (Section 24, HOUSE BILL 4-B, CHAPTER 86-290).

Section 1 of HOUSE BILL 123 (CHAPTER 86-90) includes provisions providing for the licensing of foreign-trained podiatric technicians.

Real Estate Practice

HOUSE BILL 788 (CHAPTER 86-107) amends Subsection 475.011(4), F.S., to provide that Chapter 475, F.S., relating to real estate brokers and salesmen, does not apply to any

employee or registered broker employed by an owner of an apartment community who works in a leasing capacity at an on-site rental office.

Respiratory Care

HOUSE BILL 624 (CHAPTER 86-60) replaces the term "respiratory therapy technician," used throughout Part V of Chapter 468, F.S., (Sections 468.35-468.369, F.S.) with the term "respiratory care practitioner." It also revises Section 468.359, F.S., which provides authorized abbreviations for such practitioners and for respiratory therapists.

Talent Agencies

COMMITTEE SUBSTITUTE FOR HOUSE BILL 26 (CHAPTER 86-292) provides for the regulation of talent agencies by the Department of Professional Regulation (DPR). The measure establishes licensure requirements and sets an application fee of $300. The Department is authorized to promulgate rules to implement the act and to establish fees for initial licensure, biennial renewal, and reinstatement of licenses, none of which fees may exceed $400. The Department may revoke or suspend a license and may impose a civil penalty against any licensee or applicant who violates provisions of the act. Both owners and operators are required to submit a full set of fingerprints and a recent photograph as part of the application which the Department is to utilize in checking fingerprint and police records.

Each licensed agency must post a $5,000 surety bond and must file with the Department a schedule of maximum fees and commissions for its services. Agencies are required to give each applicant a copy of a contract listing the services to be provided and the related fees to be charged. No talent agency may charge applicants a registration fee in excess of $35. Talent agencies are required to maintain certain records on applicants and to pay to the artists all moneys collected on their behalf, less the talent agent's fee, within five business days after the receipt of the money by the talent agency. Agencies are prohibited from sending any person on a motion picture or videotape engagement to a location where a labor dispute is in progress, without providing prior notification to that person.

Violations of certain provisions of the act are designated as second degree misdemeanors. The act provides the DPR or any prosecuting attorney injunctive power to enjoin any talent agency or any other person violating certain provisions of the act. The act is scheduled for "Sunset" review and repeal on October 1, 1996.

The law is to take effect January 1, 1987.

PUBLIC OFFICERS AND EMPLOYEES*

Public officers and employees were the subject of over a dozen bills passed during the 1986 Legislative Session. The Career Service System was revised to limit the number of employees in the Senior Management Service; the Selected Exempt Service (formerly the Selected Professional Service) was created; state employees who received educational loans were required to repay such loans in a described manner; the retirement system was amended to provide minimum monthly retirement benefits for a certain period of time and to revise certain contribution rates; and provision was made for participation in the system by the surviving spouse of a deceased member of the Elected State Officers' Class. Firefighters and police officers were considered in three separate pieces of legislation which revise municipal firefighters' and police officers' retirement systems and provide for a Firefighters' Bill of Rights. Other measures passed during the 1986 session affecting public officers and employees concerned insurance and a supervised physical fitness program for state active duty personnel of the Department of Military Affairs. Member qualification for the state

*Prepared by staff of House Bill Drafting Service

Commission on Ethics and Conflict of Interest in appointed Public Officers was also addressed.

Personnel

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1012 (CHAPTER 86-149) amends Section 110.205, F.S., to revise criteria with respect to exempt positions under the Career Service. The act amends Subsections 110.402(2) and (3), F.S., to provide that the Senior Management Service shall be limited to those positions exempted from the Career Service System and for which salaries and benefits are set by the Department of Administration in accordance with the rules of the Senior Management Service. Paragraph 110.403(1)(a), F.S., is amended to provide that in no event shall the number of employees in the Senior Management Service exceed 500 employees. Sections 110.601 through 110.607, F.S., are amended to rename the Selected Professional Service as the Selected Exempt Service and to provide that the number of members of the Selected Exempt Service shall not exceed 2000 employees. This measure establishes the normal retirement date for a senior management service class member as either completion of seven creditable years of service in the class and attainment of age 62 or 30 years of creditable service, including a maximum of four years of creditable military service, regardless of age.

Section 121.24, F.S., relating to the State Retirement Commission, is amended to permit the Commission to meet in panels of not less than three members to hear appeals of

decisions of the administrator of the retirement system. The chairman of the Commission is authorized to designate a person to conduct meetings and hearings of the Commission and to render decisions which are final unless overruled by a majority of members present. The Department of Administration is directed to conduct training for new Commission members.

Finally, the act creates Section 121.055, F.S., to establish a Senior Management Service Class within the Florida Retirement System effective February 1, 1987, and directs the Department of Administration to establish a Senior Management Service Optional Annuity Program within the Florida Retirement System as prescribed in the act.

