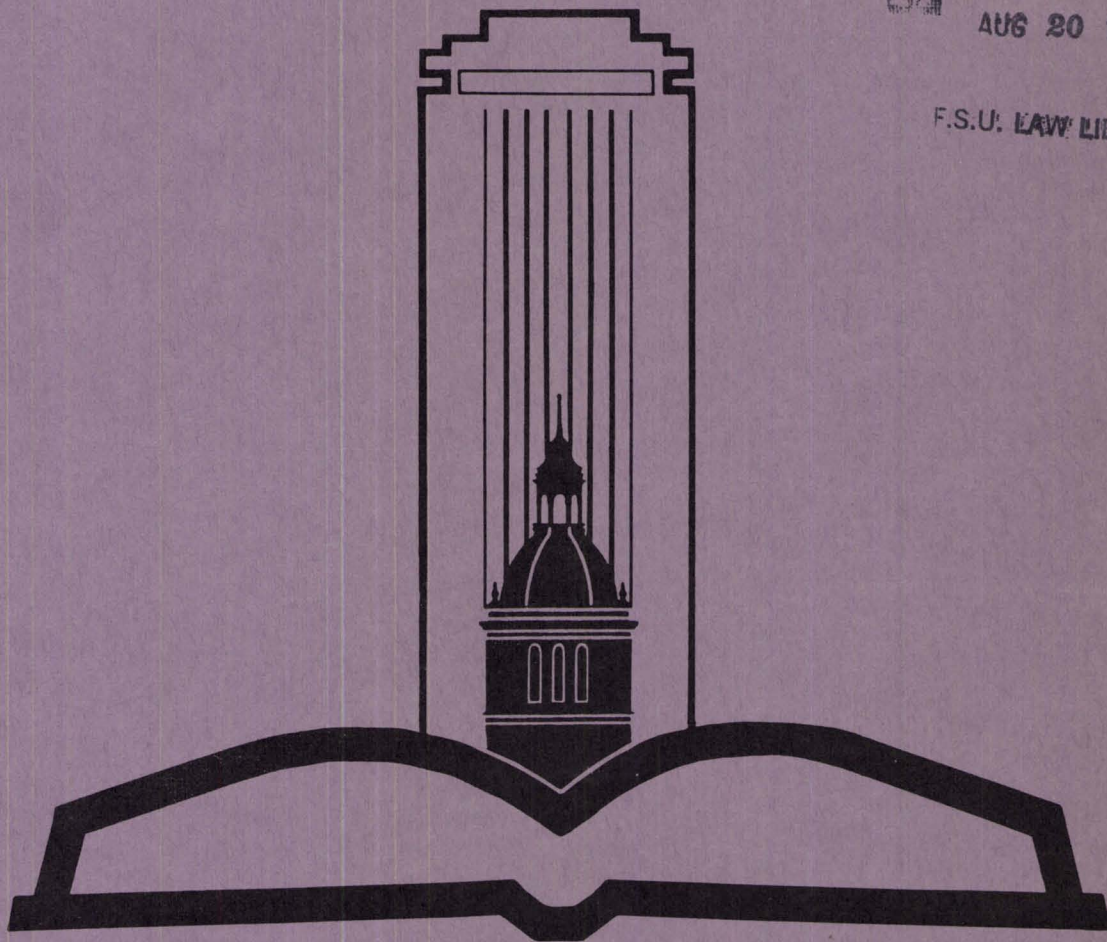


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## Florida Legislature

### 1991 SUMMARY OF GENERAL LEGISLATION

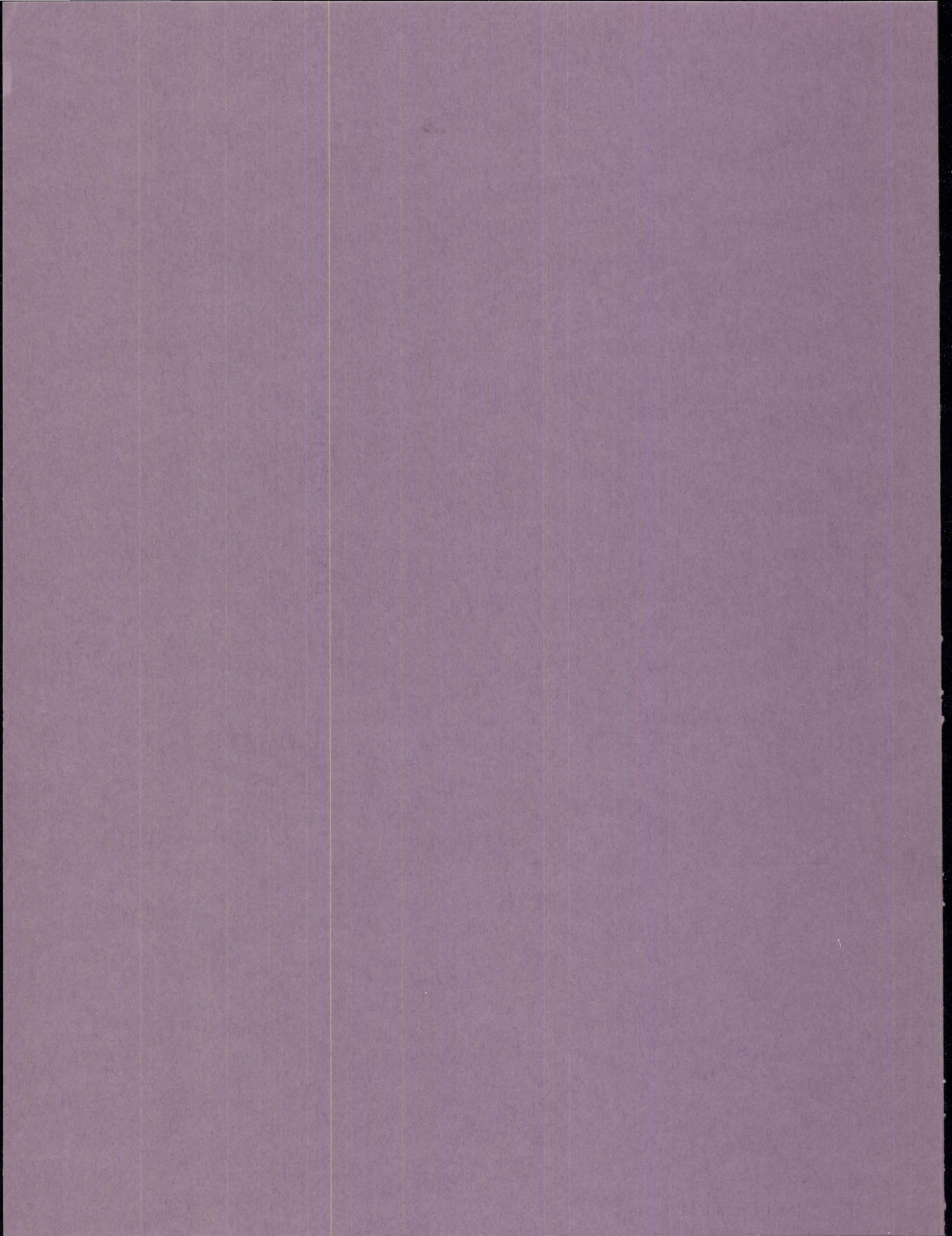
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#### *INCLUDING*

Special Session A - November 20, 1990  
Special Session B - January 22, 1991  
Regular Session - March 5-May 2, 1991  
Special Session C - June 6, 1991





GWEN MARGOLIS  
President



T.K. WETHERELL  
Speaker



THE FLORIDA LEGISLATURE  
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August 1991

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**FOREWORD**

This SUMMARY OF GENERAL LEGISLATION covers, within broad subject areas, the general laws enacted during the 1991 Regular Session of March 5 to May 2, 1991, and the three special sessions held in 1990-1991.

Major enactments of the 1991 Regular Session addressed campaign financing reform; revision of the Code of Ethics for public officers and employees; creation of school improvement councils at the local level to provide accountability for school reform; creation of a Department of Elderly Affairs at the state level; funding of a Healthy Start program for improved health care for poor pregnant women and their children; and provision of a three-day cooling off period in the purchase of handguns. Special session legislation covered the regulation of lobbyists; reenactment of Workers' Compensation Law revisions; provision for the settlement of citrus canker claims against the state; enactment of laws to enhance the management of an anticipated revenue shortfall of in excess of \$150 million for the fiscal year ending June 30, 1991, and issues concerning the state transportation system.

Those office 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 and Data Processing Division and the Legislative Information Division for their assistance in the preparation of the SUMMARY.

*B. Gene Baker*  
B. Gene Baker





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## SPECIAL SESSION A – NOVEMBER 20, 1990\*

By joint proclamation of the presiding officers, the Legislature was called into a one-day special session for the sole and exclusive purpose of considering legislation relating to the prohibition and reporting of gifts to public officers and employees. Accordingly, the session produced the act summarized below.

### Regulation of Lobbyists

HOUSE BILL 31-A (CHAPTER 90-502) revises statutory provisions concerning the regulation of persons who lobby the Legislature. It amends Section 11.045, F.S., to clarify what expenditures must be reported to include all lobbying expenditures and the source of such funds, but to exclude personal expenses for lodging, meals and travel. Each chamber must establish these requirements by rule, and any registrant who knowingly fails to satisfy these provisions commits a noncriminal infraction punishable by a fine of up to \$5,000 in addition to any other penalty authorized by the section which includes reprimand, censure, probation or a lobbying prohibition of up to 24 months.

Subsection 112.312(9), F.S., is amended to redefine "gift" as that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly or indirectly, or in trust for his benefit or by any other means, for which equal or greater consideration is not given. Fourteen specific things are included in the meaning of gift for purposes of ethics in government and financial disclosure and six listed items are excluded from the definition. Intangible personal property is defined for purposes of the term gift as used here and relative is defined for purposes of the code of ethics for public officers and employees (Part III of Chapter 112, F.S.).

Subsection 112.313(4), F.S., is reenacted which prohibits the acceptance of any compensation, payment or thing of value by a public officer or employee, or the spouse or minor child of same, if the officer or employee knows, or could be reasonably expected to know, that the compensation, payment or thing of value was given to influence official actions.

Through revision of Section 112.3145, F.S., legislative analysts, executive assistants and legislative assistants are included in those persons covered by that section, relating to the disclosure of financial interests and clients represented before agencies, and Section 112.3148, F.S., relating to the reporting of gifts and prohibited receipt of gifts by individuals filing public disclosure of financial interests and by procurement officials.

Section 112.3148, F.S., relating to the solicitation and acceptance of gifts, is substantially reworded to exclude gifts which are solicited or accepted by a reporting individual or procurement employee from a relative.

"Immediate family," "lobbyist," "person," "reporting individual" and "procurement employee" are defined for purposes of the section.

A reporting individual or procurement employee is prohibited from soliciting any gift, food or beverage from a political committee or committee of continuous existence as they are defined in Section 106.011, F.S., or from a lobbyist or the lobbyist's partner, firm, employer or principal.

A reporting individual or procurement employee or any other person acting on behalf of such individual or employee is prohibited from knowingly accepting, either directly or indirectly, a gift from a political committee or committee of continuous existence as they are defined in Section 106.011, F.S., or from a lobbyist who lobbies the individual's or employee's agency or the lobbyist's partner, firm, employer or principal. A gift can be accepted on behalf of a governmental entity or charitable organization, but it must be transferred to that entity within a reasonable period of time.

A political committee, committee of continuous existence or lobbyist is prohibited from giving, either directly or indirectly, a gift to a reporting individual or procurement employee or any other person on his behalf.

An entity of the legislative or judicial branch, a department or commission of the executive branch, a county, a municipality, or a school board is allowed to give a gift greater than \$100 to a reporting individual or procurement employee, if a public purpose can be shown for the gift.

A direct-support organization specifically authorized by law to support a governmental entity can give a gift to a reporting individual or procurement employee if they are an officer or employee of the governmental entity which is supported by that organization. A reporting individual or procurement employee can also accept a gift on behalf of those governmental entities, if a public purpose can be shown for the gift. He can also accept a gift from a direct-support organization if he is an officer or employee of the governmental entity that the organization supports.

Any gift given by governmental entities or direct-support organizations during the preceding calendar year that was greater than \$100 must be reported by March 1 of each year to the reporting individual or procurement employee. The report must contain a description of each gift, the date it was given, and the value of the gifts. A single report can be given for all gifts during the calendar year. Each reporting individual or procurement employee is then required to file a disclosure report no later than July 1 of each year listing the person giving the gift, the date, and value as a total and the March report would be attached. The reporting individual or procurement employee is allowed to explain any discrepancies between the reports. The annual report filed by a reporting individual is to be filed with the financial disclosure statement required by either Section 8, Article II of the State Constitution or Sec-

\*Prepared by Legislative Library

tion 112.3145, F.S. The annual report required of a procurement employee is to be filed with the Department of State.

The value of the gifts is to be determined by provisions in this section. The value can be determined by using actual cost to the donor. For personal services, the reasonable and customary charge in the community for those services would be used. If a person must incur additional expenses as a condition precedent to giving the gift, those expenses would not be included, for example, booster fees for tickets, golf course memberships or the like. Any compensation that the donee pays to the donor would be subtracted from the cost of the gift to determine the value. If the actual gift value at an event cannot be determined, then the total costs would be prorated among all invited persons, whether or not they are reporting individuals or procurement employees. Transportation, lodging, food and beverages, admission fees and membership dues are addressed as to the method of setting a value on them. Each reporting individual or procurement employee would be required to file a disclosure statement on the last day of each calendar quarter for the previous quarter with the Secretary of State. The statement would include a list of the gifts which were accepted by him and which he believed to be valued greater than \$100 and other specific information. Gifts not required to be reported are specified. The statement must be sworn to as a true, accurate and total listing of all such gifts and it would be filed with the financial disclosure statement required by Section 8, Article II, Florida Constitution or Section 112.3145, F.S. If the reporting individual or procurement employee has not received any gifts which he believes are worth over \$100, then he does not have to file a statement for that calendar quarter.

Any person, other than a lobbyist regulated pursuant to Section 11.045, F.S., who commits a violation of the lobbying provisions would commit a noncriminal infraction punishable by a fine up to \$5,000 and a prohibition on lobbying or employing a lobbyist to appear before the reporting person's agency for up to 24 months. This provision would authorize the state attorney or an agency to initiate an action to impose or recover the fine or impose or enforce the lobbying prohibition established by this section.

A member of the Legislature could request an advisory opinion from the general counsel of his respective house on the application of this section to a specific situation. The opinion would be issued within 10 days and the member could reasonably rely on that opinion as to whether his actions would be permissible under this act.

Section 112.3149, F.S., is created to provide prohibitions and disclosure of honoraria. "Honorarium" is defined as the payment of money or anything of value, directly or indirectly, to a reporting individual or procurement employee or to any other person on his behalf, as consideration for: a speech, address, oration, other oral presentation or writing by the reporting individual or procurement employee which is intended to be published. This does not include books or payment for services related to employment outside the reporting individual's or procurement employee's public duties. For example, if a person was employed as a professional speaker he would not be prohibited from accepting remuneration for his services, or if an attorney, doctor, or accountant or other professional were paid to speak at an employment related seminar or meeting, they could also be remunerated for their services.

A reporting individual or procurement employee is prohibited from knowingly accepting an honorarium from a political committee or committee of continuous existence as they are defined in Section 106.011, F.S., or a lobbyist who lobbies his agency, or from the lobbyist's employer, principal or firm. Expenses related to an honorarium event which are paid for the reporting individual or procurement employee and his spouse by these persons are required to be listed within 60 days of the event, along with the name and address of the person providing the expenses, and a description of those expenses, to the reporting individual or procurement employee. The reporting individual or procurement employee would then be required to report these expenses. The annual report would include the name, address and affiliation of the person paying or providing the expenses, the amount of the honorarium expenses, the date of the honorarium event, a description of the expenses paid or provided on each day of the honorarium event, and the total value of the expenses provided to the reporting person. The reporting person would be required to attach the statement received from the political committee, committee of continuous existence, lobbyist, or lobbyist's employer, principal, or firm. The same penalty provisions dealing with lobbying would also apply to this section.

Section 112.317, F.S., which provides penalties for Part III of Chapter 112, F.S., is reenacted to make the penalties apply specifically to the gift provisions.

The Joint Legislative Management Committee is required to recommend to the Legislature a code of conduct regulating the conduct of lobbyists before the Legislature. The recommendation must be made not later than September 1, 1991.



## SPECIAL SESSION B - January 22, 1991\*

The Legislature was called into special session for 8 hours on January 22, 1991, by amended joint proclamation of the body's presiding officers. The issues to be addressed were:

- 1) the reenactment of the Comprehensive Economic Development Act of 1990 (Chapter 90-201, Laws of Florida) the provisions of which had been invalidated by a Leon County circuit court because the joinder of the act's provisions on workers' compensation and international trade violated the single subject requirement of the state constitution (Article III, Section 6) for enacted laws;
- 2) provision for the severability of cost and attorney fee claims from compensation for losses claims resulting from the Citrus Canker Eradication Program;
- 3) provision for increased funding for the Citrus Canker Compensation Trust Fund;
- 4) provisions for revised management of registration of lobbyists by the Legislature; and
- 5) provisions for revision of salary and benefits for public officers and employees called to active military duty.

The Legislature's response to these issues is reflected in the summaries which follow of the measures produced in the session.

### Workers' Compensation

SENATE BILL 8-B (CHAPTER 91-1) reenacts the provisions of Chapter 90-201, Laws of Florida, relating to workers' compensation.

Chapter 90-201 contained substantive changes to the workers' compensation law in addition to creating the Florida International Affairs Commission. A Leon County circuit court invalidated the act by finding the joinder of the workers' compensation and international trade provisions as violative of the single subject requirements of the Florida Constitution.

HOUSE BILL 11-B (CHAPTER 91-2) amends the workers' compensation statutes passed during the 1990 Regular Session to reinstate exemptions from the law in Section 440.02, F.S., for sole proprietors, three partners and three corporate officers. Prior law required all entities in the construction industry to obtain coverage. Under the provisions of this enactment all entities in the construction field are considered employees unless electing to be exempt by filing forms with the Department of Labor and Employment Security.

In addition, the act repeals the Industrial Relations Commission and the Workers' Compensation Oversight Board that were created by Chapter 90-201, Laws of Florida.

### International Affairs Commission

HOUSE BILL 9-B (CHAPTER 91-5) reenacts the international affairs provisions contained in the Comprehensive Eco-

nomic Development Act of 1990 (Chapter 90-201, Laws of Florida).

In order to enhance Florida's international economic development, the Florida International Affairs Commission (FIAC) is created which will consist of 26 members with the Governor as chair. The Commission will recommend to the Legislature an international strategic plan for Florida for adoption into law, based upon significant private sector input. Two advisory councils are created to advise FIAC. The Florida International Trade and Investment Council consists of 28 members who will advise state entities on international business matters. The International Language Institute Advisory Council comprised of 9 members will form a plan for the creation of a world-class language institute in Florida.

The Florida International Affairs Commission will promote international education programs with an emphasis on international economic development and will oversee existing Linkage Institutes between Florida higher education institutions and those in other countries. The Commission will also review requests for state grants for international promotion and will make funding recommendations to the Legislature; will oversee and support the expansion of Florida foreign office operations in London and Toronto and new offices in Germany, Korea, Japan and Brazil; and will perform and sponsor research on international matters of priority concern to Florida as well as gather and freely share information, becoming a convenient "one-stop" international information resource.

By the addition of Paragraph 20.17(2)(c), F.S., the existing Bureau of International Trade and Development in the Department of Commerce is raised to division status. The act also provides through a revised Subsection 20.17(4), F.S., expanded authority to the Economic Development Advisory Council within the Department of Commerce to make policy recommendations on improving the quality of the business climate in Florida.

Finally, a new international linkage institute, the Florida West-Africa Institute, is created by Paragraph 240.137(4)(i), F.S., to be co-directed by Florida A&M University, the University of North Florida and the Florida Community College at Jacksonville.

### Citrus Canker Claims Settlement

HOUSE BILL 5-B (CHAPTER 91-4) revises Subsection 602.055(2), F.S., to permit the state to settle claims for citrus plants destroyed pursuant to the Citrus Canker Eradication Program independently of a claimant's attorney's fee claim. The act also requires a claimant to execute separate releases in those instances where the Comptroller's office and the Attorney General's office decide it is in the best interest of the state to separate the claim for attorney's fees from the damages claim.

\*Prepared by Legislative Library

The percentage proceeds from the citrus excise taxes on boxes of citrus fruit set out in Section 601.282, F.S., are amended. Of the moneys collected, 6.03 percent will be appropriated to the Citrus Canker Eradication Trust Fund, instead of 8.48 percent, and 93.97 percent will be appropriated to the Citrus Canker Compensation Trust Fund, instead of 91.52 percent.

The appropriation from the Citrus Canker Compensation Trust Fund for Fiscal Year 1990-1991 to settle claims is increased from \$32 million to \$33.5 million.

#### **Joint Registration of Lobbyists**

SENATE CONCURRENT RESOLUTION 4-B establishes the joint policy of the chambers for the registration of lobbyists.

Joint Senate and House Rule 1.1 describes those required to register as a lobbyist as well as those who are exempt.

Joint Rule 1.2 provides the procedure for registration on forms supplied by the Joint Legislative Management Committee (JLMC), the specific information to be supplied, requires semiannual reports to the Committee and directs the publication of the registration information by the Committee which is designated as the custodian of the original documents.

Joint Rule 1.3 sets a registration fee of \$50 per chamber for the first principle represented and \$10 per chamber for each additional principle. Exempt individuals are indicated and a biennial \$10 processing fee is set for those who nevertheless

choose to register. All fees are payable to the JLMC and are to be deposited in the state treasury and used to cover the cost of administering the joint registration policy.

Joint Rule 1.4 permits those persons in doubt as to whether they are required to register to request an opinion from the President of the Senate or the Speaker of the House of Representatives.

Under Joint Rule 1.5 lobby registration and expenditure records are available for public inspection and duplication at a reasonable cost.

#### **Military Leave For Public Officers and Employees**

HOUSE BILL 15-B (CHAPTER 91-3) amends Section 115.09, F.S., and strikes language prohibiting the payment of salary after the first 30 days of a leave of absence for those public officials and employees called to active military service.

Section 115.14, F.S., is revised to provide that the employing authority may supplement the military pay for public officials and employees who are called to active military service. The employing authority may also, in its discretion, continue to provide any health insurance and other existing benefits to its officials and employees.

Section 121.111, F.S., concerning the Florida Retirement System is amended to comply with the Veterans' Reemployment Act (Pub. L. 93-508, December 3, 1974, as amended) as it relates to military service credit.



## AGRICULTURE\*

### Agricultural Economic Development Program

HOUSE BILL 2441 (CHAPTER 91-268) creates within the Department of Agriculture and Consumer Services the Agricultural Economic Development Program (AED). The purpose of the program is to promote and coordinate efficient and beneficial agricultural economic development within depressed agricultural areas of the state.

It also provides powers and duties of the Department, including the authorization to administer any funds appropriated by the Legislature for this purpose and to assist in the development of new agribusinesses. The law requires the Department to submit an annual report on or before November 1 of each year to the chairmen of the House and Senate Committees on Agriculture. The legislation requires the Department to coordinate agricultural economic development with local, state and federal agencies and certain other groups who have similar programs.

The measure further provides guidelines for the use of agricultural economic development funds. The Department is required to adopt rules pursuant to Chapter 120, F.S., relating to administrative procedures, by January 1, 1992 for the administration of the AED program. The law specifies that the rules would pertain to not only subjects for the implementation of the act but: formal notification procedures for the availability of assistance, written evaluation criteria for selecting project proposals to receive assistance, procedures for repaying financial assistance by an assisted agribusiness and funding procedures for projects eligible for assistance.

The act creates the AED Project Review Committee to review each application for assistance and make recommendations to the Commissioner of Agriculture regarding the applicant's acceptance or rejection. The Commissioner's response to the recommendations are to be included in the Department's annual report.

The AED program is repealed on October 1, 1996 and is subject to Sunset Review pursuant to Section 11.61, F.S. The act is effective October 1, 1991.

### Aquaculture Program

COMMITTEE SUBSTITUTE FOR SENATE BILL 1792 (CHAPTER 91-187) contains provisions reenacting Department of Natural Resource's aquaculture program (Paragraph 253.01(1)(b); Subsections 253.71(1), (2) and (4); Section 270.22; Subsections 370.16(5) and (21), F.S.).

Subsection 370.16(4), F.S., is reenacted and amended to delete provisions determined unconstitutional and include an exemption for perpetual leaseholders from the \$5 per acre surcharge on aquaculture leases.

Subsection 258.42(1), F.S., is also amended to delete the existing limitation on aquaculture activities in aquatic preserves to the substrate and 6 inches above the substrate, and

to provide that such activities are in the public interest, if not harmful to corals or other benthic organisms, grass beds, the natural flow of waters or other natural values which the creation of the preserve was intended to protect.

The act amends Section 597.002, F.S., to provide that the use of funds appropriated by the Legislature to the Department of Agriculture and Consumer Services for certain aquacultural purposes shall be based on recommendations of the Aquaculture Review Council.

Sections 597.003, 597.005 and 597.006, F.S., are amended to provide additional responsibilities to the Department, the Aquaculture Review Council, and the Aquaculture Interagency Coordinating Council with respect to short-term research projects designed to solve specific problems designated in the state aquaculture plan. Section 597.006, F.S., is further amended to include Florida A&M University as a member of the Aquaculture Interagency Coordinating Council. The annual report date is changed to December 1 for the Council to submit to the Legislature, the Governor, and each state agency head represented on the Council all actions and recommendations of the Council, as well as the responsive actions taken by the agencies.

The legislation amends Section 597.007, F.S., relating to the permitting of aquaculture facilities, specifying that the use of the term "Department" means the Department of Environmental Regulation. The act becomes effective October 1, 1991.

### Animal Euthanasia

HOUSE BILL 1243 (CHAPTER 91-29) creates Section 828.065, F.S., to provide that warm-blooded animals which have been left after having been offered for sale by a pet shop and eligible for disposal by death shall not be disposed of in any manner other than euthanasia by a lethal injection of sodium pentobarbital administered by a licensed veterinarian or a lay person proficient in the method used. An exception to the use of sodium pentobarbital is provided. Any substance or procedure which acts on the central nervous system which is clinically proven to be humane may be used. The term "warm-blooded" does not include any animal held as food for another animal. The legislation further provides a misdemeanor or penalty of the first degree for anyone violating these provisions. Guidelines are listed in the act for administering lethal solutions of sodium pentobarbital or a derivative while performing euthanasia on warm-blooded animals. The act becomes effective October 1, 1991.

### Nursery Plant and Animal Industries Regulation

COMMITTEE SUBSTITUTE FOR SENATE BILL 1400 (CHAPTER 91-294) revises Section 581.131, F.S., to authorize a 15-percent increase in the cap on the annual certificate of registration fee which is required for persons who sell or distribute

\*Prepared by Senate Agriculture Committee

nursery plants in the state. The Department of Agriculture and Consumer Services will implement the increase by rule.

The legislation amends Section 581.185, F.S., to remove the Regulated Plant Index from the statutes and authorizes the Department to develop the list by rule.

The act includes changes in Sections 585.003, 585.145, 585.68 and 585.70, F.S., which authorizes the Department to regulate animal industry, especially as it relates to animal diseases and meat and poultry inspection. Most of the changes relating to animal industry are for conforming state standards with federal standards. The measure also renumbers Section 828.31, F.S., as Section 585.95, F.S., and designates it as Part IV of Chapter 585, F.S., entitled "Dogs and Cats." [Chapter 828, F.S., relates to Cruelty to Animals. Chapter 585, F.S., relates to Animal Industry.]

The act amends Section 531.41, F.S., relating to weights, measures and standards with language identical to that found in COMMITTEE SUBSTITUTE FOR HOUSE BILL 257 (CHAPTER 91-275) summarized above.

### **Interstate Transportation of Bees**

HOUSE BILL 1341 (CHAPTER 91-21) amends Section 586.11, F.S., and allows migratory beekeepers to move their honeybees interstate with less frequent inspections. The act removes the requirement for an inspection 60 days prior to interstate movement. The movement of honeybees into or out of state is now authorized as long as there has been an annual inspection in the state of origin and provided that any honeybee pests have been treated by the Department of Agriculture and Consumer Services. The law becomes effective October 1, 1991.

### **Citrus Industry**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 201 (CHAPTER 91-11) amends Paragraph 601.04(2)(a), F.S., changing the appointment date for members of the Florida Citrus Commission to February 1 preceding the commencement of the term.

The "Gulf" production area is created by the addition of Subsection 601.091(3), F.S. The new production area consists of Charlotte, Collier, Glades, Hendry and Lee counties.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 389 (CHAPTER 91-75) authorizes the appropriation of \$31,127,474 from the Citrus Canker Compensation Trust Fund in the Department of Banking and Finance for Fiscal Year 1991-1992 for the purpose of paying compensation for citrus nursery plants destroyed and for attorneys' fees and administrative costs associated with implementing this act. Authorization is provided for the state's 50 percent portion to be temporarily transferred from other funds but shall be repaid as appropriations are made by the Legislature. The Legislature is required to make appropriations adequate to make such repayment no later than June 30, 1993.

Effective August 1, 1991, the excise tax on each standard box of citrus fruit will increase from 2.4-cents-per-box to

8.79-cents-per-box under revised Section 601.282, F.S. Effective July 1, 1991, the \$1-per-plant-tax on the sale of doorway trees is increased to \$1.50 (Section 581.192, F.S.) and the 12.5-cents-per-plant tax on citrus nursery stock sales to commercial producers is increased to 20 cents (Section 581.193, F.S.). [These three taxes make up the industry share of funding to provide one-half of the additional moneys necessary to fund the Citrus Canker Compensation Program. At this level of funding, the program will be completed in one year.] Repeal dates for these taxes are provided effective July 1, 1992.

Provision is made through revision of Subsection 602.025(2), F.S., for the disposition of any excess funds upon the completion of the program, including the anticipation of federal funds.

The law further revises collection procedures for the industry taxes and revises citrus claims procedures (Section 602.055, F.S.).

### **Organic Food and Racing Quarter Horse Advisory Councils**

HOUSE BILL 257 (CHAPTER 91-275) amends Section 504.31, F.S., to alter the membership of the Organic Food Advisory Council. Instead of three producers of organic food on the Council now only two organic food producers are required. A representative of the Florida Fertilizer and Agrichemical Association is seated in the place of one organic food producer. In addition, the two consumer representatives may not be associated with the commercial production of agriculture. The act further revises the initial appointment process for clarification purposes as a result of the ninth member being added to the Council late in the 1990 Legislative Session.

The law also amends Section 570.541, F.S., removing the allowance for per diem and travel expenses for members of the Racing Quarter Horse Advisory Council.

The legislation amends Chapter 531, F.S., relating to weights, measures and standards. It adds Subsection 531.41(16), F.S., to provide that scales used by weight control services are not to be considered commercial weights and measures when used to determine human weight or to compute charges or payments for services rendered by such providers. The act becomes effective October 1, 1991.

### **Pesticide Regulation**

COMMITTEE SUBSTITUTE FOR SENATE BILL 2014 (CHAPTER 91-273) provides for a one-year increase in the pesticide registration fee for each brand, special local need label and experimental use permit issued by the Department of Agriculture and Consumer Services. The annual registration fee is \$225.

All fees collected are to be deposited in the General Inspection Trust Fund to be used in carrying out the provisions of Chapter 487, F.S. It also provides for the fees to expire on June 30, 1992.



### Confidentiality of Pesticide Records

HOUSE BILL 1263 (CHAPTER 91-20) reenacts exemption to the public records law for information found in pesticide formulas (Subsection 487.031(3), F.S.), pesticide registrations (Subsection 487.01(8), F.S.) and EPA and pesticide registrant data supplied to the Pesticide Review Council (Paragraph 487.0615(2)(c), F.S.). The act also reenacts the requirement in Section 487.160, F.S., that the Department of Agriculture and Consumer Services make requests for information from licensed pesticide applicators in writing. The law has an October 1, 1991, effective date.

### Commercial Feed Regulation

COMMITTEE SUBSTITUTE FOR SENATE BILL 1614 (CHAPTER 91-178) amends Section 580.051, F.S., relating to commercial feed labels, to allow the Department of Agriculture and Consumer Services to establish by rule manufacture or expiration date requirements for commercial feed sold at retail. It also adds Subsection 580.061(3), F.S., to provide penalties for tonnage fees which are not paid on time.

Section 580.041, F.S., relating to master registrations, is amended to provide the Department the authority to charge an annual fee for a master registration based on the number of tons of commercial feed each distributor sells per year in the state. The tonnage fee, in Section 580.061, F.S., will remain the same.

Section 580.131, F.S., relating to penalties, is revised to provide that the penalty payable to a consumer when feed is found by the Department to be short in weight shall not be less than \$25.

Paragraph 616.091(2)(c), F.S., of Chapter 616, F.S., relating to Public Fairs and Expositions, which authorizes the Depart-

ment to license carnivals and fairs, is amended to clarify that playgrounds are not considered amusement attractions like fairs and carnivals and are not subject to the license requirements of the Department.

### Dairy Products

SENATE BILL 1802 (CHAPTER 91-64) amends Section 502.012, F.S., to redefine the term "raw milk" conforming the state requirements to those of the federal government. The terms "milkfat" and "butterfat" are also redefined.

The Department of Agriculture and Consumer Services is authorized to issue temporary marketing permits for certain milk products not conforming to those standards. A fee is established based upon the cost of issuing the permits.

SENATE BILL 2210 (CHAPTER 91-190) amends Chapter 503, F.S., "Frozen Desserts," by expanding the definition to include such foods as defined by rule of the Department of Agriculture and Consumer Services as well as the United States Food and Drug Administration.

The Department is authorized to issue temporary marketing permits for frozen desserts which do not technically conform to the definition. License fees are increased and fines for violations are created under the act.

### Vehicle Towing from Agricultural Facilities

HOUSE BILL 259 (CHAPTER 91-253) amends Section 570.53, F.S., to provide authorization to the Division of Marketing in the Department of Agriculture and Consumer Services to have a vehicle towed by a towing service when it is parked in a manner that interferes with normal business operations at any of the agricultural marketing facilities owned by the state.

## APPROPRIATIONS\*

The major work products of the Committee on Appropriations for the 1991 Legislature Session are the 1991-1992 General Appropriations Act, SENATE BILL 2300 (CHAPTER 91-193), the General Appropriations Implementing Act, SENATE BILL 2302 (CHAPTER 91-157), and a supplemental appropriations act, SENATE BILL 1314 (CHAPTER 91-272).

The 1991-1992 General Appropriations Act and the supplemental act combined provide for total expenditures of \$29.5 billion. From this amount, \$11.6 billion comes from the General Revenue Fund, \$17 billion from trust fund sources, and \$849 million from the Educational Enhancement Trust Fund (Lottery).

The state budget is comprised of five major areas: Education, General Government, Criminal Justice, Health and Rehabilitative Services (DHRS), and Public Education Capital Outlay (PECO). Following is a breakdown of the total appropriations for the fiscal year: Education and PECO received 31.6 percent; General Government received 18.9 percent; Criminal Justice 5.2 percent; and HRS 28.7 percent. The appropriation for General Government includes agency budgets such as the departments of Transportation, Revenue, Natural Resources, Lottery, and the Game and Fresh Water Fish Commission.

Budget reductions in the current year combined with those in the Appropriations Act total \$1.2 billion. In an effort to decrease spending, it was necessary to authorize the deletion of 5,046 positions, the majority of which were vacant.

The supplemental appropriations act and the General Appropriations Act provide a state employee salary and benefit package totaling approximately \$174.2 million. The package includes salary increases averaging three percent for state employees with a guaranteed minimum of \$600 effective January 1, 1992. In addition, it provides \$70 million for the deficit in the State Health Insurance Trust Fund. Due to the increasing costs of the State Health Insurance Plan employee premiums were increased by \$1.90 per month for individuals and \$6.84 per month for families.

Public Education Capital Outlay (PECO), is provided \$932.8 million for the funding of public school construction. Items funded include: all maintenance as recommended by the State Board of Education and an additional \$45 million for maintenance enhancement; \$34 million for asbestos abatement; \$25 million for science facilities; \$12.7 million for community education facilities as recommended by the State Board of Education; \$132.1 million for new construction at community colleges; \$194.8 million for new construction and land acquisition for the State University System; and \$346.3 million for new construction for public schools.

Again this year, Education received the largest portion of the state budget. In this difficult year, funding for public schools made up 19.2 percent of the total budget. The major portion of the public schools budget was an increase of \$254

million for the projected 76,505 additional student enrollments expected in 1991-1992.

State funding for community colleges was \$589.2 million, 2 percent of this year's total appropriation. Included in the total was \$73.3 million for enrollment growth. In addition to the level of funding provided in the Appropriations Act the community colleges will collect a minimum of \$175.7 million in student fees. This amount is based upon a matriculation fee increase of 15 percent for all students and an additional requirement that out-of-state students pay tuition equal to three times the in-state matriculation fee.

Florida's State University System is appropriated \$1.42 billion for Fiscal Year 1991-1992 (4.8 percent of the total appropriation). Funding at this level was partially accomplished with a 15-percent increase in tuition for resident students and a 25-percent increase for out-of-state students.

The Department of Health and Rehabilitative Services' operating budget for Fiscal Year 1991-1992 contained a 18.8 percent increase over the Department's 1990-1991 appropriation after mandatory reserves. Some enhancements to DHRS' operating budget are:

- o \$34.7 million for the Healthy Start initiatives including raising the eligibility for Medicaid services to 185 percent of poverty for pregnant women and infants;
- o \$19.3 million for Elderly Initiatives including increases for community care for the elderly, Alzheimer's Disease programs and rebasing nursing home reimbursement plans;
- o \$43.1 million for Disproportionate Share Programs for hospitals providing Medicaid services to indigent patients; and
- o \$71.2 million for Child Welfare Services including \$43.3 million for child day care services.

Environmental issues were given a high priority in the area of General Government. With the passage of the Florida Preservation 2000 Act in 1990, the state recognized the need for an aggressive program of land acquisition based on protecting the integrity of ecological systems. This Legislative Session reaffirmed the state's commitment by authorizing the second issuance of \$300 million in Preservation 2000 bonds. Other environmental issues that were funded include the following:

- o \$77.5 million for the Save Our Rivers program;
- o \$16.6 million for the Surface Water Improvement and Management (SWIM) program;
- o \$20.4 million for sewage treatment facility construction grants and \$80.2 million for waste water treatment facility construction loans;
- o \$5 million for abandoned tank restoration, \$8 million for petroleum storage tank compliance verification, and \$58.9 million for the cleanup of leaking underground petroleum storage tanks;

\*Prepared by House Appropriations Committee

## 1991 SUMMARY OF GENERAL LEGISLATION

- o \$33.2 million for grants to local governments for solid waste management activities;
- o \$19.6 million for the cleanup and restoration of hazardous waste sites;
- o \$8 million for the waste tire abatement program;
- o \$2.5 million for artificial reef design, construction, and monitoring; o \$41 million for Conservation and Recreation Lands (CARL) acquisition projects; and
- o \$3 million for grants to local governments for Florida Recreation Development Assistance Program (FR-DAP).

Other enhancements in General Government are:

- o \$27.3 million for debt service requirements on bonds issued for the State Office Building construction program.
- o \$5.8 million for the Leon County Satellite Center.
- o \$5.2 million for renovation of the Larson Building.
- o \$2.7 million to support Regional Planning Councils.
- o \$2.5 million for aid to local governments for the preparation of Land Development Regulations and compliance agreements for Local Comprehensive Plans.
- o \$2.7 million for continuation of state support for Community Development Corporations.
- o \$20.9 million weatherization and energy conservation grants.

Affordable Housing/Housing Assistance Programs of:

\$1.5 million for Housing Pre- development Assistance.

\$1 million for the Elderly Housing Rehabilitation Program.

\$8.8 million for the State Apartment Incentive Loan Program.

\$2 million for the Home Ownership Assistance Program.

\$11.1 million for Housing Assistance Payments.

- o \$3 million for the acquisition/restoration of historic properties.
- o \$3 million for cultural facilities grants.
- o \$1.4 million for state aid for local library construction projects.

Transportation issues were another high priority during the 1991 Legislative Session. Some of the transportation- related appropriations issues contained in the 1991-1992 budget were:

- o \$2.3 billion for the Department of Transportation Work Program;
- o 217 positions and \$10.9 million to implement the expanded work program;
- o \$11.2 million for computer enhancements, which includes \$5.8 million for additional computer aided drafting design equipment;
- o Eliminated 10 positions and \$0.7 million for the High-Speed Rail Commission and provided 5 positions and \$0.6 million to staff Department activities relating to high-speed rail;
- o Provided for the issuance of bonds to refund the Skyway Bridge Bonds in order to reimburse \$15 million to the General Revenue Fund for funds contributed to replace the Skyway Bridge; and
- o Provided 28 positions and \$1.3 million for the continued operation of the Mayport Ferry contingent on reduced Department operating subsidies and the ferry becoming self-sufficient by June 30, 1993.

Criminal Justice received \$1.5 billion in this year's allocation. This will fund the operation of previously authorized prison beds which will be completed in 1991-1992 and also provide for the continued operations of existing facilities.

[The following pages are excerpted from *Florida's Fiscal Analysis, 1991*--the current issue of a document issued each year by the Senate and House Appropriations Committees.]

