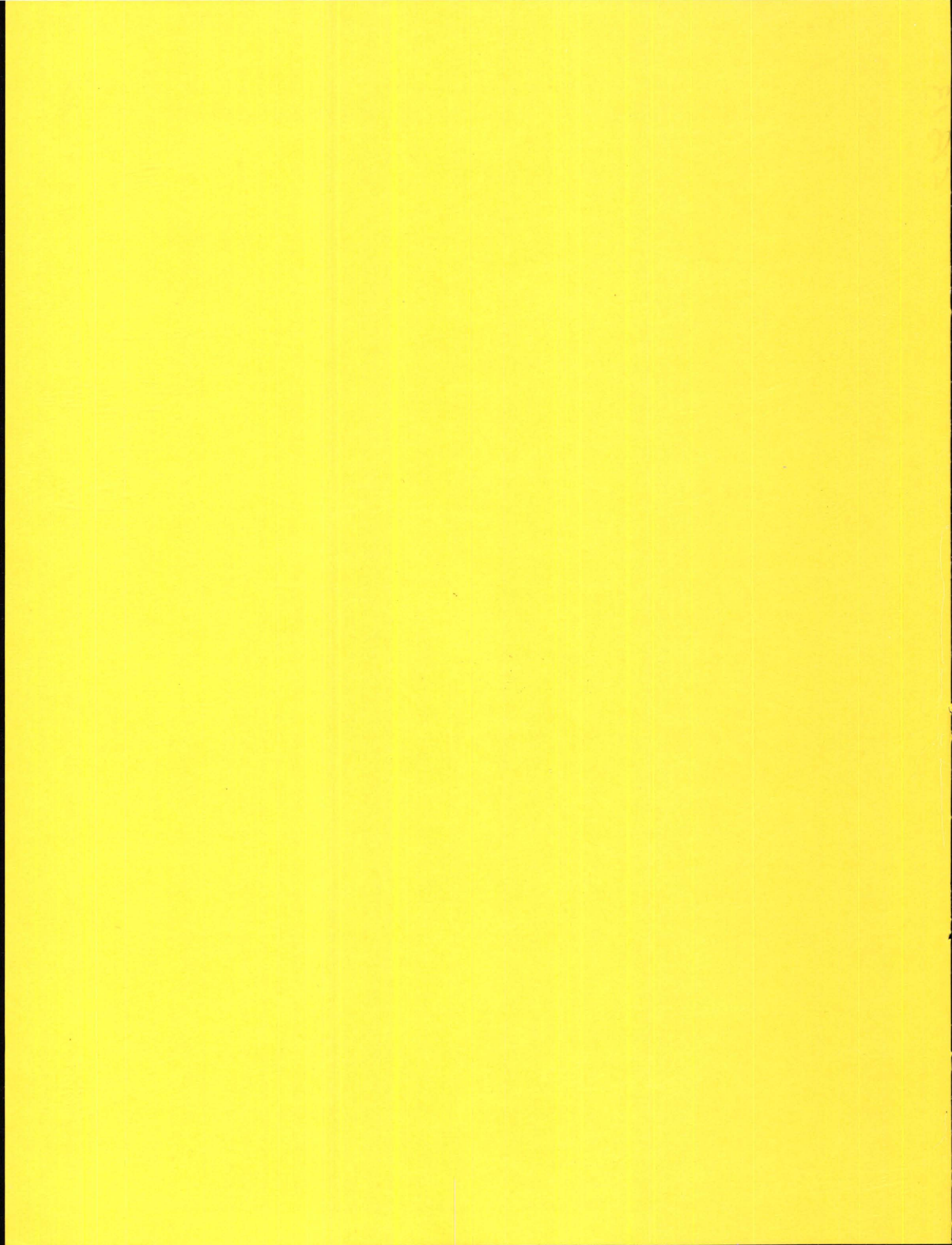


FLORIDA LEGISLATURE

1987 SUMMARY OF GENERAL LEGISLATION

**Special Session 'A' February 4, 1987
Regular Session April 7 - June 6, 1987**



JOHN W. VOGT
President



JON MILLS
Speaker



THE FLORIDA LEGISLATURE

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September 8, 1987

Honorable John W. Vogt
President, and Members
of the Senate

Honorable Jon Mills
Speaker, and Members
of the House

Dear Members:

I am pleased to furnish you the Summary of General Legislation 1987, prepared under the supervision and coordination of the Division of Legislative Library Services with the assistance of members of the Senate and House Committee Staff.

The information in these articles is presented to reflect the principal areas of legislative concern during the session.

Sincerely,

A handwritten signature in dark ink, appearing to read "Charles R. Smith", written over the typed name.

Representative Charles R. Smith
Chairman
Joint Legislative Management Committee



JOHN W. VOGT
President

JON MILLS
Speaker



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FOREWORD

This SUMMARY OF GENERAL LEGISLATION highlights, within broad subject areas, the general laws enacted during the "A" Special Session of February 4, 1987 and the 1987 Regular Extended Session of April 7 to June 5, 1987.

The one-day-special session was held to enact legislation to relieve prison overcrowding. The 1987 Regular Session of the Legislature authorized \$18.323 billion in general appropriations for the year ending June 30, 1988--an 11 percent increase over the preceding year. Major legislation for this session includes: revision of the Florida Citrus Code, the creation of a state lottery, the Surface Water Improvement and Management Act, elimination of most sales tax exemptions on services, provision of access and funding for indigent health care services, creation of crime-safe neighborhoods through environmental design, local funding of growth management through an optional sales tax, and codification of state executive agency rule-making authority.

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 this office adapted the index prepared by the Legislative Information Division.

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


B. Gene Baker

BGB:am

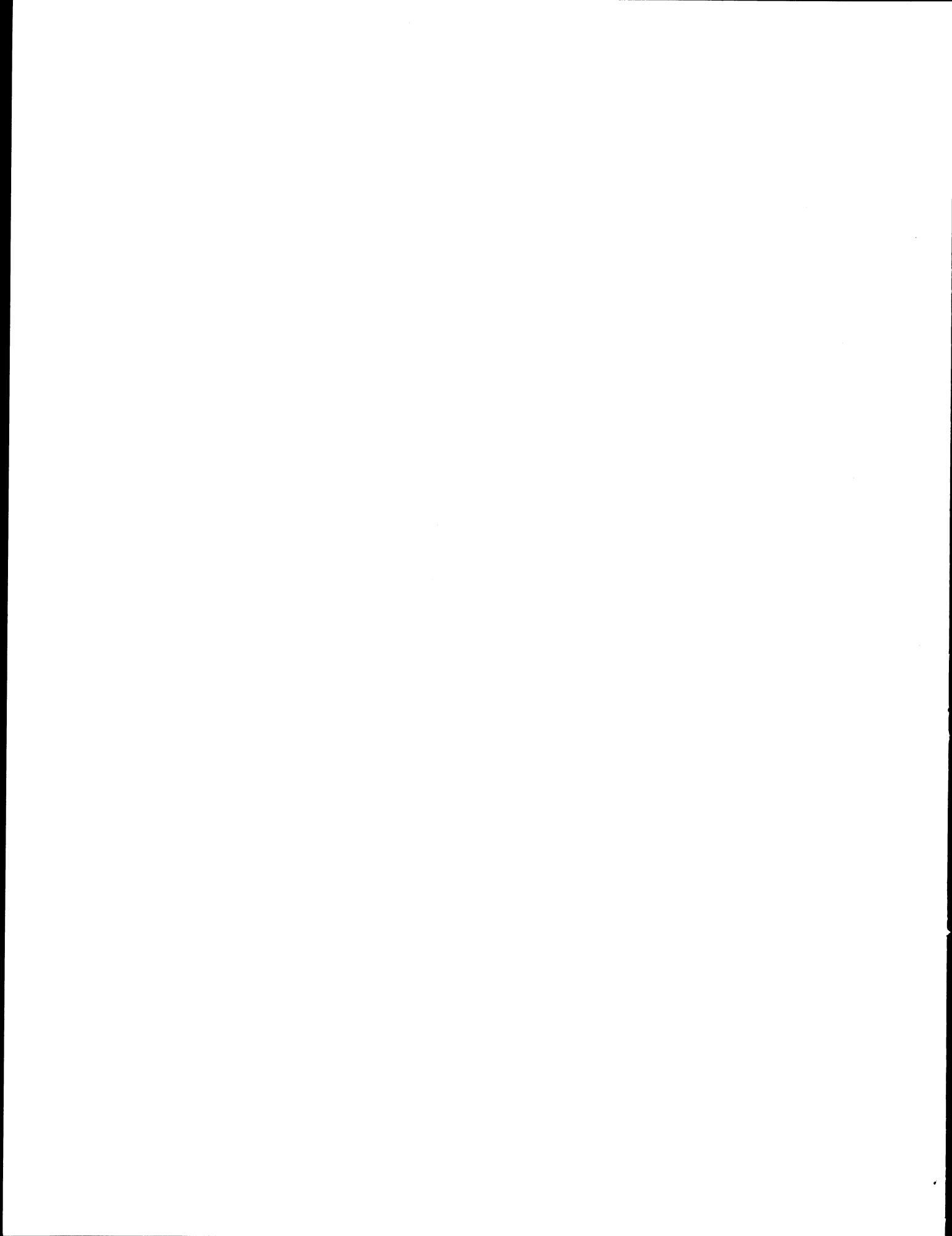


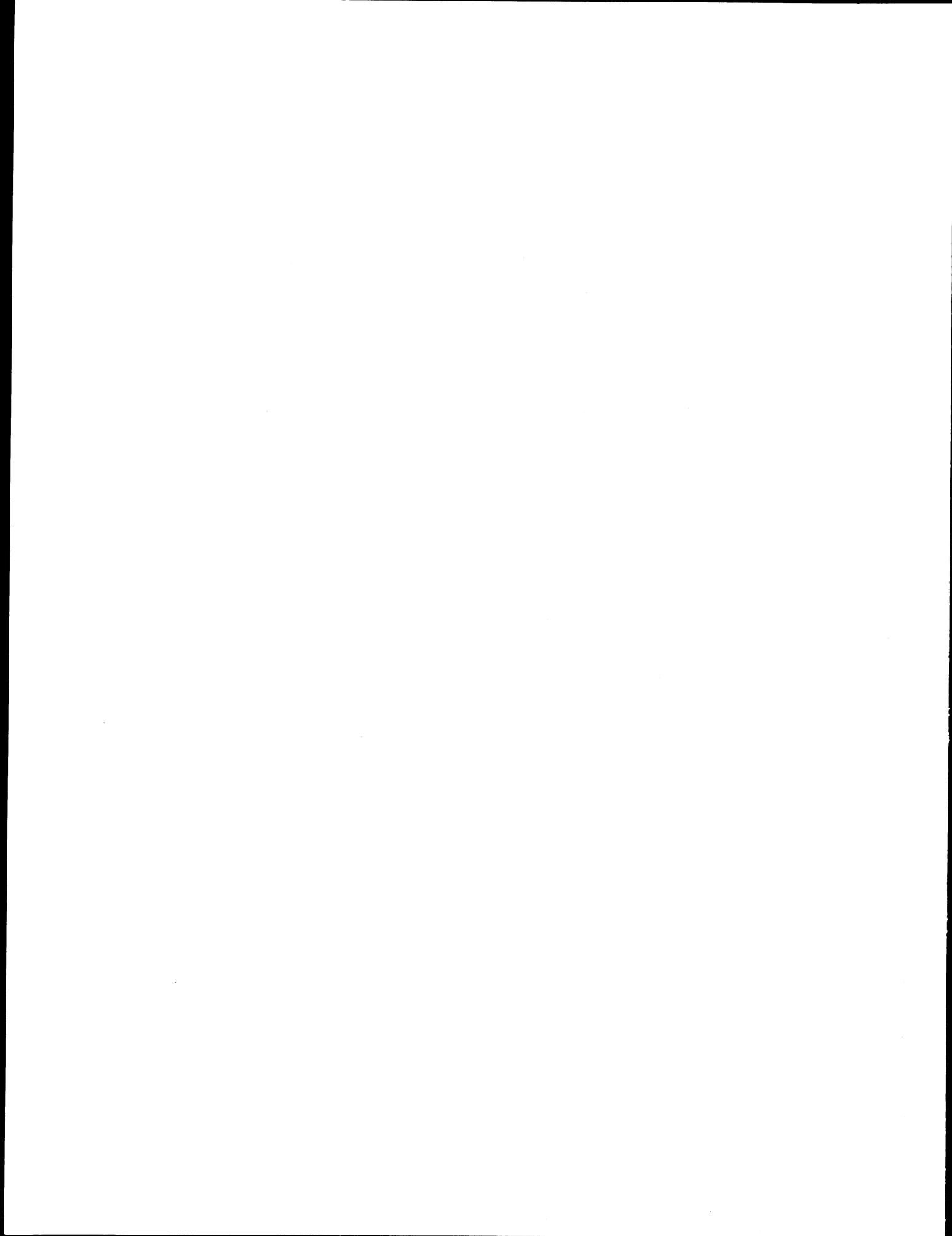
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AGRICULTURE*

Agricultural legislation enacted at the 1987 Regular Session include measures which provide penalties for tampering with food, drugs and devices, establish a pilot program for development of agricultural economic policy, provide a framework for the Florida aquaculture industry, continue the citrus canker eradication program, generally revise the Florida Citrus Code, provide for a boll weevil eradication program, create model legislation for the issuing of agricultural marketing orders, perform Sundown review of various agricultural marketing and advisory councils and speak to the humane treatment of domestic animals seized by law enforcement agents or humane society officers.

State Comprehensive Plan

SENATE BILL 1124 (CHAPTER 87-354) addresses the 25 goals and policies of the State Comprehensive Plan set out in Section 187.201, F.S. The agriculture policy is changed to reflect the current needs of Florida's important agriculture industry. [Florida agribusiness, particularly in South Florida, is a dominant land use with the majority of these agriculturists

*Prepared by House & Senate Agriculture; House Regulatory Reform

using their land holdings as collateral to finance continued operations.

[Additional impacts, particularly in Central Florida, have caused hardships on the citrus industry due to freezes and citrus canker. In some of these areas it is not practical to replant citrus groves and many of the owners want to sell their land.

[It was becoming common practice for regional and state planning agencies to place existing agricultural lands in a preservationist category, thus reducing the collateral value and preventing potential sale of agricultural land.]

The passage of this measure requires state and regional planning agencies to adopt a land classification policy that does not permanently restrict the conversion of agricultural lands thereby allowing for their highest and best use.

A new goal provides that as a means of using existing infrastructure and accommodating orderly, efficient and environmentally acceptable growth, the state is to encourage the centralization of commercial, governmental, retail, residential and cultural activities within downtown areas through incentives to the private sector, assistance to local governments and programs and investments on the state level.

There is no funding associated with this law.

Anti-tampering

COMMITTEE SUBSTITUTE FOR SENATE BILL 8 (CHAPTER 87-57) provides criminal penalties for anyone convicted of tampering

with, or attempting to tamper with foods, drugs, or devices such as hypodermic needles and thermometers. The act establishes criminal acts and provides a list of penalties ranging from a felony of the first degree to a felony of the third degree. [This measure provides the State Attorney's Office with a criminal code designed to track the federal anti-tampering law for state prosecution of those who tamper with foods, drugs, or devices with a reckless disregard for the risk of another person.

[The Department of Agriculture and Consumer Services currently inspects food sold in the state, while the Department of Health and Rehabilitative Services inspects drugs and medical instruments.] The act establishes the responsibilities of the Department of Agriculture and Consumer Services and the Department of Health and Rehabilitative Services when engaged in the collection of evidence and investigation of tampering violations.

There is no fiscal impact on the public or private sector from the passage of this legislation.

The provisions become effective October 1, 1987.

Agricultural Economic Development

HOUSE BILL 1308 (CHAPTER 87-229) creates the "Agricultural Economic Development Policy Act."

[The Institute of Food and Agricultural Sciences, the Department of Agriculture and Consumer Services, and Florida A&M University are among several state groups and agencies

doing some work in the area of agricultural economic development, but there is no coordination among the programs.]

This act establishes the Department of Agriculture and Consumer Services as the lead agency to coordinate these efforts. A two-year pilot program is created in the Department to develop innovative ideas and plans which would have an immediate, positive impact on economically depressed agricultural areas. A long-term plan for revitalization of such areas will also be written. The Department will cooperate with other agencies, advisory and local interest groups in completing these projects.

The first year's cost for the program is \$400,000. Administrative costs, feasibility studies and short-term projects aimed at identifying alternative crops or industries (i.e., alternatives that have as much potential as aquaculture and viticulture) will be funded from this amount.

The act also requires the Commissioner of Agriculture to present a progress report to the Legislature by March 1, 1988. This report must include an accounting of how the \$400,000 has been used, justification for the second year's funding, and anticipated needs for the second year. A long-term plan and justification report is to be submitted by January 15, 1989. Repeal of this legislation takes effect October 1, 1989.

Aquaculture

COMMITTEE SUBSTITUTE FOR SENATE BILLS 282 & 703 (CHAPTER 87-367) provides a framework for growth of Florida's fledgling

aquaculture industry. The enactment reiterates that the Department of Agriculture and Consumer Services be the lead agency to promote aquaculture in the state and also provides exemptions and provisions designed to make aquatic farmers competitive. These provisions include sales tax exemptions for fish feed and motor fuels and the addition of aquatic farming to the Right to Farm Act.

Most importantly, this legislation takes the first step in attempting to clarify how aquatic farming practices will be regulated by the state. The law requires the Department of Agriculture and Consumer Services, the Department of Natural Resources, the Department of Environmental Regulation, the Game and Fresh Water Fish Commission, the Marine Fisheries Commission, and the five regional water management districts to coordinate and develop recommendations to the Legislature by January 15, 1988, concerning the advisability of adopting specific permitting standards for the aquaculture industry. [Right now, the industry has trouble obtaining environmental permits because there are no standards for aquaculture and little understanding of the industry.]

In conjunction with this act, the 1987-88 General Appropriations Act provides funds to develop an aquaculture research and education center for Panhandle Florida, an aquaculture appropriation to the Department of Fisheries and Aquaculture at the University of Florida to expand aquaculture related research, and \$200,000 to the Department of Agriculture

and Consumer Services to fund short-term aquaculture industry requested research.

The effective date of this legislation is October 1, 1987.

Citrus Canker Eradication Funding

HOUSE BILL 499 (CHAPTER 87-182) provides for the industry share of funding for the citrus canker eradication program for 1987-88.

The act continues the \$1 per plant tax on sale of dooryard trees and the 10-cent-per-plant tax on citrus nursery stock sales to commercial producers. The box tax on citrus fruit is set at one-tenth of a cent. [These three taxes make up the industry share of the one-third industry support (\$1,747,366), two-thirds state support formula developed last year.

[The one-tenth of a cent box tax will also help to provide a cushion of approximately \$350,000 which could be used in case of an emergency. The total amount needed for canker eradication for 1987-88 is estimated at \$6.5 million which includes approximately \$1.5 million in federal funds.]

Food Products; Confectioneries

HOUSE BILL 1347 (CHAPTER 87-269) amends Chapter 500, F.S., to allow the sale of candies containing from 0.5 to 5 percent alcohol by volume. Prior to this change, candies containing these amounts of alcohol were considered to be adulterated foods and could not be sold in Florida.

Upon this enactment becoming law, sale of these candies will be allowed provided they:

1. Are not sold to anyone under 21 years of age;
2. Are labeled, "This product may not be sold to anyone under 21 years of age.";
3. Are not sold in a form containing liquid alcohol;
and
4. Are distributed to Florida consumers from facilities or vendors:
 - a) Owned or controlled by the product's manufacturer;
 - b) Licensed under Chapter 565, F.S. (the liquor chapter); and
 - c) Approved by the Department of Business Regulation.

Persons selling the candy or distributing it for sale must notify the Department of Agriculture and Consumer Services of intent to sell or distribute.

Enforcement of the provisions of the law will be by cooperative agreement between the Department of Agriculture and Consumer Services and the Department of Business Regulation. Violation of the law is a second degree misdemeanor.

Florida Citrus Code

HOUSE BILL 498 (CHAPTER 87-44) rewrites Chapter 601, F.S., the Florida Citrus Code. [This rewrite was based on recommendations from the Department of Citrus, the Touche Ross

Management Performance Audit, and the 1985-86 Select Committee on Citrus & Agricultural Funding.

[The changes made by the act bring the statutes up to date with current practices in the citrus industry. Much obsolete language is deleted. For example, the statutes refer to seven citrus districts when there are currently four.

[The legislation was proposed and approved by the Joint Citrus Industry Legislative Committee and greatly simplifies the entire chapter.]

Meat Labeling

COMMITTEE SUBSTITUTE FOR SENATE BILL 1193 (CHAPTER 87-400) amends Chapter 585, F.S., to clarify the requirement that meats purchased by state agencies or municipalities must be inspected and passed by the U.S. Department of Agriculture or Florida Department of Agriculture and Consumer Services. These agencies and municipalities are required to show preference for "All American" or "Genuine Florida" meats in bid invitations.

Slaughterhouses and meatpacking or processing plants are authorized to label meats and meat products as "All American" if produced entirely in the United States, or as "Genuine Florida" if produced entirely in Florida.

This act takes effect October 1, 1987.

Boll Weevil Eradication Law

HOUSE BILL 495 (CHAPTER 87-55) creates the "Florida Boll Weevil Eradication Law." [There are approximately 20,000 acres of cotton grown in North Florida from Santa Rosa County to

Hamilton County. The boll weevil inflicts major damage causing a significant decrease in production per acre.

[The U.S. Department of Agriculture is currently managing a successful eradication program in Virginia and North and South Carolina. Both USDA and cotton growers in Florida, Georgia, and Alabama would like to have the program expanded into these three states. In order to participate, a state must hold a referendum, authorized by law, in which the growers vote to participate. It is a cost/share program with the federal government paying 30 percent and the grower paying 70 percent. Grower cost for 1987-88 is approximately \$161,000; the federal government is paying \$69,000.]

[This law establishes the eradication program in Florida, certifies a cotton growers' organization, and enables the growers to hold a referendum on the question of assessments to cover the cost of eradication.]

Circuit courts are given the power to enforce the act by mandamus or injunction and penalties are provided for violations of the act. [The Department of Agriculture and Consumer Services will administer the program in conjunction with the USDA's Animal and Plant Health Inspection Services.]

Marketing of Agricultural Commodities

HOUSE BILL 371 (CHAPTER 87-171) provides model enabling legislation for future agricultural commodity groups who want to establish a marketing order to assist with promotion and

marketing of their products such as watermelons, soybeans, tobacco, etc.

Currently, each commodity group must individually petition the Commissioner of Agriculture, who in turn, requests legislation to enact a marketing order (the authority to assess an industry tax per unit quantity for marketing purposes). These marketing orders are established as law in various parts of Chapter 573, F.S., Florida's Agricultural Commodities Marketing Law.

This legislation provides a mechanism for individual agricultural commodity groups to petition the Commissioner for a marketing order under general enabling legislation, thus eliminating the need to legislate each individual marketing order.

The rules and statutory procedures to develop and enact a commodity marketing order remain the same as before the passage of this legislation.

There is no appropriation.

SENATE BILL 31 (CHAPTER 87-21) repeals the Florida Celery and Sweet Corn Marketing Law under Chapter 573, Part I, F.S. The law provides enabling legislation for the marketing, handling and distribution of celery and sweet corn produced in this state through a marketing order which is an order, issued by the Commissioner of Agriculture, pursuant to general law prescribing rules and regulations governing the distribution, handling, and quantity marketed of agricultural products. [Since 1965, the celery industry in Florida has been operating

under marketing orders administered by the United States Department of Agriculture pursuant to 7 C.F.R. Part 967 (1987). As a result, the Celery Advisory Council has not met since that time. In the early 1970's, due in part to the emasculation of advisory committees under Chapter 69-106, Laws of Florida (the Governmental Reorganization Act of 1969), the sweet corn industry ceased to operate under the Celery and Sweet Corn Marketing Law. Currently, the industry is operating under a Cooperative Marketing Association pursuant to Chapter 618, F.S. The statutory provisions for the Celery Advisory Council and the Sweet Corn Advisory Council (Sections 573.14, 573.15 and 573.16, F.S.) were repealed effective October 1, 1979. Thus, the act repeals those sections of the Florida Celery and Sweet Corn Marketing Law which remain in the Florida Statutes, but currently serve no public purpose.]

SENATE BILL 36 (CHAPTER 87-12), SENATE BILL 37 (CHAPTER 87-13), and SENATE BILL 38 (CHAPTER 87-14) save the Peanut, Flue-Cured Tobacco, and Soybean Advisory Councils from Sundown repeal. The acts substantially reword sections of Chapter 573, F.S., related to the creation of each Council, adding provisions for the nomination, appointment, and terms of seven Council members and alternates, and for the conduct of Council business, and requiring that a designee of the Department serve as Council Secretary. Duties of the Councils are amended to reflect their strictly advisory capacities and obsolete language is deleted. The Councils are scheduled for future Sundown review and repeal on October 1, 1997.

SENATE BILL 30 (CHAPTER 87-5) and SENATE BILL 114 (CHAPTER 87-4) reenact sections of Chapter 573, F.S., related to the Watermelon and Foliage Plant Advisory Councils without change to save the Councils from Sundown repeal. Marketing orders and advisory councils have not been established for these products. Because of industry interest in establishing marketing orders, the watermelon and foliage plant marketing laws will not be repealed until October 1, 1988.

All these marketing laws have an effective date of October 1, 1987.

Other Agricultural Councils Saved from Sundown Repeal

SENATE BILL 96 (CHAPTER 87-36) saves the State Agricultural Advisory Council from Sundown repeal. Section 570.23, F.S., was substantially rewritten to include all provisions for the Council in that single section. Current provisions for the nomination of members and the conduct of Council business were condensed and clarified. Powers and duties of the Council were restated to eliminate redundant language and to require that the Council consider agricultural development issues. The act added a requirement that alternates be appointed for each of the Council's 32 members on or after January 15, 1988, and retained current representation on the Council. Sections 570.24-570.28, F.S., related to the Council were repealed. Section 570.23, F.S., was reenacted as amended and scheduled for future Sundown review and repeal on October 1, 1997.

HOUSE BILL 501 (CHAPTER 87-179) amends Section 570.543, F.S., to require that Florida Consumer Council members be named to phased-in, four-year staggered terms and serve until their successors are appointed. The act deletes obsolete language relating to the selection of members and adds a requirement that the Council keep written records of its business meetings on file with the Division of Consumer Services of the Department of Agriculture and Consumer Services and makes such records subject to inspection by members of the Council. The Council is directed to submit its legislative recommendations to the President and Speaker 60 days prior to a regular session and its recommendations on filed legislation within 30 days after the beginning of the session.

SENATE BILL 93 (CHAPTER 87-10) reestablishes and provides a future repeal date of the Florida Forestry Council (Chapter 589, F.S.) under the provisions of the Sundown Act (Section 11.611, F.S.). It also revives and readopts, and removes from future repeal under the Sundown Act, provisions authorizing the Division of Forestry of the Department of Agriculture and Consumer Services to grant privileges, permits, leases and concessions for the use of state forest lands, timber, and forest products and to grant easements for rights-of-way with respect to state forest lands [which was inadvertently repealed by Chapters 82-46 and 83-265, Laws of Florida, relating to the Sundown Act].

The act takes effect October 1, 1987.

SENATE BILL 193 (CHAPTER 87-11) repeals Sections 590.36 through 590.41, F.S., relating to the State and County Forest Fire Prevention Councils pursuant to the Sundown Act. [When the State and County Forest Fire Prevention Councils were created, the Legislature envisioned the bringing together of all counties under fire prevention. Currently, this is being accomplished through other programs and laws. Because of the absence of activity, over an extended period of time, under authority of the statutory sections cited above said sections are repealed.]

SENATE BILL 94 (CHAPTER 87-15) saves the Plant, Animal, Dairy, and Fertilizer Technical Councils from Sundown repeal (Chapters 570 and 576, F.S.). SENATE BILL 92 (CHAPTER 87-25) continues the Soil and Water Conservation Council (Chapter 582, F.S.). These acts reorganize current provisions for each of the Councils into a common format and delete obsolete language. They make changes to conform with Sundown requirements that new members be appointed by the Commissioner of Agriculture for four-year staggered terms. Investigative powers of the Councils were deleted in keeping with their advisory nature.

All these Sundown Acts have an October 1, 1987, effective date.

Agricultural Artifacts

HOUSE BILL 99 (CHAPTER 87-78) amends Section 507.07, F.S., to authorize the Department of Agriculture and Consumer Services to "locate, receive, acquire, collect, preserve,

exchange, shelter, and exhibit" items relating to Florida's agricultural history. An appropriation of \$20,290 is included in the 1987-88 budget for this purpose.

The effective date for the measure is October 1, 1987.

Bakery Containers

HOUSE BILL 369 (CHAPTER 87-80) amends Chapter 506, F.S., to include bakery containers within the provisions of the "Carts, Cases, Baskets, and Boxes Act," effective October 1, 1987.

Fertilizer

COMMITTEE SUBSTITUTE FOR HOUSE BILL 370 (CHAPTER 87-170) amends Chapter 576, F.S., to allow 40 percent of the total nitrogen from urea-formaldehyde to be claimed as urea nitrogen or water-soluble organic nitrogen in the meaning of "guaranteed analysis." A definition is provided for "slow or controlled-release fertilizer."

Penalties for failure to file timely tonnage reports and for distribution of unregistered or improperly labeled fertilizers are included.

The act is effective October 1, 1987.

Milk and Milk Products

HOUSE BILL 493 (CHAPTER 87-49) amends Section 502.222, F.S., to deem all Department of Agriculture and Consumer Services records under Chapter 502, F.S., as public records

except those which reveal trade secrets of the dairy industry effective October 1, 1987.

Plant Industry

HOUSE BILL 494 (CHAPTER 87-32) amends Chapter 581, F.S., to allow citrus plants and plant products to enter the state if departmental rules permit. Authority for entering into cooperative agreements with USDA for pest control and eradication purposes is provided, to the Department of Agriculture and Consumer Services.

The act also requires all collectors of plants on the Regulated Plant Index to have a permit before harvesting from their own property such plants for sale or transport for sale.

The enactment takes effect October 1, 1987.

Feed

HOUSE BILL 496 (CHAPTER 87-81) amends Chapter 580, F.S., [to clean up some problems remaining from the commercial feed law rewrite of 1986.]

Potassium and zinc content are required to be included on feed guaranteed analysis labels. Cat and dog feeds are exempted from the label dating requirement. The Department may collect samples of exempt feeds, when necessary. Provision is made for payment of referee chemists' fees for microscopic determinations. A \$4 per ton penalty is established for feeds containing unlisted drugs or which are deficient in drugs guaranteed. The Department must have rules for tolerance levels at which ingredients may appear under microscopic

examination without penalty in place by January 1, 1988. Penalties for violations become effective July 1, 1988. Reimbursement for per diem and travel expenses for Feed Technical Council members is allowed.

Effective date of the law is October 1, 1987.

Amusement Rides; Insurance

COMMITTEE SUBSTITUTE FOR HOUSE BILL 703 (CHAPTER 87-264) amends Section 546.006, F.S., to exempt permanent attractions or rides which are open for at least four consecutive months in every 12-month period from the insurance requirements of the Amusement Ride and Attraction Insurance Act.

The enactment is to take effect October 1, 1987.

Honeybees

SENATE BILL 214 (CHAPTER 87-17) amends Chapter 586, F.S., to allow the Department of Agriculture and Consumer Services to enter into cooperative agreements with other agencies and groups for eradication and control of honeybee pests and unwanted races of honeybees, such as the Africanized bee. The law also specifies that when infected or infested bees or equipment are found, they must be destroyed or removed from the state. Enforcement authority of the Department is expanded to include all honeybee pests and unwanted races, not just diseases.

October 1, 1987, is the effective date of the law.

Public employees; per diem

SENATE BILL 474 (CHAPTER 87-407) amends Chapter 112, F.S., to provide latitude in the apportionment of the \$21 daily meal allowance for state employees. This change applies only in situations where an agency pays expenses directly to a vendor providing meals.

The chapter is also amended to allow employees who become sick or injured while away from official headquarters to receive subsistence until recovered or able to return to official headquarters, whichever is earlier.

The effective date is October 1, 1987.

Seed Law

SENATE BILL 667 (CHAPTER 87-386) amends Florida's Seed Law, Chapter 578, F.S. The act changes seed terminology and specifically increases the present minimum limit of seed sales by a farmer from \$5,000 annually to \$10,000 annually before such a person is defined as a dealer. Individuals who purchase seed for resale must maintain dealer records under a new provision of this act. Additional penalties are provided for violations of Chapter 578, F.S. There is no fiscal consequence from the passage of this act.

Its effective date is October 1, 1987.

Food Products

SENATE BILL 704 (CHAPTER 87-388) amends Chapter 500, F.S., Florida's Food Act, by removing obsolete language and updating various references. The measure authorizes the

Department of Agriculture and Consumer Services to petition a court to order seizure or condemnation of food or equipment in violation of this act. Existing law requires such action.

There is no fiscal consequence from the passage of this bill or appropriation.

The effective date of the law is October 1, 1987.

Animal Industry; Diagnostic Labs

HOUSE BILL 98 (CHAPTER 87-151) amends Chapter 585, F.S., to allow the Department of Agriculture and Consumer Services to examine records and documents which might be helpful in animal disease control. It also replaces the terms "domestic animal disease diagnostic laboratories" and "poultry diagnostic disease laboratories" with "animal diagnostic laboratories." All labs currently work on diseases of all domestic animals, including poultry.

Violators of departmental rules, under Chapter 500, F.S., are now subject to administrative fines of up to \$500. Violations of the chapter are considered second-degree misdemeanors.

These provisions take effect October 1, 1987.

Treatment of Animals

SENATE BILL 710 (CHAPTER 87-389) further assures proper and humane treatment of animals by revising Section 828.073, F.S., to provide that law enforcement officers or county or humane society agents shall petition the county court judge for a hearing to commence within 30 days after the date of the seizure of an animal. It provides that the hearing shall be concluded and the court action taken within 60 days after the hearing is commenced. The act also amends the law to provide that the officer or agent care for the animal until the court determines that the owner is able to provide adequately for the animal and gives custody to the owner who must pay maintenance costs to the officer or agent, and take possession of the animal within 7 days after the date of the order. If the court determines that the owner cannot provide adequately for the animal, other animals which are in custody of the owner must be turned over to the officer or agent involved. The officer or agent may collect for the care of the animal upon proof of costs. The court may enjoin the owner's further possession or custody of other animals. The act further amends the law to provide additional evidence to be considered and criteria for the court's determination of the fitness of the owner to keep an animal. One of the provisions for consideration is that if the evidence indicates a lack of proper and reasonable care of the animal, the burden is on the owner to demonstrate by clear and convincing evidence that he is able and fit to have custody of and provide adequately for the animal.

The measure takes effect October 1, 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1075 (CHAPTER 87-398) authorizes use of the chemical sodium pentobarbital with lidocaine by county or municipal animal control agencies or humane societies registered with the Secretary of State for the purpose of euthanizing injured, sick, or abandoned domestic animals which are in their lawful possession. Heretofore only plain sodium pentobarbital was authorized for this purpose. Such animal control agencies or humane societies may apply to the Department of Professional Regulation for a permit to purchase, possess, or use sodium pentobarbital with lidocaine. Such permit may be suspended or revoked by the Department when it is determined that the chemical is being used for any purpose other than that set forth by law or if permittee fails to follow proper storage and handling rules.

Appropriations*

A one-day-special session held on February 4, 1987, to address the crisis of prison overcrowding provided \$32.1 million in prison funding for fiscal 1986-87 through the enactment of HOUSE BILL 1-A (CHAPTER 87-1).

The General Appropriations Act for 1987-88, CONFERENCE COMMITTEE REPORT ON SENATE BILL 1325 (CHAPTER 87-98) and implementing legislation, SENATE BILL 1326 (CHAPTER 87-247), provides total effective appropriations (total appropriations less contingent, reserve and voted items) for fiscal year 1987-88 of \$18.323 billion, 11 percent more than last year.

Education funding represents 35.4 percent of all legislative appropriations for operations, health and rehabilitative services 24 percent, general government 21.3 percent and transportation 10.2 percent. Thus, four functions account for 90.9 percent of the total.

The pages which follow are selected from the current Fiscal Analysis in Brief issued annually and jointly by the House and Senate Appropriations Committees. They give a broader view of anticipated spending by the state in the coming fiscal year.

*Prepared by Legislative Library

SUMMARY OF 1987-88
TOTAL EFFECTIVE APPROPRIATIONS
(In Millions of Dollars)

<u>GENERAL APPROPRIATIONS ACT</u>	<u>GENERAL REVENUE FUND</u>	<u>TRUST FUNDS</u>	<u>TOTAL FUNDS</u>
<u>Operations (Section 01):</u>			
Education			
Public Schools	3,694.2	564.5	4,258.7
Universities	867.1	210.0	1,077.1
Community Colleges	421.7	20.4	442.1
All Other Education	130.0	202.1	332.1
HRS	1,925.2	2,211.1	4,136.3
Transportation	0.0	1,752.9	1,752.9
General Government	394.5	3,273.8	3,668.3
Criminal Justice	986.2	136.8	1,123.0
Natural Resources & Environmental Regulation	96.2	254.6	350.8
Salary Increases & Fringe Benefits	90.9	32.2	123.1
<u>Fixed Capital Outlay</u> <u>(Sections 02,03, 04,</u> <u>05,06, and 07)</u>	<u>21.3</u>	<u>1,165.8</u>	<u>1,187.1</u>
Total General Appropriations Act	8,627.3	9,824.2	18,451.5
Special Appropriations Bills & Claims Bills	<u>10.3</u>	<u>3.1</u>	<u>13.4</u>
Total Appropriations	8,637.6	9,827.3	18,464.9
Less:			
Contingent and Reserve Items	0	1.4	1.4
Vetoed Items (See Veto List on Page 139)	<u>10.9</u>	<u>129.6</u>	<u>140.5</u>
Total Effective Appropriations	8,626.7	9,696.3	18,323

SENATE BILL 1325
VETOED APPROPRIATIONS
1987-88

<u>Item No.</u>	<u>Item</u>	<u>General Revenue</u>		<u>Trust</u>
		<u>Recurring</u>	<u>Non-Recurring</u>	
<u>Section 01</u>				
88C	National Orchid Show/Technical Assistant		25,000	
179A	Transfer to Florida Condominium Trust Fund		333,006	
211B	Scale Model Downtown Lakeland		25,000	
214A	Miami Film Festival		100,000	
214B	Greater Ft. Lauderdale Film Festival		100,000	
216A	Tamiami Park Improvements		175,000	
216C	Tournament of the Americas		17,500	
216E	Velodrome/Brian Piccolo Park		500,000	
232A	Institute for Land Use Planning		150,000	
235B	Florida Rural Water Association		25,000	
355A	Podiatric Medicine-Barry University	356,400		
360A	Social Work Contract-Barry University	87,750		
378	Litigation Expenses		31,157	
429A	Drug Free Schools/Community Based Programs			500,000
459A	Feasibility Study-Sumter Technical High School		50,000	
459B	Japanese Elementary School	200,000		
459C	Magnet School	200,000		
472	Drop Out Prevention Program/Martin County	185,000		
499	Washington County Community Education Project	32,000		

514A	Liberty City Revitalization Project	250,000	
516B	Lake Sumter Learning Resource Center		150,000
538	Old Square Project/Delray Beach	50,000	
546B	Athletic Programs/University of West Florida	150,000	
550	Privatization Study-Institute of Government		50,000
610B	Grant to Bay Area Resource Council	486,000	
610C	Grant to South Florida Water Management District	250,000	
610E	Grant to South Florida Water Management District for Zellwood Drainage District	100,000	
611	Sewage Treatment Construction Grant Program	116,000	
614A	Bio-Environmental Laboratory Facility Study and Plan	250,000	
617A	South Lake and Fox Lake Cleanup (SIF)		800,000
638A	Lump Sum/Alligator Management Program		335,000
804	Domestic Violence Program/Miami Beach Battered Women		200,000
1354	Training Program Administered through Loyola Foundation Inc.		250,000
1413A	Brevard Co. Drug Abuse Prevention Task Force		100,000
1449A	Underwater Environmental Film	229,000	
1466A	Artificial Fishing Reefs Construction Program	1,000,000	
1504A	Boating Assistance Grant/Gadsden Co.	135,000	
1677A	Grant to Davie for I-595 Feeder Road		350,000
1703	Turnpike Construction		79,398,078
1716A	Grant to Brevard Co. for Valkaria Airport		500,000

1732A	Planning and Design for Saufley Field Road to Blue Angel Parkway	500,000
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Section 02

1778A	Nassau Co. Agriculture Multi-Purpose Building	50,000
1778B	Okaloosa County Fair-Ft. Walton	75,000
1780C	Walton County Fair Association	50,000
1829A	Regional Service Center Parking Facility Polk Co. (Lakeland)	1,514,935
1845A	Addition of Substance Abuse Beds at FATC (SIF)	475,000
1851E	Sunland, Gainesville Medical Service Center (SIF)	200,000
1867A	Insurance Building	42,920,612
1905A	Acquisition of Land to open Bay Front Road (SIF)	400,000

Section 03

1920C	Brevard School Board-Draa Field	375,000
1920D	Brevard School Board-Satellite High School	125,000
1920E	Hillsborough School Board/Plant City	200,000
1920F	St. Petersburg Jr. College/ Clearwater For Youth	1,000,000
1920G	Santa Rosa Co. School Board- Locklin Vo-Tech Center	1,002,451
1920I	Volusia Co. School Board- Magnet School	250,000
1920J	Washington School Board/Vernon	199,020
1920K	Wakulla School Board-Crawfordville /Elementary School	207,000
1920N	Board of Regents-University of West Florida Athletic Complex	450,000
1922E	Land Acquisition/South Florida Maintenance Shop	200,000

1926E	Debary Hall Renovations	100,000
1926F	Gamble Mansion Visitor Center Construction (SIF)	237,000
1928A	Renovate Waterwheel-DeLeon Springs	197,000
1928E	St. Joseph Peninsula, T.H. Stone Memorial State Park	76,000
1928G	Ybor City State Museum Site Improvements	350,000
1928H	Land Acquisition/Emerson Point- Manatee County	1,000,000

Section 04

1972B	University of Florida Police Station	100,000
	TOTAL VETOES	1,261,150 9,671,150 129,563,690

FINANCIAL OUTLOOK STATEMENT FOR 1987 REGULAR SESSION
FY 1986-87 AND 1987-88
GENERAL REVENUE AND WORKING CAPITAL FUNDS
(MILLIONS OF DOLLARS)

DATE 07/16/87
TIME 09:18

	GENERAL REVENUE FUND	WORKING CAPITAL FUND	TOTAL ALL FUNDS	RECURRING FUNDS	NON RECURRING FUNDS
FUNDS AVAILABLE 1986-87					
BALANCE FORWARD FROM 1985-86	185.9	131.1	317.0	.0	317.0
ESTIMATED REVENUES	7506.8	.0	7506.8	7531.9	25.1-
MIDYEAR REVERSIONS	26.6	.0	26.6	.0	26.6
FIXED CAPITAL OUTLAY REVERSIONS	.5	.0	.5	.0	.5
WORKING CAPITAL FUND INTEREST	.0	7.8	7.8	.0	7.8
TRANSFER TO WORKING CAPITAL FUND	185.9-	185.9	.0	.0	.0
TRANSFER FROM WORKING CAPITAL FUND	251.2	251.2-	.0	.0	.0
CANCELLATION OF WARRANTS	1.3	.0	1.3	.0	1.3
TRUST FUND TRANSFERS (HB 1381,1986)	3.0	.0	3.0	.0	3.0
RESCINDED TF TRANSFER (SB 1326,1987)	1.0-	.0	1.0-	.0	1.0-
TOTAL 86-87 FUNDS AVAILABLE	\$ 7788.4	\$ 73.6	\$ 7862.0	\$ 7531.9	\$ 330.1
EFFECTIVE APPROPRIATIONS 1986-87					
OPERATIONS	3894.0	.0	3894.0	3764.3	129.7
AID TO LOCAL GOVERNMENT	3751.1	.0	3751.1	3727.2	23.9
FIXED CAPITAL OUTLAY	107.6	.0	107.6	.0	107.6
BEACH RESTORATION MATCH GUARANTEE	.0	6.0	6.0	.0	6.0
BASE STUDENT ALLOCATION GUARANTEE	.0	10.0	10.0	.0	10.0
SUPPLEMENTAL APPROPRIATIONS (A)	35.7	.0	35.7	25.9	9.8
TOTAL 86-87 EFF. APPROPRIATIONS	\$ 7788.4	\$ 16.0	\$ 7804.4	\$ 7517.4	\$ 287.0
RESERVES AVAILABLE	\$.0	\$ 57.6	\$ 57.6	\$ 14.5	\$ 43.1
OBLIGATIONS AND ENCUMBRANCES					
NONE	.0	.0	.0	.0	.0
UNENCUMBERED RESERVES	\$.0	\$ 57.6	\$ 57.6	\$ 14.5	\$ 43.1
FUNDS AVAILABLE 1987-88					
BALANCE FORWARD FROM 86-87	.0	57.6	57.6	.0	57.6
ESTIMATED REVENUES (B)	8036.5	.0	8036.5	8037.1	.6-
MIDYEAR REVERSIONS	15.0	.0	15.0	.0	15.0
FIXED CAPITAL OUTLAY REVERSIONS	2.4	.0	2.4	.0	2.4
UNUSED APPROPRIATIONS	42.3	10.0	52.3	.0	52.3
BROWARD COUNTY TAX ROLL DECISION	14.1	.0	14.1	.0	14.1
WORKING CAPITAL FUND INTEREST	.0	4.1	4.1	.0	4.1
CANCELLATION OF WARRANTS	1.4	.0	1.4	.0	1.4
TRUST FUND REVERSIONS (SB 1326)	3.4	.0	3.4	.0	3.4
LOTTERY STARTUP LOAN REPAYMENT (HB 686)	.5	.0	.5	.0	.5
MEASURES AFFECTING REVENUES (C)	705.2	.0	705.2	620.5	84.7
TOTAL 87-88 FUNDS AVAILABLE	\$ 8820.8	\$ 71.7	\$ 8892.5	\$ 8657.6	\$ 234.9
APPROPRIATIONS 1987-88					
OPERATIONS	4408.2	.0	4408.2	4348.0	60.2
OPERATIONS VETOES	3.5-	.0	3.5-	1.3-	2.2-
AID TO LOCAL GOVERNMENT	4197.8	.0	4197.8	4191.2	6.6
AID TO LOCAL GOVERNMENT VETOES	2.2-	.0	2.2-	.1-	2.1-
FIXED CAPITAL OUTLAY	21.4	.0	21.4	.0	21.4
FIXED CAPITAL OUTLAY VETOES	5.3-	.0	5.3-	.0	5.3-
SPECIAL BILLS (D)	12.5	.0	12.5	2.1	10.4
BASE STUDENT ALLOCATION GUARANTEE	.0	10.0	10.0	.0	10.0
APPROPRIATIONS FOR 87-88	\$ 8628.9	\$ 10.0	\$ 8638.9	\$ 8539.9	\$ 99.0
RESERVES AVAILABLE	\$ 191.9	\$ 61.7	\$ 253.6	\$ 117.7	\$ 135.9
OBLIGATIONS AND ENCUMBRANCES					
NONE	.0	.0	.0	.0	.0
UNENCUMBERED RESERVES	\$ 191.9	\$ 61.7	\$ 253.6	\$ 117.7	\$ 135.9

(A) THE FOLLOWING SUPPLEMENTAL APPROPRIATIONS HAVE BEEN SIGNED INTO LAW-

\$ 32.1 MILLION (HB 1A) CORRECTIONS DEFICIT (\$7.0 MILLION NR)
\$ 3.6 MILLION (HB 686) DEPARTMENT OF REVENUE, DEPARTMENT OF COMMERCE (\$2.8 MILLION NR)

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

THE SERVICE CHARGES AGAINST THE CONSTITUTIONAL GAS TAX COLLECTIONS HAVE BEEN CONTESTED AS UNCONSTITUTIONAL. THE AMOUNTS SUBJECT TO LITIGATION ARE \$7.2 MILLION FROM FY 1984-85, \$7.5 MILLION FROM FY 1985-86, \$7.8 MILLION FROM FY 1986-87, AND \$8.1 MILLION FROM FY 1987-88.

ALSO UNDER LITIGATION ARE SEVERAL ISSUES WHICH PUT AT RISK SUBSTANTIAL AMOUNTS OF GENERAL REVENUE MONIES. THE FIRST OF THESE ISSUES INVOLVES THE BEVERAGE TAX. A U.S. SUPREME COURT DECISION FOUND THAT A HAWAII LAW (VERY SIMILAR TO THE PRE-1985 FLORIDA LAW) UNFAIRLY DISCRIMINATED AGAINST OUT-OF-STATE LIQUOR PRODUCERS. UNDER THE PRE-1985 LAW, AT RISK IN THE FLORIDA SUITS IS \$234.9 MILLION IN REFUNDS. UNDER THE CURRENT LAW, AN ADDITIONAL \$52.3 MILLION IN REFUNDS IS AT RISK IN THE LAWSUITS UNDER LITIGATION. A RULING AGAINST THE STATE'S CURRENT LAW COULD PLACE ALL BEVERAGE TAX COLLECTIONS AT RISK IF ADDITIONAL SUITS WERE FILED. THIS DECISION COULD TAKE PLACE AS EARLY AS FY 1987-88.

THE SECOND ISSUE INVOLVES THE CONSTITUTIONALITY OF FLORIDA'S INSURANCE PREMIUM TAX LAW, WHICH TAXES INSURANCE COMPANIES AT DIFFERENT RATES DEPENDING ON WHETHER THEY ARE IN-STATE OR OUT-OF-STATE. THE CURRENT SUIT SEEKS TO DECLARE THIS DIFFERENCE IN RATES TO BE DISCRIMINATORY. IF THE LAW IS DECLARED UNCONSTITUTIONAL, MINIMALLY \$400 MILLION OF GENERAL REVENUE AND \$130 MILLION OF TRUST FUND MONIES WOULD BE AT RISK. THIS DECISION COULD TAKE PLACE AS EARLY AS FY 1988-89.

THIRD, THE FIRST DISTRICT COURT OF APPEAL HAS FOUND THE STATE FRANCHISE FEE ON BANKS AND SAVINGS INSTITUTIONS EQUAL TO 5.5% OF NET INCOME TO BE SUBSTANTIVELY INDISTINGUISHABLE FROM THE STATE CORPORATE INCOME TAX. AS SUCH, THE TAX IS INVALID TO THE EXTENT IT CONFLICTS WITH A FEDERAL LAW AGAINST STATE TAXATION ON EARNINGS OF U.S. OBLIGATIONS WHICH ARE INCLUDED IN THE TAX BASE OF THE FLORIDA INSTITUTIONS. BY PRELIMINARY ESTIMATE, AT RISK IS \$56.7 MILLION IN TAXES PAID UNDER PROTEST AND ABOUT \$22 MILLION ANNUALLY IN THE FUTURE SHOULD THE APPEALS COURT DECISION BE UPHELD BY THE SUPREME COURT WHERE THE CASE IS ON FURTHER APPEAL. A DECISION IS EXPECTED BY FY 1987-88.

(C) THE FOLLOWING LAW CHANGES AFFECTED GENERAL REVENUE (\$ MILLIONS)-

CS/HB 253	\$ 1.1	CONCEALED FIREARMS LICENSURE/SERVICE CHARGE
HB 781	.1	SERVICE CHARGE ON SOLICITOR REGISTRATION
CS/CS/HB 1247	3.6-	LOTTERY IMPACT ON PARIMUTUELS
CS/HB 1506	28.8	SALES TAX REVISIONS/TAX AMNESTY
CS/SB 142	18.6	DOCUMENTARY STAMP TAX/INTANGIBLES TAX SPEEDUP/TAX ADMINISTRATION
CS/SB 145	2.7	TAX ADMINISTRATION
CS/SB 145	46.9	CORPORATE INCOME TAX
CS/SB 145	46.4	INSURANCE PREMIUM TAX
SB 355	0.9-	USE TAX/VESSELS
CS/CS/SB 711	40.2-	DOCUMENTARY STAMP TAX/CARL TRUST FUND
CS/CS/SB 711	28.6	PHOSPHATE SEVERANCE TAX/CARL TRUST FUND
CS/CS/SB 711	5.4	OIL AND GAS SEVERANCE TAX/CARL TRUST FUND
CS/SB 777	495.9	SALES TAX ON SERVICES
CS/SB 777	16.3	TAX AMNESTY
CS/SB 837	17.3	PARIMUTUELS/ADDITIONAL DAYS/GALAXY
SB 861	.2-	TREASURY INVESTMENT FEES
CS/SB 906	.0	INSURANCE PREMIUM TAX/REDUCED ASSESMENTS(\$62.0- LONG RUN IMPACT)
CS/SB 1269	12.5	SALES TAX/FAIRNESS IN RETAIL TRADE
SB 1325	29.5	ADDITIONAL AUDITORS / DEPARTMENT OF REVENUE

(D) THE FOLLOWING SPECIAL GENERAL REVENUE APPROPRIATIONS HAVE BEEN PASSED-

HB 1405(1986)	\$5,800,000	TO DEPT. OF COMMUNITY AFFAIRS, DEPT. OF GENERAL SERVICES (NR)
HB 36	1,000,000	TO DEPT. OF NATURAL RESOURCES FOR YOUTH CONSERVATION CORPS
CS/HB 270	488,973	TO RELIEF ACT (NR)
CS/HB 1384	50,000	TO AUDITOR GENERAL FOR MEDICAID STUDY (NR)
HB 1466	60,000	TO JLMC FOR ENVIRONMENTAL EFFICIENCY STUDY COMMISSION (NR)
HB 1472	500,000	TO LEGAL AFFAIRS FOR SEMINOLE INDIAN LAND TRANSFER (NR)
CS/HB 1506	364,757	TO DIV. OF ADMINISTRATIVE HEARINGS FOR HEARING OFFICERS
CS/SB 359	90,209	TO DEPT. OF HRS FOR ADULT CONGREGATE LIVING
CS/CS/SB 410	60,000	TO POLLUTANT TAX AND CLEANUP (NR)
CS/SB 538	50,000	TO DEPT. OF HRS FOR FOSTER GRANDPARENT VOLUNTEER PROGRAM
CS/SB 624	250,000	TO DEPT. OF ENVIRONMENTAL REGULATION FOR WATER RESOURCE SURVEY (NR)
CS/SB 777	2,100,000	TO DEPT. OF REVENUE FOR SALES TAX IMPLEMENTATION (NR)
CS/SB 986	1,515,979	TO DEPT. OF LABOR FOR ASBESTOS REMOVAL (1,000,000 NR)
CS/SB 1072	50,000	TO JLMC FOR CIGARETTE STUDY COMMISSION (NR)
SB 1244	75,000	TO DEPT. OF REVENUE FOR MAILORDER SALES TAX (NR)

GENERAL APPROPRIATION ACT FOR 1987-88

CONTINGENCY ITEMS

<u>Item</u>	<u>Pos.</u>	<u>Approp.</u>	<u>Fund</u>	<u>Contingency</u>	<u>Legislative Action</u>
Sect. 01					
21A	4	292,136	T	CS/SB 524 or Similar Legislation	CS/HB 195/passed
58A	1	20,290	G	HB 99 or Similar Legislation	HB 99/passed
55-60B	2	400,000	G	SB 1168 or Similar Legislation	HB 1308/passed
100A	-	230,000	T	HB 495 or Similar Legislation	HB 495/passed
102	-	3,346,897	G	CS/SB 215 or Similar Legislation	HB 499/passed
		3,189,655	T		
165	-	487,253	T	CS/SB 837 or Similar Legislation	CS/SB 837/passed
196-199	2	170,255	G	SB 361 or Similar Legislation	SB 361/passed
262A	-	1,100,000	G	HB 1390 or Similar Legislation	CS/SB/683/passed
262B	5	1,641,500	G	CS/HB 1467 or Similar Legislation	HB 1467/passed
326A	4	158,500	G	CS/HB 1467 or Similar Legislation	HB 1467/passed
362D	-	500,000	T	HB 1280 or Similar Legislation	CS/SB 799/passed
515	-	2,000,000	T	CS/SB 1074	CS/SB 1074/passed
556, 558 & 559				CS/HB 490 or Similar Legislation	CS/SB 282/passed
584A	3	100,000	G	CS/CS/HBs 47 & 17 or Similar Legis.	CS/CS/HBs 47 & 17/passed
584B	-	350,000	G	SB 893 or Similar Legislation	CS/CS/HB 1008/passed
613A	-	15,000,000	T	CS/HB 1350 or Similar Legislation	CS/HB 1350/passed
638A	3	335,000	T	SB 486 or Similar Legislation	CS/HB 763/passed
706B	3	200,000	G	HB 1467 or Similar Legislation	HB 1467/passed
750A, 751A, 753,					
753A & 753B	-	6,671,266	T	HB 1384 or Similar Legislation	HB 1384/passed
778A	-	1,000,000	G	HB 575 or Similar Legislation	CS/SB 683/passed
885	-	399,000	G	HB 129 or Similar Legislation	CS/HB 129/passed
894	-	10,000,000	T	HB 1384 or Similar Legislation	HB 1384/passed
937, 938A & 938B	240	94,428,695	T	HB 1384 or Similar Legislation	HB 1384/passed
938	-	10,000,000	G	HB 1384 or Similar Legislation	HB 1384/passed
948	-	7,200,000	T	HB 1384 or Similar Legislation	HB 1384/passed
948A	-	69,500,000	T	HB 1384 or Similar Legislation	HB 1384/passed
982A	6	538,000	T	CS/CS/HB 56 or Similar Legislation	HB 225/passed
984	-	273,724	T	HB 1422 or Similar Legislation	HB 1422/died on Calendar
1009A	-	160,000	T	CS/SB 37 or Similar Legislation	CS/SB 37/passed
1027A	8	412,940	T	CS/SB 160 or Similar Legislation	CS/SB 160/passed
1057	30	922,451	G	HB 1365 or Similar Legislation	HB 1365/passed
1448A	2	1,000,000	G	SB 98 or Similar Legislation	HB 36/passed
1517	3	82,515	G	HB 1370 or Similar Legislation	SB 131/passed
1522-1525 & 1528	1	188,640	T	CS/HB 245 or Similar Legislation	CS/HB 245/died in messages
1541A	4	158,500	G	HB 1467 or Similar Legislation	HB 1467/passed
1535-82	35	918,575	T	CS/HB 61 or Similar Legislation	CS/HB 61/died in S. Commerce
1690, 1692 & 1699	54	2,027,193	T	CS/CS/SB 123 or Similar Legislation	CS/SB 123/passed

G = General Revenue

T = Trust Fund

I = Infrastructure Fund

GENERAL APPROPRIATIONS ACT FOR 1987-88
CONTINGENCY ITEMS DEPENDENT ON ACTION
OTHER THAN LEGISLATION

<u>Item</u>	<u>Pos.</u>	<u>Appropriation</u>	<u>Fund</u>	<u>Contingency</u>
Section 01:				
350 & 362A	None	330,727 15,000	GR TF	Deposit of all private funds into the State Treasury
369	None	7,525,391	TF	Submittal and approval of a Vocational Project Plan
441	None	10,000,000	WC	Insufficient funds in specific appropriation 441 to maintain the appropriated level of resources due to unexpected fluctuations in enrollments or tax rolls
603-620				Receipt of Federal Funds
725-963				The Department assisting the Aids Task Force
814	None	75,000	GR	Reversion of \$75,000 from FY 1986-87
902	None	2,300,000	IF	Reversion of \$1,050,000 from FY 1986-87
1056A & 1056B	None	568,086	GR	Requirements of the Circuits
1066	None	3,448,000	GR	Matching contribution by each county or est procedures
1368-1378				Receipt of Federal Funds
1656-1770				Receipt of Federal Grant Funds
Section 02:				
1771	None	4,082,593 2,198,320	TF IF	Federal grant approval

GR = General Revenue
TF = Trust Fund
IF = Infrastructure Fund
WC = Working Capital Fund

SPECIAL APPROPRIATION BILLS

1987-88

<u>Session</u> <u>Law</u>	<u>Bill Number</u>	<u>Subject</u>	<u>General Revenue</u>	<u>Trust Fund</u>
<u>HOUSE BILLS</u>				
87-272	HB 36	Youth Conservation Corp.	1,000,000	
87-155	CS/HBs 171 & 184	Crimes Against Elderly and Handicapped		200,000
87-254	CS/CS/HB 266	Electrical Contracting; Alarm Systems		395,036
87-418	CS/HB 270	Relief of S. A. Kropff	488,973	
87-294	CS/CS/HB 279	Motor Vehicle Emissions Study Commission		125,000
*87-3	HB 686	Sales Tax; Super Collider; Lottery Start-up	3,647,258	
87-199	CS/HB 763	Alligator Management Program		335,422
87-92	CS/HB 1384	Indigent Health Care	50,000	
87-236	CS/HB 1385	HMO & Prepaid Health Clinics		449,819
87-297	HB 1466	Environmental Efficiency Study Commission	60,000	
87-292	HB 1472	Seminole Indians; Land Transfer	500,000	
87-101	CS/HB 1506	Sales Tax; Services Revision	364,757	
<u>SENATE BILLS</u>				
87-403	CS/SB 182	Professional Geologist Board		120,586
87-371	CS/SB 359	Congregate Living & Nursing Homes	90,209	
87-374	CS/CS/SB 410	Pollutants Tax & Cleanup	60,000	
87-118	CS/SB 413	Fireworks Regulation		82,567
87-406	CS/SBs 468, 549 & 648	Parimutuel Attendance; Minors		200,000
87-119	CS/SB 538	Foster Grandparent Volunteer Program	50,000	
87-347	CS/SB 624	Water; Inter-district transfer	250,000	
87-6	CS/SB 777	Sales Tax; Services	2,100,000	
87-394	CS/SB 986	Asbestos Management Program	1,515,979	
87-353	CS/SB 1072	Cigarette Study Commission	50,000	
87-399	CS/SBs 1098 & 296	Trauma Centers		1,203,373
87-402	SB 1244	Sales Tax; Mail Order Sales	75,000	

* Supplemental Appropriations for F.Y. 1986-87

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

Session Law	Bill Number	Description	1987-88					1988-89	
			General Revenue			Trust Fund	Local Impact	General Revenue	
			First Year	Recurring	Non- Recurring			Recurring	Nonrecurring
			\$	\$	\$	\$	\$	\$	\$
<u>Senate Bills</u>									
87-356	SB	24	Exempts Certain Veterans from Drivers License Hunting and Fishing Licenses	(*)	(*)	--	--	(*)	--
				--	--	(*)	--	--	--
87-358	SB	41	Reduces Fees for Alimony and Child Support Deposit	--	--	--	(**)	--	--
87-344	CS/SB	55	Exemption from Solicitation Sales Permit - Certain Sales Tax Exempt Organizations	--	--	--	(*)	--	--
87-102	CS/SB	142	Doc Stamp & Intangible Tax Speedup & Dealer Collection Allowance	14.4	--	14.4	9.2	--	--
			Doc Stamp Tax	2.9	(.3)	3.2	--	(.3)	--
			Intangibles Class C Sales Tax	1.3	--	1.3	(1.4)	--	--
			Condominiums and Cooperatives Fees	--	--	--	.5	--	--
87-72	CS/SB	143	Mini Glitch	--	--	--	--	--	--
87-99	CS/SB	145	Sales Tax						
			Food Stamp Exemption	(1.5)	(2.3)	.8	--	(.2)	--
			MV Dealer Use Tax	2.4	2.6	(.2)	--	.3	--
			Charter Co. Transit System Surtax	--	--	--	--	--	--
			Telecommunications	(.5)	(.5)	--	(.1)	(.1)	--
			Motor Fuel Taxes						
			Speedup	.6	--	.6	5.3	3.8	--
			Shrinkage	--	--	--	(.7)	--	--
			Corporate Filing Fees	1.7	2.3	(.6)	--	--	--
			Corporate Income Tax	46.9	46.9	--	--	--	--
			Insurance Premium Tax	46.4	54.6	(8.2)	(3.0)	--	--

(a) The \$2.2 million loss may not occur if Florida does not get the Breeder's Cup.

(b) The \$.1 million revenue increase provision also included in CS/CS/SB 392 is shown as part of that bill.

* insignificant dollar amount (\$ 50,000)

** indeterminate

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

Session Law	Bill Number	Description	1987-88					1988-89	
			General Revenue			Trust Fund	Local Impact	General Revenue	
			First Year	Recurring	Non- Recurring			Recurring	Nonrecurring
			\$	\$	\$	\$	\$	\$	\$
87-361	CS/SB 160	Boiler Safety Fees	--	--	--	.1	--	--	--
Vetoed	CS/SB 177	Handicapped Veterans Exemption from Parking Permit Fees	--	--	--	(*)	--	--	--
87-403	CS/SB 182	Regulation of Professional Geologists	--	--	--	.3	--	--	--
87-405	CS/SB 242	Increases Witness Services Fees	--	--	--	--	**	--	--
87-367	CS/SB 282 & 703	Aquaculture	--	--	--	(*)	(**)	--	--
87-370	SB 355	Use Tax - Boat Bill	(.9)	(1.3)	.4	--	(.1)	(1.4)	--
87-371	CS/SB 359	Fees - Adult Congregate Living Facilities	--	--	--	.2	--	--	--
87-310	CS/SB 370	Fees - Septic Tank Contractors	--	--	--	**	--	--	--
87-116	CS/CS SB 392	Saltwater Fisheries - Fees	--	--	--	.3	--	--	--
87-117	CS/SB 401	Pool Inspection Fees	--	--	--	**	--	--	--
87-374	CS/CS SB 410	Extention of Pollutants Tax	--	--	--	*	--	--	--
87-118	CS/SB 413	Licensure of Fireworks	--	--	--	.1	--	--	--
87-406	CS/SB's 468, 549 & 648	Fees - Occupational Licenses of Racetrack Employees	*	*	--	.2	--	*	(2.2)(a)
87-345	SB 504	Tax Offset - State Comprehensive							

(a) The \$2.2 million loss may not occur if Florida does not get the Breeder's Cup.

(b) The \$.1 million revenue increase provision also included in CS/CS/SB 392 is shown as part of that bill.