Those provisions of the act which amend Section 121.24, F.S., save Sections 121.22 - 121.24, F.S., from a repeal date of October 1, 1987, pursuant to Chapter 82-46, Laws of Florida, and provide a "Sundown" date of October 1, 1992, for those sections take effect July 1, 1986. All other provisions of the act have an effective date of February 1, 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILL 39 (CHAPTER 86-129) provides that any person who has received an educational loan made or guaranteed by the state or any of its political subdivisions, and who at any time becomes or is an employee of the state or its political subdivisions, shall be deemed to have agreed to the voluntary or involuntary withholding of his wages to repay the loan. The act provides for a loan repayment schedule to be established within 60 days after service of notice of default and that the amount per pay period shall not

exceed 10 percent of the employee's pay per period. The act further provides that when the employee fails to meet the terms or conditions of the repayment schedule he shall be deemed to have consented to the involuntary withholding of his wages or salary for the repayment of the loan. The dismissal of such an employee for default on such a loan is prohibited, and the Administration Commission is directed to adopt appropriate rules.

The act provides for an October 1, 1986, effective date.

Retirement

COMMITTEE SUBSTITUTE FOR SENATE BILL 369 (CHAPTER 86-137) amends Section 112.362, F.S., to provide a minimum monthly retirement benefit for any member of any state-supported retirement system who retires on or after July 1, 1987, with at least 10 years of creditable service and who attains normal retirement date and age 65, provided that only those years of creditable service accumulated by the member through June 30, 1987, shall be used in the calculation of the minimum monthly benefit amount, and further provided that no benefit shall exceed the average monthly compensation of the retiree. The act provides that the minimum monthly benefit may be applied to the surviving spouse or beneficiary who is receiving a monthly benefit from a deceased retiree's account.

Subsections 121.052(4) and 121.071(2) and (6), F.S., are amended to revise the contribution rates applicable to members of the Elected State Officers' Class and the regular, special

risk, and special risk administrative support members of the Florida Retirement System. The act further provides that it is the intent of the Legislature that should any other law be enacted which provides for a membership group within the Florida Retirement System, a specified procedure for computing retirement contributions shall be used.

COMMITTEE SUBSTITUTE FOR SENATE BILL 864 (CHAPTER 86-188) amends Section 121.113, F.S., to provide for participation in the state retirement system by a surviving spouse of an elected official who was a member of the Elected State Officers' Class of the Florida Retirement System and who would have had eight years of creditable service in the class had he lived to complete the term of office he was serving at the time of his death, or who had 10 years of creditable service in any other class of the Florida Retirement System or any other state-supported retirement system had he lived to complete the term of office in which he was serving at the time of his death, upon payment of the required contributions to the appropriate system trust fund. The act also provides for such participation when the spouse has received a refund of the member's contributions, upon the repayment of the refunded contributions plus interest and the payment of the required contributions into the system trust fund.

COMMITTEE SUBSTITUTE FOR SENATE BILL 353 (CHAPTER 86-180) and HOUSE BILL 1288 (CHAPTER 86-218) both amend in identical language Subsection 288.075(1), F.S., to redefine the term "economic development agency," with respect to

confidentiality of records, to include the public economic development agency which advises the county commission on the issuance of industrial revenue bonds in counties which do not have an industrial development authority.

Both acts, also in identical language, authorize the creation of one or more Florida Equity Exchanges upon a determination by the State Comptroller that the exchange has a reasonable promise of successful operation, will promote economic development, will produce net economic benefits to the state, and will not expose the public to undue risk of financial loss. The act provides that the purpose of the exchange is to provide a marketplace for the negotiation, arrangement, exchange, sale, purchase, brokerage, syndication, underwriting, and all activities incident thereto, of investment opportunities in an institutionalized and self-regulated fashion. Detailed requirements are provided with respect to the constitution, by-laws, and self-regulation of the exchange. The act further provides for a security fund to protect persons transacting business through the exchange, subject to the approval of the Department of Banking and Finance.

COMMITTEE SUBSTITUTE FOR SENATE BILL 353 (CHAPTER 86-180) also contains several other provisions. It amends Sections 110.123 and 112.08, F.S., to provide that the following records are confidential and exempt from the public records law: patient medical records and medical claims records of state employees and former state employees, and

eligible dependents, in the custody or control of the State Employees Group Health Self-Insurance Plan; medical records and medical claims records in the custody of a unit of a county or municipal government relating to county or municipal employees, former county or municipal employees, or eligible dependents of such employees enrolled in a county or municipal group insurance plan or self-insurance plan; and patient medical records and medical claims records of water management district employees and former employees, and eligible dependents, in the custody or control of the water management district under its group insurance plan.