**Total Effective Appropriations  
(Millions of Dollars)**

<b>Regular Session</b>				
<b>1. General Appropriations Act &amp; Supplemental Act (SB 1314)</b>	<b>General Revenue Fund</b>	<b>Lottery Trust Fund</b>	<b>Other Trust Funds</b>	<b>Total Funds</b>
<b>A. Operations (Section 01):</b>				
Education				
Public Schools	4,509.8	592.8	557.6	5,660.2
Universities	940.6	123.6	357.9	1,422.1
Community Colleges	462.1	127.0	--	589.1
All Other Education	180.8	--	246.0	426.8
HRS	3,324.5	--	5,117.8	8,442.3
Transportation	--	--	666.9	666.9
General Government	579.7	--	4,794.0	5,373.7
Criminal Justice	1,391.6	--	130.5	1,522.1
Natural Resources/ Environment	75.5	--	350.2	425.7
Salary Increases & Fringe Benefits	99.3	--	74.9	174.2
<b>B. Fixed Capital Outlay (Sections 2A-2G)</b>	<b>84.8</b>	<b>5.6</b>	<b>4,709.9</b>	<b>4,800.3</b>
<b>Subtotal General &amp; Supplemental Appropriations Acts</b>	<b>11,648.7</b>	<b>849.0</b>	<b>17,005.7</b>	<b>29,503.4</b>
<b>2. Special Appropriations</b>				
Bills & Claims Bills	0.3	--	74.8	75.1
<b>Total Appropriations Regular Session</b>	<b>11,649.0</b>	<b>849.0</b>	<b>17,080.5</b>	<b>29,578.5</b>
<b>3. Less:</b>				
Failed Contingent Items	0.4		8.2	8.6
Vetoed Items (See Veto List on Page 64)	1.7	2.2	102.4	106.3
Reserved Item # 1993	4.6			
<b>Subtotal Effective FY 1991-92 Appropriations Regular Session</b>	<b>11,642.3</b>	<b>846.8</b>	<b>16,969.9</b>	<b>29,459.0</b>
<b>Special Session C</b>				
<b>1. House Bill 21C</b>				
<b>A. Operations (Section 01):</b>				
Education				
Universities	0.3			0.3
Community Colleges	1.0			1.0
<b>B. Fixed Capital Outlay (Sec 2A-2G)</b>	<b>0.0</b>	<b>--</b>	<b>17.6</b>	<b>17.6</b>
<b>Subtotal Effective FY 1991-92 Appropriations Special Session C</b>	<b>1.3</b>	<b>0.0</b>	<b>17.6</b>	<b>18.9</b>
<b>Total Effective Appropriations FY 1991-92</b>	<b>11,643.6</b>	<b>846.8</b>	<b>16,987.5</b>	<b>29,477.9</b>

**Senate Bill 2300**  
**General Appropriations Act for Fiscal Year 1991-92**  
**Vetoed Appropriations**

<u>Item Number</u>	<u>Item</u>	<u>Amount</u>	<u>Fund</u>
310	Housing Assistance Payments--Grants to Cooperatives	100,000	TF
547	Com College Prgm Fund--Linkage Institutes	980,000	GR
580D	SUS--Inst & Res/Educ & Gen--Linkage Institutes	250,000	GR
1076A	HSMV--Automated Registration System	750,000	TF
1082A	HSMV--Automated Registration System	750,000	TF
1082B	HSMV--Contractual Data Entry	62,608	TF
1469	JTPA Service Delivery--Jobs for Graduates Program	500,000	TF
1589A	Other DP Services/Camp Blanding--Duplicate Appropriation	40,480	TF
1900D	DGS--Building Evaluation	38,000	GR
1924A	Wauchula Armory Matching Funds	400,000	GR
1934E	UF Vet Medicine Construction (Contingent on Reversion)	1,750,000	LOTT
1934F	SUS Capital Improvement Projects (Contingent on Reversions)	1,942,795	TF
1934G	USF Caples Fine Arts Project (Contingent on Reversion)	450,000	LOTT
1978	PECO--Florida CC at Jax--Urban Resource Center	3,553,164	PECO TF (Reappro H21C)
1981B	PECO--Public School New Construction	75,000,000	PECO TF
1991D	PECO--UF Vet Medicine (Contingent on Reversion)	4,000,000	PECO TF
1992B	PECO--FIU Physical Science Building (Contingent on Reversion)	1,743,000	PECO TF
1992C	PECO--Magnet Lab/Allstate Building	<u>14,000,000</u>	PECO TF (Reappro H21C)
		106,310,047	All Funds
		1,668,000	GR
		2,200,000	LOTT
		4,145,883	TF
		98,296,164	PECO TF



**GENERAL REVENUE AND WORKING CAPITAL FUNDS**  
based on 1991 REGULAR SESSION & SPECIAL SESSION "C" ACTION  
**FINANCIAL OUTLOOK STATEMENT**  
FY 1990-91 and 1991-92  
(MILLIONS OF DOLLARS)

DATE : 24-Jun-91  
TIME : 12:00 PM

	GENERAL REVENUE FUND	WORKING CAPITAL FUND	TOTAL ALL FUNDS	RECURRING FUNDS	NON- RECURRING FUNDS
<b>FUNDS AVAILABLE 1990-91</b>					
Balance forward from 89-90	91.9	163.3	255.2	0.0	255.2
Estimated revenues	10,091.2	0.0	10,091.2	10,119.6	(28.4)
Transfer from Working Capital Fund	172.0	(172.0)	0.0	0.0	0.0
SIF veto transfer	0.0	2.0	2.0	0.0	2.0
Midyear reversions	9.9	0.0	9.9	0.0	9.9
Cancellation of warrants	2.6	0.0	2.6	0.0	2.6
Working Capital Fund interest	0.0	12.2	12.2	0.0	12.2
Transfers from trust funds (HB 21C)	29.0	0.0	29.0	0.0	29.0
Transfer of trust fund interest earnings (HB 23C)	49.2	0.0	49.2	0.0	49.2
Transfers from trust funds (A)	60.4	0.0	60.4	0.0	60.4
Appro. from State Infrastructure Fund (HB 21C)	20.0	0.0	20.0	0.0	20.0
Total 90-91 funds available	10,526.2	5.5	10,531.7	10,119.6	412.1
<b>EFFECTIVE APPROPRIATIONS 1990-91</b>					
Operations	6,096.4	0.0	6,096.4	6,035.3	61.1
Aid to local government	5,105.2	0.0	5,105.2	5,103.0	2.2
Fixed capital outlay & Sections 3,6	67.6	4.9	72.5	0.0	72.5
Mandatory holdbacks/Fall 1990	(479.9)	0.0	(479.9)	(469.0)	(10.9)
Mandatory holdbacks/Winter 1991	(270.0)	0.0	(270.0)	(246.0)	(24.0)
Mandatory holdbacks/Spring 1991	(27.4)	0.0	(27.4)	(27.4)	0.0
Holdbacks in lieu of trust funds interest transfer	(6.7)	0.0	(6.7)	0.0	(6.7)
Reduction of FEFP appropriation (HB 21C)	(7.9)	0.0	(7.9)	0.0	(7.9)
Total 90-91 effective appropriations	10,477.3	4.9	10,482.2	10,395.9	86.3
<b>UNENCUMBERED RESERVES (B)</b>	48.9	0.6	49.5	(276.3)	325.8
<b>FUNDS AVAILABLE 1991-92</b>					
Balance forward from 90-91	48.9	0.6	49.5	0.0	49.5
Estimated revenues	10,956.2	0.0	10,956.2	11,012.4	(56.2)
Transfer to Working Capital Fund	(106.8)	106.8	0.0	0.0	0.0
Midyear reversions	3.0	0.0	3.0	0.0	3.0
Unused appropriations	26.3	0.0	26.3	0.0	26.3
Cancellation of warrants	2.0	0.0	2.0	0.0	2.0
Working Capital Fund interest	0.0	11.7	11.7	0.0	11.7
Transfers from trust funds (C)	550.2	15.0	565.2	418.7	146.5
DGS construction bonds	0.0	11.2	11.2	0.0	11.2
Measures affecting revenue	163.8	0.0	163.8	73.7	90.1
Total 91-92 funds available	11,643.6	145.3	11,788.9	11,504.8	284.1
<b>EFFECTIVE APPROPRIATIONS 1991-92</b>					
Operations	6,434.5	0.0	6,434.5	6,412.8	21.7
Aid to local government	5,015.9	0.0	5,015.9	5,015.9	0.0
Fixed Capital Outlay	84.8	0.0	84.8	0.0	84.8
Vetoed items	(1.7)	0.0	(1.7)	(1.2)	(0.5)
Failed contingency appropriations (#0A GAA)	(0.4)	0.0	(0.4)	0.0	(0.4)
Special bills	115.1	0.0	115.1	114.7	0.4
Appropriations reserve (#1993 GAA)	(4.6)	0.0	(4.6)	0.0	(4.6)
Total 91-92 effective appropriations	11,643.6	0.0	11,643.6	11,542.2	101.4
<b>AVAILABLE RESERVES (D)</b>	0.0	145.3	145.3	(37.4)	182.7

# FOOTNOTES

(A) Transfers authorized by SB 2303-	
Insurance Commissioner's Regulatory Trust Fund	\$ 2,000,000
Florida Coastal Protection Trust Fund	15,000,000
Florida Fire Insurance Trust Fund	7,000,000
Cancer & Chronic Disease Research Center Trust Fund	9,580,833
Agency Budget Sunset Trust Fund	5,368,641
DOT Interstate Highway Construction Loan Repayment (SB 2523)	21,500,000

(B) This financial statement is based on current law as it is currently administered. The state is involved in a number of lawsuits which could have an effect on these revenue estimates or have appropriations consequences. The Attorney General periodically issues an update on the status of any such litigation.

(C) These transfers are comprised of the following actions-	
SB 212 Transfer of \$295 motor vehicle impact fee to GR	32.4 million
SB 212 Transfer of \$100 wheels-on-the-road fee to GR	24.7 million
SB 1042 Transfer of legislative lobbyist registration fee	(0.1) "
SB 1314 Repayment of Interstate Highway Construction Loan	109.5 "
SB 2126 Revise sales tax distribution from SIF to GR	475.6 "
SB 2126 Revise documentary stamp tax distribution from SIF to GR	24.4 "
SB 2126 Transfer SIF balance to GR	18.5 "
SB 2126 Revise SIF transfer to GR	(150.0) "
SB 2126 Revise rental car surcharge distribution from LETF to GR	4.4 "
SB 2126 Transfer Property Assessment Trust Fund balance to GR	1.8 "
SB 2300 Transfer from STTF to Working Capital Fund	15.0 "
SB 2302 Transfer Florida Seed Capital Trust Fund to GR	1.1 "
SB 2523 Revise distribution of 0.3% service charge to GR	7.9 "
	<hr/> 565.2 "

(D) Pursuant to authority granted in s. 216.192, F.S., the Governor has developed a quarterly release plan for FY 1991-92 which (compared to past release plans) will delay the release of approximately \$400 million of appropriated General Revenue funds until the fourth quarter of the fiscal year. Delaying the release of these funds until the end of the fiscal year is intended to simplify the task of reducing agency budgets pursuant to s. 216.221 F.S., should general revenue receipts for FY 1991-92 fall below the estimate.

# **General Appropriations Act for 1991-92** **Items Contingent Upon Other Legislation**

<u>Specific Appropriation</u>	<u>Pos.</u>	<u>Appropriation</u>	<u>Fund</u>		<u>Status</u>
<u>Section 1</u>					
0A		356,000	GR	HB 2069 or similar legislation	Failed to become law
72	75.5	1,974,752	TF	CS/SB 2104 or similar legislation	CS/SB 2104 approved by Gov CH 91-273
85	6	188,873	TF	CS/SB 2104 or similar legislation	CS/SB 2104 approved by Gov CH 91-273
95	3	162,091	TF	CS/SB 2104 or similar legislation	CS/SB 2104 approved by Gov CH 91-273
97A		324,550	GR	HB 2441 or similar legislation	HB 2441 approved by Gov CH 91-268
126	4	81,761	TF	CS/SB 2104 or similar legislation	CS/SB 2104 approved by Gov CH 91-273
227,228,229		425,000	TF	CS/HB 2399 or similar legislation	CS/HB 2399 approved by Gov CH-31
357,358,359, 360,364	42	3,634,963	GR/TF	Community Corrections Partnership Act or similar legislation	HB 2373 approved by Gov CH 91-225
793A		222,960	TF	Legislation establishing fees for the biohazardous waste program	SB 1436 approved by Gov CH 91-297
953		7,000,000	TF	Receipt of Disney World Commemorative License Tag for Kids revenues.	Failed to become law
959A		1,482,298	TF	Legislation establishing fees for the biohazardous waste program	SB 1436 approved by Gov CH 91-297
1062,1063,1064, 1065	10	359,863	TF	CS/CS/CS/HB 1767 or similar legislation	CS/SB 2010 became law CH 91-200 HB 749 approved by Gov CH 91-23
1538,1540,1541	69	2,518,916	TF	SB 920 or similar legislation	
1538,1539,1540, 1541		200,000	GR	HB 1453, SB 1074 or similar legislation	CS/CS/HB 1431 approved by Gov CH 91- HB 749 approved by Gov CH 91-23
1548,1551		9,620,632	TF	SB 920 or similar legislation	
1742		100,000	GR	Legislation affecting the dealer collection allowance	CS/HB 2523 became law CH 91-112 CS/HB 2523 became law CH 91-112
1709 thru 1744	38	1,107,855	GR	CS/HB 1981 or similar legislation	
<u>Section 2B</u>					
1926A		8,700,000	TF	CS/CS/SB 2242 or similar legislation	CS/CS/HB 1431 approved by Gov CH 91- CS/CS/HB 1431 approved by Gov CH 91- CS/CS/HB 1431 approved by Gov CH 91- CS/CS/HB 1431 approved by Gov CH 91- CS/CS/HB 1431 approved by Gov CH 91- CS/CS/HB 1431 approved by Gov CH 91- CS/CS/HB 1431 approved by Gov CH 91- CS/CS/HB 1431 approved by Gov CH 91- CS/CS/HB 1431 approved by Gov CH 91- CS/CS/HB 1431 approved by Gov CH 91-
1929B		30,000,000	TF	CS/CS/SB 2242 or similar legislation	
1934H		8,700,000	TF	CS/CS/SB 2242 or similar legislation	
1943A		150,000,000	TF	CS/CS/SB 2242 or similar legislation	
1943B		30,000,000	TF	CS/CS/SB 2242 or similar legislation	
1952A		8,700,000	TF	CS/CS/SB 2242 or similar legislation	
1952B		3,900,000	TF	CS/CS/SB 2242 or similar legislation	
<u>Section 2G</u>					
2063A		90,000,000	TF	CS/CS/SB 2242 or similar legislation	CS/CS/HB 1431 approved by Gov CH 91-
2074		1,200,000	TF	Legislation increasing the Motor Fuel Tax receipts transferred to DNR	Failed to become law

TF = Trust Funds  
GR = General Revenue

**General Appropriations Act for 1991-92**  
**Items Contingent on Action Other Than Legislation**

<u>Specific Appropriation</u>	<u>Pos.</u>	<u>Appropriation</u>	<u>Fund</u>	<u>Contingency</u>
<b><u>Section 1</u></b>				
1A		30,014,853	GR/TF	Implementation of productivity reductions
230A		1,000,000	GR	Reversion of prior year appropriation
267		878,560	TF	Reversion of prior year appropriation
283		3,486,149	TF	Reversion of prior year appropriation
284		1,726,984	TF	Reversion of prior year appropriation
293		33,076,543	TF	Reversion of prior year appropriation
302		303,686	TF	Reversion of prior year appropriation
303		305,394	TF	Reversion of prior year appropriation
382		488,356	GR/TF	Deposit of private donations into the Latin American & Caribbean Basin Scholarship trust fund
546A,547		574,346,527	TF	No employee salary/personal services contract increases (invalidated by SB 1314)
580D		494,000	TF	Receipt of federal grant
592B		2,000,000	TF	Receipt of private matching funds
627		500,000	TF	Submission of proposed work program
635		1,889,202	TF	Release state from damage liability
892		150,652,709	GR/TF	Requires 8% local match
902		919,141	GR	Requires 25% local match
924		74,866,376	GR/TF	Requires 12.5% local match
928A		63,008,035	GR/TF	Nullification of previously published targeted bed need and prohibition of licensure of new ICF/DD facilities
929		37,835,159	GR/TF	Requires 12.5% local match
1016		6,564,551	GR/TF	Incorporation of certificate of need procedures in establishing number of nursing home beds
1016				
1706A, 1706B		1,314,738	TF	Legislation not becoming law deleting requirement that the Department of Revenue provide tax forms and aerial photos to counties
1810,1812, 1879-1882,1888, 1889,1890	30	1,297,909	TF	Plan to reduce subsidy to Mayport Ferry
<b><u>Section 2B</u></b>				
1926B		8,700,000	TF	Reversion of prior year appropriation
1930		30,000,000	TF	Reversion of prior year appropriation
1934A		1,500,000	TF	Submission and approval of plan
1934B		300,000	GR	Reversion of prior year appropriation
1934F		1,942,795	TF	Reversion of a prior year appropriation
1934G		450,000	TF	Reversion of a prior year appropriation
1935		8,700,000	TF	Reversion of prior year appropriation
1945		150,000,000	TF	Reversion of prior year appropriation
1947		30,000,000	TF	Reversion of prior year appropriation
1952		3,900,000	TF	Reversion of prior year appropriation
1953		8,700,000	TF	Reversion of prior year appropriation
1953A		11,695,143	TF	Reversion of a prior year appropriation

**General Appropriations Act for 1991-92**  
**Items Contingent on Action Other Than Legislation**

<u>Specific Appropriation</u>	<u>Pos.</u>	<u>Appropriation</u>	<u>Fund</u>	<u>Contingency</u>
<u>Section 2C</u>				
1991D		4,000,000	TF	Reversion of a prior year appropriation
1992B		1,743,000	TF	Reversion of a prior year appropriation
<u>Section 2D</u>				
1993		4,621,253	GR	Bond Program funds not available
<u>Section 2G</u>				
2064		90,000,000	TF	Reversion of prior year appropriation
2076		3,712,191	TF	Reversion of prior year appropriation
2077		5,075,492	TF	Reversion of prior year appropriation



**SPECIAL APPROPRIATIONS ACTS  
1991 REGULAR SESSION  
and SPECIAL SESSION "C"**

01-Jul

Chapter Law	Bill Number	Subject	General Revenue		Trust
			Recurring	Non- Recurring	
			\$	\$	\$
<b>Appropriations Effective FY 1991-92</b>					
91-77	CS/CS/HB	109 Commission on Status of Women	50,000		
91-78	CS/CS/HB	365 Hunting and Fishing			234,000
91-75	CS/CS/CS/H	389 Citrus Canker			33,277,474
91-206	CS/CS/HB	685 Bingo Regulations			1,950,000
91-86	CS/CS/CS/H	827 Safe Neighborhood Act			1,140,311
91-209	CS/CS/HB	937 Claims Involving State			50,000
91-93	CS/CS/HB	1005 Employee Leasing Companies			245,000
91-212	CS/HB	1027 Regulation of Tanning Facilities		25,000	
91-214	CS/CS/HB	1265 Department of State/Corporations			132,212
91-215	CS/CS/HB	1385 Marine Turtles		300,000	300,000
91-192	HB	1413 Preservation 2000/Second Series			30,000,000
91-74	CS/CS/HB	1431 Law Enforcement Training/Minorities			40,000
91-103	CS/CS/HB	1465 Community Associations			1,120,671
91-111	HB	2427 Statewide Telecommunications System			40,190
91-112	CS/HB	2523 Hospital Cost Containment Board			167,079
91-113	HB	2607 Hazardous Materials Admin. TF Comp Plans			2,554,380
91-116	SB	78 Approp. To Forclosure Study Commission			25,000
91-237	CS/SB	772 Consumer Protection/Telemarketing			158,899
91-282	CS/CS/SB	1000 Healthcare Facilities and Services			1,930,000
91-292	CS/CS/CS/SB	1042 Public Officers and Employees/Ethics			150,000
91-144	SB	1062 Oil & Gas/Research Program/Old Wells			100,000
91-40	CS/SB	1282 Public Lodging/Food Services			100,000
91-272	SB	1314 Fiscal Affairs of the State	113,500,000		37,000,000
91-197	CS/SB	1342 Pari-Mutuel Wagering Commission			534,185
91-154	CS/SB	1768 Saltwater Fisheries/Spiny Lobster			255,182
91-298	CS/SB	1850 Inmate Labor/State Commodities			155,649
Vetoed	SB	1902 Motor Vehicle License			182,700
<b>Subtotal -- Regular Session (Excluding Vetoed Bill)</b>			113,550,000	325,000	111,660,232
	CS/HB	21 - C Appropriations	1,230,000	38,000	17,553,164
<b>Total FY 1991-92 Supplemental Appropriations (Excluding Vetoed Bill)</b>			114,780,000	363,000	129,213,396
<b>Appropriations Effective FY 1990-91</b>					
	CS/HB	269 Relief/Brenda & Steve Smith			4,500,000
	CS/HB	287 Relief/Forte			57,954
	CS/HB	339 Relief/Russell			181,000
Vetoed	CS/HB	653 Relief/Crosley	250,000		
91-79	CS/SB	2126 Supplemental Appropriation			10,000,000
<b>Subtotal -- Regular Session (Excluding Vetoed Bill)</b>					14,738,954
	CS/HB	21 - C Appropriations	(7,900,000)		36,900,000
<b>Total FY 1990-91 Supplemental Appropriations (Excluding Vetoed Bill)</b>			(7,900,000)		51,638,954
<b>Appropriations Effective FY 1992-93</b>					
91-282	CS/CS/SB	1000 Healthcare Facilities and Services			1,000,000
<b>Total FY 1992-93 Supplemental Appropriations</b>					1,000,000

MEASURES AFFECTING REVENUES FOR 1991 LEGISLATIVE REGULAR SESSION & SPECIAL SESSION "C"  
GENERAL REVENUE FUND  
(\$ MILLIONS)

	-- 1989-90 --	----- 1990-91 -----			----- 1991-92 -----				----- 1992-93 -----			
	Actual Collections	Current Forecast	Legislative Changes	Revised Forecast	Current Forecast	Revenue Measures	Changes in Distribution	Revised Forecast	Current Forecast	Revenue Measures	Changes in Distribution	Revised Forecast
Sales tax/GR	7036.7	6945.2	0.0	6945.2	7469.6	97.2	475.6	8042.4	8164.5	44.1	472.7	8681.3
Beverage tax & licenses	450.6	534.5	0.0	534.5	549.8	0.0	0.0	549.8	558.9	0.0	0.0	558.9
Corporate income tax	808.1	716.2	0.0	716.2	867.0	17.6	0.0	884.6	916.4	8.7	0.0	925.1
Documentary stamp tax	261.1	311.0	0.0	311.0	373.6	-1.9	24.4	396.1	417.1	0.0	27.3	444.4
Tobacco taxes	141.8	133.6	0.0	133.6	134.9	0.0	0.0	134.9	135.0	0.0	0.0	135.0
Insurance premium tax	198.0	186.2	0.0	186.2	170.0	0.1	52.0	222.1	217.2	0.1	22.0	239.3
Parimutuels tax	69.9	66.1	0.0	66.1	71.9	3.5	0.0	75.4	71.2	-0.3	0.0	70.9
Intangibles tax	178.0	273.6	0.0	273.6	318.2	2.6	0.0	320.8	339.2	3.3	0.0	342.5
Estate tax	257.8	304.6	0.0	304.6	279.2	0.0	0.0	279.2	300.4	0.0	0.0	300.4
Interest earnings	108.6	107.3	0.0	107.3	102.3	0.0	0.0	102.3	112.2	0.0	0.0	112.2
Public safety fees	36.9	42.6	0.0	42.6	63.8	0.0	0.0	63.8	62.5	0.0	0.0	62.5
Medical-hospital fees	70.4	97.0	0.0	97.0	105.2	0.0	0.0	105.2	131.8	0.0	0.0	131.8
Motor vehicle impact fees	0.0	0.0	0.0	0.0	0.0	4.9	61.5	66.4	0.0	5.5	37.1	42.6
Auto title & lien fees	22.2	21.4	0.0	21.4	22.0	0.0	0.0	22.0	22.7	0.0	0.0	22.7
Severance tax	37.4	35.3	0.0	35.3	36.9	0.0	0.0	36.9	38.6	0.0	-7.4	31.2
Service charges	110.9	202.4	0.0	202.4	237.7	5.5	7.9	251.1	253.7	5.2	7.5	266.4
Other taxes & fees	111.8	114.5	0.0	114.5	139.5	10.3	-0.1	149.7	150.3	21.1	-0.2	171.2
Total Revenue	9900.2	10091.5	0.0	10091.5	10941.6	139.8	621.3	11702.7	11891.7	87.7	559.0	12538.4
Less: Refunds	143.1	150.3	0.0	150.3	135.4	0.0	28.0	163.4	141.3	0.0	24.0	165.3
Plus: Adjustment to SIF	150.0	150.0	0.0	150.0	150.0	0.0	-150.0	0.0	150.0	0.0	-150.0	0.0
Net General Revenue	9907.1	10091.2	0.0	10091.2	10956.2	139.8	443.3	11539.3	11900.4	87.7	385.0	12373.1

Measures Affecting Revenues and Tax Administration  
Estimated Revenue Increases/(Decreases)  
(millions of dollars)

25-Jun

Chapter Law	Bill Number	Description	1991-92					1992-93			
			General Revenue			Trust	Local	General Revenue			Trust
			1st Year	Recurring	Non- Recurring	1st Year	1st Year	Recurring	Non- Recurring		Local
			\$	\$	\$	\$	\$	\$	\$	\$	\$
SENATE BILLS											
91-194	SB 122	1 Coastal Protection TF: Cap on SOSEETF transfer	--	--	--	--	--	--	--	--	--
		2 Pollutants Tax: Exclude non-petroleum derived ethanol	(*)	(*)	--	(*)	--	(*)	--	(*)	--
91-119	SB 154	Electrical/Alarm System Contractors: Fees	*	*	--	0.2	--	*	--	0.1	--
91-81	CS/SB 156	Indigent Care: Sales surtax	--	--	--	--	**	--	--	--	**
91-121	CS/SB 204	Educational Institutions: Ad valorem tax exemption	--	--	--	--	(**)	--	--	--	(**)
91-122	SB 206	Postsecondary Educ.: Homeless student fee exemption	--	--	--	(*)	--	--	--	(*)	--
91-82	CS/CS/SB 212	1 Fuel Tax: Tax based on gross gallons (NOTE #1)	--	--	--	--	--	--	--	--	--
		2 License plate replacement fee smoothing	1.8	0.3	1.5	23.8	--	0.3	1.2	20.5	--
		3 \$295 impact fee transfer	32.4	32.4	--	(32.4)	--	32.4	--	(32.4)	--
		4 \$295 Impact Fee: Drivers' license enforcement	2.1	2.4	(0.3)	--	--	2.4	--	--	--
		5 \$295 Impact Fee: Repeal use tax option--Impact fee	9.0	9.9	(0.9)	--	--	9.9	--	--	--
		6 \$295 Impact Fee: Repeal use tax option--Use tax	(6.1)	(6.7)	0.6	(*)	(0.6)	(6.7)	--	(*)	(0.7)
		7 \$100 wheels-on-the-road fee transfer	24.7	24.7	--	(24.7)	--	25.3	--	(25.3)	--
		8 \$295 Impact Fee: Military personnel exemptions	(0.1)	(0.1)	--	--	--	(0.1)	--	--	--
		9 \$100 Wheel-on-the-road Fee: Military personnel exemptions	(*)	(*)	--	(*)	--	(*)	--	(*)	--
		10 Temporary Tags: For temporarily employed in state	--	--	--	**	--	--	--	**	--
91-19	SB 390	Corporate Income Tax: Update	--	--	--	--	--	--	--	--	--
91-131	CS/SB 424	Tobacco Wholesalers: Temporary permits	*	*	--	*	--	*	--	*	--
91-232	CS/SB 558	Sale of Money Orders/Sunset: Fees	*	*	--	*	--	*	--	*	--
91-56	SB 644	State Lands: Selling of surplus lands	*	*	--	0.1	--	*	--	0.1	--
91-135	SB 646	Transportation of Pollutants: Vessel Liability	*	*	--	**	--	*	--	**	--
91-57	CS/SB 670	Central Abuse Registry: Fees	*	*	--	**	--	*	--	**	--
91-137	CS/SB 724	1 Professional Regulation: Duplicate and certification fees	*	*	--	0.3	--	*	--	0.3	--
		2 Professional Regulation: Registration and license fees	**	**	--	**	--	**	--	**	--
91-236	CS/SB 764	Vacation Plan & Time-Sharing Act: Developer filing fees	*	*	--	*	--	*	--	*	--
91-237	CS/SB 772	Telemarketing: License fees	*	*	--	**	--	*	--	**	--
91-238	SB 804	MSTU's: Include cities by commission vote	--	--	--	--	**	--	--	--	**
91-290	SB 854	Private School Bus Inspection: Fees	--	--	--	--	*	--	--	--	*
91-271	CS/SB 880	Organ Procurement/Tissue Banks: Fees	*	*	--	0.2	--	*	--	0.2	--
91-60	SB 950	1 Alcoholic Bev. Licenses: Applications to change type	*	*	--	0.2	--	*	--	0.2	--
		2 Alcoholic Bev. Lic.: Repeal of responsible vendor surcharge	(0.1)	(0.1)	--	(0.9)	--	(0.1)	--	(0.9)	--
		3 Alcoholic Bev. Licenses: Special license fees	*	*	--	*	--	*	--	*	--
91-240	CS/CS/SB 998	Marriage License Fee Increase	0.1	0.1	--	1.5	--	0.1	--	1.6	--
91-282	CS/CS/SB's 1000, 1234 & 2158	1 Health Care Facilities: Assessments	*	*	--	0.2	--	*	--	0.2	--
		2 Health Care Facilities: CON application fees	0.2	0.2	--	3.0	--	0.2	--	3.0	--
		3 Health Care Facilities: Licenses	0.1	0.1	--	1.0	--	0.1	--	1.0	--
		4 Nursing Home, etc.: Licenses	0.1	0.1	--	1.6	--	0.1	--	1.6	--
		5 Health Care Facilities: Plan Reviews	0.1	0.1	--	0.9	--	0.1	--	0.9	--
		6 HCCB: Fees for publications	*	*	--	**	--	*	--	**	--
91-292	CS/CS/CS/SB's 1042 142, 366 & 1070	1 Executive Lobbyist Registration Fees	*	*	--	0.2	--	*	--	0.2	--

Measures Affecting Revenues and Tax Administration  
Estimated Revenue Increases/(Decreases)  
(millions of dollars)

25-Jun

Chapter Law	Bill Number	Description	1991-92					1992-93			
			General Revenue			Trust	Local	General Revenue		Trust	Local
			1st Year	Recurring	Non- Recurring	1st Year	1st Year	Recurring	Non- Recurring		
			\$	\$	\$	\$	\$	\$	\$	\$	\$
91-145	SB 1088	2 Legislative Lobbyist Registration Fee Transfer	(0.1)	(*)	(0.1)	0.1	--	(*)	(0.2)	0.2	--
91-305	CS/CS/SB 1120	Medical Services: Temporary certificates	--	--	--	--	--	--	--	--	--
		1 Environmental Regulation: Permit fee increases	**	**	--	**	--	**	--	**	--
		2 Waste Water Treatment Plant Operators: Certification fee	*	--	--	0.1	--	*	--	0.1	--
		3 Public Water Supply: Construction permit fee	*	--	--	**	--	*	--	**	--
		4 Small Quantity Hazardous Waste Generators: Surcharge	--	--	--	--	--	--	--	--	**
91-196	SB 1226	Ad Valorem Tax Exemptions: Charitable Institutions	--	--	--	--	(**)	--	--	--	(**)
91-272	SB 1314	1 STTF repayment of GR loan	109.5	--	109.5	(109.5)	--	--	--	--	--
		2 Redirect wheels-on-the-road fee to STTF	--	--	--	--	--	--	(25.3)	25.3	--
Vetoed	CS/SB 1336	1 Optional .35% Tourist Dev. Tax Levy: Dade Co.	--	--	--	--	**	--	--	--	**
		2 Municipal Resort Tax: Remove beer exemption	--	--	--	--	**	--	--	--	**
		3 Museums: Artwork sales and use tax exemption	(1.1)	(0.2)	(0.9)	(*)	(0.1)	(0.2)	--	(*)	(*)
		4 Live Theater Exemption: Filing extension	(0.9)	--	(0.9)	(*)	(0.1)	--	--	--	--
91-197	CS/SB 1342	Pari-mutuels	3.5	--	3.5	0.7	--	--	(0.3)	0.6	--
91-294	CS/SB 1400	Plant Industry: Registration Fees	--	--	--	0.1	--	--	--	0.1	--
91-295	CS/SB 1428	Tax Collectors Commissions: Increase from county revenues	--	--	--	--	--	--	--	--	--
91-297	CS/CS/SB 1436	Public Health Law Revision: Fees	0.5	0.5	--	7.0	--	0.5	--	7.1	--
91-176	CS/SB 1536	Veterinary Medical Practice: Fees	*	*	--	**	--	*	--	**	--
91-241	CS/SB 1578	Ad Valorem Tax: Mobile Homes	(*)	(*)	--	(**)	**	(*)	--	(**)	**
91-178	CS/SB 1614	Commercial Animal Feed: Fees	*	*	--	0.2	--	*	--	0.2	--
91-243	CS/SB 1702	Drivers' License Late Renewal Fees	*	*	--	--	--	*	--	--	--
91-152	SB 1716	Civil & County Courts: Probate service charge	*	*	--	*	--	*	--	*	--
91-244	CS/SB 1758	Treasurer: Investment authority revision	**	**	--	**	--	**	--	**	--
91-153	CS/SB 1766	Education Facilities: Capital outlay millage uses	--	--	--	--	**	--	--	--	--
91-154	CS/SB 1768	Saltwater Fisheries: Spiny Lobster Certificates	*	0.1	(0.1)	0.1	--	0.1	--	1.1	--
91-64	SB 1802	Milk & Milk Products: Fees	*	*	--	*	--	*	--	*	--
91-298	CS/SB 1850	1 Inmate Labor: PRIDE reimbursement	(0.4)	(0.4)	--	1.2	--	(0.4)	--	1.2	--
		2 PRIDE Reimbursement: GR service charge	0.1	0.1	--	--	--	0.1	--	--	--
91-245	CS/CS/SB 1890	Mortgage Brokerage & Lending: Fees	*	*	--	*	--	*	--	*	--
Vetoed	SB 1902	Motor Vehicle Licenses: Delinquency fee increase	--	--	--	2.0	--	--	--	2.9	--
91-199	CS/SB 1926	1 Manatee Protection: 50 cent boat registration increase	*	*	--	0.4	--	*	--	0.4	--
		2 Manatee Protection: Voluntary \$5 boat sticker	*	*	--	**	--	*	--	**	--
91-155	SB 1986	Convention Development Tax Increase: Volusia County	--	--	--	--	2.1	--	--	--	2.3
91-200	CS/SB 2010	1 Non-Criminal Traffic Citations: Reduces options	10.6	22.1	(11.5)	1.8	1.4	23.0	--	--	--
		2 Speeding Tickets: 25 cents to Non-game Wildlife TF	--	0.1	(0.1)	--	--	0.1	--	1.1	--
91-273	CS/SB 2014	Pesticides: Fees	0.2	--	0.2	2.1	--	--	--	--	--
91274	CS/CS/SB 2040	Professional Sports Facilities: GR Distribution	--	(10.5)	10.5	--	--	(10.5)	6.0	--	--
91-79	CS/SB 2126	1 Sales tax distribution to SIF changed to GR	475.6	475.6	--	(475.6)	--	472.7	--	(472.7)	--
		2 Doc stamp distribution to SIF changed to GR	24.4	24.4	--	(24.4)	--	27.3	--	(27.3)	--
		3 SIF transfer to GR eliminated	(150.0)	(150.0)	--	150.0	--	(150.0)	--	150.0	--
		4 SIF balance transferred to GR	18.5	--	18.5	(18.5)	--	--	--	--	--
		5 Rental car surcharge dist. to LETF changed to GR	4.4	4.4	--	(4.4)	--	4.7	--	(4.7)	--
		6 Transfer Property Assessment TF to GR	1.8	--	1.8	(1.8)	--	--	--	--	--
		7 Educational Enhancement TF: Increase lottery dist. to 38%	--	--	--	10.4	--	--	--	10.7	--

Measures Affecting Revenues and Tax Administration  
Estimated Revenue Increases/(Decreases)  
(millions of dollars)

25-Jun

Chapter Law	Bill Number	Description	1991-92					1992-93			
			General Revenue			Trust	Local	General Revenue		Trust	Local
			1st Year	Recurring	Non- Recurring	1st Year	1st Year	Recurring	Non- Recurring		
			\$	\$	\$	\$	\$	\$	\$	\$	\$
		8 Lottery Admin. TF: Increase EETF distribution to 38%	--	--	--	(10.4)	--	--	--	(10.7)	--
91-190	SB 2210	Frozen Desserts: Fees	*	*	--	*	--	*	--	*	--
91-66	SB 2234	Used Motor Vehicles Valuation: Use of alternative sources	--	--	--	--	--	--	--	--	--
91-193	SB 2300	1 Appropriations Act: DOR auditor positions	20.5	22.2	(1.7)	1.3	3.6	23.4	--	0.7	4.0
		2 Appropriations Act: University tuition increases	--	--	--	35.1	--	--	--	36.5	--
91-157	SB 2302	Appropriations Implementing Bill									
		1 Transfer from the Ins. Com. Reg. TF (NOTE #2)	--	--	--	--	--	--	--	--	--
		2 Transfer from the Fla. Coastal Protection TF (NOTE #2)	--	--	--	--	--	--	--	--	--
		3 Transfer from the Fla. Fire Insurance TF (NOTE #2)	--	--	--	--	--	--	--	--	--
		4 Transfer from the Cancer Research TF (NOTE #2)	--	--	--	--	--	--	--	--	--
		5 Transfer from the Agency Budget Sunset TF (NOTE #2)	--	--	--	--	--	--	--	--	--
		6 Transfer from the Fla. Seed Capital TF	1.1	--	1.1	(1.1)	--	--	--	--	--
HOUSE BILLS											
Vetoed	CS/HB 193	Games of Chance: Charitable Organizations	--	--	--	--	--	--	--	(**)	--
91-22	CS/HB 211	Physician Renewal: Fees	*	*	--	0.3	--	*	--	0.4	--
91-254	HB 325	1 Saltwater Fishing Licenses: Contiguous states, eff. 7-1-93	--	--	--	--	--	--	--	--	--
		2 Apalachicola Bay Oyster Harvesting License	*	*	--	**	*	*	--	**	*
91-78	CS/CS/HB 365	1 Hunting & Fishing Licenses: Lifetime and 5-year licenses	--	--	--	**	*	--	--	**	*
		2 Apalachicola Bay Oyster Harvesting License	*	*	--	**	--	*	--	**	--
91-75	CS/CS/										
	CS/HB 389	Citrus Canker: Citrus taxes	--	--	--	14.7	--	--	--	(6.2)	--
Vetoed	HB 633	1 Federal Lien Registration Act: Fees	*	*	--	0.3	**	*	--	0.3	**
		2 Criminal Justice Assessment Centers: Optional local fees	--	--	--	--	**	--	--	--	**
91-206	CS/CS/HB 685	Bingo Law Revision: Fees	*	*	--	**	--	*	--	**	--
91-207	CS/HB 771	Auctioneers Recovery Fund: Assessments	--	--	--	--	--	--	--	0.1	--
91-208	CS/HB 803	Solicitation of Funds: Fees	*	*	--	0.3	--	*	--	0.3	--
91-86	CS/CS/										
	CS/HB 827	Neighborhood Improvement Districts: Assessments	--	--	--	--	**	--	--	--	**
91-88	CS/HB 891	Physicians Licensure Exemption	(*)	(*)	--	(*)	--	(*)	--	(*)	--
91-89	HB 907	Real Estate Appraisers: Fees	*	*	--	0.3	--	*	--	0.3	--
91-93	CS/CS/HB 1005	Employee Leasing Companies: Regulation and fees	0.1	--	0.1	0.9	--	*	--	**	--
91-212	CS/HB 1027	Tanning Facilities: Fees	*	*	--	0.2	--	*	--	0.2	--
91-97	HB 1167	Cigarette Permits: Regulation	--	--	--	--	--	--	--	--	--
91-100	HB 1223	911 Emergency Telephone System: Time extension	--	--	--	--	**	--	--	--	**
91-214	CS/CS/HB 1265	Registration of Foreign Corporations: Increased enforcement	0.1	0.7	(0.6)	0.9	--	0.7	(0.6)	0.9	--
91-101	CS/HB 1339	Shrimp Fishing: Dead shrimp production licenses	*	*	--	*	--	*	--	*	--
91-215	CS/CS/HB 1385	Marine Turtle Protection: Boat registrations	--	--	--	--	--	--	--	--	--
91-192	HB 1413	1 Preservation 2000: Doc stamp on deeds/5 cents/\$100	(1.9)	(2.0)	0.1	26.9	--	--	--	30.7	--
		2 Preservation 2000: GR service charges	1.9	2.0	(0.1)	--	--	2.3	--	--	--
91-103	CS/CS/HB 1465	1 Condominium Associations: Fee increases	0.2	0.1	0.1	2.5	--	0.1	--	1.7	--
		2 Condominium Associations: Reservation program fees	*	*	--	0.1	--	*	--	0.1	--
		3 Condominium Associations: Intended conversion fee	*	*	--	*	--	*	--	*	--



Measures Affecting Revenues and Tax Administration  
Estimated Revenue Increases/(Decreases)  
(millions of dollars)

25-Jun

Chapter Law	Bill Number	Description	1991-92					1992-93				
			General Revenue			Trust	Local	General Revenue				
			1st Year	Recurring	Non- Recurring	1st Year	1st Year	Recurring	Non- Recurring	Trust	Local	
			\$	\$	\$	\$	\$	\$	\$	\$	\$	
91-302	CS/HB 1527	4 Condominium Associations: Developer amendment fee	*	*	--	0.1	--	*	--	0.1	--	
91-278	CS/HB 1587	1 Fla. National Guard: Tuition Waivers	--	--	--	(0.2)	--	--	--	(0.2)	--	
		2 State Lottery Revenue: Transfer to Education Enhance. TF	--	--	--	25.0	--	--	--	--	--	
91-217	CS/HB 1613	2 State Lottery Revenue: Transfer from lottery admin. funds	--	--	--	(25.0)	--	--	--	--	--	
91-105	CS/HB 1637	1 HRS Job Training Programs: Tuition fee waivers	--	--	--	(*)	--	--	--	(*)	--	
		2 Education: Instructional licensure fee	(**)	(**)	--	--	--	(**)	--	--	--	
		2 Education: License to operate a school	(**)	(**)	--	--	--	(**)	--	--	--	
		3 Education: Elimination of adjunct certificates	(*)	(*)	--	--	--	(*)	--	--	--	
Vetoed	HB 1907	Local Govt. Infrastructure Surtax: Separate project voting	--	--	--	--	--	--	--	--	--	
91-263	CS/HB 1983	Home Health Agency Licensure Fees	*	--	--	*	--	*	--	*	--	
91-308	CS/CS/HB 2029	Community Development Districts: Assessments	--	--	--	--	**	--	--	--	**	
91-265	CS/HB 2135	Spaceport Florida Authority	--	--	--	--	--	--	--	--	--	
91-80	CS/CS/		--	--	--	--	--	--	--	--	--	
	CS/HB 2157	Everglades: Storm water fees	--	--	--	--	**	--	--	--	**	
91-107	HB 2251	Campaign Financing: Fees and assessments	*	*	--	0.6	--	--	0.1	1.7	--	
91-108	CS/HB 2309	Insurance Sunset: Annual Fees	*	--	--	*	--	*	--	*	--	
91-31	HB 2373	Administrative Probation: Loss of fees	(*)	(1.6)	1.6	--	--	(1.6)	--	--	--	
91-31	CS/HB 2399	Fla. Tourism Commission: Taipei office fees	*	--	--	0.3	--	--	--	0.3	--	
91-17	HB 2423	Credit Union Guaranty Corp.: Fees	*	*	--	**	--	*	--	**	--	
91-111	HB 2497	University Tuition Increases: Scheduled	--	--	--	--	--	--	--	--	--	
91-112	CS/HB 2523	1 Estate tax penalties	*	*	--	--	--	*	--	**	--	
		2 Intangibles tax: Require statement of payment	--	**	(**)	--	--	**	--	--	**	
		3 Gross Receipts Tax: Repeal separately stated exemption	--	--	--	3.0	--	--	--	3.9	--	
		4 Aviation Fuel Tax: Extend apportionment through 2000	--	(0.1)	0.1	--	--	(0.1)	--	(1.7)	--	
		5 Sales Tax: Recreational facility fees	3.1	3.5	(0.4)	*	0.4	3.5	--	*	0.4	
		6 Sales Tax: Cruises to nowhere--1 year exemption	--	2.6	(2.6)	--	--	2.6	(0.5)	*	0.3	
		7 Sales Tax: Resale of admissions	--	--	--	--	--	--	--	--	--	
		8 Sales Tax: Mail order sales	*	*	--	*	--	*	--	*	--	
		9 All funds collected as taxes declared state funds	--	--	--	--	--	--	--	--	--	
		10 Sales Tax: Apportionment of airline maintenance base leases	(1.5)	(1.7)	0.2	(*)	(0.2)	(1.7)	--	(*)	(0.2)	
		11 Corp. Income Tax: Apportionment factor glitch	0.5	3.1	(2.6)	--	--	3.1	--	--	--	
		12 Service Charges: PAR .3% redirected to GR	7.9	7.2	0.7	(7.9)	--	7.5	--	(7.5)	--	
		13 Battery Fees: Extend to off-road vehicles	*	*	--	0.1	*	*	--	0.1	*	
		14 Tire Fees: Tax due monthly	0.1	--	0.1	1.7	--	--	--	--	--	
		15 Battery Fees: Tax used batteries	*	*	--	0.5	--	*	--	0.5	--	
		16 Corporate Income Tax: Community Contribution Credit	*	*	--	--	--	*	--	--	--	
		17 Insurance Premium Tax: Slow refunds	24.0	--	24.0	--	--	--	(2.0)	--	--	
		18 Corporate Income Tax: Intangibles tax bank glitch	10.2	--	10.2	--	--	--	--	--	--	
		19 Sales Tax: Use tax on fishing boats brought into state	0.3	0.1	0.2	*	*	0.1	--	*	*	
		20 Sales Tax: Vending machines, increased enforcement	2.3	7.9	(5.6)	*	0.3	8.3	(2.4)	*	0.6	
		21 Sales Tax: Dealer allowance increase repealed	5.3	10.6	(5.3)	*	0.6	11.4	--	*	1.2	
		22 Sales Tax: Coin-operated amusement games taxed	5.0	6.5	(1.5)	*	0.5	6.5	--	*	0.7	
		23 Sales Tax: Estimated payment % reduction repealed	38.7	0.9	37.8	0.1	4.0	3.5	--	*	0.4	
		24 Sales Tax: Est. payment threshold reduced to \$100,000	33.2	0.6	32.6	*	0.1	2.9	--	*	0.3	

Measures Affecting Revenues and Tax Administration  
Estimated Revenue Increases/(Decreases)  
(millions of dollars)

25-Jun

Chapter Law	Bill Number	Description	1991-92					1992-93				
			General Revenue			Trust	Local	General Revenue				
			1st Year	Recurring	Non- Recurring	1st Year	1st Year	Recurring	Non- Recurring	Trust	Local	
			\$	\$	\$	\$	\$	\$	\$	\$	\$	
	25	Motor Vehicle Licenses: \$2 surcharge to STTF	--	--	--	23.4	--	--	--	25.1	--	
	26	STTF loan repayment in 1990-91 (NOTE #2)	--	--	--	--	--	--	--	--	--	
	27	Ambulatory and Diagnostic Centers: 1.5% assessment	--	--	--	14.1	--	--	--	15.2	--	
		Subtotal -- Non-recurring trust fund transfers	130.9	--	130.9	(130.9)	--	--	--	--	--	
		Subtotal -- Recurring trust fund transfers	419.3	418.7	0.6	(419.3)	--	419.9	(0.2)	(419.7)	--	
		Subtotal -- Revenue measures	161.8	73.5	88.3	175.5	12.0	83.9	(23.8)	180.1	9.3	
		Total	712.0	492.2	219.8	(374.7)	12.0	503.9	(24.0)	(239.6)	9.3	
		Less Vetoed Bills	(2.0)	(0.2)	(1.8)	2.3	(0.2)	(0.2)	--	3.2	--	
		TOTAL	714.0	492.4	221.6	(377.0)	12.2	504.1	(24.0)	(242.8)	9.3	

NOTES:

#1: This represents the net change resulting from the passage of this bill and changes in DOR administrative policy made subsequent to the current base transportation revenue estimates.