* insignificant dollar amount (\$ 50,000)

** indeterminate

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

Session Law	Bill Number	Description	1987-88					1988-89	
			General Revenue			Trust Fund	Local Impact	General Revenue	
			First Year	Recurring	Non- Recurring			Recurring	Nonrecurring
			\$	\$	\$	\$	\$	\$	\$
		Health Associations	--	--	--	--	--	(1.0)	--
87-95	CS/SB 631	Copy Service Charges - Clerk of the Circuit Court	--	--	--	**	--	--	--
87-120	CS/SB 644	Saltwater Products Dealers - Fees	--	--	--	*(b)	--	--	--
87-325	SB 658	License Fees - Talent Agencies	--	--	--	*	--	--	--
87-387	CS/SB's 693 & 561	Dissolution of Marriage Fees	--	--	--	.2	--	--	--
87-96	CS/CS SB 711	Phosphate Tax/CARL Funding							
		Documentary Stamp Tax	(40.2)	(40.2)	--	40.2	--	(43.1)	--
		Phosphate Tax	28.6	(2.1)	30.7	(39.9)	(.6)	(1.8)	19.2
		Oil & Gas Tax	5.4	5.4	--	(5.4)	--	5.6	--
87-390	CS/SB 744	Barber License Fees	--	--	--	**	--	--	--
87-327	SB 745	Architects License Fees	--	--	--	**	--	--	--
87-6	CS/SB 777	Sales Tax on Services	495.9	495.9	--	138.2	49.7	609.3	--
		Increase-Documentary Stamp Tax	--	--	--	24.0	--	--	--
		Increase-Special Fuel Tax	--	--	--	36.1	--	--	--
		Interest	--	--	--	1.7	--	--	--
		Amnesty	16.3	--	16.3	1.8	--	--	--
87-123	CS/SB 787	Home Health Agencies - Fees	--	--	--	**	--	--	--
87-38	CS/SB 837	Parimutuel Wagering - Additional Days	17.3	17.3	--	**	--	17.6	--
		Simulcasting-Galaxy	--	1.2	(1.2)	--	--	1.2	--
87-331	SB 861	State Moneys-Investments	(.2)	(.2)	--	.2	--	(.2)	--

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** indeterminate

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

Session Law	Bill Number	Description	1987-88					1988-89	
			General Revenue		Trust Fund	Local Impact		General Revenue	
			First Year	Recurring				Recurring	Nonrecurring
			\$	\$	\$	\$	\$	\$	\$
87-332	CS/SB 862	Ad Valorem Tax - Homes for the Aged	--	--	--	--	(*)	--	--
87-350	CS/SB 906	Insurance Company Assessments	--	(62.0)	62.0	--	--	(62.0)	46.5
87-108	CS/SB 976	Court Fees - Increasing	--	--	--	3.5	--	--	--
87-336	CS/SB 982	Senior Citizens - Camping Permits	--	--	--	(.1)	--	--	--
87-394	CS/SB 986	Asbestos Management Program	--	--	--	**	--	--	--
87-399	CS/SB's 1098 & 296	10¢ MVL Fees - Trauma Centers	--	--	--	.9	--	--	--
87-401	SB 1202	Temporary Licenses Boat Trailers	--	--	--	*	--	--	--
87-63	CS/SB 1218	Malt Beverage License Fees	--	--	--	**	--	--	--
87-402	CS/SB 1244	Fairness in Retail Trade	12.5	37.5	(25.0)	--	--	37.5	(17.5)
87-343	CS/SB 1269	Time Share Fees	--	--	--	**	--	--	--
87-98	SB 1325	Additional DOR Auditors	29.5	39.3	(9.8)	--	--	42.1	--
<u>House Bills</u>									
87-133	CS/HB 54	Fees - Child-In-Need of Services	--	--	--	.1	--	--	--
87-252	CS/HB 58	Clinical Social Workers Fees	--	--	--	.6	--	--	--
87-51	CS/HB 109	Elimination of Registration Fees for Florida-bred Quarter Horses - GR							

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* insignificant dollar amount (\$ 50,000)

** indeterminate

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

Session Law	Bill Number	Description	1987-88					1988-89	
			General Revenue			Trust Fund	Local Impact	General Revenue	
			First Year	Recurring	Non- Recurring			Recurring	Nonrecurring
			\$	\$	\$	\$	\$	\$	\$
		Service Charge	(*)	(*)	--	--	--	(*)	--
87-155	CS/HB's 171 & 184	Surcharge - Crimes Against the Handicapped or Elderly	--	--	--	.2	--	--	--
Vetoed	CS/HB 204	Fees - Regulation of the Practice of Electrolysis	--	--	--	**	--	--	--
	CS/HJR 214	Ad Valorem Tax Exemption Highwater Recharge Land	--	--	--	--	--	--	--
87-161	HB 225	License Tax - Mopeds Fee Motorcycle Safety Education	--	--	--	1.2	.3	--	--
87-24	CS/HB 253	Licensure - Concealed Firearms GR Service Charge	1.1	1.1	--	15.3	2.6	--	--
						--	--	1.1	--
87-254	CS/CS HB 266	Fees - Alarm System Contractors	--	--	--	*	--	--	--
87-69	CS/HB 376	Fees - Registration of Cosmotology Fees	--	--	--	.1	--	--	--
87-258	CS/HB 380	Con. Dev. Tax-Volusia Co.	--	--	--	--	.3	--	--
87-175	CS/HB 453	Loc. Option Tourist Dev. Tax	--	--	--	(**)	**	--	--
87-55	HB 495	Boll Weevil Eradication	--	--	--	**	--	--	--
87-81	HB 496	Fees - Commercial Feed Analysis	--	--	--	*	--	--	--
87-44	HB 498	Repeals Non-Implemented Citrus Excise Tax	--	--	--	--	--	--	--
87-182	HB 499	1 Year Extention of Excise Tax on Citrus	--	--	--	.9	--	--	--
87-259	HB 522	911-Emergency Telephone Number	--	--	--	--	**	--	--
87-183	HB 537	Fees - Geophysical Activity	--	--	--	*	--	--	--
87-261	CS/HB 577	Hunting & Fishing License Exemption	--	--	--	(.1)	--	--	--

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** indeterminate

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

Session Law	Bill Number	Description	1987-88					1988-89	
			General Revenue			Trust Fund	Local Impact	General Revenue	
			First Year	Recurring	Non- Recurring			Recurring	Nonrecurring
			\$	\$	\$	\$	\$	\$	\$
87-263	HB 606	Fire Control-Local MSTU	--	--	--	--	**	--	--
87-191	HB 646	Fees - Banks	--	--	--	.3	--	--	--
87-136	CS/HB 660	Fees - Continuing Care Contracts	--	--	--	**	--	--	--
87-197	HB 740	Fee - Historical Florida License Plate	--	--	--	*	--	--	--
87-198	CS/CS HB 761	Transfer of Fuel Use Tax Increase in Truck Tractor Tags Due to Gross Vehicle Weight	--	--	--	--	--	--	--
87-199	CS/HB 763	Fees - Alligator Trapping License	--	--	--	.3	--	--	--
87-91	HB 776	Biennial Licenses - MV Sales Financial	--	--	--	**	--	--	--
87-283	CS/HB 780	Fees - Solicitor Registration GR Service Charge	-- *	-- *	--	.3 --	-- --	-- *	--
87-265	HB 781	Fees - Registration of Trade- marks & Service Marks	.1	.1	--	--	--	.1	--
87-201	CS/HB 798	Fees - Live Bait Shrimp Production	--	--	--	*	--	--	--
87-284	HB 1108	Exemption from Ad Valorem Taxation - Lease of Certain Educational Facilities	--	--	--	--	(**)	--	--
87-218	CS/HB 1174	Central Florida Expressway Authority	--	--	--	--	**	--	--
87-65	CS/CS HB 1247	State Lottery Education Enhancement TF Administrative TF Parimutual Tax	-- -- (3.6)	-- -- (8.8)	-- -- 5.2	144.7 62.0 --	-- -- --	-- -- (8.8)	-- -- --
87-221	HB 1262	Fees - Accountants	--	--	--	.1	--	--	--

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** indeterminate

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

Session Law	Bill Number	Description	1987-88					1988-89	
			General Revenue			Trust Fund	Local Impact	General Revenue	
			First Year	Recurring	Non- Recurring			Recurring	Nonrecurring
			\$	\$	\$	\$	\$	\$	\$
87-145	HB 1272	Increase Service Charges for Recording Final Judgement of Disolution of Marriage	--	--	--	--	10.8	--	--
87-287	HB 1337	Fees - Fire Safety Inspectors	--	--	--	--	**	--	--
87-231	HB 1345	Increase Surcharge on Civil Actions	--	--	--	--	--	--	--
87-97	CS/HB 1350	SWIM	--	--	--	--	--	--	--
87-236	CS/HB 1385	Fees - Prepaid Health Clinics	--	--	--	.4	--	--	--
87-237	HB 1398	Tax Bond Act	--	--	--	--	--	--	--
87-239	CS/CS HB 1421	Local Option Sales Surtax	--	--	--	--	**	--	--
87-290	HB 1453	Fees - Pediatric Extended Care Centers	--	--	--	*	--	--	--
87-291	HB 1471	Fee - Late Title Transfer Application	--	--	--	*	*	--	--
87-101	CS/HB 1506	GLITCH BILL Sales Tax Amnesty	34.0 (5.2)	34.0 --	-- (5.2)	-- (.6)	3.4 --	33.4 --	-- --
TOTAL			705.2	620.5	84.7	437.7	73.8	734.3	46.0

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** indeterminate

STATE EDUCATION LOTTERY TRUST FUND APPROPRIATIONS
FY 1987-88
General Appropriations Act

<u>Item</u>	<u>Amount</u>
Section 01:	
<u>Education, Department of</u>	
Deputy Comm/Ed Management	
362B International Education Linkages	300,000
362C Hemispheric Policy Studies Center	200,000
362D Compact Pilot Program	500,000
362E Transfer to Public Education Capital Outlay and Debt Service	4,862,581
Deputy Comm/Special Programs	
411 Summer Inservice Institutes	9,925,210
Public Schools, Division of	
441 Florida Education Finance Program	20,000,000
443 K-3 Improvement Programs	8,500,000
465 Dropout Prevention	2,563,000
468B Literacy Centers	300,000
471 Master Teacher Program	13,113,871
472 Middle Childhood Programs	15,000,000
477A Merit Schools Program	10,000,000
483 School Bus Replacement	5,000,000
Voc/Adult/Comm Ed, Division of	
501 Truck Drivers Training Program	1,662,500
508 Technical Updating/Business Exchange Program	150,000
Community Colleges, Division of	
512 Library Automation	678,630
512 Student Articulation System	367,464
512 Program Review - Secretarial	1,794,390
512A Instructional Equipment	5,116,689

513	Sunshine State Skills Program	3,000,000
514	Reorganization - Phase II Completion	70,653
515	Community College Endowment Matching Fund	2,000,000
515A	Deferred Maintenance	4,900,000
516A	Literacy Centers	400,000
516B	Library Books	1,910,500
517	Student Articulation System	72,375
Universities, Division of Educational/General Activities		
541	Equipment Enhancement	2,511,600
544B	Archaeological Research - Warm Mineral Springs	300,000
549	Faculty Awards	200,000
550	Institute of Government	300,000
553	Scientific and Technical Equipment	3,300,000
554B	Student Financial Aid	3,000,000
IFAS		
559	Equipment Enhancement	21,927
560	Scientific and Technical Equipment	761,079
560A	IFAS Site Invest. & Cleanup	1,000,000
USF Medical Center		
579	Scientific and Technical Equipment	265,403
Board of Regents General Office		
585	Eminent Scholars Grants	15,000,000
586	Major Gifts - Challenge Grants	900,000
589A	High Technology Research and Development Programs	3,850,000
University of Florida Health Center/E & G		
599	Scientific and Technical Instructional Equipment	837,054
Florida Mental Health Institution		
601D	Equipment Enhancement	57,000

INFRASTRUCTURE FUND APPROPRIATIONS
FY 1987-88
General Appropriations Act

<u>Item</u>	<u>Appropriation</u>
Section 01:	
<u>Community Affairs, Department of</u>	
235A Regional Planning Council Assistance and Coordination	\$ 2,000,000
238 Local Government Comprehensive Planning Assistance	9,000,000
<u>Environmental Regulation, Department of</u>	
606A Extend Sewage Lines in Lanark Village	500,000
608 Potable Water Recovery System-Hookers Point, Tampa	542,000
608B Old Pass (Destin) Lagoon Restoration	1,500,000
610D Sewage Treatment for Franklin County	650,000
617A South Lake and Fox Lake Cleanup	800,000
617B Homeport Development-Pensacola	5,000,000
619A Continue Water Well Cleanup	600,000
<u>General Services, Department of</u>	
665A Debt Service on Capital Facilities Bond Program	19,982,004
<u>Health & Rehabilitative Services, Department of</u>	
892A County Health Unit Facilities Renovations/Improvement	5,000,000
902 AIDS: Surveillance/Testing Counsel/Patient Care	2,300,000
<u>Revenue, Department of</u>	
1569A Transfer to Department of Environmental Regulation For Surface Water Improvement and Management (SWIM) Act	15,000,000

STATE INFRASTRUCTURE FUND AND LOTTERY TRUST FUND
FY 1986-87 AND FY 1987-88
(\$ MILLIONS)

	---- STATE INFRASTRUCTURE FUND ----			----- LOTTERY TRUST FUND -----		
	TOTAL	RECURRING	NON- RECURRING	TOTAL	RECURRING	NON- RECURRING
FUNDS AVAILABLE 1986-87						
BALANCE FORWARD FROM 1985-86	.0	.0	.0	.0	.0	.0
ESTIMATED REVENUES	.0	.0	.0	.0	.0	.0
MIDYEAR REVERSIONS	.0	.0	.0	.0	.0	.0
FIXED CAPITAL OUTLAY REVERSIONS	.0	.0	.0	.0	.0	.0
INTEREST	.0	.0	.0	.0	.0	.0
TOTAL 86-87 FUNDS AVAILABLE	.0	.0	.0	.0	.0	.0
ESTIMATED EXPENDITURES 1986-87						
OPERATIONS	.0	.0	.0	.0	.0	.0
AID TO LOCAL GOVERNMENT	.0	.0	.0	.0	.0	.0
FIXED CAPITAL OUTLAY	.0	.0	.0	.0	.0	.0
TOTAL 86-87 EST. EXPENDITURES	.0	.0	.0	.0	.0	.0
AVAILABLE RESERVES	.0	.0	.0	.0	.0	.0
FUNDS AVAILABLE 1987-88						
BALANCE FORWARD FROM 1986-87	.0	.0	.0	.0	.0	.0
ESTIMATED REVENUES	200.0	200.0	.0	144.7	144.7	.0
MIDYEAR REVERSIONS	.0	.0	.0	.0	.0	.0
FIXED CAPITAL OUTLAY REVERSIONS	.0	.0	.0	.0	.0	.0
INTEREST EARNINGS	.0	.0	.0	0.1	0.1	.0
TOTAL 87-88 FUNDS AVAILABLE	200.0	200.0	.0	144.8	144.8	.0
EFFECTIVE APPROPRIATIONS 1987-88						
OPERATIONS	54.7	.0	54.7	103.6	51.2	52.4
AID TO LOCAL GOVERNMENT	8.2	.0	8.2	41.1	8.5	32.6
FIXED CAPITAL OUTLAY	137.1	.0	137.1	.0	.0	.0
VETOED ITEMS	2.1-	.0	2.1-	.2-	.0	.2-
TOTAL 87-88 EFF. APPROPRIATIONS	197.9	.0	197.9	144.5	59.7	84.8
AVAILABLE RESERVES	2.1	200.0	197.9-	.3	85.1	84.8-

BUSINESS REGULATION*

Significant legislation was enacted by the 1987 Legislature implementing the constitutional amendment which authorized the state to operate lotteries. This act created the Department of Lottery, a State Lottery Commission, and an Administrative Trust Fund; and specified the distribution of revenues from ticket sales and duties related to the operation of the lottery.

Pari-mutuel wagering legislation was enacted authorizing the Florida Pari-mutuel Commission to provide recommendations to the Legislature regarding additional operating days for pari-mutuel permitholders, authorizing a simulcasting facility in Marion County, and creating a special thoroughbred race meet designated as the "Breeders' Cup Meet."

Alcoholic beverage legislation revises the accentuation of the affirmation statute; clarifies that a city or county has the authority to require vendors to adhere to local regulatory standards for conduct and entertainment at the licensed premises, permits the John and Mable Ringling Museum of Art Board of Trustees to obtain a special alcoholic beverage

*Prepared by Senate Commerce Committee

license and creates certain exemptions relating to malt beverage vendor licenses.

Legislation relating to cable television, gambling, and the sale of cigarettes was also enacted.

Alcoholic Beverages

COMMITTEE SUBSTITUTE FOR SENATE BILL 201 (CHAPTER 87-52) changes the accentuation of the affirmation statute, Section 565.15, F.S., from prospective to retrospective. Pursuant to the act, a distiller must affirm each month that the net prices charged in Florida during the previous month were no higher than those charged elsewhere. The legislation also includes a provision restricting intrastate price discrimination between state distributors.

The measure provides an exemption to Section 565.045, F.S., which limits the type of nonalcoholic beverage products a beverage licensee may sell. The exemption only applies to a vendor who has been issued, pursuant to local law, a special alcoholic beverage license for an entertainment or lodging complex which is part of an international tourist attraction and which fulfills certain other requirements described in the act.

SENATE BILL 232 (CHAPTER 87-365) specifies that the beverage law does not prohibit a local government from enacting ordinances regulating "the type of entertainment and conduct" at establishments licensed by the state for the sale and on-premises consumption of alcoholic beverages.

The measure clarifies that a city or county has the authority to require vendors, who are subject to local zoning ordinances, to adhere to local regulatory standards for conduct and entertainment at the licensed premises. Any licensee operating within a city or county would be required to comply with these local standards.

The act has an effective date of October 1, 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILL 628 (CHAPTER 87-348) amends Section 565.02, F.S., of the state beverage law to authorize the John and Mable Ringling Museum of Art Board of Trustees to obtain a special license for an annual license fee of \$400. The license permits the sale of alcoholic beverages for on-premises consumption in conjunction with certain artistic, educational, cultural, civil, or charitable events.

Malt Beverage Licensing and Regulation

COMMITTEE SUBSTITUTE FOR SENATE BILL 1218 (CHAPTER 87-63) creates another exception to the prohibition against manufacturers and distributors also being licensed as vendors. The exception would allow a licensed vendor to be licensed as a manufacturer of malt beverages provided the following requirements are met as determined by the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation:

- 1) The vendor/manufacturer will be engaged in brewing malt at a single location and in an amount which will not exceed 10,000 kegs annually;

- 2) The malt beverage so brewed will be sold for consumption only on the premises of the vendor/manufacturer or on contiguous licensed premises owned by the vendor;
- 3) The vendor/manufacturer will comply with the manufacturer reporting requirements set out in Section 561.50, F.S., and Section 561.55, F.S., as well as pay the applicable excise taxes on the malted beverage; and
- 4) The vendor/manufacturer shall pay an annual \$500 license tax.

The act also prohibits other manufacturers and distributors from discouraging or prohibiting the vendor/manufacturer from selling his own malted beverage on the premises.

In addition, this enactment declares unfair methods of competition and unfair or deceptive practices in the conduct of manufacturing, importing, distribution, sale, wholesaling and packaging to be unlawful. Prohibited practices are listed and terms for lawful termination of franchise agreements are also set out. Finally, the law provides for indemnification of the distributor by the manufacturer when the claim in question concerns the manufacture or packaging of beer.

Cable Television

COMMITTEE SUBSTITUTE FOR SENATE BILL 941 (CHAPTER 87-62)
defines cable service, cable system, franchise, franchising

authority and video programming. This act prohibits a municipality or a county from granting a franchise for cable service to a cable system within its jurisdiction without first considering, at a public hearing, certain criteria. In addition, the circumstances under which municipalities and counties are prohibited from granting overlapping cable service franchises are set out as is the exception to this prohibition. All cable service franchises in existence as of the effective date of the act would remain in effect.

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

COMMITTEE SUBSTITUTE FOR HOUSE BILL 972 (CHAPTER 87-266) requires platted utility easements to provide for the construction, installation, maintenance and operation of cable television services. However, such construction, installation, maintenance and operation of cable television services cannot interfere with the facilities and services of an electric, telephone, gas or other public utility. Further, the cable television company would be liable for any damages incurred by any such public utility.

The measure also provides that it is unlawful to use the right-of-way of any state-maintained road for cable service purposes unless the cable system using the right-of-way holds a franchise from the municipality or county for the area in which the right-of-way is located.

An electric utility is prohibited from giving a preference or advantage to any person as an inducement to take cable services from a cable system if that cable system is

affiliated with the electric utility and is providing video programming within that electric utility's service area. An electric utility is also prohibited from treating an affiliated cable system more favorably than a nonaffiliated cable system when the two cable systems are operating within any part of the utility's service area.

This act is effective October 1, 1987.

Gambling

COMMITTEE SUBSTITUTE FOR HOUSE BILL 274 (CHAPTER 87-255) prohibits the person who announces the numbers in a bingo game (the caller) from being a participant in the same bingo game. The act also allows persons conducting the game, other than the caller, to participate in the game. In addition, the enactment requires the caller to cancel the game if certain mechanical malfunctions occur in the bingo equipment.

This law also exempts vessels of foreign registry from the provisions of Section 849.05, F.S., and Section 849.231, F.S., which prohibits the possession of gambling equipment. Vessels of foreign registry or vessels operated under the authority of a country other than the United States which have gambling equipment on board may now dock or transit within the territorial waters of Florida without being in violation of Florida law.

Lottery

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1247 (CHAPTER 87-65) implements the constitutional amendment which authorized the state to operate lotteries.

The state's lottery games are to be conducted by a newly created Department of Lottery. This Department is to operate as much as possible like an entrepreneurial enterprise. The Department is to be headed by a Secretary appointed by the Governor and confirmed by the Senate. Duties of the Secretary include the creation of any divisions, bureaus, and sections which are needed to operate the lottery and the allocation of departmental functions among them. A Division of Security, however, is specifically created pursuant to the act. Tallahassee is designated as the location for the Department's headquarters.

A State Lottery Commission composed of five members appointed by the Governor is created. The duty of the Commission is to serve as a resource for the lottery department and to provide the Secretary with private-sector perspectives on operating a large marketing enterprise.

The Department is required to initiate the sale of lottery tickets with instant games by January 15, 1988, and to commence operation of on-line games no later than May 1, 1988. Broad discretion is given to the Department in matters involving the operation of lottery games, including the selection of games, determination of winners, price of tickets, amounts of prizes, number and type of locations where tickets

can be purchased, and the manner and amount of compensation for retailers. Certain prohibitions regarding lottery games are provided.

Certain confidential matters regarding the lottery are exempt from Chapter 119, F.S., the "public records law."

The Department is authorized to perform certain functions, such as purchasing, ordinarily performed by the Department of General Services. If the Department's effectiveness would be impaired or impeded by using certain required statutory procedures, then the Department may adopt rules providing for alternative procurement procedures.

All employees of the Department are exempt from Chapter 110, F.S., relating to the Career Service System. The Department must establish its own personnel system. All employees serve at the pleasure of the Secretary.

The Department of Law Enforcement is to perform full criminal background investigations of employees and applicants at the level of Secretary, division director, bureau chief or at any level within the Division of Security. The Division must conduct background investigations of lottery vendors, retailers, employees and applicants for employment as necessary with the assistance of the Department of Law Enforcement.

The Department is required to select businesses to sell lottery tickets which meet certain standards that best serve the public interest. However, there would be no limit on the number of retailers. Every effort must be made to allow small business participation. Fifteen percent of the total number of

all retailers and vendors must be minority enterprises; however, no more than 35 percent of such businesses may be of the same type of minority. The manner of payment of prizes is specified in the act. Retailers may pay claims of prizes up to \$599 on their premises.

The act creates an Administrative Trust Fund to be administered by the Department. The Fund consists of all proceeds from the sale of lottery tickets and any other funds from a lottery-related source. The Department may disburse money to pay prizes and cover administrative expenses.

At least 50 percent of the revenues from ticket sales must be returned to the public as prizes, and at least 35 percent must be placed in a trust fund to be appropriated each year for education.

Activities of the Department are subject to an annual audit by an independent auditor selected by the Legislative Auditing Committee. Additionally, the Auditor General may audit any phase of lottery operations and the Department must file monthly and annual reports.

Pari-mutuel Wagering

COMMITTEE SUBSTITUTE FOR HOUSE BILL 109 (CHAPTER 87-51) allows the Florida Standardbred Breeders and Owners Association to use certain funds it receives for the general promotion of owning and breeding Florida-bred standardbred horses. This act further allows the Florida Quarter Horse Breeders and Owners Association to receive and use certain funds from quarter horse

racing permitholders for purses, prizes and the general promotion of owning and breeding racing quarter horses in Florida. In order for an owner or breeder to be eligible to receive an award, the winning horse must have been registered with the Florida Quarter Horse Breeders and Owners Association as a Florida-bred horse. The Association is allowed to charge a reasonable fee to quarter horse owners and breeders for this registration and verification. Certain powers of the Department of Agriculture and Consumer Services concerning quarter horses are deleted as are provisions relating to fraudulent acts and misrepresentations and those authorizing fees.

COMMITTEE SUBSTITUTE FOR SENATE BILLS 468, 549, & 648 (CHAPTER 87-406) creates a special thoroughbred race meet to be designated the "Breeders' Cup Meet." Such a meet would consist of 3 days. The act provides that no other thoroughbred permitholder within 35 miles may operate during the 3-day Breeders' Cup Meet. As a result, the affected permitholder would receive as compensation for the loss of such racing days a credit, not to exceed \$500,000, against the pari-mutuel taxes otherwise due and payable.

The measure further provides that the Breeders' Cup Meet permitholder would receive a credit against the pari-mutuel taxes otherwise due and payable generated during the next ensuing regular thoroughbred racing meet in an amount not to exceed \$800,000 to be used to supplement purses during the Breeders' Cup Meet. The Breeders' Cup Meet permitholder would

also receive a credit against its pari-mutuel taxes in an amount not exceeding \$800,000 for use by such permitholder for capital improvements and necessary extraordinary expenses associated with the operation of the Breeders' Cup Meet.

This law exempts the permitholder licensed to conduct the Breeders' Cup Meet from the tax on handle generated during that meet. Minors would be able to attend the Breeders' Cup Meet under certain circumstances.

The measure provides for the first \$200,000 in annual increased occupational license fees collected from racetrack employees to be deposited in the Pari-mutuel Wagering Trust Fund to be used to defray the cost of testing such licensees for controlled substances. Such tests are required by the act which also establishes penalties for violations. Test results or actions taken by stewards, judges or board of judges or the Division of Pari-mutuel Wagering may not be used in criminal prosecutions.

An appropriation of \$200,000 is provided to the Pari-mutuel Wagering Trust Fund and the creation of one position in the Division is authorized for implementation of the law.

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

COMMITTEE SUBSTITUTE FOR SENATE BILL 837 (CHAPTER 87-38) authorizes the Florida Pari-mutuel Commission to provide recommendations to the Legislature for additional operating days on an annual basis. This act provides the following standards which the Commission must consider:

- 1) The impact of the requested additional days on the handle, attendance and income of permitholders within a 50-mile radius of the requesting permitholder;
- 2) The similarities and dissimilarities of competing permitholders within a 50-mile radius of the requesting permitholder;
- 3) The impact of the requested additional days on state revenues generated by the pari-mutuel industry; and
- 4) The impact on the Division as it relates to the Division's operating budget and manpower resources.

A permitholder requesting additional operating days must submit an application for such days by October 15 of each year. The application must contain specified information.

The Division of Pari-mutuel Wagering, Department of Business Regulation, is required to make recommendations to the Commission regarding such days. The act allows the Division to contract with accountants, economists, attorneys and other persons in order to determine the required economic and fiscal impacts of the requested additional days.

Each permitholder requesting additional operating days must also submit an annual application fee. The Division is authorized to charge the permitholder for any anticipated costs incurred by the Division.

The Commission is required to make final recommendations to the Legislature on each request for additional operating days by February 15 of each year.

The act also provides for additional operating days for certain pari-mutuel permitholders.

The tax exempt portion of handle for certain smaller dogracing and jai alai permitholders is increased. Also, the \$500,000 tax exempt portion of handle for certain thoroughbred permitholders is retained.

This measure provides for an additional tax on handle for the additional operating days which are specifically authorized. This tax is in lieu of the current tax and is repealed on July 1, 1989.

The Division is authorized to issue a permit in Marion County for a simulcasting facility.

Uniform Sales of Cigarettes

COMMITTEE SUBSTITUTE FOR SENATE BILL 1072 (CHAPTER 87-353) creates the Cigarette Industry and Tax Study Commission. The Commission will consist of seven members who shall receive per diem and expenses only. The Speaker of the House and the President of the Senate shall each appoint three members. The Secretary of the Department of Business Regulation or his designee shall be the seventh member. The Commission will study and prepare a report to the Legislature on the marketing and sales practices within the cigarette industry and the Laws of Florida which relate to taxation of cigarettes. The purpose of the study is to recommend legislation deemed necessary or appropriate to prevent tax evasion, safeguard revenues and promote fairness in the administration of cigarette taxes. The

Commission's final report to the Legislature is due not later than March 1, 1988. The Commission is assigned to the Joint Legislative Management Committee which has been allocated \$50,000 from general revenue to fund the Commission.

The act takes effect October 1, 1987.

COMMERCE*

Laws enacted by the 1987 Legislature in the area of commerce dealt with financial institutions, mortgages and mortgage brokers, sales regulation, unemployment compensation, workers' compensation, corporate regulation, as well as a variety of other issues.

More specifically, laws enacted relating to financial institutions include: increasing certain banking assessments, including the filing fees for license applications; enhancing investigation procedures by providing for the release of currency transaction reports upon the issuance of a court order or subpoena by the statewide prosecutor, a state attorney, or a U.S. Attorney; and authorizing state banks to offer stock options to their directors.

A major piece of legislation relating to mortgages included provisions designed to decrease fraud in home improvement financing and in other retail installment sales. This legislation basically increases the investigative and enforcement authority of the Department of Banking and Finance as well as enhances disclosure of information to consumers.

*Prepared by Senate Commerce Committee

In sales regulation, legislation designed to regulate credit service organizations was enacted. This regulatory plan defines credit service organizations, requires the completion of services to be performed by such organizations prior to charging or receiving payments for services, and requires certain information to be maintained by the credit service organization for a specified period of time. In addition, any credit service organization which makes a misleading representation or omits a material fact in the offer or sale of services is subject to prosecution.

In the area of unemployment compensation, the authorization to pay unemployment compensation to certain agricultural workers is extended, the exemption for certain alien agricultural workers from unemployment coverage is extended until January 1, 1993, and, the maximum weekly benefit amount for unemployment compensation is increased from \$175 to \$200. Additionally, various provisions of Chapter 440, F.S., relating to the Workers' Compensation Law are amended.

Significant legislation relating to corporate regulation was also enacted during the 1987 Regular Session designed to correct abuses in the corporate takeover process. Additionally, many technical and procedural changes are made to Chapter 607, F.S., to enhance effective administration of the statutory provisions.

Other commercial areas addressed by the 1987 Legislature include: amending Florida's "Right to Know" law; providing that third-party coverage for vocational rehabilitation and

related services is primary coverage; increasing regulation of residential telephone solicitation; and reorganizing and enhancing regulation of existing statutory provisions relating to the Uniform Disposition of Unclaimed Property Act.

Asbestos Management Program

COMMITTEE SUBSTITUTE FOR SENATE BILL 986 (CHAPTER 87-394) creates within the Department of Labor and Employment Security (DLES) an asbestos management program which will serve to effect the removal or containment of asbestos in buildings owned by state agencies.

This act requires all public buildings be surveyed by a licensed consultant for the presence of asbestos. It also requires initiating an operation and maintenance program (O&M) for all buildings found to contain asbestos and mandates asbestos abatement in certain instances. DLES will prioritize asbestos abatement projects and an initial \$500,000 is appropriated to the Department to initiate abatement for priority projects. The measure requires that all surveys and all O&M plans be developed by licensed consultants and all abatement work be performed by a licensed contractor, or his trained employee or an agency employee trained according to specific requirements in the act. The Department of Professional Regulation is designated as the licensing authority.

The act provides \$515,979 and 11 positions to DLES for directing the asbestos management program. An additional

\$500,000 is appropriated for allocation by DLES to state agencies to defray the cost of building survey contracts or O&M plan contracts.

A six-member Asbestos Oversight Program Team is created to be responsible for asbestos policy development, regulatory review, asbestos training course approval and coordination with regional asbestos project managers and building contract persons on policy and procedures.

The act takes effect October 1, 1987.

Bakery Containers

HOUSE BILL 369 (CHAPTER 87-80) reenacts Section 506.518, F.S., which provides for container theft penalties, creates Section 506.507, F.S., authorizing the use of names or marks on bakery containers and amends the remaining provisions of the "Carts, Cases, Baskets and Boxes Act" to include bakery containers in the list of containers which may be registered by their owners. [This will provide the owners of bakery containers with the same deterrent to theft which is enjoyed by registered owners of other types of containers under the current law.]

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

Cable Television

HOUSE BILL 1111 (CHAPTER 87-215) prohibits any owner or operator of any cable television service from providing on any basic cable channel during a promotional "free weekend" obscene programming or programming otherwise unprotected by the U.S.

Constitution. Any person violating this prohibition would be guilty of a first-degree misdemeanor punishable by a fine of up to \$2,000. This prohibition does not apply if the owner or operator of the cable television service gives at least 30 days notice of such programming and provides the capability to "lock out" such programming upon request at no cost to the basic cable channel subscriber.

The enactment is effective October 1, 1987.

Corporate Regulation

HOUSE BILL 207 (CHAPTER 87-41) amends Section 621.12, F.S., part of the Professional Service Corporation Act, to permit, rather than require, that the corporate name include the last names of some or all of the shareholders.

The act takes effect October 1, 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILL 145 (CHAPTER 87-99) contains revisions to Chapter 607, F.S., the laws in Florida governing general corporations. The revisions are primarily technical and procedural changes recommended by the Division of Corporations, Department of State, to permit the Division to more effectively administer the provisions of the law. Certain fees would also be increased and taxes on foreign and domestic capitalization would be repealed.

The act amends Section 607.024, F.S., which contains requirements for the corporate name. A standard of name distinguishability from all others on file with the Division is

adopted. The same requirement is established for foreign corporations under revised Section 607.031, F.S.

Section 607.027, F.S., is revised to allow a name to be reserved for 60 rather than 120 days and to make such a reservation nonrenewable.

In Section 658.19, F.S., the requirement that application for authority to organize a banking corporation or trust company must include evidence of reservation of the proposed name with the Department of State is deleted.

Likewise, the requirement under Section 663.306, F.S., 1986 Supplement, that in order to approve an application to organize an international development bank, it must be shown that the proposed corporate name reserved with the Department is eliminated.

The act amends Section 607.271, F.S., to provide for involuntary dissolution for failure to respond to interrogatories issued by the Department.

This act repeals Section 607.314, F.S., allowing for a change of name by a foreign corporation and incorporates the provision for adoption of a fictitious name, in Section 607.311, F.S.

Section 607.317, F.S., which provides that a foreign corporation wishing to transact business in this state must file an application with the Department and a copy of its articles of incorporation and any amendments is amended to require, instead of a complete copy of the articles, a

certificate of good standing issued by an authorized officer of the jurisdiction of its incorporation.

Sections 607.331 and 607.334, F.S., which require foreign corporations to file new articles of incorporation when they are amended and a copy of the articles of merger when the foreign corporation authorized to transact business in this state is the surviving corporation, are repealed by the act.

Section 607.337, F.S., is amended, to change the required information needed in the filing of an amendment to a foreign corporation's authorization to do business.

Section 607.357, F.S., is amended to permit any officer or director of a corporation to sign the annual report.

The act amends Section 607.361, F.S., increasing and standardizing fees. While most fees would be increased minimal amounts, such as the filing fee being increased from \$15 to \$20, the fee to file a reinstatement of articles of incorporation is increased from \$15 to \$100 and filing for registered agent would increase from \$3 to \$20 or \$50, depending on the filing action.

The act repeals Sections 607.364 and 607.367, F.S., which provide a tax on foreign and domestic capitalization.

The act amends Section 607.371, F.S., to provide for the issuing of interrogatories to any corporation by the Department of State which must be answered within 30 days. Additionally, the enactment provides that no related document need be filed by the Department until such interrogatories are answered and

provides that the Department shall certify to the Department of Legal Affairs any responses which disclose a violation of law.

Section 607.311, F.S., is amended, providing for the application of the distinguishable name standard in the evaluation of a foreign corporate name used in filing an application for authority to conduct business. Provision is made for the use of an alternative name when a name conflict does exist.

A new Section 607.219, F.S., is created for permitting the conversion of a profit corporation to a professional service corporation when it complies with all the requirements of Chapter 621, F.S., which regulates professional service corporations.

A new provision is created making it a second-degree misdemeanor to falsify information filed with the Department of State.

Other provisions of this law are summarized in the FINANCE AND TAXATION article.

HOUSE BILL 358 (CHAPTER 87-257) is designed to correct abuses in the corporate takeover process.

Section 607.108, F.S., is created which provides that "affiliated transactions" between a Florida corporation with more than 300 shareholders and an interested shareholder (tender offeror) must be approved by a two-thirds vote of the "voting shares" of the corporation, not including the beneficially owned shares of the interested shareholder. Such a vote would not be required if: the corporation has not had

more than 300 shareholders of record at any time during the 3 years preceding the announcement date of the affiliated transaction; the interested shareholder has acquired 90 percent of the voting shares, or has held 80 percent of the voting shares for at least 5 years; the affiliated transaction is approved by a majority of disinterested directors; the corporation is an investment company registered under the Investment Company Act of 1940; or the price received by each shareholder is at least equal to the highest price paid by the interested shareholder for its shares including any premium over market value.

Section 607.109, F.S., is created to provide procedures for "control share acquisitions." The section provides that an entity acquiring "control shares" of a corporation, defined as shares that would bring its voting power in the corporation to or above any of three thresholds, 20 percent, 33 1/3 percent, or a majority or more, would not necessarily acquire voting rights in the corporation. Rather, it would gain those rights only to the extent granted by a resolution approved by the shareholders of the issuing public corporation. The person or entity who acquires the control shares may require the corporation to hold a special shareholder meeting within 50 days for the purpose of voting on the control share acquisition if it files an acquiring person statement, requests the meeting, and agrees to pay the expenses of the meeting.

Section 607.110, F.S., is created, which provides for the application of Sections 607.108 and 607.109, F.S., to

certain foreign corporations except that if the laws of any jurisdiction under the laws of which a foreign corporation is organized contain provisions that are expressly inconsistent with the provisions of the section applicable to foreign corporations, the provisions of Section 607.110, F.S., will be inapplicable to such foreign corporation to the extent necessary to resolve such inconsistency.

Sections 607.244 and 607.247, F.S., are amended to provide shareholders' rights to dissent to control share acquisitions.

Covenants Not to Compete

HOUSE BILL 206 (CHAPTER 87-40) provides an additional exception to Section 542.33, F.S., which generally renders contracts in restraint of trade void. The act amends Paragraph (a) of Subsection (2) of Section 542.33, F.S., to allow independent contractors, as well as employees and agents, to agree to refrain from competing with an employer or soliciting old customers of the employer within a reasonably limited time and area, for as long as the employer continues to carry on a like business.

Discrimination

SENATE BILL 585 (CHAPTER 87-381) tracks the language currently existing in federal law which prohibits discrimination against an employee regarding the seeking of employment or the retention of employment, promotion, or other

employment advantages because of any obligation the employee has as a member of a reserve component of the Armed Forces.

The measure takes effect October 1, 1987.

Financial Institutions

HOUSE BILL 646 (CHAPTER 87-191) addresses banking assessments. Section 1 of the act makes a technical change with respect to state credit union assessments to conform this provision to those applicable to banks and savings and loans institutions. Instead of an annual fee payable in semiannual installments, credit unions will pay a semiannual assessment based on total assets at the end of each semiannual period. There would be no change in the assessment rate schedule.

The remainder of the legislation increases the filing fees for license applications. A selective listing of the various fee increases is as follows:

- 1) De novo bank or savings and loans charter: from \$5,000 to \$10,000,
- 2) Branch office application: from \$1,000 to \$1,500,
- 3) Change of control of a savings association: from \$2,000 to \$5,000,
- 4) Conversion from federal to state charter: asset based fee up to \$5,000, and
- 5) Merger: from \$2,500 to \$5,000.

The act has an effective date of October 1, 1987.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 656 (CHAPTER 87-192) mandates the release of currency transaction reports (CTRs)

upon court order or a subpoena issued by the statewide prosecutor, a state attorney, or a U.S. attorney. Pursuant to this legislation, CTRs would also be released by subpoena to a court in a criminal case, a state or federal grand jury, or the Attorney General's office. Finally, the act would allow access to CTRs by a court in a civil or Racketeer Influenced and Corrupt Organization (RICO) case, but only when the action was instituted by state or federal authorities.

The act is effective October 1, 1987.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1144 (CHAPTER 87-216) authorizes state banks to offer stock options to their directors. Additionally, it allows warrants to be issued to bank directors, officers and employees. The maximum amount which a bank may hold for this purpose can not exceed 20 percent of the bank's outstanding issued shares which by definition does not include treasury stock shares.

For a nonpublicly traded stock, the exercise price of the warrant or option would be the greater of the book or par value of the shares. However, for a publicly traded stock, the exercise price for the option or warrant would be the greater of book, par or fair market value.

Home Solicitation Sales

COMMITTEE SUBSTITUTE FOR SENATE BILL 55 (CHAPTER 87-344) amends Chapter 501, F.S., to add additional exceptions to the permit requirement for persons engaged in home solicitation sales. This act excludes sales made by licensed motor vehicle

dealers occurring at a location or facility open to the general public or a designated group.

In addition, solicitors, salesmen or agents acting on behalf of a religious, charitable or similar organization which holds a sales tax exemption certificate are also excluded from the permit requirement by this act. This legislation also redefines the grounds for which home solicitation permits may be revoked.

Finally, the measure provides that persons or entities, which are aggrieved by any decision of a clerk of circuit court acting pursuant to certain sections of Chapter 501, F.S., will have the option of seeking judicial review.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 776 (CHAPTER 87-91) attempts to overcome fraud in home improvement financing and in other retail installment sales. The act revises Chapter 520, F.S., to increase the investigative and enforcement authority of the Department of Banking and Finance. The enactment also requires disclosure to consumers before home improvement contractors may place mortgages on homes. In addition, the legislation replaces annual licenses with biennial licenses.

The measure also includes language to protect bona fide purchasers on valid home improvement mortgages and other "commercial paper."

Lastly, current law - requiring actual knowledge by management before it can be disciplined for the misconduct of its employees - was preserved regarding the licensing of retail installment sellers of motor vehicles.

The act takes effect October 1, 1987.

Mortgages and Mortgage Brokers

SENATE BILL 939 (CHAPTER 87-351) allows an obligee, who accelerates the maturity date of the principal and interest of a note secured by a mortgage, to collect a fee or penalty provided that:

- 1) The change is directly related to the obligee's damages resulting from the acceleration,
- 2) The acceleration is not caused by economic circumstances beyond the control of the maker, and
- 3) The penalty is not contained in a promissory note secured by a mortgage encumbering real property or a leasehold improved by four residential units or less.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1153 (CHAPTER 87-217) relates to instruments deemed to be mortgages. The act creates Section 697.07, F.S., which authorizes any mortgage contract to contain an assignment of rents clause. When such an assignment is made it becomes absolute upon default of the mortgagor. The assignment becomes operative upon the written demand of the mortgagee.

Additionally, the legislation provides that upon application by a mortgagee, a court of competent jurisdiction may require the mortgagor to deposit such rents in the registry of the court. The court will hold such deposits until an adjudication is made as to the mortgagee's right to the rents.

Any payments from such rents are required to be made solely to protect the mortgaged property or to meet the mortgagor's lawful obligations pertaining to the mortgaged property. Also pursuant to the measure, all undisbursed funds shall be distributed according to the final judgment or decree of the court.

The act amends Section 702.01, F.S., to require all mortgage foreclosures to be in equity. It also requires the court to sever, for a separate nonjury trial, all counterclaims against the foreclosing mortgagee.

Finally, the law also amends Section 201.022, F.S., to require the grantor or grantee or grantee's agent to execute and file a return with the circuit court before a deed transferring an interest in real property may be recorded.

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

Motor Fuel Marketing

COMMITTEE SUBSTITUTE FOR HOUSE BILL 198 (CHAPTER 87-158) applies the provisions of the Motor Fuel Marketing Practices Act to nonrefiners as well as refiners. A "nonrefiner" is defined as a retailer, jobber, multistate marketer, chain dealer, or a dealer engaged in the sale of motor fuel.

The act defines "refiner cost" and makes it unlawful for a nonrefiner to engage in commerce in this state to sell any grade or quality of motor fuel at a retail outlet below cost. However, it is not a violation to sell below cost if it is an isolated or inadvertent incident or if such a sale is done in

good faith to meet the retail price of a competitor selling motor fuel in the same relevant geographic area.

The penalties for violations of the Motor Fuel Practices Act are increased from \$1,000 per violation to \$5,000 per violation. The total aggregate amount is increased from \$50,000 to \$100,000.

Refiners are required to afford the Department of Agriculture and Consumer Services reasonable access to the refiners' posted terminal price.

Real Estate Time-Sharing

COMMITTEE SUBSTITUTE FOR SENATE BILL 1269 (CHAPTER 87-343) amends several provisions in Chapter 721, F.S., the Florida Real Estate Time-Sharing Act. Section 721.08, F.S., is amended to specify that an escrow agent owes a fiduciary duty to each purchaser to maintain escrow accounts according to sound accounting principles and to release deposits only in accordance with provisions of the chapter.

Section 721.11, F.S., is amended to specify that advertising materials must be filed with the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation, 10 days prior to use including prize and gift promotional offers as described in Section 721.111, F.S. The Division Director is authorized to accept certain assurances from the developer.

Section 721.111, F.S., is amended to require the filing of prize and gift promotional offers pursuant to the new provisions of Subsection 721.11(1), F.S.

Section 721.13, F.S., is revised to require the managing entity of a time-share plan to maintain, update on a quarterly basis, and provide to the Division upon request a complete list of the names and addresses of all purchasers and owners of time-share units in the time-share plan.

Section 721.15, F.S., is amended to provide that a purchase of a time-share estate or license is liable for all assessments for common expenses that come due while he is the owner. A subsequent owner is jointly and severally liable with his predecessor for all assessments which come due while the predecessor owned the interest.

Section 721.20, F.S., exempts certain purchasers from licensure under Chapter 475, F.S., or the annual occupational licensure by the Division.

The act also provides for the certification and regulation of "community association managers" by the Department with the assistance of an Advisory Council on Community Association Managers.

Sale of Fireworks

COMMITTEE SUBSTITUTE FOR SENATE BILL 413 (CHAPTER 87-118) requires approval by the Division of State Fire Marshal of the Department of Insurance of sparklers sold in the state. Approved sparklers are those that meet the definition of

sparkler contained in Chapter 791, F.S. Sparklers are approved by the Division on an annual basis. A list of approved sparkler products which states the dates between which the products may be sold must be published in the Florida Administrative Weekly and made available to the general public.

Testing of samples of sparklers by the Division is required to determine approval. Chemical composition testing must be that performed by the Bureau of Explosives of the Association of American Railroads under authority of the United States Department of Transportation, or by the Bureau of Mines of the United States Department of the Interior pursuant to Title 49, Code of Federal Regulation. A product may not be listed as approved by the Division unless the product has been submitted with the corresponding Bureau of Explosives or Bureau of Mines chemical laboratory report and a United States Department of Transportation letter of approval with an "EX" number. Beginning February 1, 1988, only those sparklers approved by the Division may be sold in the state. Penalties for a misdemeanor of the first degree are provided for altering an approved sparkler and subsequently selling it, and for fraudulently representing that a sparkler has been approved by the Division when it is not so approved.

Annual registration with the Division is required for any manufacturer, distributor, wholesaler, retailer, or seasonal retailer of sparklers in order to do business in the state or to sell, ship, or assign for sale its products in the state. Any retailer who sells sparklers at more than one

retail location may submit one registration form for all its locations together with the address of each location. Approved sparklers or other products authorized for sale by Chapter 791, F.S., may not be sold by a retailer or seasonal retailer unless the product was obtained from a manufacturer, distributor, or wholesaler registered with the Division. Each retailer and seasonal retailer is required to keep, at every location where sparklers are sold, a copy of the invoice or other evidence of purchase from the registered manufacturer, wholesaler, or distributor, and each seasonal retailer is required to exhibit a copy of his registration certificate at each seasonal retail location. Registered manufacturers, distributors, or wholesalers are not prohibited from selling fireworks as defined in Chapter 791, F.S., nor the sale of any fireworks between themselves at wholesale or as long as they are shipped directly out of state by such manufacturer, distributor, or wholesaler.

An annual registration fee set by the Division not to exceed \$1,000 is required of every sparkler manufacturer, distributor, or wholesaler. Each seasonal retailer must pay an annual registration fee not to exceed \$100, and each retailer who is not a seasonal retailer, an annual fee not to exceed \$10 for each registration form submitted. Fees are deposited in the Insurance Commissioner's Regulatory Trust Fund for implementation of the chapter's registration and testing provisions.

The term "fireworks" is revised to exclude certain enumerated novelties and trick noisemakers.

Uniform application of Chapter 791, F.S., throughout the state is required. Enforcement of Chapter 791, F.S., remains with local law enforcement departments and officials.

Sales Regulation

HOUSE BILL 448 (CHAPTER 87-43) prohibits credit card surcharges where the cost of purchasing by credit cards would be greater than the amount charged if paid by cash.

The act defines "surcharge" as any additional amount which increases the cost of the purchase for the privilege of using a credit card to make payment. The legislation specifies that an approved state or federal tariff will not be considered a surcharge for purposes of the act. It also specifies that a "credit card" includes those cards for which unpaid balances are payable upon demand.

In addition, the measure specifies that the prohibition will not apply to discount offers for the purpose of inducing payment by cash. However, the discount must be offered to all prospective customers.

Finally, the act specifies a penalty of a second-degree misdemeanor for violations.

The effective date of the law is October 1, 1987.

HOUSE BILL 809 (CHAPTER 87-204) creates Part III of Chapter 817, F.S., to regulate credit service organizations which it defines as any person who sells, provides or performs

services that can improve a buyer's credit history, can obtain an extension of credit for the buyer, or can provide any assistance to a buyer in achieving these two goals. The definition specifically does not include: any person already subject to regulation; any bank, savings bank, savings and loan association, or credit union; any nonprofit organization exempt from taxation; any licensed real estate broker, attorney, or securities dealer; any person collecting consumer claims; or any consumer reporting agency.

The act requires complete performance of services by the credit service organization prior to charging or receiving any money unless the organization has obtained a surety bond of \$10,000 and has established a trust account. In addition, any charging or receiving of money or other valuable consideration solely for referral of the buyer to a retail seller is prohibited. Counseling any buyer to make a statement that is false or misleading to a consumer reporting agency or to any person extending credit to a buyer, or to whom a buyer is applying for an extension of credit, is also prohibited. Any credit service organization which makes any misleading representation or omits any material fact in the offer or sale of the services is subject to prosecution.

The legislation also requires a statement in writing containing certain information which must be maintained by the credit service organization for a period of 5 years. Provisions of the contract between the buyer and the credit service organization include: a cancellation right by the

buyer, the terms and conditions of payment, description of services to be performed, and the organization's principal business address. The buyer is not permitted to waive any right and any person who violates this part is guilty of a felony of the third degree.

The act takes effect October 1, 1987.

Securities and Investor Protection

SENATE BILL 529 (CHAPTER 87-316) amends Chapters 48, 199 and 517, F.S., relating to securities and intangible taxation.

The act designates the Comptroller as the agent for service of process purposes. The Comptroller acts in this capacity for any registered dealer, investment advisor, or associated person registered with the Department of Banking and Finance concerning a violation of Chapter 517, F.S. The measure excludes from the definition of a dealer any person who exclusively buys and sells, through a registered dealer, for his own account.

The law requires notification by an offering circular containing full and fair disclosure, as prescribed by Department rule, whenever the issuer or guarantor has been in default any time after December 31, 1975. The act also provides definitions for the terms "guarantor" and "guaranty."

The act also authorizes the use of Section 517.082, F.S., to register securities which were sold pursuant to registration filed under the Investment Company Act of 1940. The legislation would prohibit the use of Section 517.082,

F.S., for the registration of penny stocks (stocks valued at \$5 or less per share) except when such stocks are mutual funds or certain registered investment securities.

The law further amends Section 517.082, F.S., resulting in the deletion of the "reportable act" provision. Thus, the act permits the registration of securities issued or underwritten by persons who have committed reportable acts. Previously, reportable acts required disclosure to the Department by the registrant/applicant.

The enactment authorizes the Department to deny a pending registration under Section 517.12, F.S., and to revoke or suspend any existing registration under the following new conditions:

- 1) When the applicant or registrant has been declared bankrupt or had a trustee appointed under the Securities Investor Protection Act; or
- 2) When the applicant or registrant has entered a plea of guilty or nolo contendere to a crime which relates to registration or an application for registration.

The measure also excludes units of an investment trust, registered under the Investment Company Act of 1940 whose portfolio of assets consists solely of assets exempt pursuant to Section 199.185, F.S., from annual and nonrecurring taxes imposed by Chapter 199, F.S.

Toxic Substances/Regulation

COMMITTEE SUBSTITUTE FOR HOUSE BILL 802 (CHAPTER 87-202) amends Florida's "Right to Know" law (Chapter 442, F.S.), which requires employers to provide employees with safety training and health-risk information when the employee is exposed to toxic substances at the workplace. This act: expands the definition "health professional" to include occupational health nurses, extends certain provisions of the law to businesses which only store toxic substances, includes a new source document from which the Florida Toxic Substance List could be drawn, exempts certain types of businesses from most provisions of the law, provides fire departments with enforcement power under the Right to Know law; gives the Department of Labor and Employment Security authority to produce a standard form for employers to use when reporting toxic substances present at the workplace to local fire departments, and restricts the usage of toxic substances in the construction, repair, or maintenance of educational facilities.

Trademarks and Service Marks

HOUSE BILL 781 (CHAPTER 87-265) amends provisions in Chapter 495, F.S., providing for the registration of trademarks and service marks with the Department of State. Filing fees for filing an initial application for registration and for assignment of a mark are increased from \$15 to \$50. The classification of goods and services list in Section 495.111, F.S., is revised to reflect the one currently used by the U.S.

Patent and Trademark Office. The period of continuous use of a mark that is required for the mark to be registered because it has become distinctive is increased from 1 year to 5 years.

The act takes effect October 1, 1987.

Unemployment Compensation

COMMITTEE SUBSTITUTE FOR SENATE BILL 600 (CHAPTER 87-383) amends various provisions of Chapter 443, F.S., Florida's "Unemployment Compensation Law." This act defines "employee leasing company" for purposes of this law as an employing unit, which for a fee places the employees of a client company onto its payroll and leases them to the client company on an ongoing basis as agreed to by the client and the employee leasing company. The employee leasing company must maintain certain records and provide certain information to the Division of Unemployment Compensation, Department of Labor and Employment Security by June 30 and December 31 of each year. The legislation further amends the definition of "employment" in Chapter 443, F.S., to allow the leased employees to be considered employees of the employee leasing company. Such employees are to be reported under the employee leasing company's tax identification number and tax rate for work performed for the employee leasing company. Employee leasing companies are exempted from certain provisions relating to employer unemployment compensation contributions based on benefit experience.

Unemployment compensation coverage is extended to agricultural workers of employers with five or more workers employed for some portion of each day in 20 weeks and employers paid \$10,000 or more during any calendar quarter. Such coverage applies to services performed after December 31, 1987.

The exemption for alien agricultural workers admitted pursuant to Sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act (8 U.S.C. Sections 1101 et seq. (1982)) from unemployment coverage is extended until January 1, 1993. This conforms to the federal law, however, such conformity is not mandated.

An exemption from unemployment coverage is provided for work performed by certain nonimmigrant aliens temporarily in this country for educational or cultural programs.

The maximum weekly benefit amount for unemployment compensation is increased from \$175 to \$200.

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

Uniform Commercial Code

COMMITTEE SUBSTITUTE FOR HOUSE BILL 344 (CHAPTER 87-275) revises Chapter 678, F.S., which deals with the Uniform Commercial Code (UCC) and relates to investment securities; i.e., mutual funds.

The act expands the scope of the chapter by providing guidance in regulating the rights, duties, and obligations of the issuers of, and persons dealing with, uncertificated investment securities. The legislation also revises certain

provisions of Chapter 679, F.S., relating to certificated securities in the areas of transfer by delivery, creditors' rights, and creation, perfection, and termination of security interests.

Thus, Chapters 678 and 679, F.S., are revised to incorporate a distinction between certificated and uncertificated investment securities. This distinction results in the classification of what is generally considered to be an investment security into either certificated or uncertificated investment securities.

The act takes effect October 1, 1987.

HOUSE BILL 357 (CHAPTER 87-256) amends Subsection 679.402(6), F.S., which addresses Article 9 of the Uniform Commercial Code. The added language allows an existing filed financing statement to remain in effect when the collateral is transferred by the debtor, even though the secured party consents or knows of the collateral's transfer.

Vocational Rehabilitation

SENATE BILL 587 (CHAPTER 87-320) provides that third-party coverage for vocational rehabilitation and related services is primary coverage. The Division of Vocational Rehabilitation of the Department of Labor and Employment Security may recover from certain third parties the cost of providing vocational rehabilitation services. The Division is allowed to enforce its subrogation rights and would have a lien for the amount of rehabilitation services furnished. The act

allows the Division to enter into settlements and provides the Division with certain rulemaking authority.

This measure also transfers the powers and duties of the Department of Rehabilitative Services relating to vocational rehabilitation to the Division. [This conforms to the intent as expressed in Chapter 86-220, Laws of Florida, regarding such transfer.]

Workers' Compensation

COMMITTEE SUBSTITUTE FOR SENATE BILL 167 (CHAPTER 87-111) amends Section 440.13, F.S., to authorize the Division of Workers' Compensation, Department of Labor and Employment Security, to fine a workers' compensation insurance carrier \$100 for improperly deauthorizing a health care provider that had been furnished by the employer to treat an injured employee upon a finding by the Division that deauthorization occurred without the agreement of the employer or a determination by a Deputy Commissioner that deauthorization was not in the best interest of the injured employee. [The practical effect of the latter instance would likely be that carriers will seek a Deputy Commissioner's order prior to deauthorization.]

The act also requires a 1 year study of deauthorization complaints by the Division which shall submit its final report to the Speaker of the House, President of the Senate and Minority Party Leader of each house of the Legislature by September 1, 1988. An interim report is due by March 1, 1988.

COMMITTEE SUBSTITUTE FOR SENATE BILL 821 (CHAPTER 87-330) amends various sections of Chapter 440, F.S., Florida's "Workers' Compensation Law." The act amends the definition of "wages" to add specified items including employer-provided insurance. The value of noncash items is to be the actual cost to the employer.

Also, the legislation relates to the provision of medical services. It reemphasizes existing law stating that an employee is not liable for payment for treatment provided under the act. The authority of the Division to contract for peer or utilization review of health care services is broadened to include nonprofit organizations as such reviewers.

The measure provides that an employee receiving an advance payment of permanent total disability benefits will receive the statutory supplemental benefits computed on the reduced compensation rate being paid after the advance. The increased temporary total disability benefits for "catastrophic" loss are amended to limit such benefits to cases where it is anticipated that the loss of use of a limb will be permanent. [This eliminates payment of the enhanced benefits where an employee is suffering only a temporary loss of use.] The Division is required to report to the Legislature on providing greater protection from inflation for wage-loss benefits.

The act increases the maximum compensation for death available for dependents of aliens from \$1,000 to \$50,000.

The enactment deletes the requirement that the Division mail a brochure to an injured employee outlining his rights and requires that a summary of rights be included on his notice of injury. The carrier is given 30 days rather than 10 days after receipt of the report of injury to forward it to the Division. The Division is authorized to establish an alternative electronic reporting system for employer and carriers which is intended to reduce costs to employer and carriers and the Division.

The legislation changes the date after which lump-sum settlements may be allowed from 6 months after the claimant reaches maximum medical improvement to 3 months after.

The law provides that securities which individual self-insurers are required to post may be made payable to the Florida Self-Insurers Guarantee Association and the Association is required to provide benefits to employees of insolvent self-insurers and be reimbursed from such securities. [This change will reduce delay in payments to such employees.]

The act changes the time requirement for filing claims against the Special Disability Trust Fund. [The change is made because the current law did not contemplate the payment of wage-loss benefits as excess compensation.]

The legislation ratifies actions between October 1, 1974, and July 10, 1987, by the Division or the employer under Subsections 440.15(1) and (3), F.S., if such acts or proceedings would have been valid if this act was in effect.

Miscellaneous

COMMITTEE SUBSTITUTE FOR SENATE BILL 160 (CHAPTER 87-361) creates the "Boiler Safety Act," which would apply generally to all boilers in "public assembly locations" in Florida. Public assembly locations include schools, day care centers, community centers, churches, theaters, hospitals, nursing and convalescent homes, stadiums, amusement parks and other locations open to the public. The Department of Insurance must, by rule, adopt a "State Boiler Code" for the safe construction, installation, inspection, maintenance and repair of boilers. The Code to be adopted is the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers (ASME), including all amendments and interpretations which have been approved by the Council on Codes and Standards of the ASME.

The owner of any boiler placed in use after the effective date of this act (October 1, 1987) must submit certain data to the chief inspector within 90 days of the boiler's inservice date.

For existing boiler installations, the maximum allowable working pressure of a boiler carrying the ASME Code symbol must be determined by the applicable sections of the Code under which it was constructed and stamped. Such boilers may be rerated under certain conditions.

Boilers of special design which may not meet the Code requirements may be approved by the Department if such boilers do not violate the objectives of the Code.

The Insurance Commissioner is required to appoint a chief inspector who must have specified qualifications. Also, the Department would employ deputy inspectors who would be responsible to the chief inspector.

The act provides for both internal and external inspections for boilers located in public assembly locations. A written report must be filed within 15 days following inspection. If a boiler is found to be unsafe, an additional report is required.

Any insurance company insuring boilers located in a public assembly location is required to inspect such boilers. These inspections are to be done by a special inspector who is licensed by the Department. The Department must, by rule, establish reasonable fees for application, examination, certification, and renewal of inspectors, inspections, and recordkeeping. Initial fee amounts are specified in the legislation.

Violations of the Boiler Safety Act constitute second-degree misdemeanors punishable by a fine as provided in Section 775.083, F.S. Grounds for disciplinary proceedings are established.

HOUSE BILL 162 (CHAPTER 87-253) creates Section 501.059, F.S., to regulate residential telephone solicitation. "Consumer telephone call," "consumer goods or services," "unsolicited consumer telephone call," and "telephone solicitor" are defined.

The act prohibits the making of an unsolicited consumer telephone call to any telephone number which is listed in the then-current telephone directory with an indicator that the subscriber does not wish to receive such calls. Subscribers who desire to obtain such an indicator may notify the local telephone company and order an extra line listing effective with the next issue of the telephone directory. Charges for this extra line are the regular rates charged for additional or extra-line listings. Telephone contact between telephone solicitors and persons with unlisted telephone numbers is prohibited unless there has been previous business contact between the solicitor and person solicited. The Division of Consumer Services of the Department of Agriculture and Consumer Services is required to investigate complaints. The Division is authorized to seek civil penalties and injunctive relief against persons violating the provisions of this act. The amount of civil penalties is limited to \$10,000 per violation.

The act takes effect October 1, 1987.

SENATE BILL 361 (CHAPTER 87-309) expands the Department of Commerce's general purpose to include guiding, stimulating, and promoting the coordinated, efficient, and beneficial development of sports and related industries within Florida in accordance with the present and future needs and resources and the requirements of the prosperity, convenience, comfort, health, safety, and general welfare of the people of the state. As a result, the Department is authorized to make certain expenditures.

The enactment also creates the Sports Advisory Council within the Department. The purpose of the Council is to develop a statewide agenda for the promotion of sports, sports activities and related industries. The Council will consist of 15 members who are residents of Florida actively engaged in the area of sports industry or a related activity. Members are appointed by the Secretary of Commerce for 4-year staggered terms. A chairman is to be chosen from among the members by the Council.

The Council is to advise the Department as to what actions or proposals are needed throughout the state regarding sports. The Council is to meet at the call of its chairman, at the request of a majority of its membership, at the request of the Secretary of the Department, or at such times as may be prescribed by rule. However, the Council is required to meet at least quarterly.

Members would serve without compensation but would be entitled to reimbursement for per diem and traveling expenses. The Department would provide any necessary administrative or staff support to the Council.

COMMITTEE SUBSTITUTE FOR SENATE BILL 407 (CHAPTER 87-105) is devoted primarily to reorganizing the existing Florida statutes to comport with the 1981 Uniform Disposition of Unclaimed Property Act.

The legislation creates a general rule as to when property is to be presumed abandoned. Under this rule, intangible property left unclaimed for 5 years after it becomes

payable or distributable is to be presumed abandoned. This shortens the predominate period under existing statutes which is 7 years. In addition, the law requires all financial institutions to coordinate (indexing two or more accounts) all accounts within the same institution by the same owner's name in order to determine the last date that the account was active.

There are several types of intangible property which do not fall within the general "5-year" rule. Each of these types of property has its own set of rules pertaining to when it is to be presumed abandoned. The primary factor distinguishing these types of property from those covered by the general "5-year" rule is the length of dormancy time necessary for the property to be presumed abandoned.

The act also provides that, for certain specified types of property, no service charge can be assessed based on dormancy or a failure to demand payment. This provision applies to such assets as money orders, travelers' checks and savings accounts.

The measure requires holders of property that is presumed to be abandoned to make an effort to find the owners. The holders must send written notice to the apparent owner at his last known address, informing the apparent owner that the holder has the property and that it is presumed abandoned.

The legislation increases the amount of the reserve account maintained by the Department of Banking and Finance

from \$150,000 to \$500,000. Furthermore, pursuant to the law, the Department is authorized to issue cease and desist orders.

In addition, the act provides further guidelines on claims made by other states on property claimed by Florida. It also provides for agreements with other states to enforce unclaimed property statutes.

Finally, the enactment provides that all contracts to recover or to assist in recovering abandoned property for a fee which are entered into within 6 months of the date the state takes custody of the property are invalid. However, the law does exclude the probating of an estate from the 6-month invalid contract provision.

HOUSE BILL 589 (CHAPTER 87-70) authorizes a direct disposal establishment to dispose of unclaimed cremated remains after 120 days. It also allows a funeral or direct disposal establishment that has unclaimed remains of persons cremated before October 1, 1986, to dispose of such remains as provided in Section 470.0255, F.S., if the remains are not claimed before October 1, 1987.

HOUSE BILL 1299 (CHAPTER 87-251) renames the Florida Council on Far East Research and Development, created in 1986, as the Florida Council on Asian Affairs, and increases the membership of the Council from 15 to 17 members. The Council must report to the Governor, Legislature, Commissioner of Education, and Secretary of Commerce by March 1, 1988, on business transacted and projected financial condition at the

close of the Council's term. The Council is scheduled to expire on June 30, 1988.

An effective date of October 1, 1987, is provided.

CONSERVATION AND NATURAL RESOURCES*

The 1987 Florida Legislature adopted legislation aimed at reducing pollution in Florida's groundwater, improving sewage treatment, and providing for water transfer and usage between water management districts in the state. The adoption of the Surface Water Improvement and Management Act, or the "SWIM Bill," was a landmark piece of legislation in the area of environmental control. In keeping with the need of the Legislature to adequately plan for the future growth of the state, that body revised state law governing pollution control, environmental regulation, energy and the acquisition of state lands. The Legislature adopted several pieces of legislation governing hunting, alligator management, and recreation including the Florida Rails to Trails Program within the Florida Recreation Trails System. The Legislature also included the revitalization of downtown areas as a goal in the State Comprehensive Plan. If a single theme could be observed to run through legislation in the area of conservation and natural resources, it would be planned growth in harmony with natural resources.

*Prepared by House Bill Drafting Service

Surface Water Improvement and Management and Water Usage

Perhaps the single most important piece of legislation in the area of natural resources in 1987 was COMMITTEE SUBSTITUTE FOR HOUSE BILL 1350 (CHAPTER 87-97) which provides a first step toward cleaning up Florida's surface waters. [Florida's surface waters are a significant recreational and economic resource; however, many of these surface waters are becoming overburdened by pollution due to growth and development.]

The "SWIM Bill" requires each of the state's five water management districts to prepare a list of priority water bodies in its district by March 1, 1988. The criteria for prioritizing water bodies are based on the need for protecting and restoring a water body and include: violations of water quality standards, the amount of nutrients entering the water body, the water body's trophic state, the existence of or need for aquatic weed control, the biological condition of the lake, reduced fish and wildlife values, and threats to water supplies and recreational opportunities.

The act requires the water management districts to develop cleanup plans for the water bodies on the priority lists. The plans must identify preventive measures needed to complement restoration efforts. The plans are to include: a description of the water body, a description of adjacent land uses, a description of the sources of pollution, a description of permitted discharge activities, a description of restoration strategies, a description of the research needed, an

identification of governmental units near the water body, and an estimate of the funding needed to implement the plans. The plans are to include a list of owners of the point and nonpoint sources of water pollution that discharge into each water body. The plans are also to include a timetable for bringing all sources into compliance with state standards.

The districts are responsible for planning, implementing, and coordinating restoration strategies for the priority water bodies. The governing boards of the water management districts are to hold at least one public hearing near each priority water body to obtain public input on the plan for that water body. The district governing boards are encouraged to appoint advisory committees to assist in prioritizing water bodies and developing restoration plans. These committees would include representatives of the Game and Fresh Water Fish Commission (GFWFC), the Department of Natural Resources (DNR), the Department of Agriculture and Consumer Services (DACS), local governments, federal agencies, existing advisory councils, and the public.

The Department of Environmental Regulation (DER) is required to review each district's plan to determine whether the costs of the restoration programs in the plan are reasonable and whether the programs are likely to result in significant improvements in water quality together with the program funding possibilities with available revenues. The GFWFC, DNR, and DACS are required to review each plan to determine the plan's effects on resources within their areas of

expertise. These agencies would make recommendations for modifications or additions to a plan at a district's public hearing on the plan.

The water management districts, the Department of Transportation (DOT), Department of Health and Rehabilitative Services (DHRS), DER, and DNR are required to review their rules as they relate to pollution of surface waters to determine where such rules could be strengthened. The agencies also are required to review their enforcement programs for weaknesses in pursuing violations which result in surface water pollution. By March 1, 1988, the agencies are to report their findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of the House and Senate.

The measure creates the Surface Water Improvement and Management Trust Fund. The funds in the SWIM Trust Fund are to be available for the water management districts for detailed planning and implementation of the plans developed for priority water bodies. Specific amounts of money are available for six priority water bodies. Specific recommended projects and corresponding funding levels for these six water bodies are as follows:

Lake Okeechobee	\$4,800,000
Biscayne Bay	\$2,000,000
Miami River	(500,000)
Stormwater cleanup	(1,500,000)
Indian River Lagoon System	\$1,500,000
Marine Resource Council	(178,000)
St. Johns River WMD	(70% of funds)

South Florida WMD	(30% of funds)
Tampa Bay and its Estuaries	\$2,000,000
Water Quality Assessment and Scientific Information Compilation	(850,000)
Lake Apopka	\$2,200,000
Lower St. Johns River	\$2,500,000
Stormwater cleanup, provided that Duval County provides equal matching funds	(1,000,000)

The Secretary of DER shall authorize the release of money from the SWIM Trust Fund 30 days after receiving a resolution from the district governing board certifying that the money is needed for detailed planning or plan implementation. The districts must provide at least 20 percent of the money necessary for detailed planning and plan implementation. The remainder of the amount of money needed (80 percent) is to come from the SWIM Trust Fund.

The law requires the establishment of a Lake Okeechobee cleanup program by the South Florida Water Management District. The program is to be based upon the recommendations of the Lake Okeechobee Technical Advisory Committee and is designed to reduce phosphorous loadings to the lake by specific amounts. The legislation specifies areas into which diversions of polluted water are prohibited if adverse environmental effects occur. It also provides that the District may divert water to other areas, but requires the adverse environmental effects of such diversions to be monitored by the District. The enactment creates a new Lake Okeechobee Technical Advisory Council for the purpose of assessing the effects of water diversions and determining solutions for preventing adverse effects.

The act requires the St. Johns River Water Management District to conduct pilot studies to determine the feasibility of various methods for cleaning up Lake Apopka.

It also requires DER to conduct a study of, and make a report on, the current state surface water classification system and determine if the classifications in the system are appropriate. The report is to be submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 1989.

The measure changes the maximum statutory millage rate for district and basin purposes in the St. Johns River Water Management District from 0.375 mill to 0.6 mill. The apportionment of millage assessment rates between the basins and districts are adjusted for the South Florida Water Management District (75 percent basin/25 percent district to 60 percent basin/40 percent district), the Southwest Florida Water Management District (70 percent basin/30 percent district to 60 percent basin/40 percent district), and St. Johns River Water Management District (85 percent basin/15 percent district to 75 percent basin/25 percent district).

The "SWIM Bill" also contains several sections pertaining to beach management and restoration. It authorizes DNR to exempt interior tidal waters below mean high water from certain permitting requirements. In cases where development seaward of the mean high water mark would unavoidably interfere with public use of the beach, the law would authorize DNR to require that alternative access be provided. In cases where

construction or excavation associated with inlets would have a significant adverse impact on the beaches, the act requires the Department to require a mitigation program.

The coastal construction control line regulatory program established in Section 161.053, F.S., is amended to include regulation of interference with beach access, which is defined in the legislation as lateral access. As a condition to permitting coastal construction, the Department is authorized to require mitigation and financial or other assurances, and to enter into contracts to ensure compliance with permit conditions. The Department may require that these contracts are noticed in the public records of the county where the permitted activity is located.

Subsection 161.054(5), F.S., is amended by the enactment to provide that the Department may deny a permit for coastal construction if the applicant has an outstanding lien on his property for failure to comply with Chapter 161, F.S.

The measure also retitles the Erosion Control Trust Fund as the Beach Management Trust Fund. It changes the state share of the cost of certain beach projects from 100 to 75 percent, but broadens the types of projects that can receive state funding. The act amends the law to require additional elements of the state's beach management plan and requires DNR to study the problem of limited beach access and submit a report to the 1988 Legislature. The legislation also states that, beginning in fiscal year 1988-89, \$35 million shall be available from the Infrastructure Trust Fund for beach renourishment projects.

HOUSE BILL 803 (CHAPTER 87-203) amends Section 403.1834, F.S., to increase the allowable total principal amount of state bonds issued in a fiscal year to finance the construction of water supply and distribution facilities, stormwater control and treatment facilities, air and water pollution control and abatement facilities and solid waste disposal facilities from \$200 million to \$300 million. The act excludes bonds issued to refinance outstanding bonds from such limitation.

COMMITTEE SUBSTITUTE FOR SENATE BILL 624 (CHAPTER 87-347) creates Section 373.2295, F.S., to provide a procedure for the interdistrict transfer and use of water. The act defines "interdistrict transfer and use" to mean a consumptive water use which involves the withdrawal of groundwater from a point within one water management district for use outside the boundaries of that district. The measure provides for interagency agreements by the Department of Environmental Regulation and the water management districts. It preempts to the state any regulation of interdistrict transfer and use of groundwater. The legislation provides that an application for an interdistrict transfer and use of water would be evaluated under the provisions of Chapters 373 and 403, F.S. No other permits would be required under the provisions of Chapters 163, 380, or 381, F.S., or the Florida Transportation Code, which is defined in Section 334.01, F.S.

The act amends Section 373.1961, F.S., to provide for water management districts to assist counties, municipalities and regional water supply authorities in water supply planning,

to provide that water management districts may supply water to counties, municipalities, and regional water supply authorities under certain conditions, and to provide that the Department of Environmental Regulation shall issue a permit for a water management district to engage in water production and transmission. The enactment further provides for the exercise of eminent domain powers by a water district outside of its boundaries for the acquisition of pumpage facilities, storage areas, transmission facilities, and the normal appurtenances thereto, under certain circumstances including public notice. The measure also provides for the issuance of bonds and for contracting for the purposes of carrying out the provisions of the act. Lastly, the legislation appropriates \$250,000 to the Department of Environmental Regulation for the purpose of investigating water resources in Osceola County, a matching sum to that to be supplied by the South Florida Water Management District.

Pollution Control

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 410 (CHAPTER 87-374) amends Section 206.9935, F.S., to provide an extension of five years to the period of time during which an excise tax will be imposed on certain pollutants. The act amends Sections 376.303 and 376.3071, F.S., to extend until October 1, 1988, the period of time during which certain owners and operators of petroleum storage systems may file reports required for participation in the Early Detection Incentive

Program. The law requires the registration of additional tanks by December 31, 1987, and authorizes the Department of Environmental Regulation to include investigations or inspections to locate improperly abandoned tanks in the compliance verification program. The act further amends Section 376.3073, F.S., to authorize the Department to contract with local governments for implementation of compliance verification programs. The enactment amends Sections 489.105 and 489.113, F.S., to authorize the Department of Professional Regulation to register precision tank testers. The legislation amends Section 403.7225, F.S., to revise procedures for updating hazardous waste management assessments. The measure also amends Chapter 403, F.S., to:

1. Authorize local governments to use fines of between \$25 and \$100 per day collected from small quantity generators who fail to report their quantities of waste and their disposal practices when notified according to law to verify the waste management practices of small quantity generators;
2. Require the Department of Environmental Regulation to develop and submit a schedule for the creation of a network of hazardous waste collection centers; and
3. Require the Department to evaluate regional storage facility sites, recommend a site for a multipurpose hazardous waste facility, and submit this evaluation and recommendation to the Governor and the Legislature no later than May 1, 1988.