The act amends Subsection 110.131(6), F.S., to exempt employees of the Division of Blind Services Library for the Blind and Physically Handicapped, for whom the Division of Blind Services of the Department of Education is the employer, from described other personal services temporary employment limitations set forth by statute, except for recordkeeping and reporting requirements.

Subsection 238.07(15B), F.S., is amended to provide that if a member of the Teachers' Retirement System of Florida recovers from disability, has his disability benefit terminated, and reenters covered employment and is continuously employed for a minimum of one year of creditable service, he may claim as creditable service the months during which he was receiving a disability benefit, upon payment of the required contributions.

Finally, the act amends Paragraphs 121.052(1)(d) and (g), F.S., to provide that an elected county officer, who declares his intention to purchase additional retirement credit under the Elected State Officers' Class of the Florida Retirement System from October 1, 1986, through December 31, 1987, must do so by paying one-half of the required contributions and interest due the System Trust Fund for the purchase of such credit if the other half is paid by the county employer or district school board employer. Such employers are prohibited from making such contributions after December 31, 1987. The act also provides that membership in the Elected State Officers' Class of the Florida State Retirement System is for constitutional officers with countywide constitutional powers.

Conflict of Interest for Appointed Public Officers

COMMITTEE SUBSTITUTE FOR SENATE BILL 971 (CHAPTER 86-148) creates Paragraph 112.3143(2)(b), F.S., which bars any appointed public officer from participating in any matter which inures to his special private gain or the special gain of any principal by whom he is retained without first disclosing the nature of his interest in the matter. The disclosure is to be made in a written memorandum delivered to the person responsible for recording the minutes of a meeting and is to be incorporated in the minutes of the meeting, or if made orally at a meeting attended by the officer, the written memorandum is to be filed within 15 days with the person responsible for

recording the meeting for incorporation in the minutes. Once filed, the memorandum is to be delivered to other members of the agency as a public record to be read at the meeting prior to the consideration of the matter in question. For purposes of the paragraph, "participate" is defined as any attempt by written or oral communication made by the officer or at his direction to influence the decision.

New Subsection 112.3143(4), F.S., requires an appointing body to consider the number and nature of the memoranda of conflict filed previously under this section by a current or former public officer being considered for appointment or reappointment.

Subsection 112.321(1), F.S., is amended to permit the gubernatorial appointee to the state Commission on Ethics who is required to be a former city or county official to have been a former member of a local planning or zoning board which only has advisory duties.

The act takes effect October 1, 1986.

Firefighters and Police Officers

COMMITTEE SUBSTITUTE FOR SENATE BILL 207 (CHAPTER 86-41) (municipal firefighters) and COMMITTEE SUBSTITUTE FOR SENATE BILL 208 (CHAPTER 86-42) (municipal police officers) treat in substantially the same way the revision of state law governing municipal firefighters' pension trust funds and municipal police officers' retirement trust funds.

The acts revise Chapters 175 and 185, F.S., respectively, to establish minimum standards for the operation and funding of municipal firefighters' pension trust fund systems and plans and municipal police officers' retirement trust fund systems and plans so that such systems and plans are managed, administered, operated, and funded in such a manner as to maximize the protection of the applicable fund.

The acts revise the membership and composition of the board of trustees of the municipal firefighters' pension trust funds and the board of trustees of the municipal police officers' retirement trust funds to provide for five-member boards. The boards are declared legal entities with the power to bring and defend lawsuits. Language is revised with respect to the power of the boards to invest funds and to provide for variations in investment procedures through municipal ordinance or act of the Legislature.

Evaluation is required of the performance of the money managers used by the boards at least once every three years. In addition, the acts provide that under no circumstances may a municipality reduce the member contribution to the pension fund or retirement fund to less than one percent of salary.

Requirement is made that in order for a municipality to participate in the distribution of state premium tax moneys on property insurance premiums authorized by law, all provisions of either Chapter 175 or Chapter 185, F.S., must be complied with annually.

The acts provide that any firefighter or police officer who completes 10 or more years of creditable service and attains age 55, or completes 25 years of creditable service and attains age 52, and who has been a member of the municipal firefighters' pension trust fund or the municipal police officers' retirement trust fund for the period, is eligible for normal retirement benefits. If current state contributions pursuant to Chapter 175 or Chapter 185, F.S., are not adequate to fund additional benefits provided by the act, only increment increases shall be required as state moneys are adequate or become available.

The acts provide that no firefighter or police officer may make any change in his retirement option after the date of cashing or depositing his first retirement check. Language is revised governing disability retirement, including a provision which states that the provisions for disability other than line-of-duty disability shall not apply to a member who has reached early or normal retirement age. A more detailed annual report to the Department of Insurance with respect to the applicable fund is required, including an independent audit by a C.P.A. if the fund has $100,000 or more in assets, or a certified statement of accounting if the fund has less than $100,000 in assets. An actuarial valuation of the funds is also required at least once every three years.