#2: The following bills contain fiscal year 1990-91 transfers to the General Revenue Fund:

SB 2302	Appropriations Implementing Bill						
1	Transfer from the Ins. Com. Reg. TF	2.0	--	2.0	(2.0)		
2	Transfer from the Fla. Coastal Protection TF	15.0	--	15.0	(15.0)		
3	Transfer from the Fla. Fire Insurance TF	7.0	--	7.0	(7.0)		
4	Transfer from the Cancer Research TF	9.6	--	9.6	(9.6)		
5	Transfer from the Agency Budget Sunset TF	5.4	--	5.4	(5.4)		
CS/HB 2523	STTF loan repayment in 1990-91	21.5	--	21.5	(21.5)		
	TOTAL FISCAL YEAR 1990-91 TRANSFERS	60.5	--	60.5	(60.5)		

\* = Insignificant <\$50,000

\*\* = Indeterminate

() = Negative



EDUCATIONAL ENHANCEMENT TRUST FUND (LOTTERY)  
FROM FY 1991-92 GENERAL APPROPRIATION ACT

SECTION 1

EDUCATION, DEPARTMENT OF, AND COMMISSIONER OF  
EDUCATION

PUBLIC SCHOOLS, DIVISION OF

510 AID TO LOCAL GOVERNMENTS	
GRANTS AND AIDS - DISTRICT DISCRETIONARY	
LOTTERY FUNDS	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	495,369,799
515A AID TO LOCAL GOVERNMENTS	
GRANTS AND AIDS - INSTRUCTIONAL TECHNOLOGY	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	8,857,846
523 SPECIAL CATEGORIES	
GRANTS AND AIDS - PRE-SCHOOL PROJECTS	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	78,572,355
525 SPECIAL CATEGORIES	
GRANTS AND AIDS - HIGH PERFORMANCE	
INCENTIVES PROGRAM	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	10,000,000

COMMUNITY COLLEGES, DIVISION OF

546A AID TO LOCAL GOVERNMENTS	
GRANTS AND AIDS - COMMUNITY COLLEGE	
LOTTERY FUNDS	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	123,450,000
552 SPECIAL CATEGORIES	
GRANTS AND AIDS - COMMUNITY COLLEGE	
ENDOWMENT MATCHING FUND	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	2,750,000
555 SPECIAL CATEGORIES	
GRANTS AND AIDS - NURSING EDUCATION	
CHALLENGE GRANT FUND	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	800,000

UNIVERSITIES, DIVISION OF  
EDUCATIONAL AND GENERAL ACTIVITIES

577A LUMP SUM	
STATE UNIVERSITY SYSTEM LOTTERY FUNDS	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	112,041,421
582A SPECIAL CATEGORIES	
LIBRARY RESOURCES	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	3,258,579
582B SPECIAL CATEGORIES	
STUDENT FINANCIAL AID	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	8,300,000
TOTAL OF SECTION 1	
FROM TRUST FUNDS	843,400,000
TOTAL ALL FUNDS	843,400,000

EDUCATIONAL ENHANCEMENT TRUST FUND (LOTTERY)  
FROM FY 1991-92 GENERAL APPROPRIATION ACT

SECTION 2B

EDUCATION, DEPARTMENT OF, AND COMMISSIONER OF  
EDUCATION

OFFICE OF EDUCATIONAL FACILITIES

1934A FIXED CAPITAL OUTLAY	
STATE UNIVERSITY SYSTEM FACILITY	
ENHANCEMENT - CHALLENGE GRANT PROGRAM	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	3,400,000
1934B FIXED CAPITAL OUTLAY	
STATE UNIVERSITY SYSTEM - UNIVERSITY OF	
FLORIDA VET MEDICINE CHALLENGE GRANT	
PROGRAM	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	1,750,000
1934C FIXED CAPITAL OUTLAY	
STATE UNIVERSITY SYSTEM - UNIVERSITY OF	
SOUTH FLORIDA SARASOTA CAPLES CHALLENGE	
GRANT PROGRAM	
FROM EDUCATIONAL ENHANCEMENT TRUST FUND	450,000

TOTAL OF SECTION 2B

FROM TRUST FUNDS	5,600,000
TOTAL ALL FUNDS	5,600,000
TOTAL THIS GENERAL APPROPRIATION ACT	
FROM TRUST FUNDS	849,000,000
TOTAL ALL FUNDS	849,000,000



STATE INFRASTRUCTURE FUND  
based on 1991 REGULAR SESSION & SPECIAL SESSION "C" ACTION  
FINANCIAL OUTLOOK STATEMENT  
FY 1990-91 and 1991-92  
(\$ MILLIONS)

DATE: 24-Jun-91  
TIME: 12:00 PM

	TOTAL	RECURRING	NON-RECURRING
FUNDS AVAILABLE 1990-91			
Balance forward from 1989-90	5.1	0.0	5.1
Revenues	500.0	350.0	150.0
Transfer from trust (#740a GAA)	2.0	0.0	2.0
Veto transfer to General Revenue	(2.0)	0.0	(2.0)
Midyear reversions	4.8	0.0	4.8
Fixed capital outlay reversions	2.5	0.0	2.5
	-----	-----	-----
Total 90-91 funds available	512.4	350.0	162.4
EFFECTIVE APPROPRIATIONS 1990-91			
Operations	232.4	79.0	153.4
Fixed capital outlay	241.8	0.0	241.8
Preservation 2000 (HB 1911)	30.0	30.0	0.0
Administration Commission program reductions	(3.3)	0.0	(3.3)
Administration Commission fund shift 10/90	7.0	7.0	0.0
Reduction to appropriation/Section 1 (HB 21C)	(8.7)	(8.7)	0.0
Reduction to appropriation/FCO (HB 21C)	(11.3)	0.0	(11.3)
Appropriation to General Revenue (HB 21C)	20.0	0.0	20.0
	-----	-----	-----
Total 90-91 effective appropriations	507.9	107.3	400.6
	=====	=====	=====
AVAILABLE RESERVES	4.5	242.7	(238.2)
FUNDS AVAILABLE 1991-92			
Balance forward from 1990-91	4.5	0.0	4.5
Midyear reversions	0.5	0.0	0.5
Fixed capital outlay reversions	1.2	0.0	1.2
Unused appropriations	12.3	0.0	12.3
	-----	-----	-----
Total 91-92 funds available	18.5	0.0	18.5
EFFECTIVE APPROPRIATIONS 1991-92			
Transfer to General Revenue	18.5	0.0	18.5
	-----	-----	-----
Total 91-92 effective appropriations	18.5	0.0	18.5
	=====	=====	=====
AVAILABLE RESERVES	0.0	0.0	0.0

EDUCATIONAL ENHANCEMENT (LOTTERY) TRUST FUND  
based on 1991 REGULAR LEGISLATIVE SESSION ACTION  
FINANCIAL OUTLOOK STATEMENT

FY 1990-91 and 1991-92

(\$ MILLIONS)

DATE: 04-Jun-91

TIME: 12:00 PM

	TOTAL	RECURRING	NON- RECURRING
<b>FUNDS AVAILABLE 1990-91</b>			
Balance forward from 1989-90	139.4	0.0	139.4
Revenues from ticket sales	829.1	818.2	10.9
Retained earnings from DOL	36.1	0.0	36.1
Transfer from DOL Administrative Trust Fund	14.0	0.0	14.0
Midyear reversions	0.3	0.0	0.3
Fixed capital outlay reversions	0.0	0.0	0.0
Interest earnings	3.0	3.0	0.0
	-----	-----	-----
Total 90-91 funds available	1,021.9	821.2	200.7
<b>EFFECTIVE APPROPRIATIONS 1990-91</b>			
Operations	275.7	193.2	82.5
Aid to local government	635.7	572.1	63.6
Fixed capital outlay	6.0	0.0	6.0
Base student allocation guarantee	0.5	0.0	0.5
Fund shift/Administration Commission 10/90	84.3	45.4	38.9
	-----	-----	-----
Total 90-91 effective appropriations	1,002.2	810.7	191.5
	=====	=====	=====
<b>AVAILABLE RESERVES</b>	19.7	10.5	9.2
<b>FUNDS AVAILABLE 1991-92</b>			
Balance forward from 1990-91	19.7	0.0	19.7
Revenues from ticket sales	782.7	782.7	0.0
Change in distribution	35.4	10.4	25.0
Retained earnings from DOL	2.5	0.0	2.5
Midyear reversions	0.5	0.0	0.5
Fixed capital outlay reversions	0.2	0.0	0.2
Unused appropriations	2.2	0.0	2.2
Interest earnings	3.0	3.0	0.0
	-----	-----	-----
Total 91-92 funds available	846.2	796.1	50.1
<b>EFFECTIVE APPROPRIATIONS 1991-92</b>			
Operations	215.7	202.1	13.6
Aid to local government	627.7	597.9	29.8
Fixed Capital Outlay	5.6	0.0	5.6
Fixed Capital Outlay vetoes	(2.2)	0.0	(2.2)
	-----	-----	-----
Total 91-92 effective appropriations	846.8	800.0	46.8
	=====	=====	=====
<b>AVAILABLE RESERVES</b>	(0.6)	(3.9)	3.3

PRINCIPAL STATE SCHOOL TRUST FUND  
based on 1991 REGULAR SESSION & SPECIAL SESSION "C" ACTION  
FINANCIAL OUTLOOK STATEMENT  
FY 1990-91 and 1991-92  
(\$ MILLIONS)

DATE: 24-Jun-91  
TIME: 12:00 PM

	TOTAL	RECURRING	NON-RECURRING
<b>FUNDS AVAILABLE 1990-91</b>			
Cash & short-term investment balance forward	58.9	0.0	58.9
Maturing long term investments	0.4	0.0	0.4
Abandoned property receipts	38.7	28.8	9.9
Other non-operating receipts	5.4	5.4	0.0
Interest earnings	3.9	0.1	3.8
	-----	-----	-----
Total 90-91 funds available	107.3	34.3	73.0
<b>EFFECTIVE APPROPRIATIONS 1990-91</b>			
General Appropriations Act	77.3	28.5	48.8
Administration Commission fund shift 10/90	18.0	9.6	8.4
FEFP special appropriation (HB 21C)	7.9	7.9	0.0
	-----	-----	-----
Total 90-91 effective appropriations	103.2	46.0	57.2
	=====	=====	=====
<b>AVAILABLE RESERVES</b>	4.1	(11.7)	15.8
<b>FUNDS AVAILABLE 1991-92</b>			
Cash & short-term investment balance forward	4.1	0.0	4.1
Maturing long term investments	0.6	0.0	0.6
Abandoned property receipts	31.0	30.0	1.0
Other non-operating receipts	5.5	5.5	0.0
Interest earnings	0.1	0.0	0.1
	-----	-----	-----
Total 91-92 funds available	41.3	35.5	5.8
<b>EFFECTIVE APPROPRIATIONS 1991-92</b>			
General Appropriations Act	41.3	41.3	0.0
	-----	-----	-----
Total 91-92 effective appropriations	41.3	41.3	0.0
	=====	=====	=====
<b>AVAILABLE REVENUES</b>	0.0	(5.8)	5.8

NOTE: The trust fund currently has long term investments with a face value of \$4.8 million. The market value of these assets is estimated at \$4.1 million. The value of the long term assets is not included in the above estimates of funds available.

## BUSINESS REGULATIONS\*

## Alcoholic Beverages and Tobacco

COMMITTEE SUBSTITUTE FOR SENATE BILL 424 (CHAPTER 91-131) authorizes the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation to issue temporary permits for the distributing agents, wholesalers and exporters of cigarettes or other tobacco products upon submission of a completed application and payment of a \$100 fee. The act also authorizes the Division to charge a late fee for delinquent renewal of such permits.

SENATE BILL 950 (CHAPTER 91-60) amends Section 561.705, F.S., to eliminate the Division of Alcoholic Beverage and Tobacco's role in the Responsible Vendor Program. The Division will no longer be authorized to approve vendor training programs, or certify licensees as responsible vendors; however, a vendor can continue to qualify by providing employee training which covers the subjects required by the statute. Qualified responsible vendors continue to be eligible for mitigation under revised Section 561.706, F.S. The \$35 surcharge (Section 561.704, F.S.) will expire by operation of law on October 1, 1991.

The act adds Subsections 561.17(4) and 561.12(2), F.S., to require exporters of in-bond liquor to register with the Division. [Exporters import and export liquor through Florida for sale outside the state. They have not been regulated by the state since the previous exporter licensing law was declared unconstitutional in 1978.] This law also:

- 1) authorizes the issuance of special licenses for one-time sales (Subsection 561.20(12), F.S.);
- 2) prohibits the transfer of a vendor's license when there is an outstanding debt owed to a licensed distributor (Subsection 561.32(2), F.S.);
- 3) allow the issuance of temporary licenses when a change of type or series is sought (Subsection 561.1331(3), F.S.);
- 4) equalizes the powers of counties and municipalities regarding enactment of ordinances regulating alcoholic beverage sales (Subsection 562.45(2), F.S.); and,
- 5) provides that containers of wine and distilled spirits, as well as malt beverages, will be prima facie evidence in criminal or administrative hearings that the contents are alcoholic beverages (Section 562.47, F.S.).

The measure revises Section 561.20, F.S., to clarify that quota liquor licenses will be issued pursuant to population estimates prepared as provided by Section 186.901, F.S., as is the current practice by the Department of Business Regulation and deletes references to the federal decennial census.

The enactment revises Subparagraph 562.13(3)(a)2., F.S., to expand the category of crimes that disqualify a person for employment in a licensed establishment by replacing current language that refers to conviction of illegally dealing in "narcotics" with language specifying that a person convicted of

any felony violation of a state or federal controlled substance law would be prohibited from being employed by a licensed vendor as a manager, person in charge or bartender.

Obsolete language pertaining to import taxes on alcoholic beverages which have been declared unconstitutional is deleted in Section 564.06, F.S.

HOUSE BILL 1167 (CHAPTER 91-97) reenacts the cigarette sales permitting statute, Sections 210.15, 210.16 and 210.161, F.S., which was repealed October 1, 1990, pursuant to the Sunset Review Act (Section 11.61, F.S.). These sections provide cigarette permitting requirements for distributing agents, wholesale dealers and exporters. In addition, the Division of Alcoholic Beverages and Tobacco of the Department of Business Regulation is granted specific statutory authority to:

- 1) monitor the collection of cigarette excise taxes;
- 2) establish guidelines for review and denial of cigarette permits (Section 210.15, F.S.);
- 3) impose penalties for noncompliance (Subsection 210.16(4), F.S.); and,
- 4) review permitholder records, subpoena witnesses and take depositions (Section 210.161, F.S.).

## Bingo

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 685 (CHAPTER 91-206) provides in a reworded Section 849.893, F.S., for the statewide regulation of bingo under the supervision of the Division of Pari-mutuel Wagering of the Department of Business Regulation.

Bingo is to be conducted by authorized organizations, which include any nonprofit tax exempt religious, educational, veterans', fraternal, service, medical, volunteer rescue service or volunteer firefighter's organization or homeowners' association, and certain retirement facilities.

These organizations must appoint a committee of three active members, one of whom must be named the member-in-charge to be responsible for each bingo session. The measure further regulates the manner in which games may be played and prizes awarded, and specifies the times when games may be played, the number of games that may be played, and the locations where games may be played. The use of bingo proceeds is restricted and expenses may be deducted. Maintenance of records and reports is required.

The legislation provides requirements relating to leasing premises for bingo, and requires licensing by the Division of Organizations that conduct bingo and distributors of bingo equipment. Certain persons and activities are prohibited from being associated with bingo, and criminal penalties, suspension and revocation of licenses are provided for violations of these provisions. This act is effective on October 1, 1991.

\*Prepared by Senate Commerce Committee

## Condominiums

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 21 AND 67 (CHAPTER 91-67) amends the Condominium Act (Chapter 718, F.S.) relating to the powers of the condominium association to conduct bingo games. Reference is made in Section 718.114, F.S., that associations may conduct bingo games in accordance with the bingo statute (Section 849.893, F.S.) which provides the authority and conditions for conducting bingo. This includes the authority for authorized condominium associations to deduct actual business expenses before distributing prizes to players. It would also allow such associations to contribute proceeds remaining after paying prizes to certain charitable, nonprofit, and veterans' organizations or to carry such remaining funds over to the next day of play and be used to allow players to play free of charge until such funds are exhausted, as is currently required.

SENATE BILL 78 (CHAPTER 91-116) amends 718.115, F.S., to provide for boards of condominium associations to enter into bulk contracts for cable television services and permit the fees to be included in the common expense assessment for each unit owner. A single unit owner may call for a special meeting or for the issue to be agendaed at the next regular unit owner meeting. A majority of the voting interests present at the meeting can ratify or rescind the contract. Where no request is made, the contract is ratified. Anyone with certain specified hearing or sight impairments will not have to be hooked up to the service or pay the assessment.

This act amends Section 718.120, F.S., relating to taxation of condominiums. No ad valorem and benefit taxes, including those made by special districts, drainage districts or water management districts, may be separately assessed against common elements owned by the association or jointly owned by owners of the condominium parcels.

In addition, the law creates a 13-member Foreclosure Study Commission. The Commission is required to review the existing mortgage foreclosure process to identify problems in the existing mortgage foreclosure system, including problems that are particular to condominiums. The Commission is also required to identify ways the system could operate more efficiently; to review other states' foreclosure systems; and to review alternatives to the existing process, including nonjudicial foreclosures. The Commission is required to report its findings and recommendations by November 30, 1991, for the 1992 Regular Session of the Legislature.

## Florida Telemarketing Act

COMMITTEE SUBSTITUTE FOR SENATE BILL 772 (CHAPTER 91-237) creates Part IV of Chapter 501, F.S., the "Florida Telemarketing Act," which requires certain telephone solicitors to register with the Department of Agriculture and Consumer Services and to disclose information about their telemarketing business, their associates, their past dealings in the telemarketing industry and their associates' past dealings within the industry. Applicants for licensure are also required to disclose information about certain unlawful acts or pending litigation or civil action concerning these unlawful acts. The

measure specifies how the telemarketers must approach the people they contact and it sets out the form that an agreement between the telemarketers and the customers must take. The legislation provides for both civil and criminal remedies for those who do not comply with the provisions of this act. The law has an effective date of September 1, 1991.

## Lottery

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1587 (CHAPTER 91-278) deletes Subsection 24.120(4), F.S., which eliminates the Department of the Lottery's authority to retain \$25 million as a reserve for working capital. The law also revises Subsection 24.120(8), F.S., to provide that sale incentive payments to lottery employees are not to be considered lump-sum salary bonuses. The percentage of lottery revenue deposited in the Educational Enhancement Trust Fund is also increased from 37.5- to 38-percent of lottery ticket gross revenue pursuant to a revised Subsection 24.121(2), F.S.

## Pari-mutuel Wagering

COMMITTEE SUBSTITUTE FOR SENATE BILL 1342 (CHAPTER 91-197) revises various provisions of the pari-mutuel code (Chapters 550 and 551, F.S.) relating to live racing and intertrack wagering (ITW).

The law authorizes permitholders to operate 7 days a week (Subsection 550.51(2), F.S.); authorizes additional operating days for various greyhound tracks; deletes outdated references to prohibitions against Sunday racing (Sections 550.04, 550.083, 550.0831, 550.291 and 550.34, F.S.); makes several changes to provisions relating to intertrack wagering (Sections 550.09, 550.1635, 550.61 and 550.62, F.S.), particularly with respect to the split of commissions between the host and guest tracks (Section 550.63, F.S.); and creates the Jai Alai Tournament of Champions (Section 551.1535, F.S.).

The legislation also authorizes the Ocala Breeders Sales Association to continue to operate intertrack wagering for 21 days along with the horse auctions and would allow an additional 100 days of ITW to be operated between November 1 and May 8 so as not to conflict with Ocala Jai Alai (Subsection 550.61(8)(a), F.S.).

The measure includes a temporary mechanism for the South Florida thoroughbred tracks to change their racing seasons by filing amended license applications with the Pari-mutuel Commission (Subsection 550.52(7), F.S.). [These tracks have privately agreed to a 50-day season for Hialeah Park in the fall racing period.]

The enactment authorizes the Florida Pari-mutuel Commission to study the feasibility of the state purchasing Hialeah Park and operating a shortened racing season (Section 550.68, F.S.).

The act has several repeal provisions. It would repeal the special tax credits and exemptions for the championship meets (Section 27 of the act); repeal the intertrack wagering provisions and provide for a legislative review of a state operated off-track wagering system (Section 28 of the act); and repeals the provisions of the entire pari-mutuel code without

repealing the basic provisions relating to wagering, taxes, drugs, bookmaking and minors (Section 30 of the act).

The law also amends the penny-ante games statute (Section 849.085, F.S.) to expand the places in which such games can be legally conducted to include recreational or common areas of a mobile home park, college dormitory, or city- or county-owned community center.

#### **Amateur Radio Antennas**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 203 (CHAPTER 91-28) creates Sections 125.0185 and 166.0435, F.S., in Chapters 125 and 166, F.S. The provisions of this act prohibit a county or municipality from enacting or enforcing restrictive ordinances governing amateur radio antennas and further provides for the construction of such antennas to be in conformance with the requirements of the Federal Communications Commission.

#### **Telecommunications**

HOUSE BILL 2427 (CHAPTER 91-111) creates the "Telecommunications Access System Act," Part III of Chapter 427, F.S., in response to the provisions of the Americans with Disabilities Act which was signed into law by President Bush on July 26, 1990 (P.L. 101-336, 104 Stat. 327). The act provides for the establishment, implementation, administration, and

funding of a telecommunications relay service and distribution of specialized telecommunications devices (Section 427.702, F.S.). [This law creates a relay system whereby a central operator service is established. A deaf or speech impaired person may call an 800 number which is answered by an operator who in turn calls the number or party desired by the calling party. The operator translates the conversation between the parties using voice and a telecommunications device for the deaf. Any person desiring to call a deaf or speech impaired person may use the service.]

The Florida Public Service Commission is responsible for establishing and overseeing the implementation of this legislation (Section 427.704, F.S.). The Commission is to solicit the advice and counsel of an advisory committee in fulfilling its duties and responsibilities (Section 427.706, F.S.). The measure provides for the designation by the Commission of a not-for-profit corporation to administer the system (Section 427.703, F.S.). The system is funded by a surcharge applied to each basic telecommunications access line, in an amount determined by the Commission, except that the amount is not to exceed 25 cents (Paragraph 427.704(4)(b), F.S.). The administrator is to fulfill its responsibilities either directly or through contracts with third parties, such as organizations presently providing services to hearing or speech impaired persons (Paragraph 427.705(1)(a), F.S.).

## COMMERCE\*

**Mortgage Brokering and Mortgage Lending**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1890 (CHAPTER 91-245) places mortgage brokering, lending and servicing provisions within one chapter of the Florida Statutes. The act is a Sunset bill which repeals both Chapter 521, F.S., relating to mortgage lending, and Chapter 494, F.S., relating to mortgage brokering.

The legislation also provides for the licensure, regulation, and examination of mortgage brokers, servicers, and lenders. It provides powers and duties for the Department of Banking and Finance, as well as delineating penalties for unlawful transactions. This act also provides a grandfather clause allowing currently active mortgage brokers meeting certain requirements to apply for a mortgage lender license without meeting the requirements for new entrants into the business. New entrants into the mortgage lending business will be required to maintain an audited net worth of \$250,000. Correspondent mortgage lenders, those who service loans for no longer than 4 months, are required to maintain an audited net worth of \$25,000.

The measure effectively dissolves the Mortgage Brokerage Guaranty Fund and provides for a transfer of up to \$500,000 from the Regulatory Trust Fund to that fund on an "as necessary" basis to pay valid prior claims arising from an act occurring before October 1, 1991, and filed prior to January 1, 1992. The legislation has an effective date of October 1, 1991.

**Sale of Money Orders Act**

COMMITTEE SUBSTITUTE FOR SENATE BILL 558 (CHAPTER 91-232) relates to a Sunset Review (Section 11.61, F.S.), concerning Chapter 560, F.S., the Sale of Money Orders Act, which is scheduled for repeal on October 1, 1991. The legislation revives and readopts portions of Chapter 560, F.S., and provides for a future review of the chapter on or before October 1, 2001.

The majority of the changes incorporated within this enactment are generally technical and remove redundant and unnecessary verbiage. Changes were also incorporated to either enhance readability or to clarify.

The enactment creates Section 560.131, F.S., to clarify what constitutes grounds for disciplinary action against a licensee and provides under new Section 560.133, F.S., for examinations and investigations by the Department of Banking and Finance. The act also specifies the powers of the Department in a reworded Section 560.135, F.S., and provides for violations of the chapter to be a first-degree misdemeanor pursuant to amended Section 560.17, F.S. The legislation has an effective date of October 1, 1991.

**Florida Credit Union Guaranty Corporation**

The effect of HOUSE BILL 2423 (CHAPTER 91-17) is to eliminate, as an option, the private guaranty of members' accounts of state-chartered credit unions. Under new Paragraph 657.257(4)(b), F.S., member credit unions which cannot qualify for federal insurance will eventually be merged or liquidated. Within 6 months of the conversion, merger or liquidation of all member credit unions, or after the Florida Credit Union Guaranty Corporation (FCUGC) converts all of its remaining assets to cash and pays its liabilities, whichever last occurs, the FCUGC will distribute its remaining assets, if any, to the eligible member credit unions as of the effective date of the law on a proportionate basis (Section 657.269, F.S.).

**Financial Institutions**

COMMITTEE SUBSTITUTE FOR SENATE BILL 2280 (CHAPTER 91-307) delays the Sunset Review of Chapters 655, 657, 658, 660, 661, 662, 663, 664, 665 and Part II of Chapter 657, F.S., until July 1, 1992. These chapters were previously scheduled to Sunset in accordance with Section 11.61, F.S., on October 1, 1991.

The legislation amends Section 658.50, F.S., to remove all restrictions on credit card interest rates when such credit cards are issued by a state financial institution.

[The provision would not simply be limited to persons or entities licensed pursuant to Chapter 658, F.S., (relating to banks and trust companies) since the definition of financial institution also includes an association (Chapter 665, F.S.), industrial savings bank (Chapter 664, F.S.), trust company (Chapter 660, F.S.), and international bank agency or representative office (Chapter 663, F.S.), or credit union (Chapter 657, F.S.).

[Due to the existence of Section 687.12, F.S., entitled interest rates; parity among licensed lenders or creditors, the amendment to Section 658.50, F.S., would also create an economic incentive for licensees of other chapters to avoid interest rate limitations contained in their respective chapters by structuring certain transactions as a credit card transaction. The chapters which could be affected by the interaction of Section 687.12, F.S., with this act are: Chapter 516, F.S. (relating to consumer finance loans); Chapter 520, F.S. (relating to retail installment sales); and Chapter 494, F.S. (relating to mortgage brokering and lending).]

**Labor and Employment/Workers' Compensation**

HOUSE BILL 2507 (CHAPTER 91-269) follows staff recommendations for continuation and modifications of open government record exemptions.

The legislation reenacts and amends Section 413.22, F.S., the rulemaking authority of the Division of Vocational Rehabilitation, Department of Labor and Employment Security, as a

\*Prepared by Senate Commerce Committee

necessary companion to the exemption from public records requirements relating to confidential client information and federal requirements.

The law reinstates and amends Section 413.341, F.S., open government confidentiality exemptions for medical records filed with the Division of Workers' Compensation, Department of Labor and Employment Security, and amends Paragraph 440.13(2)(d), F.S., to clarify that only medical bills are required to be filed with the Division of Workers' Compensation unless the Division requests additional records.

The measure also retains the open government record exemption for documents prepared by employers in considering the processing of claims against third-party tortfeasors pursuant to Subsection 440.39(7), F.S. The act continues the confidentiality of financial records submitted by self-insurers to the Division of Workers' Compensation under revised Section 440.515, F.S.

Records relating to material safety data sheets, specific chemical identities, trade secrets, and locations of toxic substances are exempt from the public records requirements (Subsections 442.109(5), 442.111(8) and 442.118(1), F.S., respectively).

Information and records relating to unemployment compensation are exempt from the public records requirements if they reveal information pertaining to the employer or individual (Subsection 443.171(7), F.S.). The information is available only to public employees in the performance of their public duties. Communication relating to employers, employees and the Division are privileged and cannot be the subject of civil suits (Subsection 443.041(3), F.S.).

The law provides that information relating to the processing of applicant fingerprint cards is exempt from the public records requirements (Section 447.045, F.S.).

This enactment also provides that information relating to good faith bargaining in a public sector labor negotiation is not an exemption from the public records requirements; however, information relating to the deliberations of the Public Employees Relations Commission is exempt from the public records requirements (Paragraph 447.203(17)(d), F.S.). Petition information for the certification of employee organizations (Subsection 447.307(2), F.S.), records relating to the quasi-judicial impasse proceeding (Section 447.409, F.S.), and data relating to collective bargaining negotiations are all exempt from the public records requirements (Subsection 447.605(1), F.S.). The measure repeals sections relating to the confidentiality of statements pertaining to charges of unfair labor practices and the voluntary mediation program (Paragraph 447.503(2)(c) and Section 448.06, F.S.). The law has an effective date of October 1, 1991.

### Consumer Finance

HOUSE BILL 967 (CHAPTER 91-91) adds Subsection 520.085(5), F.S., providing that the finance charge percentage rate may vary during the term of a motor vehicle retail installment sale contract covering motor vehicles used primarily for business or commercial use. The percentage rate variation

must be tied to a formula or index, set forth in the contract, that is readily available to and verifiable by the buyer and which is also beyond the control of the holder of the contract. The legislation gives as examples for indices the prime rate or commercial paper rate quoted by one or more institutions, or the highest prime rate quoted by the *Wall Street Journal*.

The act recognizes that an exact disclosure cannot be made at the time of the transaction. For disclosure purposes, the payment schedule of equal successive monthly installments may be given using the interest rate applicable to the transaction at the time of executing the contract. This applies even though the rate and resultant calculations may vary over time.

### Loan Brokers

COMMITTEE SUBSTITUTE FOR HOUSE BILL 837 (CHAPTER 91-87) provides for the regulation of loan brokers in a fashion similar to that of other financial services. The law is designed primarily to protect people from unconscionable and deceptive business practices.

The term "loan broker" is defined within the measure to generally mean any person, except persons or entities who are acting within the scope of a license and are subject to regulation by any agency of the United States or this state, who:

- 1) for consideration arranges for a loan or offers to fund a loan in whatever form;
- 2) advises a borrower in obtaining the same; or
- 3) holds himself or herself out as a loan broker.

Pursuant to the enactment, loan brokers are prohibited from collecting an advance fee or utilizing any misleading information which includes omitting any material facts in the offer for sale or service.

The Department of Banking and Finance is provided a number of powers to administer and enforce the act:

- 1) investigate the actions of any persons for compliance with the law;
- 2) order a loan broker to cease and desist when it determines that a loan broker has violated, is violating, or will violate any provision of the legislation;
- 3) institute injunction proceedings; or
- 4) impose and collect an administrative fine against any person found to have violated any provision of this chapter; however, such fine may not exceed \$5,000 for each violation.

Violations of this act or any provision of it is a felony of the third degree punishable as provided in Section 775.082, 775.083 or 775.084, F.S.

A departmental action for restitution is also created as well as a consumer action for damages.

### Motor Fuel Marketing Practices Act

COMMITTEE SUBSTITUTE FOR SENATE BILL 2058 (CHAPTER 91-247) amends the Motor Fuel Marketing Practices Act. Several definitions have been revised and others have been added in Section 526.303, F.S. This law adds Subsection 526.304(3), F.S., to provide that it is an unlawful predatory



practice for a refiner to sell motor fuel at a retail outlet at a price below the price that the refiner charges to a wholesaler or dealer under contract for like fuel within the same geographic market. It also provides by adding Subsection 526.305(4), F.S., that it is an unlawful discriminatory practice for a refiner to sell motor fuel to a wholesaler at a price higher than it sells to a dealer in competition with any retail outlet supplied by such wholesaler, where the effect is to injure competition. Certain isolated and inadvertent incidents are exempted (Subsection 526.305(5), F.S.).

This legislation amends Section 526.308, F.S., to specify that certain rebates, including rent subsidies and special allowances, are unlawful. A violation of any provision of this enactment is punishable by civil penalties which have been increased (Section 526.311, F.S.). The Department of Agriculture and Consumer Services is authorized to request the Department of Legal Affairs to issue and serve subpoenas to compel the production of documents and records relevant to the investigation of violations of this law which are exempt from public record requirements pursuant to amended Section 526.311, F.S. Funds collected in civil actions are to be disposed of by the Department of Legal Affairs according to certain provisions of this measure. Preliminary injunctive relief to enforce the provisions of this act sought in private actions and in actions by the Department of Legal Affairs may be granted in accordance with the criteria set forth in Section 526.312, F.S., as amended.

### Unemployment Compensation

SENATE BILL 380 (CHAPTER 91-9) amends Section 443.111, F.S., to provide for the payment of unemployment benefits through claims offices by mail, according to the rules prescribed by the Division of Unemployment Compensation of the Department of Labor and Employment Security. The rules allowing for the use of the mail system are in effect for 3 years and expire October 1, 1994. Thereafter, claims will be processed in person or through limited mail system projects.

### Unclaimed Property

COMMITTEE SUBSTITUTE FOR HOUSE BILL 929 (CHAPTER 91-261) amends Section 717.135, F.S., to raise, from 6 to 12 months, the period of unenforceability for a finder's agreement which relates to the Unclaimed Property Act. This increases the time period that the Department of Banking and Finance would have to locate claimants and distribute their unclaimed property to them.

### Uniform Commercial Code

COMMITTEE SUBSTITUTE FOR HOUSE BILL 291 (CHAPTER 91-70) adopts Article 4A of the Uniform Commercial Code (UCC) which sets forth a comprehensive body of law that defines the rights, duties, and liabilities that arise from commercial "funds transfers" as Part I of Chapter 670, F.S. [A "funds transfer" is generally a large, rapid money transfer between commercial entities. The average "funds transfer," ap-

proaches \$5 million and total daily transfers now average more than \$1 trillion.]

The major objectives of Article 4A are:

- 1) to preserve a fast, efficient, reliable system for the transfer of large volumes of funds at a low cost;
- 2) to provide certainty as to the obligations and liabilities arising under the "funds transfer" system;
- 3) to safeguard the integrity of the "funds transfer" system; and
- 4) to establish the basic rights and responsibilities of the participants except as varied by agreement of the parties.

The legislation also attempts to clarify the issue of negotiability of variable or adjustable rate instruments under the UCC. The law generally has an effective date of January 1, 1992, however, those portions of the act dealing with the negotiability of variable or adjustable rate instruments have an effective date of upon becoming law.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1493 (CHAPTER 91-216) amends Sections 679.504 and 679.506, F.S., to specify that, for the purposes of the Uniform Commercial Code, a guarantor of an obligation secured has the same rights as a defaulted debtor has in terms of reasonable notice and also in terms of redeeming such collateral prior to sale or disposition.

The act also creates Subsection 673.104(4), F.S., to clarify that a warrant, issued by the Comptroller directing the Treasurer to pay a certain sum, is not to be considered a negotiable instrument.

### Warranty Associations

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2089 (CHAPTER 91-106) imposes additional financial, regulatory and licensing requirements on warranty associations. Current law, Chapter 634, F.S., provides requirements for three types of warranty associations. [There are currently 38 motor vehicle service agreement companies licensed in Florida. These entities indemnify the service agreement holder against any loss caused by failure of any mechanical or other component part of the motor vehicle listed in the agreement arising out of ownership, operation and use of the motor vehicle. There are currently 14 home warranty associations which entities indemnify the warranty holders against the cost of repair or replacement of any structural component or appliance of the home necessitated by wear and tear or inherent defect of the structural component or appliance or necessitated by the failure of an inspection to detect the likelihood of any such loss. Service warranty associations indemnify the warranty holder against the cost of repair or replacement of a consumer product in return for the payment of a segregated charge by the consumer. There are currently 93 licensed service warranty associations.]

The act revises Subsection 634.041(6), F.S., to raise the minimum net asset requirements of service agreement companies from \$300,000 to \$500,000. However, provisions of the

law provide for incremental raising of net asset requirements for existing service agreement companies.

The legislation creates Section 634.044, F.S., to provide a listing of assets not allowed, such as goodwill, in determining the financial condition of service agreement companies.

The measure contains additional restrictions on the cancellation of service agreements. The insurer or service agreement company is prohibited from cancelling a service agreement that has been in effect for more than 60 days unless there has been a material misrepresentation or fraud, the motor vehicle has not been properly maintained, or premium is not paid pursuant to revised Subsection 634.121(5), F.S.

The enactment expands current rate provisions in Section 634.1216, F.S., to require the filing of all rates, rating schedules and rating manuals with the Department of Insurance.

The law amends Section 634.404, F.S., and raises the financial requirements of a service warranty association from a solvent association to minimum net assets of \$25,000 for warran-

tors and \$300,000 for warranty sellers. The act allows existing warrantors one year to comply with the \$25,000 net asset requirement and warranty sellers must gradually increase net assets to comply with the \$300,000 level by January 1, 1994.

The act contains amendments to the motor vehicle insurance laws to place additional requirements on individuals that are reinstating driving privileges after failing to maintain required insurance coverage.

Under the provisions of this legislation, individuals reinstating policies must provide proof of coverage for 2 years on a form developed by the Department of Highway Safety and Motor Vehicles (Subsection 627.733(6), F.S., as revised).

In addition, Section 627.7275, F.S., is amended to require that these individuals must obtain a policy that lasts for at least 6 months and is not cancellable by the insured or insurer after an initial 30 days allowing the insurer to conduct an underwriting review. The act takes effect October 1, 1991.

## CONSERVATION AND NATURAL RESOURCES\*

## Everglades Protection

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILLS 2157 AND 1871 (CHAPTER 91-80) creates Section 373.4592, F.S., and amends Sections 373.584, 253.01, 253.111, 253.115 and 259.101, F.S., to help the South Florida Water Management District with its efforts to save the Everglades. Mechanisms are provided which will contribute to the implementation of the strategies in the Everglades Surface Water Improvement and Management (SWIM) plan designed to bring facilities into compliance with applicable water quality standards and restore the Everglades hydroperiod. In addition, it is hoped that this act will facilitate the resolution of a long-standing lawsuit between the Federal Government and the South Florida Water Management District and the Department of Environmental Regulation.

Provisions in this act (the Marjory Stoneman Douglas Everglades Protection Act) include:

- 1) requiring the South Florida Water Management District to adopt an Everglades SWIM plan;
- 2) authorizing the water management district to create stormwater utilities and adopt stormwater utility fees;
- 3) empowering the water management district with certain eminent domain powers;
- 4) authorizing the water management district to provide for a master permit for the Everglades Agriculture Area; and
- 5) authorizing the use of Preservation 2000 bond proceeds for acquisition of lands needed to implement SWIM plans.

## Environmental Protection

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1120 (CHAPTER 91-305) is an omnibus enactment dealing with environmental regulation. Provisions in the law include:

1. Notifying the Department of Community Affairs (DCA) and local fire departments of an abandonment of business activities that affect any stored hazardous materials (amended Subsection 252.87(4), F.S.).
2. Allowing the Department of Environmental Regulation (DER) to assess certain noncompliance fees regarding the installation and use of refrigerant recycling equipment (new Subsection 325.233(7), F.S.).
3. Increasing the certification fees for water and wastewater treatment operators (amended Subsection 403.101(3), F.S.).
4. Allowing local governments to regulate certain water and sewer mains (amended Section 403.1815, F.S.).
5. Limiting the sewage treatment facilities revolving loan program to sewage treatment facilities and providing

that 15 percent of the loan money available be reserved for small communities (amended Section 403.1835, F.S.).

6. Providing for an environmental awards program in DER (reworded Section 403.414, F.S.).
7. Allowing local governments to use revenues from the gross receipts tax on hazardous waste facilities for certain environmental protection purposes (new Paragraph 403.7215(3)(g), F.S.).
8. Allowing counties to impose a small quantity hazardous waste generator surcharge of up to \$50 (new Subsection 403.7225(17), F.S.).
9. Increasing the statutory limits on certain fees imposed by DER (amended Subsection 403.087(5), F.S.).
10. Authorizing DER to study accepting delegation of the National Pollutant Discharge Elimination System permitting program from the EPA (Section 42 of the act).
11. Removing the repealer on the excise tax on pollutants which is deposited into the Inland Protection Trust Fund and providing for legislative review of this tax in 2007 (amended Paragraph 206.9935(3)(c), F.S.).
12. Amending the definition of "abandoned petroleum storage system" to include certain systems that have not stored petroleum products after March 1, 1990 (amended Paragraph 376.305(7)(b), F.S.).
13. Amending the definition of "person responsible for site rehabilitation" to include mortgage holders and trust holders for the purpose of reimbursement eligibility under the Inland Protection Trust Fund (amended Subsection 376.301(12), F.S.).
14. Extending the application deadline for the abandoned tank program and providing that the Inland Protection Trust Fund can be used for the Abandoned Tank Restoration Program (amended Paragraph 376.305(7)(c) and new Paragraph 376.305(7)(f), F.S.).
15. Providing that the Inland Protection Trust Fund may only be used to fund the activities in Sections 376.30-376.319, F.S., (new Paragraph 376.3071(4)(k), F.S.). [This is in response to a recent Auditor General report which criticized the reassignment of positions authorized for certain programs.]
16. Allowing DER to enter into certain reimbursement agreements with the responsible party or the property owner. Allowing DER to reimburse certain interest costs (new Paragraph 376.3071(7)(c), F.S., and amended Subparagraph 376.3071(12)(c)2., F.S.).
17. Requiring eligible applicants to initiate and complete petroleum contaminated site rehabilitation and seek reimbursement unless the responsible person certifies to DER that he qualifies as a small business (amended Subsection 376.3072(2), F.S.).

\*Prepared by Senate Natural Resources & Conservation Committee

18. Allowing the DER to waive minor violations of Chapter 376, F.S., or the stationary tank rules and other violations if the owner or operator is making a good faith effort to maintain substantial compliance (amended Paragraph 376.3072(3)(b), F.S.).
19. Requiring persons who apply internal pollutant storage tank linings to register with the Construction Industry Licensing Board (new Subsection 489.133(3), F.S.).
20. Allowing DER to delineate areas of groundwater contamination for purposes of permitting and construction of new potable wells (amended Paragraph 373.309(1)(e), F.S.).
21. Creating the Pollution Prevention Act to establish a state policy on pollution prevention (new Sections 403.072-403.074, F.S.).
22. Expanding the authority of DER and water management districts to require professional certifications of materials related to corrective actions (amended Section 403.0877, F.S.).
23. Increasing the certification fees for water and wastewater treatment plant operators (amended Subsection 403.101(3), F.S.).
24. Amending certain provisions relating to developments of regional impact (DRIs) for certain sports facilities (new Paragraphs 380.06(24)(f) and (g), F.S.).
25. Amending the definition of "petroleum products" and "solvents" in Subsections 206.9925(4) and (6), F.S., to include petroleum-derived ethanol.
26. Amending certain provisions relating to the severance tax on phosphate rock to assist with the reclamation of mined phosphate lands in Florida (amended Subparagraph 211.3103(2)(b)2., F.S.).
27. Defining "farm pond" to mean a pond located on a farm for purposes of regulating agricultural activities and agricultural water management systems pursuant to new Paragraph 403.927(4)(c), F.S.

SENATE BILL 1062 (CHAPTER 91-144) authorizes the Department of Natural Resources to accept grants and donations and deposit them into the Research Account created within the Petroleum Exploration and Production Bond Trust Fund. The Department also is authorized to develop and implement a program to investigate procedures for plugging and abandonment of wells abandoned before 1974 and recommend to the Legislature, before the 1994 session, the advisability of developing a program for replugging some of these wells. The Department must create an advisory committee composed of representatives from the oil and gas production industry and government to assist the Department in designing and implementing the research program.

The act appropriates \$100,000 from the Research Account within the Petroleum Exploration and Protection Bond Trust Fund to the Department for developing and implementing the research program.

## Land Acquisition and Management

HOUSE BILL 1413 (CHAPTER 91-192) reenacts and amends the Florida Community Trust Act (Sections 380.501-380.515, F.S.). The law requires that rules of the trust relating to land acquisition using proceeds from the Preservation 2000 Trust Fund must be consistent with existing requirements for land acquisition by state agencies pursuant to Section 253.025, F.S., (amended Subsection 380.507(11), F.S.), and prohibits the use of such funds to pay for an urban waterfront restoration project, a redevelopment project or for site reservation, except to acquire natural areas to help implement the conservation or recreation and open space elements of the local comprehensive plan (amended Subsection 380.510(7), F.S.). The act also requires performance postaudits, as determined necessary by the Auditor General (new Subsection 380.510(8), F.S.).

This measure also provides for a 5-cent-per-\$100 increase in the documentary stamp tax on deeds to pay the debt service on the second issue of Preservation 2000 Bonds (Subsection 201.02(1), F.S.), and appropriates \$30 million for Fiscal Year 1991-1992 from the Land Acquisition Trust Fund for the first year's debt service on the second series of these bonds.

The legislation includes language identical to that found in COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1120 (CHAPTER 91-305) summarized above concerning an exemption from developments of regional impact (DRI) review under specified circumstances for increases in the seating capacity of existing sports facilities having a seating capacity of at least 50,000, and for increases in both seating and parking capacity for stadiums of at least 41,000 seating capacity.

Provisions are included which define a "farm pond" for purposes of regulating agricultural activities and agricultural water management systems pursuant to Section 403.927, F.S. These provisions also appear in COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1120 (CHAPTER 91-305).

SENATE BILL 644 (CHAPTER 91-56) repeals two programs in Chapter 177, F.S., that the office of the Auditor General found to be obsolete. [Neither the coastal mapping nor the certification and validation of original land survey corner monuments programs had ever been fully implemented.] Additionally, this act improves the state's administration of the Murphy Act (Chapter 18296, 1937 Laws of Florida) lands. It declares all Murphy Act lands smaller than five acres and valued under \$100,000 to be surplus property, suitable for sale to private individuals, and eliminates a loophole that enabled people to acquire title to state lands after they paid ad valorem taxes on a Murphy Act parcel for 20 years (amended Section 253.82, F.S.).

SENATE BILL 1196 (CHAPTER 91-62) promotes the development of the Florida National Scenic Trail and the Florida Recreational Trails System. It authorizes the Board of Trustees of the Internal Improvement Trust Fund and the Department of Natural Resources to acquire lands for the Florida National Scenic Trail with money set aside for recreational lands

in the Conservation and Recreation Lands Trust Fund (amended Subparagraph 253.023(3)(b)2., F.S.) and the Preservation 2000 Trust Fund (amended Paragraph 259.101(3)(g), F.S.). It requires regional planning councils and local governments to recognize Florida's recreational trails in their comprehensive plans, to refrain from actions that would impair their use (amended Section 260.018, F.S.) and it encourages all levels of government to acquire lands where the Florida National Scenic Trail passes (new Subsection 260.012(5), F.S.). Finally, it includes saltwater paddling trails within the Florida Recreational Trails System (amended Paragraph 260.016(1)(f), F.S.).

COMMITTEE SUBSTITUTE FOR SENATE BILL 1440 (CHAPTER 91-175) enhances the state's ability to protect the marine resources of sovereignty submerged lands. The Board of Trustees of the Internal Improvement Trust Fund is authorized to adopt rules governing the use of submerged lands by vessels, floating homes and any other watercraft. These rules shall be limited to anchoring, mooring or otherwise attaching to the bottom; the establishment of anchorages and the discharge of sewage; and pumpout requirements and facilities associated with anchorages. These rules must not interfere with commerce or transit passage through navigable waters, but would control the use of sovereignty submerged lands as a place of business or residence (new Paragraph 253.03(7)(b), F.S.).