Finally, the legislation amends the law relating to the Environmental Efficiency Study Commission with language identical to that found in HOUSE BILL 1466 (CHAPTER 87-297) summarized below.

SENATE BILL 1039 (CHAPTER 87-125) directs the Department of Environmental Regulation to conduct a study to evaluate classification systems for state waters and specifies content and noticing requirements. The act amends Section 403.087, F.S., to authorize the issuance of operating permits for sanitary sewage systems operating under local government water quality protection programs for terms of up to 10 years provided certain requirements are met. The legislation creates Section 403.0881, F.S., to provide for the issuance of construction permits for sewage systems, treatment works, or disposal systems.

Sewage Control

SENATE BILL 204 (CHAPTER 87-303) amends Section 403.086, F.S., to revise described guidelines for sewage disposal in certain waters of the state so as to require a decrease in the maximum concentration of specified pollutants that may remain in a recovered water product after advance waste treatment which is allowed to be discharged into specified bodies of water, and to provide that recovered water products that meet such standards may be discharged unless certain adverse effects can be demonstrated. Specific facilities are exempted until October 1, 1990.

SENATE BILL 812 (CHAPTER 87-107) amends Section 403.1822, F.S., to modify the definition of "local governmental agencies" for purposes of the Florida Water Pollution Control and Sewage Treatment Plant Grant Act to specifically include districts or authorities providing airport, industrial or research park, or port facilities to the public. The act amends Section 403.706, F.S., to authorize counties and municipalities, with respect to local resource and recovery management programs, to contract with persons to provide resource recovery services or operate resource recovery facilities, to indemnify persons providing such service for liabilities or claims arising out of such service, and to waive sovereign immunity and immunity from suit in federal court under described circumstances. Finally, the measure amends Section 403.702, F.S., to encourage counties and municipalities to promote solid waste management and resource recovery.

Environmental Regulation

COMMITTEE SUBSTITUTE FOR SENATE BILL 988 (CHAPTER 87-337) provides that the Department of Environmental Regulation is required to establish, by rule, procedures for determining the qualifications of response action contract bidders, procedures for awarding construction contracts to the lowest qualified bidder or a waiver of such award, procedures governing payment of construction contracts, and procedures to govern contract negotiations, modifications and conditions. The act provides that the Department of Environmental

Regulation is required to follow Department of General Services' criteria as much as possible and that price proposals for these contracts shall not be made public until the selection is made and a contract signed or the proposal is no longer active.

The enactment provides that polyethylene mulch plastic used in agricultural operations may be disposed of by open burning.

The law amends Section 403.805, F.S., to authorize the Secretary of the Department of Environmental Regulation to reassign certain duties among the Division of Administrative Services, Division of Environmental Programs, Division of Environmental Permitting, and Division of Environmental Operations. Finally, the act amends Sections 403.806, 403.807, 403.808, and 403.8081, F.S., to make permissive certain enumerated duties of these departmental divisions.

HOUSE BILL 1466 (CHAPTER 87-297) extends the Environmental Efficiency Study Commission (EESC) until June 1, 1988. It requires the Department of Environmental Regulation, the Department of Natural Resources, the Department of Community Affairs, the Department of Agriculture and Consumer Services, the Department of Health and Rehabilitative Services, the Florida Game and Fresh Water Fish Commission, the water management districts, and the regional planning councils to submit a final report to the EESC by September 1, 1987, addressing duplication and inefficiencies in administering environmental regulations and implementing state environmental

policy. Direction is given to address 1987 legislative changes.

The measure requires the EESC to submit a final report to the Legislature by January 31, 1988, that identifies duplication and inefficiencies in administering environmental regulations and in implementing state environmental policy. It also requires the report to include:

1. Proposed legislation to implement the recommendations; and
2. Recommended staff transfers and deletions, shown on organizational charts, to implement the legislation.

The act appropriates \$60,000 for the expenses of the Commission.

Energy

There were three pieces of legislation which passed the 1987 Legislative Session relating to energy.

HOUSE BILL 1457 (CHAPTER 87-271) creates Part VIII of Chapter 553, F.S., the "Florida Energy Conservation Standards Act," and establishes standards for three categories of appliances: shower heads sold in Florida on or after January 1, 1988; lighting equipment sold in Florida on or after January 1, 1989; and refrigerators, freezers, and refrigerator-freezers sold in Florida on or after January 1, 1993.

The legislation also authorizes the Department of Community Affairs to enforce these standards and make revisions

to them as necessary through the administrative code process (Chapter 120, F.S.).

Beginning in 1990, the Public Service Commission will evaluate the benefits of these standards every 2 years and submit the evaluations to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The act is to take effect January 1, 1988.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 537 (CHAPTER 87-183) revises Chapter 377, F.S., to require the furnishing of information about geophysical activities on state-owned mineral lands to the Division of Resource Management of the Department of Natural Resources, to provide for the confidentiality of such information, to provide a penalty for wrongful disclosure, to allow the Department to accept forms of security other than a bond as a condition to performing the duty to plug and restore dry and abandoned oil wells, to change the fee-setting standards for drilling wells and for abandoning wells, to require approval of the Division prior to abandonment, and to require that geophysical permit information provided to counties and municipalities be kept confidential.

Acquisition of State Lands

SENATE BILL 312 (CHAPTER 87-307) amends Section 253.025, F.S., to provide that purchase negotiations for lands acquired from the Conservation and Recreation Lands Trust Fund or Land Acquisition Trust Fund be initiated within 6 months of approval of appraisals by the Division of State Lands of the Department

of Natural Resources, rather than 6 months of approval of the acquisition list by the Governor and Cabinet. The act authorizes waiver of evidence of marketability for certain lands appraised at \$5,000 or less. The measure further amends Section 253.03, F.S., to provide for procedures to establish a price for the disposition of state lands by the Division.

Subsection 253.025(9), F.S., is amended by SENATE BILL 560 (CHAPTER 87-319) to enable the Board of Trustees of the Internal Improvement Trust Fund to accept a dedication, gift, grant or bequest of lands and appurtenances without formal evidence of marketability if the Board or its designee determines that such lands and appurtenances have value and are reasonably manageable by the state, and that their acceptance would serve the public interest.

SENATE BILL 175 (CHAPTER 87-28) amends Section 1 of Chapter 83-80, Laws of Florida, to extend until September 1, 1993, the time period within which the Department of Natural Resources may petition to acquire Shell Island, Josslyn Island, John U. Lloyd Beach State Recreation Area, Rookery Bay National Estuarine Sanctuary, Cayo Costa/North Captiva, Fakahatchee Strand, Mound Key State Archaeological Site, Charlotte Harbor, Julington/Durbin Creek Peninsula, Coopers Point, and Rotenberger-Holey Land by the exercise of eminent domain powers. The act eliminates West Lake, Gateway, and the Bower Tract from the list of such properties.

SENATE BILL 650 (CHAPTER 87-323) authorizes the Department of Natural Resources to acquire parcels of land

known as the Guana River Tract-Rodger's Parcel in St. Johns County, the North Peninsula Tract in Volusia County, the Barnacle Addition in Dade County, and the South Golden Gate Addition in Collier County by exercise of the power of eminent domain, provided the petitions to so acquire the lands are filed by September 1, 1993.

HOUSE BILL 1472 (CHAPTER 87-292) amends Section 285.061, F.S., to provide for the transfer of described lands to the United States in trust for the Seminole Tribe of Florida. The act also ratifies and approves a water rights compact with the Seminole Tribe and appropriates \$500,000 to the Department of Legal Affairs to settle a legal suit with the Seminole Tribe.

SENATE BILL 313 (CHAPTER 87-115) repeals Sections 270.03, 270.04, 270.05, and 270.06, F.S., which authorize settlers on public lands to enter such lands on which they reside or have in cultivation, upon payment of purchase money.

Recreation and Parks

COMMITTEE SUBSTITUTE FOR SENATE BILL 778 (CHAPTER 87-328) amends Chapter 260, F.S., to establish a "Florida Rails to Trails Program" within the Florida Recreational Trails System. The purpose of the program is to acquire and develop abandoned railroad rights-of-way for public recreational trail use.

The enactment gives limited eminent domain power to the Department of Natural Resources to cure defects in title accepted by the Board of Trustees of the Internal Improvement Trust Fund. This is only for titles to abandoned railroad

rights-of-way and titles to abutting areas needed for user support facilities. The Board is authorized to accept titles to rights-of-way and abutting areas conveyed by quit-claim deed.

The measure provides additional powers to the Division of Recreation and Parks of the Department of Natural Resources to carry out the Rails to Trails Program and establishes additional responsibilities for the Department of Transportation in connection with the program. In addition, the Division is authorized to appoint a "Florida Recreational Trails Council" which would advise the Division in the execution of its powers and duties under Chapter 260, F.S. The Division is directed to establish by rule the duties, structure, and responsibilities of the Council.

The act also amends Section 375.251, F.S., to extend limitation on liability to owners or lessees of land who provide the land for recreation if no activity from which profit is gained from the patronage of the general public is conducted on the land.

COMMITTEE SUBSTITUTE FOR SENATE BILL 982 (CHAPTER 87-336) creates Section 258.016, F.S., to authorize the Division of Recreation and Parks of the Department of Natural Resources to issue a senior/disabled citizen camping permit free of charge allowing the person named on the permit and one companion to receive a 50 percent discount on current base campsite fees at Florida state parks. Florida citizens 65

years of age or older or Florida citizens with federal disability award certificates are eligible.

Saltwater Fisheries

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 392 (CHAPTER 87-116) amends Section 370.01, F.S., to define the term "restricted species" as any saltwater species designated as such by specific law or rule of the Marine Fisheries Commission. The act amends Section 370.06, F.S., to require a restricted species endorsement on a saltwater products license to sell restricted species to a licensed wholesale dealer. The law provides criteria for such an endorsement. The measure requires a saltwater products license to harvest commercial quantities of saltwater products which is defined as 250 pounds per person per day with respect to species for which there is no bag limit and more than the bag limit where a bag limit exists. The act further amends Section 370.14, F.S., to provide for crawfish trap rather than license numbers, and requires, any person who uses traps, cans, drums, or similar devices to harvest crawfish to purchase a saltwater products license. The enactment provides that when a person takes more than 24 crawfish per boat or 6 per person, whichever is greater, within any 24-hour period by any method other than with traps, cans, drums or similar devices, the person must pay a \$50 fee and obtain a trap number which must be displayed on the boat.

The measure authorizes the Department of Natural Resources to implement a trap retrieval program and provides for a retrieval fee of \$10 per trap against trap owners. The legislation amends Section 370.021, F.S., to authorize the Department to assess civil penalties for the unintentional killing of any species of snook in excess of 5 per person, or tarpon, sailfish, or bonefish in excess of any bag limit during legal fishing operations. The law provides for the deposit of such penalties into the Marine Biological Research Trust Fund.

The amendments to Section 370.021, F.S., take effect October 1, 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILL 644 (CHAPTER 87-120) amends Section 370.06, F.S., requiring that saltwater products sold for any purpose can only be sold to a licensed wholesale dealer. The act also defines "wholesale county dealer" and "wholesale state dealer" in saltwater products, provides that the annual license tax shall apply to all places of business of the licensee, and revises the license fee schedule.

The enactment amends Section 370.14, F.S., which deals with crawfish regulation, by changing the term "license number" to "trap number" and provides for the proceeds of the fees imposed by Subsection 370.14(3), F.S., to be used by the Department of Natural Resources for enforcement through aerial and other surveillance and for trap retrieval. A person who possesses, has on board, or removes from the waters of the state more than 24 crawfish per boat or 6 per person, whichever

is greater, within any 24-hour period, must pay a \$50 fee and obtain a trap number to be displayed on the boat.

The measure also authorizes the Department to implement a trap retrieval program for retrieval of lobster and stone crab traps. A retrieval fee of \$10 per trap retrieval will be assessed trap owners.

Wholesale dealers are required by the act to submit a monthly report to the Department's Division of Marine Resources covering the sale of saltwater products.

The law defines "licensed saltwater fisheries trap," makes it unlawful for any person, firm, corporation or association to be in actual or constructive possession of a licensed saltwater fisheries trap registered with the Department in another person's, firm's, corporation's, or association's name, provides penalties for unlawful possession of these traps, and provides exemptions from these provisions.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 798 (CHAPTER 87-201) amends Section 370.153, F.S., to increase to \$250 the fee for a live bait shrimp production license issued by the Department of Natural Resources for Duval, St. Johns, Putnam, Flagler, Clay, and Nassau Counties.

Alligator Management and Hunting

COMMITTEE SUBSTITUTE FOR HOUSE BILL 763 (CHAPTER 87-199) was passed this year in an effort to develop an extensive alligator management program that will allow a limited harvest of alligators from the wild. This management program, which

revises Chapter 372, F.S., is to begin next year, and is intended to do three things:

1. Maintain the alligator population at a constant level and help preserve and maintain their habitat;
2. Provide regulation for the commercial alligator industry and establish criteria for trappers, farmers, processors, and their agents; and
3. Eliminate any possibility of the reappearance of a black-market industry due to the increased alligator population.

This act provides the Florida Game and Fresh Water Fish Commission with the authority to regulate the trapping, processing, marketing, and sale of alligators and alligator products. In addition, the Commission will closely regulate commercial alligator farms and operations used for the captive propagation and rearing of alligators. The management program establishes licenses for alligator trappers, farmers, processors, and their agents, and provides a more stringent control system to monitor the industry and its activities. The Commission is also given the authority to adopt rules to establish criteria for persons wishing to enter the alligator industry. These rules also may establish limits on the number of alligators that may be safely taken from the wild each year.

Persons that wish to participate in this industry will be closely monitored by the Commission and by the Legislature. All alligators and hides will have to be tagged and recorded by the Commission. No alligator hide may be sold, purchased, or

transported unless it is affixed with a validation tag. To ensure the well-being of the alligator population, the management program directs the Commission to conduct studies to determine the number of alligators that may be taken from the wild without adversely affecting their population levels.

An appropriation of \$355,422 and three positions to the Commissioner's Division of Wildlife is provided by the act.

Provisions relating to hide-grading, sales-related services, and license fees take effect January 1, 1988.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 577 (CHAPTER 87-261) amends Section 372.57, F.S., to provide that no license or stamp shall be required to take game, freshwater fish, or fur-bearing animals with respect to any resident of Georgia age 65- or older provided that a reciprocal provision exists under Georgia law. The act provides that, with respect to persons who are residents of states contiguous to Florida, and which states have a reciprocal agreement with Florida, the nonresident hunting license fees shall be the same as is charged in the nonresident's state for a Florida resident to hunt in that state for the same time period. Finally, the measure provides for a sportsman's license for residents with a fee of \$40 to take freshwater fish and game, wild ducks, wild geese, and turkeys and authorizes the same activities authorized by a management area stamp, a muzzle-loading gun stamp, and an archery stamp. Allowable agents' fees pursuant to Chapter 372, F.S., are to appear on all stamps and licenses.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 142 (CHAPTER 87-53) amends Section 372.988, F.S., to exempt bow hunters from the requirement of wearing daylight fluorescent orange material while deer hunting during bow season effective October 1, 1987.

Miscellaneous

HOUSE BILL 36 (CHAPTER 87-272) creates the "Florida Youth Conservation Corps Act of 1987" to provide for a year-round educational, conservation, and experience program for Florida's youth. The act establishes the Office of Civilian Conservation within the Department of Natural Resources to administer the Florida Youth Conservation Corps program, provides conservation and public service components of the program, provides for appointment of a director of the Office of Civilian Conservation, provides duties and authority of the Department with respect to the program, provides an educational component of the program, provides for emergency response activities, and provides eligibility, length of service and duties of corps members. The legislation also appropriates \$1 million and one position from the General Revenue Fund to the Department.

HOUSE BILL 1471 (CHAPTER 87-291) amends Section 328.03, F.S., relating to vessels. This enactment:

1. Provides for a penalty fee of \$10 for any purchaser of a vessel or transferee filing a title transfer application after a 20-day period. Currently, any purchaser or transferee must, within 20 days after a

change in vessel ownership, file an application for a title transfer with the county tax collector of the county where the vessel is located or with the county tax collector of the county where the purchaser or transferee resides. This law would also allow the county tax collector to retain \$5 of the \$10 fee collected.

2. Provides for an increase in the fee charged for the issuance of a duplicate certificate of title from \$1 to \$6. In addition, the act provides a duplicate title to be expedited to the title holder for an additional fee of \$5. Application for this service may be made by mail or in person. The Department of Natural Resources would have to issue each expedited duplicate certificate of title applied for under this legislation within 5 working days after the receipt of a proper application or must refund the additional \$5 fee upon written request by the applicant.

[The revenue collected for these services will be deposited in the Motorboat Revolving Trust Fund. The Department uses this trust fund to provide services such as law enforcement, recreational channel marking, public boat launching facilities, quality control programs, and manatee and marine mammal protection and recovery programs.]

The act is effective October 1, 1987.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 562 (CHAPTER 87-281) creates the "Florida Area of Critical State Concern Restoration Trust Fund Act" to establish a fund for the reimbursement of actual costs incurred by the Department of Natural Resources in obtaining payment for damages to, or destruction of, the coral reefs and other natural resources of the state and to designate that damages in excess of such reimbursement costs be dedicated to the research, protection, restoration, or rehabilitation of, or substitution for, the coral reefs and other natural resources injured or destroyed. The act repeals Section 370.116, F.S., relating to the Coral Reefs Restoration Trust Fund, and provides for the transfer of unencumbered funds into the Florida Area of Critical State Concern Restoration Trust Fund.

SENATE BILL 1124 (CHAPTER 87-354) revises Section 187.201, F.S., to adopt the revitalization of downtown areas as a goal of the State Comprehensive Plan and provides that it shall be the policy of the state to provide incentive to encourage private sector investment in the preservation and enhancement of downtown areas, to assist local governments in the planning, financing, and implementation of downtown development efforts, and to promote state programs and investments which encourage the redevelopment of downtown areas. The act also provides an additional policy for the portion of the State Comprehensive Plan dealing with agriculture, to ensure that state, regional and local plans do

not reduce the economic value of agricultural lands by restricting their conversion to other uses.

CONSTITUTIONAL AMENDMENTS*

Three proposed amendments to the Florida Constitution were adopted in the 1987 Regular Session which are to be submitted for voter ratification at the November 1988 General Election.

SENATE JOINT RESOLUTION 135 would amend Article I, Section 16 of the State Constitution to guarantee to the victims of crime or their lawful representatives and to the next of kin of homicide victims, the right to be informed, to be present, and to be heard when relevant, at all crucial stages of criminal proceedings, as long as such rights do not interfere with the constitutional rights of the accused.

HOUSE JOINT RESOLUTION 214 would permit land producing high-water recharge to the state's aquifers to be classified by general law and assessed solely on the basis of character or use through amendment to Article VII, Section 4 of the Florida Constitution.

SENATE JOINT RESOLUTION 459 would amend Article III, Section 17 of Florida's Organic Law to make county court judges subject to impeachment by the Legislature rather than suspension by the Governor.

*Prepared by Legislative Library

CORRECTIONS*

Both Special and Regular Legislative Sessions in 1987 contributed to major legislation creating an early prison release statute, an armed forces styled boot camp for youthful offenders, and a pre-release counseling and placement program.

General Revision To Corrections, Probation And Parole Statutes

HOUSE BILL 2-A (CHAPTER 87-2) deals with the recent history of state correctional operations characterized by a rapid intake of prisoners straining existing capacity limits. [As a means of coping with that strain, the Legislature met in Special Session in February 1987 to enact an emergency appropriations bill providing additional bedspace to the Department of Corrections and to provide an additional safety valve to help control the inmate census.] The law creates a system of administrative gain time which, when implemented by the agency head, subject to acknowledgment by the Governor, would permit the granting of up to 60 days credit off of the sentence when the prison system reaches 98 percent of its lawful capacity. Excluded from the gain time award would be inmates serving mandatory minimum sentences for firearm

*Prepared by Senate Corrections, Probation and Parole Committee

felonies or drug trafficking, habitual felons, sex offenders, or capital felons. The authority granted the Secretary by the act ceases when the capacity of the state correctional system reaches 97 percent and the act itself is repealed on July 1, 1988.

COMMITTEE SUBSTITUTE FOR SENATE BILL 124 (CHAPTER 87-58) creates a new basic training program for certain youthful offenders. This act prescribes that the Department of Corrections develop a program which includes marching drills, calisthenics, a rigid dress code, manual labor and physical training with obstacle courses. [The program is patterned after a program operating in Georgia and is intended to serve as a diversion from long-term incarceration.] The legislation mandates certain screening procedures and specifies that the court approve all program placements. Once an offender successfully completes the program the court is then mandated to modify the original sentence.

The program shall be located adjacent to an existing institution and will initially accommodate approximately 40 offenders. When fully operational the program will house 100 inmates. [The length of stay, although not legislatively mandated, is expected to be between 90-120 days.] An appropriation of \$250,000 for 1987-88 Fiscal Year was appropriated to establish and operate the program.

COMMITTEE SUBSTITUTE FOR SENATE BILL 100 (CHAPTER 87-298) refines the major correctional education legislation passed during the 1986 Legislative Session. [The 1986

legislation repealed Section 944.19, F.S., relating to the education of inmates under the jurisdiction of the Department of Corrections and transferred the current educational program from the Department of Corrections to the newly created Correctional Education School Authority.] Specifically, this act replaces the Adult Services, the Youth Offender and the Community Services Program Offices within the Department of Corrections which were inadvertently repealed when the Education Program Office was repealed. Also, the act mandates that the Correctional Education School Authority be subject to the Administrative Procedures Act relating to rule promulgation.

This act also increases the number of budget entities within the Department of Corrections from four to nine with the additional budget entities including: (1) major institutions; (2) community facilities and road prisons; (3) probation and parole services; and (4) the Correctional Education School Authority. Further, biennial rather than annual budgets are required and the law removes the authority of the Secretary and the regional directors to transfer funds between the budgets.

Another major provision within this act creates the Transition Assistance Program which provides released offenders with employment skills and resources. All offenders shall be eligible for the transition services except those offenders released through a work release center or those offenders released to the custody of another state. To coordinate these transition services, the legislation mandates a vocational

placement counselor at each of the 34 major institutions. The vocational placement counselor shall coordinate vocational assignments within the institution, assist in the development of other vocational opportunities within the institution, assist in the inmate's post-release plan, and obtain job information.

The act also mandates the establishment of a 120-hour pre-release orientation program. Within 30 days prior to release the Department shall provide a pre-release orientation program to every eligible inmate.

The Department is also authorized to contract with the Salvation Army or any other public or private organization to provide up to 15 days of temporary housing, for those offenders demonstrating need.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1161 (CHAPTER 87-342) expands the definition of "medical review committee" in Section 768.40, F.S., to include the Correctional Medical Authority among entities such as hospitals and nursing homes whose activities in quality assurance and peer review are immunized from liability. [The creation of the Correctional Medical Authority by the 1986 Legislature provided a formal planning and advisory structure for the Department of Corrections in its much-litigated inmate health care programs. The 1985 Legislature, in its major rewrite of medical malpractice laws, recognized that the maintenance of professional standards of health care required active internal controls through which medical professionals could exchange

information on the quality of services rendered without fear of legal retaliation. That principle is extended now to the Authority and its agents and consultants performing essentially similar functions.]

The effect of HOUSE BILL 1355 (CHAPTER 87-232) is to provide a retroactive award of gain time to those (231) inmates whose gain time was denied solely as a result of nonpayment of court costs. [It has the further effect of providing for the immediate release of some 30 prisoners from state custody and the advancing of the release dates of the remaining 201. This act relates to legislation passed in 1985 which enacted a system of court costs which convicted defendants would be required to pay as a condition of their receiving gain time, that is, time off of the judicially imposed sentence for good behavior. One year later the 1986 Legislature amended this statute to remove the gain time sanction for non-payment although still preserving the schedule of court costs.]

HOUSE BILL 1356 (CHAPTER 87-233) addresses the Department of Corrections' system of maintaining separate inmate welfare and employee trust accounts which act as financial depositories for cash accrued from either inmate personal funds or employee club operations. The act amends Section 945.215, F.S., to permit use of the employee club funds for the purchase of equipment for or the construction of training and recreational facilities to be made available to all employees at the respective institutions.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1125 (CHAPTER 87-340) amends Section 951.23, F.S., empowering the Department of Corrections to promulgate rules governing the conditions of confinement in county and municipal adult detention facilities. This act prescribes that the content of these rules shall be consistent with decisions of the federal appellate courts or good corrections practices as embodied in recommended standards of the corrections profession. The act further provides that two-story jail facilities with capacities of less than 30 inmates need not have an officer on the second floor at all times. This allowance is conditioned on there being aural and visual contact and that there is provision for immediate response to emergency situations.

County and municipal detention facilities are required in the legislation to account for the handling and storage of medicinal drugs. Jails which routinely stock such medications on a basis other than individual prescriptions shall obtain the services of a consultant pharmacist or dispensing physician. Facilities which maintain only individual prescriptions shall be governed by the inspection requirements of the Department of Corrections under Chapter 951, F.S., and not those of the Board of Pharmacy under Chapter 465, F.S.

Finally, the act creates a County Correctional Planning Committee composed of locally elected constitutional officers with criminal justice responsibilities, or their designees. The Committee shall meet monthly for the purpose of overseeing capacity limits on local detention facilities as determined by

the Department of Corrections and to make recommendations for alternative release and dispositional practices. The Committee shall develop a local correctional facilities five-year plan for submission to the local planning agency for its consideration at least 120 days prior to the adoption of the local comprehensive plan under Section 163.3184, F.S.

HOUSE BILL 1359 (CHAPTER 87-234) changes the membership of the Criminal Justice Estimating Conference by removing the staff of the Department of Corrections and adding the staff of the Supreme Court. [Pursuant to Section 216.134, F.S., the Criminal Justice Estimating Conference convenes to develop official information relating to the criminal justice system, forecasts of prison population, and other information needs for state planning and budgeting.] With the passage of this legislation, the five principals that preside over the conference include representatives from the Governor's Office, the Senate Appropriations Committee, the House Appropriations Committee, the Economic and Demographic Research Division within the Joint Legislative Management Committee, and the Supreme Court.

SENATE BILL 131 (CHAPTER 87-300) authorizes the Parole and Probation Commission to transact its business anywhere in the state. [The Commission currently has its headquarters in Tallahassee where it transacts all of its business.] This act enables the Commission to hold various meetings and hearings anywhere in the state, therefore providing greater opportunity for representation from all interested parties such as victims,

family members, prosecutors, and attorneys representing the inmate.

Also noteworthy in this legislation is the provision that prevents the scheduled reduction in the number of parole commissioners from six to five after July 1, 1987.

[During the 1986 Legislative Session, the Board of Clemency Review was enacted effective July 1, 1987.] This legislation postpones the Board's creation until July 1, 1988.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 992 (CHAPTER 87-211) authorizes the Department of Corrections to use electronic monitoring devices on offenders placed in the Community Control Program or on regular probation. [Approximately one-half million dollars was appropriated during the 1987 Special Legislative Session to implement a pilot electronic monitoring program. The use of electronic monitoring devices was intended to assist in the efforts to alleviate the overcrowded conditions in the prison.] In addition to authorizing the Department of Corrections to use electronic monitoring devices, this legislation restricts the types of offenders placed in the Community Control Program. Offenders convicted of the forcible felonies pursuant to Section 776.08, F.S., excluding manslaughter and burglary, will not be eligible for community control after the effective date of this act.

Another major provision of the act relates to the issuance of escape warrants. Specifically, this act authorizes the Department of Corrections to issue an arrest warrant for an offender who escapes from custody or absconds from the

Supervised Community Release Program. The escapee or absconder, once arrested may not, according to the legislation, obtain bond, bail or release on own recognizance. The warrant is mandated to be in effect until the offender has returned to custody or until the sentence is satisfied.

The act additionally mandates the court to issue orders when the court seeks the temporary custody of an inmate. [Prior to this legislation some judicial circuits, upon verbal orders, were requesting law enforcement officials to obtain custody of state inmates.] After the court receives temporary custody, the act specifies that neither the court nor the sheriff may release the inmate until confirming with the Department of Corrections that the prisoner has no other commitments or detainers.

The monthly cost of supervision fees imposed and paid under Section 945.30, F.S., are clarified in this act. Specifically, only probationers, parolees, and persons on community control who are supervised by the Department of Corrections shall be mandated to pay monthly cost of supervision fees. [Effectively, this limits the application to cases in circuit court prosecuted as felonies and eliminates an ambiguous application to court misdemeanor cases and an accountability upon the Department of Corrections.]

Finally, certain sexual offenders, as defined in this act, are prohibited from participating in the inmate work squads.

HOUSE BILL 1251 (CHAPTER 87-286) authorizes the creation of a system of forestry camps within the Department of Corrections in which the inmates will be detailed to other public agencies for the performance of environmental and conservation projects. The act provides other administrative changes, renumbers the statutes related to correctional work programs, and specifies which correctional work programs are operated by the Department of Corrections and those leased to the contract vendor, P.R.I.D.E., Inc.

COURTS AND CIVIL LAW*

The heading Courts and Civil Law encompasses a broad range of subjects, and no dominant issue appeared out of the 1987 Legislature. Subjects within this general topic are: Adoption; Child Support; Civil Liability; Condominiums and Cooperatives; Court Costs, Service Charges, Attorney's Fees; Debtor and Creditor; Domestic Violence; Eminent Domain; Estates and Trusts; Execution; Judges; Jurors; Landlord and Tenant; Liens; Lost or Abandoned Property and Unclaimed Evidence; Mediation and Arbitration; Offers of Settlement; Partnerships; Punitive Damages; Real Property; Service of Process; and Trial Courts.

Adoption

COMMITTEE SUBSTITUTE FOR SENATE BILL 1061 (CHAPTER 87-352) revises and enacts a number of procedures related to adoption, effective October 1, 1987.

The act requires a grandparent with whom a child has lived for at least 6 months to be notified of the impending adoption of that child and to be given first priority for adopting that child. The requirement does not apply when a

*Prepared by Senate Legal Research and Drafting Services

deceased parent of the child stated a different preference in a will or when the child is being adopted by a stepparent.

Section 63.022, F.S., is amended to allow court orders that promote and protect the prospective adoptee's best interests.

The requirements for approving intermediaries' fees under Section 63.097, F.S., are revised.

The act sets a time limit for filing a petition for an adoption handled by an intermediary at 30 working days after placement of the child with a prospective parent.

The act requires parties to an adoption proceeding to submit to the court under oath information such as the child's addresses for the preceding 5 years and the party's knowledge of any other custody proceeding involving that child.

The act requires a person to have his primary residence and place of employment in Florida in order to adopt in this state.

The act gives the Department of Health and Rehabilitative Services rulemaking authority affecting licensure of child-placing agencies.

The act requires use of the Interstate Compact on the Placement of Children, when it is applicable.

Section 63.212, F.S., is amended to revise the prohibition against adoption by a person who lives outside this state and to revise restrictions on expenses and fees.

Section 39.01, F.S., is expanded to include under the term "child who is found to be dependent" certain children who are placed with a child-placing agency for adoption.

The prerequisites under Section 39.41, F.S., to a court order permanently committing a child for adoption are modified by requiring the parent to consent to the court order.

SENATE BILL 318 (CHAPTER 87-27) amends Section 63.172, F.S., to provide that grandparents' rights are not terminated when a child is adopted by the child's brother, sister, grandparent, aunt, or uncle, unless the court orders otherwise. It also amends Section 732.108, F.S., to provide that adoption by such a relative does not affect the child's relationship with the families of the child's deceased natural parents, with respect to intestate succession. The act takes effect upon becoming a law and applies to all proceedings initiated thereafter.

Child Support

Among numerous changes to child support requirements, COMMITTEE SUBSTITUTE FOR SENATE BILL 631 (CHAPTER 87-95) sets out detailed child support guidelines that specify what amounts from the parents' combined net incomes should go to child support and that also specify what remuneration counts as income and when income must be imputed to an unemployed or underemployed parent.

The act amends Section 61.13, F.S., to postpone from 1988 to 1989 the deadline for clerks of court to transmit certain information to the Department of State.

The act deletes from the statement of rights to a child support obligor required by Section 61.1301, F.S., the provision that if the obligor contests enforcement of an income deduction order, a copy of the order will not be served on his payors. The section is also amended to provide for filing interstate income deduction documents with the depository in specified cases involving obligees who receive services under Title IV-D of the Social Security Act.

Section 61.1352, F.S., is amended to provide for a lien on real and personal property of obligors in connection with default on their obligations under support orders filed after January 1, 1989.

The act provides for a final judgment by law for unpaid child support payments, for which execution may issue without entry of further judgment by a court. Provision is made for notice and for other enforcement procedures.

The legislative intent provisions of Section 88.012, F.S., are amended to provide that the Revised Uniform Reciprocal Enforcement of Support Act applies to collecting arrearages after the child is no longer dependent.

The act amends Section 88.031, F.S., to define "petitioners' representative" and Section 88.065, F.S., to allow the Governor to require such representative to supply

evidence pertaining to a proceeding for support before initiating interstate rendition proceedings.

Section 88.121, F.S., is amended to provide that, when this state is the initiating state, the Department of Health and Rehabilitative Services is to represent petitioners in reciprocal support enforcement proceedings only in Title IV-D cases and that the IV-D agency may be a party only for purposes allowed under Title IV-D of the Social Security Act.

The act amends Section 88.181, F.S., to require the petitioner's representative, instead of the Department, to prosecute the case promptly. Section 88.191, F.S., is amended to impose on the petitioner's representative duties that previously were imposed on the Department or on the clerk of court.

The act amends Section 88.211, F.S., to require payments to be made to the local depository, for forwarding to the Department in IV-D cases or to the initiating jurisdiction in non-IV-D cases. The amendment also provides enforcement powers to a petitioner's representative and requires a report from the petitioner's representative to the court that first issued a support order.

Section 88.297, F.S., is amended to allow a petitioner's representative to appeal a support order. The act amends Section 88.345, F.S., to provide that when this state is a rendering state or a registering state in reciprocal support enforcement proceedings, the Department may represent petitioners only in IV-D cases.

The definition of "dependent child" under Section 409.2554, F.S., is modified to exclude its application to Chapters 61 and 742, F.S., and to provide that the term does not imply an obligation to support a child beyond the age of majority.

Section 409.2561, F.S., is amended to require that public assistance recipients to assign the Department any right to certain support owed to the recipients and that the recipients appoint the Department as attorney in fact to perform certain acts related to support.

The act amends Section 409.2567, F.S., to require the Department to pay an application fee, for all support enforcement and paternity determination services provided by the Department, for applicants who are not public assistance recipients. The Department is to recover those costs from the obligor, if possible.

The act amends Section 409.2571, F.S., to exempt the Department from fees for court reporter or clerk services in IV-D proceedings and also from bond requirements unless court-ordered.

The definition under Section 409.2572, F.S., of noncooperation by a public assistance applicant or recipient is expanded to include the failure to assist in the recovery of third-party payment for medical services.

Section 409.2577, F.S., is amended to require payors and state agencies to provide certain information to the Department's parent locator service.

The act amends Section 741.30, F.S., to include awarding temporary support for the petitioner under an injunction for protection against domestic violence.

In addition, the act repeals Section 409.245, F.S., relating to actions for support of dependent children, and specifies which causes of action the act affects and to which cases the child support guidelines provided in this act apply.

Civil Liability

COMMITTEE SUBSTITUTE FOR SENATE BILLS 1096, 963, & 654 (CHAPTER 87-245) amends Sections 607.014, 617.028, and 617.915, F.S., and creates Sections 607.1645, 607.165, and 627.915, F.S., relating to the civil liability of certain officers, directors, and other persons associated with corporations.

The act provides immunity for directors and officers of nonprofit corporations for actions taken within the scope of their authority and provides exceptions to such immunity.

It also provides for the indemnification of officers, directors, employees, and agents of corporations against liability and legal expenses and provides procedures to evaluate and authorize such payments. It also excludes liability for most actions taken outside the person's authority, such as criminal violations, improper personal gains, willful misconduct, and a disregard for the corporation's best interests, from such indemnity. It provides for judicially mandated enforcement of such indemnity provisions.

The act further provides corporate directors with immunity from liability in certain circumstances, provides procedures for the authorization and approval of certain improper benefits derived by officers and directors, and establishes immunity from civil liability for directors and members of supervisory committees of credit unions and trustees of self-insurance trust funds.

New provisions require certain insurers to report additional information concerning claims against officers' and directors' insurance coverage and requires insurers to separately report certain information for officers' and directors' liability insurance.

The act also expands the scope of review by the Academic Task Force for Review of the Insurance and Tort Systems and requires the Task Force to submit its report to the Legislature by March 1, 1988.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 586 (CHAPTER 87-187) provides that, in a civil action for damages for personal injury or wrongful death or for injury to property, it is a defense to such action if it is established that such injury was sustained by a participant during the commission or attempted commission of a forcible felony.

The act takes effect October 1, 1987, and applies to all causes of action commenced on or after that date.

HOUSE BILL 898 (CHAPTER 87-207) provides that a person who accepts and disposes of permitted wastewater through spray

irrigation is not liable for damages as a result of the disposal of such wastewater in certain circumstances.

SENATE BILL 567 (CHAPTER 87-379) amends Section 250.31, F.S., to provide civil and criminal immunity for members of the Organized Militia ordered into the active service of the state or ordered into federal training or duty for lawful acts done while acting in good faith and within the scope of such duty.

The act takes effect October 1, 1987.

Condominiums and Cooperatives

COMMITTEE SUBSTITUTE FOR SENATE BILL 401 (CHAPTER 87-117) amends Sections 514.033 and 514.0115, F.S., to exempt swimming pools serving condominiums and cooperatives of 32 units or more and whose recorded documents prohibit the rental or sublease of the units for periods of less than 60 days from supervision by the Department of Health and Rehabilitative Services. However, the condominium or cooperative owner is required to obtain approval of the construction plan, and receive an initial operating permit, for a swimming pool; and the Department is required to inspect the pool annually, or at the request of a unit owner, for compliance with rules relating to water quality and life-saving equipment. The annual inspection fee for such pools is \$25, and they are exempted from Department rules relating to lifeguard standards.

The act amends Section 509.013, F.S., to exclude from the definition of the term "public lodging establishment" a condominium or cooperative unit available for rent for a period

of more than 90 days or not advertised to the public as regularly rented to transients.

The act also amends Section 718.111, F.S., to allow the official records of a condominium association to be maintained in another county if such county is located within 50 miles of the condominium property.

Section 718.202, F.S., is amended to allow funds in an escrow account, as required pursuant to the development and construction of a condominium project, to be held by a title insurer licensed in the state.

The act also amends Section 719.303, F.S., to allow the prevailing party reasonable attorney's fees in any action claiming the right to void a contract for the sale or lease of a cooperative unit.

Court Costs, Service Charges, and Attorney's Fees

HOUSE BILL 1272 (CHAPTER 87-145), which takes effect October 1, 1987, amends numerous sections of the Florida Statutes concerning court costs, attorney's fees, and related charges.

Section 238.101, F.S., is amended to increase from \$3 to \$5 the charge for recording and reporting a final judgment of dissolution of marriage. Section 28.24, F.S., is amended to increase charges by the clerk of circuit court for a variety of services relating to court attendance, marriage licenses, and processing or recording documents. The charge for receiving and disbursing domestic support payments is deleted. New

charges are created for sealing court files or expunging records and for receiving and disbursing restitution payments. A new provision also requires that certified and registered mail charges be paid by the party at whose instance the mailing is made. Section 28.2401, F.S., is amended to increase the service charges relating to probate matters. Section 28.241, F.S., is amended to increase filing charges for trial and appellate proceedings and to impose an additional \$35 service charge for all garnishment, attachment, replevin, and distress proceedings. Section 34.041, F.S., is amended to increase the charges for instituting civil actions and proceedings in county court.

Section 45.031, F.S., is amended to increase from \$25 to \$40 the service charge relating to judicial sales. Section 55.10, F.S., is amended to increase from \$2 to \$10 the charge for a transfer of lien and to provide that when multiple liens are transferred, there will be a \$5 charge for each additional lien transferred.

The act amends Section 713.585, F.S., to require a \$10 service charge for indexing and recording a certificate of compliance with notice provisions by a person enforcing by sale a lien for service on a motor vehicle.

Section 744.638, F.S., is amended to repeal the \$25 limit on the charge for filing a petition for guardianship. Instead, the clerk is entitled to the service charge as provided by law.

Section 56.29, F.S., is also amended to permit the court to tax reasonable attorney's fees against defendants in proceedings supplementary to execution of judgment, in addition to costs already so taxed. Section 59.115, F.S., is created to permit the court to award certain costs against a judgment debtor incurred in connection with the execution on a judgment. In determining such an award, the court must consider whether the judgment debtor attempted to avoid paying the judgment and certain other factors.

Section 22 of COMMITTEE SUBSTITUTE FOR SENATE BILL 631 (CHAPTER 87-95) amends Section 28.24, F.S., relating to service charges by the clerk of the circuit court, to provide for an additional service charge of \$1 for the first page and 50 cents for each additional page of an instrument filed and recorded by the clerk. The additional charge shall be deposited into a trust fund to be used by the clerk for equipment, training of personnel, and technical assistance to modernize the official records system and for equipment and startup costs necessitated by the statewide child support orders recording system established under Section 61.1352, F.S.

HOUSE BILL 1345 (CHAPTER 87-231) amends Section 28.241, F.S., to increase from \$1 to \$1.50 the surcharge charged for the Court Education Trust Fund upon the filing of a civil action brought in circuit or county court. The increase applies in civil actions filed on or after October 1, 1988.

COMMITTEE SUBSTITUTE FOR SENATE BILL 976 (CHAPTER 87-108) amends Section 318.14, F.S., increasing by \$2 the court

costs charged against persons cited with noncriminal traffic infractions. The additional charge is to be deposited, in equal amounts, into the Child Welfare Training Trust Fund and the Juvenile Justice Training Trust Fund. Section 318.18, F.S., is amended to increase by \$2 the amount of civil penalties for various traffic violations. The additional charge is to be distributed in the same manner. The act eliminates the present method of funding these trust funds out of additional court costs assessed for violations of municipal or county ordinances and out of assessments against bond estreatures or forfeited bail bonds.

SENATE BILL 41 (CHAPTER 87-358) amends Section 61.181, F.S., to reduce from \$10 to \$5 the maximum fee collectible by the central depository for processing an alimony or child support payment.

The act takes effect October 1, 1987.

HOUSE BILL 535 (CHAPTER 87-260) requires a court to consider the contributions of time and labor by legal assistants when computing attorney's fees.

The act takes effect October 1, 1987.

Debtor and Creditor

COMMITTEE SUBSTITUTE FOR HOUSE BILL 236 (CHAPTER 87-79) adopts the "Uniform Fraudulent Transfer Act."

Section 3 defines "insolvency"; Section 4 describes what constitutes value given for a transfer or obligation; and

Section 7 defines when, for the purposes of this act, a transfer takes place.

Section 5 prescribes circumstances under which a transfer made or obligation incurred is fraudulent as to present and future creditors and lists factors which may be considered in determining the intent of the creditor. Section 6 prescribes circumstances under which a transfer made or obligation incurred is fraudulent as to present creditors only.

Section 8 grants creditors specific remedies for relief against fraudulent transfers or obligations, including avoidance of the transfer or obligation, attachment of the asset transferred or other property of the transferee, and injunctive or other equitable relief. Section 9 provides defenses; and it further provides for protection of good-faith transferees and grants specific protections to transferees.

Section 10 provides limitations on causes of action.

The act, further, repeals Sections 726.01, 726.07, and 726.08, F.S., which currently provide penalties for fraudulent conveyances and sales.

The act takes effect January 1, 1988.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 383 (CHAPTER 87-174) revises numerous provisions in Chapter 727, F.S., relating to assignments for the benefit of creditors.

It declares legislative intent. Section 2 prescribes jurisdiction of proceedings and venue. Section 3 defines terms.

Section 4 prescribes the form of an assignment for the benefit of creditors and of lists of creditors and assets. It requires an assignee to record an original assignment in the county public records and to file a petition with the assignor's and assignee's names and addresses, a copy of the assignment, and a request that the court fix the amount of the assignee's bond. Section 5 limits proceedings against an assignee, except as provided in Chapter 727, F.S.

Section 6 requires a person other than a creditor to turn over assets to the assignee upon notice of the assignment.

Section 7 prescribes duties of an assignor, and Section 8 prescribes duties of an assignee. Section 9 prescribes powers of the court with respect to assignments.

Section 10 provides that matters requiring court authorization, other than those specifically listed as needing to be brought by supplemental proceeding, be brought by motion.

Section 11 provides for giving of notice, prescribes the form therefor, and provides the duration of such notice.

Section 12 provides that claims not filed in accordance with the provisions of Chapter 727, F.S., are barred. Section 13 prescribes procedure for objections to claims. Section 14 specifies the priority of claims.

Section 15 provides for resignation or removal of an assignee, and Section 16 requires an assignee to submit a final report before his discharge and provides for release of the assignee upon discharge.

SENATE BILL 433 (CHAPTER 87-375) exempts moneys received by a debtor as a pensioner of the United States from attachment, garnishment, or execution and exempts moneys or assets payable to participants in or beneficiaries under certain described retirement or profit-sharing plans from claims of creditors, except an alternate payee under a qualified domestic relations order.

The act takes effect October 1, 1987.

Domestic Violence

COMMITTEE SUBSTITUTE FOR SENATE BILL 994 (CHAPTER 87-395) amends Section 741.30, F.S., to include in the list of persons who may seek an injunction for protection against domestic violence not only the spouse but also any person related by blood or marriage and residing in the same dwelling unit.

The act takes effect October 1, 1987.

Eminent Domain

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 18 (CHAPTER 87-148) creates Section 73.0511, F.S., and amends Section 73.091, F.S., to require a condemning authority to notify a property owner, prior to instituting eminent domain litigation, that the authority is liable for all reasonable court costs, including appraisal fees, and, when business damages are compensable, a reasonable accountant's fee.

The act also amends Section 73.092, F.S., to provide that, when an offer of judgment made by the petitioner in an

eminent domain proceeding is either rejected or expires, and the verdict or judgment is less than or equal to the offer of judgment, attorney's fees or costs may not be awarded for costs incurred after the time of rejection or expiration of the offer. An offer of judgment may not be made by the petitioner until 180 days after the filing date of an eminent domain petition. The offer of judgment must be accepted or rejected within 30 days, or within a time set by the court, or such offer is deemed to have been rejected.

Section 337.271, F.S., is amended to require the Department of Transportation to pay all reasonable costs, including attorney's fees, incurred on behalf of a property owner in prelitigation eminent domain negotiations. If the parties cannot agree on the amount of such costs, the property owner may file a complaint in circuit court to recover attorney's fees and costs.

Estates and Trusts

Section 2 of SENATE BILL 318 (CHAPTER 87-27) amends Subsection 732.108(1), F.S., to provide that, for purposes of intestate succession by an adopted person, the adoption of a child by a brother, sister, grandparent, aunt, or uncle of the child does not affect the relationship between the child and the families of the deceased natural parents of the child. The section takes effect upon becoming a law and applies to "all proceedings initiated thereafter."

SENATE BILL 541 (CHAPTER 87-317) amends Section 733.615, F.S., to allow any power vested in three or more joint personal representatives to be exercised by a majority of them, unless the will provides otherwise; however, this amendment applies only to estates of persons dying after September 30, 1988. The act amends the section to provide that, when action by a majority is authorized, a joint personal representative who has not joined in exercising a power or who dissents in writing to any of the other joint personal representatives before joinder is not liable for the consequences of its exercise. Further, the section is amended to provide that a person who deals with a joint personal representative and who does not have actual knowledge that joint personal representatives have been appointed or has been advised by the joint personal representative with whom he deals that the representative has authority to act alone is protected in dealing with that representative.

SENATE BILL 541 (CHAPTER 87-317) also amends Sections 744.441 and 744.457, F.S., to allow a guardian of a ward's estate, after obtaining court approval pursuant to Section 744.447, F.S.:

1. To execute, exercise, or release any powers as trustee, personal representative, custodian for minors, conservator, or donee of any power of appointment or other power that the ward might have lawfully exercised, consummated, or executed if competent, if the best interest of the ward requires such execution, exercise, or release;

2. To create revocable or irrevocable trusts of property of the ward's estate which may extend beyond the disability or life of the ward for purposes of tax planning or estate planning;

3. To renounce or disclaim any interest by testate or intestate succession or by inter vivos transfer; and

4. To convey or release any contingent or expectant interest in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety.

Execution

COMMITTEE SUBSTITUTE FOR SENATE BILL 242 (CHAPTER 87-405) amends various provisions relating to executions.

Section 56.041, F.S., is amended by Section 6 to authorize a sheriff to return an unsatisfied execution to the court that issued it. The sheriff may return an execution 20 years after the date of issuance of final judgment upon which the execution was issued. The clerk of court shall issue a receipt to the sheriff submitting a return.

Section 56.22, F.S., is amended by Section 7 to require sheriffs to specify the time, date, and place of a sale of property under legal process in the advertised notice of such sale.

Section 78.12, F.S., is amended by Section 8 to authorize a person who is seeking replevin of property that is located outside the county of the court that issued a writ of

replevin to deliver the writ to the sheriff of the county where such property is located. The sheriff shall execute the writ and, unless the writ directs otherwise, deliver the property to the plaintiff.

Section 56.23, F.S., which requires sheriffs to sell all real and personal property levied upon under execution at the place advertised in the notice of the sheriff's sale, is repealed by the act.

These changes take effect October 1, 1987.

Section 8 of HOUSE BILL 1272 (CHAPTER 87-145) amends Section 56.041, F.S., to require an officer to whom an execution is delivered to furnish defendant with a satisfaction of judgment when an execution on the defendant's property is satisfied.

This section takes effect October 1, 1987.

Judges

HOUSE BILL 1365 (CHAPTER 87-89) amends Section 26.031, F.S., to authorize one additional circuit judge for each of the First, Fifth, Sixth, Ninth, Eleventh, and Twentieth Judicial Circuits and two additional circuit judges for each of the Thirteenth and Fifteenth Judicial Circuits. The act amends Section 34.022, F.S., to authorize one additional county court judge for each of Alachua, Brevard, Leon, Pinellas, and Volusia Counties.

The effective date of the act is January 1, 1988, but a vacancy is deemed to exist as to each judgeship created by the

act on October 1, 1987, for purposes of appointing judges to fill the vacancies pursuant to Section 11 of Article V of the State Constitution.

Jurors

SENATE BILL 91 (CHAPTER 87-75) amends Section 40.013, F.S., to provide that any person who is responsible for the care of a person who, because of mental illness, mental retardation, senility, or other physical or mental incapacity, is incapable of caring for himself must be excused from jury service, upon request.

The act takes effect October 1, 1987.

Landlord and Tenant

COMMITTEE SUBSTITUTE FOR SENATE BILL 287 (CHAPTER 87-369) specifies the remedies available to a residential landlord upon the breach of a lease by the tenant. The landlord may treat the lease as terminated and release the tenant from further liability, retake possession and hold the tenant liable for the difference between the amount of rent the tenant is liable for under the lease and the amount the landlord is able in good faith to recover from reletting the premises, or stand by and do nothing thereby holding the tenant liable for rent as it comes due. If the landlord chooses to retake possession of the premises, he has a duty to exercise good faith in attempting to relet the premises but he is not required to give preference in leasing such premises over leasing other vacant units the landlord owns or has the responsibility to rent.

The act also specifies that a residential landlord may not directly or indirectly cause the termination or interruption of utility services to a tenant, prevent a tenant from gaining access to a dwelling unit, or remove portions of a dwelling unit or a tenant's personal property unless pursuant to a lawfully foreclosed lien. The tenant is entitled to actual and consequential damages or 3 months' rent, including costs and attorney's fees, for a violation of these provisions by a landlord. The act provides that such remedies are not exclusive.

In addition, the act amends Section 83.49, F.S., to allow a landlord of residential units in five or more counties to post a surety bond with the office of Secretary of State in lieu of posting a surety bond in each county. In addition, the landlord is required to pay a tenant simple interest at the rate of 5 percent per year on a security deposit or advance rent moneys.

The act takes effect October 1, 1987.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 714 (CHAPTER 87-195) amends Section 83.231, F.S., to allow a court to award a landlord a judgment for the amount of money due and unpaid by a tenant and attorney's fees and costs in an action by the landlord to remove such tenant from nonresidential rental property.

The act also amends Section 83.46, F.S., to provide that an employer providing a dwelling unit to a tenant, incident to the tenant's employment, is entitled to rent for the period

from the day after the employee ceases employment until the day that the dwelling unit is vacated.

In addition, the act amends Section 83.49, F.S., to allow a landlord of residential units in five or more counties to post a surety bond with the office of the Secretary of State in lieu of posting a surety bond in each county. In addition, the landlord is required to pay a tenant simple interest at the rate of 5 percent per year on a security deposit or advance rent moneys.

Section 83.51, F.S., is amended to require that a residential tenant be given 7 days' written notice when vacation of the premises is required for extermination purposes.

The act also amends Section 83.53, F.S., to provide that, upon reasonable notice to the tenant and at a reasonable time, a residential landlord may enter a unit for the purpose of making repairs.

The act also amends Section 83.56, F.S., to clarify the procedure for giving notice to a residential tenant of termination of the rental agreement when the tenant is absent from the rental property.

Changes are made to Section 83.60, F.S., which provide for a default without notice or hearing upon the failure of a residential tenant to pay rent into the registry of the court as required in an action by the landlord for rent or possession of the premises.

The act amends Section 83.625, F.S., to provide for an award of attorney's fees and costs to the prevailing party in an action by the landlord for possession of a dwelling unit for nonpayment of rent. The provision requiring that a money judgment in such action may not be entered prior to the expiration of the time period within which the tenant-defendant would be required to file an answer or otherwise appear is deleted.

The act also amends Section 613.691, F.S., to provide that a residential landlord's lien for rent attaches to the tenant's personal property at the time the sheriff gives the landlord possession of the premises, but the sheriff does not have to remove the tenant's property in order to give the landlord possession.

The act takes effect October 1, 1987.

Sections 7 and 8 of COMMITTEE SUBSTITUTE FOR SENATE BILL 401 (CHAPTER 87-117) amend Section 723.061, F.S., to continue, after June 30, 1987, the damages, based on length of residence, to be paid by a mobile home park owner to home owners evicted from a mobile home park due to a change of land use; but the provision providing for the payment of a portion of the difference between the book value and cash value of the appurtenances and the market value of the mobile home to the home owner is continued only until July 1, 1988.

SENATE BILL 18 (CHAPTER 87-109) amends Section 421.08, F.S., to allow a housing authority to appear in court through

any of its officers, agents, or employees for the exclusive purpose of filing eviction papers.

Liens

COMMITTEE SUBSTITUTE FOR SENATE BILL 363 (CHAPTER 87-67) amends Section 55.10, F.S., to provide that a lien on real property based on a judgment, order, or decree will be limited to 7 years from the date of recording, unless extended, but in no event may the total duration of the lien exceed 20 years.

COMMITTEE SUBSTITUTE FOR SENATE BILL 720 (CHAPTER 87-74) prescribes criminal penalties for the misuse of moneys received on account of improving real property and deletes provisions which made the misapplication of such moneys embezzlement and which made failure to pay for labor, services, or materials furnished, after receipt of a loan to pay therefor, prima facie evidence of intent to defraud. It provides that moneys received and which are owed to a subcontractor, sub-subcontractor, materialman, or other lienor are held in trust. And it makes financial mismanagement or misconduct in the practice of contracting that causes financial harm to a customer grounds for disciplinary proceedings.

The act provides that errors or omissions in the notice to the owner given by a lienor who has substantially complied with notice requirements will not prevent the enforcement of a claim if the person is not adversely affected by the error or omission.

The act requires a copy of the notice of commencement to be attached to the building permit when the permit is issued.

The act revises provisions relating to notice of nonpayment as a condition to recovery under a payment bond. A copy of the recorded payment bond must be posted by the property owner at the site of the construction or improvement before commencement. The act increases the interest which may be paid on a lien transferred to other security.

The act takes effect October 1, 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILL 655 (CHAPTER 87-324) amends Section 329.40, F.S., to provide that a lien for landing or other charges at a publicly owned and operated airport attaches only to aircraft owned or operated by the person owing the charges which aircraft are located at that airport.

The act takes effect October 1, 1987.

Lost or Abandoned Property and Unclaimed Evidence

COMMITTEE SUBSTITUTE FOR HOUSE BILL 516 (CHAPTER 87-82) substantially revises several sections of Chapter 705, F.S., pertaining to the disposition of lost or abandoned property and unclaimed evidence by counties and municipalities.

The act requires the reporting of lost or abandoned property, prohibits any person from appropriating such property for his own use, and provides penalties therefor. It establishes procedures for the handling and disposition of such property. Provision is made for establishing title to lost or

abandoned property, and procedures for handling unclaimed evidence are established.

The act also repeals Section 510.01, F.S., relating to title to personal property found in public places, and several sections in Chapter 116, F.S., relating to the forfeiture of personal property in the custody of the clerk of the circuit court, which property was received in evidence.

The act takes effect October 1, 1987.

Mediation and Arbitration

COMMITTEE SUBSTITUTE FOR HOUSE BILL 379 (CHAPTER 87-173) authorizes a circuit court or a county court to refer all or any part of a civil action or dispute to a mediator, an arbitrator, or an arbitration panel to resolve contested issues under certain circumstances.

The act defines the term "mediation" as an informal and nonadversarial process in which a mediator encourages the disputing parties to reach mutually acceptable agreement.

A circuit or county court may refer a contested civil action to mediation if a mediation program has been established locally. Each party involved in the mediation proceeding has a privilege to refuse to disclose communications made during such proceeding. However, this privilege does not limit the discovery or admissibility of any information that is otherwise subject to discovery or admission under applicable law or rule of court.

The chief judge of each judicial circuit is required to certify qualified mediators according to standards established by the Supreme Court. The mediation process is subject to the rules of practice and procedure adopted by the Supreme Court.

The term "arbitration" is defined as a process by which a neutral panel or person hears arguments presented by the parties to a dispute and renders a decision.

A circuit or county court may refer a contested civil action to court-annexed, nonbinding arbitration. Arbitrators are to be selected pursuant to rules adopted by the Supreme Court. Arbitrators are authorized to administer oaths and affirmations and to issue subpoenas for the attendance of witnesses and the production of evidence. An arbitrator must be compensated by a fee of not more than \$75 per day, plus 20 cents per mile for travel.

Court-annexed arbitration decisions are final unless one of the parties requests a trial de novo within the time provided by rules promulgated by the Supreme Court. If no such request is made, the arbitration decision is referred to the judge presiding over the case. The judge shall enter an order or a judgment to carry out the terms of the arbitration decision. If a party requests a trial de novo and does not receive a more favorable judgment than the arbitration decision, he shall be assessed arbitration costs, court costs, and other reasonable costs, including attorney's fees. The court may waive the assessment of such costs if it finds that

the assessment would cause a substantial financial handicap or is not in the interest of justice.

The act provides that parties to a civil dispute may agree in writing to submit the controversy to binding arbitration, if no constitutional issue is involved. The parties may provide for a method for the appointment of an arbitrator or a panel of arbitrators, but the chief arbitrator must meet minimum qualifications established by the Supreme Court. If the parties do not provide for the appointment of arbitrators, or if the agreement fails, the court shall appoint an arbitrator or an arbitration panel. The parties are required to compensate arbitrators, at the rate of at least \$75 per day.

Application for voluntary binding arbitration and fees must be filed with the clerk of court. The applicable statute of limitation is tolled by the filing of the application for binding arbitration. The court shall appoint arbitrators within 10 days after such an application is filed. The court-appointed arbitrators are required to notify the parties of the time and place of the hearing. The Florida Evidence Code applies to voluntary binding arbitration hearings. A final decision may be made by a majority of the panel of arbitrators.

A party may appeal to the circuit court a decision resulting from voluntary binding arbitration. The appeal is limited to a review of the record and is not a trial de novo. The appeal is also limited to issues relating to the rules of procedure and evidence, issues relating to partiality or

misconduct of an arbitrator, and state and federal constitutional issues.

If a decision is not appealed, then it is referred to the presiding judge in the case or to the chief judge of the circuit for assignment to a circuit judge. Such judge shall enter orders and judgments to carry out the terms of the decision.

The act takes effect January 1, 1988.

Offers of Settlement

COMMITTEE SUBSTITUTE FOR SENATE BILL 866 (CHAPTER 87-249) establishes a procedure for the filing of offers of settlement in civil actions. It also provides sanctions for situations in which such offers are unreasonably rejected and provides exemptions for certain actions.

The act prohibits attorneys and other persons representing an executive branch agency or officer from agreeing to any settlement requiring the expenditure of state funds unless the expenditure is provided for by an existing appropriation or reasonable prior notification is given to certain legislative officers.

Punitive Damages

HOUSE BILL 343 (CHAPTER 87-42) amends Section 768.73, F.S., to provide for the award of punitive damages in civil actions involving misconduct in commercial transactions. The amount of the award is limited to 3 times the amount of compensatory damages awarded.

The act takes effect October 1, 1987.

Real Property

HOUSE BILL 693 (CHAPTER 87-194) amends Section 95.16, F.S., to provide that, when property which is claimed through adverse possession is protected by a substantial enclosure, all of the property must be described in the instrument upon which the claim of title is founded, and property enclosed but not included in the description will not be deemed to be possessed.

SENATE BILL 295 (CHAPTER 87-306) amends Section 201.022, F.S., to provide that the failure to file with the clerk of the circuit court a return stating the actual consideration paid for an interest in real property does not impair the validity of the deed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 327 (CHAPTER 87-66) amends Section 689.02, F.S., to require the inclusion of a blank space on warranty deed forms for insertion of the property appraiser's parcel identification number. Failure to include the space or the number, or the insertion of an incorrect number, will not affect the conveyance or the recordability of the deed; and the parcel identification number will not be part of, or a substitute for, the legal description of the property.

The act takes effect October 1, 1988.

Service of Process

COMMITTEE SUBSTITUTE FOR SENATE BILL 242 (CHAPTER 87-405) amends Section 30.231, F.S., to require sheriffs to charge

a fixed, nonrefundable fee of \$12 for each subpoena served on a witness, unless more than one subpoena is served on a person at one time, in which case the sheriff is entitled to a single fee. The section is also amended to increase from \$20 to \$50 the fee which sheriffs must charge to docket and index each levy and to establish a \$10 fee for docketing and indexing each satisfaction of judgment.

The act amends Section 48.031, F.S., to authorize substitute service of process on the spouse of the person to be served at any place in the county. Such service may be made if the cause of action is not an adversary proceeding between the spouse and the person to be served, the spouse requests such service, and the spouse and the person to be served live in the same dwelling. The amendment also authorizes substitute service on a sole proprietor by serving the manager of the business at the place of business during regular business hours, if one or more attempts have been made to serve the sole proprietor at the place of business.

Section 48.061, F.S., is amended to provide that service on a partnership is valid if served on any partner. A partner is authorized to designate an employee to accept such process on behalf of the partnership, if the partner is not available during business hours. If one attempt is made to serve a partner or designated employee, process may be served on the person in charge of the partnership during business hours. If service is made on a partner, judgment and execution may be issued against that partner and the assets of the partnership.

If service is made on an employee of the partnership, the court may issue execution against the partnership's assets but not against a partner's individual assets.

Section 48.183, F.S., is amended to authorize service of summons in an action for possession of residential premises by attaching a copy of the summons to a conspicuous place on the property described in the complaint or summons, if, after at least two attempts to obtain service, the tenant cannot be found in the county or there is no person 15 years of age or older residing at the tenant's usual place of abode in the county. Prior to the amendment, the section authorized such service if neither the tenant nor a person who is 15 years of age or older and who resides at the tenant's usual place or residence can be found at the tenant's usual place of residence.

The act amends Section 51.011, F.S., to provide that a defendant's answer in a summary procedure must be filed, instead of served, within 5 days after the plaintiff's initial pleading is served on the defendant.

Paragraph 713.18(1)(a), F.S., is repealed by the act. That paragraph authorizes service of notices, claims of liens, and other instruments relating to liens by serving in the manner provided by law for service of process.

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

Trial Courts

COMMITTEE SUBSTITUTE FOR SENATE BILL 419 (CHAPTER 87-314) establishes the Study Commission on the Florida Trial Court System to study the feasibility of establishing a one-tier court system. If the Commission concludes that such a system is not appropriate, it must study the feasibility of concurrent jurisdiction between the circuit and county courts. The Commission must submit a report of its findings and recommendations, together with drafts of appropriate legislation and court rules, to the President of the Senate and the Speaker of the House of Representatives no later than February 1, 1988. The Office of the State Courts Administrator will act as staff for the Commission and provide data collection, analysis, and research and support services to the Commission. Members of the Commission serve without compensation but will be reimbursed for per diem and travel expenses. The Commission expires April 1, 1988.

EDUCATION, K-12*

Numerous problems and needs affecting education and the public schools were identified during the 1987 Legislative Session. Many bills were proposed to deal with these concerns.

Several of these bills were eventually compiled into a single omnibus bill and passed. Summaries of this and other measures are presented below.

Establishment and Enhancement of Educational Programs

COMMITTEE SUBSTITUTE FOR SENATE BILLS 799 & 132 (CHAPTER 87-329) addresses significant educational issues which were considered during the 1987 Legislative Session. These include:

1. The need to provide educational programs for "at-risk" populations, in particular:
 - those adults who lack basic and functional literacy skills,
 - those students likely to drop out of school, or
 - those students who may be exposed to the dangers of alcohol and substance abuse.

2. The need to encourage business and community involvement in education; and

*Prepared by House Education K-12 Committee

3. The need to assist school districts to adapt to changing expectations and growth patterns.

Dropout Prevention Program Improvements

Sections 1-7 revise the definition of a "dropout" to help reflect more accurately the dropout problem in Florida. This measure also carries the Student Services Act further to require each school district to implement a student services plan, and broadens the definition of a school guidance counselor to include advising students of alternatives to dropping out and ways to finish school which include vocational and alternative education programs. To encourage direct counseling with students, the act adds a directive that school guidance counselors spend 75 percent of their work time counseling students. This section also requires that the district student services plan include a district-level tracking system for school dropouts.

Section 232.245, F.S., is amended to require each school district's pupil progression plan to identify students in grades 9-12 who have a grade point average of 1.5 or below, and assist these "high risk" students in meeting the required 1.5 grade point average which will be necessary for graduation. Districts can design appropriate policies to assist these students. Policies may include, but are not limited to, study skills classes, peer/volunteer tutors, and summer school.

The 1.5 grade point average requirement for high school graduation is delayed until the 1988-89 school year. An

amendment to current law would allow students who meet all graduation requirements, except the 1.5 grade point average in 1988-89 and later, to receive a certificate of completion.

The Department of Education is required to conduct a study regarding grade-point averages, make recommendations concerning dropout prevention programs and provide an analysis of the usefulness of the certificate of completion. A report will be made to the Legislature by January 1, 1988.

A statewide uniform grading system is established and will be implemented beginning with students entering the ninth grade in the 1987-88 school year. Grades, numerical percentages, and grade points will be as follows:

<u>Letter Grade</u>	<u>Numerical Percent</u>	<u>Grade Point</u>
A	94-100	4.0
B	85-93	3.0
C	75-84	2.0
D	65-74	1.0
F	0-64	0.0
I	Incomplete	0.0

[This plan was established to provide equal opportunity for awards, scholarships and activities.]

Finally, language is added to current law requiring the Department of Education to disseminate the findings of the model dropout prevention programs and to provide technical

assistance to districts wishing to implement components of such programs.

School-Age Child Care Incentives Program

Section 8 of COMMITTEE SUBSTITUTE FOR SENATE BILLS 799 & 132 (CHAPTER 87-329) amends Section 228.0617, F.S., relating to school-age child care incentives programs, to add two demonstration projects to provide after school programs for pre-teenagers. These programs will be offered cooperatively by school districts and local park and recreation departments.

The Florida Model Literacy Program Act

The Florida Model Literacy Program Act of 1987 (Sections 9-18) passed as part of COMMITTEE SUBSTITUTE FOR SENATE BILLS 799 & 132 (CHAPTER 87-329). The act requires the Commissioner of Education to develop a comprehensive state plan for reducing the percentage of the adult population lacking basic and functional literacy skills to 2 and 10 percent, respectively, by 1995. The plan known as the Florida Adult Literacy Plan, shall include such elements as a statement of policies and objectives, strategies and criteria for coordinating activities with public libraries and public assistance and employment agencies, data gathering and performance monitoring, and guidelines for school districts and community colleges, as applicable, to follow in developing a local literacy plan. The guidelines are to cover such items as use and training of volunteer tutors, reduction of class size, evaluation criteria, coordination of efforts with public libraries and other

literacy program sponsors, and parent-training programs. The plan must be implemented by February 1, 1988.

The measure also recognizes and defines two levels of adult literacy, basic (4th grade achievement) and functional (8th grade achievement), and clarifies usage in existing adult basic skills and literacy legislation. Program costs for adult basic and adult high school programs are to be reported separately.

In addition, this measure creates an adult basic skills education program adjustment under the Florida Education Finance Program (FEFP) and the Community College Program Fund (CCPF), and requests the Legislature to appropriate moneys to establish a grant program to support volunteer literacy activities of public libraries and nonprofit entities.

The act requires local literacy sponsors, as evidence of progress towards meeting the 2 percent goal, to include in their annual report under the Adult Literacy Act the number of adults with fewer than 4 years of schooling, the number enrolled in adult basic skills programs, and the number who completed, separated from, or continued in the program. It also requires the Commissioner to submit to the State Board of Education a county-by-county summary of such information.

The act further requires each public school district or community college, as applicable, to test certain Department of Health and Rehabilitative Services (DHRS) employment and training program participants to determine whether they lack

basic or functional literacy skills. All state agencies are to make their clients aware of available basic education programs.

The Commissioner of Education is authorized to select three community colleges and three public school districts to pilot the use of model noninstructional literacy centers. The function of the centers is to identify, contact, counsel, and refer adults lacking basic and functional literacy skills.

Community colleges are authorized to administer the General Educational Development (GED) examination.

Notwithstanding the provisions of Subsection 236.02(4), F.S., adult students may take courses on any day of the week. [This will allow adult literacy and adult education courses to be scheduled on Sunday, if districts desire.]

International Baccalaureate Program

Section 19 of the act amends Section 232.2465, F.S., 1986 Supplement, to enable students who successfully complete an international baccalaureate program to qualify as a Florida Academic Scholar in lieu of satisfying certain existing requirements.

Florida Private Sector and Education Partnership Act

The Florida Private Sector and Education Partnership Act (Sections 20-22 and 24-25) passed as part of COMMITTEE SUBSTITUTE FOR SENATE BILLS 799 & 132 (CHAPTER 87-329). The law creates Section 229.602, F.S., to encourage and facilitate business/education partnerships and remove barriers to partnership formation. The Private Sector and Education

Partnership Act will be funded primarily from lottery income. The act includes provisions for increased emphasis on partnership activities by the Department of Education and local districts. The act creates the following programs:

1. The Florida Public Schools Challenge Grants Program to provide matching grants (60 percent business/40 percent state) for local partnership activities;
2. The Florida Compact Pilot Program to provide incentives to school districts for developing long-range agreements or "compacts" with business to increase student achievement, reduce dropouts, and increase employment of high school graduates; and
3. Partnership Vocational Education Programs, a vocational job preparatory cost factor within the Florida Education Finance Program (Section 236.081, F.S.), to appropriately fund apprenticeship and cooperative programs and to allow these programs to accept in-kind contributions.