In addition to other provisions found in the acts, the boards of trustees are authorized to employ independent legal counsel at the funds' expense, procedures are stipulated for

the deposit of funds, requirements are provided with respect to municipalities having their own pension plans and participating in the distribution of state funds, and procedures are established with respect to members who transfer to another state retirement system.

These two acts both take effect October 1, 1986.

HOUSE BILL 245 (CHAPTER 86-6) creates Part VIII of Chapter 112, F.S., to create the "Firefighters' Bill of Rights." The act provides a specific set of criteria which must be adhered to whenever a firefighter is subjected to an interrogation. These criteria include requirements with respect to the place of interrogation, written notice of the nature of the interrogation, time of interrogation, notice of the name of the officer in charge of the interrogation, length of the interrogation, prohibitions with respect to abuse or incentives involved in the interrogation, a copy of the transcript of the interrogation, the presence of representation at the interrogation, and a prohibition on the discharge, discipline, demotion, or other discriminatory action or threat in regard to his or her employment, based upon the exercise of any right under the Firefighters' Bill of Rights. The act authorizes firefighters to seek injunctive relief for violations of the Bill of Rights, and provides that such rights are nonexclusive of other rights.

The act has an effective date of October 1, 1986.

Insurance

SENATE BILL 946 (CHAPTER 86-255) amends Subsection 121.35(6), F.S., to eliminate the requirement that one of the four currently authorized insurers who may offer annuities under the optional retirement program for state university employees must be a Florida domestic company. The act further provides that upon application by a qualified Florida domestic company, reasonable notice shall be given to all other such companies that the Division of Retirement of the Department of Administration intends to designate one of such companies as a fifth company from which annuity contracts may be purchased and that they may apply for such designation.

SENATE BILL 280 (CHAPTER 86-27) amends Section 110.123, F.S., to reenact retroactively to July 1, 1985, the definitions of the terms "state group health insurance plans" and "state group insurance program" under the State Group Insurance Program Law. The act authorizes the Department of Administration to promulgate rules under the act and eliminates obsolete language and provisions requiring legislative approval of certain Department of Administration activities in administering the Program.

Miscellaneous

HOUSE BILL 1213 (CHAPTER 86-239) amends Paragraph 250.10(1)(e), F.S., to provide that the Adjutant General of the Florida National Guard shall establish an organized and supervised physical fitness program for state active duty

personnel of the Department of Military Affairs, provided that the program does not exceed one hour per day, for a maximum of three hours per week, and originates and terminates at the normal work site. The act provides that administrative leave, not to exceed three hours per week, shall be provided for participating personnel.

STATE GOVERNMENT*

The 1986 Legislature made some minor adjustments to the Administrative Procedure Act relating to timing of certain actions and preparation of pleadings, motions, etc. In a related measure, the budgetary independence of the Division of Administrative Hearings from the Department of Administration was clarified and the Division given the right to appeal to the Administration Commission any EOG action which affects the Division's operating budget or personnel actions.

The usual smorgasbord of laws dealing with internal governmental operations were enacted. One dealt with contracting for in-house services, another with threshold amounts for certain contractual requirements, and a third addressed the interest rate limitations on certain deferred payment purchase contracts entered into by state agencies.

The Legislature also clarified the appointment procedure of the Auditor General and required him to establish a 10-year program of performance audits which will cover all state programs within that period.

This year was the first cycle of implementation for the Open Government Sunset Review Act and eight exemptions were

*Prepared by staff of House Governmental Operations Committee

reviewed and reenacted after modifications which narrowed the scope of each exemption.

Several important acts will affect state employees. The "Whistleblower's Act of 1986" protects public employees who report government waste, fraud or malfeasance from retaliatory personnel action. Another act abolished the Career Service Commission and transferred its responsibilities to the Public Employees Relations Commission.

A new division was created in the Department of Revenue and, finally, the Florida Fine Arts Council Hall of Fame was established to honor persons who have made significant contributions to the arts in Florida.

The measures mentioned above and others relating to governmental functions of the state and its agencies are discussed below.

Administrative Procedure Act

Three bills dealing with the Administrative Procedure Act were enacted into law.

HOUSE BILL 792 (CHAPTER 86-108) provides in adding Subparagraph 120.57(1)(b)5., F.S., that all pleadings, motions, or other papers filed in an administrative proceeding under Section 120.57(1), F.S., must be signed by the party, his attorney or his qualified representative. Such signature acts as a certification that the signatory has read the pleadings, etc., and that to the best of his knowledge the pleadings, etc., are not interposed for any improper purpose such as

harassment, unnecessary delay, frivolous purpose or needless increase in the cost of litigation. This act also authorizes the imposition by the hearing officer of reasonable expenses for violation of these provisions.

The act provides in new Subsection 120.57(6), F.S., time limits for expedited review for petitions challenging the issuance of a construction or operating permit which implements a conceptual review permit issued by a water management district.