The act also enables the Department of Natural Resources (DNR) to fine persons up to \$10,000 for failing to comply with rules or permit conditions that order those persons to remove or alter any structure or vessel on state-owned lands (amended Subsection 253.04(2), F.S.). The provisions of the law take effect October 1, 1991.

### Coastal Protection

SENATE BILL 120 (CHAPTER 91-286) reenacts several provisions determined unconstitutional as part of Chapter 89-175, Laws of Florida. Provisions in Chapters 253, 270 and 370, F.S., are reenacted authorizing the aquaculture program administered by the Department of Natural Resources, and amended to exempt holders of perpetual aquaculture leases in Apalachicola Bay from the \$5 per acre surcharge (amended Paragraph 370.16(4)(b), F.S.); provisions requiring monitoring of such perpetual leases have been deleted (Paragraph 370.16(4)(g), F.S.).

The measure also reenacts provisions which prohibit the drilling or exploration for petroleum and gas resources in Florida's coastal waters (Paragraph 253.61(1)(d) and Subsection 377.24(9), F.S.), and clarifies that petroleum leases existing prior to the effective date of the act are not affected by the prohibition (amended Subsection 377.242(2), F.S.). Also reenacted is the Coastal Resources Interagency Management Committee, which is amended to delete obsolete provisions (Sections 380.31-380.33, F.S.).

Other provisions reenacted include those providing severe penalties for damaging coral reefs (Subsections 380.0558(5) and 253.04(3), (4), (5) and (7), F.S.) and dumping litter in com-

mercial quantities (Subsections 403.413(4), (5) and (6), F.S.), provisions requiring litter receptacles in ports and marinas (Section 403.4135, F.S.), provisions prohibiting the dumping of raw human waste and those requiring a freshwater needs assessment of Apalachicola Bay (Section 22 of the act).

SENATE BILL 122 (CHAPTER 91-194) reenacts the Florida Coastal Protection Trust Fund, which had been included in Chapter 89-175, Laws of Florida, a lengthy act determined unconstitutional for reasons unrelated to coastal protection. The law limits the amount of interest earnings from the Fund to be used for environmental education to \$1.5 million annually, when the balance in the fund exceeds \$30 million (amended Paragraph 376.11(4)(f), F.S.), and includes petroleum-derived ethanol in the definitions of "petroleum product" and "solvent" found in Section 206.9925, F.S., thereby subjecting such products to the tax for coastal protection (identical language appears in COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1120 (CHAPTER 91-305) summarized above. This law has an effective date of October 1, 1991.

COMMITTEE SUBSTITUTE FOR SENATE BILL 438 (CHAPTER 91-35) modifies the northern boundary of the Indian River-Vero Beach to Fort Pierce Aquatic Preserve (amended Section 258.39, F.S.). The new boundary is the southern corporate boundary of the city of Vero Beach as it existed on June 3, 1970. The modification results in the inclusion of Prang Island into the preserve. These provisions take effect October 1, 1991.

SENATE BILL 646 (CHAPTER 91-135) changes the limits of liability for a pollutant spill, cleanup or abatement for a vessel of 3,000 gross tons or more to an amount not exceeding \$10 million or \$1,200 per gross ton, whichever is greater. For a vessel of less than 3,000 gross tons, the limit is \$2 million or \$1,200 per gross ton, whichever is greater. For any other vessel or its agents or servants, the limit is \$500,000 or \$600 per gross ton, whichever is greater (amended Subsection 376.12(1), F.S.).

Language requiring that insurance or surety for a spill must be made payable to the Florida Coastal Protection Trust Fund is deleted. The effect of this is to require that, if surety or insurance is used for financial security, it need only be in a form acceptable to the Department of Natural Resources (DNR) in order to transport pollutants in state waters.

SENATE BILL 1462 (CHAPTER 91-198) enables port authorities to order and enforce vessels to vacate or change positions from both public and private berths, anchorages and facilities to facilitate channel dredging (amended Subsection 313.22(1), F.S.). Ports are authorized to impose and collect penalties from vessels that unnecessarily delay in complying with orders to vacate or change positions (new Subsection 313.22(3), F.S.). This act takes effect October 1, 1991.

### Marine Fisheries Management

HOUSE BILL 325 (CHAPTER 91-254) revises Paragraph 370.06(2)(a), F.S., to provide for a restricted species endorsement to be issued to a person age 62 or older who documents

at least \$2,500 in income from the sale of saltwater products in at least 1 year of the last 3 years. A permanent restricted species endorsement may be issued to a person age 70 or older who has held a saltwater products license for at least 3 of the last 5 license years. The act revises requirements that owners of retail seafood markets or restaurants who supply their own businesses must meet before being eligible for a restricted species endorsement, and provides additional requirements for wholesale seafood dealers designed to improve transaction recordkeeping.

The Department of Natural Resources (DNR) is authorized pursuant to new Paragraph 370.0605(2)(c), F.S., to enter into reciprocal agreements with other states and to reduce recreational saltwater fishing license fees pursuant to such agreements. The law amends Paragraph 370.0605(2)(a), F.S., to increase, effective in 1993, recreational saltwater fishing license fees for residents of Georgia and Alabama to \$25 for a 3-day license, \$75 for a 7-day license and \$150 for a 1-year license unless those states have a reciprocal agreement with Florida to reduce such fees.

The Department is authorized by new Subsection 370.0605(14), F.S., to designate no more than 2 days annually as "Disabled Angler Fishing Days," during which disabled persons may take marine fish without license requirements.

The measure also reenacts without change Subsection 370.06(5), F.S., authorizing the Apalachicola Bay oyster harvesting license, (Subsection 370.16(15), F.S.) the Apalachicola Bay Conservation Trust Fund, as well as Paragraph 370.16(16)(a), F.S., limiting oyster harvesting implements to hand tongs, unless otherwise specified in lease documents.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1339 (CHAPTER 91-101) creates Section 370.1535, F.S., to mandate effective July 1, 1992, a dead shrimp production permit to harvest dead shrimp from Tampa Bay. Applications for permits must be made prior to June 30, 1992. The permit fee is \$250 for residents and \$1,000 for nonresidents. A permit is required for each vessel used for dead shrimp production, and may only be issued to individuals. No individual may be issued more than three permits. Permits are not transferable or inheritable, but are renewable. The total number of permits issued may not exceed the number issued for 1992. Permit fees will be used by the Department of Natural Resources (DNR) to enforce marine resource laws.

Permitholders may not also hold permits for noncommercial trawling or for live bait shrimp production. The sale of Tampa Bay dead shrimp by a harvester is prohibited unless the seller produces a dead shrimp production permit prior to the sale, except for purchases between wholesale dealers.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1768 (CHAPTER 91-154) establishes, in a reworded Section 370.142, F.S., a transferable trap certificate system intended to substantially reduce the number of traps in the spiny lobster fishery. Effective July 1, 1992, commercial lobster harvesters must have a trap certificate for each trap used or possessed. Certificates may only be issued to individuals. Certificates and tags for each trap will be issued by the Department of Natural Resources (DNR) for an annual fee of 50 cents per certificate un-

til 1995, when the cost will be 75 cents. Beginning in 1998, the annual fee will be \$1 per certificate. The number of certificates issued will be based on a harvester's recorded catch over a 3-year base period ending June 30, 1991, but no harvester will be issued less than 10 certificates.

The Marine Fisheries Commission (MFC) will set an overall trap reduction goal, and by July 1, 1992, set an annual trap reduction schedule, not to exceed 10 percent per year. All certificateholders will have their holdings reduced according to the reduction schedule. Recreation harvesters may be issued no more than 3 trap tags for a fee of 50 cents per tag. Recreational tags are not subject to trap reduction schedules.

Trap certificates are freely transferable at market value and a transfer fee of \$2 per certificate must be paid to DNR by the purchaser. A surcharge of 25 percent of the fair market value given to the seller will be assessed on the seller and paid to DNR the first time a certificate is transferred outside the seller's immediate family. No sooner than April 1, 1994, the Governor and Cabinet may direct DNR to establish an amount of equitable rent per trap certificate to be recovered from the certificateholder to compensate the state for the enhanced access to its natural resources.

The act creates the Trap Certificate Technical Advisory and Appeals Board to advise DNR on disputes and problems. The Board may allocate up to 50,000 certificates to settle disputes during the 1992-1993 and 1993-1994 license years. Revenues from the trap certificate program will be used by DNR for administration, research and monitoring of the fishery. Also, the fee for a commercial trap number or a number permitting the taking of lobster in numbers exceeding that permitted by MFC rule by means other than a trap is increased from \$50 to \$100.

The law authorizes DNR to, by rule, designate any two days annually as "Disabled Angler Fishing Days" on which disabled persons may fish in saltwater without the need for licensing. Such anglers must otherwise abide by all regulations relating to saltwater fishing. Identical provisions relating to Disabled Angler Fishing Days also appear in HOUSE BILL 325 (CHAPTER 91-254) summarized above.

## Fish and Wildlife

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 365 (CHAPTER 91-78) provides for lifetime and 5-year hunting licenses and recreational fishing licenses for both fresh and saltwater fishing (new Subsections 372.57(9), (11), (13), Paragraphs 372.57(16)(a) and (b) and Subparagraph 370.0605(2)(a)2., F.S.). The licenses may only be purchased by Florida residents. Licenses will be issued by tax collectors, and revenues from the program will be used by the Game and Fresh Water Fish Commission (GFWFC) and the Department of Natural Resources (DNR) to support programs benefitting hunting and fishing.

Fees for a resident lifetime sportsman's license are:

- (a) Under 5 years of age.....\$400
- (b) 5 years of age or older  
but under 13 years of age.....\$700

- (c) 13 years of age or older .....\$1,000
- (d) 64 years of age or older .....\$12

Fees for a resident lifetime hunting license are:

- (a) Under 5 years of age.....\$200
- (b) 5 years of age or older  
but under 13 years of age.....\$350
- (c) 13 years of age or older .....\$500

The fee for a 5-year resident hunting license is \$270.

Fees for a resident lifetime freshwater fishing license are:

- (a) Under 5 years of age.....\$125
- (b) 5 years of age or older  
but under 13 years of age.....\$225
- (c) 13 years of age or older .....\$300

The fee for a resident 5-year freshwater fishing license is \$60.

Fees for a resident lifetime saltwater fishing license are:

- (a) Under 5 years of age.....\$125
- (b) 5 years of age or older  
but under 13 years of age.....\$225
- (c) 13 years of age or older .....\$300

The fee for a resident 5-year saltwater fishing license is \$60.

The act revises Paragraph 372.57(1)(c), F.S., to permit a Florida resident who is a member of the armed forces and not stationed in Florida to hunt while home on leave for 30 days or less without a license.

The annual license fee for a vessel used to take unlicensed, nonpaying guests saltwater fishing is changed from \$3,000 to \$2,000 by amendment to Subparagraph 370.0605(2)(b)5., F.S., and the civil penalty for a noncriminal infraction related to hunting and fishing is changed from \$35 to \$50 in Paragraph 372.0605(13)(a), F.S.

The law amends Paragraph 370.16(27)(a), F.S., to provide that 50 percent of all shells from oysters and clams shucked commercially in Florida are owned by the DNR Division of Marine Resources under specified circumstances. Aquaculture leaseholders may retain 75 percent of such shells they produce.

The measure also reenacts the Apalachicola Bay oyster licensing program without change (Subsection 370.06(5), F.S., as does HOUSE BILL 325 (CHAPTER 91-254) summarized above, and likewise provides for a restricted species endorsement to be issued to a person age 62 or older who documents at least \$2,500 in income from the sale of saltwater products in at least 1 year of the last 3 years in revised Subparagraph 370.06(2)(a)2., F.S. A permanent restricted species endorsement may be issued to a person age 70 or older who has held a saltwater products license for at least 3 of the last 5 license years. The provisions of this act take effect January 1, 1992, unless otherwise provided in the law.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1385 (CHAPTER 91-215) creates Subsection 327.25(14), F.S., to provide for the Department of Natural Resources (DNR) to offer for sale with vessel registrations, ef-

fective Fiscal Year 1992-1993 and thereafter, a marine turtle sticker at an additional cost of \$5. Revenues from sales will be used by DNR for marine turtle protection, research and recovery efforts.

The Marine Turtle Protection Act in revised Subsection 370.12(1), F.S., provides DNR the means necessary to protect the five species of marine turtles found in Florida waters. The law includes a definition of "take" that includes any act harming marine turtles and their nests or their habitat in any way, including through the impairment of their behavioral patterns. The act requires DNR to provide for protection of marine turtles and their habitat when evaluating permits for activities that could affect marine turtles and requires the Department to recommend denial of a permit if the activity would result in a "take" unless such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. The Department must give special consideration to beach preservation and renourishment projects that restore turtle habitat and consider nest relocation for such projects in urban areas.

COMMITTEE SUBSTITUTE FOR SENATE BILL 642 (CHAPTER 91-134) in a reworded Section 372.83, F.S., decriminalizes the offense of violating several of the rules of the Game and Fresh Water Fish Commission (GFWFC) and provisions of Chapter 372, F.S., relating to freshwater fishing and hunting, the violation of which was previously a second-degree misdemeanor. Rather than a criminal misdemeanor penalty, violation of such rules or laws is changed to a noncriminal infraction, for which the penalty is a \$50 civil penalty. Failure to pay the penalty or appear in court within 30 days constitutes a second-degree misdemeanor.

The law amends Subsection 372.663(1), F.S., to prohibit the intentional capture, possession or harming of alligators and crocodiles or their eggs. Violators will be guilty of a third-degree felony. Section 4 of the act prohibits the intentional or unauthorized killing or wounding, or destruction of eggs or nests, of any species designated by the GFWFC as endangered, threatened or of special concern. Violation with respect to an endangered or threatened species is a third-degree felony. Violation with respect to a species of special concern is a second-degree misdemeanor. This measure has an effective date of October 1, 1991.

SENATE BILL 702 (CHAPTER 91-58) reenacts hunting and fishing license provisions of Chapter 89-175, Laws of Florida. This lengthy enactment was passed by the 1989 Legislature, but had been declared unconstitutional in a circuit court because it addressed too many disparate topics and violated other provisions of the Florida Constitution. This law reenacts several hunting and fishing license requirements, conditions, restrictions, exemptions and fees found in Chapter 372, F.S. Totally and permanently disabled citizens are exempted from license requirements (revised Subsection 372.57(3), F.S.), private and commercial hunting preserves are subjected to special permitting fees (Section 372.661, F.S.) and persons born after June 1, 1975, are required to carry while they hunt with guns, bows, or crossbows, a hunter safety certification card issued to people who complete a hunter safety course (Subsections 372.5717(2) and (6), F.S.).



COMMITTEE SUBSTITUTE FOR SENATE BILL 1926 (CHAPTER 91-199) provides financial support to approved facilities that rescue, rehabilitate and release manatees. The Save the Manatee Trust Fund, which will finance these efforts, will receive additional funding from the Motorboat Revolving Trust Fund (revised Paragraph 327.28(1)(b), F.S.) and vessel registration fees. The act amends Subsections 327.25(1) and (7), F.S., to increase vessel registration fees and provide for increased voluntary contributions to the Save the Manatee Trust Fund, which will entitle people who contribute more than \$5 to receive an emblem or sticker that indicates their support. Each year, weather permitting, the Department of Natural Resources will conduct a scientific census of the state's manatee population, and will report its findings to both houses of the Legislature and to the Governor pursuant to revised Paragraph 370.12(5)(a), F.S. The Department will submit an annual report to both houses of the Legislature that indicates the ways that Save the Manatee Trust Fund moneys have been spent as required by Paragraph 370.12(5)(c), F.S.

### **Hazardous Waste Facilities**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 543 (CHAPTER 91-301) creates Subsection 403.707(10), F.S., to provide the conditions under which a permit for a biohazardous waste or a hazardous waste facility permit may be transferred. The Department of Environmental Regulation must approve the application if the applicant has provided reasonable assurances that the proposed permittee has the administrative, technical and financial capability to properly satisfy the requirements and conditions of the permit. The act takes effect October 1, 1991.

COMMITTEE SUBSTITUTE FOR SENATE BILL 10 (CHAPTER 91-284) creates Subsections 403.707(10) and 403.722(12), F.S., which require applicants for biohazardous and hazardous waste facility construction and operation permits to notify each city and county within one mile of the facility of the filing of the application and to publish notice of the filing of the application in a newspaper of general circulation in the county. The applicant must publish a second notice of the filing within 14 days. The notice must contain the name of the applicant, a brief description of the facility and its location, and the location of the application file and the times it is available for public inspection. An effective date of October 1, 1991 is provided.

### **Water Management**

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 91 AND 1053 (CHAPTER 91-68) creates Section 255.259, F.S., to provide that it is a legislative finding that xeriscape, i.e., landscaping to conserve water by use of site-appropriate plants and an efficient watering system, can contribute significantly to the conservation of water. The Department of General Services and the Department of Transportation (new Section 335.167, F.S.), must use xeriscape on public property. Each water management district must design and implement an incentive program to encourage all local governments within its

district to adopt xeriscape ordinances (new Subsection 373.185(2), F.S.). Each county and each municipality must consider implementing xeriscape ordinances (new Sections 125.568 and 166.048, F.S., respectively).

Any person who purchases and installs certain automatic lawn sprinkler systems must install a rain sensor device or switch which will override the irrigation cycle of the sprinkler system when adequate rainfall has occurred (Section 7 of the act).

The law also makes it unlawful for any person to disseminate any false or misleading statement or claim regarding any water treatment device (Section 9 of the act). Penalties are provided.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1384 (CHAPTER 91-41) contains identical provisions relating to xeriscape to those in COMMITTEE SUBSTITUTE FOR HOUSE BILLS 91 AND 1053 (CHAPTER 91-68) summarized above.

HOUSE BILL 93 (CHAPTER 91-69) creates Section 240.5329, F.S., to authorize the Department of Fisheries and Aquaculture at the University of Florida to supervise, develop and promote the Florida Lakewatch program. The Department is authorized to train, supervise and coordinate volunteers to collect water quality data from Florida's lakes, to compile this data, to inform the public about Lakewatch and to perform other functions that will help to coordinate the Lakewatch program. The data collected and compiled by Lakewatch shall not be used in regulatory proceedings.

SENATE BILL 68 (CHAPTER 91-18) amends Paragraph 373.073(1)(b), F.S., to guarantee Manatee County a seat on the Southwest Florida Water Management District governing board. Sarasota County, which had been guaranteed a seat on the board, would be in competition with Hardee, DeSoto, Charlotte, Citrus, Marion, Highlands, Hernando, Lake, Levy and Sumter counties for one of three at-large seats on the board. (No county eligible for an at-large seat could have more than one seat on the board.)

The law also specifies that the term of office of any person serving on the Southwest Florida Water Management District governing board immediately prior to the effective date of the act will not be affected by the act's passage.

SENATE BILL 318 (CHAPTER 91-231) amends Subsection 373.103(8), F.S., to specifically authorize a local government delegated a stormwater permitting or surface water management program by a water management district to enforce such programs by legal action. Revised Section 373.129, F.S., permits any civil penalties received from such actions to be deposited into a local water pollution control program trust fund and used to restore water quality, to purchase lands and make capital improvements associated with surface water management, or other purposes consistent with the requirements of Chapter 373, F.S., for the management and storage of surface water. These provisions take effect October 1, 1991.

COMMITTEE SUBSTITUTE FOR SENATE BILL 464 (CHAPTER 91-288) contains a number of provisions relating to water management districts (WMDs). The act includes requirements for annual WMD budget review by the Department of



Environmental Regulation (DER), establishes the parameters of such review, and requires DER to report its findings annually to the Governor and the Legislature (new Subsection 373.536(5), F.S.). Finally, the enactment authorizes the disbursement of WMD funds by wire or electronic transfer (revised Subsection 373.553, F.S.) and provides for legislative review of Parts II, III, and IV of Chapter 373, F.S., over a 3-year period (Section 13 of the act).

Included also in this measure are provisions insuring confidentiality of WMD employee medical records (amended Paragraph 119.07(3)(x), F.S.), permitting a WMD to exchange district lands for other lands within the state (new Subsection 373.089(7), F.S.), and authorizing a local government delegated stormwater permitting or surface water management programs to enforce such programs and deposit civil penalties

received into a local water pollution control trust fund (amended Section 373.129, F.S.). SENATE BILL 318 (CHAPTER 91-231) also contains identical amendments to Section 373.129, F.S., summarized above. The act provides for confidentiality of title information related to pending WMD land acquisitions (amended Subsection 373.139(3), F.S.) permits a WMD to contract with governmental entities and nonprofit environmental organizations for land management services (new Section 373.1401, F.S.), and authorizes WMDs to provide, by rule, for formal and informal wetland determinations (new Section 373.421, F.S.). The law also equalizes the proportion of millage that may be levied for basin and district purposes within the Southwest Florida WMD (revised Paragraphs 373.503(3)(b), F.S.).

## CORRECTIONS\*

Legislation enacted by the 1991 Regular Session of the Florida Legislature maintained the policy commitments begun 2 years earlier in the areas of substance abuse treatment, education and training of offenders and incarceration alternatives.

**Offender Restitution to Crime Victims**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 625 (CHAPTER 91-167) creates Section 947.147, F.S., to permit the Florida Parole Commission, acting in its statutory capacity as the Control Release Authority for the scheduled release of prisoners at times of excess legal capacity of the state prison system, to require restitution payment as a condition of release. A prisoner released under Control Release may have that status modified as a result of a restitution obligation which may be altered on the basis of ability to pay or the willful failure to comply.

**Organization and Administration of Probation Services**

Provisions of HOUSE BILL 2275 (CHAPTER 91-280) substantially reorganize existing probation law in Chapters 921 and 948, F.S. Current law prohibiting the private operation of probation services for offenders sentenced in circuit court is clarified by amendment to Subsection 948.01(1), F.S., to specify that neither felons nor misdemeanants may be supervised by a private probation entity in circuit court. Present Florida law prohibits offenders convicted of forcible felonies from being placed into the community control program. This law extends this prohibition in a renumbered and revised Subsection 948.01(10), F.S., to those forcible felons who have had their adjudication withheld. The legislation also deletes the specific reference in renumbered Subsections 948.01(7) and (8), F.S., to the Salvation Army as a designated contract provider in Chapter 948, F.S., while still preserving the general reference to nonprofit service entities.

Persons charged with any misdemeanor or felony of the third degree are eligible for release into the Pretrial Intervention Program but only to the extent that the circuit court is the court of original jurisdiction pursuant to renumbered and revised Section 948.08, F.S. The legislation raises the minimum statutory fee in renumbered Subsection 948.09(4), F.S., for supervision of out-of-state probationers from the current monthly level of \$20 to \$30 while retaining the cap at \$50.

The act requires a written contractual agreement pursuant to new Subsection 948.15(2), F.S., between the Board of County Commissioners and the entity providing misdemeanor probation services in county court eligible cases. The measure provides for the development of minimum specifications in the areas of personnel qualifications and staffing levels, contract standards, procedures for the collection of offender

fees, procedures for handling indigent offenders and standards for revocations.

The legislation also renumbers and revises Subsection 947.146(7), F.S., to permit the Florida Parole Commission, acting in its capacity as the Control Release Authority, to postpone or advance a release date on a state prisoner when information unrelated to past criminal conduct is discovered. This law lists the kinds of information that can be considered by the Authority.

Under current law, the Department of Corrections may legally refuse to accept a person into the state correctional system unless certain documents accompany the offender. This legislation adds Paragraph 944.17(5)(i), F.S.; to require the sheriff to provide the Department with any available medical, dental, or mental health assessments that may have been performed on the transported offender while in local custody.

The prohibition of early prison release eligibility for inmates convicted of crimes against certain public officials is expanded to extend this disqualification to offenders convicted of similar crimes against like public officials in other jurisdictions (Paragraphs 944.277(i)(h) and 947.146(4)(h), F.S.). The Control Release Authority may vacate an early prison release when an ineligible offender is placed on Control Release (Subsection 947.146(12), F.S.). The Authority may then issue a warrant for the taking into custody of the releasee for return to prison for service of the remainder of the sentence. This act also adds Subsection 948.10(6), F.S., to require the Department of Corrections to notify, upon request, the arresting law enforcement agency or the sheriff when an offender is placed on community control. The notification shall include the name and address of the offender, length of placement, and the nature of the offense. Unless otherwise provided in the act, the provisions take effect October 1, 1991.

**Correctional Education**

[Since the mid-1980s there has been a separate agency charged with the delivery of classroom and vocational education to state prisoners. This Correctional Education School Authority was the subject of interim study by the Department of Education in which there was a recommendation made for transfer of the Authority's operations to the Department of Education.] With the exception of transferring library services to the Department of Corrections under revised Subsection 242.68(1), F.S., HOUSE BILL 2277 (CHAPTER 91-281) maintains the current structure of correctional education. However, the number of voting members on the Board of Correctional Education is expanded from seven to nine in revised Paragraph 242.68(2)(a), F.S., through the addition of the Secretary of Labor and Employment Security and the President of Prison Rehabilitative Industries and Diversified Enterprises (PRIDE) to voting membership. The legislation requires certain training and educational qualifications of the five members appointed

\*Prepared by Senate Corrections, Probation and Parole Committee

by the Governor. The Department of Corrections is made responsible for the renovation and construction of correctional education facilities whereas this responsibility now resides with the Director of Correctional Education. The Board is no longer responsible for surveying the educational facilities to determine the need, extent, and cost of renovation and remodeling.

Under current law, the Board is directed to conduct a biennial survey of all correctional institutions to identify inmates with special education needs. This enactment expands that responsibility through amendment to Paragraph 242.68(4)(s), F.S., to mandate that the Board identify and assess within 60 days of admission the inmates who have special education needs. Monthly statistics on the inmates identified with special needs are to be submitted to the Department of Education.

The law creates Paragraph 944.275(4)(d), F.S., to provide for a new form of incentive gain-time by authorizing the Department of Corrections to award 60 days of gain-time to inmates that receive a general education development certificate or vocational certificate.

The measure also provides for the termination of the present Board members and the reappointment of a new Board of Correctional Education.

### **The Community Corrections Partnership Act**

HOUSE BILL 2373 (CHAPTER 91-225), the Community Corrections Partnership Act (Sections 948.50 and 948.51, F.S.) creates a joint state and county contractual agreement for the operation of various correctional alternative incarceration programs. Under Subsection 948.51(2), F.S., counties electing to participate in this program may apply to the Department of Corrections (DOC) for an allocation of some of the \$2.5 million appropriated for the construction of one county work camp, one secure drug treatment facility, and a specialized drug offender probation caseload supervision system. Counties desiring to apply for funds may do so by establishing a local planning committee and submitting a 5-year plan to the Department of Corrections. The legislation creates two trust funds, one of which is designed to fund nonresidential diversion programs (Paragraph 948.51(4)(a), F.S.) and one of which is designated for construction and operation of work camps (Subsection 950.002(10), F.S.).

Pursuant to Subsection 950.002(5), F.S., one-half of the total work camp beds are required to be allocated for offenders whose presumptive, or customary, terms of imprisonment under sentencing guidelines established under Chapter 921, F.S., exceed 22 months incarceration. The law also adds Subparagraphs 921.187(1)(b)11., 12. and 13., F.S., to expand the dispositional alternatives available to the court by allowing for: (1) a split sentence wherein the offender is placed in a county jail or work camp upon completion of any specified term of community supervision; (2) a split probation which enables the Department of Corrections to place an offender on an administrative, or noncontact or nonreporting, status upon satisfactory completion of half of the probation term; and (3) resi-

dence in a state probation and restitution center. The legislation defines two new forms of probation: administrative probation or noncontact supervision for those offenders who pose no risk to the community and who are in need of no direct supervision (Subsection 948.001(1), F.S.); and drug offender probation which is funded at an officer to offender ratio of 1:50 in order to emphasize its treatment compliance objective (Subsection 948.001(3), F.S.).

Subsection 945.30(1), F.S., is amended to raise the minimum cost of probation and community supervision fee from \$30 to \$40 and allows these funds to be used for community supervision programs. Under current law moneys collected would be deposited into the General Revenue Fund.

Under Section 17 of the act, the Department of Corrections, Florida Sheriffs' Association, and the Florida Association of Counties will collaborate on a study examining state rules affecting the conditions of confinement and local management practices in local jails.

Section 5 of this measure provides for a similar study of medical expenses paid by counties for state prisoners in their detention facilities. Results of the medical study are to be submitted to the Legislature by December 1, 1991.

Subsection 947.175(3), F.S., is added to provide for 30 days advance notification of crime victims and local law enforcement jurisdictions prior to the approval of an offender for work release. Notification procedures of the Control Release Authority and the Department of Corrections are made identical in Sections 944.605 and 947.177, F.S., to better coordinate this process.

The Mentally Disordered Sex Offender laws in Chapter 917, F.S., are repealed. [The 1989 Legislature discontinued funding for the last remaining program site under the jurisdiction of the Department of Health and Rehabilitative Services and this repeal eliminates the specialized processing criteria contained in law for these cases.]

Administrators of local adult detention facilities will have expanded statistical reporting requirements under the revised provisions of Subsection 951.23(2), F.S., to more precisely track demographic patterns in jail census data. The Corrections Equality Act amended Section 944.24, F.S., to provide equal access by women prisoners to those programs offered men in the areas of education; vocational training; rehabilitation and substance abuse treatment; recreation and visiting privileges; work release; and early release programs.

Similar provisions are contained in new Section 951.175, F.S., the County Corrections Equality Act, with the revision of Sections 945.42 and 945.48, F.S., the Department of Corrections will have incorporated within its health program offerings a system of transitional mental health care to ease the mainstreaming of mentally ill inmates from acute in-patient status to less intensive out-patient care.

Though passed as an amendment to this act, a different version of SENATE BILL 860 (CHAPTER 91-195) was enacted on its own. The difference between the two versions is the incorporation of language on prenatal care for pregnant women prisoners which would not conflict with any perceived ordinary standard of care requirement for their health under terms

of ongoing federal court litigation. This act takes effect October 1, 1993.

### **Sentencing Policy**

The passage of COMMITTEE SUBSTITUTE FOR SENATE BILL 938 (CHAPTER 91-239) represented a major change in direction in sentencing policy formulation by the Legislature. Under present law the Legislature establishes punishments for enumerated offenses subject to sentencing guidelines for implementation by the Judicial Branch. This legislation changes that balance by amending Subsection 921.001(1), F.S., to require that the Legislature make the best use of state prisons so that violent offenders are appropriately incarcerated. The composition of the Sentencing Guidelines Commission is increased and altered by the addition of the Secretary of Corrections through revision of Paragraph 921.001(2)(a), F.S. The Division of Economic and Demographic Research of the Joint Legislative Management Committee and the Sentencing Guidelines Commission are directed by added Paragraphs 921.001(4)(c) and (d), F.S., to prepare revisions to sentencing policy which emphasize incarceration for violent offenses. The revised guidelines are required to take into consideration the present and future state prison resources and include recommendations regarding possible changes to the many mandatory sentencing laws in the Florida Statutes. The proposals are due to the Legislature and to the Supreme Court by November 1, 1991 and January 1, 1992, respectively.

### **Inmate Labor and Training**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1850 (CHAPTER 91-298) substantially revises Florida law on the objectives and use of inmate labor by the private company managing the prison industry program. The company, Prison Reha-

ilitative Industries and Diversified Enterprises (PRIDE), is directed in revised Subsection 287.042(1), F.S., to develop jointly with the Department of General Services price and performance standards for its products which may involve their testing for quality by the Department of Agriculture and Consumer Services. All public agency expense associated with this process will be assumed by the corporation. The Department of Corrections is directed by the addition of Subsection 944.09(6), F.S., to coordinate and collect victim information to expedite the restitution process. PRIDE is authorized by Section 7 of the act to expand its marketing to county jail systems which may desire to develop similar privately managed inmate work programs. Local governments may purchase from company managed industries under the same conditions as other state agencies when using state commodity list for term contracts pursuant to revised Paragraph 287.042(2)(a), F.S. Essentially this permits these local governments to purchase these items without the required resorting to competitive bids. The company is directed by Section 9 of the act to report to the 1992 Legislature on its progress in meeting the training and rehabilitative requirements necessary to make maximum use of inmate labor at all correctional institutions.

### **Notification of Inmate Release**

SENATE BILL 2094 (CHAPTER 91-65) adds Subsections 944.605(2) and 947.177(2), F.S., to require the taking of an exit photograph of a state prisoner scheduled for release through any of the ordinary or extraordinary release programs of the Department of Corrections or the Parole Commission to facilitate identification due to appearance changes over the sentence time served.

## COURTS AND CIVIL LAW\*

**Condominiums**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1465 (CHAPTER 91-103) makes significant revisions to Chapter 718, F.S., the Florida Condominium Law based upon the recommendations of the Condominium Study Commission which was created by Chapter 90-218, Laws of Florida. In the area of alternative dispute resolution, the act encourages the use of voluntary mediation and creates a mandatory nonbinding arbitration process through the Division of Florida Land Sales, Condominiums and Mobile Homes, which must be followed prior to filing an action in court (Section 718.1255, F.S., as reworded).

The condominium association's authority and responsibilities are expanded. Under revised Subsection 718.111(7), F.S., the association is given the authority to convey, lease and mortgage association property, but only with approval of 75 percent of the voting interests. The association is authorized pursuant to Subparagraph 718.112(2)(d)3., F.S., to fine unit owners who violate the election process. The association is authorized to levy a fine up to \$100 per day with a maximum of \$1,000 by amended Subsection 718.303(3), F.S. The association is required by amended Paragraphs 718.111(12)(b) and (c), F.S., to maintain official records of the association within 25 miles of the condominium property and must provide those records within 5 days of a written request of a unit owner. The association is required to maintain and update annually a Question and Answer Sheet by added Paragraph 718.111(12)(d), F.S. The board of administration of the association is required to adopt hurricane shutter specifications by new Subsection 718.113(5), F.S. Bonding requirements for the association officers, directors and managers is increased from \$10,000 to \$50,000 as provided in Paragraph 719.106(1)(k), F.S.

The provisions relating to cable television as a common expense in Subsection 718.115(1), F.S., are modified. The measure provides that the declaration can provide that cable television is a common expense. If it is not included as a common expense in the declaration the board has the authority to enter into a contract for cable television services subject to the ability of a majority of the unit owners present at the next unit owner meeting to vote to rescind the contract. Such a contract would be required to contain an opt out provision for blind and hearing impaired persons.

The law includes several additional developer requirements. Pursuant to revised Subsection 718.502(3), F.S., the developer's unilateral right to amend the declaration is limited and the developer filing fee is increased from \$15 to \$20 per unit. The developer is required to prepare a Question and Answer Sheet and provide it to prospective purchasers under Subparagraph 718.503(1)(b)1., F.S. There are other fees imposed for reservation programs (Paragraph 718.502(2)(a),

F.S.), conversions (Subsection 718.608(5), F.S.), and amendments to documents (Subsection 718.502(3), F.S.).

The responsibilities of the Division of Florida Land Sales, Condominiums and Mobile Homes are increased. Pursuant to amended Subparagraph 718.501(1)(d)4., F.S., the Division is authorized to impose a civil penalty individually against any officer or board member who willfully and knowingly violates Chapter 718, F.S., a rule or final order of the Division. The Division is given the authority by added Paragraph 718.501(1)(k), F.S., to conduct random investigations of condominium associations with 20 days written notice. The Division is required to have a toll free telephone number for unit owners to use to contact the Division by Paragraph 718.501(1)(m), F.S. The Division is also required to provide educational programs under Paragraph 718.501(1)(l), F.S. An ombudsman is created within the Division to assist unit owners by new Section 718.5015, F.S. An Advisory Council on Condominiums is created under Section 718.5015, F.S., to advise the Division about several issues related to condominiums. The annual association fee for unit owner payable to the Division is increased from \$1 to \$4 for 1992 and then to \$3 thereafter pursuant to revised Paragraph 718.501(2)(a), F.S.

Significant changes are made to the election process with the addition of Subparagraphs 719.106(1)(b)2. and 719.106(1)(d)1., F.S. Unit owners will no longer be able to elect board members by proxy but will use an election process where unit owners who choose to run for office will file a notice with the association secretary. Voting will be by secret ballot. Limited proxies will be used for issues which require a vote of the unit owners. Proxies can still be used to establish a quorum.

Several mortgage issues are included in the legislation. Under added Subsection 718.110(11), F.S., mortgagee consent to amendments to the declaration will no longer be required for declarations recorded after January 1, 1992, unless they materially affect the rights of the mortgagee. If a first mortgagee forecloses, currently they are not required to pay the unpaid assessments of the former unit owner. By revision of Paragraph 718.116(1)(a), F.S., this act would continue that exemption as long as the mortgagee has within 6 months after the mortgagor last made a payment either recorded a deed in lieu of foreclosure or instituted an action for foreclosure. If the mortgagee failed to take action within 6 months, the mortgagee's liability for unpaid assessments is limited to 6 months. Pursuant to amended Paragraph 718.116(5)(a), F.S., the association's lien for unpaid assessments will relate back to January 1, 1992, or the date the declaration is recorded whichever is later. [This provision will give the association priority over other liens except for first mortgages of record, tax liens and liens which exist on January 1, 1992.]

Several issues are included in this act which can be described as open government issues. This measure includes

\*Prepared by House Judiciary Committee

several issues which will change the way associations have conducted their business. Paragraph 718.112(2)(c), F.S., is revised to give unit owners the right to attend and speak at board meetings and Subparagraph 718.112(2)(d)6., F.S., is added to provide the same right at unit owner meetings. The meeting notice requirements are more stringent in revised Paragraphs 718.112(c) and (d), F.S. The association is required to obtain bids on goods and services valued over \$5,000 under new Section 718.3026, F.S. Officers, directors and managers are prohibited from accepting anything of value over \$100 from persons who provide or who want to provide goods or services to the association pursuant to revised Paragraph 718.111(1)(a), F.S. Managers will have a fiduciary duty to the unit owners. Commingling of funds prohibited under new Subsection 718.111(15), F.S.

The provisions in the legislation relating to voting and bylaw changes are also made applicable to cooperatives by revision of Subsection 719.106(1), F.S. Most provisions in the enactment are not effective until January 1, 1992, in order to give the Division an opportunity to inform condominium unit owners and boards about the new provisions in the law.

SENATE BILL 78 (CHAPTER 91-116) addresses several issues related to condominiums and creates a Foreclosure Study Commission. The Commission is to review problems with the foreclosure process, including particular problems with foreclosures in condominiums. The Study Commission is to issue a report to the Legislature by November 30, 1991. This act also includes the same provisions on cable television which have been enacted into law as amendments to Section 718.115, F.S., (common elements and common surplus in condominiums) in COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1465 (CHAPTER 91-103) summarized above. It also revises Subsection 718.120(1), F.S., to include a provision which clarifies that special taxing districts are to assess taxes against the condominium parcels and not against the common elements or association property.

### Family Law

COMMITTEE SUBSTITUTE FOR SENATE BILL 1932 (CHAPTER 91-246) implements some of the recommendations of the Gender Bias Study Commission in the area of family law. The act revises Subsection 61.052(2), F.S., to provide that in dissolution of marriage cases residency may be corroborated by an affidavit; requires the court to consider the best interest of any minor child in making an equitable distribution of the marital home (Paragraph 61.075(1)(h), F.S., as added); provides that cash payments which are awarded for the purposes of equitable distribution vest when the judgment is awarded (Subsection 61.075(2), F.S., as added); requires the court to make findings of fact regarding certain aspects of the equitable distribution (Subsection 61.075(3), F.S., as added); requires findings of fact which support an award or denial of alimony (Subsection 61.08(1), F.S., as revised); and provides for equal consideration between the mother and father in determining custody irrespective of the sex of the child (Sub-

paragraph 61.013(2)(b)1., F.S.). The measure also includes several child support issues and expands the use of child support guidelines to apply to parents with a combined net income of \$100,800 per year (Subparagraph 61.30(1)(b)2., F.S.); applies the child support guidelines to paternity cases; provides for attorney's fees in paternity cases (Section 742.045, F.S.); and creates a duty on all parents, whether married or unmarried, to provide support to their child until the child is 19 years of age if the child is still in high school and likely to graduate before age 19 (Subsection 743.07(2), F.S.).

### Compensation of Justices and Judges for Temporary Duty

Subsection 25.073(2), F.S., is amended by HOUSE BILL 433 (CHAPTER 91-256) to provide that retired state Supreme Court justices and district court judges assigned to temporary court duty shall receive not less than \$200 per day for each day or portion of a day served.

### Jury Selection

SENATE BILL 678 (CHAPTER 91-235) relates to jury selection and creates Section 40.011, F.S., to provide that petit and grand jurors shall be selected from a list of licensed drivers and persons possessing identification cards issued by the Department of Highway Safety and Motor Vehicles (DHSMV). The law provides that the DHSMV periodically deliver to the clerks of the circuit court in each respective county a list of persons who appear in the Department data base and who reside in the respective counties.

The act creates Section 40.022, F.S., to require each circuit court clerk to purge the departmental data base upon receipt and monthly thereafter of persons adjudicated mentally incompetent, convicted of a felony or verified as dead from a monthly list of county decedents supplied by the Department of Health and Rehabilitative Services. Subsection 98.211(2), F.S., is revised to delete the provision which allows elector lists to be used in jury selection.

Subsection 322.20(8), F.S., is amended to permit DHSMV to supply statewide lists of persons holding departmental identification cards for the purpose of jury selection.

Pursuant to revised Subsection 905.37(3), F.S., statewide grand jurors are to be selected from the same pool as county-wide jurors. The provisions of the act take effect January 1, 1992.

### Civil Liability Immunity for Employers

HOUSE BILL 497 (CHAPTER 91-165) creates Section 768.095, F.S., to provide immunity from civil liability for former employers who disclose job performance information about former employees in good faith to prospective employers. Rebuttal of the presumption of good faith is effected through a showing that the disclosed information was knowingly false or deliberately misleading, was given maliciously or violated any civil right of the former employee protected by Chapter 760, F.S., which addresses the discriminatory treatment of persons.

### Discrimination Protection for Hard of Hearing

Section 413.08, F.S., is amended by COMMITTEE SUBSTITUTE FOR HOUSE BILL 1015 (CHAPTER 91-94) to protect the hard of hearing from discrimination in public employment or housing accommodations and to accord the same access to public facilities and liability for damage to service dog trainers while training the dogs as is provided for deaf, blind, hard of hearing or mobility impaired persons accompanied by service dogs.

### Racial Bias

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1431 (CHAPTER 91-74) implements many of the recommendations of the Florida Supreme Court Racial and Ethnic Bias Study Commission. The legislation amends Subsection 43.29(1), F.S., to provide for minority or female representation on each of the 26 judicial nominating commissions. The act also provides that women and minorities be represented on the Commission on Juvenile Justice (Paragraph 39.023(2)(b), F.S., as added) and the Juvenile Justice Standards and Training Council (Paragraph 39.024(2)(b), F.S., as added). The measure creates an Office of Civil Rights in the Department of Legal Affairs (Section 16.57, F.S.) and creates a civil cause of action that the Attorney General may bring for the violation of an individual's constitutional rights (Section 760.51, F.S.). The enactment also prohibits salary discrimination based on gender or race within the offices of the state attorney (Section 27.182, F.S., as created); the public defender (Section 27.5301, F.S., as created); and the county and circuit courts (Section 28.34, F.S., as created).

The act also creates Sections 943.1715 and 943.1716, F.S., to mandate basic skills training relating to racial and ethnic minorities and continued employment training of the same type be offered by the Criminal Justice Standards and Training Commission to law enforcement officers. Pursuant to new Section 943.1757, F.S., the Criminal Justice Executive Institute is directed to offer such training to criminal justice executives and beginning on January 1, 1993, to report annually to the Legislature on the needs in this area and how they are being addressed. Subsection 943.1755(1), F.S., is amended to direct the Institute to undertake research projects to improve interaction and intervention by law enforcement personnel in minority communities and Section 943.1758, F.S., is created to require the Commission to revise its curriculum to accommodate such training. A report detailing the curriculum is to be made to the Legislature by December 1, 1992. The act is to take effect October 1, 1991.

### Speedy Trial

A person over the age of 65 who is party to a civil action is permitted to move the court to advance the trial on the docket by COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 207 (CHAPTER 91-251). The presiding judge, after consideration of the age and health of the party, may advance the case pursuant to the motion which may

be filed with the initial complaint or any time later. The act is given an effective date of October 1, 1991.

### Sunshine in Litigation

COMMITTEE SUBSTITUTE FOR HOUSE BILL 417 (CHAPTER 91-85) extends the principles of the Sunshine in Litigation Act (Section 69.081, F.S.) to claims involving the state, and prohibits the confidential settlement or resolution of any claim or action against the state, its agencies, subdivisions, any municipality or constitutionally created body or commission. The act also provides standing to contest any settlement or resolution which violates the provisions of the legislation.

The law provides that any entity which settles a claim in tort which requires the expenditure of public funds in excess of \$5,000 shall provide notice as provided in Chapter 50, F.S.

### Claims Collection

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 937 (CHAPTER 91-209) creates Section 17.0415, F.S., which permits the Comptroller to authorize the assignment of claims among the state, its agencies or subdivisions in order to facilitate the collection of such claims from third parties. The state, its agencies and subdivisions may assign claims under terms acceptable to the Comptroller, assignor and assignee. The claims, whether arising from criminal, civil or other judgments in state or federal court, may be used as a set-off to any claim against the state, its agencies or subdivisions except for claims arising from the condemnation of homestead property.

Section 284.385, F.S., is amended to mandate the development of an information exchange system by the departments of Insurance, Banking and Finance, and General Services with the cooperation of state attorneys and clerks of the court concerning claims for and against the state, its agencies and subdivisions to enhance the collection of the claims.