Florida Linkage Institutes

This section creates the Florida Linkage Institutes. These institutes, co-administered by a university/community college partnership, are to assist in the development of stronger economic and social ties between Florida and strategic foreign countries through cooperative research technical assistance, student/faculty exchange, cultural exchange, and enhanced language training.

Pledge of Allegiance

Section 26 of the act requires the students of every elementary and secondary public school in the state to say the pledge of allegiance to the flag at the beginning of each school day. A student may be excused from reciting the pledge upon written request by a parent or guardian.

Comprehensive Health Education and Substance Abuse Prevention Act

The Comprehensive Health Education and Substance Abuse Prevention Act (Sections 27-35) amends the current health education provisions in Section 233.067, F.S., to ensure that quality instruction on substance abuse prevention is integrated into the curriculum at each grade level, K-12, and that adequate teacher and administrator training is provided. Provisions for assistance by the Department of Education and requirements for district school board activities are included to support schools in efforts to prevent substance abuse among students.

This legislation also provides guidelines for the establishment of local school resource officer programs to assist the schools with substance abuse prevention activities. The Department of Education may provide funding for one-third the cost of approved programs to be matched by two-thirds from local school districts, law enforcement agencies, or other community resources.

Education Efficiency Act

The Education Efficiency Act (Sections 36-47) amends or repeals a number of statutes that require unnecessary paperwork, are obsolete, or otherwise impede the efficiency of education. Paperwork eliminated includes numerous reports from local schools and school boards to the Department of Education and unused reports by teachers on instructional materials.

Notwithstanding provisions in current law (Subsection 232.246(6), F.S., 1986 Supplement), students who have received a passing grade for all courses required for high school graduation and have met all other requirements for graduation with the exception of the 1.5 grade point average for the 1986-87 school year shall be eligible for a standard high school diploma. [This will enable students who completed high school in 1986-87 with a cumulative grade point average between 1.0 and 1.5 to be retroactively eligible for a standard diploma.]

Adult Education Scholarship Funds

Section 48 of COMMITTEE SUBSTITUTE FOR SENATE BILLS 799 & 132 (CHAPTER 87-329) authorizes school boards to use donations to establish scholarship funds for adult secondary and adult vocational education programs. Those school districts choosing to establish such funds are to develop criteria for awarding scholarships.

High School Speech and Debate

Section 49 of the act amends Section 232.246, F.S., to allow a high school student to take a course in speech and

debate in order to satisfy the one-half credit performing fine arts requirement for high school graduation, beginning with the 1987-88 school year. The one-half credit in performing arts or speech and debate is part of the 24 credits a student needs in order to graduate.

Lifelong Learning

Section 228.072, F.S., 1986 Supplement, is amended to create a category of adult general education instruction called "Lifelong Learning." A lifelong learning student is an adult enrolled in a course for his or her personal enrichment, and not to seek or upgrade employment skills, earn a diploma, or achieve literacy.

Lifelong learning students are to be funded as the fourth of five priority levels. A "lifelong learning" student is defined in the legislation.

The act provides criteria for reporting lifelong learning students enrolled in vocational supplemental courses and adult basic and secondary education courses to the Department of Education.

Several technical changes are also made, including changing the term "adult high school" to the more accurate "adult secondary education," and upgrading terminology in the funding categories.

Home Education

COMMITTEE SUBSTITUTE FOR HOUSE BILL 211 (CHAPTER 87-64) deletes the section of Chapter 85-144, Laws of Florida, which

would have repealed the home education program on July 1, 1987. [Thus, the program is allowed to continue under the guidelines specified below.

[Florida law requires that all children between the ages of 6 and 16 attend school. In 1985, the Legislature provided a program to allow children who attend home education programs to comply with the compulsory school attendance law.

[Home education involves instruction of a student at home by a parent or guardian. The parent or guardian instructor need not hold a certificate as a teacher to conduct the program. However, several requirements must be met:

1. Notify the school superintendent in the county in which the parent resides of intent to establish a home education program. The notice must be in writing, and include the names, addresses, and birth dates of all children enrolled, and must be filed within 30 days of establishing the program;
2. Maintain a portfolio of records and materials of the child's work. The portfolio must be preserved by the parent for 2 years and be made available for inspection by the superintendent upon 15 days written notice; and
3. Provide for an annual educational evaluation which reflects the educational progress of the child commensurate with the child's ability.

[In order to assure proper progress, the school superintendent is required to review and accept the results of

the annual evaluation of the child enrolled in a home education program.]

Teacher Certification

COMMITTEE SUBSTITUTE FOR SENATE BILL 496 (CHAPTER 87-76) amends Section 231.17, F.S., to modify certain requirements relating to teacher certification. [Present law mandates that applicants for certification at the secondary level must have taken at least 30 semester hours of college courses in a college other than the college of education. This has made it difficult for teachers in some specializations, such as physical education, to meet the requirements.] The new legislation requires that no more than 9 of the 30 hours may be earned in a college of education unless the applicant's courses in the specialization field were offered only in the college of education.

A second provision of the act reorganizes the Department of Education by adding a Division of Human Resource Development. [Prior to reorganization, existing divisions were blind services, community colleges, public schools, universities, and vocational, adult, and community education.]

Quality Teacher Recruitment

COMMITTEE SUBSTITUTE FOR HOUSE BILL 282 (CHAPTER 87-163) directs school boards to establish policies for the effective recruitment of quality teachers. The policies may provide for appropriate expenses to that end, including payment of moving

expenses for teachers in areas of critical need, such as the subjects of math and science and high-priority location areas.

[The costs incurred upon the school board would depend on which expenses it deemed appropriate. Moving expenses vary with weight of items and distance travelled.]

An amendment to this act requires each district school board to use the periodic report of academic progress for students in grades K-8 to notify parents when a student is working at a skill level below that of his assigned grade placement.

Minimum Student Performance Standards in Social Studies

COMMITTEE SUBSTITUTE FOR SENATE BILL 219 (CHAPTER 87-113) amends Sections 229.565 and 229.57, F.S., to require that beginning July 1, 1987, the State Board of Education establish minimum student performance standards in history, government, geography, and economics. These subject areas are also to be included in the annual testing program.

Minimum student performance standards are broad objectives that identify particular skills and knowledge within a given subject area that students must master by a specified grade level. [Prior to passage of this legislation, the State Board of Education had established minimum student performance standards in the areas of reading, writing, mathematics, science, and computer literacy. Students are tested in grades three, five, eight and ten to determine whether these minimum standards have been achieved.]

Notification of Superintendent

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 501 (CHAPTER 87-408) creates Section 230.335, F.S., to require law enforcement agencies to provide the appropriate superintendent of schools with the name and address of any school district employee arrested for a felony.

The measure requires the court to notify the superintendent of the name and address of any student found to have committed a delinquent act, an act which, if committed by an adult, would be a felony. The name and address of students may only be released to appropriate school personnel, and only to the extent necessary to protect the health, safety, and welfare of other students.

This act takes effect on October 1, 1987.

School Board Disruptions

COMMITTEE SUBSTITUTE FOR HOUSE BILL 417 (CHAPTER 87-277) makes it a misdemeanor offense to knowingly disrupt or interfere with school board functions or activities taking place on school board property, beginning October 1, 1987. The measure also states that nothing in this section will deny public employees the opportunity to exercise their rights pursuant to Part II of Chapter 447, F.S., regarding collective bargaining agreements.

Student Services Plans

SENATE BILL 243 (CHAPTER 87-305) amends Section 230.2313, F.S., eliminating the requirement that each public

school develop a student services plan. The act requires school districts to implement their district student services plan by the beginning of the 1988-89 school year.

Eligibility for Participation in Extracurricular Activities

HOUSE BILL 722 (CHAPTER 87-196) makes it incumbent upon high school students wishing to participate in extracurricular activities at the beginning of the school year to have passed five subjects and maintain a 1.5 grade point average for the previous year, instead of the previous grading period as the statute currently reads.

Eligibility for extracurricular activities later in the year is a continuation of present law requiring the passing of five subjects and maintaining a 1.5 grade point average for the previous grading period.

[The measure makes state law and the Florida High School Activities Association rule consistent.]

School Board Audits

COMMITTEE SUBSTITUTE FOR SENATE BILL 265 (CHAPTER 87-114) amends Section 11.45, F.S., to provide that a district school board is not to be prohibited from performing an independent financial audit despite timely notification by the Auditor General that he or she intends to conduct a financial audit of the school board as required by law.

This measure permits a school board to require the Auditor General to complete the annual school board audit within 12 months following the end of the fiscal year. If the

school board conducts an independent financial audit, the law imposes the same deadline for completion as required of the Auditor General.

The act extends, from 20 to 30 days, the time period within which a school board must submit a written rebuttal of the auditor's comments. Additionally, any independent financial audits are required to be submitted to the Auditor General within 30 days after completion, but no later than 12 months after the end of the fiscal year.

Diagnostic and Learning Resource Centers

SENATE BILL 1123 (CHAPTER 87-339), an act pertaining to diagnostic and learning resource centers in Florida, directs the Department of Education to:

1. establish regional diagnostic and learning resource centers for exceptional students;
2. assist in the testing and other services designed to evaluate and diagnose exceptionalities;
3. make referrals for necessary instruction and service; and
4. facilitate the provision of instruction and services to exceptional students.

Each one of these centers is directed by this measure to assist in the delivery, modification and integration of instructional technology to address needs of exceptional students.

These centers may also offer testing and evaluation for high-risk or handicapped infants and preschool children, and training for the parents of these children.

The measure also calls for a study to determine if a uniform system for services to high-risk and handicapped children can be established.

EDUCATION - POSTSECONDARY*

In the area of postsecondary education, the 1987 Legislature provided community colleges with a 7.0 percent funding increase. Several specific programs receiving an increased funding level were instructional equipment (\$5.1 million), library books (\$1.9 million), and Sunshine State Skills Program (\$3.0 million). The Educational and General Funds of the State University System were increased 10.7 percent. From the gross receipts tax on utilities, which is used to fund the Public Education Capital Outlay Program, community colleges and universities received in excess of \$70 million and \$80 million, respectively.

Sufficient pay and benefit enhancement funds were provided to give University Support Personnel System employees a 3 percent increase on the employee's base rate of pay, effective July 1, 1987, and allow for merit increases to eligible employees of an additional 3 to 5 percent. A 4.5 percent increase was provided to State University System administration and professional personnel, faculty, and graduate assistants. An additional 1 percent discretionary pay increase was also provided.

*Prepared by House Committee on Higher Education

The COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILLS 47 & 17 (CHAPTER 87-132) and the COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1008 (CHAPTER 87-212) became the major vehicles for the substantive postsecondary education legislation that was passed during the 1987 Session. Summaries of the provisions of these acts and other related measures are discussed below under the appropriate subheadings.

Florida Prepaid Postsecondary Education Expense Program

The COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILLS 47 & 17 (CHAPTER 87-132) creates the Florida Prepaid Postsecondary Education Expense Program. Through this program, a student's undergraduate tuition and housing fees can be prepaid in one lump sum, in installments, or through payroll deduction. The prepaid fees constitute a significant discount in comparison to the projected cost of tuition and housing at the time the student actually enrolls in a postsecondary institution. In addition, the cost of prepayment is fixed at a price set at the time the prepayment plan is purchased. The prepayments are all combined and invested by the Prepaid Postsecondary Education Expense Board. The Board invests the prepayments through private sector investors such as banks, savings and loans, investment brokers, and insurance companies. Such investments are expected to generate sufficient interest to offset rising tuition and housing costs.

Eminent Scholars

The COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1008 (CHAPTER 87-212) revises the Florida Endowment Trust Fund for Eminent Scholars (Section 240.257, F.S.) in three ways. First, it authorizes the New College Foundation to establish its own Eminent Scholars Trust Fund. Second, it removes the statutorily imposed maximum of \$1 million for an eminent scholar endowment and allows state universities to increase the value of an endowment if private-sector contributions total more than \$1 million. Finally, the measure revises the state matching formula for private-sector contributions to the trust fund. Previously, the state provided \$400,000 for each \$600,000 contribution, for a match of 66 percent. The bill creates an escalating matching scale so that a \$600,000 - \$1 million contribution generates a 70 percent state match, a \$1 million - \$1.5 million contribution generates a 75 percent state match, a \$1.5 million - \$2 million contribution generates an 80 percent state match, and a contribution in excess of \$2 million generates a state match of 100 percent.

Blue Chip Scholars

The COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1008 (CHAPTER 87-212) revises the provisions of the Florida Undergraduate Scholars' Program (Section 240.402, F.S.). The act requires that students who are designated as Florida Academic Scholars earn a 3.5 grade-point average in

subjects creditable toward a diploma. The legislation also makes students who earn an International Baccalaureate Diploma automatically eligible for receipt of a Florida Undergraduate Scholars' Scholarship. The law raises the value of these scholarships from a current maximum of \$1,500 to a flat \$2,500 award.

Articulated Acceleration

The COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1008 (CHAPTER 87-212) contains extensive provisions regarding articulated acceleration. Articulated acceleration consists of those courses and examinations that enable a student to receive credit simultaneously toward a high school diploma and postsecondary degree or to exempt postsecondary coursework based on prior knowledge or experience. The enactment recognizes dual enrollment, early admission, advanced placement, the International Baccalaureate, the College-Level Examination Program (CLEP) and Proficiency Examination Program (PEP) as state-approved acceleration mechanisms. In addition, the act provides legislative intent for articulated acceleration so that acceleration mechanisms serve not only to accelerate student articulation, but also to expand student curricular options and provide students opportunities for more in-depth study. [In general, the legislation is intended to provide sound curricular options that will help students choose to complete high school or to attend postsecondary institutions in Florida.]

Community College Governance and Administration

The COMMITTEE SUBSTITUTE FOR SENATE BILLS 715, 664, & 850 (CHAPTER 87-326) allows community colleges to transfer a maximum of \$125,000 from the general current fund to the scholarship fund. This measure also allows community colleges to use up to 25 percent or \$125,000 of the scholarship fund, whichever is greater, to provide financial assistance to students who demonstrate academic merit or who participate in athletics, public service, cultural arts, and other extracurricular programs. Any remaining scholarship funds must be used for needy students. The act also revises the community college "corridor funding" concept so that a community college's assigned enrollment can be decreased when the college experiences an enrollment decline. [Such reassignment prevents community colleges with declining enrollments from having to continually revert money to the State Board of Community Colleges.] Finally, the enactment allows community colleges to offer associate in applied science degrees in addition to the associate in arts and associate in science degrees that they currently offer.

The COMMITTEE SUBSTITUTE FOR SENATE BILL 1074 (CHAPTER 87-126) overhauls the administration of the Florida Academic Improvement Trust Fund for community colleges, transferring administrative and rulemaking authority from the State Board of Education to the State Board of Community Colleges. [Through this fund, the state provides \$4 in matching funds for each \$6 contributed by private donors.] The law requires that a minimum

of \$25,000 be reserved for each community college. The legislation lowers the minimum private contribution necessary for state matching funds from \$10,000 to \$4,500 and raises the cap from \$100,000 to 15 percent of the Fund or the community college's proportionate share of systemwide full-time enrollments, whichever is greater. The act requires that moneys generated through the Fund be placed in an endowment and it restricts the use of such moneys. Finally, the law allows for moneys to be transferred from the Fund in increments of \$3,000, rather than the prior \$5,000.

Postsecondary Facilities

The COMMITTEE SUBSTITUTE FOR SENATE BILL 763 (CHAPTER 87-122) requires the Commissioner of Education to provide an estimate of funds available to the Board of Regents and State Board of Community Colleges for development of their respective three-year priority lists of capital outlay projects. The enactment also states the parameters within which each board must develop and revise its list and provides for the carrying forward of certain unfunded projects.

Corporate Inservice Training Program

The designated use of the title "college" or "university" is restricted in Florida to degree-granting colleges accredited as defined in statute. Notwithstanding these provisions of law, HOUSE BILL 166 (CHAPTER 87-48) provides circumstances under which a corporate inservice

training program may use the term "college" or "university" as part of its name designation.

Tort Liability/Schools/Insurance

The Board of Regents (BOR) is authorized to secure, or otherwise provide as self-insurer, or by a combination thereof, comprehensive general liability insurance, including professional liability for health care and veterinary sciences, for several groups within the State University System family. Currently, statutes provide that immunity of the Board of Regents against the type of liability described above is waived to the extent of liability insurance carried by the Board of Regents and to the extent of funds available in a particular self-insurance trust fund.

HOUSE BILL 285 (CHAPTER 87-134) enacts the following changes:

- A. Strikes Subsection 240.213(2), F.S., which specifies that the Board of Regents shall waive its immunity to the extent of insurance purchased and to the extent of all funds contained in a particular self-insurance trust fund. [The BOR plans to cover \$100,000 in damages and it would be necessary to file a claims bill with the Legislature for any judgments in excess of this amount.]
- B. Creates Subsection 240.213(4), F.S., to authorize the purchase of indemnity coverage for legislative claims bills without a waiver of sovereign immunity.

[This allows BOR to purchase indemnity protection for whatever limits it may choose in anticipation of any legislative claims bills which it may be liable to pay. The nonwaiver of immunity provision eliminates any argument that purchase of such coverage makes it unnecessary to go to the Legislature for a claims bill.]

C. Amends Subsection 240.213(5), F.S., to provide that no self-insurance program adopted by BOR may sue or be sued. [This provision establishes BOR as the only proper-party defendant in litigation covered by the trust funds. Currently, some attorneys sue the insurance program as well, for the purpose of exposing the existence of insurance to the jury.] It also provides for confidentiality of trust fund claim files.

D. Subsection 768.28(5), F.S., is revised to provide that a claim may be settled by the state or any agency or subdivision thereof within the limits of insurance coverage provided, without further action by the Legislature, but in no instance shall this settlement be deemed to have waived sovereign immunity or increased liability beyond the limits provided.

Finally, this enactment removes current statutory language pertaining to public schools, sheriffs, counties, school boards, state agencies and certain political

subdivisions which waive immunity to the extent of insurance coverage carried or to the extent of funds available in a particular self-insurance trust fund for the satisfaction of any claim for which such trust fund was established.

Community College Sick Leave

Community college boards of trustees are authorized to establish rules regarding terminal pay for an employee's accumulated sick leave. HOUSE BILL 416 (CHAPTER 87-276) revises language with respect to the maximum amounts which may be approved by a district board of trustees for accumulated sick leave. It provides that, with respect to the eleventh through thirtieth years of service, the rate may equal half of the daily rate of an employee's pay, plus up to 2.5 percent per year for each year of service beyond ten years, times the number of days of accumulated sick leave. [The implementation of this provision is permissive and will be funded from existing Community College Program Fund allocations in any given year.]

The act takes effect October 1, 1987.

Student Financial Aid Advisors

The Florida Sundown Act (Section 11.611, F.S.) mandates that regulatory councils, boards, and committees be reviewed periodically. COMMITTEE SUBSTITUTE for SENATE BILL 203 (CHAPTER 87-22) authorizes changes [which became apparent following a review of the Council of Student Financial Aid

Advisors by the Senate Committee on Education and House Committee on Regulatory Reform].

The act reduces the Council's membership from 16 to 14 persons, revises terms and requires that the Council submit copies of its minutes to each institution that participates in a state financial aid program, the Senate Education Committee and the House Higher Education Committee. It mandates that the President of the Senate and Speaker of the House of Representatives receive a copy of the Council's long-range plans.

The measure further mandates the Department of Education to annually review the distribution procedures for state financial aid programs. A report, including recommendations for the distribution of state financial aid funds, must be submitted annually to the State Board of Education, the President of the Senate, and the Speaker of the House of Representatives. The Council is scheduled to Sundown on October 1, 1992.

Public School Work Experience

[The intent of this program is to provide assistance to public schools by allowing students enrolled in postsecondary education to work as science laboratory assistants or teacher aides. For public postsecondary institutions, it is intended to provide mentors who tutor and counsel educationally disadvantaged college freshmen.]

COMMITTEE SUBSTITUTE FOR SENATE BILL 223 (CHAPTER 87-304) permits any student attending a public university or community college to participate in the Public School Work Experience Program. It changes the eligibility requirements by allowing students to participate in the program after they have successfully completed 15 semester hours, rather than having to wait until they complete the freshman year. Additionally, it reduces the grade-point average requirement from 3.0 to 2.5 in order to be eligible to participate.

Governor's Summer Colleges Program

COMMITTEE SUBSTITUTE FOR SENATE BILL 371 (CHAPTER 87-311) creates the Governor's Summer Colleges. The colleges are four-week residential programs in liberal arts, public issues, mathematics and science, and visual and performing arts for highly qualified high school students who will be eligible the summer between their junior and senior years. Two programs will be offered in the summer of 1988 at New College of the University of South Florida in Sarasota and at Florida State University in Tallahassee, a liberal arts "college" and a public issues "college," respectively. After 1988, the colleges could include mathematics and science and the visual and performing arts.

An eight-member Governor's Summer Colleges Council will provide oversight and recommend rules to the State Board of Education. The Board will adopt rules that provide procedures for the selection of participating institutions and students,

including students from nonpublic schools and developmental research schools.

Moffitt Cancer Center

COMMITTEE SUBSTITUTE FOR SENATE BILL 757 (CHAPTER 87-121) establishes the H. Lee Moffitt Cancer Center and Research Institute at the University of South Florida. It allows the Board of Regents to enter into an agreement for the utilization of the center with a not-for-profit corporation recognized by BOR under the provisions of Section 240.299, F.S. The not-for-profit corporation will act as an instrumentality of the state while governing the operations of the Cancer Center, provided an agreement is entered into between the corporation, the Board, and the University of South Florida.

Additionally, it allows the Board to extend its general liability coverage to the corporation. The Board will resume governance and operation of the facilities should the agreement between it and the corporation be terminated. The authority heretofore accorded the Governor to transfer appropriated funds to any insurance trust fund upon request of the Board is repealed.

Student Loan Forgiveness Program

HOUSE BILL 625 (CHAPTER 87-189) removes the two-year delayed implementation of Section 14 of Chapter 86-225, Laws of Florida, and allows teachers certificated through the alternate certification program to participate in the Student Loan Forgiveness Program as early as Fall 1987.

Lease-Purchase of Education Facilities

HOUSE BILL 1108 (CHAPTER 87-284) authorizes school boards to establish policies for leasing educational facilities to public or private entities, and to lease abandoned educational plants if recommended in an educational plant survey.

The legislation also clarifies the authority of a school board to enter into lease-purchase agreements for educational facilities and sites, and use current or other funds authorized by law to finance lease-purchase agreements. Specifically, the law allows a school board to use the proceeds from the 1.5 mill discretionary capital outlay levy to make payments due under a lease-purchase agreement. Proceeds may also be used to purchase additional school buses, and to retire short-term financial obligations.

The measure provides that a lease-purchase agreement shall expire on June 30 of each fiscal year, subject to annual renewal upon school board appropriation of sufficient funds. The proposal provides that the lease-purchase payments may stipulate a principal component and an interest component. Further, the act provides that a lease-purchase agreement does not establish a debt or obligation of the state or a school board and is not a pledge of the faith and credit of the state or a school board.

To provide additional safeguards, the proposal ensures that a failure on the part of a school board to renew a lease-purchase agreement is not a default, may not subject a school

board to payment of any penalty, or limit its right to purchase or use educational facilities and sites similar in use or purpose to the facilities and sites which are the subject of the lease-purchase agreement.

The provisions of the enactment do not apply solely to school boards, but also include the Board of Regents.

The law extends the Sunset of Subsection 236.25(2), F.S., from 1990 to 1995.

Nonpublic Colleges

COMMITTEE SUBSTITUTE for SENATE BILL 383 (CHAPTER 87-248) exempts from Florida's postsecondary licensing requirements sectarian colleges and universities whose only purpose is to prepare students in religious disciplines. It expands the accreditation agencies that are recognized by Florida as accrediting agencies of nonpublic colleges operating in the state. It mandates that nonpublic colleges demonstrate that they require 50 percent of their student body to satisfactorily complete 12 semester hours or the equivalent in liberal arts or general studies courses in order for them to maintain their exemption from licensure status.

The legislation allows colleges that are accredited by the Florida Association of Christian Colleges and Schools to be exempted from licensure. It also establishes criteria by which colleges with exempt status may maintain that status. Each year these institutions must submit information to the State Board of Independent Colleges and Universities, as prescribed

in law, in order to demonstrate compliance with the criteria for continuation of their exempt status.

The law allows the State Board of Independent Colleges and Universities to have rulemaking authority. The Board rules must still be submitted to the State Board of Education; however, if the State Board of Education does not act on the rules within 60 days, the rules become effective and are incorporated into the Florida Administrative Code.

Finally, the measure was amended on the floor of the House to provide conditions under which any facility operated by a church or nonprofit religious organization, which is used in the treatment of alcoholics, drug abusers or their dependents, may be exempted from the Department of Health and Rehabilitative Services licensing requirements.

Student Loans

HOUSE BILL 1163 (CHAPTER 87-268) authorizes the State Board of Administration to act on behalf of the state for the purpose of borrowing funds to finance student loans. It allows the Board to lend its borrowed funds to eligible lenders described in the provisions of the Higher Education Act of 1965 (20 U.S.C. Section 1071 (1982)).

The Board is authorized to enter into loan agreements and interlocal agreements with any county, municipality, special district, or other local governmental body to obtain funds for the purposes of this act. The agreements may be entered into for the periods of time and under the terms and

conditions that are mutually agreed to by the affected parties. The legislation mandates that the Board's loans be repaid from proceeds received from the loan agreements with the eligible lenders or from proceeds received from the repayment of the student loans.

The law prevents the negotiated agreements from constituting a general or moral obligation or a pledge of the faith and credit or the taxing power of the state. It designates the Higher Education Loan Program of Florida, Incorporated, a nonprofit corporation, as an eligible lender and any other such corporation that can meet the provisions of Section 435(g)(1)(D) of the Higher Education Act of 1965 (20 U.S.C. Section 1085 (1982)), with the concurrence of the State Board of Administration. The Board is further authorized to enter into such other contracts or to take such other action that is necessary or convenient to carry out the purposes of this act. The act provides criteria for the publishing of information relative to the availability of such loans at the local level and specifies that this program is supplemental to any other such programs authorized by Florida law.

ETHICS AND ELECTIONS*

The 1987 Regular Session of the Legislature passed three elections-related bills including several revisions to the Florida Election Code designed to alleviate problems at the polls, smooth election administration, and clarify the disposition of surplus campaign funds by candidates.

Election Administration

COMMITTEE SUBSTITUTE FOR SENATE BILL 222 (CHAPTER 87-364) creates Sections 101.6101-101.6107, F.S., cited as the "Mail Ballot Election Act."

This act gives the governing body calling the election and the supervisor of elections the option of conducting certain elections by mail. Under this procedure, ballots will be sent through the U.S. Mail to every registered voter eligible to vote in the election. Polls will not be open.

Only referendum elections which involve electors in a county, city, school, or special district covering no more than one county could be conducted in this manner. Elections to approve the levy of taxes or the issuance of bonds or elections in which candidates' names appear on the ballot will not be

*Prepared by House Ethics and Elections Committee

allowed to be held by mail. The mail ballot procedure is barred also for the conduct of an election on the same day as another election not conducted by mail ballot in which qualified electors of the political subdivision are eligible to vote.

The act takes effect January 1, 1988.

HOUSE BILL 549 (CHAPTER 87-184) amends Sections 101.121, 101.131, and 102.031, F.S., of the Election Code relating to solicitation near polling places. Definitions of "polling place" and "polling room" are created in Section 97.021, F.S., to clarify the point from which distances are measured. The term "solicit" is defined as it relates to activities near the polling place or polling room and the distance within which solicitation is prohibited is moved from 100 feet to 150 feet. The supervisor of elections is responsible for determining the area within which solicitation is unlawful, based upon the particular characteristics of the polling place. Section 104.36, F.S., which prohibits solicitation within 100 yards of a polling place is repealed.

The effective date of this act is January 1, 1988. However, this provision will become effective on October 1, 1987, since the language was also incorporated in SENATE BILL 209 (CHAPTER 87-363).

SENATE BILL 209 (CHAPTER 87-363) amends several areas of the law relating to elections administration.

This act provides the prerequisites for submitting constitutional amendments proposed by initiative to the Supreme

Court for review of the ballot language and single subject requirement upon request of the sponsor by creating Sections 15.21 and 16.061, F.S.

Section 98.211, F.S., is amended to reenact a limited public records exemption relating to voter registration records. It allows anyone access to see all voter records except absentee ballot information. Supervisors would continue to be allowed to copy records for those persons currently authorized to receive copies. If an authorized person requests copies of information relative to an election which occurred more than 15 days preceding an election and the supervisor cannot provide them, the requesting party is authorized to make copies. Access to absentee voter information would be restricted to canvassing boards, elections officials, and candidates with opposition under revised Section 101.62, F.S.

The legislation also defines "election costs" in Section 97.021, F.S., and requires special districts or community development districts to pay their proportionate share of election costs directly relating to a district election in amending Sections 100.011, 100.201, 100.261, and 125.01, F.S.

The enactment revises Section 103.091, F.S., to change the date at which state and county executive members are elected from the Presidential Preference Primary to the first primary election in each presidential election year and narrows the qualification period. The terms of officers elected will begin following the general election at which the President is elected.

The effective date of the law is October 1, 1987.

Campaign Financing

SENATE BILL 209 (CHAPTER 87-363) also incorporates provisions relating to disposition of surplus campaign funds. The language in Section 106.141, F.S., is clarified to allow for disposition by one of the following methods or any combination thereof: return to each contributor pro rata, donate to charity, give to the candidate's political party, or give to general revenue.

The measure also changes the amount which is allowed to be retained by countywide or less than countywide officers to \$1,000 multiplied by the number of years in the term of office for which elected.

This act amends Sections 97.021, 101.121, and 101.131, F.S., in language identical to HOUSE BILL 549 (CHAPTER 87-184).

The measure becomes effective October 1, 1987.

FINANCE AND TAXATION*

Early in the 1987 Session, the Legislature adopted significant legislation imposing the sales tax on the provision of services, dealing with various sales tax exemptions scheduled for "sunset," and increasing the documentary stamp and special fuel taxes. Subsequently, this act was revised and clarified by two additional acts. Also in the sales tax area, the "Fairness in Retail Sales Taxation Act" was adopted to enable the Department of Revenue to collect taxes on items purchased out-of-state, such as catalogue sales, and mailed into the state.

Various local option sales taxes received legislative attention this session. Among these, the "Local Government Infrastructure Commitment Act" allows counties to adopt, subject to referendum, up to a 1-cent sales surtax, the proceeds of which are to be used for infrastructure. Administrative provisions relating to several other local option taxes were revised.

The phosphate severance tax was reduced, and funding of the Conservation and Recreation Lands Trust Fund was revised.

*Prepared by House Bill Drafting Service

Previously funded by severance taxes, the Trust Fund will now be primarily funded from the documentary stamp tax.

Revisions were made with respect to corporate taxes in response to the recent revision of the Federal Income Tax Code, and the emergency excise tax was repealed for property acquired after 1986. Also, Florida adopted a version of the federal alternative minimum tax.

In the area of ad valorem taxation, provisions granting exemptions for homes for the aged were revised. Administrative and collection procedures for taxation of fuel were amended, and the point of collection of such taxes was revised.

Various general tax administration amendments were enacted, a tax amnesty program was provided for, and numerous penalties for tax crimes were revised.

With respect to financial matters, the "Taxable Bond Act of 1987" was created and the "Florida Private Activity Bond Allocation Act" was revised to conform to the recent Federal Income Tax Code revision. Numerous other changes in the areas of bonds, local finances, and trust funds were also adopted.

SALES TAX ON SERVICES AND RELATED MATTERS

The most important tax legislation this year was COMMITTEE SUBSTITUTE FOR SENATE BILL 777 (CHAPTER 87-6), passed in response to last year's "sunset" of various sales tax exemptions and application of the tax to services. This act provides extensive procedures for administration of the tax on services and deals with various nonservice exemptions; it also increases the documentary stamp tax and the special fuel tax.

There are provisions which revise various tax penalties, which are discussed under the heading TAX ADMINISTRATION. Numerous provisions of this act were further revised and clarified by COMMITTEE SUBSTITUTE FOR HOUSE BILL 1506 (CHAPTER 87-101), referred to as the "Glitch Bill," and by COMMITTEE SUBSTITUTE FOR SENATE BILL 143 (CHAPTER 87-72), which contains amendments that were also included in CHAPTER 87-101, Laws of Florida. To avoid unnecessary repetition, in the following discussion the phrase "as modified" is used to indicate a provision that was originally enacted by CHAPTER 87-6, Laws of Florida, and subsequently amended by CHAPTER 87-101, Laws of Florida.

Tax on Services

New Section 212.059, F.S., as modified, imposes the sales and use tax on services. It provides that sales are presumed to be Florida sales when the service is primarily performed in this state. Services are subject to the use tax when the sale is outside of the state but the service is used in Florida. Taxes are due and payable as provided in Section 212.11, F.S., or a person primarily engaged in selling services may register as a service provider and ascertain the amount of tax payable on the basis of cash receipts for all taxable transactions. However, if the transaction involves the sale of taxable tangible property, the tax is due at the time of the sale. Multistate businesses that self-accrue use taxes are required to file an annual supplementary tax return. Transportation services are taxed based on a formula that

allocates one-half of the charge to the point of origination and one-half to the point of destination. Issuance of state and local permits is prohibited until the applicant attests to payment of use taxes due on services purchased outside Florida.

New Section 212.0591, F.S., as modified, contains the rules of construction for the sales and use tax on services. The rules include clarification of the meaning of references to the Standard Industrial Classification Code, how transactions involving either exempt property or services and taxable services are taxed, and clarification that the act shall not inadvertently exempt transactions now taxed. The rules of construction further provide a set of rebuttable presumptions as to where the benefit of a service is enjoyed. This section also specifies legislative intent to strictly limit exemptions to those expressly provided, and intent to void the exemption in full if the exemption is ruled facially unconstitutional.

Exemptions from the tax on services are enumerated in Section 212.0592, F.S., as modified. Generally, the following services are exempt: services purchased in Florida but used outside the state; employee services; intercompany sales between corporations that are members of an affiliated group; religious, health, social, and most educational and governmental services; most agricultural and forestry services; sanitary services sold to residential customers; insurance payments; interest; financial services, with specified exceptions; condominium and homeowner maintenance fees; specified membership dues; rail transportation and air

passenger transportation; most local passenger transportation, motor freight and most water transportation; travel agent services; television and motion picture production services; news services; and newspaper delivery services. Real estate services are taxable, except for property assessed as homestead property. Legal services are taxable, except for those relating to bankruptcy, child support, and enforcement of civil rights; and there is an exemption for criminal cases when the defendant is found not guilty or charges are dismissed. An amendment to Section 57.071, F.S., establishes the tax as a court cost in the event court costs are awarded to any party. Most personal services are taxable; coin-operated laundries are exempt, as are beauty and barber shops.

New Section 212.0593, F.S., as modified, sets forth the general administrative rules for the sales tax exemption for services used outside Florida. Florida service providers selling services to multistate purchasers are absolved from collecting the tax if the purchaser has obtained an exempt purchase permit from the Department of Revenue. Multistate purchasers will self-accrue any taxes due on services, except advertising, based on the extent to which their benefit is enjoyed in Florida. Florida service providers selling to purchasers without any nexus in Florida are absolved from collecting the tax if the purchaser executes an exempt purchase permit or an affidavit stating that the purchaser has no Florida nexus.

The original Section 212.0594, F.S., dealing with the tax on construction services, enacted under CHAPTER 87-6, Laws of Florida, was replaced with an entirely new section by CHAPTER 87-101, Laws of Florida. The tax on new construction is based on 50 percent of the contract price or cost price of the new construction. Repair services of less than \$5,000 are taxed at the contract price less building materials on which taxes were previously paid. Construction support services (architects, engineers, etc.) are taxed at the full sales price of services. Construction services and construction support services are exempt if done by one's own employees and if the employer is not in the business of providing construction services. Manufactured buildings are taxable based upon cost price minus building materials.

The prime contractor is responsible for collecting and remitting the tax; subcontractors do not collect the tax. Beginning July 1, 1988, a contractor may elect to be taxed on 50 percent of the contract or cost price for the project, or upon the full cost price after deducting building materials. Road construction services performed for governmental entities and construction and repair of churches are exempt. No unit of local government may issue a certificate of occupancy for new construction until the prime contractor certifies, on a form promulgated by the Department, that the new construction is substantially complete; such forms are to be returned monthly by the local government to the Department. The act provides an exemption until July 1, 1989, for construction contracts

entered into prior to May 1, 1987, binding bids or offers outstanding on that date, and contracts funded by government bonds sold or contracted to be sold prior to that day, if the contract would not allow the seller to collect the tax from the buyer. By March 1, 1988, the Department is to provide the Legislature with an estimate of the value of construction services expected to be performed after June 30, 1989, on contracts that qualify for this exemption.

The tax on advertising is provided for under new Section 212.0595, F.S., as modified. The tax is based upon Florida circulation for print media, or population coverage for broadcast media. For advertising sold outside Florida but used in Florida, the tax is self-accrued by the advertiser. For advertising sold inside Florida, the tax is collected by the advertising media.

CHAPTER 87-101, Laws of Florida, creates Section 212.0598, F.S., which provides air carriers the option of apportioning their service and property purchases on the basis of their mileage, upon written request and registration with the Department as a dealer.

The definitions applicable to Chapter 212, F.S., contained in Section 212.02, F.S., are revised, alphabetized, and expanded to include necessary references to services. Subsection (19) of said section lists the conditions under which a sale of services is considered a sale for resale, and Subsection (22) defines "services" as those activities usually provided for consideration by establishments under specifically

listed Standard Industrial Classification Manual
classifications.

Numerous other statutory provisions are expanded to include the tax on services. These include: Section 212.054, F.S. - discretionary sales surtaxes; Section 212.06, F.S. - exemption for qualified motion picture in-house fabrication labor, definition of "dealer," and status of imported services; Section 212.07, F.S. - collection by dealer; Section 212.08, F.S. - exemptions for sale of services by churches and services directly related to the installation of industrial machinery and equipment purchased for use in a new or expanding business; Section 212.095, F.S. - refunds; Section 212.11, F.S. - quarterly returns for certain dealers registered as service providers; Section 212.12, F.S. - dealer collection allowance and enforcement; Section 212.13, F.S. - recordkeeping, inspection and audit; Section 212.14, F.S. - enforcement and hearings; Section 212.17, F.S. - credits for returned payments; Section 212.18, F.S. - registration of dealers; and Section 212.21, F.S. - legislative intent.

Numerous administrative and transition provisions for the tax on services are also provided in CHAPTER 87-6, Laws of Florida, as modified by CHAPTER 87-101, Laws of Florida. The Executive Director of the Department is authorized to adopt emergency rules, effective for 6 months. Other implementing rules are exempted from rule challenge or drawout under Section 120.54, F.S., but are subject to challenge under Section 120.56, F.S. The act mandates waiver of penalties associated

with the tax on services for the first 3 months after the tax takes effect, and allows the Executive Director to waive interest on delinquent taxes on services for the first 3 months of taxes if he determines that imposition of interest will cause an undue hardship on the taxpayer. It also provides for exempting services purchased prior to April 1, 1987, and performed after July 1, 1987, and for prorating taxes on services provided before and after July 1, 1987, or continuing through that period when consideration is received after July 1, 1987. It specifies that nothing in the act shall be construed to require disclosure of information privileged under the Florida Evidence Code.

Paragraph 57.111(3)(d), F.S., is revised to expand the "Florida Equal Access to Justice Act" to provide for payment of attorney fees to a prevailing business party in a legal action to contest the legality of a tax assessment with regard to the tax on services. Subsection 120.575(1), F.S., is amended to provide for special procedures with respect to legal actions contesting the tax on services under the Administrative Procedures Act (Chapter 120, F.S.). The amendment provides for issuance of an order on the tax issue within 30 days of the hearing, and provides that the order is final agency action not subject to modification by the agency head. Paragraph 120.57(1)(b), F.S., is amended to exempt such proceedings from the general rules of procedure applicable to determination of decisions which affect substantial interests. New Subsection 120.65(5), F.S., as modified, provides for a panel of 1 to 3

hearing officers in cases involving the tax on services, depending on the revenues involved and the complexity of issues. The Department is directed to identify services that are not taxable and report to the Governor and Legislature by March 1, 1989. Also, the Department is directed to establish a sales tax hotline. CHAPTER 87-101, Laws of Florida, appropriates \$364,757 to the Division of Administrative Hearings of the Department of Administration to fund administrative procedures required under the new sales tax law.

Exemptions

In addition to the tax on services, CHAPTERS 87-6, Laws of Florida, and 87-101, Laws of Florida, also deal extensively with various sales tax exemptions. Several exemptions scheduled to "sunset" by last year's action were reinstated, some new exemptions were enacted and others were modified.

An amendment to the definition of "lease" under Subsection 212.02(14), F.S., excludes charges subject to the jurisdiction of the Interstate Commerce Commission when paid by railroads for use of another railroad's tracks, or charges made pursuant to car service agreements. Paragraph 212.031(1)(a), F.S., as modified, reinstates the exemption for condominium recreational leases and exempts from the tax on rentals property used in production of qualified motion pictures and food and drink concessions in publicly owned auditoriums and recreational facilities, and provides exemption from license tax for certain concessions at airports. Paragraph

212.04(2)(a), F.S., as modified, reinstates exemptions for admissions to athletic and other events sponsored by certain institutions; for dues, memberships fees, and admission charges imposed by certain nonprofit organizations; for certain admissions paid by students; and for admissions to National Football League championship games; and provides an exemption for admissions to athletic or other events sponsored by governmental entities.

Amendments to Subsection 212.05(1), F.S., as modified, reinstate the exemption for the sale of boats to out-of-state residents, make exemption procedures applicable to exempt sales of airplanes to out-of-state residents, and exempt the long-term lease of commercial trucks when sales tax is paid on the purchase of the vehicles.

Further amendments specify that pay telephones are not subject to the sales tax on services, and that newspapers and magazines are taxed at 5 percent of retail price.

There are several changes in Section 212.08, F.S., the exemptions section. Exemptions are provided for orthopedic shoes; sales to other states; purchases by nonprofit organizations in other states; purchases by university newspapers; license fees and charges for films, videotapes, and transcriptions used by broadcast entities; and free samples of alcoholic beverages, retroactive to July 1, 1981. The proration formula for taxation of airline parts is repealed. The partial exemption for flyable aircraft sold to out-of-state residents is reinstated, and the 10-percent dealer collection

allowance for manufacturers of such aircraft is removed. Language inadvertently deleted in 1986 regarding treatment of transactions involving government employees is reinstated. Also, the following exemptions scheduled for "sunset" are reinstated: agricultural fair leases, subleases for conventions and trade shows, volunteer fire department equipment and supplies, resource recovery equipment for local governments, State Theater Program facilities, the partial exemption for autos sold to out-of-state residents, and enterprise zone credits.

Administration

There are also revisions to administrative provisions. An amendment to Subsection 212.11(1), F.S., exempts new sales tax dealers from the estimated payments provision. The amendment to Paragraph 212.095(6)(a), F.S., as modified, deletes a prohibition against a sales tax dealer assisting in preparation of a tax refund application.

Amendments to Subsection 212.12(1), F.S., as modified, effective January 1, 1988, specify that the dealer collection allowance is also for the purpose of compensating remitters of any taxes or fees reported on the same documents utilized for the sales and use tax, and authorize the Department to require specified information to be reported by major tax source. An amendment to Paragraph 240.533(4)(c), F.S., allows universities to retain the sales tax on athletic events used to support women's athletics. The Department rule which allows purchasers

of tangible personal property to self-accrue sales and use tax is repealed, and authority for self-accrual under limited circumstances is provided.

Documentary Stamp and Special Fuels Taxes

CHAPTER 87-6, Laws of Florida, also increases two other taxes, the excise tax on documents and the special fuels tax. Subsection 201.02(1), F.S., is amended to increase the tax on deeds and other instruments relating to realty from 50 to 55 cents per \$100 of consideration. Paragraph 206.87(1)(b), F.S., is created to impose an additional 5-cent-per-gallon excise tax on special fuel. Sections 201.15, 206.875, and 207.026, F.S., are amended to provide for deposit of the proceeds of these two tax increases into the State Infrastructure Trust Fund. New Section 212.235, F.S., as modified, creates the Fund. In addition to the two above-mentioned tax increases, 2 percent of total sales tax collections for fiscal year 1987-88, and 5 percent thereafter, are to be deposited in the Fund. Receipts of the Fund are capped at \$200 million for fiscal year 1987-88 and \$500 million each year thereafter. Moneys in the Fund may be appropriated by the Legislature for specified infrastructure projects.

SALES TAX - GENERAL

SENATE BILL 1244 (CHAPTER 87-402) creates the "Fairness in Retail Sales Taxation Act" to provide procedures for imposition of sales tax on mail order sales. Under new Section 212.0596, F.S., a mail order sale is defined as a sale of

tangible personal property, ordered by mail or other means, to a purchaser who is in this state at the time the order is remitted, from a dealer who receives the order in another state of the United States or an area under the jurisdiction of the United States, and who transports the property, whether or not by mail, from any jurisdiction of the United States, including this state, to a person in this state. A dealer that makes mail order sales and that is a Florida corporation or has retail establishments or agents in Florida, or that actively solicits sales from Florida consumers, or that comes under Florida's jurisdiction by other specified means, is declared to be subject to Florida sales tax. Paragraph 212.06(5)(a), F.S., is amended to authorize the Department of Revenue to collect sales taxes on mail order sales transported to a cooperating state that reciprocates by collecting taxes on mail order sales from that state into Florida in accordance with specified requirements.

Subsection 212.20(4), F.S., is created to provide for refunds in the event a court of competent jurisdiction rules that the tax on mail order sales was levied or collected illegally. An amendment to Subsection 212.12(1), F.S., authorizes the Department, in accordance with guidelines adopted by rule, to negotiate a collection allowance with dealers who make mail order sales, but not to exceed 10 percent of taxes remitted. Mail order sales businesses are exempt from the sales tax registration fee in an amendment to Subsection 212.18(3), F.S. Sections 212.02, 212.05, and 212.15, F.S., are

amended to conform existing law and include reference to mail order sales. There is an appropriation of \$75,000 to the Department to retain legal consultants to assist in any litigation arising from the act.

This act takes effect October 1, 1987.

SENATE BILL 355 (CHAPTER 87-370) creates Paragraph 212.08(7)(w), F.S., to provide that boats on which no sales tax has been paid, which are not licensed in another jurisdiction, or which are being used under a permit issued by an agency of the U.S. Government, may remain in the state for 10 days in any year without being subject to use tax. This 10-day period is tolled if the boat is placed in a registered repair facility for repairs or alterations. Such repair facilities are required to make certain reports to the Department. Such a boat may be sold during this period, and sales tax shall apply to such sale.

The act takes effect October 1, 1987.

Several provisions relating to sales tax are included in COMMITTEE SUBSTITUTE FOR SENATE BILL 145 (CHAPTER 87-99). Paragraph 212.05(1)(a), F.S., is amended to remove the provision that the sale of an aircraft, boat, mobile home, or motor vehicle by anyone other than a registered motor vehicle dealer is considered an occasional or isolated sale. The general rule for determining whether a sale is occasional or isolated now applies to the sale of such vehicles. Amendments to Subsections 212.06(7) and (8), F.S., extend the exemptions for property upon which sales tax has been paid in another

state, and for property used for at least 6 months in another state, to taxes paid or property used in United States territories and the District of Columbia. A similar amendment to Subsection 212.06(8), F.S., regarding use in the District of Columbia, is included in SENATE BILL 355 (CHAPTER 87-370). The exemption for general groceries in Subsection 212.08(1), F.S., is amended to exempt foods and drinks not otherwise exempt when they are purchased with food stamps or with vouchers from the Special Supplemental Food Program for Women, Infants and Children; this exemption is effective as long as federal law prohibits participation in such programs by a state that collects sales tax on such foods and drinks.

Section 212.0601, F.S., is created to impose an annual use tax of \$27 on motor vehicle dealers for each dealer license plate purchased. An amendment to Paragraph 212.12(2)(c), F.S., provides that dealers filing a consolidated sales tax return are subject to the penalty for failure to timely remit estimated sales tax payments for each county unless the dealer has paid the required estimated tax for the consolidated return as a whole without regard to each county. Finally, with respect to application of the sales tax to interstate private communication services, an amendment to Paragraph 212.05(1)(e), F.S., revises the apportionment formula for direct private telephone lines to include only the distance within Florida, instead of half of the interstate private line charge.

LOCAL OPTION SALES TAXES

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1421 (CHAPTER 87-239), the "Local Government Infrastructure Commitment Act," creates Subsection 212.055(3), F.S., to authorize a local option sales surtax subject to voter approval in a referendum. County governing bodies or the governing bodies of municipalities representing a majority of the county population may present the issue in an election between July 1, 1987, and November 30, 1992, except during the period March 9 - December 31, 1988. The surtax may be set at a rate of one-quarter, one-half, three-fourths, or one full cent and may be levied for 15 years. The proceeds of the surtax must be expended for infrastructure. The surtax proceeds, which may be bonded, are to be distributed in either of two ways: pursuant to an interlocal agreement; or, if there is no interlocal agreement; according to the formula provided in Section 218.62, F.S., the current method of distributing the half-cent sales tax which is returned to local governments. The act prohibits counties and municipalities from using surtax proceeds to replace user fees or to reduce ad valorem taxes. Finally, the surtax applies to every item the state sales tax applies to, except sales of tangible personal property above \$5,000.

This act also repeals two obsolete statutes: Section 212.058, F.S., which authorized counties to levy a 1-cent sales tax during 1985 for criminal justice facilities, and Subsection 212.11(6), F.S., a conforming reference.

HOUSE BILL 380 (CHAPTER 87-258) creates Paragraph 212.0305(4)(d), F.S., to authorize each county which was chartered under Article VIII of the State Constitution and which on January 1, 1984, levied a tourist advertising ad valorem tax within a special taxing district to impose, by ordinance, outside the boundaries of the special taxing district and to the southeast of State Road 415, a 1-percent "special convention development tax" on transient rentals. [Volusia County is the only county that meets this description.] Paragraph 212.0305(4)(e), F.S., is also created to authorize such county to levy a similar "subcounty convention development tax" outside the special taxing district and to the northwest of State Road 415. For each tax, the county is to appoint a seven-member authority to administer and disburse the proceeds, which may be used only to promote and advertise tourism and to fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus.

Amendments to Section 125.0108, F.S., contained in COMMITTEE SUBSTITUTE FOR HOUSE BILL 624 (CHAPTER 87-280) deal with the areas of critical state concern tourist impact tax. Application of the tax to sale of food and beverages and to admissions is removed. It is specified that the referendum for approval of the tax may be held in conjunction with a special, in addition to a general, election. The act also requires that the tax be repealed 10 years after the date the area of critical state concern designation for the area in which the tax is levied is removed.

This legislation also revises the authorized uses of the tourist development tax specified in Paragraph 125.0104(5)(a), F.S. It allows use of revenues for shoreline protection, enhancement, cleanup, or restoration of inland lakes and rivers to which there is public access. Further, any county of less than 500,000 population as determined pursuant to Section 186.901, F.S., is authorized to utilize tourist development tax revenues to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more museums, zoological parks, fishing piers or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public.

These provisions take effect October 1, 1987, unless otherwise provided in the act.

The local option tourist development tax is also the subject of COMMITTEE SUBSTITUTE FOR HOUSE BILL 453 (CHAPTER 87-175). This act creates Subsection 125.0104(10), F.S., to provide that a county may be exempt from requirements that the tax be remitted to the Department of Revenue before being returned to the county, and that the tax be administered according to the provisions of Part I of Chapter 212, F.S., if the county adopts an ordinance providing for the collection and administration of the tax on a local basis. The same authorization for local administration is provided with respect to convention development taxes through the creation of Subsection 212.0305(5), F.S., by COMMITTEE SUBSTITUTE FOR SENATE BILL 145 (CHAPTER 87-99).

Both of these acts also create Subsection 213.053(9), F.S., to authorize the Department of Revenue to disclose to the governing body of the county or subcounty district levying a local option tax which the Department is responsible for administering, names and addresses only of the taxpayers who reside within the taxing boundaries of such county or subcounty district, upon the county's request by resolution. The same confidentiality requirements applicable to the Department apply to such a county and its employees. A nearly identical subsection is created by COMMITTEE SUBSTITUTE FOR SENATE BILL 142 (CHAPTER 87-102). However, this version also applies to any state tax which is distributed to units of local government based upon place of collection, and the county or subcounty district is required to supply sufficient information as the Department may prescribe by rule.

COMMITTEE SUBSTITUTE FOR SENATE BILL 145 (CHAPTER 87-99) mentioned above, also contains provisions relating to other local option taxes. Amendments to Paragraphs 125.0104(3)(d) and (4)(a), F.S., change the earliest possible effective date of local option tourist development taxes from the first day of the month following approval to the first day of the second month. Amendments to Paragraphs 212.055(1)(b) and (d), F.S., deal with the charter county transit system surtax. It is specified that for any county, the government of which is consolidated with that of one or more municipalities, the surtax rate shall be one-tenth of the basic sales tax rate.

The act also authorizes remittance of surtax proceeds to an expressway or transportation authority to be used for roads and bridges, a bus system, or payment of principal and interest on existing bonds for road and bridge construction, or, upon county commission approval, to refinance bonds.

SEVERANCE TAXES/CARL FUNDING

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 711 (CHAPTER 87-96) deals with three interrelated areas: severance taxes, the excise tax on documents, and funding of the Conservation and Recreation Lands (CARL) Trust Fund.

First, Section 211.3103, F.S., is amended to reduce the phosphate severance tax from \$2.20/ton to \$1.79/ton from July to December 1987, and to \$1.35/ton for calendar year 1988. Thereafter, the severance tax rate will be tied to a new "phosphate rock-primary products index" rather than the "phosphates" index (Paragraph 211.30(11)(a), F.S.). The 5-year moving average is eliminated, and the base rate adjustment will be based on the change in the index from the previous year. Also, the 1995 date for reduction of the base rate is changed to 2000.

Distribution of the phosphate tax is revised. For the period July 1, 1987, through June 30, 1989, 95 percent of the proceeds will be deposited in the General Revenue Fund, and 5 percent distributed to the counties for phosphate-related expenses. Beginning July 1, 1989, \$10 million will be credited to the CARL Fund (50 percent is currently so distributed), and the remaining revenues will be divided among the General

Revenue Fund (60 percent), the Nonmandatory Land Reclamation Trust Fund (25 percent), the Phosphate Research Trust Fund (5 percent), and the counties (10 percent).

Distribution of the severance taxes on oil, gas and sulfur, solid minerals, and heavy minerals under Subsections 211.06(2), 211.31(1), and 211.3106(1), F.S., is also revised; the 50 percent formerly distributed to the CARL Fund will be deposited in the General Revenue Fund.

Effective August 1, 1987, the CARL Fund will receive 9.2 percent of documentary stamp tax proceeds; the distribution of this tax to the General Revenue Fund is correspondingly reduced (Section 201.15, F.S.). Other amendments are also made to Section 253.023, F.S., which establishes the CARL Fund. The \$40 million annual cap on the Fund receipts is deleted. Also, instead of \$10 million transferred to the Land Acquisition Trust Fund each year, up to \$20 million will be transferred to pay debt service on bonds issued pursuant to Section 375.051, F.S., and this transfer for debt service has the highest priority of all payments from the Fund. Finally, language which requires that lands acquired from the Fund may only be purchased for 70 percent or less of appraised value is deleted.

Another amendment by this act, to Paragraph 201.15(3)(a), F.S., expands the use of the documentary stamp tax proceeds credited to the Land Acquisition Trust Fund to include payment of debt service on bonds issued to acquire coastal lands.

CORPORATE TAXES

Amendments to Paragraphs 220.03(1)(n) and (2)(c), F.S., by COMMITTEE SUBSTITUTE FOR SENATE BILL 145 (CHAPTER 87-99) update references to the Internal Revenue Code to include the 1986 revision of this federal Code. New Paragraphs 220.03(5)(e) and (f), F.S., provide that elections regarding application of the 1980 version of the Code under Paragraphs 220.03(5)(b) and (c), F.S., shall expire and be void for taxable years beginning on or after January 1, 1987, except any depreciation method elected and applied to assets placed in service prior to January 1, 1987. Taxpayers that made such election for any prior taxable year shall recompute tax for all prior years for which such election was effective by determining the tax for all such taxable years as if the election had not been made, except for differences attributable to depreciation methods. The aggregate of the changes in the tax liabilities resulting from such recomputation shall be treated as an addition to tax or credit against tax, ratably over the five succeeding taxable years beginning after December 31, 1986. Provisions for the automatic repeal of the emergency excise tax for taxable years beginning after June 30, 1987, in Subsections 220.03(6), 221.01(2), 221.02(2), and 221.04(3), F.S., are removed. Further amendments to Section 221.01, F.S., confine applicability of the emergency excise tax to assets placed in service after December 31, 1980, and before January 1, 1987.

Other amendments in this area adopt a version of the new federal alternative minimum tax. Under these provisions, taxpayers will be required to pay at least a 3.3 percent tax on a broader definition of income if this calculation exceeds their normal 5.5 percent tax calculation. Paragraph 220.13(2)(k), F.S., is created to define "taxable income" for taxpayers liable for the alternative minimum tax as defined in Section 55 of the Internal Revenue Code of 1986, and new Subsections 220.11(3) and (4), F.S., provide for calculation of the corporate tax for such taxpayers. Section 220.186, F.S., is created to provide a credit for the Florida alternative minimum tax; Subsection 220.02(9), F.S., is amended to include this credit in the order of credits. Other conforming amendments are made to Paragraphs 220.13(1)(a) and 221.01(2)(a), F.S.

This act also directs the Department of Commerce in conjunction with the Department of Revenue to complete, before April 1, 1988, a joint study of changing the adjusted federal income apportionment fraction to one based solely on sales.

Finally, Subsections 220.03(1) and 220.222(1), F.S., and Section 220.53, F.S., are amended to update and correct statutory cross-references. All of the corporate tax amendments contained in this act operate retroactively to January 1, 1987.

With respect to administration of corporate taxes, Subsection 214.14(1), F.S., is amended by COMMITTEE SUBSTITUTE FOR SENATE BILL 142 (CHAPTER 87-102) to make a technical change

in language describing interest allowed on overpayments of corporate taxes. Also, Subsection 220.03(1), F.S., and Section 220.53, F.S., are amended to update and correct statutory cross-references, duplicating amendments made by COMMITTEE SUBSTITUTE FOR SENATE BILL 145 (CHAPTER 87-99).

AD VALOREM TAXATION

COMMITTEE SUBSTITUTE FOR SENATE BILL 552 (CHAPTER 87-318) amends Section 193.1142, F.S., allowing a designee of the Executive Director of the Department of Revenue to approve or disapprove assessment rolls, and reducing from 60 days to 50 days the time within which the Department must approve assessment rolls.

Provisions granting ad valorem tax exemptions to homes for the aged are revised in an amendment to Section 196.1975, F.S., by COMMITTEE SUBSTITUTE FOR SENATE BILL 862 (CHAPTER 87-332). Various references to the extent of use of such property for charitable purposes are removed, and it is specified that the constitutional basis of the income criteria for exemption is Section 6(e) of Article VII of the State Constitution, the renter's homestead provision. A requirement that an applicant corporation be a Florida corporation is removed. Qualification for the \$25,000 per unit exemption is revised; units not otherwise exempt which are operated by a not-for-profit corporation and owned by such corporation or leased by such corporation from a health facilities authority pursuant to Part III of Chapter 154, F.S., or an industrial development authority pursuant to Part III of Chapter 159, F.S., are

entitled to the exemption. Finally, a provision is included specifying that the application deadline as required under Subsection 196.011(1), F.S., shall be waived for the 1983 tax year only for any facility entitled to the exemption for every year thereafter.

The act also amends Section 196.1976, F.S., to remove Section 196.1975, F.S., from severability provisions and to provide that if any provision of said section is held to be invalid or inoperative for any reason after January 1, 1988, the remaining provisions thereof shall be deemed to be void.

TAXATION OF FUEL

Taxation of fuel and pollutants is one of the main subjects of COMMITTEE SUBSTITUTE FOR SENATE BILL 145 (CHAPTER 87-99); the amendments by this act described under this heading take effect January 1, 1988.

The definition of "importer" in Subsection 206.01(5), F.S., is broadened to include entities which only export fuel, thus requiring them to register with the state, and Subsection 206.01(16), F.S., is created to define "loading rack." Under new Subsection 206.02(7), F.S., the Department of Revenue is authorized to issue a provisional license for importers, refiners and wholesalers that would allow new businesses to operate while background checks are being performed; however, a publicly held corporation, the securities of which are regularly traded on a national securities exchange and not over the counter, shall be issued a license without a background investigation. Section 206.09, F.S., relating to reports

required of carriers transporting fuel and similar products, is amended to include a reference to Part III of Chapter 206, F.S., and to delete the address of the consignee, the exact point of origin of the fuel, and the license number of each tank truck from the reporting requirements.

The point of collection of fuel taxes is the subject of amendments to Sections 206.41, 212.62, 206.60, 206.605, and 206.9935, F.S., relating to the constitutional gas tax, sales tax on fuel, the county and municipal taxes, and taxes on pollutants, respectively. The taxes are to be collected at the time of first sale or first removal from storage after importation into Florida, i.e., from either the refiner or the importer. "First sale" does not include exchanges or loans between licensed refiners before the fuel is removed through the loading rack. The tax is imposed when the fuel is removed through the loading rack and prior to removal from storage. Wholesalers are to pay tax on their purchases of fuel from refiners or importers rather than merely collect the tax on their sales of fuel to retail dealers.

The act provides that a wholesaler who possesses nontaxed fuel on January 1, 1988, may pay the tax when the fuel is sold, or in three installments, if the tax is \$100,000 or less, or in six installments, if more than \$100,000. Section 206.065, F.S., is created to provide that wholesalers who sell at least 150,000 gallons a month in a 12-month period and who meet other specified requirements may be authorized by the Department to self-accrue and remit the tax on motor fuel

directly to the Department. The authority to self-accrue and remit must be renewed annually. The privilege may be revoked or denied under specified conditions, and review is provided for. Section 212.66, F.S., is amended to provide for applicability of this new section to the sales tax on fuel.

The creation of Subsections 206.62(5) and (6), F.S., makes fuel sold to military post exchanges for resale specifically subject to tax. An amendment to Paragraph 212.67(1)(b), F.S., allows retail dealers in counties which impose any local option gas tax to take as a credit against local option taxes the amount of the shrinkage and evaporation refund allowed with respect to the sales tax on fuel.

Amendments to Section 206.86, F.S., provide definitions of "dual user" and "consumption" applicable to tax on special fuel, and revise and clarify the definition of "special fuel." Section 206.87, F.S., is amended to clarify exemptions from the tax on special fuel, and to specify the liability of dealers, and others who cannot substantiate that the tax has been paid, for the tax and penalties.

Administrative provisions applicable to taxes on pollutants are revised in an amendment to Section 206.9931, F.S. Sellers of pollutants are allowed to either separately state the tax on the sales slip or certify on the sales document that tax has been paid. Also, the Department is allowed to authorize quarterly, semiannual, or annual returns if the tax remitted for the preceding quarter, half year, or year did not exceed \$100, \$200, or \$400, respectively. An

amendment to Subsection 206.9941(2), F.S., expands the exemption from the tax for inland protection for exported petroleum products to importers, wholesalers, producers, and dealers, and an amendment to Section 206.9942, F.S., allows importers, producers, wholesalers, or dealers who export petroleum products on which the pollutant tax has been paid to apply for refund or take a credit against such taxes owed.

In the area of local option fuel taxes, language relating to the application of the voted gas tax, the local option gas tax, the tax for metropolitan transportation systems, and to certain refunds, is revised in amendments to Sections 336.021, 336.025, and 336.026, F.S. Further amendments require that the Department of Revenue be given at least 60 days' notice before the imposition or rescission of a local option gas tax may take effect. Also, the requirement to extend the local option gas tax from year to year in Paragraph 336.025(1)(d), F.S., is deleted.

In other administrative provisions, an amendment to Subsection 206.05(1), F.S., provides that a licensed refiner, importer, or wholesaler may file an assigned time deposit or irrevocable letter of credit in lieu of a surety bond. A new Subsection 206.07(2), F.S., specifies that any seller and purchaser convicted of conspiring to defraud the state of fuel taxes may be held liable for the tax and any penalty and interest. An amendment to Subsection 206.27(2), F.S., allows the Department of Revenue to share certain information relating to audits or records which are the subject of investigation by

the Department or the Department of Law Enforcement, pursuant to Section 213.053, F.S., which provides for confidentiality and information sharing of taxpayer information to specified state and federal agencies for official purposes. Subsections 206.47(7) and (9), F.S., are amended to clarify the distribution of the constitutional gas tax.

The definition of embezzlement with respect to fuel taxes collected, provided in Section 206.56, F.S., is clarified to include language relating to intent. New Subsection 206.59(4), F.S., specifies that the Department may assess and collect taxes, penalties, and interest against any person who purchases, receives, or disposes of fuel in violation of Chapter 206, F.S. In an amendment to Subsection 206.91(1), F.S., the 3 percent shrinkage allowance limit for special fuel is increased from 800,000 to 1 million taxable gallons.

A new Section 206.9865, F.S., requires commercial air carriers to apply for and receive annually an aviation fuel tax license; the license fee is \$30. Carriers must report all tax-paid aviation fuel purchases; fuels drawn from bonded supplies; and imports, disbursements, sales, and usage of aviation fuel. The aviation fuel tax is to be remitted on aviation fuel drawn from bond or imported into Florida and used for domestic purposes. Section 206.9875, F.S., states that aviation fuel purchased by the United States or any department or agency thereof is exempt from aviation fuel tax when used in governmental aircraft.

Finally, an amendment to Subsection 336.41(3), F.S., effective October 1, 1987, increases the dollar cap on the amount of the 80 percent constitutional gas tax which can be spent on work performed by county personnel from \$50,000 to \$250,000.

TAX ADMINISTRATION

General

COMMITTEE SUBSTITUTE FOR SENATE BILL 142 (CHAPTER 87-102) includes various provisions affecting tax administration. Subsections 72.011(1) and 213.053(1), F.S., and Section 213.05, F.S., are amended to update and correct statutory cross-references. Section 832.062, F.S., is created to prohibit paying taxes, penalties, interest, fees or associated amounts to the Department of Revenue with worthless checks, drafts, or debit card orders. Violation is a second-degree misdemeanor for amounts under \$150 and a third-degree felony for amounts of \$150 or more. Paragraph 832.07(2)(f), F.S., is created to specify those documents which may establish prima facie evidence of the identity of persons issuing bad checks to the Department.

COMMITTEE SUBSTITUTE FOR SENATE BILL 145 (CHAPTER 87-99) creates Subsection 72.011(7), F.S., which specifies that any action brought under Chapter 72, F.S., relating to jurisdiction of courts in tax matters, is not subject to the provisions of Chapter 45, F.S., as amended by COMMITTEE SUBSTITUTE FOR SENATE BILL 866 (CHAPTER 87-249), relating to offers of settlement.

In addition to the provisions discussed under the heading SALES TAX ON SERVICES AND RELATED MATTERS, COMMITTEE SUBSTITUTE FOR SENATE BILL 777 (CHAPTER 87-6) and COMMITTEE SUBSTITUTE FOR HOUSE BILL 1506 (CHAPTER 87-101) deal extensively with penalties for various tax offenses. The Department of Revenue is directed to develop, no later than January 1, 1988, a tax amnesty program applicable to all taxes except intangible personal property tax, the tax on illegal drugs, and the sales tax on services. The program will provide a one-time opportunity, during a 6-month period, for eligible taxpayers to satisfy their tax liabilities and thereby avoid criminal prosecution and penalties. There is an appropriation to the Department of \$600,000 for advertising and \$1.5 million for personnel and expenses relating to the amnesty program.

Section 95.091, F.S., as modified, is amended to provide that tax liens expire 20 years, rather than 5 years, after the last date the tax may be assessed, after the tax becomes delinquent, or after the filing of a tax warrant, whichever is later. Also, the Department is allowed 5, rather than 3, years to determine and assess most taxes, penalties, and interest. Sections 199.232, 199.218, 211.125, 211.33, 214.50, 214.51, and 220.23, F.S., are amended to conform. Subsection 212.14(6), F.S., relating to a 3-year limitation on assessing sales tax, and Section 214.09, F.S., relating to limitations on corporate tax notices and deficiencies, are repealed effective July 1, 1988, and Sections 212.08 and 214.04, F.S., are amended to conform.

Several increased interest penalty provisions enacted by CHAPTER 87-6, Laws of Florida, were subsequently reduced by CHAPTER 87-101, Laws of Florida. With respect to failure to pay estate taxes, a maximum interest penalty of 100 percent of the tax due imposed in an amendment to Subsection 198.18(1), F.S., was reduced to 25 percent. Existing maximum interest penalties of 25 percent of the tax due, increased to 100 percent by amendments contained in CHAPTER 87-6, Laws of Florida, were returned to 25 percent by CHAPTER 87-101, Laws of Florida in the following: Paragraphs 211.33(2)(c) and 199.282(3)(a), F.S., Subsections 206.44(1) and 211.076(2), F.S., Paragraph 212.12(2)(a), F.S, and Subsection 214.40(1), F.S. However, with respect to the tax on operation of commercial motor vehicles, a similar increase to 100 percent in Subsection 207.007(1), F.S., was not reduced, and the delinquency penalty for the initial month of nonpayment was increased from 5 to 10 percent by CHAPTER 87-101, Laws of Florida. Paragraph 211.33(2)(e), F.S., is created to provide a 15 percent interest penalty for underpayments of severance taxes on solid minerals.

Also, Subsection 206.18(4), F.S., which provides for certain notice to persons having possession of credits or property of a fuel tax dealer who discontinues business and who is delinquent in tax payments, and specifies the responsibilities of such persons, and which was removed by CHAPTER 87-6, Laws of Florida, is reinstated by CHAPTER 87-101, Laws of Florida, as is a similar provision in Subsection

212.10(3), F.S., relating to sales tax. These amendments all take effect July 1, 1988.

With respect to criminal penalties, CHAPTER 87-6, Laws of Florida, increased numerous tax-related offenses from second-degree misdemeanors to third-degree felonies, but CHAPTER 87-101, Laws of Florida, revised many of these to first-degree misdemeanors, so that the net result is an increase from second- to first-degree misdemeanor for the following: Subsection 125.0104(8), F.S. - failing to collect tourist development tax; Subsection 199.282(8), F.S. - failure to file intangible tax returns; Subsection 201.17(1), F.S., and Section 201.20, F.S. - failure to pay documentary stamp tax and avoiding tax on notes; Subsections 203.01(7) and 203.63(3), F.S., and Section 203.03, F.S. - penalties associated with gross receipts taxes and tax on interstate and international telecommunication services (including a new penalty for willful violation, reduced from a felony to a first-degree misdemeanor); Subsection 206.877(5), F.S. - violations relating to decal fee for vehicles powered by alternative fuels; Paragraphs 212.0305(3)(i) and (j), F.S. - convention development tax violations; and Paragraph 212.05(1)(a), Subsections 212.07(3) and 212.10(5), F.S., Paragraph 212.12(2)(a), F.S., and Subsections 212.13(1) and (2), 212.14(3) and 212.18(3), F.S. - various sales tax violations.