The time limits for rulemaking proceedings were extended by COMMITTEE SUBSTITUTE FOR SENATE BILL 631 (CHAPTER 86-30). This act adds an additional week for the procedures concerning the adoption of rules under Chapter 120, F.S. In amending Subparagraph 120.54(1)(a)3., F.S., it provides that the publication, mailing, and posting of the notice of the adoption, amendment, or repeal of any nonemergency rule shall occur at least 21 days prior to the intended action. Pursuant to revised Paragraph 120.54(1)(b), F.S., the notice is required to be published in the Florida Administrative Weekly not less than 28 days prior to the intended action. Pursuant to amended Paragraph 120.54(3)(a), F.S., an affected person may request an opportunity to be heard and submit pertinent material within 21 days of the publication of the notice for rules dealing with actions other than those relating exclusively to organization, procedure, or practice.

The act also amends Paragraph 120.54(4)(b), F.S., to extend to 21 days the time for submission of a request by a

substantially affected person for a determination that a proposed rule is an invalid exercise of delegated legislative authority.

Under the amended provisions of Paragraph 120.54(4)(c), F.S., in this act no rule may be filed for adoption until 28 days after the notice is made. Finally, the act allows, by revising Paragraph 120.54(13)(b), F.S., the agency to change its rule prior to adoption in response to any written material received by the agency within 21 days of the notice.

The act takes effect October 1, 1986.

COMMITTEE SUBSTITUTE FOR SENATE BILL 892 (CHAPTER 86-297) amends several provisions concerning the Division of Administrative Hearings of the Department of Administration. The act amends Section 120.65, F.S., to repeal the Division's exemption to Chapter 216, F.S., which had established the Division as a separate budget entity, and re-emphasized that the Division was not subject to the control, supervision, or direction of the Department of Administration. It provides that the Division has the right to appeal to the Administration Commission any action taken by the Executive Office of the Governor which affects amendments to the Division's operating budget or Chapter 216, F.S., personnel actions. The Appropriations Committees may act in an advisory capacity to the Commission and the President of the Senate and Speaker of the House also may object in writing on these issues. Under the provisions of this act all state agencies, as defined in Chapter 216, F.S., and all political subdivisions are required

to make their meeting facilities available for use by the Division at a time convenient to those agencies and subdivisions.

Subsection 216.023(2), F.S., is also amended to require the Division to submit its final budget request directly to the Legislature and provisions are included in new Subsection 216.181(5), F.S., which establish the annual salary rate for Division personnel directly in the General Appropriations Act or in the Statement of Intent.

Government Operations

Several provisions of the statutes dealing with the operation of government were addressed by the 1986 Legislature.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 70 (CHAPTER 86-51) increases the fees that can be charged for dishonored checks, drafts, or orders by the state, counties, and municipalities. The fee is increased from $5 to $10 or five percent of the face value of the check, whichever is greater, up to a maximum of $25 in revised Sections 125.0105, 166.251 and Subsection 215.34(2), F.S.

HOUSE BILL 73 (CHAPTER 86-52) adds Paragraph 287.012(4)(c), F.S., to exempt one agency's acquisition of services from another agency as well as the performance of in-house services from competitive bid and other procurement requirements under certain circumstances.

The act further provides that certain services excluded from some contractual services requirements nevertheless are

subject to provisions for minority business enterprise programs, contract documents, and private legal services.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 476 (CHAPTER 86-204) amended several statutes relating to governmental procedures. The bid amounts for acquisition of various personal property and services are amended by this act. The specific dollar amounts were amended by adding Section 287.017, F.S., to establish different categories which would be annually adjusted by the Division of Purchasing, Department of General Services, based upon a nationally recognized price index established by rule. This rule making authority is repealed January 1, 1992.

In new Subsection 11.147(10), F.S., the act also requires the Joint Legislative Management Committee to provide electronic access to the Legislative Information System for members of the Legislature. Members are responsible for providing and maintaining their own district and capitol office information technology equipment. The act amends the provisions of Chapter 283, F.S., dealing with law school publications. It includes the Florida State University Journal of Land Use and Environmental Law and the University of Florida International Law Journal in the statutory requirements concerning reprint rights, trust funds, inventories, and related provisions.

This act also amends Section 287.064, F.S., to provide that the interest rate limitations provided by that section would not apply if the payment obligation made pursuant to a master equipment financing agreement is rated by a nationally

recognized rating service in one of its three highest classifications. The rating services and classifications would be determined by rule adopted by the Comptroller.

Finally the act amends Paragraph 11.45(3)(a), F.S., to allow district school boards to employ a private certified public accountant to conduct their annual financial audits if the Auditor General has not notified them by July 1 that he will conduct the audits.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 618 (CHAPTER 86-103) changes the requirements imposed upon state agencies by Section 216.102, F.S., for filing certain financial information with the Comptroller to better facilitate the preparation of financial statements for the state. [The statutory changes are in compliance with generally accepted accounting principles.] The act provides a penalty for untimely agency compliance.