Subsection 768.28(6), F.S., is revised to specify unpaid claims information that must be disclosed, provide a remedy for unexcused failure to disclose and set out the circumstances under which a court may excuse incomplete or inaccurate compliance. The act takes effect October 1, 1991.

### Time-share

COMMITTEE SUBSTITUTE FOR SENATE BILL 764 (CHAPTER 91-236) makes several changes to the regulation of time-shares. The act amends Subsection 718.401(1), F.S., to authorize creation of a time-share condominium on property that has an unexpired lease term of at least 30 years. It expands the concept of time-share to include vacation plans (Subsections 721.05(31) and (32), F.S., as added) and includes such plans under regulation by the Department of Business Regulation. The law provides for creation of time-shares in personal property (Subsection 721.02(1), F.S., as amended). The measure also adds Subsection 721.03(6), F.S., to provide for flexibility when a time-share plan is also offered for sale in other states to ensure consistent regulation. The filing fees and annual fees are changed from \$1 for each time-



share period to \$50 for each time-share unit pursuant to revised Paragraph 721.07(4)(a), F.S. Time-shares are authorized to have promotional drawings; however, all other promotions in connection with the offering or sale of time-shares are prohibited under amended Subsection 721.111(2), F.S. Language is added to Subsection 721.13(4), F.S., which helps to ensure that the names and addresses to Subsection 721.13(4), F.S., of unit owners are only used for association business. As required by revised Paragraph 192.037(6)(b), F.S., if the time-share is a condominium or cooperative and control of the association has been turned over to owners other than the developer, the association is required to maintain an escrow account for taxes. The failure to comply with the escrow account requirements is made a third-degree felony pursuant to added Paragraph 192.037(6)(f), F.S. Time-share developers or time-share exchange companies which are regulated under Chapter 721, F.S., are exempt from regulation under Chapters 509 and 559, F.S., as provided by new Section 509.512 and revised Subsection 559.927(9), F.S. Diving services are also exempt from regulation under Chapter 559, Florida Statute, relating to sellers of travel.

#### Trust Administration

COMMITTEE SUBSTITUTE FOR SENATE BILL 1164 (CHAPTER 91-61) makes several changes to trust administration and the administration of estates. The act repeals Section 732.803, F.S., relating to charitable devises which was declared unconstitutional by the Florida Supreme Court. It provides by amendment to Subsection 733.705(2), F.S., that an objection to a claim to a decedent's estate must include a statement that the claimant is limited to 30 days in which to bring an action on the claim. This measure creates Subsection 737.402(4), F.S., to limit the ability of a trustee to exercise certain powers when the trustee is also a beneficiary of the trust. These limitations would apply to all trusts created after June 30, 1991, unless the trust referred to this specific provision and exempted the trust from these provisions. These limitations would also apply to existing trusts unless the trust was amended to exempt the trust from these provisions or unless all the parties in interest elected not to be subject to this provision.

#### Mobile Homes

HOUSE BILL 27 (CHAPTER 91-202) adds Subsection 723.058(3), F.S., to prohibit certain resale agreements for mobile homes. A mobile home owner, an owner of a lot in a mobile home subdivision or purchaser of a mobile home in a park or subdivision cannot be required to enter into a resale agreement as a condition of tenancy, to qualify for tenancy or to obtain approval for tenancy. Subsection 723.003(14) is added to define a resale agreement as a contract where the park owner is authorized to act as the exclusive agent for the sale of the mobile home. Resale agreements of perpetual or indefinite duration are prohibited by new Subsection 723.058(4), F.S. Discriminatory increases in lot rental amounts based upon a re-

fusal to enter into a resale agreement are also prohibited under new Subsection 723.058(5), F.S.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1578 (CHAPTER 91-241) addresses the issue of taxing of mobile homes. It revises Section 193.075, F.S., to provide that a mobile home is to be taxed as real property if the owner of the mobile home is also the owner of the land upon which the mobile home is permanently affixed. A mobile home is considered permanently affixed if it is tied down and connected to the normal and usual utilities. The act takes effect January 1, 1992.

#### Notary

COMMITTEE SUBSTITUTE FOR SENATE BILL 856 (CHAPTER 91-291) implements many of the recommendations of the 1989 Governor's Study Commission on Notaries Public. The legislation restructures much of the present statute (Chapter 117, F.S., organizes the duties and penalties sections (Section 117.05, F.S., as reworded), mandates a short- and long-form of acknowledgment (Paragraph 117.05(15)(b), and Section 695.25, F.S., as amended), and creates a list of prohibited acts (Section 117.107, F.S.), and creates a cause of action against an employer for the wrongful notarial acts of his employee (Subsection 117.05(7), F.S.). The act also requires that any notary who advertises his services in a language other than English post a disclaimer stating that the notary is not an attorney-at-law (Subsection 117.05(13), F.S.). The measure raises the notary bond amount from \$1,000 to \$5,000 (Subsection 117.01(7), F.S., as reworded).

#### Guardianship

COMMITTEE SUBSTITUTE FOR SENATE BILL 1554 (CHAPTER 91-306) creates a 12-member Guardianship Oversight Board. The act provides that the Board has the duty to oversee the implementation and application of state laws concerning the procedural and substantive process for determining competency, the appointment of guardians, the guardianship process, the termination of guardianship, other alternatives to guardianship, and other laws necessary to protect the rights and property of well, sick or incapacitated persons. The law also provides that the Board shall recommend legislation and procedural changes necessary to achieve the Board's oversight duties. The Board expires June 30, 1993.

In addition to the issue of guardianship, the legislation addresses the issue of special process servers. The measure provides the qualifications for persons applying to become special process servers (Subsection 48.021(2), F.S., as amended). The enactment mandates that such applicants submit to an examination.

The act also revises Paragraph 741.30(8)(a), F.S., to provide for service of injunction at any time of day or night in cases of domestic violence.

Subsection 903.16(1), F.S., is revised to permit the clerk of the court to receive moneys or bonds remitted to a sheriff in connection with the payment of bail.

Paragraph 744.331(7)(b), F.S., is amended to alter the time period within which counties must file certain claims against



guardianship property and Section 744.653, F.S., is created to exempt guardians appointed under the Veterans' Guardianship Law from compliance with Section 744.367, F.S., which requires the filing of an annual guardianship report.

### Motor Sports

HOUSE BILL 1575 (CHAPTER 91-104) relates to liability in the nonspectator area of a "closed-course motorsports facility" and creates Section 549.09, F.S., to provide that such facilities may require the signing of a liability release as a condition of admission to any nonspectator area. The release immunizes the facility from liability to any nonspectator and his heirs, representatives, or assigns, for all forms of negligence. The law sets out the immunity and definitional provisions including definitions for "closed-course motorsports facility," "nonspectator area," "spectator area," "posted," "negligence," "motor vehicle," and "nonspectators." The act defines negligence to make an owner or operator responsible for any willful, wanton or intentional act. An effective date of October 1, 1991, is provided.

### Easements

COMMITTEE SUBSTITUTE FOR SENATE BILL 96 (CHAPTER 91-117) revises Subsection 704.01(2), F.S., which creates the statutory way of necessity which provides access to property which is hemmed in by other property without a means of ingress or egress. It expands the statutory easement to all utilities and cable television which are authorized to run over, under, through and upon the land over which the easement exists. Section 704.04, F.S., is amended to establish that the statutory easement is no longer temporary, but that the court in granting an easement is to provide for its duration. Attorney's fees and costs can be awarded to either party for an unreasonable refusal to comply with the statutory easement.

### Construction Liens

HOUSE BILL 1381 (CHAPTER 91-102) makes several minor changes to the construction lien law. It revises Subsection 713.01(19), F.S., to provide that a condominium association is considered an owner for improvements made to the common elements or association property. Paragraph 713.13(1)(a), F.S., is amended to provide that a certified copy of the notice of commencement can be posted on the job site and also authorize a copy of the notice of commencement and a notarized statement that the notice of commencement has been filed to be posted. Under revised Paragraph 713.135(1)(d), F.S., the inspection which verifies that a notice of commencement has been posted is no longer required to be made 7

days after the building permit is issued. The act also clarifies that a notice of commencement is not required for projects under \$2,500 revised (Subsection 713.02(5), F.S.).

### Landlord and Tenant

SENATE BILL 1644 (CHAPTER 91-181) revises Subsection 34.011(2), F.S., to clarify the jurisdiction of circuit courts and county courts in certain landlord and tenant actions. If the amount in controversy exceeds \$10,000, which is the jurisdictional amount in county court, then the circuit court has jurisdiction to hear a landlord and tenant action.

### Traffic Magistrates

SENATE BILL 1716 (CHAPTER 91-152) revises Subsection 318.32(2), F.S., to expand the jurisdiction of magistrates of the civil traffic court to include traffic accidents resulting from property damage. In addition, the law raises the compensation cap for magistrates from not more than \$20 per hour to not more than \$50 per hour. The measure also provides that county judges shall have concurrent jurisdiction with civil traffic hearing officers and permitting the transfer of a case to a judge upon request of a defendant.

### Eminent Domain

SENATE BILL 960 (CHAPTER 91-141) relates to eminent domain proceedings involving counties and revises the burden of proof requirements that counties must meet in order to condemn property for use as a park, playground or other recreational purposes. The act amends Subsection 127.01(2), F.S., to provide that in eminent domain proceedings, a county's burden of showing reasonable necessity for parks, playgrounds, recreational centers or other types of recreational purposes shall be the same as the burden in other types of eminent domain proceedings. The law relieves the courts from determining on a de novo basis whether a public necessity exists for a taking for recreational purposes, and thereby establishes a single standard of review for all eminent domain proceedings.

### Filing Fees

SENATE BILL 1716 (CHAPTER 91-152) relates to court filing fees and provides a cap of \$200 on service charges and fees authorized pursuant to Sections 28.241, 28.2401 and 34.041, F.S.

The act also provides that a service charge or fee may not be imposed upon a party to a civil or criminal action, suit, proceeding or appeal in a circuit or county court for filing a responsive pleading.

**ECONOMIC DEVELOPMENT AND TOURISM\*****Tourism**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2399 (CHAPTER 91-31) creates a Tourism Commission that will expire on April 1, 1992, unless reenacted. Members of the Commission will be appointed from among persons who are recognized tourism industry leaders.

The act provides that the Commission include individuals who represent both large and small interests, minorities and geographic diversity. This Commission will contract with an independent, highly respected firm of national merit to conduct a study on statutorily prescribed issues. One of the Commission's primary duties will be to frame the parameters of the study and use its results to: (1) outline the appropriate role of the state in tourism promotion; (2) develop and suggest to the Executive and Legislative branches of government a strategic plan to implement this policy, based on the tenets of an industry-standard 3- to 5-year marketing plan; (3) recommend a funding level and funding mechanism appropriate to the plan; and (4) recommend a right-sized governmental entity to operate the plan. Statutory language to effect these recommendations is to be recommended by the Commission to the Governor, the President of the Senate and the Speaker of the House of Representatives by December 1, 1991.

The Division of Tourism within the Department of Commerce will continue to operate as it has in the past while this Commission is in existence; however, since the law repeals the Tourism Advisory Council, the Commission will act as the Division's representative on the Florida International Affairs Commission (FIAC) (Subparagraph 288.803(1)(b)5., F.S., as revised). The Tourism Commission will also temporarily advise FIAC on international tourism promotion matters (Section 288.812, F.S., as amended). [Funding for the Commission and the Division have been provided for in the General Appropriations Act and will come from a portion of the rental car surcharge revenues as appropriated by the 1990 Legislature to the Division's Tourism Promotion Trust Fund.]

SENATE BILL 1986 (CHAPTER 91-155) amends Subsection 212.0305(4), F.S., to increase the rate of the special district convention development tax, the special development tax, and the subcounty convention development tax from 1 to 2 percent.

[The only county levying the taxes under the provisions included in this law is Volusia, which will raise approximately \$2 million in convention development tax revenues in Fiscal Year 1991-1992. If enacted, the additional 1 percent in convention development taxes would generate \$2.4 million in Fiscal Year 1992-1993.]

**Hospitality**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1282 (CHAPTER 91-40) revises provisions relating to the regulation of public lodging and food service establishments by the Department of Business Regulation's Division of Hotels and Restaurants.

The measure revises Subsections 509.013(5) and (7), F.S., to exempt vending machines from the definition of public food service establishment. It requires the maintenance of certain records and vehicle identification information on mobile food dispensing vehicles and requires public food service establishments that offer catering services to list their license number on any advertisement for such services (Subsection 509.101(3) and 509.241(3), F.S., as amended.). The legislation provides for an additional classification of public lodging establishment for the purposes of licensure (Subsection 509.251(1), F.S., as revised), health and safety inspection (Subsections 509.211(4) and 509.221(9), F.S., as amended), and advertising requirements (Subsection 509.201(4), F.S., as amended). It revises the definition of certain buildings, requires those buildings to meet railing standards and file inspection certificates (Section 509.2112, F.S., as revised), and provides for the synchronization of fire safety regulations between the Division and the State Fire Marshall (Section 509.215, F.S., as revised). The Division is to review the issue of safety standards in multiple-use public lodging establishments and the certification of on-site managers or operators of certain establishments, with findings to be reported to the Governor and Legislature pursuant to added Subsection 509.242(4), F.S. Public lodging establishments are required to display information on the rate and availability of their units (Paragraph 509.201(2)(a), as amended), and in certain cases, real estate documents on buildings are exempt from the radon gas disclosure requirements (Subsection 404.056(8), F.S., as revised). The law provides for a school-to-career hospitality education program (under added Subsection 509.302(7), F.S.). An appropriation for Fiscal Year 1991-1992 is provided in the amount of \$100,000 from the Hotel and Restaurant Trust Fund to carry out the new education program.

**Cultural Affairs**

SENATE BILL 570 (CHAPTER 91-132) revises the definition in Subsection 265.603(5), F.S., of a "sponsoring organization" under the Fine Arts Endowment Program of 1985 operated by the Department of State. The definition is amended to specifically mean a fine arts organization which is primarily and directly responsible for conducting, creating, producing, presenting, staging or sponsoring a fine arts exhibit, performance, or event. [This specificity narrows the current statutory definition by requiring that sponsoring organizations be more directly involved with the creation of fine art.]

\*Prepared by House Tourism, Hospitality and Economic Development Committee

The legislation also repeals the statutory language in Section 265.603, F.S., which separates Florida into five regions for the purpose of distributing grants to fine arts sponsoring organizations throughout the state. [Repeal of the regional basis for distribution of matching fund shares would have the effect of providing more state matching shares in this program and increased funding resources to more arts organizations.]

[Since the Fine Arts Endowment Program is an existing program, the Department would not incur any additional, associated costs.]

### Historic Preservation

COMMITTEE SUBSTITUTE FOR SENATE BILL 162 (CHAPTER 91-120) reinstates seven historic preservation boards which expired on October 1, 1990. These boards are located in Pensacola, St. Augustine, Tallahassee, the Florida Keys, Palm Beach County, Tampa-Hillsborough County, and Broward County. The measure also reinstates direct-support organizations which will operate under contract with each board.

The boards will exercise those powers delegated by the Division of Historical Resources within the Department of State. Changes from the previous law are intended to provide greater accountability and include specific procedures for the acquisition of land, education and experience requirements for board members, procedures for filling vacancies among board members, and guidelines for the conduct of official business.

The act also directs the Department of State, in cooperation with local governments and the historic preservation boards, to determine a method of requiring local governments receiving preservation services from the boards to assist in financing those services.

### Economic Development

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 2040 (CHAPTER 91-274) revises Paragraph 212.20(6)(g), F.S., to provide funding for professional sports franchise facilities and spring training facilities in Florida. Under substantially reworded Section 288.1162, F.S., up to \$2 million may be provided annually to each qualified professional sports facility which agrees to play in Florida after July 1, 1990, or up to \$500,000 annually may be provided to spring training facilities meeting the specified criteria. Facilities may receive funds for up to 30 years. Funds may be used to finance the construction, reconstruction, or renovation of a facility for a new professional sports franchise or new spring training franchise or to repay debt services on bonds or other instruments necessary for the construction or improvement of the facility. No more than six facilities may be approved under all provisions of the act.

In order to qualify for assistance, a professional sports facility must meet several criteria including a minimum annual attendance of 300,000, generation of at least \$2 million in new sales and use taxes for the state, and use of the facility for at least 5 years. The Department of Commerce is assigned responsibility for ensuring that each applicant meets the act's

criteria; however, the Department of Revenue will serve as the agency distributing the funds.

The legislation also requires that any facility receiving funds award at least 15 percent of the concession, facility management, and operational service contracts to minority businesses pursuant to revised Section 288.1167, F.S.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1681 (CHAPTER 91-218) contains several new programs and administrative changes to existing programs at the Department of Commerce. This measure creates a cooperative advertising matching grants program under Section 288.017, F.S., to assist small cities and counties in publicizing the agricultural, industrial and tourist advantages of their area. The law also creates Section 288.045, F.S., to provide encouragement for the continued development of the motion picture, television, video and recording industries in Florida. In addition, the enactment addresses the Economic Development Transportation Fund (Section 288.063, F.S., as revised), the Economic Development Advisory Council (Paragraph 20.17(4)(l), F.S., as created) the Sports Advisory Council (Subsection 20.17(6), F.S., as amended), and Welcome Centers (Section 272.11, F.S., as revised).

### Community Development

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1971 (CHAPTER 91-262) contains numerous changes to the Florida Enterprise Zone Program and the Community Development Corporation Support and Assistance Program. Enterprise zones are permitted under Paragraph 290.0065(8)(c), F.S., as revised, to amend their boundaries to take effect January 1, 1993, and local governments are encouraged through creation of Section 290.0135, F.S., to undertake activities to encourage the construction or rehabilitation of housing and to promote business development.

The law revises Section 290.036, F.S., to provide for the continued funding of community development corporations but amends the scoring and eligibility requirements established for participation in this grant program. Provisions are made through the creation of Section 290.0365, F.S., for new community development corporations to receive state administrative assistance and compete fairly with more mature corporations in future years. The legislation also includes extensive reporting criteria (Section 290.039, F.S., as created) and a review of the program by the Auditor General (Section 290.0395, F.S., as created). The program is then repealed effective June 30, 1998. Unless otherwise provided in the act, its provisions take effect October 1, 1991.

### Quincentennial Celebration

Section 4 of Chapter 90-289, Laws of Florida, is amended by SENATE BILL 1568 (CHAPTER 91-177) to appropriate moneys in the Quincentennial Trust Fund to the Department of Commerce for the purpose of contracting with Florida's Columbus Hemispheric Commission, Inc., for activities sanctioned by the Commission.

## EDUCATION, K-12\*

**School Improvement and Education Accountability**

COMMITTEE SUBSTITUTE FOR SENATE BILLS 2054 AND 1504 (CHAPTER 91-283) amends Sections 229.591 through 229.594, F.S., to establish a statewide system of school improvement and education accountability based on the achievement of state goals. The intent of the Legislature is to provide clear guidelines, or a "Blueprint 2000," for establishing this system and for returning the responsibility for education to those closest to the students—the schools, teachers and parents.

Seven broad state education goals are established:

1. Communities and schools collaborate to prepare children and families for children's success in school.
2. Students graduate and are prepared to enter the work force and postsecondary education.
3. Students successfully compete at the highest levels nationally and internationally and are prepared to make well-reasoned, thoughtful and healthy lifelong decisions.
4. School boards provide a learning environment conducive to teaching and learning that includes appropriate educational materials, equipment and pupil/teacher ratio.
5. Communities provide an environment that is drug-free and protects students' health, safety and civil rights.
6. The schools, district and state ensure professional teachers and staff.
7. Adult Floridians are literate and have the knowledge and skills needed to compete in a global economy and exercise the rights and responsibilities of citizenship.

The Commission to Improve Schools and Simplify Education Reports, established by Chapter 90-288, Laws of Florida, is renamed the Commission on Education Reform and Accountability; membership is increased from 11 to 23 members representing business, parents, education, the Senate and the House of Representatives. The Lt. Governor and the Commissioner of Education are named cochairmen, and new duties of the Commission are added. These new duties require the Commission to:

- 1) hold at least 10 public hearings in various regions of the state;
- 2) observe the development and implementation of school improvement plans;
- 3) review and analyze the schools' initial needs assessment; and
- 4) involve business in training teachers, administrators and parents.

By October 1, 1992, the Commission is to recommend to the Legislature and State Board of Education:

- 1) performance standards for indicating progress toward state and local goals (to be adopted by the State Board of Education by September 1, 1992);
- 2) methods of measuring progress and definition of "adequate progress";
- 3) methods for reporting progress to the public;
- 4) methods for recognizing schools that make adequate progress toward their goals and recommendations regarding development of incentives for schools that make exceptional progress;
- 5) guidelines for dealing with schools that do not improve after 3 consecutive years of assistance and intervention; and
- 6) statutes, rules and policies that stand in the way of school improvement and should be repealed or modified, including a recommendation on high school graduation requirements.

Each school will produce a needs assessment and needs response plan to be reported to the Commission by November 1, 1991. The components of the needs assessment are designated, and a format will be provided by the Commissioner of Education. The Commission will review and analyze the needs data based on an initial core of performance standards and report to the Legislature by January 1, 1992.

A new subsection (18) is created in Section 230.23, F.S., relating to duties of school boards. Each school will develop a school improvement plan during the 1992-1993 school year and implement the plan in 1993-1994. These plans will be designed to implement state education goals and student performance standards, be based on a needs assessment, and include goals, indicators of student progress, strategies and evaluation procedures. In the event a school fails to develop or implement a plan, the Department of Education will send a team to the school to write the plan. Beginning July 1, 1993, districts in which schools still do not have a plan will not receive any funds from the Education Enhancement Trust Fund (state lottery).

Each school board will develop an individualized plan of assistance and intervention for any school that should fail to make adequate progress toward meeting the goals and standards of its school improvement plan. Guidelines will be recommended by the Commission to deal with any school that should fail to improve after 3 consecutive years of assistance and intervention. These guidelines will be stringent and will ensure that the school is not permitted to continue serving students in a less than adequate manner.

The Commission will recommend to the Legislature methods for reporting to the public on the progress of schools, school districts, and the state toward state and local education goals ("school report cards"). The first "school report card" will be issued in the fall of 1994; the Commissioner will issue "status of education" reports in the fall of 1992 and 1993. Meth-

\*Prepared by House Public Schools Committee

ods for feedback to the Commissioner on local perceptions of the accountability system and methods for reporting on the availability of community services to help children and families in need will also be developed.

If, in the opinion of the Commission, an adequate system of accountability is in place to protect the public interest, the Commission may begin to recommend to the Legislature the repeal or revision of statutes, rules and policies that the Commission finds stand in the way of school improvement. To facilitate innovative practices and to allow local selection of educational methods during the transition period when the Commission is formulating its recommendations and the accountability system is being put in place, the Legislature may authorize exceptions to laws pertaining to fiscal policies. Statutes governing programs that are not funded in the General Appropriations Acts of 1991, 1992 and 1993 will be held in abeyance. In addition, school boards may request waivers from certain State Board of Education rules and from statutes governing certain programs, should these programs be funded.

The Commissioner of Education is responsible for implementation of the accountability system and for assisting districts with school improvement efforts. The Commissioner will receive feedback on local districts' perceptions of this help. The Commissioner will report to the Legislature by January 1, 1992, on the costs of accountability and the need for new assessment procedures and information systems. The Department of Education is responsible for providing training and technical assistance to schools.

Section 229.58, F.S., is amended to provide that school advisory councils are to be made up of teachers, parents and community members and are to participate in the development and evaluation of school improvement plans. School-level councils are required for each school in districts with more than 10,000 students. District-level advisory councils, formerly required, are now optional. Districts with less than 10,000 students may select school-level councils or one district-level council with representation from each school.

A portion of the net revenues from the lottery (Section 24.121, F.S.) is to be distributed to each school district and is to be used for enhancing school performance through implementation of school improvement plans. For the 1991-1992 fiscal year, districts must spend no less than \$4 and not more than \$9.50 per student for planning activities.

The Board of Public Schools (Sections 229.861 through 229.867, F.S.) is repealed, as the Commission on Education Reform and Accountability will be assuming aspects of the board's responsibilities. The Education Accountability Act of 1976 (Section 229.55, F.S.) and state, district, and school reporting requirements (Section 229.575, F.S.) are made obsolete by this act and are repealed. The Commission on Education Reform and Accountability and the school advisory councils will be repealed on October 1, 2000, thus providing the Legislature an opportunity to review and evaluate the effectiveness of "Blueprint 2000."

### **Florida Education Finance Program**

SENATE BILL 1314 (CHAPTER 91-272) appropriates \$90 million for the Florida Education Finance Program (FEFP) from the General Revenue Fund. Section 78 of the 1991 General Appropriations Act, SENATE BILL 2300 (CHAPTER 91-193), is amended to provide moneys for school district improvement plans.

### **Multicultural Education Review Task Force**

HOUSE BILL 2397 (CHAPTER 91-226) creates the Multicultural Education Review Task Force. The task force will be composed of 12 members, including educators, legislators and private citizens appointed by the Governor, President of the Senate, Speaker of the House of Representatives and Commissioner of Education. Members of the task force must have an interest or expertise in multicultural education.

The Committee on Public Schools determined a need for the task force after learning that 79 percent of the people in Florida were born in another state or country and the current student population in Florida's public schools is 63 percent white, 24 percent black, 12 percent Hispanic and 1 percent other. One of the primary duties of the task force will be to determine whether Florida is currently meeting the needs of all the geo-cultures that exist in our public schools.

The task force will examine the curriculum, instructional materials, library media centers, in-service training, counseling services, and extra-curricular activities in the public elementary and secondary schools of Florida to determine ways to provide more effective educational services to the culturally diverse population of Florida.

The task force will report its initial findings and recommendations to the Legislature by October 1, 1991. This will allow the Legislature to determine whether any statutory changes are necessary in the area of multicultural education. A final report is due on or before November 15, 1991.

### **Education Revisions**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1637 (CHAPTER 91-105) amends various statutes in the Florida School Code to correct statutory cross-references, delete obsolete language, provide clarification, and conform various statutes to federal laws and recently enacted legislation. The law repeals several education statutes that have not been funded in several years, are obsolete, or are in conflict with the school improvement and education accountability legislation. Several substantive changes will affect school districts.

Paperwork will be reduced in the areas of adult student registration (Section 229.132, F.S.), vocational education (Section 229.557, F.S.), and out-of-field teaching assignments (Section 231.095, F.S.) due to the elimination of, or reduction in, data collection and reporting requirements.

School districts will have additional flexibility in several areas. With approval from the Drug Abuse Resistance Education (D.A.R.E.) Board of Directors, schools may offer the D.A.R.E. program at grades other than the exit grade of elementary schools (Section 233.0663, F.S.). The Department of

Law Enforcement, in consultation with the Board, will adopt rules to govern the program. The Board will submit an annual evaluation of the D.A.R.E. program to the Governor and Legislature. The Governor or his designee will serve on the Board (Section 233.0664, F.S.).

Schools will have greater flexibility to set the length of each instructional period. Current statutes prescribe the minimum length of instructional periods for purposes of the extended day funding supplement. The act modifies that requirement by prescribing the "minimum number of minutes of daily instruction," but does not alter the required length of a 6- or 7-period day (Section 236.081, F.S.).

If the writing skills program is funded, districts will receive funding for ninth grade students enrolled in tenth grade English classes (Section 236.1223, F.S.). Student eligibility is limited to 3 years, unless the Legislature extends the program to the ninth grade. Currently, only students enrolled in grades 10-12 are eligible.

The legislation establishes conditions under which school boards may contract with a third-party to administer employees' fringe benefit programs (Section 237.211, F.S.). It also gives school boards 13 months to repay moneys temporarily advanced from one fund to another (Section 236.13, F.S.). Currently, such advances must be repaid within one fiscal year. School boards are authorized to set policies allowing expenditures in excess of the amount budgeted in an object without a prior budget amendment, provided the amount does not exceed the amount budgeted for the function and a budget amendment is adopted at the next board meeting (Section 237.02, F.S.).

The date for distributing accountability program grants authorized by Section 236.1228, F.S., is changed from September 10 to November 1. [This delay will allow the Department of Education to distribute the funds for actual rather than estimated full-time equivalent (FTE) counts.] The law also revises a performance indicator for measuring progress toward state goals for this program.

The measure modifies statutes which govern the safe transport of students (Sections 234.02, 234.051 and 234.091, F.S.) and participation in the state school bus pool purchase program (Section 234.301, F.S.). School bus drivers are given an additional year to obtain the required commercial driver's license with a passenger endorsement. Districts may exceed the rated seating capacity of a school bus only in emergency situations. The enactment sets up a process by which non-public schools may purchase buses through the state school bus pool purchase program.

The Department of Transportation will have continued responsibility for developing a comprehensive traffic education program for grades K-6 (Section 233.0625). The current program is centered around that Department's bicycle and pedestrian safety program.

Provisions are added to Chapter 246, F.S., to revise the schedule of fees charged by the State Board of Independent Colleges and Universities (Section 246.101, F.S.) and the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools (Section 246.219, F.S.).

Both boards will deposit revenues in and receive operating funds from the Institutional Assessment Trust Fund rather than the state General Revenue Fund (Section 246.31, F.S.). Separate accounts will be maintained for each board. [This change comports with the General Appropriations Act.]

The act addresses student scholarships in two areas: (1) students will be able to satisfy the academic requirements for the Florida Undergraduate Scholars' Program through dual enrollment courses (Section 240.402, F.S.), and (2) graduates of private secondary schools will be allowed to participate in and receive awards from the Challenger Astronauts Memorial Undergraduate Scholarships Program (Section 240.408, F.S.).

This measure also addresses the same statutory sections as HOUSE BILL 2283 (CHAPTER 91-266): Section 228.061, F.S., deleting provisions relating to nursery schools and providing for preschool programs; Section 230.2305, F.S., revising provisions relating to the Prekindergarten Early Intervention Program; Section 230.2312, F.S., revising provisions relating to promotion from the Florida Primary Education Program; Sections 231.1713 and 402.3057, F.S., providing that noninstructional personnel need not be fingerprinted under certain circumstances; Section 232.01, F.S., revising school attendance provisions for pregnant students, parents and certain handicapped children; Section 232.045, F.S., providing eligibility for admission for preschool programs and Section 232.05, F.S., relating to eligibility for nursery schools.

#### Early Intervention

HOUSE BILL 2283 (CHAPTER 91-266) addresses:

- 1) changes in policies related to programming and district expenditure of funds for the Prekindergarten Early Intervention Program;
- 2) refinement of screening procedures for personnel of prekindergarten programs;
- 3) clarification of promotion procedures for the Primary Education Program (PREP);
- 4) a revision of attendance requirements for pregnant students; and
- 5) a change in entrance age policy for preschool handicapped children.

The Prekindergarten Early Intervention Program, Section 230.2305, F.S., is amended. A school district's plan for prekindergarten programs now shall include a school day and year consistent with the statutory requirements for kindergarten. The adult/child ratio is set at 1 adult to 10 children except that the Commissioner of Education may permit ratios of up to 1 adult to 15 children in individual schools or centers where a lower ratio is not feasible.

A child who meets the economic eligibility requirements for the Prekindergarten Early Intervention Program (free lunch or 130 percent of the federal poverty level) at the time of registration for the program will not be dropped from the program if, later, the family's financial status changes.

Legislative concerns regarding consistency of expenditures for prekindergarten across school districts and programs are addressed by requiring at least 70 percent of a



school district's prekindergarten funds to be spent for conducting a prekindergarten program or contracting with other public and nonpublic providers for programs. The maximum amount to be spent per child for this purpose shall be set annually in the General Appropriations Act. The remaining 30 percent may be spent for enhancing existing programs, providing before- and after-school care, financing training and start-up equipment, and renovating, leasing, and lease purchasing facilities. The Commissioner may set aside funds to encourage programs to participate in an accreditation process for high-quality preschool programs.

Principals and administrators who supervise prekindergarten programs will be allowed 3, instead of 2, years to receive the required training in early childhood education. Other clarifying language is added to Section 230.2305, F.S. (prekindergarten), and obsolete language is deleted. In addition to Section 230.2305, F.S., Sections 231.1713 and 402.3057, F.S., are also amended to allow prekindergarten personnel to be screened by either school district or Department of Health and Rehabilitative Services (DHRS) procedures.

[The Primary Education Program (PREP) is a major state program for children in kindergarten through third grade and is intended to provide smaller class sizes and an individualized program for the primary grades. Revisions to the state testing program by the 1990 Legislature eliminated the third grade State Student Assessment Test (SSAT) and "minimum student performance standards," thus making obsolete the statutory procedures for promotion to fourth grade.] Section 230.2312, F.S., is amended to delete the obsolete language requiring attainment of minimum performance standards before promotion to fourth grade.

[Section 228.061, F.S., was originally enacted in 1939 to permit school districts to establish nursery schools for the children of mothers working in World War II defense jobs. The statute permits establishment of programs for 4-year-old children, provided such classes are supported by district funds, tuition or other funds exclusive of state sources.] This section is updated with the intent of making the program a possible option for school districts desiring to expand preschool opportunities for 3- and 4-year-old children not eligible for currently existing state-funded programs. "Nursery schools" are changed to "preschool programs" and a requirement for 20 children is eliminated. Section 232.05, F.S., setting eligibility at 4 years of age by January 1, is repealed; and Section 232.045, F.S., is amended to make entrance age requirements for these preschool programs consistent with the Prekindergarten Early Intervention Program (3- or 4-years by September 1).

Section 232.01, F.S., relating to school attendance is amended to remove the exemption from mandatory school attendance for pregnant students. Pregnant students under age 16 will be required to attend school. This same section is also amended to permit handicapped children to enter special education programs on their third birthday, thus conforming to federal guidelines.

### Dropout Prevention

COMMITTEE SUBSTITUTE FOR SENATE BILL 1624 (CHAPTER 91-242) creates Section 232.276, F.S., to permit district school boards to develop parenting workshops to assist and counsel the parent or guardian of a student with disciplinary problems.

### School Personnel Certification

COMMITTEE SUBSTITUTE FOR SENATE BILL 1146 (CHAPTER 91-293) exempts certain volunteer athletic coaches and junior reserve officer training corps (JROTC) instructors from certification as an educator. The act makes it clear that Section 231.15, F.S., does not apply to individuals who serve as volunteer athletic coaches and are not employed by any Florida public school. Junior ROTC instructors who meet qualifications prescribed by the law are exempt from certification, provided they are not assigned other instructional duties. All JROTC instructors will still be subject to a fingerprint check.

### Public School Transportation

SENATE BILL 854 (CHAPTER 91-290) creates Section 234.0515, F.S., to provide that district school boards may provide a list of private transportation companies to parents of public school students who are not provided transportation by the school district. To be placed on the district list, transportation companies must provide a notarized statement to the school board that the vehicles have received a monthly safety inspection equivalent to that of district-owned vehicles used to transport students.

### Environmental Education

COMMITTEE SUBSTITUTE FOR HOUSE BILL 279 (CHAPTER 91-161) reenacts and amends Sections 30-41, Chapter 89-175, Laws of Florida, as amended by Chapters 90-192 and 90-243, Laws of Florida. Chapter 89-175, Laws of Florida, is currently undergoing judicial review to determine whether it violates the single subject provision of the Florida Constitution. The act expands environmental education programs to community colleges, state universities, certain state agencies and water management districts; creates committees to coordinate these programs and to make recommendations to the Governor and Cabinet; and creates a nonprofit support corporation to support the development and implementation of environmental education programs.

### Ad Valorem Tax Exemption

COMMITTEE SUBSTITUTE FOR SENATE BILL 204 (CHAPTER 91-121) amends Section 196.198, F.S., to expand the educational ad valorem tax exemption by allowing an educational institution to retain the property tax exemption if another tax exempt entity uses the educational facility for an educational purpose. The legislation also adds federal institution to the definition of educational institution in Subsection 196.012(5), F.S.

### Special Facility Funding

Effective July 1, 1991, a school district requesting funding from the Special Facility Construction Account, a separate account within the Public Education Capital Outlay and Debt Service Trust Fund (PECO), will be required to budget no more than the value of 1.5 mills per year to the project to satisfy the participation requirement of the Account pursuant to Subparagraph 235.435(2)(a) 6., F.S., as amended by COMMITTEE SUBSTITUTE FOR SENATE BILL 1766 (CHAPTER 91-153).

### Sundown Review of Educational Entities

HOUSE BILL 2415 (CHAPTER 91-267) amends Subsection 230.2317(2), F.S., to revise the duties and responsibilities of the Advisory Board for the Multiagency Service Network for Severely Emotionally Disturbed Students. The Board is to oversee the multiagency network rather than develop it and to assess the impact of regional projects instead of reviewing implementation of pilot network components.

The act also extends present Board members' terms to create staggered 4-year terms; requires vacancies be filed within 60 days for the remainder of the unexpired term in the same manner as the initial appointment and requires the Board to report directly to the Commissioner of Education and the Secretary of Health and Rehabilitative Services.

The Board is saved from Sundown repeal on October 1, 1991, and given a new repeal date of October 1, 2001.

SENATE BILL 1658 (CHAPTER 91-182) provides for State Instructional Materials Councils, created in Subsection 233.07(1), F.S., within the Department of Education, and Sections 233.08 through 233.15, Florida Statutes, to be reenacted for an additional 10-year period with the following changes:

1. Section 233.07, F.S., is amended to provide for the appointment of "committees" rather than "councils," and the appointment of all members for 18-month terms. Obsolete language relative to appointment of council members is deleted.
2. The definition of instructional materials in Subsection 233.07(4), F.S., is amended to specify instructional tools provided through electronic media (computer courseware).
3. Subsection 233.09(3), F.S., is amended to assign to the committees responsibility for developing selection criteria with the Department of Education so the criteria can be developed 2 years before the actual adoption of the materials.
4. Subsection 233.14(3), F.S., is repealed thereby deleting the requirement that bidders deliver specimen copies of printed instructional materials to each member of the committee and the requirement that samples of non-print instructional materials be returned to the manufacturer or that the committee reimburse the manufacturer for the retail value of such samples.

State Instructional Materials Councils are saved from repeal on October 1, 1991, pursuant to the Sundown Act (Section 11.611, F.S.) and are given a new repeal date of October 1, 2001. The act has an effective date of October 1, 1991.



## EDUCATION, POSTSECONDARY AND VOCATIONAL/TECHNICAL\*

**Student Access to Postsecondary Education**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2497 (CHAPTER 91-55) amends Chapter 240, F.S., to establish a number of initiatives for the purpose of promoting student access to postsecondary education, as follows:

**Tenth University**

A 10th state university is established to provide local access to university programs in Southwest Florida. The law establishes a committee to recommend a Southwest Florida site for the university to the Board of Regents by January 1, 1992. The enactment adds Subsection 240.147(7), F.S., to provide for the Postsecondary Education Planning Commission to recommend to the State Board of Education criteria for the establishment of new community colleges and state universities and for the Board of Regents to monitor the need for additional state universities pursuant to added Paragraph 240.209(3)(a), F.S.

**Management Reform/Accountability**

This act creates Section 240.2094, F.S., to increase the efficiency of the university system by providing a substantial increase in budgetary flexibility. The measure gives the Board of Regents the ability to approve changes in expenditure categories and to approve position and rate amendments, allows the universities to carry forward unexpended funds at the end of the year without extensive justification and external review, and simplifies the structure of the university system budget request and appropriation. [The result is to provide the universities with some of the flexibility traditionally enjoyed by the public schools and community colleges. Securing this flexibility has been a priority of the Board of Regents since the early 1970's.]

In addition to simplifying the university appropriation and budgeting process and eliminating unnecessary paperwork, the legislation creates Section 240.214, F.S., to refocus oversight by the Governor and Legislature on accountability issues.

The Board of Regents and the State Board of Community Colleges are directed to establish processes to provide for a systematic on-going evaluation of the quality and effectiveness of these delivery systems (Subsections 240.214(2) and 240.324(1), F.S., respectively). Issues to be addressed include student progression and faculty teaching productivity. The act provides for annual reports to the Legislature.

**Tuition Indexing**

This measure implements the recommendations of the Board of Regents and the Postsecondary Education Planning

Commission for an index of student fees to the cost of education (Sections 230.645 and 240.35, F.S., as amended). The plan provides for indexing student fees which are currently charged in the state university, community college and public school systems. A 10-percent cap is placed on annual increases in fees charged to resident students. Annual fee increases continue until residents pay 25 percent of the cost of instruction. Out-of-state student fees will increase by no more than 25 percent per year until nonresident students pay 100 percent of the cost of their education. [An index of student fees to the cost of instruction was proposed by Governor Graham and was recommended in the first edition of the Postsecondary Education Commission Master Plan in 1982.]

**Appointment of Board of Regents**

The law adds Subsection 240.207(3), F.S., to change the terms of appointment to the Board of Regents to provide a regular schedule of two new appointments each year and to expand the number of regents to 14. [This is intended to facilitate statewide representation on the Board.]

**Miscellaneous**

The act authorizes state university direct-support organizations, such as foundations, to establish investment accounts with the State Board of Administration pursuant to revised Paragraph 240.299(2)(a), F.S. A requirement that the Board of Regents produce an annual systemwide counseling manual is repealed and the state universities are required to include a statement concerning the State University System policy on substance abuse in the student handbook (Subsection 240.2097(3), F.S., as revised). The Prepaid Postsecondary Expense Board is required under revised Paragraph 240.55(5)(g), F.S., to submit an annual report to the Board of Regents and the State Board of Community Colleges which includes data on contract sales and projected enrollment dates of contract beneficiaries. Membership is specified on the research and development authority which is responsible for the National High Magnetic Laboratory in amended Subsection 159.703(3), F.S. The Florida Student Assistance Grant award process is simplified in order to allow awards to be made earlier. (Subsections 240.409(3), 240.4095(3) and 240.4097(3), F.S., as revised.) Limitations on funding of the public broadcasting system administered by the Department of Education are revised in Paragraph 229.805(3)(c), F.S., to reference Corporation for Public Broadcasting qualifications and to clarify restrictions against services which are duplicative to recognize the provision of a first service to an audience or the provision of significant new programming.

\*Prepared by House Postsecondary and Vocational-Technical Education Committees

## Financial Aid

SENATE BILL 1726 (CHAPTER 91-186) makes technical and substantive changes to several state student financial aid programs which are intended to improve the administration of these programs and provide financial aid to eligible students in a more equitable, timely and efficient manner.

The institutional and student eligibility criteria under the Vocational Gold Seal Endorsement Program (Section 240.4021, F.S.), and Vocational Achievement Grant Program (Section 240.4022, F.S.) are modified to be consistent with those of the Vocational Student Assistance Grant Program.

A technical correction is made to (Section 240.4068, F.S.) the "Chappie" James Most Promising Teacher Scholarship Loan Program to clarify the number of nonpublic high school graduates who may receive an award.

Changes are made in the Public, Private, and Postsecondary Student Assistance Grant Programs (Sections 240.409, 240.4095 and 240.4097, F.S., respectively) to authorize the Department of Education to prioritize all applicants for renewal or initial awards solely on the basis of relative unmet financial need. The Department would also be authorized to prorate the amount of each award. Postsecondary institutions, rather than the Department, would be authorized to notify applicants of the amount of their award. These amendments also appear in COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2497 (CHAPTER 91-55) summarized above.

COMMITTEE SUBSTITUTE FOR SENATE BILL 608 (CHAPTER 91-233) creates Section 240.4042, F.S., which requires the State Board of Education to adopt, by rule, a procedure which may be used by students to appeal specified actions taken by the Department of Education related to their eligibility for state student financial aid. The measure also requires community colleges and state universities to establish financial aid appeals processes at the institutional level.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 275 (CHAPTER 91-203) creates Section 240.4987, F.S., to authorize the provision of 12 scholarships annually to minority students who enroll in the state's 4 public and private medical schools. Minority students receiving such scholarships would be required to be Florida residents and a member of a racial or ethnic minority and would have to agree to practice for at least 2 years after graduation in a medically underserved area of the state. The amount of each award would depend upon the funds appropriated annually by the Legislature to support this program.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1527 (CHAPTER 91-302) adds Subsection 250.10(6), F.S., to authorize a maximum of 250 Florida National Guard members per year to be exempt from the payment of one-half of the cost of tuition and fees while enrolled in a community college or state university. Guardsmen are eligible for this tuition and fee waiver for a maximum of 6 credit hours per semester and can only enroll on a space available basis.

## Education of Dependents of Specific Veterans

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 539 AND 757 (CHAPTER 91-166) creates Section 295.0195, F.S., the Michael Scott "Spike" Speicher Act, named in honor of the naval aviator who was the first American killed in action in Operation Desert Storm. The purpose of the legislation is to provide educational opportunities at state expense for the dependent children of military personnel who died, or suffered service-connected 100 percent total and permanent disability while participating in Operations Desert Shield and Desert Storm in the Persian Gulf area or Operation Just Cause in Panama. Documentation requirements for establishing each child's eligibility are established.

## Community College and State University Funding/Finance

COMMITTEE SUBSTITUTE FOR SENATE BILL 612 (CHAPTER 91-234) amends Subsection 240.359(3), F.S., to place in statute the process used to arrive at each community college's allocation of state funds from the Community College Program Fund. The process described is current practice, except that the enrollment workload adjustment described in the law will now use the prior year actual enrollment as the assigned enrollment, rather than a 3-year rolling average. This change will better position the community college funding process to deal with the enrollment growth expected in the second half of the 1990's.

This act also authorizes colleges of education which participate in preteacher and teacher education pilot programs provided for by Section 240.529, F.S., to develop and market teacher training programs targeted at specific target populations such as graduates of colleges of arts and sciences, minorities, retirees and educational paraprofessionals.

HOUSE BILL 157 (CHAPTER 91-159) revises Paragraph 240.319(3)(g), F.S., to authorize community colleges to assess a service charge to individuals who use credit cards to pay for tuition and fees and other services provided by the college. The law also authorizes community colleges to pay a discount fee to financial institutions for the servicing of credit card accounts.