The following penalties, which were originally first-degree misdemeanors, and which were increased to third-degree felonies by CHAPTER 87-6, Laws of Florida, were returned to

first-degree misdemeanor status by CHAPTER 87-101, Laws of Florida: Sections 198.37 and 198.39, F.S. - failure to pay estate tax and false statements in returns; Subsection 206.9931(1), F.S. - tax on pollutants, failure to register; Subsection 211.25(1), F.S. - violations relating to tax on production of oil and gas; and Section 214.60, F.S. - violations regarding corporate taxes. In Subsections 212.07(4), 212.12(13), and 212.15(2), F.S., relating to absorbing or refunding sales tax, landlords' recordkeeping, and theft of state funds, penalties for first and subsequent offenses are returned to their original status.

However, some misdemeanor penalties which were increased to third-degree felonies by CHAPTER 87-6, Laws of Florida, were not subsequently reduced. These are: Section 201.18, F.S. - illegal use of documentary tax stamps; Section 206.04, Subsections 206.11(2), 206.18(5), 206.426(4), and 206.87(6), F.S. - various offenses relating to excise tax on fuels; Subsection 207.007(3), F.S. - offenses relating to tax on operation of commercial motor vehicles; Subsection 211.25(2), F.S. - failure to pay tax on production of oil and gas; Paragraph 212.054(2)(b), F.S. - fraudulent discretionary sales surtax refund; Section 212.085, F.S. - fraudulent sales tax exemption; Paragraph 212.62(2)(d), F.S. - failure to collect or absorbing sales tax on fuel; Section 214.61, F.S. - willful failure to remit corporate taxes; and Subsection 220.181(9), F.S. - fraudulent claim of corporate tax enterprise zone jobs

credit (and a felony penalty is added for grossly overstated credit claims).

Also in the area of criminal penalties, Section 211.335, F.S., is created to provide third-degree felony penalties for violations relating to the tax on severance of solid minerals. All of these amendments relating to criminal penalties take effect July 1, 1988.

CHAPTER 87-6, Laws of Florida, also created several new statute sections in the area of tax enforcement, some of which were subsequently repealed by CHAPTER 87-101, Laws of Florida. Those that remain are discussed below. New Section 213.30, F.S., authorizes the Executive Director of the Department to compensate persons who provide information leading to punishment for tax crimes or to collection of taxes, penalties, or interest, in an amount up to 10 percent of money collected as a result of the information. New Section 213.73, F.S., delineates the manner and conditions of sale of property which is the subject of a levy by the Department. Section 213.74, F.S., provides for issuance of certificates of sale or deeds for such property and specifies the legal effect thereof. Section 213.75, F.S., specifies the order of priority of applications of payments received by the Department under state revenue laws. These three latter sections take effect July 1, 1988.

Estate Taxes

Provisions relating to administration of estate taxes

are included in COMMITTEE SUBSTITUTE FOR SENATE BILL 142 (CHAPTER 87-102). Section 198.14, F.S., is amended to require the personal representative to file with the Department of Revenue a copy of a federal extension request within 30 days after filing such request with federal authorities, and to file a copy of the approval thereof within 30 days of receipt, in order to receive a similar extension for a Florida return. Section 198.15, F.S., is amended to require a similar filing of an approved extension for paying the federal tax, in order to receive an extension for payment of the state tax.

Intangible Personal Property Tax

COMMITTEE SUBSTITUTE FOR SENATE BILL 142 (CHAPTER 87-102) amends Section 199.135, F.S., requiring the clerks of circuit court to transmit nonrecurring intangible taxes to the Department weekly, instead of monthly, and authorizing the clerk to deduct 0.5 percent of such taxes as a collection allowance. An amendment to Subsection 199.282(7), F.S., authorizes the Department to settle or compromise tax, interest, or penalties under the provisions of Section 213.21, F.S., relating to informal conference procedures established by departmental rule.

Excise Tax on Documents

With respect to the excise tax on documents, an amendment to Section 201.01, F.S., included in COMMITTEE SUBSTITUTE FOR SENATE BILL 142 (CHAPTER 87-102) provides that, unless exempt under state or federal law, if the United States,

the state, or any political subdivision of the state is a party to a taxable document, the tax shall be paid by a nonexempt party to the document. Section 201.04, F.S., which provides for a tax on transfers of stock, is repealed. Section 201.05, F.S., which relates to the tax on stock certificates, is amended to add a definition of "stock." An amendment to Subsection 201.132(1), F.S., requires the County Comptroller or clerk of circuit court to transmit documentary stamp taxes to the Department weekly, instead of monthly.

The documentary stamp tax is also discussed under the headings SEVERANCE TAXES/CARL FUNDING and SALES TAX ON SERVICES AND RELATED MATTERS.

FINANCIAL MATTERS

Local

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1421 (CHAPTER 87-239) amends Subsections 218.403(3) and 218.407(1), F.S., to authorize investment of funds held by an independent trustee on behalf of a unit of local government in the Local Government Surplus Funds Trust Fund. This act also repeals Section 200.085, F.S., which provides millage limitations applicable to local governments participating in the local government half-cent sales tax distribution, and which now affects only newly incorporated municipalities. Paragraph 200.001(8)(h), F.S., which provides a related definition, is also repealed, and Subsection 218.23(1), F.S., and Section 218.63, F.S., are amended to conform.

HOUSE BILL 1398 (CHAPTER 87-237) creates Subsection 218.21(10), F.S., and amends Subsection 218.23(2), F.S., to provide a second guaranteed entitlement for counties from the Revenue Sharing Trust Fund for Counties; this entitlement is the amount of revenue received in the aggregate by an eligible county in fiscal year 1981-82 under the provisions of the then-existing Paragraph 210.20(2)(a), F.S., tax on cigarettes, and Subsection 199.292(4), F.S., tax on intangible personal property, less the guaranteed entitlement. Section 218.25, F.S., is amended to allow this entitlement to be pledged for the payment of principal or interest on bonds, tax anticipation certificates, or other forms of indebtedness.

Trust Funds

COMMITTEE SUBSTITUTE FOR HOUSE BILL 624 (CHAPTER 87-280) creates the Florida Area of Critical State Concern Restoration Trust Fund in the Department of Natural Resources. All damages recovered by the state for injury to, or destruction of, the coral reefs or natural resources of the state are to be deposited in the Trust Fund. The Fund may be used to provide funds to the Department for costs incurred in obtaining payment of such damages, to pay for restoration or rehabilitation of the coral reefs or natural resources, or to pay for certain alternative projects selected by the Board of Trustees of the Internal Improvement Trust Fund. Section 370.116, F.S., which created a Coral Reefs Restoration Trust Fund, is repealed, and

the unencumbered funds therein are transferred to the new Trust Fund.

COMMITTEE SUBSTITUTE FOR SENATE BILL 142 (CHAPTER 87-102) creates a new Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund to be used for the administration of Chapters 498, 718, 719, 721, and 723, F.S. The present Florida Land Sales Trust Fund is eliminated and merged into the new Fund; Section 498.019 and Subsection 498.049(4), F.S., are amended accordingly. Paragraphs 718.501(1)(d) and (2)(b), F.S., Section 718.509, F.S., and Paragraphs 719.501(1)(d) and (2)(b), F.S., are amended to accomplish the same purpose with regard to the present Florida Condominiums Trust Fund. Also, Paragraphs 718.501(2)(a) and 719.501(2)(a), F.S., are amended to increase from 50 cents to \$1 the annual fee paid by condominium and cooperative associations for each unit and to revise the due date from June 1 to March 1, and Subsections 718.502(3) and 719.502(3), F.S., are amended to increase from \$10 to \$15 the condominium and cooperative developer filing fee per unit. Similarly, Paragraph 721.26(5)(d) and Section 721.28, F.S., are amended to replace the present Florida Real Estate Time-Sharing Trust Fund with the new Fund, and amendments to Paragraph 723.006(5)(d) and Section 723.009, F.S., eliminate the present Florida Mobile Home Trust Fund and substitute the new Fund.

Funding of the Conservation and Recreation Lands Trust Fund is discussed under the heading SEVERANCE TAXES/CARL FUNDING. Creation of the State Infrastructure Trust Fund is

discussed under the heading SALES TAX ON SERVICES AND RELATED MATTERS.

Bonds

SENATE BILL 332 (CHAPTER 87-308) creates Subsection 215.58(14), F.S., to define "original issue discount" as the amount by which the par value of a bond exceeds its public offering price at the time it is originally offered to an investor, and amends Paragraph 215.68(5)(a), F.S., to exempt original issue discounts from the limitation on the amount of discount under the "State Bond Act," (Sections 215.57-215.83, F.S.). This act also amends Subsection 215.59(2), F.S., to authorize the issuance, without referendum, of state revenue bonds payable solely from funds derived directly from sources other than state tax revenues.

HOUSE BILL 1398 (CHAPTER 87-237) creates Part VII of Chapter 159, F.S., the "Taxable Bond Act of 1987," in response to amendments to the Internal Revenue Code of 1986 which substantially curtail the purposes for, and conditions under which, bonds may be issued with interest exempt from federal income taxation. The act provides procedures and requirements for issuance of taxable bonds by governmental units. Section 159.824, F.S., specifies that the act supersedes conflicting general or special laws but shall not be deemed to alter any provision of state bond laws. Section 159.825, F.S., prescribes the terms of such bonds. Section 159.826, F.S., provides for negotiated sale of taxable bonds. Section

159.827, F.S., contains provisions relating to the pledging of the credit of the issuing governmental unit. Use of the proceeds of the bonds is provided for under Sections 159.828 and 159.829, F.S., and provides for refunding bonds.

This act also creates Section 159.416, F.S., under the "Florida Industrial Development Financing Act" (Part II of Chapter 159, F.S.). This section authorizes local agencies to issue single issues of bonds to fund a pool financing program, defined as a program under which bonds or other debt obligations are issued, some or all of the proceeds of which are used to fund a loan fund to be used for the purpose of making loans to persons to finance all or part of the cost of projects described in Subsection 159.27(5), F.S. Prior to the issuance of such bonds, it shall not be necessary that any projects or the users thereof be identified or that any of the findings described in Section 159.29, F.S., be made, if the local agency adopts an ordinance or resolution of intent in accordance with the section. Prior to making a loan of the proceeds, the local agency must by resolution or ordinance make the findings required by Section 159.29, F.S., with respect to the use of the loan. The person to whom the loan is made is required to enter into a loan agreement as specified in the section. Proceeds of the bonds and moneys held for the payment of debt service on bonds may be invested in authorized investments.

This act also creates Subsections 517.021(11) and (12), F.S., to define "guarantor" and "guaranty" for purposes of

Chapter 517, F.S., the "Florida Securities and Investor Protection Act." The exemption from registration requirements provided in Subsection 517.051(1), F.S., for securities issued or guaranteed by government agencies is amended to specify that no person shall directly or indirectly offer or sell securities, other than general obligation bonds, under said subsection if the issuer and guarantor are in default or have been in default any time after December 31, 1975, as to principal or interest, with respect to an obligation issued by the issuer or successor of the issuer which was guaranteed by the guarantor or successor of the guarantor or with respect to an obligation issued by the issuer or successor of the issuer pledging revenues of the issuer (other than bonds issued pursuant to Parts II, III, V, or VII of Chapter 159, F.S., Part II of Chapter 243, F.S., and Part IV of Chapter 154, F.S.), except by a statement containing a full and fair disclosure of said default as prescribed by rule of the Department of Banking and Finance.

With respect to health facilities authorities, this act creates Subsections 154.209(16) and (17), F.S., to authorize such authorities to participate in and issue bonds for the purpose of establishing and maintaining self-insurance pools on behalf of a health facility or a group of health facilities, in order to provide payment of judgments, settlements, claims, expenses, loss and damage arising or claiming to have arisen from acts or omissions of health facilities in the performance

of health care functions. Procedures and requirements with respect to such issuance are specified.

Finally, this act adds Paragraphs (3)(h) and (7)(e) to Section 163.01, F.S., the "Florida Interlocal Cooperation Act of 1969." A "local government liability pool" is defined to include a reciprocal insurer, limited reciprocal insurer, or self-insurer, as authorized by law, formed and controlled by counties or municipalities to provide liability insurance coverage for counties, municipalities or other public agencies. Any separate legal entity created pursuant to said section controlled by counties or municipalities, the membership of which consists only of public agencies, may, for the purpose of financing acquisition of liability coverage contracts from local government liability pools, exercise all powers in connection with the authorization, issuance and sale of bonds. Counties and municipalities are authorized to issue bonds for the purpose of acquiring liability coverage contracts from a local government liability pool. Any individual county or municipality may, by entering into interlocal agreements with other counties, municipalities or public agencies of this state, issue bonds on behalf of itself and other counties, municipalities or other public agencies, for purposes of acquiring such liability coverage contracts. Counties, municipalities or other public agencies are also authorized to enter into loan agreements for the purpose of obtaining bond proceeds with which to acquire such liability coverage

contracts. Procedures and requirements with respect thereto are specified.

Part VI of Chapter 159, F.S., the "Florida Private Activity Bond Allocation Act," is revised by HOUSE BILL 1273 (CHAPTER 87-222) in accordance with the recent revision of the Internal Revenue Code. As stated in Section 159.802, F.S., it is the purpose of that part to allocate the state volume limitation imposed on private activity bonds under Section 146 of the Code. Definitions provided under Section 159.803, F.S., are revised. Section 159.804, F.S., is amended to provide for such allocation as follows: 60 percent is allocated among 16 specified regions which coincide with county boundaries, 25 percent is allocated to the Florida Housing Finance Agency for use in connection with issuance of housing bonds, and 15 percent is allocated to the state allocation pool. The Florida Housing Finance Agency is not required to apply to the Division of Bond Finance of the Department of Administration for allocation of its volume limitation for bonds issued before July 1, and may assign any portion of its allocation to any agency for the issuance of housing bonds before said date; however, for bonds issued between July 1 and September 29, certain notices of intent and written confirmations are required. Administrative procedures for obtaining allocations through the Division are revised under amendments to Section 159.805, F.S. The Division is directed to make a daily computation of bonds for which notices of intent to issue have been received since the previous day. Issuing agencies must

notify the Division by telephone on the day of issuance and must supply the Division with a written issuance report containing specified information. Procedures to be used when the amount of bonds for which notices of intent have been received exceeds the volume limitation are revised, and a random drawing to establish priority is provided for. Sections 159.806, 159.807, and 159.809, F.S., relating to regional allocation pools, the state allocation pool, and recapture of unused amounts, respectively, are revised. Section 159.81, F.S., is amended to provide expanded provisions relating to carryforwards, including specification of order of priority. The "grandfather" provisions of Section 159.812, F.S., are amended to specify that certain written confirmations or carryforwards concerning 1986 and 1987 allocations are not affected by the act. Section 159.813, F.S., relating to future federal amendments, is amended to conform, and new Section 159.816, F.S., specifies that the Director of the Division sign a certificate required under the Code. Section 159.808, F.S., which provides for a small issuer pool, and Section 420.5097, F.S., which relates to the allocation of single-family mortgage revenue bonds, mortgage credit certificates, and similar instruments, are repealed.

Also, this act amends provisions relating to sale of state bonds under the "State Bond Act" contained in Subsection 215.68(5), F.S. When no bids are received at an initial public sale or all bids are rejected, negotiated sale of the bonds according to specified procedures is authorized.

The effective date of this act is January 1, 1988.

General

SENATE BILL 861 (CHAPTER 87-331) amends Subsections 18.10(2) and (4), F.S., to revise provisions which specify those state moneys which may be invested in short-term investments and to authorize investment in certain commingled no-load investment funds or no-load mutual funds. Section 215.535, F.S., relating to the Treasurer's investment powers and duties, is renumbered as Section 18.125, F.S., and revised. The Treasurer is authorized to maintain certain demand and safekeeping accounts and to loan certain securities or investments to banks. A Treasurer's Administrative and Investment Trust Fund is created, and the annual assessment against moneys made available by state agencies for investment is increased from 0.00005 to 0.1 percent and is to be deposited in the Trust Fund, which is to be used by the Treasurer to defray the expenses of his office. The unencumbered balance of the Trust Fund is not to exceed \$750,000. Numerous statute sections are amended to correct cross-references in accordance with the renumbering of this section.

New Section 18.24, F.S., specifies those securities which may be held in book-entry form on the books of the Federal Reserve Book-Entry System or on deposit in a depository trust clearing system. An amendment to Subsection 213.053(6), F.S., directs the Department of Revenue to make available to the Treasurer or his authorized agent certain information

received by it in connection with the administration of taxes. Subsection 215.34(1), F.S., is amended to revise the Treasurer's procedures relating to noncollectible checks, drafts, or other orders for payment to state officers or agencies and to specify the duties of the officer or agency involved. Subsections 625.52(1) and (2), F.S., are amended to revise the list of the types of securities eligible for deposits by insurers required for authority to transact insurance in Florida. Any security that is no longer specifically eligible due to this amendment must be replaced within 1 year from the effective date of the act in accordance with a schedule determined by the Department of Insurance.

HEALTH AND REHABILITATIVE SERVICES*

Laws relating to health and rehabilitative services enacted during the 1987 Legislative Session address a wide range of subjects. Laws dealing with aging issues increased the cap on the number of members who may serve on State and District Nursing Home and Long-Term Care Facility Ombudsman Councils, required nursing homes to release patient medical and psychiatric records to a spouse or guardian on written request, and authorized the provision of limited nursing services in certain approved adult congregate living facilities.

Legislation in the alcohol, drug abuse, and mental health area included exempting Medicaid earnings from the local matching requirements and allowing Crisis Stabilization Units to exceed their licensed capacity on a temporary basis.

A number of significant laws were passed relating to children, including establishment of a new system for dealing with status offenders. Funding implementation of a special pilot project to develop a network of services for status offenders and their parents, adding to the definition "harm" in the child abuse statute the physical dependency of a newborn infant on certain drugs not administered through a medically

*Prepared by House Health & Rehabilitative Services Committee

approved treatment procedure, requiring that birth records of missing children be flagged by the Office of Vital Statistics, providing for licensure of prescribed pediatric extended care centers for medically or technologically dependent children, and establishing by law developmental intervention and parent support and training programs for high risk or handicapped newborns, exempting teachers and human resource personnel from being refingerprinted or rescreened if they have been unemployed for not more than 90 days, and correcting problems with the funding system for the Child Welfare and Juvenile Justice Training Academies. In other legislation affecting children, changes were made to the process for adopting children, a number of procedural changes were made in the process for terminating parental rights, fingerprinting requirements were substantially changed, as were the abuse registry classifications, the Department of Health and Rehabilitative Services (DHRS) was authorized to contract with foster grandparents and senior volunteers for services to high risk children and finally, the Early Childhood and Family Development Act of 1972 was repealed.

A major change was enacted in the area of economic services in the Employment Opportunity Act of 1987. This legislation included a number of program changes to help recipients of Aid to Families with Dependent Children and food stamps to become self-supporting.

Laws enacted related to health and medical programs included the following: a comprehensive revision to the Vital

Statistics law, authorized participation by a Florida resident in a self-derived or directed-blood donor program, required the Medical Examiners offices to notify the next of kin when conducting an investigation, added hospitals to those already required to request organ and tissue donation of all suitable candidates, deleted homemaker services from the definition of home health services, allowed an accountant who is not independent of a nursing home to prepare and sign the cost statement, and exempts the Shriners Hospital for Crippled Children in Tampa from the financial reporting requirements of Part II of Chapter 395, F.S. A major piece of legislation passed which established a comprehensive approach to providing access and funding for indigent health care services. This legislation also substantially changed the existing certificate of need regulations. Other health-related legislation set forth quality of care regulations for health maintenance organizations (HMOs) and prepaid health clinics, revised Florida's existing verification system for establishing trauma centers and set requirements for transporting trauma victims, required DHRS and the Department of Insurance (DOI) to enter into a cooperative agreement related to third-party payments for Medicaid eligible persons, required that certain financial and actuarial information reported be considered "proprietary confidential business information," and prohibited the Hospital Cost Containment Board (HCCB) from reducing certain hospital budgets or levying a fine against certain hospitals for fiscal year 1986.

Other legislation was passed relating to recreational vehicles placed in recreational parks, expanding membership on the Statewide and District Human Rights Advocacy Committees, allowing the same access to public facilities for trainers of dog guides as is extended to impaired persons and finally, relating to hearing impairment and the functions of the Florida Council for the Hearing Impaired.

Aging and Adult Services

COMMITTEE SUBSTITUTE FOR SENATE BILL 1013 (CHAPTER 87-396) amends Sections 400.304 and 400.307, F.S., relating to State and District Nursing Home and Long-Term Care Facility Ombudsman Councils to provide that a retired physician may serve on both the State and District Councils. Membership of District Councils is increased from 15 members to no less than 15 members and no more than 20 members.

The act takes effect October 1, 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILL 168 (CHAPTER 87-302) directs a licensed nursing home to provide a copy of a current or former resident's records, including medical and psychiatric records to the spouse, guardian or responsible party within 10 days of a written request. No one is allowed to obtain copies more often than once a month, except that physician's reports in the records may be obtained as often as necessary to effectively monitor the resident's condition. A facility may charge a reasonable fee for the copying of

records. A competent resident may prohibit such copies from being furnished.

COMMITTEE SUBSTITUTE FOR SENATE BILL 359 (CHAPTER 87-371) amends the statute relating to adult congregate living facilities (Chapter 400, Part II, F.S.) and authorizes limited nursing services in facilities that meet standards established by the Department of Health and Rehabilitative Services and that obtain a special license. Limited nursing services are defined as acts performed by licensed nursing personnel, but are limited to those specified in rule by the Department. The limited nursing services are for persons who meet the admission criteria for adult congregate living facilities and thus, are not complex enough to require 24-hour nursing supervision. They may include such services as the application and care of routine dressings, care of casts, braces and splints and monitoring of vital signs. Certain continuing care facilities licensed under Chapter 651, F.S., which provide temporary or intermittent services and limited nursing services to residents, are exempted from the licensure requirements of Part II of Chapter 400, F.S.

The act also provides for the expenditure of funds in the nursing home Resident Protection Trust Fund pursuant to a declaration of a state of local emergency under state law or upon an authorized local order of evacuation of a facility by emergency personnel.

Except for fire-safety standards, the Department is directed to distinguish between facilities with 16 or fewer

residents and those with 17 or more residents. This will allow for a less institutional environment in smaller facilities.

The Department is required to conduct a comprehensive long-term care financing study and report its findings and recommendations to the Legislature by March 1, 1988.

Finally, Section 381.495, F.S., is amended to provide an exemption to the Certificate of Need requirements for any facility domesticated in the state for at least 60 years on or before July 1, 1987, which has a licensed nursing home facility located on the grounds of a facility providing personal services, owned and operated by a nationally recognized fraternal organization, not open to the public, and which accepts only its own members and their spouses as residents, until such time as the facility is sold or its ownership is transferred.

An appropriation of \$90,209 and eight career service positions are provided for initial implementation of the act by the Department in Fiscal Year 1987-88.

The act takes effect October 1, 1987.

Alcohol, Drug Abuse and Mental Health

COMMITTEE SUBSTITUTE FOR HOUSE BILL 603 (CHAPTER 87-244) amends Section 394.76, F.S., to exempt the Medicaid earnings from the local matching requirements and prohibits the Medicaid dollar from being used as local match, except for the appropriated 1985-86 General Revenue portion of Medicaid funding and any future General Revenue dollars shifted from the

Alcohol, Drug Abuse and Mental Health Appropriations
Categories.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 921 (CHAPTER 87-209)
amends Paragraph 394.4785(1)(b), F.S., to allow an on-call
physician or a designee of the attending physician to do the
daily review and documentation of an adolescent's placement in
an adult mental health unit of a hospital.

It also amends Subsection 394.875(1), F.S., allowing
crisis stabilization units to exceed their licensed capacity by
10 percent for 3 consecutive working days and no more than 7
days in one month. This allowance will expire on July 1, 1988.

It further requires that the Department of Health and
Rehabilitative Services submit a report by January 1, 1988, to
appropriation legislative committees on the overcrowding of
crisis stabilization units.

The act is to take effect October 1, 1987.

Children

COMMITTEE SUBSTITUTE FOR HOUSE BILL 54 (CHAPTER 87-133)
removes runaways, truants, and ungovernables from the
definition of a dependent child in Part III of Chapter 39,
F.S., and places them under a newly created Part IV on families
and children in need of services. Services, including family
mediation or family arbitration, are to be provided to the
entire family before a petition on the child can be filed with
the court. Intake based upon reports or complaints concerning
the behavior of a child, and case staffing and development of a

plan for services are the responsibility of the Department of Health and Rehabilitative Services (DHRS). All services are voluntary unless court ordered in the cases where children and families have been judicially handled under the children in need of services provisions.

When voluntarily accepted services in the continuum of treatment and services, case staffing, and family mediation or arbitration have failed, the Department is required to file a petition for court intervention. The court has all of the dispositional alternatives available in dependency cases involving children in need of services.

This act also establishes a Child In Need of Services Trust Fund to be used by the Department to fund services for children committed to the temporary legal custody of DHRS under the court's disposition powers in child-in-need-of-services cases. Children support payments made pursuant to Subsection 39.442(3), F.S., are to be deposited in the Fund.

The measure takes effect on October 1, 1987.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 129 (CHAPTER 87-153) provides for the implementation of the recommendations of the 1984 Statewide Task Force Report on Runaway and Troubled Youth on a pilot basis in District VII of the Department of Health and Rehabilitative Services. In essence, the legislation requires development of a network of services for truants, runaways and children beyond the control of their parents and for the families of such children, with a full-service center being the core of the network of services, which range from

prevention to residential care. The Department is required to contract for this service. Also, the Department is required to establish program standards and goals to achieve the intent of this act and to contract for an independent evaluation of the network of services, with the evaluation being submitted to the Legislature, Governor and Department Secretary by December 31, 1988.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 155 (CHAPTER 87-90) expands the definition of "harm" in Subsection 415.503(7), F.S., to include the physical dependency of a newborn infant upon any drug controlled by Schedules I and II of Section 893.03, F.S., including such drugs as cocaine, cannabis (marijuana), lysergic acid diethylamide (LSD), and opium. Any of the drugs in those schedules which are administered through a detoxification program, or any drugs administered through a medically approved treatment procedure are exempt. The act also provides that a parent of a child born drug addicted shall not be the subject of criminal prosecution for that reason alone.

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

COMMITTEE SUBSTITUTE FOR SENATE BILL 607 (CHAPTER 87-384) requires the state Office of Vital Statistics to flag the birth records of missing children who were born in Florida, notify law enforcement when such a record is requested, notify local registries and recall their records, and to unflag records of children located and to return such records to local registries. When notified of a missing child from another

state by local law enforcement or the Florida Department of Law Enforcement, the State Registrar of Vital Statistics is required to notify his counterpart in the state of birth of the missing child.

Procedures are set forth in the act for the gathering of information pertaining to someone requesting a flagged record and for notification of law enforcement of such a request.

The Florida Crime Information Center is the office in the Florida Department of Law Enforcement having responsibility for lists of missing children.

The act takes effect October 1, 1987.

HOUSE BILL 1453 (CHAPTER 87-290) provides for the licensure of prescribed pediatric extended care centers for medically or technologically dependent children. The law provides definitions that include "prescribed pediatric extended care center" and "medically dependent or technologically dependent child." All prescribed pediatric extended care centers must be licensed except federal facilities, institutions or agencies.

Additionally, this law establishes developmental intervention and parent support and training programs which will initiate in the hospital developmental intervention services for high risk or handicapped newborns and their families, provide for transition from the hospital to the home, coordinate services with community programs and provide home based services. It adds the developmental intervention and parent support and training programs and follow-up intervention

services to the continuum of prevention services to high risk and handicapped children. It provides legislative intent to establish developmental intervention and parent support and training programs at all Level III regional perinatal intensive care centers and stepdown perinatal intensive care centers. This legislation requires that programs provide the following components:

- in-hospital intervention services, parent support and training and individual and family services planning;
- interdisciplinary team meetings;
- discharge planning;
- education and training for staff, volunteers and others;
- follow-up intervention services after discharge;
- coordination with community providers; and
- educational materials.

It requires the Department of Health and Rehabilitative Services to coordinate with the Department of Education and the Interagency Prevention Unit in planning and implementing the act, and in conjunction with the established programs, to develop an evaluation system.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1016 (CHAPTER 87-141) and COMMITTEE SUBSTITUTE FOR SENATE BILL 1132 (CHAPTER 87-128) exempt human resource personnel and teachers who have been fingerprinted and screened, either pursuant to Chapters 393,

394, 396, 397, 402 and 409, F.S., or to Chapter 231, F.S., from being refingerprinted or rescreened provided they have not been unemployed for more than 90 days after the fingerprinting and screening and they attest to the above and to compliance with required personnel standards under Subsections 110.1127(3), 393.0655(1), 394.457(6), 396.0425(1), 397.0715(1), 402.305(1) and 409.175(4), F.S. In addition, COMMITTEE SUBSTITUTE FOR HOUSE BILL 1016 (CHAPTER 87-141) also exempts human resource personnel in summer recreation camps, day camps or summer 24-hour camps from being fingerprinted, but not from other screening requirements. Owners and operators of these camps are required to meet all screening requirements.

COMMITTEE SUBSTITUTE FOR SENATE BILL 976 (CHAPTER 87-108) amends Sections 318.14, 318.18 and 318.21, F.S., to provide a \$2 increase to civil penalties and noncriminal traffic infractions for equal distribution to the Child Welfare Training Trust Fund and the Juvenile Justice Training Trust Fund.

[The act corrects some problems in the funding sources identified in law last year. It fulfills the intent of the Legislature to use these sources to fund the training of persons working with delinquent and dependent children and their families. Approximately \$3.2 million is anticipated to be generated by the \$2 increase.]

COMMITTEE SUBSTITUTE FOR SENATE BILL 1062 (CHAPTER 87-397) addresses many of the concerns expressed by the Adoption Advisory Council in its annual report: the establishment of

rulemaking authority for the Department of Health and Rehabilitative Services in the area of adoption, establishment of a 30-day time limit for the filing of an adoption petition once the child is in the physical custody of the prospective adoptive parents as well as providing consequences for failure to comply, establishment of residency requirement of a minimum of 6 months in order to adopt a child, extension of postpartum support for birth mother to 6 weeks, and requirement for disclosure to the court on past living arrangements and custody of a child being placed for adoption.

In addition to the Council's recommendations, the legislation raises allowable intermediary or attorney fees to \$1,000, provides for the payment of certain costs up to \$1,500 prior to court approval and provides that a child voluntarily placed for adoption is a dependent child. The enactment provides further clarification on voluntary consents for termination of parental rights. Finally, the legislation requires notification of grandparents of impending petition for adoption of a grandchild if the grandchild has lived with a grandparent for at least 6 months. Grandparents are also to be given first priority for adoption of the child except under certain circumstances.

HOUSE BILL 1408 (CHAPTER 87-289) relating to dependent children, [addresses concerns raised by the Florida Supreme Court regarding the use of performance agreements as well as other concerns about Florida's permanent commitment law contained in Chapter 39, F.S. These concerns about termination

of parental rights originated in the First and Fifth District Courts of Appeal.

[The legislation attempts to make Florida's law constitutional, attempts to make the law more procedurally correct, clarifies relationships between sections of law and provides greater safeguards for children and families affected by placement of children in foster care and by the termination of parental rights. It also helps to alleviate the lengthy appeals of cases which have left children and families in limbo for months, sometimes years, by virtue of the initial steps requiring involvement of the judiciary].

Basically, the legislation does the following:

- moves Section 409.168, F.S., relating to performance agreements and judicial review of children in foster care into Chapter 39, F.S., under a new Part IV;
- adds language to address concerns on performance agreements being related to the reasons the children were placed into foster care;
- requires a court review after the agreement is submitted, with all parties being present.
[This will eliminate the problem of courts waiting to determine, at the required 6 months full judicial review, that the performance agreement is not "meaningful" and must be redone...the effect of the loss of 6 months in

- the life of a child and in the possible reunification of a family is great;] and
- finally, it creates a separate part of Chapter 39, F.S., to deal with termination of parental rights [which corrects the constitutional issues raised by the courts. Much of the language is not new to Chapter 39, F.S., dependency proceedings, but is contained in Part III of Chapter 39, F.S., or in the Florida Rules of Juvenile Procedure.]

The effective date of this act is October 1, 1987.

HOUSE BILL 1409 (CHAPTER 87-238) provides technical corrections and clarifications of the fingerprinting and screening provisions in Chapter 85-54, Laws of Florida. The abuse registry classifications are changed from only unfounded and indicated to unfounded, indicated and confirmed. Only confirmed reports will be used for purposes of disqualification from employment. The time for retention of unfounded reports is expanded from 30 days to one year. The distinction between permanent and probationary employees is eliminated. The categories of disqualifying information for which an exemption can be granted are expanded to include offenses which were a felony when committed but are now a misdemeanor, delinquency offenses, and felonies not involving moral turpitude of minors.

The act provides that administrative hearings involving abuse reports are confidential. It also provides that contract providers for Department of Health and Rehabilitative Services'

programs through the Children, Youth and Families Program Office, are required to comply with the fingerprinting and screening requirements. The act removes employment history and character references as required elements of screening. The measure clarifies that a license may be issued if all screening materials have been timely submitted. It deletes the fingerprinting requirements for summer camp employees and all volunteers. Finally, this legislation adds a provision on legislative intent stating that boys and girls clubs and similar groups that do not provide child care as defined in Section 402.302, F.S., are not subject to screening requirements.

SENATE BILL 538 (CHAPTER 87-119) adds foster grandparents and senior volunteers to Chapter 411, F.S., the "Handicap Prevention Act of 1986."

This legislation authorizes the Department of Health and Rehabilitative Services to contract with Foster Grandparent and Retired Senior Volunteer projects for services to high risk children. The program would operate under guidelines developed by the Department which is to coordinate with the Federal Action State Office and the Prevention Task Force of the Florida Developmental Disabilities Planning Council to produce criteria for program elements and funding. [Foster Grandparent and Senior Volunteer services are supportive and are characterized by an intensive one-to-one relationship between a Foster Grandparent or Retired Senior Volunteer and a child.

[Foster grandparents have successfully provided services in a variety of settings to handicapped and high risk children. These programs are considered very cost-effective methods of augmenting program staff.] The act provides an appropriation of \$50,000 to establish these programs.

HOUSE BILL 292 (CHAPTER 87-31) repeals the "Early Childhood and Family Development Act of 1972," Sections 23.13 through 23.137, F.S., effective October 1, 1987.

Economic Services

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1428 (CHAPTER 87-94) establishes the Florida Employment Opportunity Act. The legislation and related funding in the General Appropriations Act (CONFERENCE COMMITTEE REPORT ON SENATE BILL 1325 (CHAPTER 87-98) provide for increased training, education, and employment opportunities for an estimated 100,000 public assistance applicants and recipients. This act bases Florida's welfare reform on strong interagency coordination, particularly among the Departments of Health and Rehabilitative Services (DHRS), Labor and Employment Security and Education which will work together to provide the necessary resources to assess, educate, train, and place recipients in gainful employment. Applicants and recipients of Aid to Families with Dependent Children (AFDC) with children age three or older will be required to participate unless they are exempted or deferred by law. Child care, transportation and other essential support services will be provided for a person while participating in

the program and for a short transitional period once the participant is employed in an unsubsidized job. The participant is a partner in the decisions regarding training and education through the use of the employment plan contract. In addition, the employment plan contract makes the participant aware of the consequences for failure to participate as required by law. Food Stamp recipients are also required to participate to the extent federal law and regulations permit.

Finally, although the major provisions of the legislation take effect October 1, 1987, an implementation plan is required to be submitted to the Governor and the Legislature by January 15, 1988, and annually thereafter. An evaluation of the act is required with the initial submission of this report to the Legislature and Governor being January 15, 1989, and biennially thereafter.

Health

COMMITTEE SUBSTITUTE FOR SENATE BILLS 693 & 561 (CHAPTER 87-387) provides a comprehensive revision of Chapter 382, F.S., which relates to Vital Statistics. [The Vital Statistics Law was enacted in 1915 and has since undergone only minor revisions.] Major changes include provisions related to presumptive death certificates, confidentiality requirements, naming of children, and securing copies of vital records. In addition, commemorative birth and marriage certificates are made available. The funds derived from their sale are to be

deposited into the Maternal and Child Health Block Grant Trust Fund.

The act has an effective date of October 1, 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILL 234 (CHAPTER 87-366) creates Section 381.6015, F.S., to entitle and allow participation by a Florida resident in a self-derived or directed-donor blood program. Blood donated under the directed-donor program cannot be given to any other person until the designated donor no longer has need for the blood, at which time the blood reverts to the blood bank's general account. In the event of a medical emergency, however, the blood can be used to meet an emergency need.

The act takes effect October 1, 1987.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 338 (CHAPTER 87-166) amends Section 406.11, F.S., to require the Medical Examiners Commission to promulgate rules to notify the next of kin that an investigation by the Medical Examiner's Office is being conducted.

The act is effective October 1, 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILL 377 (CHAPTER 87-372) amends Section 732.915, F.S., to require the Department of Highway Safety and Motor Vehicles to record a completed organ donor registration card on microfilm and update its records to reflect a donor's withdrawal of a gift. In addition, changes made in the existing provisions of Paragraph 873.01(3)(a), F.S., barring the purchase or sale of human organs and tissue to include eye and cornea. The advertising or sale of a human

embryo is made a second degree felony by revision of Subsection 873.05(3), F.S. Section 732.922, F.S., is revised to require the administrator of every hospital, except a psychiatric or rehabilitation hospital, to consent to the gift of all or any part of a decedent's body at or near the time of death, absent any actual notice of contrary intentions by the decedent or persons authorized to make anatomical gifts pursuant to Section 732.912, F.S.

The effective date of this act is October 1, 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILL 787 (CHAPTER 87-123) amends the statute regulating home health agencies (Chapter 400, Part III, F.S.) and deletes homemaker services from the definition of "home health services." Persons or agencies providing domestic maid services, sitter services, companion services, or homemaker services and not providing a home health service as defined by Subsection 400.462(3), F.S., are exempt from licensure requirements. However, any person or agency providing sitter services for adults, companion services, or homemaker services as defined by rule of the Department of Health and Rehabilitative Services must annually register with the Department and pay a registration fee of \$25. Violation of these provisions constitutes a second degree misdemeanor.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1049 (CHAPTER 87-142) amends Section 409.268, F.S., relating to nursing home care under the medical assistance program to remove the requirement that a nursing home care cost statement must be

prepared and signed by an accountant who is fully independent of the nursing home management and operations and require only that the accountant be licensed pursuant to Chapter 473, F.S.

SENATE BILL 39 (CHAPTER 87-73) amends Section 395.507, F.S., to exempt the Shriners Hospital for Crippled Children in Tampa from the financial reporting requirements of Part II of Chapter 395, F.S., the "Health Care Cost Containment Act of 1979," until such time as it first receives revenues from or on behalf of an individual patient.

The act takes effect October 1, 1987.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1384 (CHAPTER 87-92) establishes a comprehensive approach to providing access and funding for indigent health care services. In addition, this legislation substantially rewrites existing certificate of need regulations.

The first part of this act addresses the problems associated with funding and expanding access to health care for medically indigent persons in essentially four ways. First, this legislation amends Section 409.266, F.S., and provides for expansion and enhancements to the state and federally funded Medicaid program. Most notably, Medicaid eligibility is expanded to pregnant women and children up to 100 percent of the federal poverty line and to elderly and disabled persons up to 90 percent of the federal poverty line. Also, Medicaid provider fees are significantly increased, including fees for physician office visits, obstetricians, nurse midwives, neonatologists, Early and Periodic Screening, Diagnosis and

Treatment (EPSDT), home health care and dental services. Further, this legislation provides funding for annual adult health screening for Medicaid eligible adults.

The second major area in the indigent care part is the expansion of the current 17 state-funded primary care programs to be phased-in to additional counties. The act creates Section 154.011, F.S., which provides that the state, through a request for proposal process, shall contract with counties to coordinate, design and implement a plan to provide a comprehensive program of primary care services. These programs will be organized through county public health units or public hospitals owned and operated by the county.

A third major component of the act allows counties the option of establishing dependent special districts or, by voter approval, independent special districts in order to help fund indigent health care services. Each county electing to establish independent special districts shall be required to establish a county-appointed health care board to oversee and administer the special independent districts. The board is empowered to levy up to 5 mills ad valorem tax for each \$1,000 of assessed property for indigent care subject to a vote of the electorate.

The fourth major component of the indigent care portion of the act deals with a redistribution of the Public Medical Assistance Trust Fund surpluses to hospitals providing a substantial amount of indigent care. Through a formula designed to target major Medicaid and charity care providers,

\$69.5 million dollars will be returned to those hospitals during the next fiscal year.

The second part of this legislation deals more directly with assuring access to affordable health care by providing a major rewrite of existing certificate of need (CON) regulation. It provides deregulation in certain areas, raises expenditure thresholds for specified projects and streamlines the administrative aspects. The act maintains CON for many current covered services and projects. However, it also makes major substantive changes in the scope of CON regulation. The act redefines "major medical equipment" to regulate only new and emerging technology and deregulate other medical equipment. It adds specific authority to regulate "tertiary health services." [This act eliminates the CON requirement for all outpatient clinical services and free-standing ambulatory surgical centers, kidney dialysis facilities, and intermediate care facilities for the mentally retarded (ICF/MR) which have six or less beds.] It exempts nonmedical equipment and facilities, obstetric services, renovations for nursing homes, respite care services, projects specifically mandated and funded by the Legislature, replacement medical equipment, expenditures to meet safety codes, and expenditures for replacement of damaged facilities. Finally, this legislation limits transfers of CONS to prevent profit making on the sale of a CON.

[This legislation also restructures and streamlines CON procedure to provide for more timely and accountable decision-making with a resultant decrease in litigation.]

The provisions of this act become effective October 1, 1987 except as otherwise specified.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1385 (CHAPTER 87-236) creates Part IV of Chapter 641, F.S., relating to Health Care Services for health maintenance organizations (HMOs) and prepaid health clinics. It sets forth, in one part, quality of care regulations.

Specifically, this act requires HMOs and prepaid health clinics to obtain and maintain a health care provider certification from the Department of Health and Rehabilitative Services. [This change helps emphasize that HMOs are not just reimbursers of care; they are also providers of care.]

The legislation establishes the certification application process and quality of care requirements and standards which health maintenance organizations and prepaid health clinics must meet. Major changes include: requiring HMOs and clinics to maintain a program for the verification and examination of provider credentialing; requiring HMOs and clinics to maintain an ongoing quality assurance program, including internal peer reviews; requiring HMOs and clinics to be subject to external reviewing of their quality assurance program at least once every three years; requiring disclosure of services provided by nonphysicians; and giving subscribers the right to a second medical opinion.

The legislation also authorizes more thorough examinations regarding quality of care by the Department. Major changes include: authorizing examination when deemed

necessary instead of the current restriction of only one examination per year; and providing access through an administrative subpoena to an individual patient's medical records and records of physicians providing service under contract. [Currently only records individually authorized or by court order are available.]

Finally, this act provides a funding base for the regulation of HMOs. Based on the premise that HMOs, like other entities, should pay for their own regulation, the legislation authorizes the Department of Insurance to assess HMOs and clinics up to 0.1 percent of their annual gross premiums.

The provisions of this act become effective October 1, 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILLS 1098 & 296 (CHAPTER 87-399) revises Florida's existing verification system for establishing trauma centers and requires that all emergency medical service (EMS) providers transport trauma victims to verified trauma centers according to an established protocol. A "trauma scorecard" is to be developed using a statewide methodology adopted by the Department of Health and Rehabilitative Services (DHRS). Using the trauma scorecard, a trauma victim will be graded as to the severity of his injuries or illnesses for the purpose of making destination decisions. This legislation allows for the optional creation of a local or regional trauma agency to develop trauma system plans. In those geographic areas where such plans are not developed by local or regional trauma agencies, DHRS will assume the

responsibility for designing plans in areas where it determines there is a need for organized trauma services. This legislation further directs DHRS to develop an air medical evacuation plan in certain areas in consultation with state and local law enforcement agencies. In order to fund the cost of establishing a trauma verification network, this legislation provides for an annual license tax of 10 cents to be imposed on the operation of motor vehicles and mopeds. Finally, the legislation directs the Hospital Cost Containment Board in cooperation with DHRS to conduct a special study of trauma care services available in hospitals in the state.

An appropriation of \$1,203,373 and twelve positions are authorized for the implementation of the act in Fiscal 1987-88.

The provisions of this act shall take effect on March 1, 1988, except as otherwise provided.

COMMITTEE SUBSTITUTE FOR SENATE BILL 515 (CHAPTER 87-377) requires the Department of Health and Rehabilitative Services (DHRS) and the Department of Insurance to enter into a cooperative agreement to share information relating to third-party payments for Medicaid eligible persons. This legislation grants DHRS the ability to negotiate and settle any delinquent accounts owed to DHRS by a DHRS client, a responsible party or a payor of third-party benefits without prior approval of the Department of Banking and Finance. Further, the act requires any authorized insurer, health maintenance organization or prepaid health clinic to provide records and information to DHRS for the purpose of identifying potential insurance or

other third-party coverage for claims paid by DHRS on behalf of a client. In addition, the act provides for confidentiality of patient records and for immunity for the insurer from any liability due to releasing the above information to DHRS.

The provisions of this act become effective on October 1, 1987.

SENATE BILL 380 (CHAPTER 87-313) amends Section 409.266, F.S., relating to Medical Assistance, to require that financial and actuarial information provided to the Department of Health and Rehabilitative Services for the purpose of negotiating or determining a premium for a Medicaid prepaid plan be considered "proprietary confidential business information" and thus exempt from the Public Documents Law. This exemption is subject to review under the Open Government Sunset Review Act.

HOUSE BILL 1200 (CHAPTER 87-295) prohibits the Hospital Cost Containment Board from reducing certain hospital budgets or levying a fine against certain hospitals for fiscal year 1986 pursuant to Section 395.5094, F.S. In order to qualify for the exemption, the hospital must have treated inmates from the Department of Corrections and exceeded its previous year's audited actual experience by more than the maximum allowable rate of increase or exceeded its projected budget as approved by the Board for fiscal year 1986 solely as a result of revenue paid to the hospital by the Department of Corrections for treatment of inmates.

Other

HOUSE BILL 685 (CHAPTER 87-193) amends Section 513.01, F.S., to define the terms "temporary living quarters" and "seasonal or temporary living quarters," as used in reference to recreational vehicles placed in recreational vehicle parks. In addition, the act permits the recreational vehicle to be stored and tied down on the recreational vehicle site during the time it is not occupied as temporary or seasonal quarters.

The effective date for this act is October 1, 1987.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1010 (CHAPTER 87-140) amends Subsections 20.19(7) and 20.19(8), F.S., relating to Statewide and District Human Rights Advocacy Committees, respectively. The Statewide Committee membership is expanded from eight to eleven members with one member being from each district of the Department of Health and Rehabilitative Services. The District Committees are expanded from no fewer than seven members and no more than eleven members to no fewer than seven members and no more than fifteen members. Removal of members may be recommended to the Governor for absenteeism. Persons related by blood or marriage are prohibited from serving on the committees at the same time. No more than 25 percent of the membership of a District Committee may consist of persons providing services to the Department under contract. The access to records provisions are preserved from repeal.

SENATE BILL 373 (CHAPTER 87-312) amends Section 413.08, F.S., to provide the same right of access to public facilities for trainers of dog guides as is extended to hearing or

visually impaired persons accompanied by a dog guide. It also provides that trainers have the same liability for damages caused by the animal as does a handicapped person accompanied by a guide dog.

HOUSE BILL 1324 (CHAPTER 87-230) amends provisions in Chapters 427 and 229, F.S., relating to the Florida Council for the Hearing Impaired and services provided by the Council. The definitions within Chapter 427, F.S., are amended, and other references conformed, to more clearly define the criteria used to determine the degree of an individual's hearing impairment. Revised definitions are provided for "deaf" and "hard of hearing" and both are included under the term "hearing impaired." The result is a shift in emphasis from the ability to hear, to the more specific ability to distinguish speech sounds in verbal communication. State certified teachers of the hearing impaired are added to the list of those authorized to certify individuals as deaf or hard of hearing.

One of the primary functions of the Council is distribution to qualified hearing and speech impaired persons of telecommunications devices (TDDs). The act clarifies specifications for these devices and authorizes the Council to set equipment standards. The legislation also provides that the Council must comply with statutory property inventory requirements by use of a mail survey. Personal information supplied by TDD applicants is exempted from disclosure requirements in Chapter 119, F.S., and made confidential. Membership of the Council as provided in Section 229.8361,

F.S., is expanded from 12 to 13 members by adding a representative of the Department of Health and Rehabilitative Services.

The act takes effective October 1, 1987.

INSURANCE*

The 1987 Legislature adopted legislation designed to reform regulatory measures applying to insurance exchanges, including revising the membership of the Board of Governors, limiting coverage of certain funds, revising restrictions relating to the required ratio of written premiums to surplus, and limiting certain types of investments.

Provisions were also adopted to allow consumers to purchase uninsured motorist coverage which does not stack as an alternative to stacked coverage.

In the area of health insurance, legislation was enacted: requiring group health insurance policies providing coverage on an expense incurred basis to provide coverage for home health care furnished by a licensed home health care agency; including physician care provided by osteopathic physicians, chiropractic physicians, and podiatrists within the minimum services of a health maintenance organization; and, requiring persons seeking consideration of legislation which mandates health insurance coverage to submit a report to the Legislature assessing the social and financial impact of the proposed coverage.

*Prepared by Senate Commerce Committee

Other insurance legislation included: establishing regulation of risk retention and purchasing groups; revising the insurance premium tax rate; revising the Florida Insurance Guaranty Association assessment; modifying regulation of captive insurers; amending Chapter 651, F.S., relating to continuing care contracts; and revising and readopting statutory provisions relating to workers' compensation rates.

General Insurance Regulation

COMMITTEE SUBSTITUTE FOR SENATE BILL 145 (CHAPTER 87-99) is a major piece of legislation dealing primarily with taxation. [Other sections of the act are discussed in the FINANCE AND TAXATION article.]

Sections 22-35 of the legislation deal with insurance premium taxes. Beginning October 1, 1987, insurers must estimate at least 90 percent of any tax due in each quarter and pay such amount or pay a 10 percent penalty on the amount of the underpayment. The quarterly estimated payment formerly due on July 15 will instead be due on June 15 of each year. This will result in a onetime speedup of tax revenues to the state next June.

Effective July 1, 1988, the insurance premium tax rate will increase to 2.25 percent for taxable insurance premiums sold in Florida. Statutory distinctions between domestic, regional home office, and foreign insurance companies are removed. All companies will be subject to this new rate. Domestic insurers may take a credit against Florida's insurance

premium tax if they are required to pay any retaliatory tax in another state. The credit may be taken only as to that amount of the retaliatory tax resulting from the Florida tax levy on insurance premiums in excess of 2 percent.

A new credit is allowed against the insurance premium tax equal to 10 percent of the amount paid by the insurer in salaries to employees located or based in Florida who are covered by unemployment compensation. For purposes of this credit, "salaries" does not include commissions and the term "employees" does not include independent contractors or persons required to hold an insurance license. This credit may not exceed 50 percent of the tax due. Affiliated groups as defined in Section 220.03, F.S., may file a consolidated return for the purpose of collecting this credit.

Changes have been made to the taxes on wet marine insurance, motor vehicle service agreement companies, home warranty associations, service warranty associations, and ambulance service associations to conform to the removal of the distinction between domestic, regional home office, and foreign insurance companies.

The Department of Insurance must collect, study, and report to the Legislature by February 1, 1988, the following information from all companies regulated under the Florida Insurance Code: number of employees, payroll, total assets in Florida, dollar value of business done in Florida, and Florida taxes paid by type. Such information is confidential and all companies are directed to provide such information.

HOUSE BILL 360 (CHAPTER 87-169) creates Section 642.048, F.S., to provide that no insurer of prepaid legal services and no legal expense insurance corporation shall market on the premises of any establishment licensed to sell alcoholic beverages any insurance policy or contract which would provide for legal defense in connection with certain criminal traffic or boating infractions if the individual is under the influence of alcoholic beverages.

HOUSE BILL 428 (CHAPTER 87-278) clarifies the type of information that should be contained in the notice required under Section 624.155, F.S., Civil Remedy. As amended, a prospective plaintiff would be required to submit a 60-day notice of the violation to the Department of Insurance and the insurer on a form provided by the Department, which identifies:

- 1) the statutory provision, including the specific language of the statute which the insurer allegedly violated;
- 2) the facts and circumstances giving rise to the violation;
- 3) the name of any individual involved in the violation;
- 4) reference to specific insurance policy language that is relevant to the violation; and
- 5) a statement that the notice is given in order to perfect the right to pursue the civil remedy authorized by the section.

However, a third-party claimant would not be required to reference the specific policy language if the insurer has not provided a copy of the policy to the third-party claimant pursuant to written request.

Within 20 days of receipt of the notice, the Department could return it if it does not provide the specific information required under the section. This action would be exempt from the requirements of Chapter 120, F.S. In addition, if within 60 days after filing the notice the damages are paid or the circumstances giving rise to the violation are corrected, no action would lie under the section. This 60-day time period would begin upon the filing of a proper notice.

The act would require insurers who receive notices under Section 624.155, F.S., to report to the Department on the disposition of the alleged violation. The statute of limitations for such actions shall be tolled for a period of 65 days by the mailing of the notice required by this statutory section.

Additionally, the law creates Section 627.6698, F.S., and provides that attorney's fees shall be recovered by a prevailing insured if he seeks and is granted a judgment under a master group health insurance policy.

This act has an effective date of October 1, 1987.

HOUSE BILL 555 (CHAPTER 87-185) revives and readopts Subsection 284.50(2), F.S., and provides for future repeal. Subsection 284.50(2), F.S., provides for the creation of the Interagency Advisory Council on Loss Prevention within the

Department of Insurance. In addition, this act amends Section 284.50, F.S., to enable the Advisory Council to better carry out its loss prevention functions.

The law requires that the safety coordinator in each department hold an employment position which has responsibilities comparable to those of an employee in the Senior Management System in an effort to assure that the safety coordinator is in a position to provide timely and authoritative loss prevention information to each department head.

The law also requires that the department head, or his designee, appoint an alternate safety coordinator to attend Advisory Council meetings when the primary safety coordinator is unable to do so. The purpose of this provision is to assure departmental input and representation at each Council meeting.

In addition, the legislation requires that each department head shall make an annual report to the Governor of any loss prevention action taken or proposed during the previous year. [The purpose of this addition is to increase the accountability of department heads with regard to loss prevention action.]

Finally, the act requires that the Auditor General shall evaluate the compliance of each department with their respective loss prevention programs. [The purpose of this requirement being to promote compliance and insure loss prevention is a priority within each department.]

These provisions take effect October 1, 1987.

HOUSE BILL 649 (CHAPTER 87-282) establishes statutory regulation of risk retention and purchasing groups not preempted by federal law (Sections 627.941-627.954, F.S.). Risk retention and purchasing groups will be regulated by the Department of Insurance. This act requires that the person placing coverage with or for a risk retention group disclose that the coverage may not be subject to all the insurance laws or rules of this state and that insolvency guaranty fund protection is not available.

[The Federal Product Liability Risk Retention Act of 1981 authorized the formation and operation of risk retention and purchasing groups. The act was limited to product liability and completed operations liability and it specifically preempted various state laws regulating such groups. Risk Retention Amendments of 1986 amended the 1981 Act and expanded the coverage which can be offered by risk retention groups to include commercial liability insurance. The 1986 act also provided more restrictive definitions of risk retention and purchasing groups.]

Also, Section 627.736, F.S., is revised to prohibit an insurer from withdrawing payment to a treating physician in connection with Personal Injury Protection (PIP) benefits unless one of the following conditions is met: consent is obtained from the injured person to withdraw payment; or the insurer obtains a report, by a physician licensed under the same licensing chapter as the treating physician, which states that the treatment was not reasonable, related, or necessary.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 703 (CHAPTER 87-264) amends Section 546.006, F.S., by redefining which amusement rides or amusement attractions would be exempt from the liability insurance or bond requirement of \$1 million per occurrence. Any "permanent site attraction or ride" would mean a place or fixed facility which was either 7 acres or more with 25 or more employees, or was open for business for at least 4 consecutive months in every 12-month period. An admission charge would no longer be a requirement under the permanent site attraction or ride definition.

This act is effective October 1, 1987.

HOUSE BILL 734 (CHAPTER 87-46) amends Paragraph 624.462(2)(a), F.S., to include a not-for-profit group composed of no less than ten condominium associations which is incorporated under Florida law and which restricts its membership to condominium associations only, as a group of members which may form a commercial self-insurance fund. Such a not-for-profit group must have been organized and maintained in good faith for 1 year for purposes other than that of obtaining or providing insurance.

Paragraph 718.111(11)(a), F.S., 1986 Supplement, is revised to require condominium associations which form a commercial self-insurance fund to comply with regulations pertaining to commercial self-insurance funds.

This legislation has an effective date of October 1, 1987.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 850 (CHAPTER 87-206) amends Section 626.321, F.S., to allow a person who is licensed to sell baggage insurance to also sell excess motor vehicle liability insurance, which is insurance in excess of the standard liability limits provided by the lessor in its lease. Such person must be a full-time salaried employee of a business which offers motor vehicles for rent or lease. The excess motor vehicle liability insurance will provide coverage to a person renting or leasing a motor vehicle from the licensee's employer for liability arising in connection with the negligent operation of the leased or rented motor vehicle. The lease or rental agreement must not be for more than 30 days; the lessee is not provided coverage for more than 30 consecutive days per lease period and if the lease is extended beyond 30 days, the coverage may be extended for a period not to exceed an additional 30 days; the lessee must be given written notice that his personal insurance policy which provides coverage on an owned motor vehicle may provide additional excess coverage; and the purchase of the insurance is not required in connection with the lease or rental of the motor vehicles. The excess liability insurance can be provided to the lessee as an additional insured on a policy issued to the licensee's employer.

COMMITTEE SUBSTITUTE FOR SENATE BILL 906 (CHAPTER 87-350) amends Section 631.57, F.S., to increase the Florida Insurance Guaranty Association (FIGA) assessment cap from 1 to

2 percent. [FIGA pays property and casualty claims of insolvent insurers. Four accounts are maintained by FIGA:

- 1) workers' compensation,
- 2) auto liability,
- 3) auto physical damage, and
- 4) all other covered lines.

[The assessments are based on the insurer's net direct written premiums per year for the applicable coverage type and the individual assessments are proportional. If the assessment cap had not been increased, the fund might not have been able to pay some claims in a timely fashion. Failure to raise sufficient funds during any 1 year due to the assessment cap does not relieve the fund of its obligation to pay. The fund would probably have had to borrow funds enabling it to make claim payments. A lack of funds could also have jeopardized the fund's ability to enter into claim settlements.]

Section 631.713, F.S., as amended, restricts payment by Florida Life and Health Insurance Guaranty Association (FLAHIGA) of certain claims. [FLAHIGA pays life and health insurance claims of insolvent insurers. Currently, FLAHIGA pays claims of insolvent domestic life and health insurers regardless of whether the claimant is a Florida resident. Since some states have not adopted a life and health guaranty fund, their residents will not be paid by the Florida fund. This should create an incentive for other states to adopt life and health guaranty fund laws.]

This act also revises Section 631.52, F.S., regarding the scope of insolvency coverage provided by the Florida Insurance Guaranty Association. The main limitations added to the fund's scope are insurance which involves transfer of investment risk and insurance provided by government.

The law also provides a tax-offset by the insurer as to certain assessments. Section 631.575, F.S., is the current tax-offset section and has been repealed.

COMMITTEE SUBSTITUTE FOR SENATE BILL 908 (CHAPTER 87-334) amends Section 626.989, F.S., to provide a definition of a "fraudulent insurance act" and to expand the immunity to other persons reporting insurance fraud. [In order to encourage the reporting and sharing of information among state agencies, insurance industry associations, and the National Association of Insurance Commissioners, and other persons, it is necessary to convince people that there will be no future recriminations resulting from their cooperation in the form of libel suits.] This act does that for anyone acting without malice.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1080 (CHAPTER 87-127) designates Sections 628.901-628.917, F.S., as Part III of Chapter 628, F.S., entitled "Captive Insurers." [This legislation was passed in an attempt to create a regulatory environment for relocation to Florida by certain captives. Presently, seven states have captive insurer laws.] The act revises the Florida law to create a new class of captive to be known as an industrial insured captive insurer. The key

provision is that an industrial insured captive insurer need not be incorporated in Florida.

Restrictions are placed as to the type of person who may be insured and on the coverage which may be written. Industrial insured captive insurers would provide commercial property, casualty and marine insurance only. As to workers' compensation and employer's liability insurance, an industrial insured captive insurer may only write this type of coverage in excess of \$25 million in the annual aggregate. Coverage is only provided to persons who are industrial insureds. In order to obtain coverage from an industrial insured captive insurer, an industrial insured must meet certain requirements including having gross assets in excess of \$50 million, having at least 100 full-time employees, and paying annual premiums of at least \$200,000 for each line of insurance purchased from the industrial insured captive insurer or at least \$150,000 for any coverage in excess of at least \$25 million in the annual aggregate.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1130 (CHAPTER 87-250) amends Section 629.401, F.S., by limiting the coverage payable by the security fund for contracts of insurance. Since the exchange is a facility and not an underwriter, specific language is provided to that end. The exchange shall not be liable for policies entered into by underwriting members.

The make-up of the Board of Governors of the exchange has been revised so that one of the members of the Board

appointed by the Insurance Commissioner will be a broker member of the exchange.

Language has been inserted which limits the coverage of the security fund. Effective July 1, 1987, the security fund will not be responsible for claims exceeding 10 percent of the insolvent underwriting members' surplus as to policyholders as of the year-end before the policy was issued.

This law requires underwriting members to meet increased minimum policyholder surplus requirements. They will have until December 30, 1989, to meet the increased requirements of \$2 million.

Ratio restrictions on premiums written have been revised. The ratio of actual or projected annual gross written premiums to surplus as to policyholders is 8 to 1 rather than 6 to 1 and the ratio of actual or projected annual net premiums to surplus as to policyholders is 4 to 1 rather than 3 to 1.

Language restricting the aggregate percent of the total investment in an underwriting member by a broker, agent or intermediary and the aggregate percent of the total investment in a broker, agent or intermediary by an underwriting member is refined and limited to 5 percent with a phase-in period.

Investment in an underwriting manager by a broker member or affiliated person and investment in a broker member by an underwriting manager or affiliated person is prohibited.

Also, Section 625.305, F.S., as amended, limits the investment in bonds or other debt obligations that are not rated as investment grade. The act defines an investment grade

obligation. It requires that insurers shall maintain adequate records to establish that their investments in debt obligations, that are not rated investment grade, do not exceed the amounts allowed by this act. The law allows insurers to retain their noninvestment grade bonds or other debt obligations owned as of December 31, 1987, until they mature or are sold and provides that excessive investments in non-investment grade bonds or other obligations shall not be allowed as admitted assets of the insurer.

Automobile Insurance

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1029 (CHAPTER 87-213) amends Section 627.727, F.S., to allow insurers to offer policies of uninsured motorist (UM) coverage which contain a provision that such coverage will not stack. The consumer must request the nonstacked coverage on a form approved by the Department of Insurance. After such request, renewal policies automatically would be written without stacked coverage at each renewal until such time as the insured opted to purchase stacked coverage. The act also mandates a 20 percent reduction in the premium charged for UM coverage which does not stack.

These provisions are effective October 1, 1987.

Bail Bondsmen and Runners

SENATE BILL 614 (CHAPTER 87-321) amends provisions of Chapter 648, F.S., pertaining to bail bondsmen and runners. Section 648.442, F.S., is amended to require the bail bondsman, when accepting collateral, to give copies of any promissory

note, indemnity agreement, real property mortgage, or any other type of security approved by the Bail Bond Regulatory Board, rendered. Section 648.4425, F.S., is created, requiring the bail bondsman, upon issuance of a bond, to provide an informational notice to the principal, and if applicable, to the party rendering collateral or indemnifying the principal. The statement shall contain the restrictions placed on the principal as a condition of the bond, if any; the bail bondsman's powers relating to the cancellation of the bond and recommitment of the principal; and the name, address, and telephone number of the Bail Bond Regulatory Board for complaints or inquiries. Repeal of Chapter 648, F.S., pursuant to Sunset review is specified on October 1, 1990.

Continuing Care Contracts

COMMITTEE SUBSTITUTE FOR HOUSE BILL 660 (CHAPTER 87-136) amends provisions of Chapter 651, F.S., which governs continuing care contracts.

The act authorizes the Department of Insurance to prepare and furnish application forms for provisional Certificates of Authority (COA) and to collect fees for renewal of a provisional COA.

The act establishes time frames for departmental review of applications for provisional COAs.

The act requires that the final feasibility study mandated by Section 651.023, F.S., contain financial forecasts

and an opinion by the consultant who prepared the study based on the forecasts.

The act amends Section 651.023, F.S., and establishes criteria for determining financial soundness of the provider which must be shown, among other things, before escrowed funds are released.

This act also provides that no person, other than the provider, the escrow agent, and the Department shall have a substantial interest in the release of escrow funds in a proceeding for release of such funds under Chapter 120, F.S., or Chapter 651, F.S. Guidelines are established for notifying residents and prospective residents of the release of escrow funds. Time frames are established applying to applicants for COAs under Section 651.023, F.S., and Subsection 651.021(2), F.S.

The act provides a prohibition against the issuance of a COA to a facility which will not offer personal care or nursing services through written contractual agreements.

Procedures for annual renewal of provisional COAs are provided.

The filing date for the annual report required to be filed with the Department by the provider is extended by 30 days. This act also permits continuing care facilities acquired by corporations to use the fiscal year of the corporation for accounting purposes.

Sections 651.033, F.S., pertaining to escrow accounts is reordered into general provisions (Subsection 651.033(1),

F.S.); provisions relating to minimum liquid reserve (Subsection 651.033(2), F.S.); and, provisions relating to escrow accounts while a facility is under development (Subsection 651.033(4), F.S.). In addition, the monthly reporting of escrow accounts to the provider is changed to quarterly reporting.

Section 651.035, F.S., requiring providers to maintain a minimum liquid reserve, is amended to allow a provider to include a "debt service reserve" held in escrow pursuant to a trust indenture or mortgage lien on the facility in its computation of the minimum liquid reserve, provided notice is given to the Department.

Section 651.055, F.S., pertaining to continuing care agreements, is amended to provide that the agreement may be cancelled upon the giving of written notice of cancellation of at least 30 days.

A facility is permitted to retain 4 percent of the amount of the entrance fee upon cancellation by the resident after a certain period of time.

Sunset review by the Legislature pursuant to Section 11.61, F.S., is provided on October 1, 1993.

An effective date of October 1, 1987, is specified.

Fire Prevention and Control

HOUSE BILL 512 (CHAPTER 87-180) revives and readopts Subsection 633.30(4), F.S., and Sections 633.31, 633.32 and 633.33, F.S., relating to the Firefighters Standards and

Training Council, notwithstanding their scheduled repeal on October 1, 1987, pursuant to the Sundown Act. Subsection 633.30(4), F.S., and Sections 633.31, 633.32 and 633.33, F.S., are scheduled to be repealed on October 1, 1997, pursuant to the Sundown Act.

HOUSE BILL 513 (CHAPTER 87-181) allows Sections 633.511 and 633.514, F.S., relating to the Florida Fire Safety Board, to continue in full force and effect, notwithstanding their scheduled repeal on October 1, 1987, pursuant to the Sundown Act. Such sections are scheduled for repeal on October 1, 1997, pursuant to the Sundown Act.

Section 633.60, F.S., relating to penalties for unlawfully engaging in the business of fire sprinkler contractor, is revived and readopted, notwithstanding its scheduled repeal on October 1, 1987, pursuant to the Sunset Act. Section 633.60, F.S., is nonscheduled for repeal on October 1, 1995, pursuant to the Sunset Act.

Life and Health Insurance

COMMITTEE SUBSTITUTE FOR HOUSE BILL 121 (CHAPTER 87-273) includes physician care by osteopathic physicians, chiropractic physicians, and podiatrists within the minimum services of a health maintenance organization (HMO). It amends the definition of "health maintenance organization" in Subsection 641.19(6), F.S., to require that physician services provided by HMOs include medical doctors, osteopathic physicians, chiropractic physicians and podiatrists. The act also amends

the definition of "minimum services" in Subsection 641.19(8), F.S., to include physician care provided by physicians licensed under Chapters 458, 459, 460 and 461, F.S.

Subsection (7) of Section 641.31, F.S., which provides that, for an appropriate additional premium, HMOs shall make available, according to the standards and procedures of such organization, physician care provided by physicians licensed under Chapters 459, 460 and 461, F.S., is repealed by the act.

SENATE BILL 134 (CHAPTER 87-37) amends Section 627.510, F.S., by providing for a uniform claim form to be developed and approved by the Department of Insurance. This act requires that beginning January 1, 1988, all industrial life insurers must allow a claimant for settlement of any industrial life insurance policy to file the claim on a uniform claim form. [Thus, the numerous claim forms used by different companies would be standardized into one uniform claim form.] Additionally, the claimant would still be required to provide the industrial life insurance company with due proof of death and surrender of the policy.

HOUSE BILL 461 (CHAPTER 87-176) requires individual and group health insurance policies that provide coverage for acupuncture to cover the services of a certified acupuncturist certified pursuant to Chapter 457, F.S., under the same conditions that apply to a licensed physician. Review pursuant to the Regulatory Sunset Act is provided.

The act has an effective date of October 1, 1987, and applies to policies issued or renewed on or after said date.

SENATE BILL 504 (CHAPTER 87-345) provides that certain sections of the State Comprehensive Health Association Act are not repealed on October 1, 1987. [The State Comprehensive Health Association provides health insurance coverage to individuals who are otherwise uninsurable.] The specific sections that are not repealed on October 1, 1987, are: (1) Subsection 627.6494(1), F.S., which provides that assessments paid by the insurer to the association may be offset against the state corporate income tax or premium tax payable by the insurer for the year in which the assessment is levied or 4 years subsequent to that year; (2) Subparagraph 627.6498(5)(a)4., F.S., which requires that standard risk rates for coverage issued by the association be established by the association using reasonable actuarial techniques, and shall reflect anticipated risk experience and expenses; (3) Subparagraph 627.6498(5)(a)5., F.S., which sets the initial rate at 150 percent of the standard risk rate, and states that any change in this rate must reflect reasonably anticipated losses and expenses; and (4) Subparagraph 627.6498(5)(a)6., F.S., which sets a cap on the rate for plans issued through the association at 200 percent of the standard risk rate.

HOUSE BILL 595 (CHAPTER 87-262) requires group health insurance policies providing coverage on an expense incurred basis to provide coverage for home health care furnished by a licensed home health care agency.

Coverage may be limited to care under a plan of treatment prescribed by a licensed physician and services may

be performed by a registered graduate nurse, a licensed practical nurse, a physical therapist, a speech therapist, an occupational therapist, or a home health aide. Utilization review may be imposed if imposed for other services.

The act permits limiting the length of care for any policy year; however, it prohibits limiting reimbursement to less than \$1,000 per year. In the case of benefits received pursuant to Medicare, the coverage provided by the act will be considered supplemental and in addition to those benefits. The requirements of the act will apply to plans of self-insurance not exempted by Subsection 627.651(2), F.S., or established or maintained in accordance with the Employee Retirement Income Security Act of 1974. Multiple-employer welfare arrangements as defined in Section 624.437, F.S., and the State Health Plan as provided in Section 110.123, F.S., are excluded from the provisions of the act.

This act also requires individual, group, blanket, or franchise accident or health insurance policies that provide coverage for mastectomies to also provide coverage for a prosthetic device or reconstructive surgery incident to mastectomies.