HOUSE BILL 1239 (CHAPTER 86-217) clarifies provisions in Section 11.42, F.S., stating that the Auditor General serves at the pleasure of the Legislature and is appointed by a majority vote of the Legislative Auditing Committee subject to confirmation by the Legislature. It changes the experience requirement for the Auditor General from 10 years active experience as a CPA to 10 years experience in the private or governmental sector or any combination thereof. The Legislative Auditing Committee would be required to review the performance of the Auditor General every 10 years and recommend whether the Auditor General should be retained in office.

The Auditor General is also required by new Subparagraph 11.45(3)(a)3., F.S., to establish a schedule of performance audits which will provide for audit of all state programs over a 10-year period. This act also requires in Paragraph 11.45(6)(e), F.S., agencies to report the status of corrective action to the Legislative Auditing Committee within six months of receiving the audit report.

COMMITTEE SUBSTITUTE FOR SENATE BILL 81 (CHAPTER 86-131) requires that a "state agency", as defined in the act, must employ a "chief internal auditor," also defined in the act. The act provides the qualifications and the duties of the auditor. The auditor is required to prepare reports on the internal management and financial controls of the agency and is required to submit his final report directly to the agency head and the Auditor General. Internal audits are to be considered by the Auditor General in his postaudit of the agency. The Legislative Auditing Committee is authorized to inquire into failure by the agency to correct deficiencies noted by the audits. The Auditor General is to conduct triennial reviews to measure compliance with professional auditing standards; "Sunset" review is to be prior to October 1, 1990.

The effective date for agencies with staff adequate to meet the requirements of the act is October 1, 1986. For all others, it is October 1, 1987.

Open Government Sunset Review

In accord with the scheduled automatic repeal of

exemptions to the state's open government polices, the 1986 Legislature addressed for the first time the reenactment of such exemptions. While none of the eight exemptions identified for review in the first cycle by the Division of Statutory Revision was allowed to stand repealed in its entirety, lawmakers limited the scope of virtually all exemptions reviewed. The narrower language approved this session assures that only those meetings and documents which actually meet the strict criteria for confidentiality promulgated in 1985 will be inaccessible to the public.

HOUSE BILL 265 (CHAPTER 86-9) revises Paragraph 27.37(6)(b), F.S., to define the Council on Organized Crime as a criminal justice agency so that it clearly qualifies for certain exemptions to the Public Records Act enumerated in Section 119.07(3), F.S. The language of Section 27.37(6)(c) was amended to close only those portions of meetings which deal with criminal intelligence, rather than all of any meeting dealing primarily with such issues. The effect of the act is to narrow the open government exemptions provided previously for the Council on Organized Crime.

The act takes effect October 1, 1986.

HOUSE BILL 1191 (CHAPTER 86-19) revives and reenacts the public record exemption of Subsection 39.031(1), F.S., provided for fingerprints and photographs of juveniles taken into custody upon probable cause of a violation of law.

The act takes effect October 1, 1986.

HOUSE BILL 1192 (CHAPTER 86-20) reenacts the public records exemption provided at Subsection 44.101(3), F.S., for all oral and written communications in family mediation and conciliation proceedings. These proceedings are informal meetings where parents try to work out such parental problems as custody and child support. The exemption attaches only to the personal family records and does not affect the general public.

The act has an effective date of October 1, 1986.

SENATE BILL 52 (CHAPTER 86-64) revives and reenacts, with limitations, the exemption of Subsection 17.076(5), F.S., from the "Open Government Sunset Review Act" (Section 119.14, F.S) which exemption deals with the records of the direct deposit of funds program in the Office of the Comptroller. Only the names of the beneficiaries and their account numbers would be closed to public inspection; the rest of the program's records would be open to inspection under this law.

The act takes effect October 1, 1986.

COMMITTEE SUBSTITUTE FOR SENATE BILL 56 (CHAPTER 86-11) reenacts the public records exemption found at Paragraph 119.07(3)(f), F.S., which is accorded the Bureau of Mutual Aid, Department of Law Enforcement, for the inventory of state and local law enforcement resources. It repeals the exemption for the Florida Mutual Aid Plan, Section 23.129, F.S., but creates a public record exemption for any comprehensive policies or plans compiled by a criminal justice agency pertaining to

mobilization, deployment, or tactical operations involved in responding to emergencies.

The act takes effect October 1, 1986.

SENATE BILL 596 (CHAPTER 86-76) revives, reenacts, and limits the public records exemptions in Section 27.151, F.S., concerning the confidential executive orders of the Governor which assign state attorneys to other judicial circuits.

The act requires the Governor to consider the criteria of the "Open Government Sunset Review Act" (Section 119.14, F.S.) in deciding to make executive orders confidential. It requires the state attorney to have the confidential orders sealed by the court prior to filing with the clerk of the court. At the expiration of any confidential executive order, the order will be open to the public unless it involves adult or child abuse. The Governor may open any confidential order by a subsequent order.