HOUSE BILL 741 (CHAPTER 91-257) amends Section 240.281, F.S., to authorize funds received by a state university faculty practice plan to be deposited outside the State Treasury. The measure further requires that operating budgets, at the same level of detail as that required of the education and general budget entities as well as that of the Board of Regents, be prepared for the faculty practice funds.

## Florida A&M Law School

SENATE BILL 1314 (CHAPTER 91-272) includes a provision which requires the Board of Regents to conduct a study to determine the feasibility of establishing a college of law under the auspices of Florida A&M University. The study is to include a projected budget, anticipated student enrollment, a description of the program, and an analysis of the impact of the creation of a new law school on existing colleges of law. The

study is to be submitted to the President of the Senate and Speaker of the House of Representatives by January 1, 1992.

### Intercollegiate Athletic Associations

HOUSE BILL 845 (CHAPTER 91-260) creates the "Collegiate Athletic Association Compliance Enforcement Procedures Act," effective June 1, 1992, which entitles colleges and universities, and their students and employees to certain protection under law in the making of contracts and the resolution of disputes under contracts with intercollegiate associations. Under this act, hearings are required to determine whether violations of association rules have occurred. Hearing procedures are specified and regulations related to penalties imposed by an association, rights of those under interrogations, and the liability of an association are also provided.

### Sundown Review of Educational Entities

Subsection 230.66(2), F.S., is deleted by SENATE BILL 234 (CHAPTER 91-230) to abolish the Industry Services Advisory Council. Subsection 230.66(10), F.S., is amended to authorize the Commissioner of Education to develop a method by which participation in the industry services training program by private sector individuals assists staffs of the Department of Education, Department of Commerce and Department of Labor and Employment Security.

COMMITTEE SUBSTITUTE FOR SENATE BILL 554 (CHAPTER 91-37) saves statutory provisions in Paragraph 229.053(2)(m), F.S., relating to the State Board of Education's authority to create subordinate advisory bodies from Sundown repeal, scheduled for October 1, 1991, and provides a new repeal date of October 1, 2001.

HOUSE BILL 2087 (CHAPTER 91-25) transfers the Florida Council for the Hearing Impaired from the Department of Education to the Division of Vocational Rehabilitation of the Department of Labor and Employment Security. The statutory authority for the Council, Section 229.8361, F.S., is renumbered as Section 413.275, F.S., and amended to increase the number of hearing impaired Council members and require at least one minority person member.

The act also revises definitions, delete obsolete language, and revise standards for telecommunications devices under the Telephone Communications Services for the Deaf Act, Part II of Chapter 427, F.S. The Council and Part II of Chapter 427, F.S., are saved from October 1, 1991, repeal and a new repeal date of October 1, 2001, is set.

HOUSE BILL 569 (CHAPTER 91-26) repeals the Florida Health Facility Authority Law (Part V of Chapter 154, F.S.) on October 1, 1991, pursuant to the Sundown Act (Section 11.611, F.S.). The Authority was created within the Department of Education to assist health facilities in the acquisition, construction, financing, and refinancing of projects within the state; and is permitted to issue revenue bonds to finance capital outlay for health facilities. The law takes effect October 1, 1991.

SENATE BILL 418 (CHAPTER 91-8) revives and readopts Sections 240.145 and 240.147, creating the Postsecondary

Education Planning Commission to save the Commission from Sundown repeal on October 1, 1991 and establish a new repeal date of October 1, 2001. Obsolete language describing the Commission's duties is deleted in Subsections 240.147(1) and (12), F.S., and language more clearly reflecting the Commission's responsibilities is added.

SENATE BILL 232 (CHAPTER 91-13) amends Paragraph 240.257(6)(c), F.S., to delete composition requirements for the committees which process eminent scholar applications under the Florida Endowment Trust Fund for Eminent Scholars Act.

The law also strikes the Sundown review requirements for the committees in Chapter 82-46, Laws of Florida, as amended.

HOUSE BILL 567 (CHAPTER 91-16) repeals Subsection 240.515(2), F.S., which establishes the Florida State Medical Museum Council and the Museum of Medical History. [The Florida State Medical Museum Council was established to direct the Museum of Medical History, which was to be established within the Florida Museum of Natural History at the University of Florida in Gainesville. However, this council was never appointed, and the Museum of Medical History that it was designed to direct has never been established.]

SENATE BILL 238 (CHAPTER 91-123) amends Section 240.533, F.S., to:

1. Strike an obsolete reference to the United States Department of Health, Education, and Welfare.
2. Require the Board of Regents (as a component to the Florida Women's Intercollegiate Athletics Equity Act) to assure equity for female athletes, and establish guidelines and criteria for doing so.
3. Eliminate the base year formula restrictions for funding, and permit flexibility in the allocation of resources for all universities.

The act establishes state policy requiring appointive membership of statutorily created boards, commissions, councils and committees of the state be balanced by gender and minority person, unless otherwise stated. The law is given an effective date of October 1, 1991.

COMMITTEE SUBSTITUTE FOR SENATE BILL 410 (CHAPTER 91-129) preserves the statutory authority for the Community Hospital Education Council in Subsection 381.503(5), F.S., and increases the number of members from 9 to 11. It creates staggered 4-year terms and alters membership qualifications.

The act saves the Council from repeal on October 1, 1991, and provides for future review of Subsection (5) of Section 381.503, F.S., and its repeal on October 1, 2001.

HOUSE BILL 605 (CHAPTER 91-52) revises Subsection 413.011(2), F.S., to put into statute the actual practice of Division of Blind Services personnel staffing the Advisory Council for the Blind. It also increases Council membership from five to nine persons, three of whom must be blind. Further, this act deletes statutory reference to terms of initial appointment since it is no longer necessary. It provides for Council members to be replaced because of poor attendance or lack of par-

participation and requires annual election of a chairperson and a vice chairperson.

This law also saves provisions relating to the Advisory Council from October 1, 1991, Sundown repeal and sets a repeal date of October 1, 2001, with legislative review in accordance with Sundown provisions. The enactment is effective on October 1, 1991.

### Open Government Sunset Review

HOUSE BILL 575 (CHAPTER 91-12) reenacts and narrows an exemption to the public records law in Section 413.012, F.S., for information concerning applicants to or clients of the Division of Blind Services by specifying that the information which is confidential is information about clients or applicants, and by allowing the Division to release information about an applicant or client when requested in writing by an applicant or client or his representative. The act creates an exemption in Paragraph 413.011(1)(b), F.S., to the public records law for information in the registry of the blind which, if released, could identify an individual listed in the register.

The law also reenacts the exemption from the public records law in Subsection 427.506(6), F.S., for the names, addresses, and telephone numbers of applicants for telecommunication devices for the deaf which are furnished by the Florida Council for the Hearing Impaired. The act is effective October 1, 1991.

### Florida Atlantic University Expansion

HOUSE BILL 553 (CHAPTER 91-204) amends Section 3 of Chapter 82-247, Laws of Florida, to remove site specific restrictions on the relocation of the Florida Atlantic University West Palm Beach Center and to permit the proceeds from the sale of land to be used for the acquisition, purchase, lease, renovation, expansion as well as construction of an educational facility. The Board of Trustees of the Internal Improvement Trust Fund are directed to sell the Florida Atlantic University TV Tower Site and to permit the use of the proceeds for the acquisition, purchase, lease, renovation or expansion of facilities to support the mission of Florida Atlantic University.

## VOCATIONAL TECHNICAL EDUCATION

### Social and Economical Development

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1613 (CHAPTER 91-217) modifies the legislative intent of the employment and training program for public assistance recipients (Project Independence) and the requirements for the Department of Health and Rehabilitative Services (DHRS) in implementing Project Independence.

The act amends Subparagraph 409.029(2)(i)2., F.S., to direct the Department to utilize marketing techniques to attract volunteer participants for Project Independence and changes the criteria in Subsection 409.029(9), F.S., for being considered "appropriate for initial job search" to having been employed at or above minimum wage for 12 of the past 24 months (rather than 12 of the past 36 months) or having com-

pleted high school or its equivalent (rather than 10th grade). The Department is directed also to define the conditions under which participants enrolled or awaiting enrollment in education or training activities are exempt from initial job search.

The law through revision of Paragraph 409.029(9)(d), F.S., specifies that participants shall be served according to their own employment goals to the extent possible, and adds "other education activities" in Subparagraph 409.029(f)1., F.S., as an option for persons not doing well in or regularly attending school rather than limiting the options to employment or training activities.

The measure continues the process of refining welfare reform to enhance and improve Project Independence. It revises Paragraph 230.645(2)(f) and Subsection 240.35(3), F.S., to provide recipients of Aid to Families with Dependent Children better prospects for breaking the cycle of long-term welfare dependency by not allowing the application process for federal aid to delay a student's participation in employment training or education until eligibility is determined. [More people will be assessed for an educational deficiency or a need for training and fewer people will be required to initially seek employment.]

In addition, this legislation deletes the mandate that vocational education institutions and community colleges search for financial assistance for students who are Project Independence participants and directs, instead, that the students are to apply for assistance with the help of school personnel. The effective date of the act is October 1, 1991.

### Job Training Partnership Act-Family Dropout Prevention Program

COMMITTEE SUBSTITUTE FOR SENATE BILL 1246 (CHAPTER 91-47) clarifies language passed during the 1990 legislative session and brings the law into compliance with the federal requirements for the Job Training Partnership Act (Pub. L. 97-300, 96 Stat. 1322). It amends Section 446.205, F.S., to provide for a Job Training Partnership Act family dropout prevention program rather than an incentive award program, because a cash incentive award plan is not in compliance with federal requirements for Job Training Partnership Act funds.

The act provides for local school boards and district Department of Health and Rehabilitative Services' offices to coordinate with the local Private Industry Council in the development and implementation of a dropout prevention program. The measure also makes children who are in school, who are between the ages of 14 and 21, and whose parents or guardians participate in Job Training Partnership Act programs eligible to participate in the dropout prevention program. Currently, the family dropout prevention program is only available to children between the ages of 16 and 21 whose parents participate in services provided by the Job Training Partnership Act.

### Florida's Youth-at-Risk 2000 Pilot Program

COMMITTEE SUBSTITUTE FOR SENATE BILL 1246 (CHAPTER 91-147) revises the definition of "participating business"

in Subsection 446.22(2), F.S., to allow for multibusiness involvement. The original language required that both the participant and mentor be employed by the same business, thus eliminating the possibility of using independent mentors to work with businesses who cannot provide the full array of services required by the program. The definition of "dropout" in Subsection 446.22(4), F.S., is redefined to comply with Job Training Partnership Act law. A dropout is now a person who is neither attending school nor subject to a compulsory attendance law and has not received a secondary school diploma or a certificate from a program of equivalency for such diploma. The former definition of "dropout" was a student who left school for any reason, except death, before graduation or completion of a program of studies and without transferring to another public or private school or other educational institution. Also, the definition of "mentor" in Subsection 446.22(7), F.S., is amended so that the mentor works with a written agreement with the Private Industry Council rather than a contract.

The mentor now acts as the coordinator for services and personal support instead of a "broker" for educational services such as basic skills training in reading, mathematics, and high school completion courses and examinations pursuant to a revised Section 446.23, F.S. The youth participant is now required to enter an on-the-job training program of not less than 15 hours (instead of 25 hours per week) and to work toward occupational remedial goals as provided in amended Section 446.24, F.S.

The act revises Section 446.25, F.S., to allow for the coordination of services for the Youth-at-Risk 2000 Pilot Program to be done at the local level by the Private Industry Councils

rather than the Department of Labor and Employment Security. The Department of Labor and Employment Security is required through revision of Section 446.27, F.S., to provide administrative assistance to the Private Industry Council by designing and supplying a standardized reporting format for the participating Private Industry Council.

The provision requiring the average and median statistical information be included in the final annual report to the Legislature is deleted from Section 446.27, F.S.

In addition, the enactment expands the funding provisions of the statute in Section 446.20, F.S., to allow for funding of the Youth-at-Risk program from federal Job Training Partnership Act funds and other public or private funds that might be available.

#### **Fee Exemption for the Homeless**

SENATE BILL 206 (CHAPTER 91-122) adds Paragraph 230.645(2)(g), F.S., to exempt homeless students as defined in the act from the payment of fees for adult basic, adult high school, adult job preparatory, vocational preparatory, vocational supplemental or other adult programs conducted by district school boards.

#### **Vocational Education Programs for Statewide Workforce Shortages**

SENATE BILL 206 (CHAPTER 91-122) directs the State Board of Education to adopt rules through which an area vocational-technical center or community college may conduct vocational education programs to meet statewide workforce shortage needs.

## ETHICS AND ELECTIONS\*

Two major ethics bills became law. These acts make both technical and substantive changes to the Code of Ethics and deal with such subjects as voting conflicts, designation of disciplinary officials, lobbyists, and gifts, among others. Three election bills passed. The most significant of these, HOUSE BILL 2251 (CHAPTER 91-107) made major changes to campaign finance laws relative to public financing of campaigns and contribution limitations.

**Ethics Legislation**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 417 (CHAPTER 91-85) amends Chapters 69 and 112, F.S., making numerous technical, clarifying, and substantive changes to the Ethics Code and certain modifications to the "Sunshine in Litigation" law (Section 69.081, F.S.).

This act amends Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees, to define the following terms as they are used in the Code: "breach of the public trust," "business associate," "facts materially related to the complaint at issue," and "parties materially related to the complaint at issue."

Current language pertaining to postemployment restrictions and standards of conduct for legislators and legislative employees is relocated to include it in a more appropriate location in the Code (Subsection 112.313(9), F.S.). Current law which requires all public officers, employees, and candidates to disclose their interests in specified business entities is amended and relocated to the statutory section which is related to other financial disclosure requirements.

The law provides additional exemptions (Paragraphs 112.313(12)(i) and (j), F.S.), and refines a current exemption (Paragraph 112.313(12)(f), F.S.) to the prohibitions against a public officer or employee doing business with their agency or having a conflicting employment or contractual relationship with their agency. Specifically, no officer or employee is in violation of the "conflicting employment or contractual relationship" prohibitions: 1) if the aggregate amount of the transactions between the individual's business entity and the agency does not exceed \$500 per year (rather than the current \$500 per transaction limitation); or 2) if the public officer or employee in a private capacity purchases goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with, or subject to the regulation of, his agency. [Disclosure of the relationship to the agency head or governing body is required prior to the transaction, when the transaction is between an officer or employee and a business entity which is subject to the regulation of his agency.]

The Voting Conflicts law (Section 112.3143, F.S.) is substantially reworded and restructured to provide for clearer interpretation and more restrictive applicability. A more narrow definition of the term "relative" is provided, for the purposes

of the Voting Conflicts law only. In addition to a voting conflict existing where the measures before the voting official would inure to the special private gain of the voting official or a principal by whom he is retained, such conflict also would exist where the measures before the voting official are those that the official knows would inure to the special private gain of the parent organization or subsidiary of a corporate principal by which the voting official is retained, of a relative, or of a business associate. The voting conflicts disclosure procedures to be used by state, appointed, and local public officers are revised.

The measure provides that any public officer or employee who violates any provision of Section 8, Article II of the State Constitution, is subject to the same penalties currently imposed for violations of the Code (revised Subsection 112.317(1), F.S.). For a public officer, these include impeachment, removal or suspension from office, public censure and reprimand, forfeiture of a portion of one's salary, a maximum civil penalty of \$5,000 or restitution of any monetary benefits gained as a result of the violation. Employees may be subject to dismissal, suspension for up to 90 days, demotion, having their salary reduced, forfeiture of up to one-third of their salary for up to 12 months, a maximum civil penalty of \$5,000, restitution or public censure and reprimand. Candidates who violate these provisions are subject to disqualification, public censure, reprimand or a maximum civil penalty of \$5,000. Former public officers or former employees who violate provisions applicable to former officers or former employees or whose violation occurs prior to such officer or employee leaving public office or employment could be subject to public censure and reprimand, a maximum civil penalty of \$5,000, or restitution of any monetary benefits gained as a result of a violation of the Code or of Article II, Section 8 of the State Constitution.

The Commission on Ethics is given the authority to delegate to its investigators the authority to administer oaths under revised Subsection 112.322(4), F.S. The Commission is also authorized to delegate the authority to issue subpoenas to its chairman and may authorize its employees to serve any subpoena issued.

In adding Subsection 112.324(10), F.S., the act authorizes the Commission to dismiss any complaint at any stage of disposition if it determines that the public interest will not be served by proceeding further. The Commission will then be required to issue a public report stating with particularity its reasons for the dismissal.

Effective October 1, 1993, there will be a 5-year statute of limitations on the filing of complaints of violation with the Commission pursuant to new Section 112.3231, F.S.

The law extensively revises the Commission's procedures on complaints of violations (revised Section 112.324, F.S.) to provide, among other things, that upon receipt of a legally sufficient complaint over which the Commission has jurisdiction,

\*Prepared by Senate Executive Business, Ethics & Elections Committee

the Commission will determine whether there is probable cause to believe that a violation has occurred. If no probable cause exists, the Commission is required to dismiss the complaint with the issuance of a public report to the complainant and the alleged violator. At that time, the complaint and all materials relating to it will become a matter of public record.

The Commission is authorized to enter into stipulations and settlements which it finds to be just and in the state's best interests with those persons whom the Commission finds probable cause to believe have violated the Code or committed a breach of the public trust.

In cases where there is a complaint against a legislator, the Commission shall investigate and, upon a finding of a violation, shall forward the complaint to the President of the Senate or the Speaker of the House of Representatives, as appropriate, who shall refer it to the appropriate committee as provided by the rules of its respective house. Upon request of the committee, the Commission shall recommend what penalty, if any, should be imposed. The house in which the member serves may invoke the penalty provisions of the Code.

In cases involving complaints against impeachable officers, the complaint and Commission findings are forwarded to the Speaker of the House of Representatives if the Commission finds that the violation may constitute grounds for impeachment. The Speaker shall refer the complaint to the appropriate committee for investigation and action as provided by the rules of the House of Representatives. If the Commission finds that another penalty is warranted, its recommendation goes to the Governor for imposition. If the complaint is against the Governor, the Attorney General is designated as the appropriate disciplinary official.

The measure designates the appropriate disciplinary official for other public officials who violate the Code as follows: for state officers or employees not removable or suspendable by the Governor—the agency head; for officers and employees of cities, counties, or other political subdivisions, who are not removable or suspendable by the Governor—the governing body or appointing official; for certain candidates—the Secretary of State; for candidates for municipal office—the municipality's governing entity; for candidates for county office—the county commission; for former impeachable officers who have violated provisions applicable to former officers or whose violation occurred prior to leaving office—the Governor; for any other former public officer or employee who has violated a provision applicable to former officers or employees or whose violation occurred prior to leaving public office or employment—the official or body designated for the position formerly held by the individual; for former members of the legislature who have violated provisions applicable to former members or whose violations occurred prior to leaving public office—the Speaker or the President, as appropriate.

The act amended the "Sunshine in Litigation Act" (Section 69.081, F.S.) to provide that any agreement or contract which conceals information relating to the settlement or resolution of a claim or action against the state, its agencies or subdivisions, or against any municipality or constitutionally created body or commission is void, contrary to public policy, and may

not be enforced. This provision, however, is not applicable to protected trade secrets, proprietary business information, or other information which is confidential under state or federal law. Any governmental entity which settles a claim in tort which requires the expenditure of public funds in excess of \$5,000 shall provide notice of such settlement, in the county in which the claim arose, within 60 days of entering into such settlement, except that no notice is required if the settlement has been approved by a court of competent jurisdiction.

The effective date of the act is October 1, 1991, except that the amendments to Section 112.322, F.S., pertaining to the Commission's complaint procedures, are effective upon becoming a law.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 1042, 142, 366 AND 1070 (CHAPTER 91-292) amends Chapters 11 and 112, F.S. This legislation amends Section 11.045, F.S., (the Lobbyist Registration law) to conform to Senate Joint Resolution 2A, which was adopted in January 1991, and also creates the Legislative Lobbyist Registration Trust Fund. Both houses of the legislature are authorized to adopt a joint rule which provides for the registration of legislative lobbyists. Such rule may provide for the payment of a registration fee, and also may provide for exemptions from registration or from the payment of registration fees. Registration is required for each principal represented and any person who is exempt from registration under the rule is not to be considered a lobbyist for any purpose. All lobbyist registration fees collected since January 7, 1991, which have been deposited into the General Revenue Fund, are to be transferred to the Legislative Lobbyist Trust Fund (Section 2 of the act).

Subsection 112.312(9)(b), F.S., is amended to provide that the definition of the term "gift" does not include any salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with the recipient's employment or business, and does not include the use of a public facility or public property, made available by a governmental agency, for a public purpose.

An exemption from the prohibition against an officer renting, leasing or selling any realty, goods or services to his agency is created through revision of Subsection 112.313(3), F.S.; specifically, when a legislator's district office is on property wholly or partially owned by such legislator, the legislator is not prohibited from renting or leasing such space for district office purposes.

The Executive Branch Lobbyist registration fee is increased from \$10 per lobbyist to \$20 per principal by amendment to Subsection 112.3215(4), F.S.

Legislative assistants specifically exempted by the presiding officer of the house by which the assistants are employed are exempted from the financial disclosure filing and gift reporting requirements under revised Subparagraph 112.3145(1)(b)6., F.S.

Effective October 1, 1991, any lobbyist; the partner, firm, employer or principal of a lobbyist; another on behalf of any of those individuals; and political action committees and committees of continuous existence must report, on a quarterly



basis, any gift given to any reporting individual which is valued between \$25 and \$100 pursuant to amended Subsection 112.3148(5), F.S. The report is to be filed with the Joint Legislative Management Committee with respect to gifts given to reporting individuals of the legislative branch or with the Secretary of State for all other reporting individuals.

Airport authorities, which have lobbyists, are included in the list of governmental entities which are permitted by revised Subsection 112.3148(6), F.S., to give gifts valued in excess of \$100 to reporting individuals, if a public purpose for the gift can be shown. Such gifts must be reported by both the donor and the recipient.

### Elections Legislation

HOUSE BILL 2251 (CHAPTER 91-107) makes substantial changes to the campaign finance laws, as well as to several other areas of the Election Code. This act redefines "contribution" and "independent expenditure" as provided in Subsections 106.011(3) and (5), F.S., respectively. In addition, the law amends Paragraph 106.021(1)(a), F.S., to require candidates who change the office for which they are running to offer to return contributions given for the original office. Contributions to candidates, political committees, and committees of continuous existence are limited to \$500 per election by revised Section 106.08(1), F.S. Minors may only contribute \$100. Political party contributions are limited to an aggregate of \$50,000. Notice must be given to all candidates in the affected race of independent expenditures over \$1,000 as provided in new Section 106.085, F.S. Making, soliciting or knowingly accepting political contributions in a government building is prohibited under new Subsection 106.15(4), F.S. To the extent permitted by federal law, air time must be provided to candidates at the lowest unit rate (Section 35 of the act). Signature requirements are reduced for persons qualifying by petition in reapportionment years under new Section 99.0965, F.S. Pursuant to revised Subparagraph 106.141(4)(a)4., F.S., candidates for state office may give surplus funds to the Election Campaign Financing Trust Fund. The resign-to-run law (Section 99.012, F.S.) is reorganized.

The act also makes major revisions to the public campaign financing law. Funding for the Election Campaign Financing Trust Fund is provided by a 50 percent increase in candidate filing fees, a 1.5 percent assessment on certain contributions (amended Subsection 106.32, F.S.) and a voluntary \$5 contribution on certain applications and tax forms. If necessary, additional funds will be transferred from general revenue. The Department of Revenue will conduct a study on methods of voluntary contribution for the public funding of campaigns

(Section 34 of the act). To qualify for public funding, candidates for Governor must raise \$150,000; candidates for Cabinet office must raise \$100,000 under revised Subsection 106.33(2), F.S. They also must agree to limit personal loans and party contributions to \$25,000 each (new Subsection 106.33(3), F.S.). Candidates for Governor must limit their total expenditures to \$5 million; candidates for Cabinet office must limit expenditures to \$2 million (revised Subsection 106.34(1), F.S.). Legal and accounting fees are exempt from the expenditure limit (new Subsection 106.34(4), F.S.). Qualifying contributions making up the threshold are matched two-to-one; other contributions matched one-to-one (Subparagraphs 106.35(2)(a)1. and 2., F.S.). Nonparticipating candidates may agree to abide by expenditure limits, and are fined if they do not hold to the agreement, but they are released from the agreement if other nonparticipating candidates exceed the limit (new Section 106.353, F.S.). If nonparticipating candidates exceed the expenditure limit, participating candidates may exceed the limit to that extent (new Section 106.355, F.S.). Participating candidates may receive moneys from the Election Campaign Financing Trust Fund for the amount by which nonparticipating candidates exceed the limit, up to twice the expenditure limit. The provisions of this law take effect January 1, 1992, unless otherwise provided in the act.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 983 (CHAPTER 91-92) amends Section 115.11, F.S., to provide that if a military leave of absence granted to an elected municipal officer extends for more than 60 days, the temporarily unoccupied position created by such leave may be filled by a person chosen by majority vote of the remaining members of the legislative body of the municipality. The temporary appointment shall terminate upon the earlier of either the elected official's return from active military service or upon the expiration of the official's original term of office.

### Reapportionment and Redistricting

Subsection (b) of Section 3 of Article III of the State Constitution fixes the convention date of each regular session of the Legislature on the first Tuesday after the first Monday in February of each odd-numbered year and the first Tuesday after the first Monday in February or such other date as may be fixed by law of each even-numbered year. Accordingly, HOUSE BILL 909 (CHAPTER 91-90) sets January 14, 1992, as the convention date for the 1992 Regular Session. [This is in recognition of the fact that 1992 is the year of legislative reapportionment and congressional redistricting which are mandated decennially.]



## FINANCE AND TAXATION\*

The 1991 Legislature was able to fund necessary programs without a major tax increase or revision. In connection with the Preservation 2000 program, the documentary stamp tax on real property transfers was increased. An assessment on the revenues of certain additional medical facilities was imposed for the Public Medical Assistance Trust Fund. A \$2 surcharge on the annual motor vehicle license tax was imposed, and provisions enacted last year imposing an additional impact fee of \$295 on certain motor vehicle registrations were revised. In the sales tax area, the application of tax to sales of food and beverages through vending machines was revised, and tax was imposed on amusement vending machines. Also, certain counties were authorized to impose an indigent care surtax.

Numerous provisions affecting a wide range of taxes were adopted to strengthen notice, reporting, collection and enforcement procedures and impose additional penalties for noncompliance.

In the area of financial matters, provisions relating to deductions from state trust funds were revised, as was the distribution to several funds. The Agency Budget Sunset Trust Fund and the State Infrastructure Fund were eliminated. Additional notice requirements and restrictions relating to the state budgetary process were also adopted.

**Excise Tax on Documents**

For a discussion of the increase in the documentary stamp tax on deeds and other instruments relating to real property contained in HOUSE BILL 1413 (CHAPTER 91-192), see the article *CONSERVATION AND NATURAL RESOURCES*.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) amends Section 201.022, F.S., to require that the return which must be filed as a condition precedent to recording of a deed transferring an interest in real property state the parcel identification number, and to provide a \$25 penalty for failure to file the return.

**Estate Tax**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) amends Section 198.15, F.S., to provide a penalty for failure to timely file any estate tax due on or after July 1, 1991, in the amount of 5 percent of any unpaid tax if the failure is for not more than 30 days, or 10 percent if the failure is for more than 30 days.

**Intangible Personal Property Tax**

Section 199.052, F.S., is amended by COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112), to require corporations to file annual intangible tax returns, except for corporations that have no intangible tax liability and that file an annual report with the Department of State. This requirement first applies to intangible taxes assessed January 1,

1992, and due and payable by June 30, 1992. Section 607.1622, F.S., is amended to include information relating to a corporation's intangible tax liability in the report to the Department of State and to provide that such information be furnished to the Department of Revenue.

**Gross Receipts Tax**

An amendment to Section 203.01, F.S., by COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) revises provisions relating to the option to separately state the gross receipts tax on utility services on the customer's bill. Language is clarified to specify that the tax is a component part of the total charge. A requirement that tax increases effective after December 31, 1989, be separately stated on the customer's bill is removed, and it is specified that the decision to separately state such increases and the ability to recover them from the customer are not subject to regulatory approval. New Subsection 203.01(8), F.S., specifies that monthly customer or customer facility charges are subject to the tax; this is remedial legislation intended to clarify the application of the tax. Finally, an amendment to Paragraph 203.012(2)(b), F.S., removes the exemption for the separately stated tax of a telecommunications provider.

**Ad Valorem Taxation**

Numerous provisions were adopted by the 1991 Legislature affecting the administration of ad valorem taxes. COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) renames the Property Appraisal Adjustment Board in each county, created pursuant to Section 194.015, F.S., as the Value Adjustment Board. Various statute sections are amended to conform to this change.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1428 (CHAPTER 91-295) amends Subsection 192.091(2), F.S., to increase the tax collectors' commissions. COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) creates Subsections 193.114(5) and (6), F.S. These provisions require the property appraisers to document in public records the reasons for certain changes made to assessment rolls, and specify that the property appraiser is the custodian of the tax roll and copies thereof in the possession of other agencies and is responsible for furnishing copies thereof pursuant to public records requirements. This act also revises provisions under Section 195.095, F.S., which regulate the process of contracting with property appraisers, tax collectors, and county commissions for assessment or collection services or systems to specify duties of the executive director of the Department of Revenue or his designee, and provide for waiver of such provisions under certain circumstances.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1428 (CHAPTER 91-295) amends Sections 197.182, 197.432 and 197.443,

\*Prepared by House Bill Drafting Service

F.S., to allow tax refunds resulting from the correction of tax certificates during the entire period they can be redeemed. These amendments apply retroactively to assessment periods beginning on or after January 1, 1986. This act also transfers provisions presently contained in Sections 197.142, 197.332 and 197.404, F.S., relating to correction of errors, duties of property owners, and validity of sale of property for non-payment of taxes, to Section 197.122, F.S.

Additional notice provisions are also included in this legislation. New Paragraph 193.085(4)(c), F.S., requires the Department to notify affected taxpayers of proposed assessments of railroad property and expansion-related property and provide an opportunity for informal conference. New Paragraph 197.182(1)(d), F.S., requires the tax collector to issue a denial of refund by the Department to the taxpayer in writing. Both this act and COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) repeal Section 197.364, F.S., which requires the Department of Revenue, as the agent of county tax collectors, to collect ad valorem taxes assessed against the operating property of railroads and private railroad car lines.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) amends Subsection 193.461(5), F.S., effective January 1, 1992, to revise the definition of "agricultural purposes" for purposes of classification and assessment of agricultural land, to include aquaculture and sod farming. Paragraph 195.096(2)(e), F.S., is amended to provide for the confidentiality of data and samples developed or obtained by the Division of Ad Valorem Tax of the Department in conjunction with review of assessment rolls. An amendment to Subsection 195.027(3), F.S., revises provisions relating to Department rules relating to access to financial records relating to non-homestead property.

This measure also amends Sections 193.1142 and 200.065, F.S., to specify the date for mailing notices of proposed property taxes in conjunction with tax roll approval or institution of interim roll procedures, and provide for the extension of deadlines under Section 200.065, F.S., under certain conditions. The property appraiser is required to notify affected taxing authorities of adjustments made to millage rates in response to a review notice issued by the Department of Revenue. Subsection 200.069(13), F.S., which requires a notice applicable to persons renting or leasing living quarters or sleeping or housekeeping accommodations on the notice of proposed property taxes, is repealed, effective January 1, 1992. In this same area, COMMITTEE SUBSTITUTE FOR SENATE BILL 1428 (CHAPTER 91-295) creates Subsection 200.065(13), F.S., which specifies that that section (relating to the method of fixing millage) applies to all taxing authorities which levy ad valorem taxes, and controls over any inconsistent special law, except to the extent the special law expressly exempts a taxing authority from said section.

Three acts deal with the administration of ad valorem tax exemptions. COMMITTEE SUBSTITUTE FOR SENATE BILL 204 (CHAPTER 91-121) revises the definition of "educational institution" contained in Subsection 196.012(5), F.S., to include federal schools, colleges and universities. It also

amends Section 196.198, F.S., to provide that property owned by an educational institution and used for educational purposes by another exempt entity or educational institution is qualified for exemption. "Charitable purpose" is defined by Subsection 196.012(7), F.S., as a function which is of such a community service that its discontinuance could legally result in the allocation of public funds for its continuance. This definition is amended by SENATE BILL 1226 (CHAPTER 91-196) to specify that it is not necessary that public funds be allocated for such function, but only that any such allocation would be legal. One of the factors to be considered in determining the nonprofit status of an applicant for exemption under Section 196.195, F.S., is the charges made for the services the applicant renders. This provision in Paragraph 196.195(2)(e), F.S., is modified to require that, if such charges exceed the value of the services rendered, consideration be given as to whether the excess is used to pay maintenance and operational expenses in furthering an exempt purpose or to provide services to persons unable to pay for the services. Section 196.196, F.S., which lists criteria for determining that portion of property entitled to exempt status, is amended to delete consideration of the extent to which services are provided to persons at a charge that is equal to or less than the cost of providing the services. Provisions contained in Subsection 196.011(10), F.S., which authorize the property appraiser to accept initial or original applications for homestead exemption for the succeeding year after March 1, are revised by COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112).

### Sales Tax

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) amends Subsection 212.02(1), F.S., to provide that the admissions tax applies to all fees paid to private clubs and membership clubs providing recreational or physical fitness facilities. This law also provides that charges made by foreign registered vessels carrying passengers to international waters are exempt from the admissions tax until July 1, 1992. Subsection 212.06(8), F.S., is amended to provide that the presumption that tangible personal property used in another state, territory of the United States, or the District of Columbia for 6 months or longer before being imported into this state was not purchased for use in this state, and thus not subject to use tax, shall not apply to any boat with respect to which a fee is charged for saltwater fishing. Proof of payment of the tax must be presented prior to the first licensure, registration, and titling of the boat. The amount of use tax is based on the full purchase price, if the boat was brought into Florida within 1 year after purchase. The tax base decreases in increments of 10 percent for each year of age of the boat to 50 percent for the sixth year, and remains at that level thereafter. Subsection 212.054(3), F.S., is amended to provide for the application of local option use taxes. This act also amends Subsection 212.0598(2), F.S., to provide that the ratio applied in determining sales tax on tangible personal property purchased by air carriers that use mileage apportionment for corporate income tax shall also apply to such carriers' payments

for the lease or rental of, or license in, certain real property used for aircraft maintenance.

Application of the sales tax to sales made through vending machines is also included in this act. New Section 212.0515, F.S., deals with sale of food and beverages through vending machines. Effective January 1, 1992, the rate of tax on such food will be 6.45 percent, and the rate for beverages will be 6.65 percent, plus any applicable local option taxes. Operators of such vending machines must register with the Department and affix a notice to each machine which states the operators' name, address, and Federal Employer Identification number, and which states that violations may be reported to a toll-free number (established by the Department) for a possible cash reward. Operators are required to submit quarterly reports to the Department. There is a \$250 penalty for failure to display the required notice or to file the quarterly report. Wholesalers are required to submit quarterly reports to the Department identifying operators who have purchased food or beverages for resale, and dealers or operators who purchase food or beverages for resale must annually provide such persons with a certificate stating whether the purchaser is a vending machine operator. There is a \$250 penalty for failure to file this quarterly report; a penalty of \$5,000 applies to vending machine operators who fail to furnish the certificate, and a \$250 penalty applies to other dealers who fail to furnish the certificate. In addition there is a second-degree misdemeanor penalty for violation of these provisions. These provisions do not apply to vending machines owned and operated by churches or synagogues. New Paragraph 212.054(3)(m), F.S., provides for application of local option taxes to vending machines sales. An amendment to Paragraph 212.12(1)(b), F.S., requires that vending machine sales be separately stated on tax returns.

Subsection 212.02(25), F.S., is created to define "coin-operated amusement machine," and new Paragraph 212.05(1)(j), F.S., imposes a 6-percent tax on the charges for the use of such machines effective July 1, 1991. Operators of such machines must register with the Department and affix a notice to each machine in the same manner, and subject to the same penalty, as operators of vending machines that dispense food or beverages. Operators of coin-operated amusement machines must obtain a separate certificate of registration for each county in which such machines are located. There is a second-degree misdemeanor penalty for violation of these provisions, and these provisions do not apply to coin-operated amusement machines owned and operated by churches or synagogues.

This act also deals with several aspects of sales tax administration. With respect to the tax on admissions, an amendment to Subsection 212.04(1), F.S., will allow dealers selling admissions to display the admission price at the place where the admission charge is made rather than on the face of each ticket. This amendment also disallows the use of resale certificates for sales of admissions. If a dealer resells an admission for more than he originally paid for such admission, he is required to collect tax on the full sales price and may take credit for the amount of tax previously paid. No additional tax is due

on an admission if a dealer resells an admission for an amount equal to or less than the amount paid or if the admission is incorporated as part of a package sold by a travel agent and not separately stated. With respect to mail-order sales, new Subsection 212.0596(7), F.S., authorizes the Department to establish alternative procedures for collecting use tax from certain mail-order purchasers. These procedures may eliminate registration fees and collection allowances and allow remittance on a less than regular basis.

This law also nullifies amendments made in 1990 to Subsections 212.04(5) and 212.12(1), F.S., which would have increased from 0.83 percent to 1 percent the dealer collection allowance for monthly remittances over \$1,200, effective January 1, 1992. Provisions contained in Paragraph 212.11(6)(a), F.S., which would have reduced from 66 percent to 55 percent the rate for the payment of estimated sales taxes effective July 1, 1991, are removed, so that the rate remains 66 percent. Further, beginning January 1, 1992, dealers who paid \$100,000 or more during the immediately preceding state fiscal year, rather than \$200,000, are required to pay estimated sales taxes.

An amendment to Section 212.20, F.S., provides that the additional annual sales tax dealers registration fee shall be initially deposited in a newly created Solid Waste Management Clearing Trust Fund. Provisions contained in Section 212.0505, F.S., which impose a tax on unlawful sales, use, and other transactions involving medicinal drugs, cannabis or controlled substances, are amended to authorize a designee of the executive director of the Department to settle or compromise taxes, penalties, or interest thereunder. Finally, an amendment to Subsection 212.10(1), F.S., provides that when a dealer liable for sales tax sells his business, a certificate from the Department does not, without an audit of the dealer's books and records by the Department, guarantee that there is not a tax deficiency owed the state, and that to secure protection from transferee liability, the seller or purchaser may request an audit of the seller's books and records.

### Local Option Taxes

Under the provisions of COMMITTEE SUBSTITUTE FOR SENATE BILL 156 (CHAPTER 91-81), which creates Subsection 212.055(3), F.S., any county, the government of which is not consolidated with that of one or more municipalities, which has a population of at least 800,000 residents, may levy an indigent care sales surtax, by ordinance approved by extraordinary vote or conditioned to take effect upon referendum approval, at a rate not to exceed 0.5 percent. Such county must continue to expend county funds for the medically poor and related health services in an amount equal to the amount that it expended for such purposes in the fiscal year preceding the adoption of the authorizing ordinance. The ordinance must set forth a plan for providing health care services to qualified residents, who are defined as persons certified as indigent or medically poor or participating in innovative cost-effective programs. The plan must include a broad range of health care services, emphasizing continuity of care, and in-

cluding services rendered by physicians, clinics, community hospitals, mental health centers, and alternative delivery sites, as well as at least one regional referral hospital where appropriate. Government-owned hospitals must provide public access to certain meetings of their governing boards as a condition of receiving funds. A county as defined in Subsection 125.011(1), F.S., (Dade County), may levy the surtax; the proceeds may be used only for the operation, maintenance, and administration of the county public general hospital, and the county shall continue to contribute each year at least 80 percent of that percentage of the total county budget appropriated for the county public general hospital from the county's general revenues in the 1990-1991 fiscal year. No county may levy an indigent care surtax and a local government infrastructure surtax in excess of a combined rate of 1 percent. The authority to levy the indigent care surtax is repealed October 1, 1998.

SENATE BILL 1986 (CHAPTER 91-155) amends Section 212.0305, F.S., and increases the rate of the special district convention development tax, the special convention development tax, and the subcounty convention development tax from 1 to 2 percent.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) revises administrative provisions relating to local option taxes. An amendment to Paragraph 212.0305(4)(b), F.S., authorizes authorities appointed in connection with the charter county convention development tax to invest tax proceeds and other revenues. Subsection 212.054(2), F.S., which provides for administration of discretionary sales surtaxes, is amended to provide criteria for application of the exemption of amounts above \$5,000 on any item of tangible personal property. An amendment to Paragraph 212.055(2)(c), F.S., provides effective date requirements with respect to changes in distribution formulas applicable to the local government infrastructure surtax. Finally, an amendment to Section 212.12, F.S., revises language relating to the tax brackets for discretionary sales surtaxes in counties imposing a 1-percent surtax, and authorizes the Department to promulgate brackets for other surtax rates.

### Corporate Income Tax

Under the provisions of COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112), Chapter 214, F.S., which controls administration of the corporate income tax, is incorporated into Chapter 220, F.S., as three new parts of that chapter: Part VIII, "Administrative Procedures and Judicial Review"; Part IX, "Penalties, Interest, and Enforcement"; and Part X, "Tax Crimes." Provisions relating to apportionment for special industries and other methods will appear under new Sections 220.151 and 220.152, F.S. Section 220.15, F.S., is revised to provide that only firms doing business outside of Florida will apportion income to Florida; firms doing business only within Florida will have their tax based directly on adjusted federal taxable income. Numerous statute sections are amended to conform to this transfer.

This measure also revises provisions relating to the community contribution credit against the corporate income tax contained in Section 220.183, F.S., to specify that no business firm shall receive more than \$200,000 in annual tax credits for community contributions made in any 1 year, and to specify that a taxpayer eligible for the insurance premium tax credit is not eligible for the corporate income tax credit.

Finally, this act recaptures an increase in the corporate tax credit for intangibles tax which was inadvertently granted 1 year early during the 1990 legislative session pursuant to an amendment to Section 220.68, F.S., which was intended to partially offset the impact of the intangibles tax increase on financial institutions; the intangible tax increase did not take effect until 1991.

SENATE BILL 390 (CHAPTER 91-19) amends Section 220.03, F.S., to update the definition of "Internal Revenue Code" under the Florida Income Tax Code, operating retroactively to January 1, 1991.

### General Tax Administration

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) contains several provisions relating to the authority of the Department of Revenue and the administration of the revenue laws of the state. Section 20.21, F.S., is amended to rename the Division of Technical Assistance of the Department as the Division of Taxpayer Assistance. An amendment to Section 213.053, F.S., revises provisions relating to confidentiality of tax-related information. This amendment specifies governmental and nongovernmental agencies to which the Department may provide certain information and provides for application of confidentiality and penalty provisions to such agencies. The Department is authorized to disclose certain additional information relating to sales tax registration certificates and large currency transactions.

New Section 213.2201, F.S., authorizes the Department to publish and distribute certain materials and to charge for certain materials. New Section 213.37, F.S., authorizes the Department to require verification of exemption and refund applications and tax returns and provides a third-degree felony penalty for a false declaration in connection therewith. New Section 213.756, F.S., specifies that funds collected from a purchaser under the representation that they are taxes provided for under state revenue laws are state funds from the moment of collection, and limits refunds of such moneys.

An amendment to Subsection 213.27(4), F.S., reduces to \$10,000 the bond required of a debt collection agency with which the Department contracts if the agency does not actually collect and remit delinquent funds to the Department. Section 213.28, F.S., dealing with Department contracts with private auditors, is amended to specify that such contracts may provide for the manner in which compensation for services will be paid, and to allow use of the services of certified public accountants licensed outside this state to conduct audits on persons located outside the state.

An amendment to Section 213.30, F.S., revises provisions which authorize compensation to persons for information re-

lating to violation of tax laws, to broaden the scope of the taxes to which such provisions apply, and to remove the restriction that such information relate to the commission of a crime. This amendment specifies that Department and government employees and former employees may provide such information, and provides for confidentiality of information that could lead to the identification of such persons. Subsection 213.34(1), F.S., is also amended to broaden the description of the revenue laws with respect to which the Department has authority to audit and examine records. Section 893.11, F.S., which provides for the suspension or revocation of business and professional licenses of persons convicted of certain felonies involving controlled substances, is amended to exempt taxes, fees, and permits administered by the Department.

This law also amends Sections 72.011 and 215.26, F.S., to authorize taxpayers to contest the legality of any denial of refund of specified taxes, interest or penalties in circuit court or under Chapter 120, F.S., and to provide time limitations with respect thereto. This authorization applies to refund denials issued on or after July 1, 1991. Several other statute sections are amended to conform.

### Fuel Taxes

Definitions relating to fuel taxes are revised by COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112). "Motor fuel" (Subsection 206.01(13), F.S.) is redefined to exclude alternative fuel. Amendments to Section 206.86, F.S., define "natural gasoline" and include it within the meaning of "alternative fuel," which is subject to a decal fee rather than special fuel tax. This measure also revises provisions contained in Section 206.56, F.S., which specify that failure to account for fuel taxes collected constitutes embezzlement, to provide that any person who uses taxes collected pursuant to Chapter 206, Part II of Chapter 212, Section 336.021, Section 336.025, or Section 336.026, F.S., with the intent to deprive the state of a right to such funds or appropriate such funds to his own use, commits theft of state funds. Penalties range from second-degree misdemeanor to first-degree felony, depending on the amount of revenue involved. An amendment to Subsection 206.9825(2), F.S., delays from July 1, 1992 until July 1, 2000, the repeal date of provisions which provide for levy of the aviation fuel tax at a specified percentage of the retail sales price for air carriers that utilize apportionment for corporate and sales taxes. Finally, an amendment to Subsection 206.9931(4), F.S., revises provisions relating to responsibility for payment of the taxes on fuels and other pollutants.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 212 AND 266 (CHAPTER 91-82) amends Sections 206.41, 206.60, 206.605, 212.62 and 212.66, F.S., to provide that, for the period January 1, 1988 through June 30, 1991, excise and sales taxes on motor fuel may be reported based on either net or gross amount of gallons, whichever method was used by the taxpayer at the time of first reporting; thereafter, reporting is to be based on the gross amount of gallons. New Subsections 206.01(17) and (18), F.S., define "net amount" as the amount of fuel adjusted to a temperature

of 60 degrees Fahrenheit, and "gross amount" as the actual amount of fuel pumped. The Department of Revenue and the Department of Environmental Regulation are directed to conduct a joint interim study to evaluate any problems encountered by the industry as a result of application of the tax to the gross amount of fuels, for consideration by the 1992 Legislature.