The act also provides that the offered coverage is subject to the deductible and coinsurance provisions applied to the mastectomy and all other terms and conditions applicable to other benefits. Furthermore, when a mastectomy is performed and there is no evidence of malignancy, the offered coverage may be limited to the provision of an initial prosthetic device

and reconstructive surgery within 2 years after the date of the mastectomy. Finally, the act defines mastectomy to mean the removal of all or part of the breast for medically necessary reasons, as determined by a licensed physician.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 619 (CHAPTER 87-188) is a legislative response to the increasing number of proposals mandating that certain benefits be included in health insurance policies. Every person or organization seeking consideration of a legislative proposal which would mandate a health coverage or the offering of a health coverage by an insurance carrier, health care service contractor, or health maintenance organization as a part of either an individual or a group policy must submit to the appropriate legislative committee a report which assesses the social and financial impacts of the proposed coverage. The act provides guidelines for assessing the impact of a proposed mandated benefit or mandated option.

Liquefied Petroleum Gas

SENATE BILL 45 (CHAPTER 87-34) allows Chapter 527, F.S., relating to liquefied petroleum (LP) gas, to continue in full force and effect notwithstanding its scheduled repeal on October 1, 1987, pursuant to the Sunset Act. Chapter 527, F.S., was amended to require any consumer, owner, end user, or person who alters his LP gas equipment or system in any way to notify the licensed dealer who next fills or otherwise services his LP gas system that such work has been performed. This

chapter, as amended, is scheduled to be repealed on October 1, 1997, pursuant to the Sunset Act.

Rate Regulation

SENATE BILL 820 (CHAPTER 87-124) revives and readopts the 14 workers' compensation sections which were subject to Sunset review. However, a few minor modifications were made.

Two sections in Chapter 624, F.S., have been amended to provide that commercial self-insurance funds which write workers' compensation and employer's liability insurance shall be subject to and shall make rate filings in accordance with the workers' compensation rating provisions.

Section 627.091, F.S., as amended, provides that whenever a rating organization committee meets to discuss matters pertaining specifically and directly to Florida rates, the committee is required to give at least 3 weeks notice of the meeting to the Department of Insurance. Also, the public must be given at least 14 days prior notice by publication in the Florida Administrative Weekly.

Section 627.211, F.S., as amended, provides that before any deviation could be used by insurers, specific departmental approval would be required. The approval no longer has to be by an order. The 6-month waiting period, before a deviation could be terminated, was eliminated. Thus, the Department may terminate a deviation at any time after a deviation has been approved if it no longer meets the requirements of the Insurance Code.

Section 627.215, F.S., as amended, more accurately identifies excess profits by providing an additional 12-month period in which accident-year losses and loss-adjustment expenses would more accurately mature. A 12-month delay in reporting the 3-year underwriting period results, is built in the statutory change. Thus, each insurer group will file a schedule of Florida loss and loss-adjustment experience for each of the 3 years previous to the most recent accident year. The revisions to Section 627.215, F.S., are intended to take effect with the report for accident years 1984, 1985 and 1986, which must be filed by July 1, 1988. However, any excess profits calculated for the 3 years evaluated as of December 31, 1985, or from prior evaluations, shall be calculated in accordance with Section 627.215, F.S., as the section existed prior to this enactment.

Section 627.4133, F.S., as amended, provides that an insurer who is writing workers' compensation and employer's liability insurance is not required to give 45 days advance written notice of the renewal premium. However, such insurers must furnish written notice of the renewal premium to the insured covered by the policy not later than the expiration date of the policy to be renewed. This requirement applies only where the insured has furnished all the necessary information so as to enable the insurer to develop the renewal premium prior to the expiration date of the policy to be renewed.

LAW ENFORCEMENT AND CRIMINAL JUSTICE*

Legislative activity in the area of criminal justice during the 1987 Session was highlighted by the passage of the comprehensive "Crime Control and Prevention Act" which addressed issues ranging from the control of drug abuse to the creation of safe neighborhoods through environmental design. Various other laws which passed addressed such diverse topics as sentencing guidelines, drug tampering, communications fraud, concealed weapons, and vessel homicide.

Comprehensive Crime Control and Prevention

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1467 (CHAPTER 87-243) amends Chapter 893, F.S., the "Florida Comprehensive Drug Abuse Prevention and Control Act," to provide five schedules under which controlled substances are regulated. Anabolic steroids and human chorionic and other gonadotropins are added to Schedule IV, resulting in their treatment as controlled substances for purposes of Chapter 893, F.S. Schedule IV substances have currently acceptable medical uses and may lead to limited physical or psychological dependence. Enhanced

*Prepared by Senate Judiciary-Criminal Committee

penalties, including a third-degree felony penalty for unlawful possession of these substances, apply.

The act creates Section 893.0356, F.S., which defines "controlled substance analog" and provides for automatic treatment of such analogs as Schedule I substances, as an alternative to the administrative determination made by the Attorney General.

Section 893.13, F.S., establishes prohibited acts and penalties relating to the unauthorized use of controlled substances. Presently, unlawful acts include selling, manufacturing, or delivering a controlled substance, or possessing it with the intent to sell, manufacture, or deliver. This legislation adds purchasing to the list of prohibited acts which may constitute trafficking and certain nontrafficking offenses, thereby rendering the sole act of paying or giving consideration for controlled substances a crime.

The offense of delivering controlled substances to a minor is broadened to include unlawfully using or hiring minors as agents or using them to assist in avoiding detection or apprehension for drug violations. In addition, penalties are enhanced for certain drug offenses committed within 1,000 feet of school premises.

The act amends Section 893.135, F.S., to provide that a person acts "knowingly" if he intends to commit a trafficking offense involving any of the controlled substances listed in that section, regardless of the substance actually involved. [A person's erroneous belief that he was trafficking in

cannabis, when the contraband was actually cocaine, would no longer be a defense, as previously established by a state appellate court decision.]

Currently, unlawful distribution of opium which results in death constitutes first-degree murder. This act provides that the death of a person which results from the unlawful distribution of any Schedule I substance or cocaine, a Schedule II substance, also constitutes first-degree murder.

A new law authorizes local governments to create administrative boards to impose sanctions for public nuisances by barring the use of property being used in violation of state drug laws. [Patterned after a New York City ordinance known as the "Padlock Law," this law could facilitate the closing of "crack houses" and other dwellings used for illicit drug purposes for up to 1 year.] In addition, city and county attorneys are added to the list of persons who are authorized to seek permanent injunctions of public nuisances under current law, as provided in Section 60.05, F.S.

Currently, college and university students may be expelled from school for violation of any drug law, after notice and hearing is provided. This act entitles students to a waiver of such expulsion based on the rendering of substantial assistance in the apprehension of any of their accomplices as well as any other persons engaged in drug violations within the school system. A waiver of expulsion is also provided based on voluntary disclosure of the individual's violation or successful completion of a drug treatment program.

[The surge in drug testing in the workplace has created a market for the sale of urine samples which contain no traces of drugs.] A first-degree misdemeanor penalty is created for willfully defrauding or attempting to defraud lawfully administered urine tests. This penalty also applies to willfully manufacturing, advertising, selling, or distributing a substance or device intended to defraud these tests.

The act provides for up to a 2-year discretionary revocation or suspension of a person's driver license or up to a 2-year delay in a person's eligibility for a driver license, if the person is convicted of a drug offense involving a Schedule I or II controlled substance.

Currently, unlawfully possessing a medicinal (prescription) drug without a prescription is a second-degree misdemeanor. A new provision is added which enhances this penalty to a third-degree felony if possession occurs with the intent to sell, dispense or deliver.

Substance Abuse Education

The act also amends Section 233.067, F.S., creating the "Florida Comprehensive Health Education and Substance Abuse Prevention Act." State laws are strengthened to ensure that all children, kindergarten through 12th grade, receive drug abuse prevention education, and that educators receive in-service training relating to drug abuse concerns. To accomplish this objective, schools will be required to have substance abuse prevention programs in operation no later than

the 1988-89 school year. Criteria for proposed programs designed to implement this instruction at each grade level are established.

School districts are required to designate coordinators for the substance abuse education program. In addition, districts must specify the minimum number of hours in substance abuse prevention instruction students must have in order to progress from one grade to another.

The Department of Education is required to disseminate information on effective programs, including model suggested programs, and to provide technical assistance to the districts.

The act establishes a Resource and Prevention Center within the Department to coordinate programs and serve as a clearinghouse for information.

School boards are required to adopt and distribute codes of student conduct which contain consistent policies for disciplining students found to be illegally using, selling or possessing controlled substances.

Districts' in-service education plans must include instruction in substance abuse prevention for teachers and management training programs in identifying, preventing and treating substance abuse for principals and other school leaders. Teacher education centers must provide instruction in how to teach about substance abuse.

Forfeiture

The act amends Sections 319.33, 329.10, 330.40, 329.11, 328.05, and 843.18, F.S., by clarifying that personal property involved in the following offenses (currently third-degree felonies) is considered contraband and therefore subject to forfeiture under the Contraband Forfeiture Act: motor vehicles involved in violations of registration or information requirements; vessels involved in certificate of title violations or used to elude a law enforcement officer; and aircraft which is not registered or is falsely registered, or which has illegally altered or otherwise unidentifiable identification numbers, or which has nonregulation fuel tanks.

Money Laundering

The Comprehensive Crime Control Act also creates the "Money Laundering Control Act" which makes money laundering a criminal offense under Florida law. It is now a second-degree felony for a person, knowing that the property involved in a financial transaction represents proceeds from some unlawful activity, to conduct or attempt to conduct such a transaction which in fact involves proceeds of "specified unlawful activity" (any predicate offense under the Racketeer Influenced and Corrupt Organization (RICO) Act). It is also a second-degree felony to transport or attempt to transport a monetary instrument or funds for purposes of "money laundering." It provides that to be criminally liable for money laundering, a person is required to have an intent to promote the carrying on

of specified unlawful activity; or knowledge that the transaction is designed to conceal the nature, location, source, ownership, or control of the proceeds; or knowledge that the transaction is designed to avoid reporting requirements. It also provides a civil penalty of not more than the greater of the value of the property, funds, or monetary instruments involved, or \$10,000.

Persons engaged in a trade or business receiving currency payments exceeding \$10,000 have to file information currently required by the Internal Revenue Service with the Department of Revenue. Failure to report is punishable as a first-degree misdemeanor and/or by a fine not exceeding \$250,000 or twice the amount of the cash transaction, whichever is greater. The maximum fine for a second or subsequent conviction is \$500,000 or quintuple the value of the cash transaction, whichever is greater. The Department of Revenue is required to enforce compliance and to be the custodian of the filed information. The filed information is confidential, except that law enforcement can have access to it upon a showing of need.

Entrapment

The act clarifies that entrapment is an affirmative defense that is available to a defendant who establishes to the trier of fact by a preponderance of the evidence that he is not predisposed to commit the offense charged.

Witness Retaliation

The legislation amends Section 914.23, F.S., by clarifying that threatening or attempting to retaliate against a witness, regardless of whether any bodily injury or property damage resulted, is a third-degree felony.

Bookmaking

The measure amends Section 849.25, F.S., by expanding and clarifying the definition of bookmaking. [This was done in response to a recent district court case holding the statute unconstitutional.]

Pawnbrokers

The enactment amends Sections 715.041 and 715.0415, F.S., so that law enforcement officers who are authorized by a local law enforcement agency can recover stolen property from a pawnbroker. Customers of pawnbrokers are required to verify in writing ownership of any property sold or pledged. False verification of such information is punishable as a first-degree misdemeanor or a third-degree felony, depending on the amount of money received by the pawnbroker. In addition, restitution is to be made to pawnbrokers.

Chop Shops - Criminal Activity

Chop shops are defined as any place where persons alter, dismantle, reassemble, or conceal or disguise the identity of a stolen motor vehicle or a major component part of it. Section 812.16, F.S., creates a new offense which provides that owning

or operating a chop shop or knowingly aiding and abetting in these acts constitutes a third-degree felony.

In addition to the existing penalties, a person convicted of this offense may be ordered to pay restitution to the rightful owner or the owner's insurer. Stolen vehicles and major component parts discovered at the site of a chop shop may be seized as contraband by law enforcement authorities and forfeited pursuant to Florida's Contraband Forfeiture Act.

Money Orders

This act proposes to reduce the use of money orders as a method of laundering money derived from illegal activities. Records in the form of a log must be kept of all money orders sold in the amount of \$700 or more for at least 3 years from the date of purchase. These records will include the name and address of the purchaser and will be available, upon request, to law enforcement agencies.

Any seller of money orders who willfully fails to maintain the required log will be guilty of a noncriminal violation, punishable by a fine not exceeding \$250.

Substantial Assistance

This legislation amends Subsection 893.135(3), F.S., and reverses a court decision that limited a defendant to providing substantial assistance toward the identification, arrest, or conviction of persons involved in the same trafficking offense as the defendant. The defendant would now be permitted to provide information concerning the identification, arrest, or

conviction of any people involved in trafficking in controlled substances; the defendant would no longer be limited to providing information on people involved in the crime for which he is being sentenced. The state attorney must still move the trial court to reduce or suspend the defendant's sentence.

Attempted Burglary - Proof

A new subsection is added to Section 810.07, F.S., the burglary statute, creating the facts for a prima facie case for attempted burglary. In a trial for attempted burglary, proof of the attempt to enter a structure or conveyance stealthily and without the owner's or occupant's consent is prima facie evidence of attempting to enter with the intent to commit an offense.

The practical effect of this provision would be that once the state proved the defendant attempted to enter the structure stealthily and without consent, the state would have sufficient evidence to demonstrate that the defendant attempted to enter the structure with the intent to commit an offense.

State Appellate Rights

This legislation also amends Section 924.07, F.S. [In criminal proceedings, the state only has the rights of appeal that are expressly conferred to it by statute. The substantive rights conferred to the state can not be diminished or enlarged by rules of procedure.]

Section 924.07, F.S., provides that the state has the right to appeal from the following: an order dismissing an

indictment or information or any count thereof; an order granting a new trial; on order arresting judgment; a ruling on a question of law when the defendant is convicted and appeals from the judgment; a sentence on the ground that it is illegal; a judgment discharging a prisoner on habeas corpus; an order adjudicating a defendant insane; all other pretrial orders, but only one appeal is permitted in any case; or a sentence outside the recommended guidelines range.

This legislation also amends Subsection 924.07(4), F.S., to establish that once the state institutes a cross-appeal, the appellate court would be required to rule upon the question raised by the state, regardless of the disposition of the defendant's appeal. Subsection (10) of Section 924.07, F.S., would be amended to allow the state to appeal a trial court ruling granting a motion for judgment for acquittal after the jury renders its verdict.

Hoax Bombs

Section 790.165, F.S., is amended to address the problem of persons who imply they are carrying bombs for purposes of intimidation or furthering criminal activity, when in reality the device they carry is not a destructive device. [The device they carry is referred to as a "hoax bomb" and it is not covered under existing statutes.] A "hoax bomb" is defined as a device designed to appear to be a destructive device or explosive, but in reality is neither. Whoever manufactures, possesses, sells, delivers, or mails such a device would be

guilty of a third-degree felony. Whoever uses or threatens to use a "hoax bomb" while committing or attempting to commit a felony is guilty of a second-degree felony which carries a 3-year minimum mandatory term. Adjudication of guilt or imposition of sentence could not be suspended or withheld. A sentence may be reduced or suspended upon the state or defense attorney's motion if a defendant provides substantial assistance in the identification, arrest, or conviction of his accomplices, accessories, co-conspirators, or principals.

Exemptions from the penalties are provided for law enforcement, firemen, persons or corporations licensed under Chapter 493, F.S., (Investigative and Patrol Services), members of the armed forces acting within the scope of their employment, or members of theatrical or production companies using a hoax bomb during a rehearsal or performance.

Costs

When a defendant is convicted of a crime, the costs incurred in prosecuting the defendant are included and entered in the judgment against him.

This legislation does not alter the current authorization to assess costs but permits additional assessments. Law enforcement agencies are entitled to recover from convicted defendants the costs they incur investigating cases. Additionally, fire departments are entitled to recover the costs they incur investigating arsons, if the defendant is convicted. If a law enforcement agency or fire department

requests the assessment and documents the investigative costs it incurred, the legislation provides that the costs will be included and entered in the judgment against the defendant. If the court does not enter the total investigation costs in the judgment, it is required to state in the record why it did not.

Costs are defined to include the actual expenses incurred in conducting the investigation and prosecution of the case. Costs may also include the salaries of permanent employees.

Crime Prevention Through Environmental Design

[In the last decade a new crime control technology has developed that aims at crime prevention through designing the environment in such a way as to deter criminal activity. This technology is referred to as Crime Prevention Through Environmental Design (CPTED). The technology is also referred to in the police community as target hardening. Basically the concept involves designing, lighting, staffing, and operational procedures that reduce exposure to crime.]

Section 16.55, F.S., is created which requires the Department of Legal Affairs to develop model crime prevention training materials for the localities with up-to-date information on how to reduce commercial crime exposure through environmental design. These materials must be distributed to each city and county commission by July 1988.

Safe Neighborhoods Act

The purpose of the "Safe Neighborhoods Act" is to assist local governments in implementing crime prevention techniques to stabilize and revitalize neighborhoods. The act provides for local governments to receive planning grants if they elect to create neighborhood improvement districts. These districts are to employ crime prevention through environmental design strategies.

The act describes three types of safe neighborhood improvement districts and establishes the criteria for creating and funding them: (1) local government neighborhood improvement districts, (2) property owners' association neighborhood districts, and (3) special neighborhood improvement districts.

A Safe Neighborhoods Trust Fund is created which will provide matching planning grants and technical assistance to districts created pursuant to the act.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1467 (CHAPTER 87-243) takes effect October 1, 1987, except for the substance abuse education provisions, the bookmaking provisions, and the provisions granting the state additional grounds of appeal.

Sentencing

COMMITTEE SUBSTITUTE FOR SENATE BILLS 35, 437, 894, & 923 (CHAPTER 87-110) is the sentencing guidelines legislation which amends Section 921.001, F.S. [The Legislature adopted the provisions of the Florida Supreme Court's opinion of April

2, 1987, which permit the scoring of victim injury even if it is not an element of the offense and the scoring of victim injury for all persons injured by the defendant during the criminal episode. The Legislature also adopted the portion of the opinion which authorizes the scoring of prior misdemeanor convictions for violations of local ordinances that are also violations of state statutes. The Legislature did not adopt the Supreme Court provisions which authorized the revised scoring of burglaries, the increased scoring for drug offenses, or the new "permitted range" provisions.] Departure sentences may be based on factors which "reasonably justify" aggravations or mitigations. The underlying facts upon which the departure is based must be established by a preponderance of the evidence. The Legislature has also amended the guidelines statutes to permit departure sentences for excessive physical and emotional trauma and when the defendant demonstrates an escalating pattern of criminal conduct.

[Future revisions made by the Supreme Court and proposed to the Legislature must be submitted to the Legislature by February 1 of each year. If the Supreme Court certifies that revisions to the guidelines are necessary to conform the statutes to previously adopted legislation, the revisions do not require the Legislature's adoption.]

Property Crimes

SENATE BILL 594 (CHAPTER 87-382) creates the "Florida Communications Fraud Act" to be an enforcement tool against

"noninvestment" boiler rooms and other such criminal enterprises that use the mails and high-pressure telephone solicitations to defraud Florida consumers. The act makes prosecution easier by consolidating and revising existing statutes which currently criminalize organized fraud and schemes to defraud. Under this reorganization, the old organized fraud and schemes to defraud laws are repealed.

The new statute contains two offenses, organized fraud and communications fraud. Each offense is broken down into different degrees of punishment depending on the value of the property obtained instead of on the number of victims. Organized fraud can be charged when there is successful operation of a fraudulent scheme [i.e., property is obtained through a scheme to defraud]. If the obtained property's aggregate value is: \$50,000 or more, it is a first-degree felony; \$20,000 or more, but less than \$50,000, it is a second-degree felony; or less than \$20,000, it is a third-degree felony.

Communications fraud, on the other hand, can be charged for each solicitation made in furtherance of a fraudulent scheme, regardless of whether the fraudulent scheme is successful or not. Specifically, any person who engages in a fraudulent scheme, and in furtherance of it, "communicates" with the intent to obtain property is guilty of third-degree felony if the property value is \$300 or more. If the property value is less than \$300, it is a first-degree misdemeanor.

The act also provides for the imposition of separate judgments and sentences for the offense of organized fraud and for each communications fraud offense when such offenses involve the same scheme to defraud.

This act takes effect October 1, 1987.

SENATE BILL 435 (CHAPTER 87-315) amends Section 812.13, F.S., by redefining the common law crime of robbery. The current requirement that the force used in a robbery must precede or be contemporaneous with the taking is expanded so that the force can occur subsequent to the taking as long as both the force and the taking constitute "a continuous series of acts or events."

This act takes effect October 1, 1987.

SENATE BILL 436 (CHAPTER 87-376) amends Section 812.014, F.S., by reclassifying first-degree grand theft so that stolen property valued at \$100,000 or more is no longer a second-degree felony but is instead a first-degree felony. The other theft classifications remain unchanged except that what was classified as first-degree grand theft (property valued at \$20,000 or more) is now called second-degree grand theft. Similarly, what was classified as second-degree grand theft is now called third-degree grand theft.

This act takes effect October 1, 1987.

Food, Drugs, and Consumer Products

COMMITTEE SUBSTITUTE FOR SENATE BILL 8 (CHAPTER 87-57) creates Section 501.93, F.S., the "Florida Anti-Tampering Act,"

[modeled after the Federal Anti-Tampering Act passed in 1983]. Tampering with a consumer product or its label or container with reckless disregard of the risk of bodily injury or death is a first-degree felony. Conspiring or attempting to tamper with consumer products will be punished as severely as the completed act of tampering.

An additional penalty exists if tampering with consumer products is performed with the specific intent to cause serious injury to a business. This offense, constituting a second-degree felony, is directed toward persons who tamper with a company's products in order to create fear or extort money for personal gain. Other offenses include fabricating stories about tamperings, a second-degree felony, and threatening to tamper with consumer products, a third-degree felony. [Making it a crime to knowingly communicate false information about tampering is particularly significant because of the tremendous burden that these types of complaints impose on Food and Drug Administration investigators and other federal, state and local officials.]

This act will become effective on October 1, 1987.

SENATE BILL 112 (CHAPTER 87-299) amends Section 893.03, F.S., [which is modeled after 21 C.F.R. 1308 (1987)]. Last year a very specific form of dronabinol was moved from Schedule I of the federal schedule to Schedule II, allowing dronabinol to be prescribed for the restricted purpose of treating cancer patients for nausea caused by chemotherapy. The Florida Legislature also placed dronabinol in Schedule II on Florida's

schedule, but inadvertently omitted the language describing the specific form of dronabinol on the federal schedule].

This act makes Florida's description of dronabinol consistent with the federal schedule and also places "euphoria," a newly discovered analog, into Schedule I.

Weapons and Firearms

COMMITTEE SUBSTITUTE FOR HOUSE BILL 253 (CHAPTER 87-24) transfers the authority to issue a license to carry a concealed weapon or firearm from county commissioners to the Secretary of State, Division of Licensing. Section 790.06, F.S., is substantially revised. The period for which the license is valid is increased from 2 to 3 years, and the license is valid throughout the state, not just in one county. The licensee must carry the license or a copy of the license, together with valid identification, on him at all times when he is in possession of the concealed weapon or firearm. He is required to display the license and proper identification to a law enforcement officer when requested to do so by the officer. Failure to carry the license or a copy of the license with proper identification when carrying the concealed weapon or firearm or failure to display the license and identification when requested to do so by a law enforcement officer is a noncriminal violation punishable by a \$25 fine. The age for receiving a license is increased from 18 to 21.

An applicant must be a resident of Florida who has resided in the state for at least 6 months prior to making his

application, 21 years of age or older, and not suffer any infirmity that would prevent the safe handling of a weapon or firearm. The applicant may not receive a license if he is prohibited from possessing a weapon or firearm because of previous felony convictions or if he has been committed for controlled substance abuse or found guilty of a violation of Chapter 893, F.S., within 3 years prior to applying for the license. Additionally, the applicant must not be a chronic and habitual user of alcoholic beverages. Chronic and habitual use will be presumed if the applicant has been committed as an alcoholic, deemed an habitual offender under Subsection 856.011(3), F.S., or has had two or more Driving Under the Influence (DUI) convictions within 3 years prior to applying for the license. He will be ineligible if he has been determined to be incompetent unless the competency has been restored by court order at least 3 years prior to applying for the permit. The applicant is not eligible if he has been committed to a mental institution unless he possesses a certificate from a psychiatrist licensed in this state verifying that he has not suffered from the disability for 3 years. The applicant must desire a legal means to carry a concealed weapon or firearm for legal self-defense.

The applicant must also demonstrate that he is competent with a firearm. This competence may be demonstrated by completing any of the enumerated firearms courses or by demonstrating his experience with a firearm by presenting evidence of participation in an organized shooting competition

or military service. If the applicant has previously held a license to carry a firearm in Florida he is deemed competent with a firearm unless the license was revoked for cause.

The Department of State shall deny a license if an applicant does not meet the above requirements. The Department of State has the discretion to deny a license if an applicant has, within 3 years prior to applying for a license, been found guilty of one or more crimes of violence.

The nonrefundable application fee may not exceed \$125 if the applicant has not been issued a statewide license, nor may the nonrefundable fee exceed \$100 for renewal of the statewide license. In addition to the application and fee, a set of fingerprints taken by a law enforcement agency must be submitted to the Department of State.

Within 90 days of receiving the applicant's material, the Department of State must either issue the license, or deny the application solely because the applicant does not meet the criteria set forth in the act.

A license will be revoked or suspended if the licensee becomes unable to meet the criteria established in this law for securing an original license. Other portions of the law provide circumstances under which a license shall be suspended or revoked.

The grandfather clause provides that each person licensed by a county to carry a concealed weapon or firearm on the effective date of the act will be entitled to carry that concealed weapon or firearm under the provisions of the county

ordinance until his license expires. However, to make that county license valid statewide for the unexpired remainder of the license, the licensee need only submit proof of the county license and \$15 to the Department of State. Upon expiration of the county license, the licensee must apply as an initial applicant to the Department of State in order to obtain a statewide license. Within 30 days after the effective date of this law each board of county commissioners shall notify all current license holders that they may convert their county licenses to statewide licenses.

The effective date of this legislation is October 1, 1987.

HOUSE BILL 251 (CHAPTER 87-23) creates Section 790.33, F.S., declaring the Legislature's preemption of the regulation of firearms and ammunitions. That preemption includes the purchase, sale, transfer, taxation, manufacture, ownership, possession, and transportation of firearms and ammunition, to the exclusion of all current and future county and municipal ordinances.

The legislation provides that it will not affect zoning ordinances which encompass firearms businesses situated among other businesses. However, zoning ordinances which are designed as a method of regulating or prohibiting firearms or ammunition would be in conflict with this law and would be prohibited.

Counties may adopt cooling-off period ordinances that do not exceed 48 hours between the purchase and delivery of

handguns. The ordinances may not require reporting or notification to any source outside the retail establishment but handgun sales records must be available for inspection by law enforcement agencies during normal business hours. Exempted from the cooling-off provisions are: individuals licensed to carry a concealed weapon, individuals who own another firearm and have a sales receipt for another firearm, individuals who are known to the retail establishment to own another firearm or have another firearm as a trade-in, law enforcement or correctional officers; a law enforcement agency, sales or transactions between federally licensed dealers and distributors, or any individual who has been threatened or whose family has been threatened with health or bodily injury, provided the individual may lawfully possess the firearm and the threat has been duly reported to local law enforcement.

Law Enforcement Officers and Agency Administration

SENATE BILL 283 (CHAPTER 87-368) amends Section 921.141, F.S., which sets forth the aggravating and mitigating circumstances to be weighed in determining whether a defendant receives life imprisonment without the possibility of parole for 25 years or the death penalty. This legislation adds another aggravating circumstance to be considered. It is an aggravating circumstance to kill a law enforcement officer while he is performing his official duties.

The effective date is October 1, 1987.

HOUSE BILL 1479 (CHAPTER 87-147) amends Section 776.05, F.S. [The purpose of this legislation is to codify into Florida law the substance of a U.S. Supreme Court decision, Tennessee v. Garner, 105 S.Ct. 1694 (1985).] Accordingly, a law enforcement officer may be subject to civil liability if he were to use deadly force to arrest a fleeing felon unless the deadly force is necessary to prevent an arrest from being defeated by flight, and when feasible, a warning has been given and the officer either (1) reasonably believes that the felon creates a threat of death or serious physical harm to the officer or to others, or (2) the officer reasonably believes that the fleeing felon committed a crime that inflicted or threatened the infliction of serious bodily harm to someone. If the officer uses deadly force on a fleeing felon and these circumstances are not present, then the officer might subject himself to civil liability.

The effective date of this legislation is October 1, 1987.

HOUSE BILL 95 (CHAPTER 87-59) revives and readopts Section 112.533, F.S., without change, which is the current Public Records Law exemption for complaints filed against a law enforcement officer. The complaint filed with a law enforcement or correctional agency against a law enforcement officer, including a deputy sheriff or a correctional officer, is confidential, as is all information obtained in the internal investigation of the officer, until the conclusion of the investigation or until the investigation is no longer active.

The act takes effect October 1, 1987.

HOUSE BILL 560 (CHAPTER 87-186) amends Chapter 943, F.S., and Section 318.21, F.S. This legislation revives and readopts the Criminal Justice Standards and Training Commission. [If this or similar legislation had not been adopted, the Commission would have been repealed on October 1, 1987.] Under this legislation the Commission will be repealed on October 1, 1997, and is scheduled for review prior to that time.

[Two irreconcilable laws were passed in the 1986 Session amending Section 943.25, F.S., pertaining to the Criminal Justice Trust Funds. Those bills became Chapter 86-187, Laws of Florida, and Chapter 86-154, Laws of Florida. The Division of Statutory Revision determined through rules of statutory construction that Chapter 86-187, Laws of Florida, was presumed to be the correct law and published it as such. Chapter 86-154, Laws of Florida, was published in footnote form and did not have the force of law.] This legislation reverses that decision and publishes the substance of Chapter 86-154, Laws of Florida, as the correct revision to Section 943.25, F.S., although it is in a somewhat revised form.

The effective date is October 1, 1987.

HOUSE BILL 1403 (CHAPTER 87-288) repeals Sections 26.50, 30.13, 30.19, 30.25, 30.26, 30.28, 30.31, 30.32, 30.33, 30.34, and 30.35, F.S., relating to outdated sheriffs' duties. The act also combines Sections 30.13 and 30.14, F.S., and rewords them to be more clearly understood. The most significant

change in this section is that upon the death of a sheriff and the failure of a successor to be qualified in due time, the chief deputy shall be appointed by an order of a judge of the circuit court to fulfill the responsibilities of the sheriff under this section.

This act also amends Section 30.56, F.S., to make it a noncriminal infraction instead of a misdemeanor to fail to appear on a traffic charge. This is consistent with the change made in Section 321.05, F.S., in the 1986 Session which applies when the arrest is made by a Florida Highway Patrol officer.

This act takes effect October 1, 1987.

HOUSE BILL 463 (CHAPTER 87-177) revives and readopts the Criminal Justice Information Systems Council. [If this or similar legislation had not been adopted, the Council would have been repealed on October 1, 1987.] Under this legislation, the Council will be repealed October 1, 1997, and will be reviewed prior to that date.

Because the Council has had difficulty obtaining a quorum at its meetings, certain members are permitted to appoint a designated assistant to serve in their places on the Council.

Section 943.05, F.S., pertaining to the uniform offense and arrest reports, is amended. Language is deleted which provided that the reports were to be the primary documents used to initiate prosecutions. Language is added which states that data elements, their formats, and submission procedures shall

be specified through the promulgation of Administrative Procedure Rules.

Language is deleted which provided that it was the responsibility of law enforcement agencies to submit the uniform arrest and disposition reports to the state attorney who was responsible for forwarding the reports to the clerk of the court.

The effective date of this provision is October 1, 1987.

HOUSE BILL 523 (CHAPTER 87-56) amends Section 258.024, F.S., by removing the Division of Recreation and Parks Director's police powers and the requirement that the director be certified as a law enforcement officer. It also clarifies that the Division Director shall determine the number of park law enforcement officers needed at each state park.

This act takes effect October 1, 1987.

SENATE BILL 539 (CHAPTER 87-77) amends Section 932.704, F.S., by providing that proceeds from contraband forfeiture sales can be expended for school resource officers, crime prevention, and drug education, as well as for other currently authorized law enforcement purposes. The act requires that requests for expenditure of forfeiture funds include a statement describing anticipated recurring agency costs for future fiscal years. Finally, local entities having budgetary authority over law enforcement agencies are required to send the Florida Department of Law Enforcement copies of the quarterly contraband forfeiture expenditure reports.

This act takes effect October 1, 1987.

Arrests

HOUSE BILL 1165 (CHAPTER 87-285) amends Section 901.15, F.S., by allowing a law enforcement officer to conduct a warrantless arrest of any person the officer has probable cause to believe has committed a battery on another person if the officer reasonably believes there is danger of violence, and he finds evidence of bodily harm or of eyewitness corroboration.

This act takes effect October 1, 1987.

HOUSE BILL 705 (CHAPTER 87-45) also amends Section 901.15, F.S. That section sets forth circumstances under which a law enforcement officer may arrest a person without a warrant. [During the 1985 Legislative Session a provision was added to the statutes providing conditions for a law enforcement officer to make an arrest for a misdemeanor occurring on Homestead Air Force Base that was not committed in the officer's presence. The provision was to be repealed on October 1, 1987.] This legislation removes the repeal date thereby permitting the provision to remain indefinitely.

Emergency Situations

SENATE BILL 568 (CHAPTER 87-380) amends Section 23.1225, F.S., to eliminate the emergency assistance agreement as a type of mutual aid agreement under the act. It includes emergencies under Subsection 252.34(2), F.S., as a specified law enforcement intensive situation which can be the subject of an operational assistance agreement. The act eliminates the word "exact" from the requirement that voluntary cooperation

agreements and operational assistance agreements specify the nature of the law enforcement assistance to be rendered. It also provides that any operational assistance agreement which is in effect on the effective date of the act shall remain in full force and effect.

The act takes effect October 1, 1987.

SENATE BILL 26 (CHAPTER 87-357) gives the supervising law enforcement officer authority to order telephone company personnel or law enforcement personnel to cut, reroute, or divert telephone lines in situations where there is reasonable cause to believe that a person is holding one or more hostages; has barricaded himself to avoid apprehension; is about to be arrested and will resist with the use of weapons; or has barricaded himself, is armed, and threatening suicide. [Currently no such authority exists.] The only authorized purpose for taking such action is to prevent the suspect from communicating with anyone other than law enforcement.

The act also grants the participating phone company immunity from any legal action arising out of such an order provided that the phone company acts in good faith reliance upon a verbal or written order from the supervising officer.

This act takes effect October 1, 1987.

SENATE BILL 154 (CHAPTER 87-301) also relates to communications. Under Chapter 934, F.S., it is a third-degree felony to willfully intercept a wire or oral communication or to willfully disclose or use the contents of such illegally obtained communication. One exception to this broad

prohibition makes it lawful for law enforcement agencies, firefighters, ambulance services, public utilities, and agencies operating "911" emergency systems to intercept and record incoming wire communications on published emergency numbers. This exception does not cover recording outgoing calls.

This act amends Section 934.03, F.S., by permitting the recording of outgoing calls from a law enforcement communications center or a "911" system when the calls are in response to incoming calls on published emergency numbers.

Forensic Science and Medicine

SENATE BILL 99 (CHAPTER 87-359) is the Sundown legislation for the Medical Examiners Commission. It revives and readopts the Commission in Chapter 406, F.S., and provides for a future repeal in 1997.

The legislation provides for staggered terms of the commissioners, makes technical revisions and clarifications to the statutes, provides for probable cause panels, and adds disciplinary language from the commission's administrative rules.

The effective date is October 1, 1987.

HOUSE BILL 1205 (CHAPTER 87-219) establishes a reporting requirement for the treatment of certain burn injuries. It requires any person who initially treats or is requested to treat a person with second- or thirddegree burn injuries affecting 10 percent or more of the surface area of the body to

immediately report such treatment or request for treatment to the local sheriff's department if the treating person determines that the burn was caused by a flammable substance and if the injury is suspected to be the result of violence or unlawful activity.

The report must specify the name and address of the injured person and the extent of the burn injury. This reporting does not apply to burn injuries received by a member of the armed forces or a governmental employee engaged in the performance of his duties. Failure to report is a first-degree misdemeanor.

The act takes effect October 1, 1987.

[The statewide criminal analysis laboratory system was established in 1974. Half of the laboratories included within this system are totally funded by the state and the other half are funded locally, but are eligible to receive state matching funds of up to 75 percent of their operating costs. The local laboratories eligible for state matching funds are located in the following counties: Broward, Dade, Indian River, Monroe, and Palm Beach.] HOUSE BILL 200 (CHAPTER 87-159) amends Section 943.32, F.S., to make the Pinellas County Forensic Laboratory eligible to receive state matching funds by adding it to the list of locally funded laboratories within the statewide laboratory system.

Organized Crime

COMMITTEE SUBSTITUTE FOR SENATE BILL 189 (CHAPTER 87-362) revives and readopts the Council on Organized Crime, Section 27.37, F.S., preventing its repeal under the Sundown provisions of the statutes. The statute is reenacted in its entirety with one alteration - language is removed from the statutes which provides that the statewide prosecutor serves in an "ex-officio" capacity. The Council is scheduled for repeal in 1997 and will be reviewed prior to that time.

The effective date is October 1, 1987.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 945 (CHAPTER 87-139) amends Section 895.02, F.S., by expanding the list of predicate offenses constituting "racketeering activity" to include offenses relating to: securities investor protection; felony violations of the currency transaction reporting law; computer-related crimes; commercial sexual exploitation of children; extortion; retaliation against witnesses, victims, or informants; and tampering with or fabricating physical evidence. Reference to a repealed statute relating to gambling and to an obsolete statute relating to tampering is deleted. The definition of "RICO lien notice" is also clarified to include a lien notice which is filed ex parte upon probable cause that the property was used in racketeering activity.

The act amends Section 895.05, F.S., by providing that the Office of Statewide Prosecution and the state attorneys will now be able to file a RICO lien notice ex parte upon probable cause that the property was used in or derived from a

RICO violation; therefore, lack of such notice will not be a defense in any subsequent RICO proceeding.

Section 895.06, F.S., is amended by expanding the definition of "investigative agency" to include the Office of Statewide Prosecution so that it, along with the Department of Legal Affairs and the state attorneys, can issue civil investigative subpoenas.

The act amends Section 27.34, F.S., by allowing local governments to pay the salary of assistant state attorneys specializing in prosecuting RICO actions originating in that particular county or municipality. (Local governments can currently do this for attorneys exclusively prosecuting special law or ordinance violations.)

Finally, the act creates Section 895.055, F.S., to require RICO "residual funds" which are currently placed in general revenue to be distributed to the Department of Health and Rehabilitative Services after a certain monetary threshold is met to supplement residential, outpatient, detoxification, and other treatment services.

This act takes effect October 1, 1987, except that the provision relating to the distribution of residual funds takes effect July 1, 1987.

Prostitution

COMMITTEE SUBSTITUTE FOR HOUSE BILL 351 (CHAPTER 87-168) amends Section 796.05, F.S., by redefining the offense of "pimping" to prohibit any person, knowing another person is

engaged in prostitution, to live or derive support or maintenance in whole or in part from the earnings or proceeds of prostitution.

This act takes effect October 1, 1987.

Vessels

COMMITTEE SUBSTITUTE FOR SENATE BILL 795 (CHAPTER 87-392) amends Section 327.30, F.S., by changing the existing requirement that the operator of a vessel involved in a collision, accident, or other casualty report such accident to the Division of Law Enforcement within 24 hours. Reporting such accidents now has to be made immediately, or as soon as practicable. It is a felony of the third degree for a vessel operator involved in an accident resulting in personal injury to leave the scene of the accident without assisting the people involved and properly notifying law enforcement officials. Failure to do so before leaving the scene of an accident resulting only in property damage is a misdemeanor of the second degree.

The act amends Sections 327.351 and 327.353, F.S., and creates Section 327.36, F.S., to make the definition of operating a vessel while intoxicated consistent with DUI laws and to conform the Boating Under the Influence (BUI) law to DUI law as it relates to prohibiting a court from withholding adjudication of guilt for BUI or accepting pleas to serious boating offenses. It also clarifies that an officer can

withdraw blood from an intoxicated operator when he is the only person involved in an accident and is seriously injured.

The act amends Section 328.05, F.S., so that a vessel involved in a certificate of title violation or used to elude law enforcement is considered contraband and therefore subject to forfeiture under the Contraband Forfeiture Act.

The act creates Section 327.74, F.S., to establish a statewide system of uniform citations for violating the state's boating laws. The Department of Natural Resources is directed to prepare and distribute an appropriate uniform boating citation to all agencies enforcing state laws regulating the operation of vessels.

The act amends Section 330.36, F.S., to provide that municipalities can regulate the landing of seaplanes in waters within the municipality's jurisdiction.

Finally, the act amends Sections 327.37 and 327.73, F.S., by clarifying that operation of a vessel with an expired registration is a noncriminal violation which warrants a \$35 fine and that it is a noncriminal infraction to violate any of the provisions regulating waterskiing and aquaplaning.

This act takes effect October 1, 1987.

HOUSE BILL 100 (CHAPTER 87-20) creates a new "vessel homicide" statute which brings the law as it relates to killing someone by reckless operation of a vessel and leaving the scene of such accident into conformity with the current vehicular homicide statute. Therefore, killing another by operation of a vessel in a reckless manner likely to cause death or great

bodily harm is a third-degree felony, and leaving the scene of a vessel homicide is a second-degree felony.

This act takes effect October 1, 1987.

LOCAL GOVERNMENT*

The 1987 Florida Legislature passed several bills impacting local government which were enacted into law.

In response to the many demands of growth and its escalating costs, the Legislature created the "Local Government Infrastructure Commitment Act," or LOGIC Act, which gives counties and municipalities the much-needed ability to raise revenues to cope with those growth demands. That ability is guaranteed through the levy of a one-cent local option sales tax for up to 15 years, approved by referendum and expended for infrastructure purposes only.

The findings of the "Environmental Regulation and Procedures for Wastewater Study" were implemented, allowing the Department of Environmental Regulation to issue sanitary sewage system permits for up to 10 years and requiring the Department to study and recommend to the Legislature by March 1989 the appropriate classification system for surface waters.

In other measures:

1. Counties were authorized to charge up to 50 cents per telephone line for recurring charges for the

*Prepared by House Committees on Community Affairs and Housing

operation and maintenance of a "911" emergency telephone system,

2. A conflict resolution method was established for local building and fire code officials to use when they cannot agree on which building or fire code is best to implement,
3. The Legislature provided for the enforcement of traffic laws on private roads by authorizing municipalities and counties to enter into jurisdictional agreements with those who own or control such roads, and
4. In a technical or "housekeeping" measure, the Legislature clarified and re-emphasized that municipalities may only be formed or created by the Legislature through passage of a special act adopting a charter of incorporation.

A variety of other bills were also enacted into law which affect several areas of local government: Code enforcement boards, fire control and rescue, crimes against the handicapped and elderly, code compliance bonds for contractors, county records, county special projects, restrictions on land use, motor vehicle racing event permits, resolution of governmental disputes, municipal improvements, county purchase of real property, and local comprehensive plan review.

Brief descriptions of these acts are set forth by subject under the heading COMMUNITY AFFAIRS.

Housing initiatives were addressed by the House Committee on Housing during the 1987 Legislative Session. In brief, the Legislature accomplished the following in the area of housing:

1. Persons with developmental disabilities were included in the provisions of the state Fair Housing Act,
2. Incentives were provided for low-income housing developers by removing the state income cap which determines eligibility for residence in tax-exempt, bond-financed units [this change was made necessary by the increased requirements of the 1986 Tax Reform Act],
3. The Florida Housing Finance Agency was designated as the state housing credit agency to allocate the federal low-income housing tax credit,
4. A method of securing community-based organization loans was created under the Affordable Housing Act,
5. A program was created to establish local homeless coalitions in the 11 service districts of the Department of Health and Rehabilitative Services and to provide an emergency financial assistance program to prevent impending homelessness and to assist families who are homeless,
6. Belle Glade was established as a pilot pocket of poverty community for purposes of providing low-cost farmworker housing,

7. A statewide demographic study of farmworkers was authorized to determine the number of farmworkers, the condition of existing farmworker housing and the projected farmworker housing needs, and
8. Housing authorities were given expanded authority to evict tenants convicted of selling illegal drugs on project premises.

Brief descriptions of these acts are set forth by subject under the heading HOUSING.

COMMUNITY AFFAIRS

Local Option Sales Tax for Infrastructure

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1421 (CHAPTER 87-239) creates the "Local Government Infrastructure Commitment Act" (LOGIC Act). [This legislation gives municipalities and counties the much-needed ability to raise the revenues they need to cope with the escalating costs of growth in this state.]

From July 1, 1987, until December 31, 1992, the LOGIC Act gives local governments the option of imposing, for up to 15 years, a countywide, voter-approved sales tax of up to 1 cent (in quarter-cent increments) on the first \$5,000 of the purchase price of a taxable item. The sales tax must be approved by the voters in a countywide referendum election, and the ballot statement must disclose the ways that the local governments plan to use sales tax revenues. There is a 10-month hiatus from March 9, 1988, through December 31, 1988,

during which the sales tax question may not be placed upon the ballot.

Counties can put the question to the voters simply by passing an ordinance calling for a referendum; municipalities representing a majority of a county's population can do likewise by passing uniform resolutions establishing the rate of the sales tax and calling for a referendum. Sales tax proceeds will be distributed among the local governing bodies either according to a formula established by interlocal agreement or according to the statutory formula provided in Section 218.62, F.S. These funds can be used to finance, plan, and construct infrastructure (public facilities having a life expectancy of 5 or more years) or to service new bonds issued for such purposes, but cannot be used to pay operational expenses or to replace user fees or reduce ad valorem taxes.

In addition, CHAPTER 87-239, Laws of Florida, contains a few miscellaneous provisions:

1. The legislation provides for investment of surplus funds held by local governments,
2. The act repeals obsolete language which allowed local governments to impose a time-limited, 1-cent sales tax for jails from January 1985 through December 1985, and
3. The act removes a statutory requirement applicable only to new municipalities eligible for revenue sharing. Under this provision, such municipalities were encouraged to provide property tax relief based

upon the revenues derived from imposition of a half-cent local option sales tax (the opposite of the policy implemented by the LOGIC Act), and were required to provide notice and conduct hearings relevant thereto.

Water Pollution/Environmental Regulation

SENATE BILL 1039 (CHAPTER 87-125) implements the 1986 legislative directive, set forth in CHAPTER 86-213, Laws of Florida, to the Department of Environmental Regulation (DER) to consult with "local government ... and such other groups having technical expertise in the design, construction, and operation of wastewater construction, and operation of wastewater treatment facilities" and to submit a report to the Governor and the Legislature regarding sanitary sewage facilities.

[As a result, DER published a report titled: "Study of Environmental Regulations and Procedures for Wastewater Management."] SENATE BILL 1039 (CHAPTER 87-125), as passed by the 1987 Legislature, adopted into law some of the recommendations contained in that report. One of the most important provisions of CHAPTER 87-125, Laws of Florida, is that DER may renew a sanitary sewage system permit for up to 10 years if:

1. The system is not operating under a temporary permit and does not have an enforcement action pending against it,
2. Operation reports submitted to DER are accurate,

3. A recent inspection shows that the system is in proper working order and is not exceeding capacity, and
4. The system has met all water quality standards within the last 2 years, except for violations not caused by the system or its operator.

In addition, CHAPTER 87-125, Laws of Florida, requires DER to study the current classification system for surface water and report to the Legislature by March 1, 1989, on whether the classification of artificially created or significantly altered water bodies is appropriate. In this study, DER must consider the impacts of artificially created or significantly altered water bodies on other water bodies that have fish and wildlife values. However, DER cannot consider for reclassification artificially created or significantly altered water bodies that have potential for fish and wildlife, that are located in high-groundwater recharge areas, or that have high-recreational usage. DER must also inform the Governor and the Legislature of the data needed to adopt and implement rules to establish limits for discharges of nitrogen and phosphorus.

CHAPTER 87-125, Laws of Florida, will allow construction permits to be issued upon review of a preliminary design report instead of completed construction documents [which should save money for local government].

The act does not preclude sanitary sewage systems with 10-year permits from being subject to subsequent DER rules.

[This is to make sure that systems issued 10-year permits are not exempt for 10 years from the rules adopted pursuant to the Surface Water Improvement and Management (SWIM) Act.]

Emergency Telephone Number-"911"/Fees

HOUSE BILL 522 (CHAPTER 87-259) amends Section 365.171, F.S., relating to recurring charges for the "911" emergency telephone system.

CHAPTER 87-259, Laws of Florida, allows counties, at their option, to charge up to 50 cents per line for recurring charges for the operation and maintenance of a "911" system. Currently counties may charge up to 50-cents-per-line for startup costs only.

The act requires counties to annually submit their proposed recurring fees to the Department of General Services for approval. The telephone company is required to furnish the counties with the names of subscribers who refuse to pay the "911" charge.

In addition, CHAPTER 87-259, Laws of Florida, absolves the telephone company from liability with respect to "911" service unless the company acts with malicious purpose or in disregard of rights, safety, or property.

[It is estimated that the maximum fee of 50 cents (for 46 total participating counties by 1988) would generate \$33.946 million per year.]

Fire Prevention and Control

HOUSE BILL 1337 (CHAPTER 87-287) amends Chapters 553,

633, 381, and 513, F.S., relating to Fire Prevention and Control.

CHAPTER 87-287, Laws of Florida, authorizes the Department of Insurance, Division of State Fire Marshal, to establish uniform fire safety standards and provides a conflict resolution method for local building and fire code officials to use if they cannot agree on which building or fire code is best. The officials are required to agree on which code will provide the greatest degree of fire safety, but no decision can limit the State Fire Marshal's authority in any matter regarding fire safety.

The act further provides that before a permit is issued for construction, alteration, repair, or demolition, the local building and fire code officials must review the plans and find them acceptable to applicable state minimum building/fire codes. The State Fire Marshal also has the right to inspect any building and its contents and may issue orders to anyone found in violation of fire code standards and require them to correct flaws, cease operations, or vacate the premises.

In addition, CHAPTER 87-287, Laws of Florida, creates the Florida Fire Code Advisory Council to advise and make recommendations to the State Fire Marshal's Office regarding fire safety standards.

[The State Fire Marshal's Office has estimated that this act could save municipalities and counties approximately \$10 to \$15 million dollars per year by uncovering construction flaws

in the plan review process and by the use of the conflict resolution process.]

The act takes effect January 1, 1988.

Traffic Control and Enforcement on Private Roads

HOUSE BILL 1335 (CHAPTER 87-88) modifies provisions in Chapter 316, F.S., relating to state uniform traffic control, to provide for the application of traffic laws upon private roads and other limited access roads whenever a municipality or county, by agreement, exercises traffic control jurisdiction over such roads.

Under CHAPTER 87-88, Laws of Florida, municipalities and counties are authorized to enter into jurisdictional agreements with those who own or control such roads, subject to such terms as are mutually agreeable. County agreements which provide for enforcement by the sheriff may be entered into only after consultation with the sheriff and may not take effect prior to the beginning of the fiscal year unless the sheriff agrees to an early startup. County sheriffs' offices and city police departments may then be required to enforce traffic laws on private roads pursuant to such agreements.

CHAPTER 87-88, Laws of Florida, also contains a few secondary provisions, among which are included:

1. A legislative finding and declaration of public purpose,
2. A declaration that such agreements may provide for reimbursement for actual costs incurred,

3. A declaration that the authority provided under the act is in addition to any jurisdictional authority presently exercised under law, and
4. A statement of proper construction to clarify that roads which have been dedicated or impliedly dedicated for public use, and which are open to the use of the public for vehicular traffic, are not "private roads" for purposes of traffic control and enforcement, whether or not such roads have been accepted by a municipality or county for purposes of maintenance and repair.

Formation of Local Governments

HOUSE BILL 1276 (CHAPTER 87-223) clarifies formation procedures relating to the incorporation of a municipality, creation of a dependent special district, merger of two or more municipalities and associated unincorporated areas, merger of one or more municipalities or counties with special districts, or merger of two or more special districts.

[Prior to passage of this legislation, the provisions of Section 165.041, F.S., were confusing and inconsistent. Subsection (1) clearly stated that a new municipality could only be formed by the Legislature through passage of a special act adopting a charter of incorporation. Subsection (5) seemed to allow for formation of a municipality through some sort of local procedure involving adoption of a local resolution or a petition, but this interpretation fell apart upon closer

examination. The enactment of CHAPTER 87-223, Laws of Florida, was necessary to make it clear that new municipalities may only be formed by special act of the Legislature, while existing municipalities may merge with other municipalities or special districts, and special districts may merge with each other, through a local procedure not involving the Legislature.]

Local Government Code Enforcement Boards

SENATE BILL 792 (CHAPTER 87-391) amends Sections 162.06 and 162.12, F.S. Now code enforcement boards are allowed to serve notices of violations by publication or posting, in addition to hand delivery or mailing. No longer can a violator avoid a hearing by simply correcting the violation prior to the hearing. Violations which are not corrected within the time specified by the code inspector may be presented to the enforcement board, even if the violation has been corrected prior to the board hearing. In those situations where the inspector believes the violation is irreparable or irreversible, the inspector must make a reasonable effort to notify the violator and may immediately notify the enforcement board and request a hearing.

CHAPTER 87-391, Laws of Florida, also provides the following criteria for determining the amount of any fines levied by enforcement boards: The gravity of the violation, any actions taken by the violator to correct the violation, and any previous violations committed by the violator.

Section 162.12, F.S., is amended to include the specific requirements of notice by publication or posting. Code inspectors may now give notice to the alleged violator by leaving the notice at the violator's usual place of residence with any person of his family above 15 years of age, while informing this person of the contents of the notice. Where publication is necessary, the notice must be published once each week for 4 consecutive weeks in a newspaper of general circulation in the county where the enforcement board is located, and proof of publication is required.

If no newspaper of general circulation is available, three copies of the notice must be posted for at least 28 days in three different and conspicuous places in the appropriate county. One notice must be posted at the front door of the county courthouse. Proof of posting shall be by affidavit of the person posting the notice. Notice by publication or posting may be done concurrently with, or may follow, an attempt to notice by hand delivery or mail. Evidence of an attempt to hand deliver or mail the notice is sufficient to satisfy the notice requirements of the act, regardless of whether or not the alleged violator actually received notice.

The act takes effect October 1, 1987.

SENATE BILL 1173 (CHAPTER 87-129) removes the restriction in Paragraph 162.05(2)(c), F.S., on the number of successive terms a member of a local government code enforcement board may serve. Contingent upon approval of the local governing body, a member may serve uninterrupted terms of

office. Also, pursuant to revised Subsection 162.03(2), F.S., charter counties are now allowed to adopt, by ordinance, alternate code enforcement systems giving code enforcement boards or county-designated special masters the authority to hold hearings and assess fines against violators of county codes and ordinances.

In addition, CHAPTER 87-129, Laws of Florida, clarifies Subsection 162.05(3), F.S., which was silent as to the right of the chair of an enforcement board to participate as a voting member, by expressly granting the chair the right to vote on all issues.

Fire Control and Rescue/Local Government

HOUSE BILL 606 (CHAPTER 87-263) amends Section 125.01, F.S., relating to fire control and rescue services for local governments.

CHAPTER 87-263, Laws of Florida, provides counties with the ability to include municipalities or any portion of a municipality in a municipal service taxing unit (MSTU). The act authorizes a county, by ordinance, to establish an MSTU within the county, or in any municipality in the county, for fire control and rescue services. The county will have the authority to levy additional taxes within the limits fixed for municipal purposes in the MSTU. Any municipality which is included in an MSTU may remove itself by ordinance if it so desires.

CHAPTER 87-263, Laws of Florida, does not prohibit a municipality from continuing in or entering into service contracts with a county or existing MSTU for fire control and rescue services. Total millage for such a unit is fixed at 10 mills.

[It is possible that this act could help municipalities to reduce their millage because they would no longer have to raise taxes to provide for rescue services to residents who would now be served by an MSTU.]

Crimes Against the Handicapped and Elderly

COMMITTEE SUBSTITUTE for HOUSE BILLS 171 & 184 (CHAPTER 87-155) amends Sections 426.001-426.003, 426.005-426.009, 775.0836, and 939.015, F.S., and repeals Section 903.381, F.S., which relates to a surcharge on bail in cases where the victim is handicapped or elderly.

CHAPTER 87-155, Laws of Florida, expands statutory provisions relating to fines and surcharges levied in cases involving crimes against handicapped or elderly persons, providing for the inclusion of fines prescribed for offenses of any county or municipal ordinance, increasing the surcharge from 5 to 10 percent on such fines, and requiring the surcharge to be deposited in the Handicapped and Elderly Assistance Trust Fund.

The act also increases additional costs to persons committing crimes against the handicapped or elderly from \$10

to \$20, \$19 (instead of \$9) of which will be forwarded by the court to the Trust Fund.

The collection of the additional costs and surcharges to fund the handicapped and elderly assistance program is required only in counties which contain housing projects as defined in Chapter 426, F.S. The Department of Community Affairs (DCA) will approve grants to such counties in amounts equal to that county's contribution to the Trust Fund. The sum of \$200,000 is appropriated from the Trust Fund to provide two career service positions and cover related costs in fiscal year 1987-88 for implementing the act. [It is estimated that the doubling of the fines and surcharges could raise \$400,000 to \$500,000 per year.]

The act takes effect October 1, 1987.

Code Compliance Bonds for Contractors

COMMITTEE SUBSTITUTE FOR HOUSE BILL 114 (CHAPTER 87-152) amends Chapter 489, F.S., to allow cities and counties to require construction and electrical contractors to purchase a \$5,000 bond conditioned only upon compliance with the applicable state minimum building code and applicable local building code requirements. These bonds must be equally available to all contractors regardless of period of time the contractor has been certified or financial responsibility requirements. The bonds are payable to the Governor and filed in the county or municipality in which a building permit is requested. Reciprocity is statewide.

Any contractor who provides a third party insured warranty policy in connection with a new building or structure for the benefit of the purchaser or owner is exempt from the bond requirements.

Alternate Storage Locations for County Records

HOUSE BILL 645 (CHAPTER 87-190) removes the requirement in Section 28.07, F.S., that all county records be kept at the county seat. Henceforth, only official records (i.e., deeds, mortgages, and liens) must be kept at the county seat, while all other court records from civil and criminal circuit court cases may be kept at the various satellite courthouses around the county where the case was originally heard.

The act takes effect October 1, 1987.

County Special Projects

Under previously existing law, Monroe, Dade, and Hillsborough Counties are authorized to acquire, construct, purchase or operate specified projects, including mass transit projects, harbor, port, shipping and airport projects, and a variety of associated facilities enumerated in Subsection 125.011(2), F.S. Ad valorem taxes of up to 1.5 mills may be levied upon all property in the county to pay for such projects, general obligation bonds may be issued to fund these projects, and a special additional tax may be levied upon all taxable property in the county to pay principal and interest on any bonds issued.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1147 (CHAPTER 87-144) additionally authorizes Monroe, Dade, and Hillsborough Counties to:

1. Own, maintain, operate, control and enter into management contracts with export trading companies, foreign sales corporations and consulting services corporations,
2. Own, maintain, operate, control and enter into management contracts with cargo clearance and customs clearance facilities,
3. Maintain certain confidentiality of trade information and data under federal patent or copyright laws, under foreign patent or copyright laws to the extent they are enforced by United States courts, and under the trade secrets doctrine,
4. Authorize airport and port employees to serve as officers and directors of such companies, corporations and facilities, and
5. Spend any unobligated and available surplus funds from such activities for the construction of capital facilities.

Duval County may also do those things listed in the preceding numbered paragraphs, except:

1. Own, maintain, operate, control and enter into management contracts with consulting services corporations,

2. Enter into management contracts with export trading companies, foreign sales corporations, consulting services corporations, and cargo clearance and customs clearance facilities, and
3. Spend any unobligated and available surplus funds from such activities for the construction of capital facilities.

Restrictions upon Land Use

HOUSE BILL 79 (CHAPTER 87-293) removes a public purpose use restriction in Section 253.033, F.S., which is applicable to a parcel of land known as "the Graves Tract" from that portion of the land owned by the City of North Miami and provides that the land may be used for any purpose, subject to local building and zoning regulations.

[This particular parcel of land has had a long and convoluted history. In essence, the City of North Miami issued a \$12 million bond in 1970 to keep an agency known as "Interama" afloat, for which it received the tract of land and a promise by Interama to pay the debt service on the bond issue. However, Interama went bankrupt and never made good on its promise. Since then, the municipality has paid from one-quarter to one-fifth of its ad valorem tax roll yearly to service that bond issue. For its trouble, the municipality was left with a 350-acre tract of land which could not be used for anything other than public purposes, limiting the municipality's ability to recover any of its losses. CHAPTER

87-293, Laws of Florida, was enacted in an effort to rectify that situation.]

Motor Vehicle Racing Events/Permits

HOUSE BILL 1034 (CHAPTER 87-214) amends Section 549.08, F.S., to clarify that the timeframe for which a permit may be issued for racing events which occur on a public highway, street, or park must run for the same time period as the contract for the racing event. The act also provides that any asphalt or paving to restore the street or highway must be done within 24 months of the previous race.

Local Government Litigation

COMMITTEE SUBSTITUTE FOR SENATE BILL 593 (CHAPTER 87-346) creates the "Florida Governmental Cooperation Act." This act provides a mechanism for the resolution of disputes between governmental entities which must be followed prior to litigation. Under the act, before a county or municipality can file a law suit against another county or municipality, notice of intent to file suit must be given to the potential defendant at least 45 days prior to filing suit, and the party receiving notice must hold a public meeting within 30 days after receipt. At this meeting, the parties must discuss the proposed litigation in an effort to amicably settle the dispute.

CHAPTER 87-346, Laws of Florida, applies only to civil actions seeking injunctive relief, and requires that all settlement authorizations and terms must be approved at a public meeting. In those situations where an immediate danger

to the health, safety, or welfare of the public requires immediate action, the county or municipality seeking to file suit is exempted from the notice and public meeting requirements. Settlement of such cases is permitted at a public meeting where the local government states into the record the reasons for which an emergency exists, which precludes the entity from holding a public hearing on the settlement.

Municipal Improvements

SENATE BILL 268 (CHAPTER 87-103) amends Sections 170.01 and 170.03, F.S., to provide authority for making certain municipal improvements by levying and collecting special assessments against the property benefited. Under Sections 1-3 of the act, any municipality located within a county as defined in Subsection 125.011(1), F.S., may levy and collect a special assessment against property benefited within retail and/or wholesale business districts and/or nationally recognized historic districts through promotion, management, marketing, and other similar services in business districts of the municipality.

Section 2 of Chapter 86-153, Laws of Florida, is repealed to preserve provisions which specify that certain downtown development authorities are to be considered independent special districts for purposes of millage laws.

Under previously existing law, a governing authority is required to declare, by resolution, whenever it determines to

make any public improvement, and, therefore, must declare by resolution its intent to levy special assessments against the property to be benefited within the retail/wholesale business districts or historic districts. Under Sections 4 and 5 of the act, Sections 170.06 and 170.07, F.S., are amended to require the governing authority of the municipality to prepare a preliminary assessment roll once the resolution has been adopted. Notice of the preliminary assessment must be given to the public and a hearing held prior to final consideration of the special assessments made by the governing authority. Under Sections 6 and 7 of the act, Sections 170.08 and 170.16, F.S., are amended to provide for final consideration and filing of the final assessment roll with the authority.

County Purchase of Real Property

SENATE BILL 107 (CHAPTER 87-60) reenacts and revives without change, the public records exemption for county land purchases found in Paragraph 125.355(1)(a), F.S. Under the Open Government Sunset Review Act, appraisals, offers, and counter offers in county real estate purchases are not available for public disclosure or inspection under the provisions of Chapter 119, F.S. The act requires that this exemption be repealed unless revived by the Legislature over the 10-year period, 1986-95.

Inasmuch as this exemption is revived under CHAPTER 87-60, Laws of Florida, all negotiation records of such appraisals, offers, and counter offers remain confidential

until 30 days before the county commission considers for approval an option contract, agreement for purchase, or contract for the land under consideration. Where no contract or agreement for purchase is submitted, the offer, counter offer, and appraisal information shall be made public 30 days after the appropriate county official determines that the negotiations have terminated.

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

SENATE BILL 1063 (CHAPTER 87-338) amends Subsection 163.3167(2), F.S., to change the timeframe for the Department of Community Affairs' compliance review of local comprehensive plans. The act allows an additional year in the submittal schedule for noncoastal counties and municipalities within their boundaries. [This extension will create a more uniform submittal schedule consisting of approximately 150 plans per year over the 3-year departmental review period.]

HOUSING

Several housing initiatives were addressed during the 1987 Legislative Session with the enactment of COMMITTEE SUBSTITUTE FOR SENATE BILL 683 (CHAPTER 87-106), which is discussed in the following paragraphs under the subheadings Fair Housing, Affordable Housing, The Homeless, and Farmworker Housing.

Fair Housing

In the area of fair housing, CHAPTER 87-106, Laws of Florida, amends Section 760.22, F.S., to expand the definition

of "handicap" to include persons with developmental disabilities (retardation, autism, spina bifida, epilepsy, and cerebral palsy) for purposes of protection against housing discrimination provided by the state Fair Housing Act.

Affordable Housing

In the area of affordable housing, CHAPTER 87-106, Laws of Florida, responds to the new measures in the federal Tax Reform Act of 1986 (P.L. 99-514, Oct. 22, 1986), which have had a chilling affect on investment in the housing and real estate marketplace. [Deeper targeting of low-income units under the federal act, paired with the state income cap, had reduced the incentive to developers to build multifamily units financed with tax exempt bonds.] In response to these sweeping changes, CHAPTER 87-106, Laws of Florida, includes several measures to stimulate production of affordable housing:

1. Sections 159.603 and 420.503, F.S., are amended to lift the state income cap for occupancy in state and local housing finance authority units financed through the sale of tax exempt bonds allowing developers a profit margin in construction of these units,
2. In response to a new low-income tax credit authorized by the federal act to partially replace the existing low-income housing tax incentive of accelerated depreciation and passive loss write-offs, CHAPTER 87-106, Laws of Florida, creates

Section 420.5099, F.S., designating the Florida Housing Finance Agency as the state housing credit agency to administer this tax credit,

3. Section 420.509, F.S., is amended to provide income targeting for low-income persons for units financed with taxable bonds, and
4. Section 420.607, F.S., is amended to provide the Department of Community Affairs with a mechanism to secure loans made through the Community-Based Organization Loan Program in the 1986 Affordable Housing Act (Part VI of Chapter 420, F.S., 1986 Supplement).

The Homeless

With respect to the homeless, CHAPTER 87-106, Laws of Florida, creates Sections 420.621-420.627, F.S., to address the needs of the more than 10,000 homeless men, women and children who are without shelter on any given night in the State of Florida. Pursuant thereto:

1. Legislative authorization is provided for the establishment of local homeless coalitions, [which were administratively created in most urban areas of the state in 1986], in the service districts of the Department of Health and Rehabilitative Services (DHRS). These coalitions, consisting of private and public service providers, are to assess the problem

and available/needed resources and develop an annual local plan of action, and

2. The sum of \$1 million is appropriated in the 1987 General Appropriation Act (CHAPTER 87-98, Laws of Florida) to create the emergency financial assistance program--a federally assisted program designed to provide one-time financial assistance to families, with at least one child, who are homeless or facing impending homelessness. This program is targeted to assist families who are facing eviction, victims of household disasters, or other emergency situations as defined by DHRS. A dollar-for-dollar match is available from the federal government under the Temporary Emergency Financial Assistance Program (Title IV of the U.S. Social Security Act).

Farmworker Housing

In the area of farmworker housing, CHAPTER 87-106, Laws of Florida, creates a \$1 million pilot program under Part VIII of Chapter 420, F.S., establishing Belle Glade as a pilot "pocket of poverty" community. This program, administered by the Department of Community Affairs (DCA), is designed to inspire a cooperative relationship between the public and private sectors in providing housing in the farming community of Belle Glade. Pursuant thereto:

1. A nine-member review committee is created, consisting of representatives from the local

agriculture industry and local government and a farmworker, contractor, developer, banker, and others. By October 1, 1987, this committee must submit to DCA a Local Comprehensive Farmworker Housing Plan designed to meet the housing needs of the community,

2. Nonprofit organizations and local public bodies must apply to the review committee for a housing assistance grant to sponsor a housing development. The program provides for a maximum grant of 80 percent of the project cost. Special consideration must be given to sponsors who leverage the greatest percentage of nonstate dollars,
3. Under CHAPTER 87-106, Laws of Florida, written assurance must come from the appropriate units of government that there will be no decrease in the current level of funding and services to the pilot community due to the implementation of this program. The review committee must coordinate efforts with the Local Government Comprehensive Planning Committee to ensure that the housing elements addressed in both plans are consistent,
4. The application form must be provided and each sponsor must provide a certificate of good standing from the Secretary of State, a projected timetable for completion of the project, a property management program, proposed sources of funding, and a

description of the project citing the number of units, units size, and proposed cost per unit,

5. The review committee must approve or reject each application, and if approved, funds will be disbursed from DCA to the board of county commissioners serving as the fiscal agent. The fiscal agent must then disburse funds to the sponsors in accordance with the project timetable,
6. To provide accountability, CHAPTER 87-106, Laws of Florida, requires each sponsor to submit a progress report to the review committee and fiscal agent every 3 months. Funds can be withheld from the sponsors if a serious deviation exists in the development of the project. The fiscal agent will make the final determination as to whether funds will be withheld, and
7. Because accurate data has been unavailable as to the number of farmworkers living in the State of Florida, the condition of existing housing, and the projected housing needs in farming communities, \$100,000 is appropriated in CHAPTER 87-98, Laws of Florida, for the State University System to conduct a statewide demographic study.

Public Housing Projects

In response to increased drug activity in public housing projects, SENATE BILL 133 (CHAPTER 87-26) provides statutory authority for housing authorities to evict tenants convicted of the sale, manufacture, delivery or possession of a controlled substance when such offense is committed in or on the premises of a public housing project. Other members of the household may continue to live in the project. Persons evicted under this section who return to the premises will be guilty of trespassing. Housing authorities may consider a rental application by persons evicted under this act after showing evidence of rehabilitation.

The act takes effect October 1, 1987.

MOTOR VEHICLES AND TRANSPORTATION*

The 1987 Legislature addressed various transportation issues ranging from contracts administration and policy implementation by the Department of Transportation to issues affecting the trucking industry and highway safety.

Legislation was passed this year which provides the Department of Transportation with tools to assure accountability for the timely completion of highway construction contracts. The act contains the following key provisions: (1) liquidated damage assessments on contractors are increased, (2) the Department is authorized to assess a monetary penalty against contractors for each day contract completion is delayed beyond the allotted time, and (3) the Department is allowed to suspend a person or firm providing professional services from consideration for future contracts because of unsatisfactory performance. The Florida Transportation Commission was created consisting of seven members appointed by the Governor and confirmed by the Senate. The Commission's primary responsibilities will be to review the Department of Transportation's budget and 5-year transportation plan, to recommend major transportation policies for the

*Prepared by House Transportation Committee

Governor's approval, and assure that approved policies are properly executed. Specific problems in the administration and operation of the Department of Transportation Disadvantaged Business Enterprise (DBE) program were addressed and the credibility of the program was enhanced by providing more detailed DBE certification and verification requirements. Highway construction and maintenance laws were created or revised to allow the Department of Transportation to conduct a demonstration program to determine the cost-effectiveness of combining certain highway design and construction contracts into a single contract, allow additional participation by local government in making improvements on the State Highway System, and expand the criteria by which the Department can acquire and protect right-of-way for future needs.