The act takes effect October 1, 1986.

SENATE BILL 605 (CHAPTER 86-66) limits the open government exemptions previously provided respectively in Paragraphs 20.19(6)(f) and 20.19(7)(g), F.S., to the Statewide and District Human Rights Advocacy Committees (HRACs) of the Department of Health and Rehabilitative Services (DHRS). The law provides confidentiality for all documents received by an HRAC that are otherwise confidential by law, or that reveal the identity of any DHRS client or HRAC informant. It also allows only those portions of HRAC meetings during which such information is under discussion to be closed to the public.

The act takes effect October 1, 1986.

Public Records and Public Documents

COMMITTEE SUBSTITUTE FOR HOUSE BILL 450 (CHAPTER 86-21) creates a new public records exemption by adding Paragraphs (v) and (w) to Subsection 119.07(3), F.S., similar to that presently accorded the Florida Commission on Human Relations in Subsection 760.10(14), F.S.

The act provides a public records exemption for all complaints, records, and documents in the custody of any state or local governmental entity authorized to investigate or act upon discrimination complaints until a finding is made relating to probable cause, the investigation becomes inactive or the complaint or record is made part of the official record of any hearing or court proceeding.

State Employees

HOUSE BILL 75 (CHAPTER 86-233) known as the "Whistleblower's Act of 1986," protects public employees and those working on government contracts from adverse personnel action in retaliation for reporting government waste, fraud, or malfeasance. The act covers reports concerning violations of law or rule that endanger public health, safety, or welfare made to authorities with power to investigate or correct such actions. The act allows any employee subjected to adverse personnel action to bring suit, after exhausting all available contractual or administrative remedies, within 90-days of final administrative determination or violation for injunctive

relief, reinstatement, lost wages and costs--including attorney fees.

Reorganization

HOUSE BILL 357 (CHAPTER 86-163) relates to reorganization of two governmental entities. It amends Paragraphs 20.10(2)(b) and (d), F.S., to transfer the Bureau of Archives and Records Management from the Division of Archives, History and Records Management to the Division of Library Services, Department of State, and retitles the two divisions as the Division of Historical Resources and the Division of Library and Information Services.

The act authorizes direct citizen support organizations for folklife, archaeological research and historic preservation with new Section 267.17, F.S. It also creates Section 257.375, F.S., to establish a records management trust fund.

Also included in the act are numerous provisions which eliminate obsolete language relating to the Department of State, revise statutory language to reflect current practice and streamline the Department's prescribed responsibility.

The act also transfers the duties and responsibilities of the Career Service Commission for hearing employees' appeals of agency disciplinary action or discrimination to the Public Employees Relations Commission (PERC) by amending appropriate sections of Chapters 110, 112, 295 and 447, F.S. In repealing Sections 110.301, 110.305 and 110.309, F.S., it abolishes the Career Service Commission.

The act also creates Section 447.208, F.S., which limits the PERC's discretion to reduce employee discipline by establishing criteria for mitigating circumstances.

SENATE BILL 205 (CHAPTER 86-124) amends Section 20.21, F.S., to create a Division of Technical Assistance within the Department of Revenue. [This reorganization is part of the Department's ongoing process of developing the administrative structure along functional lines. The primary purpose of the changes is to centralize tax policy functions now handled in several divisions to align more closely with those of the IRS, and thus alleviate confusion within the tax bar.]

The new division is charged with rendering legal advice on department matters and developing tax policy under the direction of the executive director of the Department. The law gives to the new division responsibility for providing field staff with technical assistance, previously handled by the Division of Audits.

Sunset/Sundown

HOUSE BILL 1366 (CHAPTER 86-286) is the annual "Sunset/Sundown" clean-up act which conforms repeal dates and makes subject to review certain chapters which meet "Sunset" or "Sundown" criteria but are not presently included in the statutory schedule.

Each interim the Senate Governmental Operations Committee reviews the work of the preceding legislative session and proposes conforming statutory amendments necessitated by

repeals and new creations in the Sunset/Sundown area. This law is such a measure.

HOUSE BILL 1388 (CHAPTER 86-169) creates the Florida Artists Hall of Fame to recognize living or deceased persons who have made significant contributions to the arts in Florida, either as a performing artist, a practicing artist in an individual discipline, or a benefactor of the arts.

The act provides that plaques shall be placed in an appropriate location in the Capitol Center for each member of the Hall of Fame. The act specifies criteria for nomination by the Florida Arts Council and for recommendations by the Council to the Secretary of State for membership in the Hall of Fame. Membership is restricted annually to twelve in the first year and four members each year thereafter.

This enactment also redistricts the five Fine Arts Regions around the state by amending Section 265.604, F.S., and redefines the financial requirements found in Section 265.606, F.S., for eligibility to receive state matching funds disbursed from the Fine Arts Endowment Trust Fund.