### Motor Vehicle and Mobile Home Fees and Valuation

Fees associated with the licensing and registration of motor vehicles were the subject of two acts passed by the 1991 Legislature. COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) creates Section 320.0804, F.S., which imposes a \$2 surcharge on motor vehicle license taxes, except for mobile homes, to be deposited in the State Transportation Trust Fund.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 212 and 266 (CHAPTER 91-82) transfers provisions presently included in Section 320.072, F.S., which were enacted last year to impose an additional impact fee of \$295 on the initial application for registration of certain motor vehicles, to new Section 319.231, F.S. The fee will now apply to the original titling of any motor vehicle previously titled outside the state, and also applies to "registration-only" transactions, with specified exemptions. The exemption for military personnel is revised and additional exemptions are provided for service vehicles of nonprofit organizations, certain other vehicles exempt from annual licensing requirements, certain reassignments, and temporary plates. Credit may be applied toward the fee for sales or use tax paid, but only if title application is made within 6 months of purchase. This fee will be deposited in the General Revenue Fund. The exemption for military personnel from the \$100 "new wheels on the road" fee remaining in Section 320.072, F.S., is extended to spouses and dependent children under certain conditions, and it is specified that 30 percent of the fee proceeds is to be deposited in the General Revenue Fund rather than the Law Enforcement Trust Fund. As an aid to enforcement, new Subsection 322.08(6), F.S., requires that every application for a driver's license made by a person who presently holds an out-of-state license must be accompanied by a copy of the Florida registration certificate showing registration for every motor vehicle owned by the applicant, or, if he does not own any vehicle required to be registered, an affidavit to that effect.

This act also creates new Section 320.1325, F.S., which provides for a 90-day temporary plate and registration for nonresidents temporarily employed in the state, with one 90-day renewal allowed. The temporary registration fee is \$40. Finally, an amendment to Paragraph 320.06(1)(b), F.S., requires motor vehicle owners to pay \$2 each year for the license plate replacement fee, rather than \$10 every 5 years; no credit or refund is allowed if the plate is replaced or surrendered before the end of the 5-year period.

The valuation and assessment of motor vehicles and mobile homes is treated in two acts. SENATE BILL 2234 (CHAPTER 91-66) amends Sections 212.05, 319.30 and 723.061, F.S. It

allows use of any nationally recognized or official valuation guide, rather than the National Automobile Dealers Association (NADA) official guide, in the following circumstances: determination of sales tax for occasional or isolated sales; determination of value with respect to salvage; and determination of value for reimbursement when a mobile home owner is evicted for change of land use. COMMITTEE SUBSTITUTE FOR SENATE BILL 1578 (CHAPTER 91-241) revises Section 193.075, F.S., which specifies conditions under which mobile homes are to be taxed as real or tangible personal property. It provides that a mobile home shall be taxed as real property if the owner of the mobile home is also the owner of the land on which the mobile home is permanently affixed; a mobile home is considered "permanently affixed" if it is tied down and connected to the normal and usual utilities. A mobile home that is not taxed as real property must have a current license plate properly affixed. Any such mobile home without a current license plate properly affixed is presumed to be tangible personal property. This act takes effect January 1, 1992.

#### **Waste Tire and Lead-acid Battery Fees**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) revises the definitions of "motor vehicle" and "lead-acid battery" provided by Subsection 403.717(1), F.S., for purposes of these fees, to include batteries and tires sold for off-the-road vehicles and to exclude batteries sold to recycle components. An amendment to Subsection 403.7185(1), F.S., extends the lead-acid battery fee to used batteries. These amendments take effect October 1, 1991. Effective January 1, 1992, an amendment to Subsection 403.718(1), F.S., provides that the waste tire fee shall be paid to the Department monthly, rather than quarterly.

#### **Insurance Premium Tax**

Corresponding to an amendment relating to the community contribution credit against the corporate income tax, COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) amends Section 624.5105, F.S., which provides for the community contribution credit against insurance premium taxes, to specify that no insurer shall receive more than \$200,000 in annual tax credits for community contributions made in any 1 year. This law also amends Subsection 624.511(2), F.S., to provide that refunds of overpayments of insurance premiums taxes and taxes on wet marine and transportation insurance be made from the General Revenue Fund, and to provide a timetable for such refunds.

#### **Assessment on Health Care Providers**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) creates Section 395.1015, F.S., which imposes an annual assessment of 1.5 percent on net operating revenues of ambulatory surgical centers, certain clinical laboratories, freestanding radiation therapy centers and diagnostic imaging centers. For the first two assessments, due April 30, 1992 and April 30, 1993, the health care entity may elect to have the assessment based on revenues received in its latest

fiscal year ending on or before the previous December 31, or the 12-month period ending on the previous March 31. Beginning July 1, 1993, assessments will be based on the entity's actual experience as reported to the Health Care Cost Containment Board within 120 days after the end of its fiscal year in the preceding calendar year. These assessments are to be deposited into the Public Medical Assistance Trust Fund.

#### **Financial Matters**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2523 (CHAPTER 91-112) substantially revises Sections 215.20 and 215.22, F.S., relating to trust funds and deductions therefrom, and reconciles conflicting amendments adopted in 1990. Section 215.20, F.S., contains the provisions which impose a 7 percent surcharge on all income of a revenue nature deposited in all trust funds except those enumerated in Section 215.22, F.S., and except for funds collected for peanut, soybean, or tobacco marketing orders pursuant to Chapter 570, F.S., and the Florida Citrus Advertising Trust Fund, which are subject to a 3-percent service charge. The Agency Budget Sunset Trust Fund is eliminated, and a 0.3 percent service charge assessed against enumerated trust funds previously earmarked for deposit in that trust fund will be deposited in the General Revenue Fund. Section 215.22, F.S., lists exempt funds and carries forward language relating to exemptions to safeguard federal matching funds. Numerous statute sections are amended to conform.

This enactment also amends Subsection 335.035(2), F.S., to require the Department of Transportation to repay \$21.5 million of funds appropriated from the General Revenue Fund for interstate highway purposes on or before June 1, 1991.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1265 (CHAPTER 91-214) deals with the power of the Department of State to impose penalties against certain corporations, and the disposition of penalties. An amendment to Section 213.053, F.S., authorizes the Department of Revenue to disclose certain information to the Division of Corporations of the Department of State for use in the pursuit of its official duties relative to nonqualified foreign or dissolved corporations in the recovery of fees and penalties due and owing the state. Amendments to Section 607.0130, F.S., provide that the Department of State is not required to file any document in connection with its investigations when it determines that the parties to such document have not paid all fees, taxes, and penalties due and owing this state, and authorizes the Department to bring court action to collect penalties, fees or taxes and to compel any required filing, qualification, or registration, file a lis pendens against corporate property, and certify findings to the Department of Legal Affairs for further action. An amendment to Subsection 607.1502(4), F.S., authorizes the Department to collect penalties from foreign corporations which transact business in this state without authority and to bring court action to recover penalties and fees. New Paragraph 265.2861(1)(d), F.S., directs the Division to transfer \$800,000 annually from these penalty fees to the State Major Cultural Institution Trust Fund, and Subsec-



tion 265.286(7), F.S., is amended to provide for transfer of these funds to the Vital Local Cultural Organization Program for distribution among the 15 Vital Local Cultural Organizations designated in 1991. These two latter provisions are scheduled for legislative review and repeal in 1994. An appropriation and additional positions are provided to the Division to carry out these duties.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1758 (CHAPTER 91-244) revises and clarifies various powers and duties of the Treasurer specified in Chapter 18, F.S., and various provisions of the Florida Security for Public Deposits Act, Chapter 280, F.S. Provisions authorizing the Treasurer to operate a personal check-cashing service at the Capitol, presently contained in Section 18.02, F.S., are transferred to a new Section 18.021, F.S. Subsection 18.091(1), F.S., is amended to allow the Treasurer to employ additional persons in connection with this service during legislative sessions. Sections 18.05 and 18.09, F.S., are amended to clarify language relating to the Treasurer's annual report to the Governor and specify that a copy be delivered to the Legislature. An amendment to Section 18.07, F.S., allows the Treasurer to record orders of the Comptroller other than warrants. Section 18.08, F.S., is amended to delete obsolete language requiring the Comptroller to provide a certificate or receipt of credit to the Treasurer. Section 18.16, F.S., which contains redundant language relating to approval by the State Board of Administration, is repealed.

Provisions relating to the Treasurer's duties with respect to investment of state funds contained in Section 18.10, F.S., are revised and reorganized. Other parties, with the Treasurer's permission, are allowed to deposit moneys in qualified public depositories; this incorporates language presently in Section 18.102, F.S., which is repealed. Investment in mortgage-backed securities and derivatives of currently authorized instruments is allowed. The Treasurer is authorized to hire registered investment advisors and other consultants to assist in investment management and to pay fees directly from investment earnings. Investment securities, proprietary investment services related to contracts, performance evaluation services and advisory and consulting contracts are exempted from the competitive bidding requirements of Chapter 287, F.S.

Definitions applicable to the Florida Security for Deposits Act provided in Section 280.02, F.S., are updated, and additional definitions are included. Throughout this act, references to "public deposit security program" are changed to "public deposits program." Obsolete language in Sections 280.05 and 280.051, F.S., relating to collateral of qualified public depositories, is removed. Clarifying technical changes are made to Subsections 280.13(4) and 280.14(4), F.S., relating to eligibility of collateral. An amendment to Paragraph 280.053(1)(a), F.S., clarifies the effective date of suspension or disqualification of a qualified public depository.

General provisions relating to collateral for public deposits in Section 280.04, F.S., are updated, and depositories which have an overall financial condition which is deteriorating are required to deposit 125 percent of public deposits as collateral.

Amendments to Sections 280.052 and 280.085, F.S., require the Treasurer to notify public depositories of disqualifications or suspensions, or defaults or insolvencies, by first class mail rather than by publication in a newspaper or in the *Florida Administrative Weekly*. Section 280.10, F.S., is amended to allow a qualified public depository which sells or disposes of one of its branches to an institution that is not so qualified to report to the Treasurer information relating thereto on its next monthly report, rather than within 3 days of approval of the acquisition. An amendment to Section 280.16, F.S., changes the due date for depositories' annual reports to the Treasurer from February 15 to November 15. Section 280.17, F.S., is amended to require such depositories to notify the Treasurer of default or insolvency immediately, rather than within 3 working days. Also, the date that public depositories must submit certain identifying information to the Treasurer is changed from March 31 to November 15, and additional information is required.

This law also includes other provisions relating to investment of funds. Subsection 215.44(5), F.S., is amended to revise the date by which the State Board of Administration must submit its report on investments to the Legislature from March 1 to January 1, and the content of the report is revised. An amendment to Paragraph 215.47(2)(c), F.S., allows investment by the Board in obligations of the International Finance Corporation, and an amendment to Paragraph 665.0701(1)(d), F.S., allows such investment by savings associations. Finally, new Paragraph 658.67(2)(d), F.S., allows banks and trust companies to invest in bonds or other obligations of the International Bank for Reconstruction and Development or the International Finance Corporation.

COMMITTEE SUBSTITUTE FOR SENATE BILL 2126 (CHAPTER 91-79) abolishes the State Infrastructure Fund created by Section 215.32, F.S. It requires that annually at least 5 percent of the estimated increase in General Revenue Fund receipts for the upcoming fiscal year over the current year General Revenue Fund effective appropriations shall be appropriated for state-level capital outlay, including infrastructure improvement and general renovation, maintenance, and repairs. Various statutory provisions are affected by the elimination of this Fund. Sections 212.235 and 216.175, F.S., relating to appropriations from the Fund, are repealed. Sections 216.016 and 216.167, F.S., are amended to remove references to the Governor's recommendations regarding the Fund. The availability of money from the Fund for beach management and preservation purposes is removed from Section 161.091, F.S. Section 212.20, F.S., is amended to provide for deposit of specified sales tax revenues previously earmarked for the Fund in the General Revenue Fund. An amendment to Section 201.15, F.S., eliminates the distribution of documentary stamp tax revenues to the Fund and increases by \$30 million each the annual caps on transfer of a percentage of the revenues from that tax to the Land Acquisition Trust Fund. All unexpended State Infrastructure Fund 1990-1991 appropriations are reappropriated from the General Revenue Fund, and these reappropriations are subject to certification forward.

The Property Assessment Loan Fund created by Section 195.094, F.S., is also eliminated, and the unencumbered balance in the Fund is appropriated to the General Revenue Fund. Also, certain revenues previously distributed to the Law Enforcement Trust Fund are transferred to the General Revenue Fund. These include a portion of the proceeds of the rental car surcharge (Section 212.0606, F.S.) and a portion of the proceeds of the \$100 additional fee and the \$295 impact fee imposed on the registration of certain motor vehicles (Section 320.072, F.S.). Ten million dollars is appropriated from the Impaired Drivers and Speeders Trust Fund to the Law Enforcement Trust Fund for Fiscal Year 1990-1991, due to an anticipated deficit in the Law Enforcement Trust Fund; appropriated amounts in excess of the actual deficit will revert to the Working Capital Fund.

This measure also revises Section 373.459, F.S., relating to the Surface Water Improvement and Management Trust Fund. Provisions which specify that this is a nonlapsing fund continually appropriated for purposes of the Surface Water Improvement and Management Act are removed, and the required trust fund/water management district contribution ratio is revised from 80/20 to 60/40.

Finally, this act amends Subsection 24.121(2), F.S., to increase the distribution of lottery revenues to the Educational Enhancement Trust Fund from 37.5 percent to 38 percent.

HOUSE BILL 2313 (CHAPTER 91-109) revises various requirements associated with the state budgetary process, and imposes several new requirements. Throughout the act, references to biennial budgeting are removed, to conform to actual practice. Sections 216.045 and 216.046, F.S., relating to supplemental appropriations, are repealed. The submission dates for the following documents associated with development of the budget are moved forward: facility needs assessments (Section 216.0158, F.S.); budget instructions and legislative budget requests (Section 216.023, F.S.); separate major issues relating to budgets for operational expenditures (Section 216.031, F.S.); estimates of financial needs of the legislative branch (Section 216.081, F.S.); the Governor's amended revenue or budget recommendations (Section 216.168, F.S.); reversion of certain unexpended balances and reports thereon (Section 216.301, F.S.); and various reports by the State Board of Education, the Commissioner of Education, public schools, the Florida Council on Educational Management, state universities, and the Health Care Cost Containment Board (Sections 229.053, 229.575, 231.087, 240.2601, 282.308, and 407.04, F.S.). Section 216.301, F.S., is amended to specify dates for certification of undisbursed balances and review thereof by the Executive Office of the Governor. The definition of "fixed capital outlay" under Paragraph 216.011(1)(n), F.S., is amended, and "emergency situation" is defined.

This act also includes the "truth-in-bonding" issue and related matters. New Section 216.0442, F.S., provides for development of a summary of state debt, a statement of proposed debt financing and a truth-in-bonding statement when required by statute to support the proposed debt financing of fixed capital outlay projects or operating capital outlay re-

quests or to explain the issuance of a debt or obligation. An amendment to Section 216.043, F.S., requires state agencies to include truth-in-bonding information in any legislative budget request for fixed capital outlay or operating capital outlay proposed to be funded by state debt or obligation. Section 216.163, F.S., is amended to require the Governor to make available state debt, debt financing and truth-in-bonding documents with respect to his recommended budget for each specific fixed capital outlay project or group of projects or operating capital outlay to be funded by proposed state debt or obligation. Section 216.167, F.S., is amended to require inclusion of state debt, debt financing and truth-in-bonding statements, and a 5-year estimate of program operational costs for fixed capital outlay projects, in any of the Governor's recommendations which are to be paid for by the proposed state debt or obligation. An amendment to Section 216.177, F.S., requires the chairmen of the legislative appropriations committees to jointly transmit state debt, debt financing and truth-in-bonding documents to the Executive Office of the Governor, the Comptroller, the Auditor General and each state agency. In addition, a shorter period of notice of budget action to the chairmen is authorized under certain circumstances. New Subsection 216.044(3), F.S., requires the Department of General Services to assist state agencies and the Executive Office of the Governor with required truth-in-bonding information.

This legislation also includes numerous provisions imposing additional restrictions on, and providing for the disclosure of additional information regarding, the budgetary process. Section 215.32, F.S., is amended to require the Administration Commission to provide the chairmen of the legislative appropriations committees with certain information on trust funds approved for establishment by the Commission. Such trust funds will be automatically abolished unless they are established in substantive legislation or included in a specific appropriation. Reestablishment of such trust funds by the Commission is restricted. Procedures for determining the amount of moneys in the General Revenue Fund are specified. The Executive Office of the Governor is directed to transfer the excess funds that are in the General Revenue Fund to the Working Capital Fund by September 15 of each year.

New Section 216.065, F.S., requires the Governor and Cabinet to submit fiscal impact statements to legislative appropriations committees before taking any final action that will directly require a request for an increased or new appropriation in the following fiscal year or that will transfer current year funds. The Governor is also required to submit to the Secretary of State, along with the signed General Appropriations Act, a statement which sets forth the estimated cost of each new proposed state debt or obligation contained in the act. An amendment to Section 216.195, F.S., limits impoundment of funds by the Administration Commission.

Section 216.221, F.S., is amended to authorize use of certain legislative branch appropriations and the Working Capital Fund to prevent a deficit in the General Revenue Fund, and prohibit reductions for the purpose of increasing funds in or restoring funds to the Working Capital Fund above a certain



level. Notice to the Legislature of certain proposed reductions or adjustments to agency budgets is required, and restrictions on actions by the Administration Commission to restore budget reductions are imposed. New Section 216.179, F.S., prohibits reinstatement of vetoed appropriations by administrative means by the Governor or Cabinet. New Section 216.2815, F.S., provides that any appropriation made by the General Appropriations Act to a nongovernmental agency, corporation, or person shall be a public record and the Auditor General may audit such appropriation.

Section 216.347, F.S., is created to prohibit any state agency or water management district from making any disbursement of grants and aids appropriations pursuant to a contract or grant to any person unless the terms of the grant or contract prohibit the expenditure of funds for the purpose of lobbying. Section 216.349, F.S., is created to require review of grants and aids appropriations by the appropriate state agency and the Comptroller. This section also imposes audit requirements on any local governmental entity, nonprofit organization, or for-profit organization that is awarded funds from a grants and aids appropriation by a state agency.

An amendment to Subsection 216.162(1), F.S., provides that in his first year in office a new Governor may request, subject to approval of the President of the Senate and the Speaker of the House of Representatives, a delay for the submission

of his recommended balanced budget. This measure also provides that neither the state nor any of its agencies shall be required to pay monetary damages under the judgment of any court except pursuant to an appropriation made by law, and that a judgment for monetary damages against the state or any of its agencies may not be enforced through execution or any common law remedy against property of the state or its agencies, and a writ of execution therefor may not be issued against the state or its agencies.

Other provisions of this act concern the relationship between appropriations and agency contracts. An amendment to Paragraph 216.181(12)(b), F.S., provides for application of restrictions imposed on advances for program startup or for contracted services to agencies authorized by the General Appropriations Act to make such advances. New Section 216.346, F.S., restricts the assessment of overhead and other indirect costs in any contract between state agencies, including universities and community colleges, to no more than 5 percent of the total contract cost. New Section 216.3475, F.S., provides that a person designated by the General Appropriations Act, or awarded funding on a noncompetitive basis, to provide services for which funds are appropriated by that act may not receive a rate of payment in excess of the competitive prevailing rate for those services unless expressly authorized in the General Appropriations Act.

## HEALTH AND REHABILITATIVE SERVICES\*

Bills relating to Health and Rehabilitative Services which passed during the 1991 Legislative Session addressed a broad range of issues: reorganization of the Department of Health and Rehabilitative Services; creation of a separate Department of Elderly Affairs; children and families, including child care, relative placements, adoption and the protection of children and adults; child labor; domestic violence centers; health and long-term care for elderly and disabled persons, including changes regarding adult congregate living facilities, home health care, Alzheimer's disease initiatives, and Long-Term Care Ombudsman Councils; mental health, including the protection of human rights of persons being involuntarily detained for mental health treatment and outpatient crisis intervention for adolescents; public health, including revisions to the public health chapter; issues relating to AIDS and HIV; organ transplants; and the disposition of dead bodies.

## DHRS Reorganization

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 2306 (CHAPTER 91-158) addresses issues of organizational structure, administration, budgeting, service delivery and local planning as it relates to the Department of Health and Rehabilitative Services (DHRS). The act also revises Section 20.19, F.S., to make organizational changes within the DHRS. The position of Deputy Secretary for Operations is deleted and duties assigned to that position are assigned to other positions within the Department. The position of Deputy Secretary for Programs is renamed Deputy Secretary for Human Services. A Child Support Enforcement Program Office is created. Under Section 13 of the act the Department is directed to develop a plan to implement a continuity of care management system that can be implemented within existing resources.

The law amends the Department's budgeting process which is set out in Subsection 20.19(9), F.S. There is a new requirement that DHRS's program planning, budgeting and information systems capabilities be linked; and a directive to DHRS to implement across all program areas an integrated budgeting system based on the cost of units of service. The units of service are to be developed by the respective program offices using data generated by DHRS's information systems. Under this new budgeting system the district budget requests and the flow of funding would be based on units of service, the costs of those units, and the number of units delivered.

The Department is required to submit six reports:

- 1) standards for staffing the Department's administrative infrastructure (Section 402.50, F.S., as created);
- 2) a formula for achieving programmatic and financial equity in the allocation of departmental resources to the service districts (Section 15 of the act);

- 3) an analysis of documentation and reporting requirements (Section 12 of the act);
- 4) an analysis of monitoring requirements (Subsection 20.19(17), F.S., as added);
- 5) a plan to implement a continuity of care management system (Section 13 of the act); and
- 6) an evaluation and assessment of the personnel system (Section 110.1097, F.S., as created).

The Department's outcome measures and program evaluation system is expanded from the Children, Youth, and Families Program Office to all program offices pursuant to Subsection 20.19(18), F.S., as created in the law. An Office of Evaluation is created under the secretary with the addition of Subparagraph 20.19(2)(d)1., F.S., to assist program offices and coordinate the program offices' outcome measures and program evaluation reports.

## Department of Elderly Affairs

COMMITTEE SUBSTITUTE FOR SENATE BILLS 58 AND 2294 (CHAPTER 91-115) creates the Department of Elderly Affairs (DOEA) under Section 20.41, F.S., as an executive agency under the Governor. It is the intent of this legislation to achieve greater state responsiveness to the needs of the state's growing elderly population by the establishment of a single state agency that focuses attention on the problems and potential of the elderly. It is further the intent to reduce bureaucratic administration of services to the elderly. Section 12 of Article IV of the Florida Constitution, adopted in 1988, authorizes the creation of the Department.

The act creates Chapter 430, F.S., as the "Department of Elderly Affairs Act," also cited as the "Pepper Act" as a memorial to Congressman Claude Denson Pepper. In order to create DOEA, the measure, through Subsection 20.41(2), F.S., abolishes the Pepper Commission on Aging and transfers the interdepartmental advocacy, advisory, planning and policy coordination functions; personnel; property; and appropriations to the new Department effective October 1, 1991. Subsection 20.41(3), F.S., provides that state and district Nursing Home and Long-Term Care Facility Ombudsman Councils (LTCOCs) will also be transferred from the Pepper Commission on Aging to DOEA on that date. Other newly established functions will include operation of an information clearinghouse (Subsection 430.04(2), F.S.) and coordination of state agency research related to aging issues (Subsection 430.04(6), F.S.). An Office of Volunteer Community Service is created under Section 430.07, F.S., in DOEA for the purpose of promoting volunteerism. In addition, a DOEA Advisory Council is established pursuant to Section 430.05, F.S., to preserve the independent volunteer advisory capacity previously provided by the Pepper Commission.

Effective January 1, 1992, DOEA will become the "state unit on aging" as defined in the Older Americans Act of 1965 (42

\*Prepared by House Health and Rehabilitative Services Committee

U.S.C. 3001 et seq. [1988]) and will be responsible for contracting with area agencies on aging (AAAs) for four programs that will be transferred from the Department of Health and Rehabilitative Services (DHRS). These programs include: Older Americans Act, Community Care for the Elderly Act, Alzheimer's disease initiative, and federal home energy assistance program. [The contractual arrangements between AAAs and DOEA will be less bureaucratic than current contractual arrangements with DHRS because DOEA will not have sub-state field offices involved in the process, as currently exists within DHRS.]

The act does not transfer all DHRS programs serving the elderly to DOEA. Only those programs currently administered by the Older Americans Act area agencies on aging are transferred. Other DHRS programs and services, provided directly or through other contractual arrangements assisting the elderly are not affected nor are other statutorily specified duties and responsibilities of DHRS regarding the elderly. The law amends Subsection 410.016(2), F.S., to require coordination of DHRS and DOEA functions and responsibilities.

Section 430.06, F.S., is created to require that by January 1, 1992, DHRS and DOEA jointly prepare and submit a plan for improving the provision of social services and long-term care to elderly Floridians. The measure specifies intent, procedures for development, and content of the plan, including recommendations for organizational changes to accomplish improved service delivery. [It should be noted that state agencies other than DHRS and the Pepper Commission currently provide services that are of particular importance to the elderly including the departments of Insurance, Education, Community Affairs, and Agriculture and Consumer Services.]

The act, in addition to transferring the LTCOCs to DOEA, made changes in the authorizing statutes for the state and district LTCOCs as follows:

1. The state council member who represents the nursing profession will be required to have gerontological nursing preparation (Subparagraph 400.304(5)(a)2., F.S., as amended), and members of the state and district councils will no longer be prohibited from serving more than two consecutive terms (Subsections 400.304(6) and 400.307(5), F.S., as revised).
2. State and district councils are authorized to convert district staff positions into state career service positions within available federal funding.
3. The state council is authorized to provide or contract for legal services to assist the state or district councils in carrying out their duties (Paragraph 400.304(3)(g), F.S., as amended).
4. The state council is authorized to submit a report to the Governor, Speaker of the House of Representatives, and President of the Senate when the council judges that organizational or departmental policy issues threaten the state's or districts' independence in performing council duties (Subsection 400.304(4), F.S., as revised).

Section 6 of the law provides legislative intent that the DOEA secretary not be paid a salary equivalent to other sec-

retaries until DOEA begins to provide, or contracts for, the provision of services to the elderly.

The Department is to be established by type Four Transfer within current resources transferred to DOEA from the Pepper Commission and DHRS, totaling approximately \$56.3 million in Fiscal Year 1991-1992 and \$117.7 million annually thereafter. Unless otherwise provided in the act, October 1, 1991, is the effective date of the act.

### Children and Families

COMMITTEE SUBSTITUTE FOR SENATE BILL 2342 (CHAPTER 91-300) clarifies as to when a nationally affiliated organization is exempt from licensing as a child care facility by revision of Subsection 402.301(6), F.S. The measure amends Section 402.305, F.S., to require the Department of Health and Rehabilitative Services (DHRS) to establish licensing standards which all licensed child care facilities must meet regardless of the origin or source of the fees used to operate the facility or type of children served by the facility. Except for new standards for staff credentials, by October 1, 1992, all child care facilities must meet revised standards for licensing. The enactment delineates standards for child care facilities in the area of training, staff credentials, staff to child ratio and square footage requirements in added Subsections 402.305(3), (4) and (6), F.S. It creates a technical review panel for child care standards by adding Subsection 402.305(15), F.S. It adds Subsection 402.27(8), F.S., which requires a licensed child care facility to provide the statewide child care and resource and referral agencies with certain information on an annual basis. The act amends Subsection 402.313(1), F.S., to require additional registration standards for family day care homes and allows DHRS to impose an administrative fine when family day care homes do not comply with registration requirements. The law creates Section 402.3051, F.S., to establish the regulatory framework for child care market rate and related provisions. It defines market rate, prevailing market rate, enhanced market rate and child care program assessment tool. The Department is required to establish procedures to reimburse child care providers with the prevailing market rate or enhanced rate for child care services to certain children under the subsidized child care program and under the Child Care and Development Block Grant Act of 1990. It creates Section 402.3052, F.S., establishing the Child Development Associate Training Grants Program. The purpose of the child development associate training grants program is to provide child care personnel an opportunity to receive the credential of a child development associate or its equivalent and to receive training to enhance their skills. It also allows DHRS to contract with the Department of Education to implement any of the provisions of this program. The fiscal impact of this law is \$17,433,830 in Fiscal Year 1991-1992 and \$23,184,440 in Fiscal Year 1992-1993.

COMMITTEE SUBSTITUTE FOR SENATE BILL 114 (CHAPTER 91-229) provides legislative intent to give children of migrant farmworkers high priority for placement in the "subsidized day care program." Paragraph 411.202(8)(m), F.S., adds

a child of a migrant farmworker family to the definition of "at-risk child." The Rural Farmworkers Health Care Outreach Program demonstration project is established by Section 3 of the act. Two demonstration projects are to be established, one in an urban county and one in a rural county, to provide mobile health care alternatives to farmworker families at their places of residence and work sites. Services would include on-site preventive care, continuing care, screening for diseases and disabilities, education of the children about the dangers of drugs, alcohol and tobacco, and the provision of individual care by qualified medical practitioners. The projects are to be implemented only to the extent funding is available. An annual report on the effectiveness of the projects is required to be submitted to the Legislature by the Department of Health and Rehabilitative Services.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1662 (CHAPTER 91-183) adds new definitions (Subsections 39.01(65), (66) and (67), F.S.) to the Florida Juvenile Justice Act, provides a juvenile court judge with additional disposition options for the placement of dependent children (Paragraph 39.41(1)(a), F.S., as amended), specifies the conditions under which the court may choose these options, and clarifies the rights and responsibilities of the respective parties to the proceedings when one of these options is selected.

Changes are made in Paragraph 39.453(3)(a), F.S., in order to clarify the time frames for a judicial review for children under the age of four. Language is added in Section 409.165, F.S., to clarify that DHRS funds appropriated for out-of-home services to children may be used to provide services to children who remain in, or are returned to, their own homes, when it is determined that this can be accomplished safely and cost effectively.

The Family Builders Program is converted from an optional pilot project to a standing program for the provision of family preservation services on a voluntary basis to families who meet eligibility requirements that are to be established in rule pursuant to revised Section 415.515, F.S. The statutory requirements for services (Section 415.518, F.S.), worker education and training (Section 415.520, F.S.), and caseloads (Section 415.519, F.S.), are made less stringent, outcome evaluation criteria are modified (Section 415.521, F.S.), and the Department is authorized to use appropriate state, federal and private funds within its budget to implement the Family Builders Program (Section 415.522, F.S.). The act takes effect October 1, 1991.

HOUSE BILL 1221 (CHAPTER 91-99) amends Subsection 63.022(1), F.S., to provide legislative intent to maintain sibling groups, whenever possible, when placing a child in an adoptive home. The act revises Subsection 63.0082(4), F.S., to require that the names, addresses and social security numbers of witnesses be typed or printed underneath their signatures in the execution of consent to adopt. The Department of Health and Rehabilitative Services (DHRS) or an adoption agency must inform the natural parents prior to the termination of parental rights and adoptive parents prior to placement of children in their care in writing of the existence and purpose of the adoption registry pursuant to amended Section 63.165,

F.S. New Subsection 409.166(6), F.S., permits DHRS to reimburse adoptive parents who adopted special needs children under the subsidized adoption program for up to \$1,000 in nonrecurring adoption costs that were incurred by the adoptive parents.

COMMITTEE SUBSTITUTE FOR SENATE BILL 670 (CHAPTER 91-57) addresses the manner in which the Department of Health and Rehabilitative Services (DHRS) is required to classify the results of investigations of reported abuse, neglect or exploitation of aged persons, disabled adults and children.

Under present law, reports of such investigations can be classified as proposed confirmed, indicated-perpetrator undetermined, or unfounded. The Department is entitled to maintain records of unfounded reports for 30 days, indicated-perpetrator undetermined reports for 7 years, and confirmed reports for 50 years. Individuals named in proposed confirmed cases are statutorily entitled to an administrative and judicial review of the classification before it is entered in the record as a confirmed report. No such review is afforded to persons named in indicated-perpetrator undetermined or unfounded reports.

The act eliminates the "indicated-perpetrator undetermined" classification of reports from Chapter 415, F.S. Investigative reports that cannot be classified as proposed confirmed or unfounded would be closed without classification as provided in revised Subsection 415.104(2), F.S., and DHRS would be allowed to index these closed reports only by the name of the victim or siblings of the victim pursuant to Paragraphs 415.103(3)(f) and 415.504(f), F.S., as amended. Access to information contained within these reports would be specifically limited and background screening for employment purposes would not include references to investigations closed without classification as provided in revised Sections 415.107 and 415.51, F.S. The Department would be allowed to maintain these records for a period of 7 years. During investigations of abuse or neglect in institutions, the measure allows the alleged perpetrator either to be represented by an attorney or accompanied by another person, if an affidavit of understanding is executed with DHRS and the person or attorney agrees to confidentiality requirements under amended Subsections 415.104(1) and 415.505(1), F.S. Definition and related conforming changes are made in Chapter 415, F.S., and in other sections of statute that contain cross-references to Chapter 415, F.S.

#### **Child Labor**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1246 (CHAPTER 91-147) contain provisions which revise conditions for employment of minors effective January 1, 1992. The act provides for employment conditions for students and the number of hours certain children can work. It delineates certain hazardous occupations (Section 450.061, F.S.) in which minors cannot engage in employment or work. It restricts the hours that a minor can work based on school and on the age of the minor (Section 450.081, F.S., as reworded). The law provides

procedures and conditions in revised Section 450.132, F.S., to allow minors to engage in employment in the entertainment industry. Penalties for violating state law or Department of Labor and Employment Security rules regarding child labor are established in amended Section 450.141, F.S. It creates Section 450.155, F.S., the Child Labor Law Trust Fund. This trust fund is under the direct supervision and control of the Department of Labor and Employment Security for the purpose of funding the regulatory responsibilities of the Department's child labor law enforcement efforts.

### **Marriage License Fees and Domestic Violence Centers**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 998 (CHAPTER 91-240) amends Section 741.01, F.S., to change the marriage license fee from \$29.50 to \$39.50. The additional revenues are deposited in the Marriage License Fee Trust Fund. The Marriage License Fee Trust Fund is used to fund domestic violence centers under Section 415.605, F.S. [Assuming marriage rates remain the same and an implementation date of July 1, 1991, the increase in the fee should generate approximately \$1.3 million in additional revenue for Fiscal Year 1991-1992.] In addition, the law repeals the requirement for review and repeal of provisions relating to the issuance of marriage and birth certificates.

### **Health and Long-Term Care for Elderly and Disabled Persons**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1983 (CHAPTER 91-263) promotes "aging in place" long-term care as an alternative to nursing home placement, and addresses regulatory issues in adult congregate living facilities (ACLFs), continuing care retirement communities (CCRCs), nursing homes, and home health agencies (HHAs). This act represents the consensus of a work group that included representatives of the Department of Health and Rehabilitative Services (DHRS), associations of ACLFs, CCRCs, and nursing homes, the Pepper Commission on Aging, and the state Long-Term Care Ombudsman Council.

"Aging in place" as defined in added Subsection 400.402(3), F.S., is a concept that promotes opportunities for elderly persons to receive care and services for as long as possible within their familiar living environments despite declining ability to care for themselves. The objective is to prevent or delay disruptive placements or transfers from one living environment to another. For individuals requiring long-term care, opportunities to age in place can afford less restrictive and less costly alternatives to nursing home placements. Aging in place can also allow residents who are terminally ill to choose to remain in their "home" rather than to be transferred to another health care facility.

This measure expands alternatives to nursing home care by providing for an ACLF level of "extended congregate care" between the limited nursing services level of care currently available in a few ACLFs and the level of nursing home care in added Subsection 400.402(8), F.S. Facilities licensed to provide extended congregate care may provide this level of care to

residents who are aging in place. Under new Paragraph 400.407(4)(b), F.S., a licensure fee is established for extended congregate care that will be less for most applicants than the license fee for limited nursing services. Provisions for limited nursing services are not substantially changed and provisions for limited mental health services are not changed. The Department is required to plan for extended congregate care subsidies for indigent persons by Section 36 of the act.

The measure also strengthens enforcement against unlicensed ACLFs (Subparagraphs 400.407(1)(b)4. and 5., F.S., as added); strengthens the Department's response to a facility's financial instability (Subsection 400.417(1), F.S., as revised); expands residents' rights including areas of contracting and personal choice (Subparagraph 400.407(3)(b)3., F.S., as added); expands flexibility for facilities to accommodate special needs of residents (Subparagraph 400.407(3)(b)4., F.S., as added); amends advertising requirements (Subsections 400.447(5), (6) and (7), F.S., as added); provides for innovative demonstration projects (Paragraph 400.441(3)(b), F.S., as added); changes annual licensure to biennial (Subsection 400.417(1), F.S.); modifies the requirement to annually notify individual physicians and facilities of prohibitions against referrals to unlicensed ACLFs (Subsection 400.408(3), F.S.); and requires a report regarding unsafe retirement hotels (Section 37 of the act).

The law adds Subsection 381.704(4), F.S., which concerns the DHRS nursing home bed need methodology to provide that the methodology reduce the community nursing home bed need for areas of the state where DHRS establishes Medicaid funded pilot nursing home diversion programs.

Specific provisions relating to CCRCs include expanded requirements for disclosure and distribution of information to residents (Subsections 651.091(3) and (4), F.S., as amended), specified membership requirements and increased resident or consumer representation on the Continuing Care Advisory Council to the Department of Insurance (Subsection 651.121(1), F.S., as revised).

Provisions relating to home health agencies (HHAs) clarify exemptions to HHA licensure for community-care-for-elderly (CCE) and community-care-for-disabled-adults (CCDA) providers (Subsection 400.462(4), F.S., as amended), specifically allow HHAs to provide staffing services, extend licensure requirements to infusion therapy providers (Subsection 400.464(2), F.S., as added), and clarify liability for termination of employees who do not meet screening standards related to confirmed incidents of abuse, neglect, or exploitation (Paragraph 400.497(2)(h), F.S., as added).

This act addresses the recent problem of adult congregate living facility (ACLF) closures in Florida related to the financial instability of the facilities. It seeks to expand protection for ACLF residents and to prevent the traumatic effects of such sudden facility closures.

The law amends Subsection 400.411(2), F.S., to impose additional requirements on information to be provided to DHRS by an applicant for an initial ACLF license. The additional information includes identification of specified persons who have financial ties to the facility, information regarding financial sta-

bility of specified persons, and disclosure of specified financial information related to facility ownership within the last 5 years of the application.

The act also requires a facility applying for license renewal to file proof of financial stability if DHRS suspects the facility or any other facility owned by the same applicant is financially unstable (Subsection 400.417(1), F.S., as amended). The measure requires each facility to report to DHRS any adverse court action relating to its financial viability.

Moreover, the enactment adds Subsection 400.431(5), F.S., to authorize DHRS to levy a fine of up to \$5,000 upon any owner of a facility that is closed without providing at least 30 days advance notice of the closing to DHRS and to facility residents. Fines are not to be levied against facilities that are involuntarily closed at the initiation of DHRS. These fines are to be used to provide funds for the temporary operation of the closed facility until residents are successfully relocated. Unless otherwise provided in the act, an effective date of January 1, 1992, applies.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1622 (CHAPTER 91-179) seeks to expand services for Floridians stricken by Alzheimer's disease. The intent of the act conforms to recommendations of the Alzheimer's Disease Advisory Committee and the Pepper Commission on Aging for increased specialized community programs for persons with Alzheimer's disease and their families and caregivers.

This act revises Subsection 410.402(1), F.S., to provide for a sixth memory disorder clinic as part of the Department of Health and Rehabilitative Services' (DHRS) Alzheimer's disease initiative. The additional clinic would be established in Brevard County and operated by a nonprofit regional hospital and the Claude Pepper Institute for Aging and Therapeutic Research. Memory disorder clinics conduct research and training and provide assessment and diagnosis for persons suspected of having Alzheimer's disease.

The measure adds Subsection 410.402(2), F.S., to provide language specifying the type of research that may be conducted by memory disorder clinics utilizing state funding for Alzheimer's disease programs. The enactment provides that only applied and service-related research may be conducted by the clinics; however, the four clinics that are affiliated with medical schools and the teaching hospital are exempt from this restriction on research. Therefore, these clinics would be allowed to pursue basic research, e.g., bio-medical and pharmacological.

COMMITTEE SUBSTITUTE FOR SENATE BILL 268 (CHAPTER 91-125) seeks to enhance the functioning of the state and district Nursing Home and Long-Term Care Facility Ombudsman Councils (LTCOCs). These councils are required by the federal Older Americans Act and are authorized by Chapter 400, F.S. Pursuant to the provisions of COMMITTEE SUBSTITUTE FOR SENATE BILLS 58 AND 2294, (CHAPTER 91-115) which is summarized above, creating the Department of Elderly Affairs (DOEA), the LTCOCs are assigned to DOEA for administrative purposes.

Long-term care ombudsman councils advocate on behalf of residents of long-term care facilities. Advocacy responsibil-

ities include investigation of complaints of abuse or neglect in any nursing home or long-term care facility. However, the LTCOCs are limited in what remedial action they may take and are not authorized by state law to take administrative or legal action. [This is not in keeping with the direction given in the 1987 amendments to the Older Americans Act.]

This act creates the position of Legal Advocate for Nursing Home and Long-Term Care Facility Residents who would be authorized to assist the state and district ombudsman councils in carrying out the duties given them in state law. This would include the bringing and prosecution of legal and equitable action to enforce the rights of nursing home and long-term care facility residents as defined in Chapter 400, F.S., and serving as legal counsel to the state LTCOC.

### Mental Health

COMMITTEE SUBSTITUTE FOR SENATE BILL 2250 (CHAPTER 91-249) addresses concerns of the State Human Rights Advocacy Committee regarding the protection of human rights of persons being involuntarily detained for mental health treatment. The Florida Mental Health Act, Section 394.451, F.S., (Baker Act) presently guarantees the protection of rights, including timely examination and least restrictive treatment, of all persons admitted to mental health facilities. This law amends Paragraph 394.453(1)(a), F.S., to extend Baker Act protection to patients who have been detained for an involuntary mental health examination but also require emergency medical treatment in a hospital and in amending Subsection 394.457(2), F.S., expands the oversight responsibilities of the Department of Health and Rehabilitative Services (DHRS) regarding the treatment of patients at mental health facilities as well as other hospitals.

The act adds Subsection 395.0142(6), F.S., to address law enforcement's current responsibility to transport Baker Act patients by providing specific authority to transport such patients to a hospital for emergency medical treatment. The enactment contains specific provisions for complying with the currently required 72-hour time frame for involuntary mental health examination when an emergency medical condition delays the mental examination. Also, if the hospital is not a designated mental health receiving facility, then within 12 hours after the patient has stabilized and appropriate medical treatment is available at a designated receiving facility, the patient must be examined by a designated mental health receiving facility or transferred to such a facility. [This provision allows for receiving facilities to send examining staff to the hospital to examine the patient onsite as an alternative to transfer of the patient to the receiving facility.]

COMMITTEE SUBSTITUTE FOR HOUSE BILL 743 (CHAPTER 91-170) seeks to strengthen local representation on district alcohol, drug abuse and mental health (ADM) planning councils of the Department of Health and Rehabilitative Services by amending Paragraph 394.715(2)(e), F.S. The law additionally seeks to expand statutory protection of the right to give express and informed consent to mental health admission and treatment through revision of Paragraph



394.459(3)(a), F.S. The act addresses the right of minors to give consent and the access of minors to outpatient services and treatment.

Regarding ADM planning councils, the measure amends state law to require that local governing bodies consider a nominating committee's roster of qualified candidates when making appointments to the ADM planning councils. The law further requires that only legal residents of the district be nominated or appointed to a district council.

Regarding mental health services for adolescents, the act creates a new section (Section 394.4784, F.S.) in the Florida Mental Health Act that allows minors age 13 or older to request, consent to and receive limited mental health outpatient diagnostic and crisis intervention services provided by a licensed mental health professional or licensed mental health facility. For the purposes of this new section, the disability of nonage is removed for any minor age 13 years or older to access services without parental consent under the provisions of the section. These provisions describe the purpose and types of outpatient services and treatment available to an adolescent without parental consent, and sets specified limits to the services. The measure limits such outpatient services or treatment to two visits in a one-week period before parental consent is required for continued services. The law provides for parental participation; however, under new Subsection 394.4784(3), F.S., parents are not liable for payment for services that they do not consent to or participate in, nor are mental health professionals obligated to treat an adolescent without parental consent (Subsection 394.4784(4), F.S., as added).

The enactment further clarifies the existing statutory right to express and informed patient consent. Specifically, the act revises Paragraph 394.459(3)(a), F.S., to clarify that a minor under 18 years of age shall be asked to give consent; however, parental consent for admission and treatment shall also be required except in the case of outpatient crisis intervention services. The act further clarifies that a parent may only admit a minor child for treatment against the child's wishes pursuant to existing involuntary treatment statutory provisions. The law also delineates that the current requirement of a facility to disclose certain admission and treatment information prior to receiving consent from a patient is extended to both the patient and the guardian if a patient is under 18 years of age.

## Public Health

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1436 (CHAPTER 91-297) significantly amends Chapter 381, F.S., General Provisions of Public Health.

[The act is a comprehensive re-write of the statute authorizing public health activities in Florida. It is the first time since the 1950s that this chapter has received such an extensive review. Many revisions, additions and deletions have been made over the years resulting in a statute that follows no logical order and is fragmented and incomplete. The enactment incorporates extensive technical amendments to modernize

and conform language to existing law regarding the structure of public health within the Department of Health and Rehabilitative Services. Extensive renumbering of sections is also done to consolidate existing sections that pertain to the same subject matter.]