Other significant legislation enacted this year relates to the trucking industry and improved highway safety programs. Florida's commercial motor vehicle safety program was enhanced by the adoption of comprehensive federal motor vehicle safety standards for application to all commercial motor vehicles operating in the state. Motor carrier fuel-use tax reporting requirements and the commercial motor vehicle registration program were consolidated within the Department of Highway Safety and Motor Vehicles. A motorcycle driver improvement program was established for all first-time motorcycle driver license applicants, and a Motor Vehicle Emissions Study Commission was created to assess Florida's air-quality nonattainment areas and issue recommendations relative to

compliance with federal standards prior to the imposition of federal-aid sanctions.

MOTOR VEHICLES

Commercial Motor Vehicles

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 123 (CHAPTER 87-270) amends Section 316.302, F.S., and various other sections of Chapter 316, F.S., to adopt the federal motor carrier safety regulations (49 C.F.R. (1986)), for application to all commercial motor vehicles operating in Florida, with certain modifications and exceptions.

[This legislation will enhance Florida's existing commercial motor vehicle safety program by adopting comprehensive federal regulations which encompass both commercial vehicle equipment and driver requirements. Prior to the adoption of this legislation, the Florida Department of Transportation was not authorized to enforce the federal regulations and the United States Department of Transportation had a very limited enforcement capability.]

[By adopting the federal commercial motor vehicle safety regulations, Florida will become eligible for an estimated \$2 million federal grant which will be used to fund 54 new positions to support the safety enforcement effort.]

This act is effective upon becoming a law.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 761 (CHAPTER 87-198) provides for the transfer of the fuel-use tax function, Chapter 207, F.S., from the Department

of Revenue to the Department of Highway Safety and Motor Vehicles effective March 1, 1988. The fuel-use tax, which is imposed on interstate motor carriers, will now be consolidated with the International Registration Plan which is a vehicle registration reciprocity agreement among various states providing for the apportionment of vehicle license taxes on the basis of miles driven in the various jurisdictions. The act also revises, effective September 1, 1988, the current dual license tax structure for commercial trucks, which is based on both "empty" and "loaded" vehicle weight, to create one "loaded" weight license tax structure. Further, the law contains a provision requiring both front and rear license plate display for trucks of 26,000 pounds or more gross vehicle weight and front-end only display for truck-tractors effective September 1, 1988.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 337 (CHAPTER 87-165), effective January 1, 1988, requires fenders, covers or other splash and spray suppressant devices on the rear-most wheels of all trucks of gross vehicle weight of 26,000 pounds or more, any trailer or semitrailer of net weight more than 2,000 pounds, or any truck-tractor. These devices must prevent or minimize the splash or spray of water, mud, or other materials on the windshields of following vehicles. Exempt from this legislation are vehicles used exclusively for the purpose of producing, processing, or transporting agricultural products, including horticultural or timber products. The

Department of Transportation is required to adopt rules necessary to implement the provisions of the act.

Violators of the requirements of this law will be subject to a \$30 fine.

Motorcycle Safety Program/Motorcycles, Mopeds, Bicycles

HOUSE BILL 225 (CHAPTER 87-161) creates Section 322.51, F.S., which establishes a Motorcycle Safety Education Program to be implemented by the Department of Highway Safety and Motor Vehicles. The act requires the Department to establish and administer motorcycle safety courses. Effective October 1, 1987, every first-time applicant for licensure to operate a motorcycle or motor-driven cycle will be required to complete the course prior to being licensed. The course will be funded by a \$2.50 surcharge on motorcycle and motor-driven cycle registrations.

The law also amends certain sections of Chapters 316, 320, 322, 324, and 403, F.S., redefining the terms "moped," "motorcycle," and "bicycle" and repealing the definition of "motor-driven cycle." Mopeds are now required to register annually, paying a flat tax of \$5 each year and bicycles with small helper motors (200 watts or less) are required to pay a one-time flat tax of \$5.

These provisions will become effective October 1, 1987.

Motor Vehicle Emissions Study Commission

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 279 (CHAPTER 87-294) creates a thirteen-member Motor

Vehicle Emissions Study Commission to conduct a study of exhaust emissions inspection and report its findings and recommendations to the Governor and the Legislature no later than March 1, 1988. The report is to include an assessment of federal government findings relative to Florida's air quality nonattainment areas and recommendations for compliance prior to the imposition of federal sanctions.

The Commission will be based in the Department of Highway Safety and Motor Vehicles for administrative purposes and is to be funded by a \$125,000 appropriation from the Motor Vehicle License Plate Replacement Trust Fund. Two full-time positions are authorized for the study.

The act expires on December 31, 1988.

School Buses/Illegally Passing

HOUSE BILL 350 (CHAPTER 87-167) amends certain sections of Chapters 316, 318, and 322, F.S., increasing the current fine of \$50 for passing a stopped school bus to \$100. It also makes second offenders subject to a driver's license suspension of at least 90 days but not more than 180 days.

This act takes effect October 1, 1987.

Child Restraint Law

HOUSE BILL 775 (CHAPTER 87-200) amends Section 316.613, F.S., redefining the definition of a motor vehicle for purposes of the child restraint law to expressly exclude school buses, commercial buses, farm tractors or implements, large trucks

(over 5,000 pounds), motorcycles, mopeds, and bicycles from the requirements of the child restraint law.

This provision takes effect October 1, 1987.

Speed Limits

COMMITTEE SUBSTITUTE FOR SENATE BILLS 1061 & 1054 (CHAPTER 87-352) amends Subsection 316.187(2), F.S., authorizing the State of Florida to increase speed limits on specific sections of its rural interstate highways to 65 miles per hour from the present 55 miles per hour. Also, the act allows the 65 miles per hour speed limit on other limited access highways including the Florida Turnpike. These speed limits take effect upon the posting of appropriate signs. A provision of the legislation would return the speed limit to 55 miles per hour if the U.S. Department of Transportation should apply sanctions involving the loss of federal highway funding.

In addition, the law amends Section 335.14, F.S., removing the requirement that all new or replacement speed limit signs erected by the Department show the legal speed limit in kilometers per hour in addition to miles per hour.

HOUSE BILL 775 (CHAPTER 87-200) creates Section 316.1922, F.S., to provide that driving through a "work zone area" at greater than the posted speed on advisory speed plates will be punishable as careless driving.

This act takes effect October 1, 1987.

Obstruction of Public Roads for Solicitation

COMMITTEE SUBSTITUTE FOR SENATE BILL 516 (CHAPTER 87-378) amends Section 316.2045, F.S., making it unlawful to obstruct the normal use of a road by "standing or approaching" a motor vehicle unless issued a permit by the appropriate local government or the state. Exemptions to the permit requirement are made for registered charitable organizations or persons acting on their behalf, and for political campaigning. Violators will be subject to a fine not to exceed \$500 and imprisonment not to exceed 60 days.

This act takes effect on October 1, 1987.

Handicapped Drivers

HOUSE BILL 1255 (CHAPTER 87-220) amends Section 320.0848, F.S., authorizing licensed podiatrists to certify handicapped persons as meeting the criteria required for the issuance of a handicapped exemption entitlement parking permit.

Mobile Homes/Recreational Vehicles

COMMITTEE SUBSTITUTE FOR HOUSE BILL 73 (CHAPTER 87-150) amends Subsection 320.77(14), F.S., requiring mobile home and recreational vehicle dealers to comply with contracts for the improvement of mobile homes and recreational vehicles in order to obtain license renewal or issuance. [Prior to the enactment of this law, these dealers were only required to comply with the conditions of any contract made in connection with the sale or exchange of any mobile home or recreational vehicle.]

This provision takes effect on October 1, 1987.

The law also repeals the sunset provision of Subsection 723.061(2) relating to damages to be paid to mobile home owners upon eviction for change of land use which was scheduled to be repealed on July 1, 1987. In addition, the repeal of one part of this subsection is delayed until July 1, 1988.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 483 (CHAPTER 87-178) amends Sections 316.003 and 316.640, F.S., authorizing sheriff's departments and police departments to enforce Florida's traffic laws within a mobile home park recreation district. [Previously, these enforcement agencies were not specifically authorized to enforce the state's traffic laws within these jurisdictions.]

This act takes effect on October 1, 1987.

Special License Plates/Temporary Tags

HOUSE BILL 202 (CHAPTER 87-160) creates Section 320.0845, F.S., allowing members of the Paralyzed Veterans of America (PVA) in Florida to purchase and display motor vehicle license plates with the name of their organization and the required serial characters imprinted on these plates. Members who elect to display this plate are subject to the annual license tax and fees appropriate for their vehicle.

This act takes effect October 1, 1987.

HOUSE BILL 740 (CHAPTER 87-197) amends Sections 320.0805 and 320.086, F.S., allowing the owners of antique motor vehicles or horseless carriages to substitute a historical Florida license plate for their usual plate. Such plates must

be submitted for authentication and approval to the Department of Highway Safety and Motor Vehicles along with a fee to offset authentication costs.

HOUSE BILL 225 (CHAPTER 87-161) amends Section 320.0809, F.S., authorizing the Department of Highway Safety and Motor Vehicles to develop and issue collegiate license plates for independent universities. No such plate will be developed for any institution until the Department has received 10,000 applications for that institution's license plate.

This act takes effect on October 1, 1987.

SENATE BILL 1202 (CHAPTER 87-401) amends Section 320.131, F.S., to provide that temporary tags can be used on marine boat trailers when these trailers are sold by marine boat dealers.

This act takes effect October 1, 1987.

Traffic Infractions

COMMITTEE SUBSTITUTE FOR SENATE BILL 1268 (CHAPTER 87-246) amends Section 316.655, F.S., to provide for the imposition of additional penalties against minors for committing any violation within Chapter 316, F.S., rather than limiting their applicability to certain offenses within this chapter.

Also, the courts are given broader statutory authority to revoke or suspend any person's driver license depending on the totality of circumstances resulting in a conviction for any traffic offense. Prior to enactment of this law, the courts

were limited to specific statutory provisions regarding driver license revocations or suspensions as they relate to traffic offenses.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 761 (CHAPTER 87-198) contains provisions that, with respect to violations of Subsection 320.07(3), F.S., (expired vehicle registration) and Section 316.646, F.S., (proof of vehicle insurance), allow for the submission of an affidavit to the clerk of court detailing reasons for the impracticability or impossibility of providing a valid registration or proof of insurance for the purpose of dismissing charges. Also, Section 322.15, F.S., is amended to authorize the clerk of court to clear a driver license suspension upon payment of the applicable penalty and fees with respect to violations of driving without possession of a driver license.

Amber and Red Lights on Certain Vehicles

COMMITTEE SUBSTITUTE FOR HOUSE BILL 196 (CHAPTER 87-157) amends Subsection 316.2397(3), F.S., authorizing licensed private watchman, guard, patrol agencies, and refuse collection vehicles to show or display amber lights while patrolling or operating in condominium, cooperative, private residential, and business communities which traverse public streets or highways.

Prior to the enactment of this legislation, only wrecker, mosquito control vehicles, emergency government vehicles, public service corporation vehicles, and escort

vehicles under certain circumstances were authorized to display amber lights.

The act also amends Section 316.2398, F.S., limiting private emergency vehicles to the display of only one red light, whereas previously an unlimited number of red lights were authorized.

This act takes effect on October 1, 1987.

Law Enforcement Trust Fund

SENATE BILL 1202 (CHAPTER 87-401), in part, creates a Law Enforcement Trust Fund in the Department of Highway Safety and Motor Vehicles into which the Department may deposit revenues received as a result of state or federal criminal proceedings or forfeiture proceedings.

This act takes effect October 1, 1987.

Vehicle Parking

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 761 (CHAPTER 87-198), in part, amends Subsection 715.07(2), F.S., to revise the notice requirements as relates to the towing of vehicles from businesses with 20 or fewer parking spaces. This provision will allow these small businesses to display a single sign indicating that unauthorized vehicles will be towed away at owner's expense, thereby exempting such businesses from the more stringent notice requirements imposed on larger businesses [i.e., notice placed at each driveway access or at least one sign for each 25 feet of lot frontage].

TRANSPORTATION

Department of Transportation Contracts

COMMITTEE SUBSTITUTE FOR HOUSE BILL 123 (CHAPTER 87-100) provides for tighter controls on the Department of Transportation construction contracts and bid protest procedures.

The legislation allows only contractors who are certified by the Department to bid on a project to protest the contract award of that project. Upon filing a formal written protest the bidding process or award of a contract is stopped. The bill requires the protesting contractor to post a bond equal to 1 percent of the lowest bid or \$5,000, whichever is less. The return of the bond is conditional upon the contractor paying all court cost adjudicated against him in a hearing. In addition to the reasons in Paragraph 120.53(5)(c), F.S., the Department will be able to award a contract that is under protest in order to avoid a substantial loss of funding to the state. The Department of Administration hearing officers are required to render their recommended order within 30 days after the hearing or within 30 days after the officer's receipt of the hearing transcript, whichever is later.

The act also amends Section 337.14, F.S., to increase the construction contract amount to \$250,000 for which bidding contractors must first be certified by the Department. It also requires applicants for certification to document equipment, past record, experience, financial resources and organizational

personnel necessary to perform the specific classes of work for which the applicant is seeking qualification. The Department is also authorized to limit both the dollar amount of any contract on which the person is qualified to bid or the total dollar volume of contracts that a person may have under contract at any one time.

The law also amends Section 337.14, F.S., authorizing the Department to waive the requirements for all or a portion of the bond for contracts of \$150,000 or less.

Subsection 337.11(7), F.S., is amended to require a prime contractor, prior to receiving any progress payments under a contract with the Department, to certify that the prime contractor has disbursed to all subcontractors their pro rata shares of previous progress payments received by the prime contractor, except when "good cause" can be demonstrated.

The act also requires a prime contractor to disburse to subcontractor's their pro rata shares of the final progress payment within 30 days of receipt, except when "good cause" can be demonstrated. It requires the Department to establish a clearinghouse to document and monitor nonpayment claims.

Section 337.175, F.S., is created, requiring the Department to provide for retainage in construction contracts. It also allows only contractors who have not been declared delinquent for 3 consecutive years to substitute securities for retainage amounts.

The law also amends Section 337.18, F.S., increasing liquidated damages amount to a level more in line with the

actual contract administration cost incurred by the Department. The act also imposes a monetary penalty upon contractors failing to complete a project within the allowable time. The penalty amount is equal to daily liquidated damages charge. The law also authorizes the Department to recover from delinquent contractors losses suffered by a third party.

Section 337.185, F.S., is amended to provide in lieu of the "Arbitration Board" that at the request of either party the claim would be submitted to binding private arbitration.

Section 337.18, F.S., is amended to free the Department from liability for anticipated profits for any unfinished work when a contractor is declared to be in default.

Changes in Section 337.105, F.S., allow the Department to suspend a consultant from the certification list for unsatisfactory performance.

There is also a provision in the law that when the Department and a utility enters into a joint agreement for utility work to be performed as part of a construction contract the Department may participate in the costs of the work that exceeds the Department's official estimate by more than 10 percent. The Department is prohibited from participating in utility costs which occur as a result of changes or additions in the contract.

Section 337.145, F.S., is created, allowing the Department to offset settled, arbitrated or final adjudication amounts for work done on any construction contract with any party, from payment due for work done on any construction

contract with the same party. The Department may not offset amounts owed subcontractors, suppliers and laborers and may only offset when payment is not made to the Department within 60 days of the Department's demand.

This legislation also creates Section 337.015, F.S., requiring the Department to: (1) minimize the allowance of additional contract time, (2) minimize variances between contract lettings, (3) rigorously pursue claims, (4) stabilize the 5-year transportation plan, and (5) allow flexible construction starting time when determined appropriate. The section also requires the Department to report annually how they complied with the above requirements the preceding fiscal year.

And a new section is added, requiring the Department to prepare quarterly reports on disputed contractual claims. It also authorizes the Attorney General to review the report, comment on specific claims and recommend appropriate action.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 277 (CHAPTER 87-162) allows the Department of Transportation to combine design and construction contracts for four specific types of projects on a one-time, demonstration project basis: road resurfacing, bridge replacement or repair, multilane new construction or reconstruction, and fixed capital outlay and parking garages.

The act places a \$50 million limit on the total cost of these projects, and specifies that at least three responsible proposals must be submitted before the lowest cost and best technical proposal can be accepted on a project. In addition,

these projects must be included in the Department of Transportation's current adopted 5-year transportation plan.

SENATE BILL 348 (CHAPTER 87-104) requires the Department of Transportation to include in its contracts for the performance of road or bridge construction or maintenance work, a provision requiring road contractors to provide proof in the form of a notarized affidavit that all motor vehicles he operates or causes to be operated in this state are registered in compliance with Chapter 320, F.S. The Department of Transportation would be prohibited from making any payment to a contractor until such proof is on file with the Department. The failure of a contractor to register any such motor vehicle could result in the Department revoking or suspending his certificate of qualification.

Disadvantaged Business Enterprises

COMMITTEE SUBSTITUTE FOR HOUSE BILL 124 (CHAPTER 87-93) addresses specific problems in the administration of the Department of Transportation's Disadvantaged Business Enterprise program.

Major provisions of this legislation are:

Section 337.11, F.S., is amended to require that prime contractors disburse to subcontractors their share of final progress payment within 30 days of receipt.

Section 337.16, F.S., provides falsification of payment certification to subcontractors as "good cause" for suspending or revoking a contractor's bid qualification certificate.

Section 337.135, F.S., is created to make it a second-degree felony to falsely represent an entity as a disadvantaged business enterprise.

Section 337.137, F.S., is created to prohibit disadvantaged business enterprises used to satisfy contract goals from subcontracting out more than 49 percent of the work subcontracted to it, unless approved by the Department.

The act also allows the Department the discretion to match federal funds. [Currently, the Department is required to match all federal funds. This change will assure transportation funds are used consistent with the Department's priorities.]

Increased Local Government Participation

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 324, 341, 531 & 168 (CHAPTER 87-164) amends various sections of the Transportation Code to allow and encourage additional participation by local governments in making improvements on the State Highway System.

Section 335.055, F.S., authorizes the Department of Transportation to enter into agreements and reimburse counties and municipalities for expenditures or work performed on projects that are on the State Highway System. The project must be contained in the Department's adopted 5-year transportation plan and reimbursement is subject to legislative approval.

Section 337.27, F.S., expands the criteria for advanced right-of-way acquisition by allowing the Department to

demonstrate right-of-way widths for a corridor based on documentation of anticipated design requirements and standards, a reasonable expectation of securing environmental permits, utility needs, mass transit requirements, the avoidance of future environmental and water quality problems and the avoidance of disruption of future neighborhoods.

The act also relieves counties and municipalities from tort liability when they perform routine maintenance on the State Highway System according to Department of Transportation standards.

Transportation Commission/DOT District Headquarters

COMMITTEE SUBSTITUTE FOR SENATE BILL 141 (CHAPTER 87-360) creates the Florida Transportation Commission to be made up of seven members appointed by the Governor in such a manner as to equitably represent all geographic areas of the state.

The primary functions of the Commission are to jointly with the Secretary of the Department of Transportation recommend major transportation policies for the Governor's approval, to assure that approved policies are properly executed, to periodically review the status of the State Transportation System, and to review all construction, design and maintenance standards. The Commission is forbidden from taking part in the day-to-day operations of the Department. Any new Secretary of Transportation after October 1, 1987 is to be appointed by the Governor from among three persons nominated by the Commission.

The law also increases the number of Department of Transportation district offices from six to seven. The new office is to be located in Hillsborough County.

DOT Policy Changes

COMMITTEE SUBSTITUTE FOR SENATE BILL 1256 (CHAPTER 87-131) requires the Department of Transportation to develop its tentative 5-year transportation plan in accordance with its short-term, specific and measurable policies. Any changes to these policies must be clearly identified in the Department's tentative 5-year transportation plan.

Highway Beautification Council

COMMITTEE SUBSTITUTE FOR SENATE BILL 1256 (CHAPTER 87-131) creates within the Department of Transportation, a seven-member Florida Highway Beautification Council. The Council membership will contain members representing the Florida Federation of Garden Clubs, Florida Nurserymen and Growers Association, Department of Agriculture and Consumer Services, Department of Transportation and one other member who must be a licensed landscape architect.

The duties of the Council are to provide information to local governments and local highway beautification councils regarding the State Highway Beautification Grants Program, and accepting and reviewing grants requests from local governments. The Secretary of the Department of Transportation shall award grants to local governmental entities in the order recommended

by the Council. The Council is repealed October 1, 1988, pursuant to Sundown review.

Aviation Funding

HOUSE BILL 551 (CHAPTER 87-279) amends Section 332.007, F.S., to authorize the Department of Transportation, subject to appropriation, to fund up to 50 percent of the cost of any eligible nonfederally funded public airport or aviation capital project regardless of total project costs. Previously, the Department could fund up to 50 percent of such costs only if the total project cost was less than \$1 million. In addition, the law authorizes the Department to fund up to 90 percent of master planning and capital projects at any publicly owned Florida "resource airport" which has no commercial air service.

This act takes effect October 1, 1987.

Metropolitan Planning Organizations

COMMITTEE SUBSTITUTE FOR HOUSE BILL 373 (CHAPTER 87-61) increases the maximum number of voting members in a Metropolitan Planning Organization (MPO) from 15 to 18 and provides that MPOs with more than 15 members located in a county with a five-member county commission can be exempted from the requirement that at least one-third of MPO membership be composed of county commissioners; however, under these circumstances all five county commissioners must serve on the MPO. The act would further require the MPO to establish a review procedure to identify and classify those projects that may affect school safety concerns. To accomplish this, the law

requires that the school superintendents of the affected counties be included in the technical advisory committee that recommends transportation projects to the MPO.

Central Florida Expressway Authority/Tampa-Hillsborough County Expressway Authority

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1174 (CHAPTER 87-218) creates the Central Florida Expressway Authority, consisting of nine members from Lake, Orange, Osceola, and Seminole Counties, for the primary purpose of constructing, improving, maintaining and operating limited access expressways within such counties. The Authority will succeed to all rights, responsibilities, and obligations of and supersede the Orlando-Orange County Expressway Authority and Seminole County Expressway Authority, providing these such authorities approve such action by January 1, 1988. The act also amends the Tampa-Hillsborough County Expressway Authority Law, effective upon becoming a law, to provide for its employment of consultants and traffic engineers and to provide for review and approval of routes by the planning commission.

Outdoor Advertising

SENATE BILL 176 (CHAPTER 87-112) amends Florida's Outdoor Advertising law to allow businesses with signs erected before July 1, 1986, to display their logos on specific information panels, whether or not their signs met the "logo program" requirements.

[Originally, vehicle services businesses (service stations) were the only businesses required to limit the size of their on-premises signs in order to participate in the specific information panel "logo program" on the interstate and federal-aid primary highway system roads. On July 1, 1986, all businesses were included in this requirement.]

Sales Surtax/Consolidated Counties

COMMITTEE SUBSTITUTE FOR HOUSE BILL 123 (CHAPTER 87-100) amends Section 212.055, F.S., to allow any consolidated county to impose an additional surtax equal to 10 percent of the state sales tax amount. The act also expands the uses of the tax to the development, construction, operation, or maintenance of roads or bridges, the operation and maintenance of a bus system, and to pay off existing bonds issued for the construction of roads or bridges if approved by the county commission.

High Speed Rail Commission

COMMITTEE SUBSTITUTE FOR HOUSE BILL 123 (CHAPTER 87-100) amends the "Florida High Speed Rail Transportation Commission Act" to clarify the rulemaking authority of the High Speed Rail Commission. Section 341.322, F.S., is amended to: define "administering agency" to clearly assign responsibilities to the High Speed Rail Commission, Department of Environmental Regulation, and the Department of Community Affairs as relates to the processing of specific elements and components of an application; define "site-specific" and "non-site-specific"

ancillary facilities to allow applicants to submit proposals regarding the construction of future revenue-producing facilities for which a location has not specifically been determined; define the required specificity of information required by the Commission at various stages in the process of assessing franchise applications; and amend and revise other definitions to clarify legislative intent.

Environmental Mitigation/Hazardous Wastes

HOUSE BILL 1456 (CHAPTER 87-242) exempts the Department of Transportation from liability imposed by Chapters 376 or 403, F.S., for pre-existing soil or groundwater contamination on property acquired by purchase of condemnation. The liability of any governmental entity for results of its actions which create or exacerbate a pollution source is unaffected by this law.

PROFESSIONAL REGULATION*

The 1987 Legislature enacted various laws affecting the regulation of professions. Particularly noteworthy were acts which: provided for the regulation of alarm system contractors, septic tank contractors and geologists; revised the statutes regulating auctioneers, barbers and cosmetologists; revised the laws relating to psychological services and provided for the regulation of clinical social workers, marriage and family therapists and mental health counselors by their own professional board; and authorized the practice of medicine by certain out-of-state, nonprofit medical corporations.

Accountancy

HOUSE BILL 1262 (CHAPTER 87-221) amends Section 473.305, F.S., to allow the Board of Accountancy to refund the certified public accountant licensure examination fee to any applicant who is found to be ineligible to take the examination. The act directs the Board to establish an examination fee which covers the costs of obtaining, administering, grading and reviewing the examination. It further specifies that the fee for the

*Prepared by House Bill Drafting Service

initial application for licensure as a certified public accountant is nonrefundable. It increases the maximum combined fee which may be charged for the initial application for licensure and the licensure examination from \$150 to \$250. Also, it permits a late filing fee for the law and rules examination to be established by rule of the Board.

Under amended Subparagraph 473.306(2)(b)2., F.S., an applicant for the licensure examination must have a baccalaureate degree to fulfill the requirements for eligibility. Previously, the equivalent of a baccalaureate degree could be substituted. Pursuant to a provision added to Section 473.312, F.S., the Board of Accountancy may require additional continuing education hours of any applicant for license renewal who has failed to complete the required hours.

Architecture and Landscape Architecture

SENATE BILL 745 (CHAPTER 87-327) amends Section 481.207, F.S., to direct the Board of Architecture to establish an examination fee which covers the cost of obtaining and administering the examination for an applicant for licensure as a registered architect. The Board is further directed to refund the examination fee of an applicant who is found to be ineligible to take the examination. The maximum combined fee which may be charged for the initial application for licensure and the licensure examination is increased from \$300 to \$400. The act stipulates that the initial application fee is nonrefundable.

The legislation amends Section 481.307, F.S., to provide similar direction to the Board of Landscape Architecture with respect to establishing and refunding the examination fee for an applicant for licensure as a registered landscape architect. However, the maximum combined fee for the initial application for licensure and the licensure examination is increased from \$250 to \$350, and the maximum license renewal fee is increased from \$100 to \$125. The act further stipulates that the initial license application fee for a landscape architect is nonrefundable.

Auctions

COMMITTEE SUBSTITUTE FOR HOUSE BILL 935 (CHAPTER 87-210) amends provisions regulating auctioneers and auction businesses, effective October 1, 1987. New Subsection 468.383(9), F.S., allows auctioneering students to conduct auctions under the supervision of a licensed auctioneer who is an instructor at an approved school of auctioneering as part of their training. In an amendment to Section 10 of Chapter 86-119, Laws of Florida, the act expands a "grandfathering" provision to authorize licensure, without examination, of any auctioneer who provides evidence of having been engaged in business as an auctioneer on October 1, 1986. Such auctioneers will have until December 31, 1987, to submit the required application and proof to the Department of Professional Regulation.

Requirements for licensure are modified in Paragraph 468.385(6)(a), F.S., to allow, as an alternative to the apprenticeship requirement, completion of a course of study that meets standards of the Board of Auctioneers. Pursuant to amendments in Subsections 468.385(9) and (10), F.S., the amount of the required surety bond is decreased for an auctioneer, from \$25,000 to \$10,000, and for an auction business, from \$50,000 to \$25,000. Further, a licensed auctioneer who is the sole proprietor of an auction business is required, under new Subsection 468.385(11), F.S., to post only the auction business bond. Newly created Subsection 468.385(12), F.S., allows applicants for licensure to delay posting the surety bond until after the Board has certified their eligibility.

Newly created Sections 468.3851 and 468.3852, F.S., provide for biennial renewal, inactive status, reactivation and expiration of licenses, and provide authority for establishing fees and procedures. Provisions relating to local occupational licensing requirements and fees are clarified in Subsection 468.386(2), F.S. Amended Section 468.387, F.S., provides for the licensure by endorsement of a practicing auctioneer who is licensed in another state where licensure requirements are at least equivalent to Florida's.

Amended Section 468.389, F.S., provides additional grounds for disciplinary action against a licensee or an applicant for licensure, including: violating a statute, rule or disciplinary order relating to auctioneering; having a license to practice a comparable profession revoked, suspended

or otherwise acted against in another jurisdiction; being convicted or found guilty of a crime relating to the practice of auctioneering; and failing to pay a fine imposed by the Board. The Board is given the authority, previously exercised by the Department of Professional Regulation, to impose penalties for violations. Additional penalties are provided, including: refusal to certify an application to the Department, increasing the amount of the required surety bond, issuance of a reprimand, and placing a licensee on probation subject to conditions.

The provisions of the act are scheduled for Sunset repeal on October 1, 1996, and are subject to legislative review prior to that date pursuant to Section 11.61, F.S.

Barbering and Cosmetology

COMMITTEE SUBSTITUTE FOR SENATE BILL 744 (CHAPTER 87-390) revises several provisions relating to the licensure of barbers, effective October 1, 1987. In Section 476.114, F.S., the eligibility requirements for the licensure examination are revised. An applicant with an active, valid license from another state, who has held the license for at least one year, is eligible to take the examination without first having met the training requirements. Also, the Barbers' Board is authorized to adopt rules for scheduling repeat examinations and additional training requirements for applicants who have failed the examination three times.

Newly created Subsection 476.144(2), F.S., authorizes the Board to establish the passing grade for the licensure examination by rule. The Board is further authorized in new Subsection 476.144(5), F.S., to adopt rules specifying procedures for licensure by endorsement of practitioners already licensed in other states or countries where the qualifications are similar to those required under Florida law. Provision is made in new Subsection 476.144(6), F.S., for the issuance of a restricted license allowing a licensee to practice barbering in a specific area in which he has demonstrated competence.

Section 476.192, F.S., is amended to revise the schedule of fees relating to licensure. The maximum fee the Board may charge for licensure and license renewal for barbers and barbering instructors is increased from \$25 to \$50. The maximum fee the Board may charge for licensure and license renewal for barbershops, and for endorsement application and examination of barbers and barbering instructors, is increased from \$50 to \$100.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 376 (CHAPTER 87-69) amends several provisions of Chapter 477, F.S., the "Florida Cosmetology Act," effective October 1, 1987. Amended Section 477.0201, F.S., provides for the registration, rather than licensure, of persons who practice a cosmetology specialty. The examination requirement for specialists is eliminated. Under Section 477.026, F.S., the Board of Cosmetology is authorized to set application and registration fees for

specialists, not to exceed \$30 and \$50, respectively. References to "licensure" of specialists are changed to "registration" in: Section 477.013, F.S., relating to definitions; Section 477.0265, F.S., relating to prohibited acts; Section 477.028, F.S., relating to disciplinary proceedings; and Section 477.029, F.S., relating to penalties.

The act revises the definition of "specialty" in Subsection 477.013(7), F.S., to delete shampooing as a specialty practice. Pursuant to new Subsection 477.0135(7), F.S., a person whose occupation is confined solely to shampooing is exempt from licensure or registration under Chapter 477, F.S. New Subsection 476.044(6), F.S., also exempts such persons from licensure under Chapter 476, F.S., relating to barbering. The measure authorizes the Department of Professional Regulation to refund that portion of the fee paid for a shampooing specialty license which is proportional to the unexpired term of the license.

Pursuant to new Subsection 477.0135(8), F.S., a graduate of a cosmetology school or program who has met the qualifications for examination is allowed to work as a cosmetologist under the supervision of a licensed cosmetologist in a licensed cosmetology salon. Such person may continue working upon failing the examination if the next available examination is applied for and taken, and until the results of the second examination are received.

Under revised Section 477.019, F.S., an applicant for a cosmetology license who holds an active license from another

state and has held the license for at least one year may take the examination without first meeting the training requirements. An applicant who holds an active license from another state or country where he has met qualifications substantially similar to those required under Florida law may be licensed by endorsement.

The act creates new Paragraph 477.028(1)(c), F.S., to authorize the Board of Cosmetology to discipline a licensee or registrant who aids, assists, procures or advises any unlicensed person to practice as a cosmetologist. The measure amends Paragraph 477.029(1)(i), F.S., to make it unlawful for any person to violate or refuse to comply with any rule or order of the Department of Professional Regulation.

Chiropractic

HOUSE BILL 1441 (CHAPTER 87-241) and COMMITTEE SUBSTITUTE FOR SENATE BILL 873 (CHAPTER 87-393) provide identical amendments to provisions regulating chiropractors in Chapter 460, F.S. In Paragraph 460.4065(1)(a), F.S., a chiropractor who applies for licensure by endorsement is required to have been licensed in another jurisdiction for at least five years. Newly created Subsection 460.4104(4), F.S., directs the chiropractic peer review committee to file a complaint against a chiropractor if reasonable cause exists to believe a violation of any laws or rules applicable to chiropractors has occurred. New Subsection 460.4104(7), F.S., authorizes the Department of Professional Regulation to obtain

patient records pursuant to a subpoena for the purpose of peer review or where peer review finds certain violations which constitute grounds for disciplinary action.

These provisions will take effect October 1, 1987.

Contractors

HOUSE BILL 1377 (CHAPTER 87-235) clarifies certain exemptions from laws regulating construction contractors under Part I of Chapter 489, F.S. The exemption for owner-builders provided in Subsection 489.103(7), F.S., is restricted to only those owners acting as their own contractors and providing all material supervision themselves. In amended Subsection 489.103(13), F.S., the exemption for persons licensed pursuant to Chapter 527, F.S., relating to the sale of liquified petroleum gas and the installation of related equipment, is limited to work performed under such licenses. Amended Subsection 489.103(14), F.S., makes the exemption for persons who sell, service or install certain heating and air-conditioning units applicable to only those units which have a factory-installed electrical cord and plug. Newly created Section 489.108, F.S., provides rulemaking authority for the Construction Industry Licensing Board.

In both HOUSE BILL 1377 (CHAPTER 87-235) and COMMITTEE SUBSTITUTE FOR SENATE BILL 370 (CHAPTER 87-310), Subsection 489.113(3), F.S., is amended to require contractors to subcontract commercial swimming pool work, except that a general contractor is not required to subcontract structural

swimming pool work. Further amendment of the subsection in both acts clarifies provisions which allow general, building and residential contractors to do roofing on buildings they construct. Such contractors are specifically prohibited from acting as, or advertising or holding themselves out to be, roofing contractors.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 266 (CHAPTER 87-254) amends provisions in Part II of Chapter 489, F.S., to provide for the regulation of alarm system contractors under the Electrical Contractors' Licensing Board. The act also gives certain authority over alarm system contractors and fire alarm system equipment to the State Fire Marshal. In new Subsections 489.503(12) and (13), F.S., the act exempts from regulation persons who install only burglar alarms in single- and two-family homes, mobile homes and small commercial buildings, or who install alarm systems on motor vehicles and boats.

"Alarm system," "alarm system contractor," and related terms are defined in Section 489.505, F.S. An alarm system contractor is further classified as either an "alarm system contractor I," who may work with all types of alarm systems, or an "alarm system contractor II," who may work with all types except fire alarm systems. The membership of the Electrical Contractors' Licensing Board is expanded under Subsection 489.507(1), F.S., to include a certified alarm system contractor I and a certified specialty electrical contractor.

Newly created Subsection 489.507(4), F.S., provides rulemaking authority of the Board.

New Subsection 489.507(5), F.S., provides legislative intent that alarm system contractors shall not be required to serve an apprenticeship as a prerequisite to taking the certification examination. Section 489.509, F.S., is amended to provide for application, examination and certification of alarm system contractors by the Board. Certification and biennial renewal fees are specified. Procedures are provided in Subsection 489.511(2), F.S., to allow any person who has been engaged as an alarm system contractor for the 12-month period preceding October 1, 1987, and who complies with certain standards set by the Board, to take the certification examination. Amended Subsection 489.515(1), F.S., provides for licensure of certified alarm system contractors by the Department of Professional Regulation.

Amendments to Subsection 489.531(1), F.S., specify prohibited acts which are subject to a first-degree misdemeanor penalty, and amendments to Section 489.533, F.S., specify grounds for the discipline of alarm system contractors and disciplinary actions which may be imposed by the Board. The grounds include violation of Chapter 633, F.S., (Fire Prevention and Control) or rules of the State Fire Marshal. New Subsection 489.533(4), F.S., allows the State Fire Marshal to participate in proceedings relating to such violations and requires the deposit of 50 percent of the fines imposed for

such violations into the Insurance Commissioner's Regulatory Trust Fund.

The scope of work of a certified unlimited electrical contractor is defined in new Subsection 489.537(8), F.S., to include the work of a certified alarm system contractor. The authority of the State Fire Marshal over violations of certain laws or rules by alarm system contractors or certified unlimited electrical contractors is specified in new Section 633.70, F.S. The State Fire Marshal is authorized to order corrective action to bring fire alarm systems into compliance with authorized standards. Provision is made to allow the Department of Professional Regulation and the Electrical Contractors' Licensing Board to participate in proceedings relating to such corrective action. The section further directs the State Fire Marshal to adopt standards for the installation, maintenance, alteration, repair, monitoring, inspection, replacement or servicing of fire alarms and fire alarm systems.

Requirements are specified in new Section 633.71, F.S., for the approval, testing, installation, warranty, servicing, repair, improvement and inspection of fire alarm system equipment. A test certificate must be furnished to the consumer, and a service tag must be attached to the system, whenever a fire alarm system is installed, serviced, tested, repaired, improved or inspected. New Section 633.72, F.S., provides a second-degree misdemeanor penalty for selling untested and unapproved fire alarm systems. A first-degree

misdemeanor penalty is provided for: intentionally rendering a fire alarm system inoperative, except for repairs; installing, servicing, testing, repairing, improving, or inspecting a fire alarm system improperly; or conspiring to allow a certificate or license to be used by an uncertified person.

The act appropriates \$207,177 from the Insurance Commissioner's Regulatory Trust Fund to the Department of Insurance for personnel and \$187,859 from the Professional Regulation Trust Fund to the Department of Professional Regulation, for fiscal year 1987-88, to implement the provisions of the act.

The act takes effect October 1, 1987. The provisions of the act are scheduled for Sunset repeal on October 1, 1988, and are subject to review by the Legislature prior to that date.

Several provisions in COMMITTEE SUBSTITUTE FOR SENATE BILL 370 (CHAPTER 87-310) limit the activities of unlicensed contractors. Amended Paragraph 489.127(1)(f), F.S., prohibits an unlicensed person from advertising as a contractor and provides penalties. New Section 489.5331, F.S., specifies that an unlicensed contractor is liable for triple damages in any civil action resulting from his negligence, malfeasance or misfeasance. This provision is subject to Sunset repeal on October 1, 1988, and legislative review prior to that date. Under newly created Subsection 713.02(7), F.S., unlicensed contractors are denied effective use of mechanics' liens. Also, insurance companies are required, under new Section

624.447, F.S., to verify a contractor's insurance status upon request.

These provisions will take effect on October 1, 1987.

COMMITTEE SUBSTITUTE FOR SENATE BILL 370 (CHAPTER 87-310) also provides for the regulation of septic tank contractors by the Department of Health and Rehabilitative Services, effective October 1, 1987. The act requires the registration of septic tank contractors and the certification of partners and corporations who engage in septic tank contracting. It specifies qualification and examination requirements for registrants, renewal requirements, including continuing education for registrants, and fees. It authorizes the Department to deny a registration if the applicant does not meet the requirements, or has violated any provision, of the act. Persons employed as septic tank contractors on or before October 1, 1987, have until October 1, 1988, to register with the Department.

The act provides for the suspension or revocation of a registration if the registrant: violates the provisions of the act or rules adopted to implement the act, obtains a registration fraudulently, or is found guilty of gross professional misconduct. Persons violating the act are subject to a first-degree misdemeanor penalty and the Department is directed to report criminal violations to the proper prosecuting authority. Disciplinary action against a corporation or partnership is to be administered in the same manner and on the same grounds as action against a registrant.

The provisions of COMMITTEE SUBSTITUTE FOR SENATE BILL 370 (CHAPTER 87-310) which regulate septic tank contractors are scheduled for Sunset repeal on October 1, 1997, and are subject to legislative review prior to that date pursuant to Section 11.61, F.S.

Dentistry

COMMITTEE SUBSTITUTE FOR HOUSE BILL 918 (CHAPTER 87-208) amends Subsection 466.017(4), F.S., to require that a dentist have certain experience prior to January 1, 1980, rather than January 1, 1986, to be deemed to have fulfilled the training requirements for administering general anesthesia or parenteral conscious sedation. The act specifies in Subsection 466.017(5), F.S., that certification in basic cardiopulmonary resuscitation for health professionals meets the requirement of certification in cardiopulmonary resuscitation for dentists who administer or employ anesthesia.

Newly created Subsection 466.017(7), F.S., exempts dentists who confine their dispensing activities to the dispensing of fluorides and chlorahexidine rinse solutions from the registration and continuing education requirements for a dispensing practitioner under Chapter 465, F.S., the "Florida Pharmacy Act." However, such dentists must comply with and are subject to all other applicable laws, rules and regulations when dispensing such products.

The ethics review committees of professional organizations of dentists are required under new Subsection

466.022(4), F.S., to report violations of Chapter 466, F.S., relating to dentistry, to the Department of Professional Regulation. Confidential information is protected and official records of the committees are excluded from public review.

Disposition of Dead Human Bodies

HOUSE BILL 1297 (CHAPTER 87-228) amends Section 470.019, F.S., to subject direct disposal establishments to the same disciplinary actions for violation of acts prohibited under the section as are provided for direct disposers. Disciplinary actions are expanded to include imposing a \$1,000 administrative fine for each count or separate offense and placing a registrant on probation subject to conditions which may include continuing education courses or supervision of work. Grounds for discipline are clarified, and are expanded to include fraud or deceit in the practice of direct disposition and violation of a disciplinary order of the Board of Funeral Directors and Embalmers or the Department of Professional Regulation.

The act also amends Section 470.036, F.S., to subject cinerator establishments and cinerator establishment operations to the same disciplinary proceedings for violation of acts prohibited under the section as are provided for licensed embalmers and funeral directors.

The act takes effect October 1, 1987.

Engineering and Land Surveying

SENATE BILL 1155 (CHAPTER 87-341) and SENATE BILL 790 (CHAPTER 87-349) both create Section 471.008, F.S., to authorize the Board of Professional Engineers to adopt rules necessary to carry out its statutory duties and authority. The acts both amend Paragraph 471.003(2)(f), F.S., to extend, from two years to three years from the date of employment, an exemption from registration for full-time college or university engineering design faculty.

SENATE BILL 790 (CHAPTER 87-349) creates Section 472.008, F.S., to give rulemaking authority to the Board of Professional Land Surveyors. The section further specifies that the rules must set out alternative methods for surveyors to demonstrate financial responsibility to pay claims arising out of the rendering of, or failure to render, professional services. The act creates new Subsections 177.091(28) and 553.79(10), F.S., to require that a notice be added to every plat of a subdivision, and to every building permit, stating that additional restrictions not shown on the plat or the permit may be found in the county records.

New Section 472.018, F.S., establishes continuing education requirements for licensed land surveyors. At least 24 hours of continuing education courses approved by the Board of Professional Land Surveyors must be completed during the two years prior to an application for license renewal. Subsection 472.017(1), F.S., is amended to direct the Department of

Professional Regulation to require proof of compliance with continuing education requirements prior to reviewing a license.

Newly created sections of Chapter 472, F.S., are scheduled for Sunset repeal on October 1, 1989, and legislative review prior to that date, pursuant to Section 11.61, F.S.

Geology

COMMITTEE SUBSTITUTE FOR SENATE BILL 182 (CHAPTER 87-403) provides for the regulation of the practice of geology by the Department of Professional Regulation. It establishes an eight-member Board of Professional Geologists, composed of six professional geologists and two lay persons, to be appointed by the Governor, and names the chief of the Bureau of Geology of the Department of Natural Resources, or his designee, as an ex-officio Board member. The act provides rulemaking authority of the Board. It authorizes the Board to set fees relating to licensure and specifies the maximum amounts of the fees.

All persons providing geological services, except those exempt under the act, are required to be licensed by the Department of Professional Regulation. Provision is made for application, examination, initial licensure, biennial license renewal, inactive licenses and reactivation of inactive licenses. Minimum qualifications for licensure, including education, work experience, and examination, are specified. Provision is made to "grandfather," without examination, qualified geologists who apply for licensure by October 1, 1988. Geologists licensed in states with requirements

comparable to Florida's may be licensed by endorsement without written examination. A provisional license may be issued to authorize a geologist licensed in another state to practice in Florida for a maximum of one year on one specified project.

The act requires that all geological reports and documents prepared or issued by a licensee be signed, dated and stamped with a seal, and directs the Board of Professional Geologists to prescribe the form of the seal. Certain unlawful uses of the seal are specified.

A firm, corporation or partnership may offer geological services under a certificate of authorization issued by the Department of Professional Regulation. Officers or partners who act on behalf of the firm, corporation or partnership as professional geologists must be licensed pursuant to the act, and final documents prepared under the certificate of authorization must be signed, dated and stamped with the seal of the licensed geologist who approved them. Provision is made for the assignment of liability for negligence, misconduct or wrongful acts committed in the practice of geology under a certificate of authorization.

Certain actions, including practicing geology without a license, giving false evidence to obtain a license and concealing violations of the act, are prohibited and are subject to a first-degree misdemeanor penalty. Grounds for disciplinary proceedings by the Department of Professional Regulation are described and actions and civil penalties which may be imposed by the Department are provided.

The act provides exemptions for persons who are engaged solely in teaching geology, who perform geological research that does not affect the public health or safety, or who are employed exclusively as officers or employees of federal, state, local or regional governmental entities, or full-time by a business engaged in developing or mining minerals or petroleum resources. Certain corporate employees are also exempt from the act. Exempt persons are required, however, to have a licensed geologist prepare or approve any geological papers or documents prepared for public record with the state.

The act makes provision for replacement of lost, destroyed, stolen or mutilated licenses. It requires the Department of Professional Regulation to prepare and make available a roster of licensees and holders of certificates of authorization.

The provisions of the act are effective October 1, 1987, and are scheduled for Sunset repeal on October 1, 1997, subject to review by the Legislature pursuant to Section 11.61, F.S.

Hearing Aids

HOUSE BILL 1256 (CHAPTER 87-47) amends provisions of Part II of Chapter 484, F.S., regulating the fitting and dispensing of hearing aids. The act defines the term "sponsor" in new Subsection 484.041(8), F.S., as an active, licensed hearing aid specialist under whose direct supervision one or more hearing aid specialist trainees are studying hearing aid dispensing for the purpose of qualifying for certification to

sit for the licensure examination. It amends provisions in Section 484.0445, F.S., to allow a sponsor to delegate supervisory responsibilities to another hearing aid specialist and to authorize the Board of Hearing Aid Specialists to limit the number of trainees a hearing aid specialist may supervise. Amended Section 484.0445, F.S., also allows a trainee who has completed a training program to continue to function as a trainee until he receives the results of his licensure examination.

Massage

HOUSE BILL 1063 (CHAPTER 87-267) creates new Subsection 480.034(4), F.S., to exempt from the "Massage Practice Act" treatments performed for the purpose of cleansing and beautifying the skin or in conjunction with a weight loss program.

The exemption takes effect on October 1, 1987.

Medical Services

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1221 (CHAPTER 87-296), known as the "Cleveland Clinic Bill," after the medical entity for which the legislation was patterned, authorizes the practice of medicine in Florida by out-of-state, nonprofit medical corporations which meet the criteria specified in newly created Subsection 617.01(4), F.S. Any such corporation must have medical education and research among its primary purposes, must have expended \$30 million or more for medical education

and research during 1984, and must employ a minimum of 300 full-time physicians on its medical staff.

The act further stipulates that, by 1990, at least 25 percent of the physicians employed by such corporation must have full-time contracts, must be currently certified in their specialties, and must have clinical privileges in one or more Florida hospitals. In addition, any hospital owned by such corporation must provide the level of Medicaid and charity care required by Florida law.

Provisions created in new Paragraph 458.313(1)(c), F.S., specify alternative requirements for the licensure by endorsement of physicians employed by a corporation which conducts medical practice in Florida pursuant to Subsection 617.01(4), F.S. The paragraph stipulates that such corporation may employ no more than 25 physicians licensed under these alternative provisions, and that pursuant to new Paragraph 458.313(1)(d), F.S., such licensure is valid only for the duration of employment with the corporation and is not valid for any other type of medical practice. Paragraph 458.313(1)(c), F.S., is repealed on December 1, 1988.

The act repeals, on December 1, 1987, both Subsection 617.01(4), F.S., described above, and Subsection 617.01(3), F.S., pursuant to which the Mayo Clinic currently conducts a corporate medical practice in Florida. However, newly created Subsection 617.01(5), F.S., allows corporations organized prior to that date to continue to practice medicine, conduct medical education programs and carry on major medical research.

Nursing

HOUSE BILL 1438 (CHAPTER 87-240) amends Paragraph 464.009(1)(a), F.S., to remove a provision which authorizes the licensure of nurses by endorsement if the current licensure requirements in the applicant's state of original licensure are the same as Florida's current requirements. The remaining provisions of the paragraph authorize licensure by endorsement if the standards in the state of original licensure were the same as those in Florida at the time the applicant's license was issued.

Opticianry

SENATE BILL 957 (CHAPTER 87-335) creates Subsection 484.008(6), F.S., to authorize the Board of Opticianry to excuse a licensee, or group of licensees, from the continuing education requirement for license renewal if an unusual circumstance, emergency or hardship prevented the licensee or group of licensees from complying with the requirement.

Psychological Services

COMMITTEE SUBSTITUTE FOR HOUSE BILL 58 (CHAPTER 87-252) amends existing provisions and creates new provisions regulating psychologists, school psychologists, clinical social workers, marriage and family therapists, and mental health counselors, effective October 1, 1987. The act continues the regulation of psychologists by the Board of Psychological Examiners and the regulation of school psychologists by the Department of Professional Regulation under Chapter 490, F.S.

Clinical social workers, marriage and family therapists, and mental health counselors, previously regulated by the Department under Chapter 490, F.S., are placed under the authority of their own professional board in new Chapter 491, F.S.

In amended Section 490.003, F.S., previous limitations on the practice of school psychology are removed. The Board of Psychological Examiners is authorized to define the practice of psychology and to assist the Department in defining the practice of school psychology. Amended Section 490.005, F.S., revises provisions relating to qualifications for licensure by examination for psychologists and school psychologists. The maximum biennial license renewal fee provided in Section 490.007, F.S., is increased from \$150 to \$250. Revised Section 490.008, F.S., provides for procedures and fees for the application and biennial renewal of inactive license status, and for the reactivation of an inactive license.

Disciplinary actions which may be imposed under Subsection 490.009(1), F.S., are augmented to include: suspension of a licensure for up to five years, revocation of a license, an administrative fine not to exceed \$1,000 for each count or separate offense, and placement of an applicant or licensee on probation subject to conditions and restriction of practice. Additional grounds for disciplinary actions are specified in Subsection 490.009(2), F.S., to include: receiving payment for a referral, receiving payment from a client for services being paid for by some other entity, and

entering into a reciprocal referral agreement. Authority and procedures are provided in Paragraph 490.009(2)(p), F.S., to compel a licensee who is alleged to be unable to practice due to physical or mental impairment to submit to a physical or mental examination.

Section 491.004, F.S., created in new Chapter 491, F.S., establishes a nine-member Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, composed of two persons from each of those professions and three lay persons, all appointed by the Governor. Qualifications for the licensure of clinical social workers, marriage and family therapists, and mental health counselors are revised in new Section 491.005, F.S. New Sections 491.0145 and 491.015, F.S., specify the qualifications and fee for certification as a certified master social worker, and provision is made to certify persons who have degrees from foreign institutions.

For the professions regulated under Chapter 491, F.S., the act creates provisions similar to those in amended Chapter 490, F.S., to provide for licensure or certification by endorsement (Section 491.006, F.S.), renewal of a license or certificate (Section 491.007, F.S.), inactive status (Section 491.008, F.S.), continuing education (Section 491.0085, F.S.), discipline of an applicant, licensee, or certificateholder (Section 491.009, F.S.), a prohibition against sexual misconduct (Section 491.0111, F.S.), protection against the misuse of professional titles (Section 491.012, F.S.),

exemptions (Section 491.014, F.S.) and duties of the Department of Professional Regulation (Section 491.015, F.S.).

In new Section 491.0141, F.S., the act allows the practice of hypnosis by persons licensed under Chapter 491, F.S., who are qualified as determined by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling. The respective Boards in Chapters 490 and 491, F.S., are authorized in new Sections 490.0143 and 491.0143, F.S., to set qualifications for the practice of sex therapy. Protection against the misuse of the title "sex therapist" is provided in both chapters. New Sections 490.0147 and 491.0147, F.S., protect the confidentiality and privileged nature of communications made during the course of therapy with members of the professions regulated under the act.

Pursuant to new Section 491.035, F.S., valid rules of the Department and pending legal or administrative proceedings, relating to the professions now regulated under Chapter 491, F.S., are continued in effect. Current licenses of professionals formerly regulated under Chapter 490, F.S., remain valid until December 31, 1988, and certain requirements relating to supervised experience are continued for persons applying for licensure prior to that date.

The act schedules Chapter 491, F.S., for Sunset repeal on October 1, 1990, subject to legislative review prior to that date pursuant to Section 11.61, F.S. The Sunset repeal of Chapter 490, F.S., previously scheduled for October 1, 1988, is postponed until October 1, 1990.

Real Estate Practice

HOUSE BILL 830 (CHAPTER 87-205) amends Subsection 475.011(3), F.S., to exempt from the provisions of Chapter 475, F.S., relating to real estate brokers and salesmen, any employee of a state or local governmental agency who handles real property transactions as part of the duties of his employment. Employees of public utilities, rural electric cooperatives and railroads retain their exemption under the subsection. The scope of the exemption is expanded to include selling, appraising and exchanging, as well as buying and leasing real property.

Talent Agencies

Several provisions relating to the regulation of talent agencies are amended in SENATE BILL 658 (CHAPTER 87-325). The definition of the "owner" of a talent agency is clarified in amended Subsection 468.401(2), F.S. A provision added to Subsection 468.403(2), F.S., requires a licensee to pay a nonrefundable \$150 application fee for a change in the operator of the talent agency. Under new Paragraph 468.403(3)(b), F.S., a corporate owner of a talent agency must submit fingerprints and photographs of the corporation's principal officers and of each operator of the talent agency to the Department of Professional Regulation along with the application for licensure of the talent agency. The Department is required to conduct an examination of fingerprint and police records.

Pursuant to amended Subsection 468.404(2), F.S., the Department is authorized to adopt rules for the biennial renewal of licenses. The authority of the Department to prohibit the use of a confusing name by a talent agency is eliminated from Subsection 468.404(5), F.S.

Veterinary Medicine

COMMITTEE SUBSTITUTE FOR SENATE BILL 878 (CHAPTER 87-333) amends several statutes relating to veterinary medical practice, effective October 1, 1987. In amended Section 474.207, F.S., the act specifies a procedure for all applicants desiring to repeat the licensure examination. Remediation courses and externships are required for applicants who fail the examination three or more times. An applicant who fails the examination nine times may retake it only with the permission of the Board of Veterinary Medicine. The Board is directed to approve facilities for externships and to pass the costs of such approval on to the applicant. Also, the Board is authorized to establish a procedure to test an applicant's knowledge of the laws and rules governing the practice of veterinary medicine in Florida, and this subject is eliminated from the licensure examination.

The act revises the authority and procedures in Paragraph 474.214(1)(h), F.S., for compelling a licensee who is alleged to be unable to practice veterinary medicine due to physical or mental impairment to submit to a physical or mental examination. The Department of Professional Regulation is

authorized to order the examination upon a finding of impairment by the Secretary, his designee, or the probable cause panel of the Board of Veterinary Medicine. If the licensee refuses to take the examination, the Department may enforce its order by petition to the circuit court. The licensee's identity is protected throughout the proceedings.

Amended Section 474.217, F.S., requires an applicant for a licensure by endorsement to have held a valid, active license for at least three years in another jurisdiction where the requirements for licensure are substantially similar to Florida's. The applicant is required to have graduated from an approved college of veterinary medicine and must demonstrate a knowledge of the laws and rules governing the practice of veterinary medicine in Florida.

PUBLIC OFFICERS AND EMPLOYEES*

The main focus of legislative attention to public officers and employees appeared to be the subjects of retirement and insurance. Retirees of state or substate public employers, and their dependents, will be allowed to participate in the employers' health and hospitalization insurance plans, and persons retired under state-administered retirement systems will receive health insurance subsidy payments. The retirement benefit for an employee who had retired because of disability, had recovered and been reemployed is specified. Guidelines for claiming credit for seasonal employment in another state are revised. Physical examinations in connection with disability retirement must now be conducted by licensed physicians, and the medical board of physicians in the Division of Retirement of the Department of Administration is abolished. And the Department is required to contract, through competitive bids, with health maintenance organizations to participate in the state group health insurance plan.

Death benefits are provided for the survivors of persons who make investigations relating to the criminal law for the

*Prepared by Senate Legal Research and Drafting Service

prosecution or defense, state attorneys, and public defender investigators.

The purchase of an investment under a deferred compensation plan will not impose liability on the employing agency, and such plan funds are exempted from taxation and process or assignment. A Deferred Compensation Advisory Council is created. Records identifying participants in tax-sheltered annuities, custodial accounts, or deferred compensation plans are exempted from public records requirements.

The amount which may be spent on meritorious service awards is increased.

Finally, guidelines relating to the payment of travel expenses and per diem are revised.

Death Benefits

HOUSE BILL 1072 (CHAPTER 87-143) amends Section 112.19, F.S., to expand the definition of the term "law enforcement officer" to include persons who make investigations relating to the criminal law for the prosecution or the defense, for purposes of providing death benefits to the survivors of such persons, and amends Section 112.1904, F.S., to expand the definition of the term "law enforcement officer" to include state attorneys and public defender investigators, for purposes of providing death benefits to the survivors of such persons who are unlawfully and intentionally killed in the performance of duties.

Deferred Compensation

HOUSE BILL 747 (CHAPTER 87-138) amends Section 112.215, F.S., to provide that the purchase of any investment under any plan of deferred compensation for an employee does not impose liability on the state or local government employer. It also exempts such plan funds from taxation and from legal process by a creditor of an employee or assignment by the employee and provides that certain plan benefits remain state property until available to the participant.

The act takes effect October 1, 1987.

SENATE BILL 72 (CHAPTER 87-35) amends Section 112.215, F.S., creating the Deferred Compensation Advisory Council. It revises the composition of the Council and establishes operating procedures for the Council and provides for the Council to advise the Treasurer on the deferred compensation plan. The act further provides transitional provision for the duties of the existing advisory council to be transferred to the Council as reconstituted. Pursuant to Sundown review, the act continues the Council until October 1, 1997.

The act takes effect October 1, 1987.

HOUSE BILL 96 (CHAPTER 87-7) amends Sections 112.21 and 112.215, F.S., to exempt records identifying participants in tax-sheltered annuities or custodial accounts for governmental employees and records identifying participants in deferred compensation programs from the public records requirements of Section 119.14, F.S.

The act takes effect October 1, 1987.

Health Insurance

COMMITTEE SUBSTITUTE FOR HOUSE BILL 195 (87-156) amends Section 110.123, F.S., to require the Department of Administration to contract with health maintenance organizations through the competitive bid process to participate in the state group health insurance plan. The amendment also provides that all employees who participate in the state group health insurance plan are subject to the same total premium, regardless of participation in a health maintenance organization or the amount of the premium paid by the state. The amendments are effective January 1, 1988.

The act is effective October 1, 1987.

Meritorious Service Awards

HOUSE BILL 295 (CHAPTER 87-68) amends Sections 110.1245 and 240.2111, F.S., to increase from \$25 to \$50 the maximum amount of money that each department head, the Board of Regents, and each state university is authorized to spend for each meritorious service award issued to a retiring employee.

Retirement

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 399 (87-373) amends Section 112.0801, F.S., to require a state agency, county, municipality, special district, community college, or district school board to allow retired employees or their dependents to participate in its group insurance programs or self-insurance programs. The act requires that such retirees or their dependents be offered the same health and

hospitalization insurance coverage that is offered to active employees and at the same cost. The cost of continued participation may be paid by the employer. With respect to the determination of health and hospitalization costs, the employer is required to commingle the claims experience of the retiree group with that of the active employees; for other types of coverage, the employer may do so. Retirees who are covered under Medicare may be experience-rated separately from the retirees not so covered and from active employees, if the total premium does not exceed that of the active group and coverage is basically the same as for the active group. Participation in such insurance plans must be offered, beginning October 1, 1987, to all former employees who retired before that date, as well as to those employees who retire on or after that date, and to the eligible dependents of such employees or former employees. Such previously retired employees or their eligible dependents have until December 31, 1987, to accept or reject participation.

The act also provides for a monthly health insurance subsidy payment for persons retired under state-administered retirement systems in order to assist them in paying the costs of health insurance. A beneficiary who is a spouse or financial dependent entitled to receive benefits under such a system may, in some cases, be eligible for such payments. However, participants in the Senior Management Service Optional Annuity Program or the State University System Optional Retirement Program are not eligible. For the period beginning

January 1, 1988, and ending December 31, 1988, the amount of the monthly health insurance subsidy will be equal to the number of years of creditable service completed at the time of retirement multiplied by \$1, but not more than \$30 or less than \$10. Beginning January 1, 1989, the amount will be equal to the number of years of creditable service completed at the time of retirement multiplied by \$2, but not more than \$60 or less than \$20. For purposes of funding the insurance subsidy, beginning October 1, 1987, the employer of each member of a state-administered retirement plan is required to contribute 0.24 percent of gross compensation each pay period until October 1, 1988, when the contribution rate increases to 0.48 percent. The employers shall deposit the required contributions into the Retiree Health Insurance Subsidy Trust Fund from which all subsidy benefits and the costs of administration of the subsidy program will be paid, except that the employers of participants in the Senior Management Service Optional Annuity Program or the State University System Optional Retirement Program shall pay them into the respective annuity program. The subsidy program will be administered by the Division of Retirement of the Department of Administration.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 26 (CHAPTER 87-149) amends Section 121.091, F.S., to provide that, under the Florida Retirement System, the retirement benefit payable to a member who had previously retired on disability, but who had recovered and reentered covered employment and then retired on disability again, may not be less than the Option 1 monthly

benefit calculated at the time of his previous disability, plus any cost-of-living increases up to the time his disability benefit was terminated upon his reentry into covered employment. The act provides that an eligible retiree is entitled to this increased benefit retroactively to the date of his reduced retirement.

SENATE BILL 213 (CHAPTER 87-29) amends Section 122.07, F.S., to revise the procedure and prerequisites for claiming credit under the State and County Officers and Employees' Retirement System with respect to employment as a seasonal employee in another state.

HOUSE BILL 291 (CHAPTER 87-19) repeals Section 238.04, F.S., thereby abolishing the medical board of physicians employed by the Division of Retirement pursuant to that section to conduct medical examinations, investigations, and certifications in connection with disability retirement applications submitted under the Teachers' Retirement System of Florida, and amends Section 238.07, F.S., to provide that examinations and certifications relating to disability retirement be conducted by licensed physicians.

The act takes effect October 1, 1987.

Travel Expenses

SENATE BILL 474 (CHAPTER 87-407) amends Section 112.061, F.S., to allow payment of traveling expenses to a public officer or employee during a period of illness or injury that occurs while he is traveling on state business, if the agency

head approves the payment. It also allows the Department of Banking and Finance to approve payment of expenses not specifically authorized by the section; and it allows an agency head to approve an increase in the amount that an agency may pay directly to a vendor for a specific meal, as long as the traveler's total cost of meals for one day does not exceed the maximum allowance for meals for that day.

The act takes effect October 1, 1987.

STATE GOVERNMENT*

The 1987 Legislature took action in the areas of public access to government meetings and records, protecting state security systems from public access, and reenacting several exemptions under the Open Government Sunset Review Act. As to statutorily created boards, councils, and commissions, the Legislature made changes to membership requirements of 27 of them, and addressed reenactment under the Sundown Act of the Florida State Commission on Hispanic Affairs, the Florida Commission on Veterans' Affairs, and the Florida Governor's Council on Physical Fitness and Sports.

Laws were also enacted that strengthened protections for historic properties and public funds, as well as protections for those who are being solicited for charitable contributions. The creation of "I Am An American Day" and the designation of the American Alligator as the official state reptile are the subjects of bills that also became law.

In addition to legislation regulating cemeteries and investigative and patrol services, the Legislature codified the limits of authority for executive agencies in rule

*Prepared by Senate Governmental Operations Committee

promulgation, and provided for a limited right to recover costs and a reasonable attorney fee in administrative proceedings.

These, and other acts relating to the function of the state and its agencies, are discussed below.

General Law and Government Operations

HOUSE BILL 1286 (CHAPTER 87-83), which is the biennial statutory adoption act, amends Sections 11.2421, 11.2422, 11.2424 and 11.2425, F.S., to adopt the "Florida Statutes 1987" and designate portions thereof that will constitute the official statutory law of the state. The enactment provides that the "Florida Statutes 1987" will become effective immediately upon publication. It further provides that all statutes of a general and permanent nature enacted during the 1985 Regular Legislative Session, and prior thereto, and every part of such statute not included in the "Florida Statutes 1987" are repealed; and it provides that laws enacted during the 1986 Regular/Special Legislative Sessions, the February 1987 Special Session, and the 1987 Regular Session are not repealed by this act. The repeal of any statute by the adoption of "Florida Statutes 1987" shall not affect any right or civil remedy accrued prior to such repeal where a suit is pending.

HOUSE BILL 716 (CHAPTER 87-137) relates to information resources management, state communications, and budgetary matters. The definition of "operating capital outlay" in Paragraph 216.011(1)(v), F.S., -- equipment, fixtures, and

other nonconsumable and nonexpendable tangible personal property with a value of \$100 or more -- is amended to mean those same enumerated items having a value of \$200 or more. The identical definition of "property" in Section 273.02, F.S., relating to record and inventory of certain property, is likewise amended from a threshold value of \$100 to \$200.

A new Section 216.0445, F.S., is created to require each agency to submit to the Information Resource Commission (IRC), comprised of the Governor and Cabinet, a copy of the agency's information resources management schedule when the agency submits its preliminary budget request to the Executive Office of the Governor (EOG). The executive administrator of the IRC then is required to advise the EOG and the Legislature if there are cost-effective alternatives to the proposed expenditures.

The method by which the Division of Communications of the Department of General Services (DGS) estimates monthly telephone service charges for billing users is amended in Subsection 216.292(7), F.S., to provide for payment of actual services rendered for any services provided by the state communications system within 45 days of billing by the Division of Communications.

The "Information Resources Management Act" is also created. The IRC will provide overall leadership and coordination of information resources management within the executive branch of government. The executive administrator of the IRC will develop a biennial State Strategic Plan for Information Resources Management to provide a strategic

direction for information resources in the ensuing four fiscal years. The IRC will also prepare an Annual Report on Information Resource Management, based on annual performance reports submitted by departments, primarily assessing the progress toward meeting the goals and objectives of the State Strategic Plan for Information Resources Management.

Effective July 1, 1987, the responsibility of the information resource manager of each department requires that the manager approve all information resources management procurements of his agency.

The plan previously required to be submitted by each agency to the IRC of the agency's projected information technology resource needs is replaced with a required Strategic Plan for Information Resources Management. The IRC is authorized to delegate approval of plan supplements to the executive administrator of the IRC. Effective July 1, 1987, each agency also will be required to prepare an annual Information Resources Management Operating Plan.

The Division of Communications of DGS is required to develop, for approval by the Governor and Cabinet as head of DGS, a biennial State Implementation Plan for Communications Services, which will address communications needs identified in each agency's Strategic Plan for Information Resources Management and its Information Resources Management Operating Plan, and will include descriptions of available and forecasted communications services and their associated costs.

The SUNCOM network will be established statutorily in the Division of Communications to provide local and long-distance communications services to state agencies and other political subdivisions, municipalities, and nonprofit corporations. The SUNCOM network is required to be developed to transmit all types of communications signals, including voice, data, video, image, and radio. All agencies of the executive and judicial branches of government are required to subscribe to the SUNCOM network for agency communications services as they become available unless the network cannot provide a needed service to an agency.

An Information Resources Management Advisory Council is created to advise the executive administrator of the IRC and the Director of the Division of Communications on matters related to information resources management. The Advisory Council's 15 members will be information resource managers selected by various persons or entities, plus the chairmen of three selected state coordinating councils. The Advisory Council is repealed on October 1, 1997, and is scheduled for legislative review prior to that date pursuant to Section 11.611, F.S., the Sundown Act.

Except as otherwise noted above for provisions effective on July 1, 1987, the act is effective on October 1, 1987.

SENATE BILL 261 (CHAPTER 87-30), which amends Sections 20.210 and 943.29, F.S., deletes statutory references to the 12 existing bureaus within the Department of Law Enforcement (DLE)

and deletes the independent authority of DLE to establish its own bureaus.

The act also changes the name of the Division of Staff Services to the Division of Crime Laboratories and Staff Services.

Further, the act amends Paragraph 20.055(3)(b), F.S., relating to agency chief internal auditors. The new language states that a master's degree in Public Administration from an accredited college or university, along with the 3 years of required experience, will also be sufficient to qualify a candidate for the position of agency chief auditor. [Prior to this amendment, only a master's degree in accounting or business administration, coupled with the 3 years of experience, could qualify a candidate for the auditor position.]

SENATE BILL 1262 (CHAPTER 87-409) effective October 1, 1987, amends and revises the Florida Security for Public Deposits Act, Chapter 280, F.S., incorporating changes recommended by the State Treasurer to improve the effectiveness of the act in protecting public funds. Collateral pledging requirements for qualified public depositories are clarified, the enforcement sanctions are strengthened, and more specific operational procedures are provided by law.

Qualified public depositories are required to determine the amount of their collateral and pledging levels based on criteria established in the act. The act prohibits qualified public depositories from accepting any public deposit which

increases its average daily balance for the current month by 25 percent over the average daily balance for the previous month unless it deposits additional required collateral to secure the increase within 48 hours of the deposit. Public depositories are mandated for the first time to meet certain minimal requirements.

The act provides the Treasurer with remedies to deter or resolve potentially harmful situations involving qualified public depositories. Specific grounds and procedures are established to allow the Treasurer to suspend or disqualify a qualified public depository, as well as procedures for reinstatement. In lieu of suspension, administrative penalties may be imposed of up to \$250 per nonwillful violation and \$1,000 for each willful violation. The Department may issue cease and desist orders under particular circumstances. Criminal penalties are provided for public depositories which knowingly give false information and no public entity will be liable where such misrepresentations have been made.

The act further creates a Security for Public Deposits Task Force comprised of 13 persons selected by the Treasurer and who are affected by Chapter 280, F.S., to review the law and the rules on a regular basis and make recommendations to the Treasurer.

Sunset/Sundown

SENATE BILL 389 (CHAPTER 87-50) corrects erroneous repeal clauses and dates in certain Laws of Florida which are

in conflict regarding future Sunset repeal dates. It also includes for repeal sections amending, creating, or reestablishing programs or functions meeting the criteria of Sunset or Sundown which have no future repeal dates as required by the Regulatory Sunset Act or the Sundown Act. Likewise, functions not meeting Sunset criteria are removed from that process. Newly created programs included for repeal are: SUNDOWN -- The State Advisory Council on Early Childhood Education, Professional Teacher Career Development Council, Board of Correctional Education, Honeybee Technical Council, State of Florida Correctional Medical Authority, and the Board of Public Schools; SUNSET -- no new regulatory functions are brought under the Sunset process, but a number of sections lacking repeal dates are included in order that they comport with the Sunset repeal of other sections dealing with the function. Removed from Sunset repeal are Sections 768.63, 768.68, 768.80 and 768.81, F.S., relating to damages, which are repealed following legislative review July 1, 1990, but which do not meet Sunset criteria; and Chapter 350, F.S., relating to the Public Service Commission (PSC) scheduled for Sunset repeal October 1, 1990. [The functions of the PSC presently in Chapter 350, F.S., are not regulatory.]