The act provides an appropriation of $20,000 from General Revenue for the acquisition of plaques, dissemination of information and nomination forms and other operating expenses.

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CONCURRENT RESOLUTIONS	15	8	6	19	8	6	34	16	12
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JOINT RESOLUTIONS	27	0	0	26	4	3	53	4	3
MEMORIALS	9	2	0	12	2	1	21	4	1
FILED, NOT INTRODUCED	0	0	0	1	0	0	1	0	0
WITHDRAWN	5	0	0	22	0	0	27	0	0
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RESOLUTIONS ADOPTED			52			91			143
FAILED TO PASS SENATE BY VOTE			2			0			2
FAILED TO PASS HOUSE BY VOTE			0			2			2
UNFAVOR COMMITTEE REPORT IN SENATE			17			1			18
UNFAVOR COMMITTEE REPORT IN HOUSE			0			14			14
BILLS FILED, NOT INTRODUCED			0			1			1
INDEFINITELY POSTPONED			54			0			54
LAID ON TABLE			215			116			331
WITHDRAWN PRIOR TO INTRODUCTION			5			22			27
WITHDRAWN/FURTHER CONSIDERATION			0			22			22
FAILED OF INTRODUCTION/2ND HOUSE			0			0			0
DIED IN SENATE COMMITTEES			543			125			668
DIED IN HOUSE COMMITTEES			82			539			621
DIED IN CONFERENCE COMMITTEES			0			0			0
DIED ON SENATE CALENDAR			117			10			127
DIED ON HOUSE CALENDAR			50			181			231
DIED IN MESSAGES			28			11			39

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FLORIDA LEGISLATURE—SPECIAL SESSION B—1986
STATISTICS REPORT

	SENATE BILLS			HOUSE BILLS			TOTALS		
	FILED	PASSED		FILED	PASSED		FILED	PASSED	
		SENATE	SENATE & HOUSE		HOUSE	HOUSE & SENATE		FIRST CHAMBER	BOTH
CONCURRENT RESOLUTIONS	0	0	0	0	0	0	0	0	0
RESOLUTIONS(ONE CHAMBER)	0	0	0	0	0	0	0	0	0
GENERAL BILLS	7	3	3	7	5	5	14	8	8
LOCAL BILLS	1	1	1	0	0	0	1	1	1
GEN BILL/LOC APPLICATION	0	0	0	0	0	0	0	0	0
JOINT RESOLUTIONS	0	0	0	0	0	0	0	0	0
MEMORIALS	0	0	0	0	0	0	0	0	0
FILED, NOT INTRODUCED	0	0	0	4	0	0	4	0	0
WITHDRAWN	0	0	0	0	0	0	0	0	0
TOTALS	8	4	4	11	5	5	19	9	9
APPROVED BY GOVERNOR			3			5			8
BECAME LAW WITHOUT SIGNATURE			1			0			1
VETOED BY GOVERNOR			0			0			0
BECAME LAW, VETO NOTWITHSTANDING			0			0			0
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)			0			0			0
BILLS TO CONFERENCE COMMITTEES			0			0			0
BILLS AMENDED			1			1			2
COMMITTEE SUBSTITUTES			0			0			0
COMMITTEE SUB FOR COMMITTEE SUB			0			0			0
RESOLUTIONS ADOPTED			0			0			0
FAILED TO PASS SENATE BY VOTE			0			0			0
FAILED TO PASS HOUSE BY VOTE			0			0			0
UNFAVOR COMMITTEE REPORT IN SENATE			0			0			0
UNFAVOR COMMITTEE REPORT IN HOUSE			0			0			0
BILLS FILED, NOT INTRODUCED			0			4			4
INDEFINITELY POSTPONED			0			0			0
LAID ON TABLE			0			0			0
WITHDRAWN PRIOR TO INTRODUCTION			0			0			0
WITHDRAWN/FURTHER CONSIDERATION			0			0			0
FAILED OF INTRODUCTION/2ND HOUSE			0			0			0
DIED IN SENATE COMMITTEES			0			0			0
DIED IN HOUSE COMMITTEES			0			2			2
DIED IN CONFERENCE COMMITTEES			0			0			0
DIED ON SENATE CALENDAR			4			0			4
DIED ON HOUSE CALENDAR			0			0			0
DIED IN MESSAGES			0			0			0

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1986 VETOED GENERAL BILLS

Senate Bills:	Subject	Date Vetoed
CS/SB 115	Alcohol and drug abuse	6/26/86
House Bills:		
HB 83	Nonresident fishing licenses	6/25/86
HB 1166	Respiratory care	7/10/86
HB 1181	Public education capital outlay (PECO)	4/22/86 (Selected Items)
HB 1380	General Appropriations Act	6/30/86 (Selected items)

Law
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Duplicated by
Office of the Secretary of the Senate
State of Florida