HOUSE BILL 1257 (CHAPTER 87-71) reenacts Section 14.25, F.S., relating to the Florida State Commission on Hispanic Affairs, notwithstanding the repeal scheduled for October 1987, pursuant to the Sundown Act. Future legislative review and

repeal pursuant to this act are established for October 1, 1997.

No changes were made in the law, which establishes within the Executive Office of the Governor (EOG) the 15-member Commission, whose purpose is to study comprehensively the problems and needs of Florida citizens who predominantly speak the Spanish language. The four required areas of study are: education, social services and commerce, culture, and the arts. The Commission must make an annual report to the Governor and the Legislature of their recommendations, including specific suggestions for legislation and administrative or regulatory reform. Although administrative support and services are provided by the EOG, the Commission is expressly exempt from control or supervision by that office.

SENATE BILL 24 (CHAPTER 87-356) revives and readopts Section 292.04, F.S., which creates the Florida Commission on Veterans' Affairs, following legislative review pursuant to Section 11.611, F.S., the Sundown Act. The Commission is an independent entity assigned to the Executive Office of the Governor which conducts an ongoing survey of veterans' problems and needs, recommends necessary legislation and necessary administrative or regulatory reform, acts as a liaison between veterans' organizations and the state, and initiates efforts to obtain benefits for veterans. The Commission is comprised of nine members appointed by the Governor for staggered terms of 4 years.

The act also amends Section 292.04, F.S., to authorize the Commission to appear before the Veterans Administration and congressional committees to provide testimony on matters pertaining to veterans' affairs. That section is also amended to include a specific charge that each state agency cooperate fully with the Commission in matters related to the powers and duties of the Commission. The act provides that the Commission is repealed on October 1, 1997, and shall be reviewed by the Legislature pursuant to the Sundown Act.

In addition the act, which is effective October 1, 1987, relates to other matters affecting veterans.

The act revises from June 30 to January 1 of each year the date on which the Division of Veterans' Affairs of the Department of Administration must submit its annual report of its operations to the Governor, President of the Senate, and the Speaker of the House.

The act amends Section 295.17, F.S., authorizing the Division of Veterans' Affairs to issue an identification card -- as proof of eligibility for any benefit provided by state law for 100 percent, service-connected permanently and totally disabled veterans -- to any veteran who has been determined to have a service-connected total and permanent disability rating of 100 percent and who receives disability retirement pay from any U.S. Armed Services branch. [Prior to the act, identification cards were only issued under this section to those veterans who received disability ratings from the Veterans Administration.] Thus, the act makes a veteran who is

a resident of Florida and who receives an identification card by virtue of disability ratings and retirement pay from an armed services branch eligible for a permanent hunting and fishing license, without fee, under Paragraph 372.561(5)(b), F.S., and thus exempt from the stamp requirements for certain hunting and fishing activities under Paragraph 372.57(6)(b), F.S. The act amends Section 322.21, F.S., to exempt from the license fee for any operator's or chauffeur's license any honorably discharged veteran who has a service-connected total and permanent disability rating of 100 percent and who is in receipt of disability retirement pay from any U.S. Armed Services branch. The act also amends sections providing education benefits at state expense to dependent children of certain veterans: Section 295.01, F.S., for children of dead or disabled veterans; Section 295.016, F.S., for children of servicemen who died or were disabled in "Operation Eagle Claw," the military attempt to rescue hostages in Iran; and Section 295.017, F.S., for children of servicemen who died or were disabled in the Lebanon and Grenada military arenas. Such benefits may be paid for the dependent children of those who have a total and permanent disability rating of 100 percent for retirement pay from any of the branches of the U.S. Armed Services.

Section 295.085, F.S., is amended to require the Department of Administration to promulgate rules to ensure that veterans entitled to employment preference as provided in Section 295.07, F.S., are given special consideration at each

step of the employment selection process and are given special consideration in employee retention when layoffs are necessary. A new section, Section 295.101, F.S., provides that a veteran's employment preference is expired when a veteran has applied and been employed by the state or any political subdivision. The act amends Section 295.08, F.S., deleting the expiration of employment preference point values for competitive positions afforded to veterans.

The act also amends Section 295.11, F.S., maintaining the authority of the Division of Veterans' Affairs to investigate claims by aggrieved veterans relative to employment preference by state agencies or political subdivisions, and further provides that the Division, upon request of an aggrieved veteran, shall appear before the Public Employees Relations Commission (PERC) to present the findings of its investigation for an administrative determination by PERC. Further, Section 295.14, F.S., is amended to authorize PERC to compensate a veteran in the event of violation of the employment preference provisions.

The act affords an exemption from entrance examination requirements and hiring procedures administered by the Department of Administration for any honorably discharged veteran of a specified wartime service who has a service-connected disability rated at 30 percent or more by the Veterans Administration or the Armed Services of the United States and who is a Florida resident. The veteran must meet the minimum eligibility requirements for the position or be

certified by vocational rehabilitation as an appropriate candidate for the position. The probationary period for a disabled veteran employed under these exemptions is extended to 1 year, rather than the general probationary period of 6 months.

COMMITTEE SUBSTITUTE FOR SENATE BILL 227 (CHAPTER 87-404) reenacts Section 14.22, F.S., and renames the Governor's Council on Physical Fitness and Sports as the Florida Governor's Council on Physical Fitness and Amateur Sports within the Executive Office of the Governor (EOG). The Council was scheduled for repeal October 1, 1987, in accordance with the Sundown Act. The terms of the members, who are appointed by the Governor, are modified to be 4-year terms rather than the present 3-year terms. The Council's duties include the promotion of physical fitness and amateur sports, international and national amateur athletic competitions, and the development of Olympic training centers. The Council's responsibilities relative to developing, promoting, and coordinating professional sports activities are deleted.

The law further amends and revives the provision of Section 14.22, F.S., establishing the Sunshine State Games, a statewide amateur Olympic-styled sports festival, and provides for the creation of a direct support organization by the Governor to assist the Council in its duties. The direct support organization is required to operate under a contract with the EOG, which is to provide that certain requirements be met. The governing body of the direct support organization,

the articles of incorporation, and the budget, must be approved by the Council and the Governor. The contract also provides for the expenditure of any state revenues and that the organization must operate on the state fiscal year. The EOG must conduct a performance review and the organization must provide for an annual financial and compliance audit by an independent certified public accountant. This audit must be submitted for the approval of the EOG and the Auditor General.

The Council is scheduled to repeal on October 1, 1997, in accordance with the Sundown Act, Section 11.611, F.S.

Boards, Councils, and Commissions

COMMITTEE SUBSTITUTE FOR HOUSE BILL 374 (CHAPTER 87-172), which takes effect upon becoming a law, relates to the membership requirements of 27 statutorily created boards, councils, and commissions. No additional members are required for these entities but the membership of the specified boards, commissions, and councils must include a person who is 60 years of age or older. If no member who is 60 years of age or older is serving on a particular entity when the next vacancy occurs in certain categories such as lay membership, nonprofessional membership, consumer advocate membership, and other lay categories, the appointment of the 60-year old or older member must be within that category.

Fifteen regulatory boards within the Department of Professional Regulation are affected by this legislation: Medicine (Section 458.307, F.S.); Osteopathic Medical Examiners

(Section 459.004, F.S.); Chiropractic (Section 460.404, F.S.); Podiatric Medicine (Section 461.004, F.S.); Optometry (Section 463.003, F.S.); Nursing (Section 464.004, F.S.); Pharmacy (Section 465.004, F.S.); Dentistry (Section 466.004, F.S.); Nursing Home Administrators (Section 468.1665, F.S.); Funeral Directors and Embalmers (Section 470.003, F.S.); Accountancy (Section 473.303, F.S.); Real Estate Commission (Section 475.02, F.S.); Architecture (Section 481.205, F.S.); Opticianry (Section 484.003, F.S.); and Psychological Examiners (Section 490.004, F.S.). Twelve other boards, commissions, and councils are also affected: Housing Advisory Council (Section 20.18, F.S.); Advisory Council on Intergovernmental Relations (Section 163.704, F.S.); State Library Council (Section 257.02, F.S.); Commission on Veterans' Affairs (Section 292.04, F.S.); Medical Advisory Board (Section 322.125, F.S.); Public Service Commission Nominating Council (Section 350.031, F.S.); Cancer Control and Research Advisory Board (Section 385.201, F.S.); Developmental Disabilities Planning Council (Section 393.001, F.S.); Hospital Cost Containment Board (Section 395.503, F.S.); State Advisory Council of Speech-Language Pathology and Audiology (Section 468.144, F.S.); Florida Consumers' Council (Section 570.543, F.S.); and the Commission on Human Relations (Section 760.03, F.S.).

Amendments made by this act do not apply with respect to a particular board, commission, or council until the next vacancy or expiration of a term occurs.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1181 (CHAPTER 87-130) transfers the Governor's Commission on Advocacy for Persons with Disabilities to a private nonprofit corporation. The act authorizes the Governor to designate, by executive order, a private, nonprofit corporation to receive federal funds for the implementation of the Florida Protection and Advocacy System to protect the rights of persons with developmental disabilities and the mentally ill in accordance with federal law. All powers, responsibilities, and property of the Governor's Commission on Advocacy for Persons with Disabilities, currently established by Executive Order 86-224 in the Executive Office of the Governor (EOG), are transferred to the designated nonprofit corporation.

The executive order designating the nonprofit corporation is to include provisions for the governance and the organizational structure of the corporation. The nonprofit organization must meet the federal requirements and has access to client records and facilities as specified in federal law. Employees of the nonprofit corporation will no longer be state employees and therefore, are not entitled to state employment benefits. State liability coverage is provided to the nonprofit corporation by the Division of Risk Management in the Department of Insurance.

HOUSE BILL 627 (CHAPTER 87-33), which took effect upon becoming law on May 27, 1987, amends Subsections 267.0612(1) and (2), F.S., to increase the membership of the Historic Preservation Advisory Council from nine to twelve members.

This Council, created within the Department of State and appointed by the Secretary of State, advises and assists the Division of Historical Resources of the Department in identifying, acquiring, and preserving historical and archaeological sites and properties, in evaluating sites for historic markers, and in reviewing and recommending applications for grants-in-aid.

Additionally, Paragraph 267.0611(3)(i), F.S., is amended to provide that expenditures by the Division to protect or preserve historical properties leased by the Division from the Board of Trustees of the Internal Improvement Trust Fund may be exempt from the competitive bid requirements of Chapter 255, F.S., relating to public property and publicly owned buildings, and of Chapter 287, F.S., relating to procurement of personal property and services. This exemption allows the Division to employ the most qualified practitioners to make sensitive repairs to historical properties.

HOUSE BILL 1316 (CHAPTER 87-146) amends Part IV of Chapter 266, F.S., which establishes the Historic Tampa-Hillsborough County Preservation Board of Trustees and authorizes the governing bodies in and of Hillsborough County to establish architectural review boards and to establish historical districts. The act revises the membership requirements of architectural review boards to allow the governing bodies of Hillsborough County, Tampa, Temple Terrace, and Plant City to each have a separate architectural review board. [With separate review boards, each of the local

governments is eligible to qualify for matching funds from the state's federal Historic Preservation Fund annual apportionment.] The act further clarifies that these local governing bodies are authorized to establish landmarks and landmark sites, wherever they may be located rather than only in the historic districts, on the recommendation of the area's historic preservation board.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 170 (CHAPTER 87-154) creates Section 872.05, F.S., authorizing the Division of Historical Resources of the Department of State to assume responsibility for, and jurisdiction over, certain unmarked human burials, including the associated burial artifacts as well as the human skeletal remains. The act offers the same protection to unmarked graves and burials which is currently provided by law in Chapter 872, F.S., to marked human burials. The law provides a procedure for proper treatment of such human remains when they are discovered.

When unmarked burials are found other than during an archaeological excavation authorized by the state, all activity that may disturb the burial is to cease immediately and the district medical examiner is to be notified. If the burial is determined to be 75 years old or more, the medical examiner is required to notify the State Archaeologist of the Division of Historical Resources, and the Division may assume jurisdiction if it considers the site may be of historical significance. If an unmarked burial less than 75 years old is discovered during an authorized archaeological excavation, the archaeologist is

required to notify the district medical examiner and all activity which may disturb the burial is ceased until the district medical examiner authorizes work to resume.

The act also provides criminal penalties for persons who violate the provisions of the law. The Division is to adopt rules regarding the public display of human remains.

The act takes effect October 1, 1987.

Public Access to Meetings and Records

One proposal relating generally to public access to meetings and records, access to state security systems, was enacted into law. Other enactments relate to more specific access provisions under the Open Government Sunset Review Act.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1184 (CHAPTER 87-355), which was effective when it became law, protects from disclosure the security systems for any property owned by or leased to the state or a political subdivision, and all records and meetings relating directly to or revealing those security systems. Those security systems are exempt from the disclosure requirements of the public records law, the public meetings law, and any other law or rule requiring public access or disclosure.

Open Government Sunset Reviews

[The Open Government Sunset Review Act (OGSRA), Section 119.14, F.S., provides for the periodic repeal of all exemptions to the public meetings and public records laws over the 10-year period from 1986-1995, following legislative

review. The OGSRA sets forth criteria for assessing the need to maintain the exemption and for determining whether an exemption serves an identifiable public purpose. As stated in the act, the Division of Statutory Revision of the Joint Legislative Management Committee, certifies by August 1 of each year, those exemptions scheduled for repeal October 1 of the following year to the President of the Senate and the Speaker of the House. Seven exemptions, described in the following paragraph, were certified August 1, 1986.]

Three of the exemptions certified are addressed in this section. Four additional measures resulting from OGSRA reviews, addressed elsewhere in the Summary of General Legislation, are: SENATE BILL 209 (CHAPTER 87-363), a general election law reform bill which also includes legislation resulting from OGSRA review of the confidentiality of voter registration records; HOUSE BILL 95 (CHAPTER 87-59), which reenacts the confidentiality of records containing complaints against law enforcement officers; SENATE BILL 107 (CHAPTER 87-60), which reenacts the provision for the confidentiality of county land purchase records, including appraisals, offers, and counteroffers; and HOUSE BILL 96 (Chapter 87-7), which reenacts with clarifications the public records exemption for state employee deferred compensation records.

SENATE BILL 104 (CHAPTER 87-16), revives and readopts without change Sections 63.022 and 63.162, F.S., the public records exemptions granted to adoption records and records of adoption proceedings.

[The adoption process begins with the filing of an adoption petition in the circuit court and is followed by an investigation of the adoptive home conducted by the Department of Health and Rehabilitative Services (DHRS). Independent adoption agencies licensed by DHRS may also conduct investigations of the prospective adoptive parents as an initial screening tool in the adoption process. Written reports from the independent agencies and from DHRS are filed with the court and become part of the permanent adoption record. At the conclusion of the hearing process, the court usually enters a judgment of adoption. Within 30 days following the judgment, a new birth certificate listing the names of the adoptive parents is issued by the state registrar of vital statistics. If the adoptee was born in Florida, all copies of the original birth certificate maintained by the county health departments are retrieved by the state registrar and replaced with copies of the new birth certificate.]

Throughout these proceedings, and pursuant to the expression of legislative intent provided in Section 63.022, F.S., all records are confidential except as provided in Section 63.162, F.S. This section states that all papers and records in adoption of a minor, regardless of their origin, are subject to inspection only by order of the court.

HOUSE BILL 190 (CHAPTER 87-9) amends Section 163.01, F.S., reenacting with modifications the public records exemption granted to municipally owned utility companies involved in interlocal agreements, narrowing the exemption.

The term "interlocal agreement," as it is used in that section, refers to cooperative efforts between public utility companies and private companies, as well as joint utility ventures between two or more municipalities. The Florida Interlocal Cooperation Act of 1969, Section 163.01, F.S., states that the intent of the statute is to, ". . . permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities"

The amendments to Section 163.01, F.S., conform the wording of this exemption to similar exemptions granted to private utility companies, telephone companies, and water and sewer companies. The exemption now specifically defines the term "proprietary confidential business information" as the basis for the exemption. [The term includes such things as: trade secrets, internal audit reports, security measures and systems, formulas, and patterns of devices.]

HOUSE BILL 97 (CHAPTER 87-8) reenacts Section 110.201, F.S., which exempts from public records law the discussions and work products between the Governor and the Department of Administration, the Administration Commission or agency heads, or between any of their respective representatives, relative to collective bargaining for state employees.

Administrative Procedure Act

Three measures relating to Chapter 120, F.S., the Administrative Procedure Act, became law. Of these, two deal

with administrative hearings and rulemaking, while the third concerns distribution of the Florida Administrative Code.

HOUSE BILL 227 (CHAPTER 87-54) reenacts and amends Chapter 86-108, Laws of Florida, to clarify legislative intent and to restore provisions of Section 120.57, F.S., omitted during enactment of that Chapter. [In 1986, during the process of amending the bill which ultimately became Chapter 86-108, Laws of Florida, Subparagraphs 5. through 13. of Paragraph 120.57(1)(b), F.S., were inadvertently omitted. The provisions of those subparagraphs arguably were repealed by omission.]

In reenacting Chapter 86-108, Laws of Florida, the act provides that all pleadings, motions, or other papers filed in an administrative proceeding under Subsection 120.57(1), F.S., must be signed by the party, his attorney, or his qualified representative. The signature certifies that the signatory has read the document, and that to the best of his knowledge, the document is not interposed for any improper purpose, such as a frivolous purpose, or to harass, unnecessarily delay, or needlessly increase litigation costs. The act also authorizes a hearing officer to impose reasonable expenses, including a reasonable attorney fee, if the document is signed in violation of the provisions of the act.

Provisions reenacting Chapter 86-108, Laws of Florida, also create a new Subsection 120.57(6), F.S., which provides for an expedited review of petitions challenging the issuance of a construction or operating permit implementing a conceptual review permit issued by a water management district.

In amending Chapter 86-108, Laws of Florida, the act reenacts and renumbers as Subparagraphs 6. through 14., omitted Subparagraphs 5. through 13. of Paragraph 120.57(1)(b), F.S., which assure due process for parties in formal administrative hearings, and provide procedures for formal administrative hearings, hearings on applications for licensing and merger of financial institutions, and consumptive use permit hearings.

By express provision, the act operates retroactively to the effective date of Chapter 86-108, Laws of Florida, which was July 1, 1986.

COMMITTEE SUBSTITUTE FOR SENATE BILL 608 (CHAPTER 87-385) authorizes recovery of costs and a reasonable attorney fee from certain parties to formal administrative proceedings, and makes limited procedural and clarifying modifications to agency rulemaking proceedings, under Chapter 120, F.S.

In administrative proceedings under Section 120.57, F.S., the prevailing party is entitled to recover costs and a reasonable attorney fee from a nonprevailing adverse party, if the hearing officer determines that the nonprevailing adverse party participated in the proceeding for an improper purpose, defined as participation primarily for frivolous reasons, or to harass, delay, or increase the costs of licensing or approval of an activity. An improper purpose is rebuttably presumed when the nonprevailing adverse party, a party failing to substantially change the outcome of proposed or final agency action in the proceeding, is determined by the hearing officer to have been unable to establish the factual or legal merits of

its position in at least two prior administrative proceedings involving the same nonagency prevailing party and the same project, if the factual or legal position of the nonprevailing adverse party was cognizable in the prior proceedings. The provisions do not apply to a party who intervened in an existing proceeding on the side of an agency. An agency that is a party is not entitled to recover its costs or attorney fees, nor is it liable for costs or attorney fees, under the act.

The definition and application of an "invalid exercise of delegated legislative authority" provided by case law, which determines whether an agency rule is valid, will be provided in statutory law. Thus, the act specifies that the Administrative Procedures Committee shall determine that a rule is an invalid exercise of delegated legislative authority when the agency has materially failed to follow applicable rulemaking procedures; when it has exceeded its grant of rulemaking authority; when its rule enlarges, modifies, or contravenes the specific provisions of the law implemented; when the rule is vague, fails to establish adequate standards, or vests unbridled discretion in the agency; or when the rule is arbitrary or capricious.

An agency is henceforth required to furnish the Administrative Procedures Committee a copy of any notice of appeal when a party seeks judicial review of final agency action in challenges to proposed or existing rules. The act eliminates duplication by deleting one of the two separate but

identical statements of the impact on small business required to be prepared by an agency for each rule the agency proposes.

The time within which an agency may request the assignment of a hearing officer from the Division of Administrative Hearings to conduct formal administrative proceedings is expanded from 10 to 15 days.

The act is effective on October 1, 1987.

SENATE BILL 621 (CHAPTER 87-322) amends Paragraph 120.55(4)(a), F.S., to delete the requirement that the Department of State furnish the Florida Administrative Code, without charge and upon request to each standing House and Senate committee, each legislator, the Secretary of the Senate, the Clerk of the House, as well as multiple copies to the state's various libraries and courts. [Free distribution of the mandated copies occurred until 1981, when the publishing of the Code was first contracted out to a private publishing company. Since then, none of the contracts between the Department and the publishing company has made provision for free copies to be distributed to any state agencies, so each set of the Code is now billed by the company to the receiving agency.] The act conforms the statutes to the actual practice that has been occurring since 1981, deleting language requiring free distribution of the Code.

The Florida Administrative Weekly, published by the Bureau of Administrative Code of the Department of State, will continue to be furnished without charge to agencies as provided in Paragraph 120.55(4)(a), F.S.

State Symbols and Holidays

SENATE BILL 565 (CHAPTER 87-18), creates Section 15.0385, F.S., to provide for the designation of the American Alligator as the official state reptile. [Chapter 15, F.S., provides that the Secretary of State is the custodian of official state papers and laws, the state flag, and the state seal. State symbols are also designated and described in this chapter. The newly designated state reptile joins ranks with other state symbols, including the Florida panther as the state animal, the manatee as the state marine animal, and the moonstone as the state gem.]

HOUSE BILL 183 (CHAPTER 87-410) designates the third Sunday in October of each year as "I Am An American Day" to commemorate those who have attained American citizenship.

Investigative Agencies and Patrol Services

COMMITTEE SUBSTITUTE FOR HOUSE BILL 590 (CHAPTER 87-135) amends Section 493.319, F.S., which provides for the licensing and regulation of private investigative agencies, watchmen, guard or patrol agencies, private investigators, guards, and repossessors. The act exempts persons who are regularly and exclusively employed to repossess motor vehicles or motor boats for a singular employer from the licensing and regulatory provisions of the chapter. A definition of "conviction," which is relevant to certain disciplinary actions or the denial to issue, renew, or revoke a license, would be added.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 172 (CHAPTER 87-274)

amends Chapter 493, F.S., which provides for the regulation of investigative and patrol services and the detection of deception examiners. The regulations are administered by the Department of State through its Division of Licensing. Current law provides that a Class "G" (statewide gun permit) license authorizes a licensee to carry a firearm, in full view, only in the course of performing licensed duties, and preempts county permit requirements for unconcealed firearms. The act, allows a person issued both a Class "C" (private investigator) license and a Class "G" license to carry a concealed firearm in the performance of his services throughout the state, in any location, while performing duties within the scope of the license.

The law is effective October 1, 1987.

The law further provides that all applicants and licensees of a Class "D" (watchmen, guard, or patrolmen) license are required, after October 1, 1987, to complete a minimum of 8 hours of professional training at a facility approved by the state. A person with a Class "D" license is authorized to provide unarmed services for licensed watchmen, guard or patrol agencies and, prior to this law, has not had any training requirement to obtain such a license. Standards and training requirements are provided in the law and providers of the training must be approved by the Department of State.

Section 493.3095, F.S., is created authorizing the Department to adopt rules for the establishment of reciprocal

licensure agreements with states or U.S. territories who have licensure requirements that are substantially the same as Florida's.

Regulation of Certain Entities

Legislation was enacted this year regulating specific entities, cemeteries and charitable solicitors.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 45 (CHAPTER 87-39), amends Sections 497.006 and 497.051, F.S., and creates Section 497.091, F.S., regarding the regulation of private cemetery companies.

The act takes effect October 1, 1987.

Chapter 497, F.S., establishes the authority of the Department of Banking and Finance (DBF) to regulate cemeteries. In Section 497.006, F.S., the criteria for establishing the need for new cemetery facilities has been amended so that DBF will consider both licensed and unlicensed cemeteries, along with 30-year population projections, when establishing the need for issuing licenses for new cemetery facilities.

Section 497.051, F.S., which requires cemetery companies to file annual financial reports with DBF, is repealed. DBF retains the power to require cemetery companies to submit detailed financial information at any time.

A new provision, Section 497.091, F.S., allows cemetery companies to presume abandonment of any burial right, and resell such right, if the owner has not notified the company of his current address for at least 50 consecutive years. The 50

years retroactively includes rights sold prior to October 1, 1937. The presumption of abandonment includes grave spaces, plots, mausoleums, columbaria, and other places of interment.

Before presuming abandonment of a burial right, the cemetery company must first attempt to contact the owner, by certified mail, at his last known address. If the company is unable to contact the owner, DBF will notice the abandonment and impending sale in a newspaper of general circulation in the owner's last known county of residence pursuant to the general provisions for abandoned property in Chapter 717, F.S. If burial rights are jointly owned and adjoining, and any one of the spaces has ever been used, then there is no such presumption of abandonment.

After prescribed notice, the abandoned sites can be resold at public sale by the cemetery companies. The proceeds from the public sale are deposited with DBF after the company deducts 10 percent of the sale price for its care and maintenance trust fund and an additional amount of up to 10 percent for its own administrative costs.

Those whose burial rights have been presumed abandoned and have been sold, or their heirs, can later claim equivalent rights in the cemetery, or they may choose to claim the proceeds from resale of the site, which have been deposited with DBF. Cemetery companies are required to set aside space equal to 10 percent of the abandoned sites sold for those whose burial rights are presumed abandoned, in the event such owners ever desire equivalent space in the cemetery.

Cemetery owners are required to notify all future burial rights owners, in the contract for sale and the certificate of ownership, of the requirement to keep the company informed in writing of current residential addresses. The companies must notify present owners of burial rights of this requirement by letter at their last known addresses.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 780 (CHAPTER 87-283) amends Chapter 496, F.S., which provides the "Solicitation of Charitable Contributions Act," and the "Law Enforcement and Emergency Services Solicitation and Contributions Act" to increase the protection of persons being solicited for contributions and purchases. The revisions clarify existing law, require additional reporting by organizations and solicitors, require additional monitoring and enforcement by the Department of State, and increase certain registration fees.

The act takes effect October 1, 1987.

Definitions in both acts are revised. The definitions of "charitable organization" and "charitable purpose" are broadened to include areas such as scientific, health, environmental, civic, and arts interests. The definition of "professional solicitor" is expanded, and certain professional consultants and persons having possession of solicited funds are required to adhere to specific requirements of the law.

Charitable organizations and law enforcement and emergency services solicitors are subject to additional and more detailed reporting requirements. Registration fees are

increased and fees for some services are added. Certain exemptions from both acts are deleted, such as charitable organizations with no more than 100 contributors are now required to comply with the requirements of the law if they solicit more than \$10,000 in the previous fiscal year. Increased requirements for solicitation by telephone are imposed.

Organizations are required to file disclosure statements, including the amount of contributions received and the actual amount used for the stated purpose for which they were solicited, to the Department of State. Solicitors are required to notify person solicited of the availability of these statements; such statements are to be supplied upon request. The Department of State's enforcement authority of the provisions of the law are increased and additional penalties are provided for violations of provisions of the acts.

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Escapees, arrest warrant, issuance by Corrections Department; bail, bond or release on own recognizance, ineligibility, CS/H 992(87-211)

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Human beings dying by disease, injury or toxic agent resulting
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Sewerage effluent diversion and deep well injection system; construction, CS/H 1350(87-97)

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Accident involvement; reporting as soon as practicable; leaving the scene without taking certain actions; penalties, CS/S 795(87-392), CS/H 1467(87-243)

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skills re qualifying for employment; certain reporting,
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Alligator trapping and management program; state-sanctioned sales, notice; hides, products marketing; tagging and study, CS/H 763(87-199)

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Georgia residents, 65 or older; reciprocity with Florida residents; prohibits trout fishing stamp assessment under Georgia law, CS/H 577(87-261)

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Boat citation forms, preparation in conjunction with Natural Resources Department; supplied to every law agency, CS/S 795(87-392)

Highway patrol officers; Law Enforcement Trust Fund established for deposit of criminal, forfeiture actions revenues, S 1202(87-401)

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Organ donors; registration cards, microfilm recordation; withdrawals, notations, CS/S 377(87-372)

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Community college project; acquisition of site and buildings, renovation and remodeling, H 686(87-3)

Historic Tampa-Hillsborough County Preservation Board of Trustees; landmarks, landmark sites, preservation, H 1316(87-146)

Small Business Health Access Corporation Act, created; group health insurance coverage for employees of small businesses, CS/H 1384(87-92)

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Artifacts, relics and historic items reflective of state's agricultural history; acquire, preserve and exhibit, H 99(87-78)

Graves and burials, discovered during archaeological excavation; notice to medical examiner and State Archaeologist, CS/H 170(87-154)

Historic Tampa-Hillsborough County Preservation Board of Trustees; landmarks, landmark sites, preservation, H 1316(87-146)

Historical property preservation, competitive bid requirements; exemption, H 627(87-33)

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days after signing agreement, CS/S 55(87-344)

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public or designated group, CS/S 55(87-344)

Salespersons, pleas of guilty or no contest; morals or drug
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Trauma care services available hospitals in state; study and
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LP GAS

Liquefied petroleum gas equipment and service systems, sale of;
consumer duties re records and reports deleted, S 45(87-34)

Transportation; safety rules and regulations; compliance,
CS/CS/S 123(87-270)

MALPRACTICE

Attorney fee awards; judgments against insurer and in favor of
residents covered by group health insurance policies,
H 428(87-278)

Medical

Medical review committee, inclusion of Correctional Medical
Authority health care providers, CS/S 1161(87-342)

MARRIAGE

Certificates, display copy; issuance for \$25 fee; funds used for
Improved Pregnancy Outcome Program, CS/S 693(87-387)

MARRIED PERSONS

Sex therapy, practice by licensed persons; confidentiality
between practitioner and client, CS/H 58(87-252)

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MATERNITY AND NEWBORN SERVICES

Developmental intervention and parent support and training
programs; follow-up services high-risk infants and families,
H 1453(87-290)

Drug-dependents; harm meaning expanded to include excessive
corporal punishment and newborn infant, CS/H 155(87-90)

High-risk or handicapped infants and preschool children, day care
and preschool programs; diagnostic and learning centers,
S 1123(87-339)

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MATERNITY AND NEWBORN SERVICES (Continued)

Newborn infant drug-dependents; aggravated battery; torturing children, CS/H 155(87-90)
Obstetrics, indigent health care coverage with approval of Health and Rehabilitative Services Department, CS/H 1384(87-92)
Pediatric health care; extended care centers; licensing; standards, enforcement; construction or renovation of centers, H 1453(87-290)

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Court-ordered mediation and nonbinding arbitration; referral limitation; mediator training, CS/H 54(87-133), CS/H 379(87-173)
Family and child in need of services; third-party encouragement and resolution of disputes by agreement, CS/H 54(87-133)

MEDICAID

Alcohol and mental health services, community; certain federal and state financial participation exempt, CS/H 603(87-244)
Health units; medicaid eligibles procedures and forms review, CS/H 1384(87-92)
Ineligibles, comprehensive long-term financing study, CS/S 359(87-371)
Medical professionals practicing in underserved areas; nurse midwives, nurse practitioners and physician's assistants included, CS/CS/H 1008(87-212)
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Poverty stricken families; elderly, disabled, children 2 to 5 years old, pregnant women, CS/H 1384(87-92)
Pregnant women, children, elderly persons and disabled persons; medicaid program expanded (SOBRA), CS/H 1384(87-92)
Prepaid health care plans; certain financial and actuarial information re clients, release prohibited, S 380(87-313), CS/S 799(87-329), CS/H 1384(87-92)
Psychiatric services, CS/H 1384(87-92)
Third-party payments for medical services; cooperative agreements re information supplying, CS/S 515(87-377), CS/S 631(87-95)

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Disciplinary proceedings; grounds for discipline set out, S 99(87-359)
Human beings dying by disease, injury or toxic agent resulting from employment; notice to kin six hours prior to autopsy, CS/H 338(87-166)
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Presumptive death certificates, filing when body is not recovered, CS/S 693(87-387)
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MEDICAL PRACTICE

Medical clinics, nonprofit corporation, incorporation qualifications, CS/H 1221(87-296)
Medical corporations, out-of-state; shareholder or sole member nonprofit corporations to practice medicine and research, CS/H 1221(87-296)

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MEDICAL PRACTICE (Continued)

Practitioners; license by endorsement; requirements set out;
faculty appointment, employed by nonprofit corporation,
validity, CS/H 1221(87-296)

MENTAL HEALTH

Incompetency; circuit and county courts, concurrent jurisdiction;
certain actions, S 419(87-314)

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on-call physician required, CS/H 921(87-209)

State and federal financial participation portion of Medicaid
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METROPOLITAN PLANNING ORGANIZATIONS

Members; county commissions and superintendent of schools in each
county covered, CS/H 373(87-61)

MIAMI, CITY OF See: DADE COUNTY

MIDWIFERY

Medically underserved areas; program to include certified nurse
midwives, nurse practitioners and physicians assistants,
CS/CS/H 1008(87-212)

MILITARY

Reserve members of Armed Forces; discrimination prohibited,
S 585(87-381)

MILITIA, ORGANIZED

Training on duty on federal status; nonliability for lawful acts,
S 567(87-379)

MILK AND MILK PRODUCTS

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MINES AND MINERALS

Geophysical activities, furnish to Resource Management Division;
wrongful disclosure, penalties; fee-setting standards changed,
CS/H 537(87-183)

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requirements, exemption circumstances, CS/H 537(87-183)

MINORITIES

Contract-lettings, Transportation Department; notice requirements
for socially and economically disadvantaged businesses,
CS/H 124(87-93)

Lottery, participation by minority business enterprises
encouraged; education training programs, CS/CS/H 1247(87-65)

Socially and economically disadvantaged individuals, definition
revised, CS/H 124(87-93)

MINORS

Boot Camps, youthful offenders; establishment, CS/S 124(87-58)

Child found to be dependent; permanently committing to Health and
Rehabilitative Services Department or child-placing agency,
CS/S 1062(87-397), H 1408(87-289)

Child health assistance program for non-Medicaid eligible
children, CS/H 1384(87-92)

Child in need of services, defined to include runaways, truants
and disobedient children, CS/H 54(87-133)

Children in Foster Care; performance agreement or permanent
placement plan; periodic review, report; parental rights
termination, H 1408(87-289)

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MINORS (Continued)

Children in need of services, District VII, Health and Rehabilitative Services Department; pilot program (Orlando), CS/H 129(87-153)
Circuit and county courts; concurrent jurisdiction re certain actions, S 419(87-314)
Dependency; petition for termination of parental rights; filing time, CS/S 1062(87-397), H 1408(87-289)
Drug dealers, adult; delivery to minors; five-year minimum imprisonment, CS/H 1467(87-243)
Employee screening re summer youth camps, H 1409(87-238)
Guardian ad litem or other advocate to represent minor in criminal proceedings as victim or witness; powers and duties prescribed, CS/H 1467(87-243)
Horseraces, Breeder's Cup meet; attendance permitted; prohibits wagering, CS/S 468(87-406)
Involuntary placement; review by designated physician or on-call physician required, CS/H 921(87-209)
Parent and child disputes; court-ordered mediation, CS/H 54(87-133), CS/H 379(87-173)
Youth Conservation Corps program established Office of Civilian Conservation in Natural Resources Department, H 36(87-272)

MISSING CHILDREN

Birth records, flagging by State Registrar of Vital Statistics, CS/S 607(87-384)
Born outside of state and missing; State Registrar of Vital Statistics to notify birth state that child is reported missing, CS/S 607(87-384)

MOBILE HOMES

Dealer bonds; contracts for improvements included in bond provisions, CS/H 73(87-150)
Developer's filing fees and unit fees, increased; deposited Land Sales, Condominium and Mobile Homes Trust Fund, CS/S 142(87-102)

Parks

Eviction

Based upon change of land use, procedures governing; repealer repealed, CS/S 401(87-117), CS/H 73(87-150)
Lot fees, annual; rules and regulation, enforcement; sale of parks, CS/S 401(87-117)
Recreation districts, traffic law enforcement by municipal police officers authorized, CS/H 483(87-178)
Seasonal or temporary living quarters; recreational vehicles redefined to clarify, H 685(87-193)

MONEY ORDERS, SALE OF

Log, maintenance of seller of money order; recording, \$300 or more; buyer's name, residence and proof of identity, CS/H 1467(87-243)
Sale; certain information required; use re furtherance of criminal activity; penalties, CS/H 1467(87-243)

MOPEDS AND MOTOR-DRIVEN CYCLES

Human propulsion, no more than three wheels, two brake horsepower and speed not greater than 30 miles per hour, H 225(87-161)

CONTINUED

MOPEDS AND MOTOR-DRIVEN CYCLES (Continued)

License Taxes

Additional \$2.50 fee; deposited Accident Report Trust Fund,
H 225(87-161)

Road rules and overall restrictions generally, H 225(87-161)

Safety education program, H 225(87-161)

MORTGAGES AND MORTGAGE BROKERS

Affiliated transactions involving interested shareholders,
requirements; disinterested directors, powers specified,
H 358(87-257)

Foreclosure in equity; sever for separate trial all counterclaims
against foreclosing mortgagee, CS/H 1153(87-217)

Notes secured by mortgage, prepayment; charge, fee or penalty
prohibited, S 939(87-351)

Rent assignments; provision allowed, CS/H 1153(87-217)

MOTOR CARRIERS

Apportionable vehicle defined as gross vehicle weight in excess
of 26,000 pounds with three or more axles, CS/CS/H 761(87-198)

Commercial Vehicles

Identification display; name, city or town or place of domicile
of vehicle owner or motor carrier with vehicle unit number,
CS/CS/S 123(87-270)

Persons under the age of 18 may not operate,
CS/CS/S 123(87-270)

Truck defined re weight, connecting devices, carrying of goods,
CS/CS/H 761(87-198)

Unlawful operation; injunctions, CS/CS/S 123(87-270)

Drivers, on duty or drive; amount of time, limitation; time cards
submitted to Transportation Department, CS/CS/S 123(87-270)

Florida-based vehicles; decals; intrastate mileage only,
CS/CS/H 761(87-198)

International registration plan defined to be reciprocity
agreement with United States and Canada; record inspections;
hearings, CS/CS/H 761(87-198)

Liability insurance or surety bond; requirement for operation,
CS/CS/H 761(87-198)

Motor fuel use tax functions, Highway Safety and Motor Vehicles
Department administrative authority, CS/CS/H 761(87-198)

Operators, driver licenses; unable to supply proof of valid
license; suspension clearance by clerk of court,
CS/CS/H 761(87-198)

Splash and spray, fenders, covers; haulers of agricultural
products, horticultural or forestry products, CS/H 337(87-165)

Splash and spray, fenders, covers; trucks and trailers weighing
certain number of pounds, CS/H 337(87-165)

Tax

Liability, 10-day notice re filing incorrect or fraudulent
report; estimates of due and unpaid tax, CS/CS/H 761(87-198)

Nonpayments; warrants for collection; levy and sale of goods or
chattels re payment, CS/CS/H 761(87-198)

Trip permits, biennial issuance, CS/S 145(87-99)

Unsafe vehicles, operation; traffic citations by any traffic
enforcement officer, CS/CS/S 123(87-270)

MOTOR FUEL TAX

Aquaculture practice; refund of motor fuel tax, CS/S 282(87-367)
Commercial air carriers, licensing as aviation fuel dealers; tax due date specified, CS/S 145(87-99)

Commercial carriers; tax payments; liens for nonpayment; seizure of goods or chattels, sale by sheriff, CS/CS/H 761(87-198)

Commercial carriers; tax user fee revenues; distribution formula revised, CS/CS/H 761(87-198)

Constitutional gas tax; excise or license tax, imposition upon first sale or first removal from storage after imported into state, CS/S 145(87-99)

Excise tax, pollutants; expiration date changed to 10/01/97 in lieu of 10/01/92; legislative review, CS/CS/S 410(87-374)

First sale; exchanges, loans, gallon-for-gallon motor fuel or petro products with refiners prior to sale or removal, noninclusion, CS/S 145(87-99)

Importers, refiners and wholesalers, licenses; additional procedures for issuance, CS/S 145(87-99)

Local Option

Motor fuel and special fuel tax imposition; majority vote of county governing body required for extension, CS/S 145(87-99)

Special fuels, excise tax 6 cents per gallon; collection and disposition, CS/S 777(87-6), CS/CS/H 761(87-198)

Military post exchanges, sales to and by; tax imposition, CS/S 145(87-99)

Petrochemicals, included in petroleum products definition, CS/S 145(87-99)

Pollutants, taxable; reporting requirements revised, CS/S 145(87-99)

Refiner, importer, producer, wholesaler or dealer, pollutant tax refund or deduction, CS/S 145(87-99)

Shrinkage, refunds; credit against local option fuel tax, CS/S 145(87-99)

Special Fuels

Excise Tax

Additional imposed; deposited State Infrastructure Trust Fund, CS/S 777(87-6)

6-cent imposed; withholds; balance distributed monthly to counties; interlocal agreements, CS/S 777(87-6), CS/CS/H 761(87-198)

6 cents per gallon; collection and disposition, CS/S 777(87-6), CS/CS/H 761(87-198)

Tax imposition; majority vote of county governing body required for extension, CS/S 145(87-99)

United States purchases; certain exempt from aviation fuel tax, CS/S 145(87-99)

Wholesalers of motor fuel; self-accrual and remission of taxes, certain circumstances; revocation of privilege; hearings, CS/S 145(87-99)

MOTOR VEHICLES

Certificates of title, alteration of VIN numbers or indicia of ownership vehicles; considered as contraband, CS/H 1467(87-243)

Child restraint requirements; school or commercial buses, farm tractor, trucks, 5,000 pounds or more, motorcycles; exceptions, H 775(87-200)

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MOTOR VEHICLES (Continued)

Chop shops, operation prohibited; felony of 3rd degree; restitution to victims; seizure and forfeiture of property, CS/H 1467(87-243)

Dealers, sales made at location or facility open to the general public; permits, CS/S 55(87-344)

Inspection

Air-quality nonattainment areas, six counties designated for five-year program, CS/CS/H 279(87-294)

Motor Vehicle Safety and Emissions Study Commission, created; study and reports of findings and recommendations, CS/CS/H 279(87-294)

Stations set up in six counties designated as air-quality nonattainment areas, CS/CS/H 279(87-294)

Licenses

Antique vehicles, historical Florida license plate; display in lieu of Horseless Carriage plate; authentication fee, H 740(87-197)

Collegiate license plates, Florida independent universities; file maintained until 10,000 applications are received, H 225(87-161)

Dealer license plates, \$27 annual use tax in addition to license tax, CS/S 145(87-99)

Marine boat trailers; temporary license tags, S 1202(87-401)

Net weights formula set out, CS/CS/H 761(87-198)

Paralyzed Veterans of America, organization name printed in lieu of numbers, H 202(87-160)

Racing event, public highway, street or public park; permitting; asphalt or paving restoration, H 1034(87-214)

Red lights, volunteer firemen or medical staff; restricted en route to fire scene or emergency, CS/H 196(87-157)

Towing

Vehicles on private property, towing; authority of businesses, CS/CS/H 761(87-198)

MOTORCYCLES

Driver improvement programs; implementation by Education Department, H 225(87-161)

Headsets, wearing solely for communicating with passenger on his vehicle or by radio with other vehicles allowed, H 225(87-161)

License Taxes

Additional \$2.50 fee; deposited Accident Report Trust Fund, H 225(87-161)

MOTORSPORT RACEWAY EXHIBITIONS

Racing event, public highway, street or public park; permitting; asphalt or paving restoration, H 1034(87-214)

MURDER

Cocaine and other controlled substances, trafficking; unlawfully killing human being; 3rd degree murder, CS/H 1467(87-243)

Criminals injured during commission of forcible felonies, buildings electronically protected; excusable homicide, CS/H 586(87-187)

Vessel homicide; refuses to stop and leaving accident scene; additional penalties, H 100(87-20), CS/H 1467(87-243)

MURPHY ACT LANDS

Settlers, procedures authorizing entrance to public lands on which they reside or have under cultivation; law repealed, S 313(87-115)

MUTUAL AID

Emergency assistance agreements, certain eliminated, S 568(87-380)

NATURAL RESOURCES, DEPARTMENT OF

Barnacle Addition (Dade County) acquisition, S 650(87-323)

Boat citation forms, preparation in conjunction with Highway Safety and Motor Vehicles Department; supplied to every law agency, CS/S 795(87-392)

Construction

Permits, excavation permits; issuance of certain prohibited, CS/H 1350(87-97)

Coral reefs, destruction; compensation, restitution or punitive damages for causing injury, CS/H 624(87-280)

Coral Reefs Restoration Trust Fund; transfer of unencumbered funds into Area of Critical State Concern Trust Fund, CS/H 562(87-281), CS/H 624(87-280)

Geophysical activities, furnish to Resource Management Division; wrongful disclosure, penalties; fee-setting standards changed, CS/H 537(87-183)

Geophysical testing activities; Department permitting requirements, exemption circumstances, CS/H 537(87-183)

Guana River Tract; acquisition by eminent domain, S 650(87-323)

Indian River Lagoons System Improvement and Management; research and monitoring project, development, CS/H 1350(87-97)

Jacksonville surface water improvement and management program evaluation impact on marine, crustacean, shell and anadromous fish, CS/H 1350(87-97)

Lake restoration projects, priority lists; cooperation with water management districts of state, CS/H 1350(87-97)

Land Acquisition Trust Fund, used for debt service bonds on prioritized lands and Save Our Coast bonds, CS/CS/S 711(87-96)

North Peninsula Tract; acquisition by eminent domain, S 650(87-323)

Oil exploration and drilling, dry or abandoned wells; plugging and complete restoration, CS/H 537(87-183)

Pollutants; site selection and cleanup; certain time extensions, grace periods; early detection program, rehabilitation; payment, CS/CS/S 410(87-374)

Rails to Trails Program, establishment; railroad rights-of-way acquisition; Department's duties, CS/S 778(87-328)

Save Our Everglades Tract - South Golden Gate Addition; acquisition of certain specified lands, S 650(87-323)

South Golden Gate Addition (Collier County); acquisition, S 650(87-323)

Specified parcels; eminent domain authority, time extended; certain parcels deleted, S 175(87-28)

Surface Water Improvement and Management Trust Fund created; prioritized surface water improvement program, need and designation, CS/H 1350(87-97)

Trap retrieval program; funding from Motorboat Revolving Trust Fund re retrieval of lobster and stone crab traps, closed season, CS/CS/S 392(87-116)

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NATURAL RESOURCES, DEPARTMENT OF (Continued)

Trap retrieval program; \$10 fee per trap, assessment of trap owners; recovered traps property of Department; exceptions, CS/CS/S 392(87-116), CS/S 644(87-120)

Youth Conservation Corps program established Office of Civilian Conservation, H 36(87-272)

NONPROFIT CORPORATIONS

Advocacy of Persons with Disabilities Commission; transfer to nonprofit corporation, CS/S 1181(87-130)

Condominium associations, comprised of no less than 10 and incorporated 1 year for purposes other than providing insurance, H 734(87-46)

Directors, nonpaid; nonprofit corporations and organizations; civil liability immunity, CS/S 1096(87-245)

Educational facilities, leasing, H 1108(87-284)

H. Lee Moffitt Cancer Center and Research Institute; established at University of South Florida, CS/S 757(87-121)

Medical clinics, incorporation, CS/H 1221(87-296)

Medical corporations, Medicaid and charity care; required to provide, CS/H 1221(87-296)

Medical corporations, out-of-state; shareholder or sole member nonprofit corporations to practice medicine and research, CS/H 1221(87-296)

NURSES

Licensing by endorsement; eligibility requirements changed, H 1438(87-240)

Medical education tuition; reimbursement program re medical professionals practice medically underserved areas, CS/CS/H 1008(87-212)

Medically underserved areas; program to include certified nurse midwives, nurse practitioners and physicians assistants, CS/CS/H 1008(87-212)

Occupational health nurse, inclusion in health professional definition, CS/H 802(87-202)

NURSING HOMES

Affordable and innovative facilities for persons with low- to moderate-income, CS/S 359(87-371)

Certified public accountants; affiliation with home, CS/H 1049(87-142)

Contract of residents, refund policy; personal effects up to \$500 and cash up to \$200, CS/S 359(87-371)

Emergency response device, installation in rooms; nonconsideration as personal service, CS/S 359(87-371)

Employee screening re child care, disabled persons, developmentally disabled, foster care, child care, day care facilities, H 1409(87-238)

Evacuation of facility; use of Nursing Home Resident Protection Trust Fund moneys, CS/S 359(87-371)

Health facility, nonprofit hospital or nursing home care services included, H 1398(87-237)

Licensing, date of birth and social security number of applicant required, CS/S 359(87-371)

Limited nursing services and temporary or intermittent personal services; nonlicensing; exceptions, CS/S 359(87-371)

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NURSING HOMES (Continued)

Medicaid ineligibles, comprehensive long-term financing study,
CS/S 359(87-371)
Residents, records; psychiatric progress notes and consultation
reports, release prohibited, CS/S 168(87-302)
Residents, records; release to spouse or guardian;
nonconsideration as part of deceased's estate; inspection
limitations, CS/S 168(87-302)
Sale or transfer of facility, 60-day notice; warranty deed or
lease agreement necessary, CS/S 359(87-371)
Sixteen or fewer beds and 17 or more beds; separate and distinct
standards, CS/S 359(87-371)
State Nursing Home and Long-Term Care Facility Ombudsman Council;
composition revised, CS/S 1013(87-396)

OPEN GOVERNMENT SUNSET REVIEW

Adoptions; public records exemption re custody and adoption of
children, S 104(87-16)
Clemency Review Board; public meeting and record disclosure
exemptions, S 131(87-300)
Collective bargaining, discussions and records; certain
exemptions revived and reenacted, H 97(87-8)
Deferred compensation plans, information exempt from public
record disclosure requirements specified, H 96(87-7)
Interlocal cooperation agreements, electric projects, H 190(87-9)
Law enforcement officers, complaints; confidentiality of records
and complaints, H 95(87-59)
Real property, purchase by counties; public inspection, certain
exemptions, S 107(87-60)
Tax-sheltered annuities, government agency employees; exemption
of public records requirements, H 96(87-7)
Voter registration records; public record disclosure
requirements, exemptions continued, S 209(87-363)

OPTICIANS

Continuing education requirements; board's authority to excuse
individuals or groups, S 957(87-335)

ORANGE COUNTY

Central Florida Expressway Authority, created, CS/H 1174(87-218)

ORGAN DONORS

Tissue donation; microfilming of certain registration cards;
withdrawals, notation; Highway Safety and Motor Vehicles Dept.
duties, CS/S 377(87-372)

ORGANIZED CRIME, COUNCIL ON

Sundown exemption, CS/S 189(87-362)

OSCEOLA COUNTY

Central Florida Expressway Authority, created, CS/H 1174(87-218)
Water resource investigation by Environmental Regulation
Department, CS/S 624(87-347)

PARI-MUTUEL WAGERING

Additional Day Operation

Dogracing

Certain permitholders, CS/S 837(87-38)

Permitholders and jai alai fronton permitholders, certain
counties, CS/S 837(87-38)

Harness tracks, CS/S 837(87-38)

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PARI-MUTUEL WAGERING (Continued)

Additional Day Operation (Continued)

Jai alai frontons; restrictions, CS/S 837(87-38)

Surtax, additional; tax on handle for certain additional days, CS/S 837(87-38)

Agriculture and Consumer Services Department duties re certain quarter horse racing activities deleted, CS/H 109(87-51)

Bookmaking redefined; consideration re taking bets, placing wagers with other bookmakers, one day five-wager receiver, CS/H 1467(87-243)

Galaxy; offtrack betting, CS/S 837(87-38)

Horseracing; minimum purse requirement, breeders' and owners' awards, CS/H 109(87-51)

License fees increased; drug-use by licensees during performances; drug tests, legal effects, CS/S 468(87-406)

Minors Attending

Breeder's Cup meet permitted; placing wagers or bets prohibited, CS/S 468(87-406)

Racetracks permitted; placing wagers or bets prohibited, CS/S 468(87-406)

Quarter Horse

Race meets, sum equal to breaks plus sum equal to one percent of all pari-mutuel pools; payment, CS/H 109(87-51)

Racing Promotion Trust Fund balances transferred to Quarter Horse Breeders and Owners Association, CS/H 109(87-51)

Simulcasting, permits; issuance certain counties for live broadcasts by simulcasting, CS/S 837(87-38)

PAROLE AND PROBATION

Bombs; making, possessing, throwing, placing, discharging or attempting to discharge resulting in death; parole ineligibility, S 283(87-368)

Clemency duties; Clemency Review Board, effective date postponed; commission membership; public meeting and records law exemption, S 131(87-300)

Commission

Business transactions anywhere in state; six members in lieu of five, S 131(87-300)

Electronic monitoring of prisoners on supervised release by Corrections Department, CS/H 992(87-211)

PAWNBROKERS

Property sold to pawnbroker; statement verifying ownership; false statements, penalty; convictions, restitution rightful owner, CS/H 1467(87-243)

Stolen property, recovery; records available to law enforcement officers having jurisdiction, CS/H 1467(87-243)

PENAL AND CORRECTIONAL INSTITUTIONS

Crime Prevention and Law Enforcement Study Commission, created, CS/H 1467(87-243)

Medical review committee, inclusion of Correctional Medical Authority health care providers, CS/S 1161(87-342)

Prisoners

Electronically monitored conditional release program; participation conditions, CS/H 992(87-211)

Employee Benefit Trust Fund; certain moneys use for training and recreational facilities construction, H 1356(87-233)

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PENAL AND CORRECTIONAL INSTITUTIONS (Continued)

Prisoners (Continued)

Environmental detention units, creation; use re beautifying

Florida and maintaining clean environment, H 1251(87-286)

Escapees, arrest warrant, issuance by Corrections Department;

bail, bond or release on own recognizance, ineligibility,

CS/H 992(87-211)

Forestry work camps, establishment; restrictions on inmate

placement, H 1251(87-286)

Gain-time

Cocaine or crack convictees; basic gain-time, ineligibility,

CS/H 1467(87-243)

Court costs and certain fees, nonpayment; denial prohibited,

H 1355(87-232)

Hospitals outside of institutions; treatment, H 1200(87-295)

Leased or Managed Work Programs, created; nonprofit corporation

organization, H 1251(87-286)

Public works projects, convicted sex offenders ineligible,

CS/H 992(87-211)

Release, transition assistance; vocational placement

counselors; orientation program; job placement and housing,

CS/S 100(87-298)

Transfer from prison to sheriff, specified circumstances;

temporary custody court orders, CS/H 992(87-211)

PER DIEM AND TRAVEL EXPENSES

Public officers and employee travelers, illness or injury;

subsistence allowance and other approved expense payments,

S 474(87-407)

PHARMACISTS AND PHARMACIES

Tampering or altering drugs, devices, drug labeling, cosmetics by

false information; prohibited; penalty, CS/S 8(87-57)

PHOSPHATE

Severance of oil, gas, sulfur, or minerals; excise tax proceeds

use for debt service payment on certain bonds,

CS/CS/S 711(87-96)

Severance tax; base rate, calculation method, base rate

adjustment and producer price index re tax determination;

revision, CS/CS/S 711(87-96)

PHYSICAL FITNESS AND AMATEUR SPORTS, GOVERNOR'S COUNCIL ON

Direct-support organization and council's role clarified;

contracts; audits, CS/S 227(87-404)

Physical Fitness and Sports, Governor's Council on; renamed,

CS/S 227(87-404)

Sundown exemption, CS/S 227(87-404)

PHYSICIANS AND SURGEONS

Burns, second- or third-degree injuries affecting 10 percent or

more of surface area of body; reports to sheriff's department,

H 1205(87-219)

Medicaid rate increase, office visits, total obstetrical care,

eligible children screening/diagnostics, home health services,

CS/H 1384(87-92)

Medical education tuition; reimbursement program re medical

professionals practice medically underserved areas,

CS/CS/H 1008(87-212)

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Normal retirement date, revised to include 10 years employment and 62 years old; 30 years including 4-year military service credit, CS/CS/S 399(87-373)

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Age 62 through 65 retired under state-administered retirement system or beneficiaries; subsidy payments, CS/CS/S 399(87-373)

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ordinance by governing board, CS/S 145(87-99)
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Subcounty special districts, imposition and levy of tax;
effective first day of second month following approval,
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2 percent sales tax collections, 5-cent increase documentary stamp tax and 5-cent/gallon increase in diesel fuel tax deposits, CS/S 777(87-6)

SALTWATER FISHING

Bonefish, snook, tarpon, sailfish, unintentional or accidental killing; \$100 civil penalty, CS/CS/S 392(87-116)
Coral reefs, destruction, compensation, restitution or punitive damages for causing injury, CS/H 624(87-280)
Crawfish, taking more than 24 per boat or 6 per person in 24-hour period by methods other than traps, cans, drums; \$25 fee, CS/CS/S 392(87-116), CS/S 644(87-120)

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Alien wholesale dealers

County, \$1,000 annual license fee, CS/S 644(87-120)
State, \$1,500 annual license fee, CS/S 644(87-120)

Residents

Wholesale dealer, County; \$300 license fee, CS/S 644(87-120)
Wholesale dealer, State; \$450 license fee, CS/S 644(87-120)
Restricted species endorsement; requirements onboard harvesting vessel; permanent restricted species endorsement, persons aged 62, CS/CS/S 392(87-116)
Saltwater products license required for more than 250-pound harvest per person, CS/CS/S 392(87-116), CS/S 644(87-120)
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Live bait shrimp; trawling restricted St. Johns River proper north of Acosta Bridge in Jacksonville, CS/H 798(87-201)
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Owners, \$10 retrieval assessment fee, CS/CS/S 392(87-116), CS/S 644(87-120)
Retrieval program; funding from Motorboat Revolving Trust Fund re retrieval of lobster and stone crab traps, closed season, CS/CS/S 392(87-116)
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Adult basic skills education program expenditure formula,
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Adult Literacy Plan; development and submission by Commissioner,
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English language, conversion of existing knowledge, training or
skills re qualifying for employment; certain reporting,
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Lifelong learning program, created Education Finance Program,
CS/S 799(87-329)

Registration of adult students, file maintenance beginning
1/1/88 concerning employment history re occupational training,
CS/S 799(87-329)

Board of Public Schools, abolished, CS/S 799(87-329)

Buses

Passing illegally, penalties increased, H 350(87-167)

School bus purchases, nonvoted capital improvement millage; use,
H 1108(87-284)

Caps adjustment supplement re calculation of annual state
allocation to each district, S 1326(87-247)

Construction contracts; specified provision re toxic or hazardous
substances storage, list adoption by Education Department,
CS/H 802(87-202)

Contraband sales; funds expended for drug abuse education, school
resource officer and crime prevention programs, S 539(87-77),
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Corporate inservice training programs, private institutions; use
of name or designation "college" or "university", H 166(87-48)

Drug and Alcohol Abuse Prevention Resource Center established
Health and Rehabilitative Services Department; direct
accessibility, CS/S 799(87-329), CS/H 1467(87-243)

Drug-selling, minor-to-minor; suspension public school, community
college or state university; drug abuse program completion,
CS/H 1467(87-243)

Drugs; elementary, middle or high school campuses; purchase or
possession with intent to purchase, mandatory minimum term,
CS/H 1467(87-243)

Early Childhood and Family Development Act; law repealed,
H 292(87-31)

Education Finance Program; weighted enrollment ceilings
calculation, groups 1, 2, 3, S 1326(87-247)

Educational facilities, leasing to nonprofit agencies,
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Grading system, standardized; higher grade point average values
for advanced classes; use by state universities re admission,
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Home education programs; repealer repealed, CS/H 211(87-64)

Instructional Materials

Disposal criteria provisions repealed, CS/S 799(87-329)

Dual enrollment students; purchase by school board or community
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Lifelong learning student, enrollment State Course Code Directory
instructional activity re quality of life or competencies,
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SCHOOLS (Continued)

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superintendent of schools notified by law agencies,
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Prevention Resource Center Advisory Council, created,
CS/S 799(87-329)

Private sector and education partnerships office, designation as
clearinghouse; coordinators; grants to school districts,
CS/S 799(87-329)

Psychologists, licensure examination; \$250 license fee,
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Reports, various educational employees; provisions repealed,
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Resource officer programs and crime prevention; certain drug
related funds used for, S 539(87-77)

School-age child care programs conducted by school districts,
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Educational facilities, leases or lease purchases; deferred
payment; equipment financing agreements; installment sale,
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Obligation incurrences, submission and approval of Education
Department requirement deleted, CS/S 799(87-329)

Teacher recruitment; powers and duties, CS/H 282(87-163)

Student services programs; requirement re submission to
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Anabolic steroids, use in schools; warning required,
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Arrest or conviction by law enforcement officers;
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Dropouts

Counselors to spend 75 percent of work-time counseling and
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Private sector and education partnership programs re
combatting, CS/S 799(87-329)

Drug and alcohol abuse education programs; early intervention,
evaluation and treatment, CS/H 1467(87-243)

Drug possession; waiver of discipline or expulsion deleted,
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Enrollment estimates by Legislature used by Department re
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- Weighted full-time equivalent student membership exceeding cap; fund proration, S 1326(87-247)
- Forgiveness policies, summer school attendance, counseling, volunteer and peer tutors, help sessions, homework hotlines, CS/S 799(87-329)
- Gifted program, New College, University of South Florida/Sarasota, CS/S 371(87-311)
- Grading system, "A" 94%-100%; "B" 85%-93%; "C" 75%-84%; "D" 65%-74%; "F" 0%-64%; "I" 0% equals "incomplete", CS/S 799(87-329)
- Graduate Scholars Fund, U.S. citizenship requirement for eligibility, CS/CS/H 1008(87-212)
- History, government, geography and economics; establishment of performance standards, CS/S 219(87-113)
- Interscholastic extracurricular student activities; participation based on passing 5 subjects and maintaining certain grade, H 722(87-196)
- Pledge of allegiance to flag recited at beginning of day, all public schools, CS/S 799(87-329)
- Pupil progression, effort to identify students grades 9 through 12 who have attained 1.5 grade point average or below, CS/S 799(87-329)
- Remediation; notice to parents, CS/H 282(87-163)
- Secondary level examination program; certain duties of Education Board deleted, CS/S 799(87-329)
- Social studies; establishment of minimum performance standards, CS/S 219(87-113)
- Speech and debate; course allowed to satisfy performing arts credit, CS/S 799(87-329)
- Summer school, interscholastic curricular activities; participation based on passing 5 subjects and grade point average, H 722(87-196)
- Tracking system for school dropouts, CS/S 799(87-329)
- Truants, included in child in need of services definition, CS/H 54(87-133)
- Undergraduate Scholars' award eligibility standards, grade point average 3.5 on 4.0 scale or International Baccalaureate diploma, CS/CS/H 1008(87-212)
- Veterans' dependent children, certain; state-paid educational opportunity, S 24(87-356)
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- Work experience program; eligibility requirements changed; financial assistance renewal, CS/S 223(87-304)

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Vocational-technical centers, students academic transcripts; contents; maintenance, CS/CS/H 1008(87-212)

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Convention development tax, levy outside boundaries of special taxing district (State Road 415 area) certain counties, H 380(87-258)

Downtown development authorities, independent special districts; consideration re millage determination; law repealed, S 268(87-103)

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Safety coordinators, Senior Management System status employee; requirement, H 555(87-185)

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HB-1111	-----	87-215
HB-1144	-----	87-216

REGULAR SESSION:

BILL NUMBER SESSION LAW

HB-1147	-----	87-144
HB-1153	-----	87-217
HB-1163	-----	87-268
HB-1165	-----	87-285
HB-1174	-----	87-218
HB-1195	-----	87-527
HB-1200	-----	87-295
HB-1205	-----	87-219
HB-1221	-----	87-296
HB-1247	-----	87-65
HB-1251	-----	87-286
HB-1255	-----	87-220
HB-1256	-----	87-47
HB-1257	-----	87-71
HB-1262	-----	87-221
HB-1272	-----	87-145
HB-1273	-----	87-222
HB-1276	-----	87-223
HB-1286	-----	87-83
HB-1287	-----	87-84
HB-1288	-----	87-85
HB-1289	-----	87-86
HB-1290	-----	87-224
HB-1291	-----	87-225
HB-1292	-----	87-226
HB-1293	-----	87-87
HB-1294	-----	87-227
HB-1297	-----	87-228
HB-1299	-----	87-251
HB-1306	-----	87-528
HB-1308	-----	87-229
HB-1316	-----	87-146
HB-1324	-----	87-230
HB-1335	-----	87-88
HB-1337	-----	87-287
HB-1345	-----	87-231
HB-1347	-----	87-269
HB-1350	-----	87-97
HB-1355	-----	87-232
HB-1356	-----	87-233
HB-1359	-----	87-234
HB-1365	-----	87-89
HB-1377	-----	87-235
HB-1384	-----	87-92

LIST OF GENERAL BILLS with
SESSION LAW REFERENCES - Continued

HOUSE BILLS

REGULAR SESSION:

BILL NUMBER	SESSION LAW
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HB-1385	----- 87-236
HB-1398	----- 87-237
HB-1403	----- 87-288
HB-1408	----- 87-289
HB-1409	----- 87-238
HB-1414	----- 87-529
HB-1421	----- 87-239
HB-1423	----- 87-530
HB-1428	----- 87-94
HB-1438	----- 87-240
HB-1440	----- 87-531
HB-1441	----- 87-241
HB-1453	----- 87-290
HB-1456	----- 87-242
HB-1457	----- 87-271
HB-1463	----- 87-532
HB-1466	----- 87-297
HB-1467	----- 87-243
HB-1471	----- 87-291
HB-1472	----- 87-292
HB-1479	----- 87-147
HB-1488	----- 87-533
HB-1506	----- 87-101

SPECIAL SESSION "A"

HB-1A	----- 87-1
HB-2A	----- 87-2

STATISTICS REPORT

	SENATE BILLS			HOUSE BILLS			T O T A L S		
	FILED	PASSED		FILED	PASSED		FILED	PASSED	
	SENATE/SENATE & HOUSE			HOUSE/HOUSE & SENATE			FIRST BOTH CHAMBER		
CONCURRENT RESOLUTIONS	0	0	0	0	0	0	0	0	0
RESOLUTIONS(ONE CHAMBER)	1	1	0	0	0	0	1	1	0
GENERAL BILLS	3	0	0	2	2	2	5	2	2
LOCAL BILLS	0	0	0	0	0	0	0	0	0
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	2	0	0	2	0	0
WITHDRAWN	0	0	0	0	0	0	0	0	0
TOTALS	4	1	0*	4	2	2*	8	3	2*
APPROVED BY GOVERNOR			0			0			0
BECAME LAW WITHOUT SIGNATURE			0			0			0
VETOED BY GOVERNOR			0			0			0
BECAME LAW, VETO NOTWITHSTANDING			0			0			0
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)			0			0			0
BILLS TO CONFERENCE COMMITTEES			0			0			0
BILLS AMENDED			0			0			0
COMMITTEE SUBSTITUTES			0			0			0
COMMITTEE SUB FOR COMMITTEE SUB			0			0			0
RESOLUTIONS ADOPTED			1			0			1
FAILED TO PASS SENATE BY VOTE			0			0			0
FAILED TO PASS HOUSE BY VOTE			0			0			0
UNFAVOR COMMITTEE REPORT IN SENATE			0			0			0
UNFAVOR COMMITTEE REPORT IN HOUSE			0			0			0
BILLS FILED,NOT INTRODUCED			0			2			2
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			1			0			1
DIED IN HOUSE COMMITTEES			0			0			0
DIED IN CONFERENCE COMMITTEES			0			0			0
DIED ON SENATE CALENDAR			2			0			2
DIED ON HOUSE CALENDAR			0			0			0
DIED IN MESSAGES			0			0			0

*ONE CHAMBER RESOLUTIONS NOT INCLUDED
SPECIAL SESSION 'A'

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STATISTICS REPORT

	SENATE BILLS			HOUSE BILLS			T O T A L S		
	FILED		PASSED	FILED		PASSED	FILED		PASSED
	SENATE/SENATE & HOUSE			HOUSE/HOUSE & SENATE			FIRST BOTH CHAMBER		
CONCURRENT RESOLUTIONS	6	3	2	9	4	3	15	7	5
RESOLUTIONS(ONE CHAMBER)	60	52	0	90	78	0	150	130	0
GENERAL BILLS	1218	301	204	1250	365	223	2468	666	427
LOCAL BILLS	63	49	42	119	86	75	182	135	117
GEN BILL/LOC APPLICATION	0	0	0	3	1	0	3	1	0
JOINT RESOLUTIONS	19	2	2	19	3	2	38	5	4
MEMORIALS	2	0	0	5	4	0	7	4	0
FILED,NOT INTRODUCED	0	0	0	1	0	0	1	0	0
WITHDRAWN	1	0	0	15	0	0	16	0	0
TOTALS	1369	407	250*	1511	541	303*	2880	948	553*
APPROVED BY GOVERNOR			168			190			358
BECAME LAW WITHOUT SIGNATURE			72			101			173
VETOED BY GOVERNOR			6			7			13
BECAME LAW, VETO NOTWITHSTANDING			0			0			0
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)			4			5			9
BILLS TO CONFERENCE COMMITTEES			3			4			7
BILLS AMENDED			203			259			462
COMMITTEE SUBSTITUTES			357			295			652
COMMITTEE SUB FOR COMMITTEE SUB			28			18			46
RESOLUTIONS ADOPTED			52			78			130
FAILED TO PASS SENATE BY VOTE			0			0			0
FAILED TO PASS HOUSE BY VOTE			0			1			1
UNFAVOR COMMITTEE REPORT IN SENATE			10			0			10
UNFAVOR COMMITTEE REPORT IN HOUSE			1			6			7
BILLS FILED,NOT INTRODUCED			0			1			1
INDEFINITELY POSTPONED			73			0			73
LAI D ON TABLE			241			161			402
WITHDRAWN PRIOR TO INTRODUCTION			1			15			16
WITHDRAWN/FURTHER CONSIDERATION			0			26			26
FAILED OF INTRODUCTION/2ND HOUSE			0			0			0
DIED IN SENATE COMMITTEES			524			139			663
DIED IN HOUSE COMMITTEES			37			633 **			670 **
DIED IN CONFERENCE COMMITTEES			0			0			0
DIED ON SENATE CALENDAR			113			5			118
DIED ON HOUSE CALENDAR			23			128			151
DIED IN MESSAGES			44			16			60

*ONE CHAMBER RESOLUTIONS NOT INCLUDED

*INCLUDES H 1172, REFERRED TO
COMMITTEE AFTER BEING VETOED
BY GOVERNOR

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1987 VETOED GENERAL BILLS

<u>Senate Bills:</u>	<u>Subject</u>	<u>Date Vetoed</u>
SB-82	Criminal Case Pleas/Immigration	7/14/87
SB-177	Parking Fees/Seat Belt Usage	6/30/87
SB-393	Phosphate Research Institute	7/14/87
SB-475	Joint Personal Representatives	7/10/87
SB-762	Judge-9th Circuit/Osceola Resident	7/14/87
SB-1029	Mentally Ill Persons/Terminology	7/14/87

<u>House Bills:</u>		
HB-204	Electrolysis Practice Act	7/01/87
HB-443	Arts/Aviation Authorities	7/04/87
HB-460	Judge/Highlands County Resident	7/01/87
HB-1172	Gambling Laws/Foreign Vessels Exempt	5/06/87
HB-1336	Open Meetings/Government Agencies	6/25/87

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