The law creates Section 381.001, F.S., to provide legislative intent and statutory authorization for a number of existing public health programs. It requires continuing education on acquired immune deficiency syndrome (AIDS) and the human immunodeficiency virus (HIV) for certain health care providers and others (Sections 381.0034, 381.0035, 455.2226, and 455.2228, F.S., as addressed in the law) and creates Section 455.2224, F.S., to provide the Department of Rehabilitative Services (DHRS) and the Department of Professional Regulation (DPR) with authority to develop procedures addressing HIV infected health care workers. The measure increases fee limits for several environmental health programs (e.g., sanitary inspections of food service establishments (Section 381.0072, F.S., as created), drinking water inspections (Section 381.0062, F.S., as amended), and septic tank permitting (Section 381.0066, F.S.), and imposes fees elsewhere in order to make these programs less dependent on general revenue. The act also establishes an Office of Rural Health (Section 381.0405, F.S., as created) which is charged with coordinating DHRS' rural health activities and working with private providers to improve health care for people in rural areas.

[Revenues under the measure are estimated at \$8,116,438 in Fiscal Year 1991-1992 and \$9,470,250 in Fiscal Year 1992-1993. Expenditures are estimated at \$7,959,618 in Fiscal Year 1991-1992 and \$8,247,898 in Fiscal Year 1992-1993.]

COMMITTEE SUBSTITUTE FOR SENATE BILL 880 (CHAPTER 91-271) allows nonphysicians, i.e., nurses, physician assistants, and other trained medical personnel, to engage in the medical management of brain dead cadavers and in the excision of bones and tissues while under the indirect supervision of a physician. The measure serves to clarify legislative intent and resolve debate within the medical community resulting from an informal 1989 ruling of the Board of Medicine that these activities constitute the practice of medicine.

The law requires the Department of Health and Rehabilitative Services (DHRS) to establish a program to certify those entities engaged in organ, tissue and eye procurement. An advisory board is established to assist DHRS with carrying out its responsibilities. The certification program and the advisory board expenses are funded through fees assessed against those entities certified.

[Revenues generated under the act will exceed expenditures. Expenditures are projected at \$92,000 in Fiscal Year 1991-1992 and \$89,250 in Fiscal Year 1992-1993; revenues are estimated at \$175,000 for each year.]

COMMITTEE SUBSTITUTE FOR HOUSE BILL 689 (CHAPTER 91-168) authorizes county governments to have unclaimed dead bodies cremated.

Under existing law, any individual coming into possession, charge or control of an unclaimed dead body, or a body required to be buried at public expense, is required to immediately notify the Division of Universities (the Anatomical Board)

of the Department of Education of the availability of the body for purposes of medical science. Based upon factors including the condition of the body, the Anatomical Board may choose to accept or reject it. For those bodies rejected by the Anatomical Board, the Board of County Commissioners in the county where the person died is required to arrange for the body to be buried. Many counties and municipalities make no provision for "paupers fields" and budget insufficiently to cover the costs of burial. Consequently, these bodies are sometimes kept for significant amounts of time by the district Medical Examiner or in local funeral homes.

This act remedies this situation by amending Sections 245.06 and 245.07, F.S., to allow for cremation as an alternative to burial at public expense and to allow counties to arrange for cremation. Costs associated with cremation are significantly less than they are for burial. There is no cost associated with the act.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1027 (CHAPTER 91-212) requires the Department of Health and Rehabilitative Services (DHRS) to license and regulate tanning facilities to assure that these facilities are sanitary and that users are aware of potential health hazards associated with their use. This effort will be supported by fees charged to the tanning facilities.

The enactment also appropriates \$25,000 to DHRS for the purpose of typing the human leukocyte antigens of potential bone marrow donors in Florida and establishes a mechanism by which those entities performing these tests can request reimbursement.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1192 (CHAPTER 91-76) adds Subsection 404.22(6), F.S., to provide that only those radiation machines specifically designed for mammography are to be used for such and that all radiation machines used for mammography are to be used exclusively for this purpose. The law also requires the machines to meet accreditation criteria established by the American College of Radiology or similar standards established by the Department of Health and Rehabilitative Services.

The only private sector cost is for those entities currently performing mammography with machines not specifically designed for that purpose. They will have to purchase new machines or stop performing mammography. This law takes effect October 1, 1991.

### **Medicaid Advisory Council**

SENATE BILL 462 (CHAPTER 91-14) repeals the authorization for the Medicaid Advisory Council (Paragraph 20.19(5)(e), F.S.) which was created to satisfy the federal mandate for a

"state medical and health care advisory committee." [The Council has not been active since the statute authorizing its existence was revised and reenacted October 1, 1989. This and previous Sundown reviews found that, even when active, the Council did not fulfill the intended advisory purpose.] The act takes effect October 1, 1991.

### **Exemption to Public Records Law**

HOUSE BILL 573 (CHAPTER 91-71) allows authorized individuals to have access to nursing home residents' records (Section 400.145, F.S.); requires the Health Care Cost Containment Board to request in writing data from hospitals and nursing homes (Subsections 407.02(5) and 407.31(7), F.S.); requires that certain records be confidential and that other records be requested only under certain conditions during Medicaid fraud investigations (Sections 409.266 and 409.2664, F.S.); and allows the Florida Health Access Corporation to receive confidential information from the Department of Labor and Employment Security (Subsection 409.7015(1), F.S.).

This law reenacts exemptions for: records used to screen potential personnel in certain child-caring facilities (Subsections 409.175(11) and 409.176(12), F.S.); information used in child support enforcement and services (Sections 409.2561, 409.2577 and 409.2579, F.S.); restrictions on using names and addresses of persons receiving public assistance (Section 409.355, F.S.); information about clients of runaway youth programs and centers (Section 409.441, F.S.); certain information in the state's central abuse registry and tracking system (Sections 415.103, 415.107, 415.111, 415.504, 415.51, 415.513, F.S.); information received from a child during an interview at school about alleged abuse (Paragraph 415.504(1)(j), F.S.); and court records pertaining to appointing a guardian advocate (Subsection 415.5086(4), F.S.). The measure also reenacts and narrows exemptions for information about elderly persons and disabled adults who receive certain services from, or services funded by, the state (Sections 410.037 and 410.605, F.S.); extends the exemption to include displaced homemakers and other elderly persons and disabled adults (Sections 410.302 and 410.403, F.S.); and reenacts and narrows exemptions to the public records law for clients and locations of domestic violence centers (Section 415.608, F.S.). Finally, the law repeals an exemption for financial and actuarial information provided to the Department of Health and Rehabilitative Services for the purpose of negotiating a Medicaid premium (Subsection 409.266(3), F.S.).



## HEALTH CARE\*

A variety of bills affecting the health care system were considered during the 1991 Regular Session. These bills ranged in scope from legislation which would have scrapped our current system in favor of a Canadian-style universal health access program, to legislation which made minor or technical revisions to individual health programs.

Some of the bills considered by the Committee which passed both houses included a rewrite of the Medicaid program, strengthening the quality of care requirements of health maintenance organizations, funding for the Governor's healthy start program and a fitness-wellness pilot program for state employees. A short summary of the most significant of these measures follows.

**Health Care Facilities/Services**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 1000, 1234 AND 2158 (CHAPTER 91-282) represents an omnibus health care package. Following is a general description of the provisions of this act.

**Health Care Purchasing Cooperative**

Section 94 of the legislation creates the Florida Health Care Purchasing Cooperative, a nonprofit, private corporation established for the purpose of pooling the health care purchasing power of state and local governments. Members of the cooperative include all state governmental entities which purchase health care services, local governments at their option, services providers under contract with governmental agencies and others as determined by the cooperative.

The cooperative is authorized to collect data on costs and utilization of health care services from its members and use this data to identify efficient health care providers to other members of the cooperative. In addition, the cooperative is authorized to negotiate and enter into contract with health care providers or insurers on behalf of cooperative members, and to contract directly with health care providers for the provision of health care services.

Funds in the amount of \$500,000 for Fiscal Year 1991-1992 and \$500,000 for Fiscal Year 1992-1993 are appropriated from the State Employees Disability Trust Fund to the Health Care Cost Containment Board to administer the cooperative pursuant to Section 95 of the enactment.

**Health Care Work Group**

Section 108 of the act establishes the Health Care Work Group, a 21-member advisory body to the Governor and the Legislature on health policy. The work group is to be appointed by the Governor and the majority of members must be purchasers of group health insurance in Florida. For administrative purposes only, the work group is housed under the Department of Health and Rehabilitative Services (DHRS), which

is responsible for providing staffing and for funding the administrative expenses of the members, limited to travel and per diem.

Charged with systematically considering the range of health care issues facing Florida, the work group is responsible for developing strategies for a long-term health care plan for Florida which addresses health care costs, financing, access, and quality of care issues. On or before January 1, 1992, the work group is required to prepare and submit to the Legislature and the Governor a report containing its recommendation.

**Healthy Start**

Section 21 of the law combines a number of health care initiatives aimed at providing early health care intervention services to mothers and their infants. Specifically, the measure provides the following health care delivery enhancements.

Establishes prenatal and infant care coalitions. The coalitions would design and oversee a comprehensive family planning, prenatal and primary health care delivery system, including provisions for a statewide screening and assessment system. The enactment provides \$150,000 to each prenatal and infant care coalition that petitions for recognition and meets the criteria established in the act (Section 383.216, F.S., as created).

Provides enhanced prenatal and postpartum services at county public health units to high-risk pregnant women and infants (Subsection 383.011(1), F.S., as amended).

Increases Medicaid eligibility for pregnant women and infants from 150 to 185 percent of federal poverty level, and provides immediate binding Medicaid eligibility determination (Section 409.903, F.S., as created).

Provides increased Medicaid reimbursement to obstetricians; and expands pediatric primary care services to low-income children in private physician's offices and physician professional services in hospital settings.

Provides Level III Obstetric outpatient care to women diagnosed as being high risk through regional perinatal intensive care satellite centers (Subsection 383.013(7), F.S., as added).

Establishes developmental evaluation and intervention programs in hospitals with Level II Neonatal Intensive Care Units (Subsections 383.215(2) and (4), F.S., as revised).

Expands pediatric primary care services to low-income children in private physician's offices and physician professional services in hospital settings.

Provides for the Department to develop a plan for decategorizing maternal and child health budget resources to allow the districts to have more budget flexibility in allocating funds (Section 28 of the act).

Expands the Transportation Disadvantaged Commission to include a family care provider (Paragraph 427.012(1)(k), F.S., as added).

\*Prepared by House Health Care Committee

The sum of \$41.7 million is appropriated for "Healthy Start" from General Revenue Fund, the Public Medical Assistance Trust Fund, and other federal trust funds.

### **Health Facility Fee Increases and Certificate of Need Revisions**

This part of the act revises the fee structure for the licensing and inspection of health care facilities and for certificate-of-need applications. It is the purpose of these changes to increase these fees to a level high enough to make this regulatory program totally self sufficient. Facilities which will be affected by the fee increases include abortion clinics (Subsection 390.014(3), F.S.), hospitals (Subsection 395.004(2), F.S.), ambulatory surgical centers, nursing homes, home health agencies, hospices, clinical laboratories, and adult congregate living facilities. These facilities will also receive an increase in their health planning fees, funds which are used to support local and state health planning. In addition, application fees for a certificate-of-need will increase (Section 381.708, F.S., as amended).

This part also revises health-care related projects which are subject to review under certificate-of-need (CON). The enactment closes two exemptions from CON review, one for certain projects undertaken by a health maintenance organization, and one for projects funded by the Legislature. Refinancing costs are deregulated from CON review as a capital expenditure (Paragraph 381.706(1)(c), F.S., as amended).

### **Defibrillator**

The defibrillator section of this legislation amends Subsection 401.291(2), F.S., and authorizes an emergency medical services medical director to approve a person with a basic level of training to use an automatic or semiautomatic defibrillator. [A defibrillator is a device used for shocking a patient whose heart has stopped (ventricular fibrillation) in an effort to restore a normal heart beat.]

### **Health Planning**

The health planning section of this law establishes a definitive relationship between the state comprehensive planning process and the comprehensive health planning process. This act outlines the duties and responsibilities of the various planning entities and requires such entities to coordinate their respective planning activities in order to ensure compatibility among health plans developed by various levels of government within the state.

Specifically, Subsection 186.003(9), F.S., is amended to add the definition of "Statewide Health Council," and Subsections 186.503(7) and (9), F.S., are amended to add the definitions of "local health council" and "Statewide Health Council." By amending Subsections 108.022(2) and 186.508(1), F.S., the Executive Office of the Governor is directed to consider the Statewide Health Council's review of agency functional plans and comprehensive regional policy plans.

In addition, Subsection 186.507(10) and Section 186.511, F.S., are amended to direct each regional planning council to

enter into a memorandum of agreement with each local health council in its comprehensive planning district and to involve local health councils in its region in the review of the health element of its plan. Subsection 187.201(6), F.S., is amended to direct the Legislature to include specific health goals and policies in its State Comprehensive Plan.

Subsections 381.703(1), (2) and (4), F.S., are amended to direct local health councils to develop a schedule for appointment of members, and to revise the functions of the local health councils, the membership and functions of the Statewide Health Council, and the duties and responsibilities of the Department. This section specifies that the state health plan developed by the Statewide Health Council is to contain sub-goals, quantifiable objectives, strategies and resource requirements to implement the goals and policies of the health element of the State Comprehensive Plan. This section also requires district health plans developed by the local health councils to be consistent with the objectives and strategies in the state health plan. This section also requires the Statewide Health Council to review agency functional plans, comprehensive regional policy plans, local government plans, and local health council district health plans for consistency with the health element of the State Comprehensive Plan. This section further requires the Statewide Health Council and local health councils to conduct public forums to discuss the state's health care goals and policies and to develop suggested revisions to the health element of the State Comprehensive Plan.

### **Trauma**

This section of the act provides minor revisions to the trauma legislation that was passed in the 1990 Regular Session. It amends Section 395.0335, F.S., to create the designation of "state-approved" trauma centers as those hospitals which have successfully completed the state selection process for trauma centers, but which have not received funding from the state. [This change allows hospitals to retain their status as trauma centers when the Legislature does not appropriate funds for state-sponsored trauma centers.]

New language was added that authorizes the Department to grant up to 18 additional months to allow a hospital applicant that is unable to meet all of the requirements for a state-approved trauma center sufficient time to comply with them.

The sum of \$200,000 is appropriated from the Emergency Medical Services Trust Fund to fund reviews of provisional trauma centers by out-of-state trauma experts prior to state approval (Section 82 of the act).

### **Medicaid Statute Revision**

This section of the act is a comprehensive rewrite of the statute authorizing the Medicaid program in Florida. Many revisions, additions and deletions were made to the existing statute over the years. As a result, the law governing a major state program which consumes almost 12 percent of the state budget was fragmented and incomplete. Among its primary components, the legislation provides for recipient eligibility,

mandatory and optional services, provider reimbursement, provider agreements and expands provisions related to surveillance, utilization review, fraud and abuse.

To increase the availability of health care coverage to indigent persons, Medicaid eligibility was extended to those pregnant women and infants whose family incomes are at or below 185 percent of poverty, an increase from the current ceiling of 150 percent of poverty (Subsection 409.903(5), F.S., as created). To improve access to obstetrical care, Medicaid reimbursement to obstetricians was increased from \$1,000 to \$1,500 for a low-risk delivery and from \$1,600 to \$2,000 for a high-risk delivery (Paragraph 409.908(12)(b), F.S., as created). [The total projected costs for the two expansions are \$30.5 million in 1991-1992.]

The measure includes four Medicaid disproportionate share programs for hospitals that provide a disproportionate share of services to indigent patients. The main disproportionate share program incorporates an exponential formula which distributes substantially more money to those hospitals that provide the most services to Medicaid and charity care patients (Section 409.911, F.S., as created). [An appropriation of \$26.5 million appears in the General Appropriations Act; however, contributions by local governments may increase this amount to \$168 million in 1991-1992.]

There is a disproportionate share program for regional perinatal intensive care centers (Section 409.912, F.S., as created) which will distribute \$6.7 million to the 10 hospitals based on the proportion of Medicaid and charity care they provide. In order to maximize federal funding, the distribution of funds to teaching hospitals from the Medical Education and Tertiary Care Trust Fund was converted to a disproportionate share fund program (Section 409.913, F.S., as created). The 6 teaching hospitals will receive \$16.6 million in 1991-1992. Funds will be distributed using the same formula as was previously used to distribute moneys from the Medical Education and Tertiary Care Trust Fund. The legislation also includes an extraordinary disproportionate share program (Section 409.914, F.S., as created). To qualify for this program a hospital must be either a teaching hospital or be owned by a hospital district authority and have a ratio of net charity care expenditures to net operating revenues that exceeds 9 percent. The amount that is distributed under this program is dependent upon the amount the qualifying hospitals contribute to this program.

The limit on the number of covered hospital days under the Medicaid is increased from 45 to 365 days for adults contingent upon the availability of sufficient funds from county contributions (Subsection 409.905(5), F.S., as created). [The limit for children was removed last year in accordance with the Federal Omnibus Budget Reconciliation Act of 1989. Removal of the 45-day cap for adults is expected to distribute an additional \$52.3 million to hospitals in 1991-1992. Total projected Medicaid reimbursement to hospitals in 1991-1992 is expected to be \$1,667,614,787, or an increase of 40 percent over 1990-1991. Approximately 25 percent of that increase is due to price and case load increases.]

### Sunset Review of Health Maintenance Organizations

This part of the act reenacts Chapter 641, Part IV, F.S., related to the quality of health services provided by health maintenance organizations (HMOs). It expands current law to require all HMOs to become accredited by an accreditation organization with recognized experience in health maintenance organization review activities (Section 641.512, F.S., as created). If no accreditation organizations can be approved by the DHRS, HMOs are required to have external quality assurance reviews. Health maintenance organizations will be required to pay for accreditation.

The legislation also directs the Department to conduct follow-up examinations in those instances when the accreditation reports or external quality assurance reviews indicate the health maintenance organization does not meet the standards required of accreditation or of the review organization conducting the external quality assurance review (Section 641.515, F.S., as revised). Sanctions are provided in cases of continued noncompliance (Section 641.52, F.S., as amended).

The sum of \$600,000 is appropriated to the Department of Health and Rehabilitative Services for nine career service positions to conduct quality assurance investigations and reviews of health maintenance organizations (Section 92 of the act). In addition, the Health Care Cost Containment Board is directed to conduct a study of exclusivity and liquidated damages provisions in health maintenance organization contracts with health care providers. The Board shall receive \$60,000 from the Health Maintenance Organization Quality Care Trust Fund to conduct the study which is due to the Governor and the Legislature by December 15, 1991 (Section 90 of the act).

### Small Group Health Insurance Rating Reforms

This part of the enactment (Section 627.4106, F.S., as created) is based on the model act adopted by the National Association of Insurance Commissioners in 1990. It is intended to promote the availability of health insurance coverage to small employers (employers with under 25 eligible employees) by promoting participation by more insurers into the marketplace. The intent is to prevent abusive rating practices and improve efficiency and fairness of the small group health insurance marketplace. It is anticipated that by curbing rating abuses currently in practice, more insurers will regard small group health insurance as an attractive marketplace. One negative result of this law could also be a limitation on the market if insurers who currently are writing this type of insurance choose to discontinue the sale of this product due to the specified limitations on rate increases.

One rating approach in the small group marketplace is to price new business at very low levels, and then increase renewal rates dramatically as the impact of the initial underwriting and preexisting condition exclusions wear off. The act restricts this practice by requiring policies to be guaranteed renewable and by limiting the extent to which renewal rate increases can exceed new business rate increases. Rates on average are allowed to vary up to 20 percent between classes of business. For employers with similar case characteristics

(unrelated to health status) within a class, rates may vary up to (plus or minus) 25 percent of the average rate.

### Health Care Surtax

COMMITTEE SUBSTITUTE FOR SENATE BILL 156 (CHAPTER 91-81) authorizes pursuant to Section 212.055, F.S., certain counties to levy, upon a referendum or an extraordinary vote of the governing body of the county commission, a new sales surtax to provide health services to qualified indigent and charity care residents or to fund solely the county public general hospital of a county defined under Subsection 125.011(1), F.S.

The eligible county must have a minimum population of 800,000 and its governing body cannot be consolidated with that of one or more municipalities. In addition, the eligible county must continue to spend the same amount of county funds for medically poor or related health services as spent in the previous fiscal year before the electorate approval or adoption of the levy. In the situation of the county defined under Subsection 125.011(1), F.S., the county must continue to dedicate at least 80 percent of the county budget already appropriated for the county public general hospital in the previous fiscal year prior to electorate approval or adoption.

The rate of the discretionary health care sales surtax is not to exceed one-half percent while the rate is set at exactly one-half percent for the applicable county with the county public general hospital. The measure limits the combined rates of the local option sales taxes to 1 percent for those counties levying this new health care surtax and the local infrastructure government surtax under Subsection 212.055(2), F.S. This health care surtax act is to be repealed on October 1, 1998.

### Patient's Bill of Rights and Responsibilities

SENATE BILL 292 (CHAPTER 91-127) creates the Florida Patient's Bill of Rights and Responsibilities for patients of medical and osteopathic physicians and podiatrists who are treated in a health care provider's office and in a facility licensed under Chapter 395, F.S., which includes both hospitals and ambulatory surgical centers.

The act expands upon rights currently existing under the Florida law. For example, current Florida law defines explicitly the rights of nursing home residents under Section 400.022, F.S., and mental health patients under Section 394.459, F.S. However, there is no other substantive statutory listing of other patients' rights aside from the right to medical records (Sections 395.017 and 455.241, F.S.) to the presentation of an itemized bill (Sections 395.015, 458.323, and 459.012, F.S.) and to the admission and treatment for an emergency condition (Section 395.0143, F.S.). The law offers a comprehensive and centralized listing of the basic rights to be enjoyed by patients receiving health care.

The measure categorizes patients' rights into six areas:

1. Right to individual dignity.
2. Right to receive certain information.
3. Right to financial information and disclosure.

4. Right to impartial access to health care.
5. Right to know if treatment is experimental.
6. Right to be notified about their rights and responsibilities under the Patient's Bill of Rights.

In addition to a listing of patients' rights, the summary section of the law enumerates the corresponding responsibilities of a patient including:

1. Appropriate and reasonable conduct.
2. Communication of his or her past, present and evolving health condition or status.
3. Adherence to medical advice and regimen.
4. Prompt fulfillment of financial obligations to the health care provider or health care facility.

The act also directs the Department of Health and Rehabilitative Services to make copies available of the Patient's Bill of Rights and Responsibilities to all health care providers and health care facilities. The law takes effect October 1, 1991.

### Fitness/Wellness

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1057 (CHAPTER 91-213) establishes a 2-year fitness-wellness pilot project for state employees located in Tallahassee. The project is intended to decrease employee absenteeism, reduce lifestyle induced chronic diseases, reduce health insurance premiums, and boost employee morale. By September 1, 1991, each state agency must appoint a fitness-wellness coordinator, who will be charged with various functions. By December 1, 1991, with the help of the Department of Administration and the American Federation of State, County and Municipal Employees, each state agency is required to have in place a fitness-wellness program.

The Department of Administration must publish an interim and final report after the first and second years of operation respectively describing the outcomes of the fitness-wellness project. Among other things, the final report must provide a proposal for establishing a statewide employee fitness-wellness program, if the results of the pilot project are favorable.

### Air Ambulance Service

COMMITTEE SUBSTITUTE FOR HOUSE BILL 737 (CHAPTER 91-169) adds Paragraph 401.48(4)(c), F.S., to require ambulance service to provide individuals using the service with the cost and description of the services to be rendered, prior to the rendering of such services. [This prior information should alleviate any monetary or service discrepancies which may evolve from the time the service is requested to the actual delivery of service.]

The provisions of this law shall be carried out only in situations where, in the opinion of the physician, the patient's medical condition is not immediately life threatening. [Such information will allow the consumer to be better informed, while in no way threatening the safety of the patient. There is no anticipated fiscal impact associated with this legislation.]

### Childbirth/Cesarean Section

COMMITTEE SUBSTITUTE FOR SENATE BILL 284 (CHAPTER 91-126) attempts to reduce the incidence of cesarean deliveries performed on Medicaid women by requiring the Department of Health and Rehabilitative Services (DHRS) in conjunction with the Board of Medicine and the Florida Obstetric and Gynecologic Society to establish practice parameters to be used by obstetricians in provider hospitals in delivering babies when the delivery will be paid by Medicaid. This legislation will affect only those hospitals that deliver more than 30 Medicaid babies annually.

Each provider hospital will be required to hold monthly peer review meetings to discuss each instance where a cesarean section was performed on a Medicaid woman in the prior month. These review meetings are to be conducted according to parameters set forth by DHRS and must be considered a part of the hospital's quality assurance monitoring and peer review process.

Each provider hospital is required to inform the Health Care Cost Containment Board on the date of implementation of the practice parameters, so that the Board can monitor the change in cesarean section rates. In addition, the Health Care Cost Containment Board must submit an annual report to the Governor and Legislature as to the Board's findings and assessment.

[By reducing the number of babies born by cesarean section, this measure could save the state approximately \$9.1 million annually.] The act is effective October 1, 1991.

### Health Care/Manpower

SENATE BILL 1088 (CHAPTER 91-145) basically contains two elements: (1) recertification requirements for certain health care workers; and (2) temporary certificates issued for certain physicians.

Specifically, Section 401.271, F.S., is created to direct the Department of Health and Rehabilitative Services to allow an emergency medical technician or paramedic, who, as a member of the Armed Forces is called to active duty, a 6-month grace period upon his or her discharge to meet recertification requirements.

Subsection 404.056(5), F.S., relating to environmental health inspectors is amended and Subsections 468.309(5) and (6), F.S., relating to radiologic technicians are added to allow a certificateholder, who as a member of the Armed Forces is called to active duty, a 6-month grace period upon discharge to meet recertification requirements. This courtesy is also extended to certificateholders when they are absent from the state because of the active duty of their spouses.

Subsection 482.111(11), F.S., is added to forgive the certificate renewal fee and continuing education requirements for a certified pest control operator while the operator is on active duty with the Armed Forces and to permit the issuance of an emergency certificate for certified operator in charge pending the return of the certified operator from active duty.

Subsection 482.151(8), F.S., is amended to waive the renewal fee and continuing education requirement of a pest

control special identification cardholder, during the time as such cardholder as member of the Armed Forces is called to active duty. There is no anticipated fiscal impact regarding this section of the act.

The health manpower section of this enactment deletes the population requirement in Section 458.315, F.S., for the Board of Medicine to issue temporary certificates for certain physicians to practice in areas of critical need. This measure also authorizes the Board to issue temporary certificates to physicians employed by county public health units, correctional facilities, federally funded community health centers or other entities approved by the State Health Officer. There is no anticipated fiscal impact regarding this section of the act.

### Health Care Responsibility

COMMITTEE SUBSTITUTE FOR SENATE BILL 1148 (CHAPTER 91-173) revises the Florida Health Care Responsibility Act (Sections 154.301-154.316, F.S.) in two ways. First, it revises Subsection 154.306(1), F.S., to increase from 80 percent of a hospital's Medicaid per diem rate to 100 percent, the amount of payment a county is required to pay participating out-of-county hospitals when those out-of-county hospitals provide treatment to any indigent resident of the county. However, those counties currently at their 10-mill cap on October 1, 1991 will be exempt from this new rate.

[Under the Health Care Responsibility Act teaching hospitals and other hospitals can participate and thus become eligible for reimbursement if they provide a disproportionate share of charity care. To be eligible for reimbursement, a teaching hospital must provide 2 percent uncompensated charity care days relative to its total acute care inpatient days. Other hospitals must provide 2 percent uncompensated charity care days and must additionally prove that at least 2.5 percent of those days are provided to out-of-county residents.]

Second, this legislation establishes a spend-down program to increase the pool of residents who can become qualified as indigent by adding Subsection 154.308(6), F.S. Any person whose income is between the 100 and 150 percent of the federal poverty level and whose health care costs are so high as to effectively reduce his income to the 100 percent poverty level, may participate in the spend-down program. If such person is treated at an eligible out-of-county hospital, the county is required to reimburse the hospital the Medicaid per diem rate for that patient after the person spends his money down to 100 percent of the federal poverty level. This part does not apply to persons who are residents of counties that are at their 10-mill cap on October 1, 1991, which is also the effective date of this act.

The fiscal impact of this act is calculated to be \$722,972 in Fiscal Year 1990-1991.

### Healthy Kids Corporation Act

SENATE BILL 1906 (CHAPTER 91-188) amends the Florida Healthy Kids Corporation Act (Section 624.91, F.S.). [Access to health care services in Florida is limited for a significant segment of the population. It is estimated that as many as 2.3 mil-

lion Floridians have no health insurance or have inadequate health insurance. Children are over-represented in the uninsured population.]

[In an effort to address the problem of limited access to health care for children, the Legislature enacted Chapter 90-199, Laws of Florida, which established the "Florida Healthy Kids Corporation." The purpose of this Corporation is to make health insurance available to students in schools through a series of pilot projects. Included in the original legislation was a board of directors for the corporation and a limitation to four on the number of pilot projects. Also included in the original legislation was an appropriation of \$83,500 to the corporation to cover administrative costs.

[The Corporation selected four school districts for the first four Healthy Kids pilot sites. These are Volusia, Hillsborough, Leon and Highlands. In addition, six other districts submitted proposals but were not selected. These districts are Alachua, Collier, Dade, Duval, Lee and Pinellas.

[Federal funds in the amount of \$7 million over 4 years have been obtained by the Corporation in order to begin the program. These funds will be used to subsidize the premiums of low-income students. The program will be available to any student, the student's sibling, or the student's dependent, as long as the student has not been insured for 6 months prior to enrolling. There will be no preexisting condition limitation on the policy.

[None of the pilot projects has yet been implemented. The Volusia project is scheduled to begin enrolling participants in the fall of 1991. Currently, insufficient funding is available to expand the project to any of the other pilots. The insurance program may be made available to the other three districts but without any subsidy of the premiums for low-income students.]

This part of the law expands the number of pilot projects to 10 and revises Paragraph 624.91(4)(a), F.S., to provide staggered terms for the board members of the Corporation.

## INSURANCE\*

## Sunset of Insurance Code

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2309 (CHAPTER 91-108) revises and reenacts the provisions of the Florida Insurance Code (Chapters 624-632, 634-635, 637-639, 641-642, 648 and 651, F.S.) scheduled for Sunset repeal on October 1, 1991. These provisions address a wide array of insurance issues, primarily dealing with the licensure and regulation of insurance companies, health maintenance organizations and group self-insurance funds. The act intends to enhance insurer solvency requirements through additional investment limitations and expansion of annual certified public accountant (C.P.A.) audits and actuarial certifications.

The law provides an overall limit on mortgage loans held by an insurer equal to 40 percent of assets for life and health insurers and 10 percent of assets for property and casualty insurers (Subsection 625.305(3), F.S.). Current law limits an insurer's investment in a single mortgage loan, which may not exceed the lesser of 5 percent of assets or 10 percent of surplus. Insurers exceeding the new limit on October 1, 1991, would be required to submit to the Department of Insurance by January 31, 1992, a plan to bring the mortgage investments into compliance by January 1, 2001. The legislation allows mortgage investments in excess of the limit with the Department's consent.

The measure imposes additional limitations on insurer investments in bonds or obligations not rated as investment grade, usually referred to as junk bonds (Subsection 625.305(4), F.S.). Under the provisions of the act, investments in medium to lower quality bonds as rated by the Securities Valuation Office of the National Association of Insurance Commissioners are limited to 13 percent of an insurer's admitted assets. The law provides that insurers must comply with the new junk bond limitations by January 1, 1996 (Subsection 625.305(7), F.S.).

[Investment limitations and audit requirements are designed to minimize insurer insolvencies without significantly affecting availability of coverage. The fiscal impact on insurers varies greatly, generally dependent on the extent of the current investment portfolio. There are no significant new responsibilities on the Department that require additional funding.]

The act provides authority for the contracting out of market conduct exams. Currently, Department of Insurance personnel complete the market conduct exam. The legislation provides that an independent private market examiner selected by mutual agreement of the Department and the insurer may perform the market conduct exam (Subsection 624.3161(3), F.S.).

The enactment amends Paragraph 626.2815(3)(a), F.S., to reduce the amount of hours of continuing education that insurance agents must complete from 16 to 14 every year or 28

hours every 2 years. In addition, the continuing education requirements are delayed until 1993.

The law creates Section 628.6017, F.S., to provide a method for an assessable mutual insurer to convert to a stock insurer.

The legislation adds Paragraph 631.713(3)(1), F.S., to provide that unless annuities or group annuity contracts are issued to an individual the Life and Health Insurance Guarantee Fund is not liable for payments in the event the insurer issuing the annuity becomes insolvent.

The measure provides for the licensing and appointment of several service plan sellers that were previously required to be registered with the Department of Insurance (Sections 637.141, 637.301, 637.415, 638.181, 639.185 and 642.036, F.S.).

The legislation adds Subsection 631.818(2), F.S., to provide that the Health Maintenance Organization Consumer Assistance Plan may appoint one or more HMOs in the same geographical area to provide health care services in the event an HMO becomes insolvent.

The act further expands the current definition of comprehensive health care services to include "technical and professional clinical pathology laboratory services" through revision of Subsection 641.89(2), F.S., in an attempt to include those services for reimbursement by HMOs. The law also defines the term "copayment" by adding Subsection 641.89(18), F.S., and requires that copayments not be established in an amount that will prevent a person from receiving a covered service or benefit provided by the HMO contract.

The measure creates Section 641.215, F.S., to provide that the effect of bankruptcy proceedings by or against an HMO will have the effect of terminating the HMO's certificate of authority.

Health maintenance organizations are required to file annual reports on computer diskette pursuant to revised Subsection 641.26(1), F.S., and on forms acceptable to the Department. Current law only requires filing on forms prescribed by the Department.

This legislation establishes standards for the marketing of HMO contracts to persons eligible for Medicare by creating Section 641.309, F.S., in response to abuses in the industry of such sales to Medicare-eligible individuals.

The act revises Subsection 641.31(5), F.S., to provide that an HMO shall furnish each contract holder of a group contract and each subscriber of an individual contract with an explanation of their rights and responsibilities under the grievance process.

In addition, the law adds Subsection 641.31(22), F.S., to provide that each HMO must have an open enrollment period of not less than 30 days every 18 months. The legislation also provides that HMOs that allow for inpatient and outpatient services by allopathic hospitals must also provide, as an op-

\*Prepared by Senate Commerce Committee



tion, the services of osteopathic hospitals pursuant to new Subsection 641.39(24), F.S.

The act provides for future repeal of these provisions on October 1, 2001. The provisions of the law, unless otherwise provided in the law itself, are to take effect October 1, 1991.

### **Continuing Care Retirement Communities**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1191 (CHAPTER 91-98) creates Section 651.018, F.S., to authorize the Department of Insurance to place a continuing care retirement facility in administrative supervision. Section 651.019, F.S., is created to require providers of continuing care to notify the Department of any new financing, additional financing or refinancing. Under added Paragraph 651.023(4)(f), F.S., additional conditions must be satisfied before the release of escrowed funds and proof given that entrance fees will be applied as represented to the Department. The act also creates Section 651.0261, F.S., to authorize the Department to require a provider to submit quarterly unaudited financial statements if the Department determines that the statements are needed to properly monitor the condition of the provider or facility or are otherwise needed to protect the public interest.

Under new Section 651.028, F.S., providers accredited by a process found by the Department to be acceptable and substantially equivalent to the provisions of this chapter may receive a waiver from compliance with the requirements of this chapter.

The measure adds Section 651.083, F.S., to provide residents of continuing care retirement communities (CCRC) with a resident's bill of rights including: the right to a safe and decent living environment, freedom from abuse or neglect, personal dignity and privacy, unrestricted private communication, participation in community activities, exercise of civil and religious liberties, presentation of grievances without interference or coercion and privacy as provided in Article I, Section 23 of the State Constitution. The bill of rights also allows the Department to take disciplinary action against providers who violate any of these rights, and except in cases of bad faith or frivolous complaints, immunizes persons who submit complaints about violations of residents' rights or services or conditions in a facility from civil or criminal liability for such complaints.

Pursuant to added (Subsection 651.114(8), F.S.) if the financial condition of continuing care facility is such that if not modified or corrected, its continued operation would result in insolvency, the Department may order the facility to formulate and file with the Department a corrective action plan. The Department may specify a corrective action plan should the provider either fail to submit a plan within 30 days or submit an insufficient plan.

The act creates Section 651.1151, F.S., to authorize the Department to review a contract of a provider for administrative, vendor or managerial services if it suspects a conflict of interest resulting in unreasonable high charges. An additional member representing a resident or consumer is added to the

Continuing Care Advisory Council by revision of Paragraph 651.121(1)(e), F.S.

The legislation creates Section 651.119, F.S., to provide that if a CCRC closes because of liquidation or pending liquidation, the Department becomes a creditor of the CCRC for the purpose of providing for moving expenses of displaced residents and such other care or service as may be possible by the unencumbered assets of the CCRC. If another CCRC provides, with the approval of the Department, assistance to the residents of the closed CCRC, the cost of the assistance is to be offset against reserve requirements. The Department is required to provide proportional reimbursements from the unencumbered assets of the closed facility to facilities that provide direct assistance. If the moneys and direct assistance made available are not sufficient to cover moving costs, the Department may seek voluntary contributions from the reserves maintained by providers.

If the combination of Department action and voluntary assistance from providers does not cover the moving expenses of displaced residents, the Department is authorized to levy assessments on the reserves of all providers. The aggregate of assessment in any 12-month period is limited to 1 percent of the unencumbered portion of a provider's reserves.

The Department is required to permanently reduce the reserve requirements of a provider in the amount of the contributions or assessments paid by the provider, except for amounts reimbursed to the provider.

If the release of funds from a reserve would impair a bond or a lending commitment, those reserves are unavailable for assistance, contributions or assessments.

The Department is required to administer the program and maintain funds for it in a separate account. The Continuing Care Advisory Council is directed to monitor the use of the funds and to advise the Department on plans for resident relocation. The Advisory Council is authorized to seek the assistance of continuing care providers and other providers in making arrangements for displaced residents.

The provisions relating to residents' assistance are repealed July 1, 1992. The remaining portions of the act are set for Sunset Review as contained in Section 11.61, F.S., prior to repeal on October 1, 1993.

### **Florida Comprehensive Health Association**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2557 (CHAPTER 91-304) amends Subsection 627.6484(1), F.S., to terminate further enrollment into the comprehensive health insurance plan on July 1, 1991.

The Florida Comprehensive Health Association (FCHA) must employ one or more case managers who will coordinate with the administrator to develop individualized case management for all high-risk individuals under Paragraph 627.6488(4)(l), F.S. For low- and medium-risk individuals, case management would be optional, and only if determined to be appropriate by the board and the case manager according to revised Paragraph 627.6488(4)(h), F.S. Individuals under case management would receive payment for 90 percent



of costs up to \$10,000, after which the plan would pay 100 percent (Subparagraph 627.6498(4)(b)1., F.S.). Individuals using the preferred provider network would receive 80 percent of costs up to \$10,000, after which the plan would pay 90 percent (Subparagraph 627.6498(4)(b)2., F.S.). Persons using nonpreferred providers would be paid 60 percent of costs up to \$10,000, after which the plan pays 70 percent (Subparagraph 627.6498(4)(b)3., F.S.).

All policies would be issued for 6-month terms, beginning January 1 and July 1, and premiums are to be adjusted relative to the standard risk rate every 6 months (Paragraph 627.6498(1)(a), F.S.). However, premiums would remain subject to the current caps: up to 200 percent, 225 percent, and 250 percent for low-, medium-, and high-risk individuals, respectively. The higher caps scheduled for 1992 would be eliminated (Subparagraph 627.6498(4)(a)4., F.S.).

The assessment formula would be changed from the current formula to a market share approach, effective July 1, 1991. The act amendment continues the current assessment system for the first 6 months of 1991, with assessment up to one-half of the current caps. For the first 6 months of 1991, it assesses insurers up to 0.375 percent of health insurance premiums earned in 1990 in the amount necessary to cover the 1991 deficit. This would be a postassessment in 1992, with authority for the Board to make interim assessments if necessary to pay claims. For deficits in the plan in 1992 and thereafter, the maximum assessment would be 1 percent of premiums (Section 627.6492, F.S., as revised).

The measure adds to the assessment base the premiums for short-term accident only policies, fixed indemnity policies, and limited benefit policies. Also, multiple employer welfare arrangements would be subject to the same exemption that applies to health insurers generally regarding the insurers ability to pay an assessment; however, multiple employer welfare arrangements no longer will receive an exemption from assessments based upon having a fund balance equal to or greater than one-tenth of premiums received during a fiscal year (Section 627.6494, F.S.).

The law clarifies that the applicants for the FCHA are ineligible for coverage if an insurer is found through the Market Assistance Plan willing to write a policy for that individual or the person is eligible for Medicaid, unless he has a condition that requires supplies or medication not covered by Medicaid in any form or manner (Subparagraph 627.6486(2)(b)1., F.S.). The FCHA is required to establish a policyholder assistance program by July 1, 1991 to assist in placing eligible policyholders in other coverage programs, including Medicare and Medicaid under Subsection 627.6484(5), F.S.

The FCHA is required to submit quarterly financial reports (Paragraph 627.6488(4)(j), F.S.) and the Department is authorized to require any insurer or third-party administrator to report any information reasonably required to assist the board in assessing insurers as required by this act (Section 627.6499, F.S.).

A severability clause in Section 10 of the act provides that if the bracket system of assessable insurers is determined by a court to be unlawful, then the 0.375 percent assessment for

the last 6 months of 1991 would be applied to the first 6 months of 1991, and the funding formula in effect on January 1, 1990 (up to 1 percent, with exceptions) would apply to losses incurred from October 1, 1990 through December 31, 1990. However, if a court determines that the application of the assessment to any particular type of insurer is unlawful, then the assessments provided in the legislation shall apply to all other insurers.

### Health and Miscellaneous Insurance

SENATE BILL 602 (CHAPTER 91-38) creates Section 250.341, F.S., to address group health insurance issues affecting members of the Florida National Guard, or members of any branch of the United States military reserves, residing in Florida and called to active military duty. Activated soldiers may elect to continue group health insurance coverage for themselves or their dependents by continuing to pay their insurance premium, and therefore will not be subject to cancellation. The act provides that covered benefits may not be cancelled and must be continued at the same premium charged all insureds under the same contract. The premium is allowed to change where the insured requests a change in coverage which alters the premium.

The act further requires a reinstatement of health insurance coverage, without a preexisting condition waiting period, provided the soldier requests reinstatement within 30 days after returning to work with the same employer or within 60 days if the policy is an individual policy. The law provides that the federal military dependent's insurance, Civilian Health and Medical Programs for the Uniformed Services (CHAMPUS), will be considered in the payment of any benefits. Any employee wishing to take advantage of the provisions relating to continuation or reinstatement of coverages must notify his employer of the intent to utilize the provisions of this act prior to leaving his employer to report for active military duty.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1430 (CHAPTER 91-296) Subparagraph 626.7451(7)(b)3., F.S., of the managing general agent law to require notice of claims that exceed the managing general agent's claims settlement authority. The legislation specifies that calculation of interim profits by the managing general agent must include incurred but not reported (IBNR) losses (Subsection 626.745(9) and 626.7454(2), F.S.).

The act deletes the requirement for semiannual on-site review of underwriting and claims processing of managing general agents, and requires annual reviews except for 6-month reviews of newly engaged managing general agents under revised Subsection 626.7454(3), F.S.

The measure also deletes a prohibition of insurers appointing managing general agents to the board of directors (Subsection 626.7454(7), F.S.).

Subsection 627.452(4), F.S., is added to apply disclosure requirements to fixed annuities and reduces the time in which an insured may decline coverage at no cost (Subsection 626.99(4), F.S.), requires life insurers offering fixed annuities to provide prospective purchasers a buyer's guide and policy

summary prior to accepting premiums or deposits unless the policy contains a 10-day "free look" provision or a provision that offers an unconditional refund.

The act clarifies the current law in Subsection 627.613(2), F.S., relating to timely payment of claims by requiring payment of health insurance claims within 45 calendar days.

Insurers are required to investigate claims of improper billing by a physician, hospital or other health care provider under added Subsection 626.613(7), F.S. If the insurer determines that the insured has been improperly billed, the insurer is required to notify the insured and reduce the payment to the provider by the amount improperly billed. If a reduction is made due to notification by the insured, the insurer shall pay to the insured 20 percent of the amount of the reduction up to \$500.

The enactment creates Section 627.4134, F.S., to provide that any insurer issuing health insurance in Florida that includes a preferred provider network must provide each policyholder and certificateholder with a current roster of health care providers under contract with the insurer. Policies may limit payments regardless of the providers chosen by the insureds, and offer the benefit of reduced rates to insureds who select preferred providers. Deductibles are limited, as well as coinsurances under this legislation as they relate to preferred provider networks.

The measure amends Section 626.2815, F.S., to reduce the amount of hours of continuing education that insurance agents must complete from 16 to 14 annually, and 32 to 28 every 2 years. Licensees who have been licensed for 25 years or more and are Chartered Life Underwriters (CLU's) or Chartered Property and Casualty Underwriters (CPCU's), or are customer representative solicitors, motor vehicle insurance agents, crop insurance agents, or fire or burglary insurance agents, need only complete 7 hours of continuing education annually or 14 hours every 2 years.

This act revises Paragraph 627.674(2)(a), F.S., to also update the current law to require insurers issuing Medicare supplement policies to comply with the most recent federal standard set forth in the Omnibus Budget Reconciliation Act of 1990.

The measure adds Subsection 627.6741(1), F.S., to provide that insurers who issue Medicare supplement policies to offer any person who is 65 years old or older and who is a Florida resident, the opportunity of enrolling in a Medicare supplement policy without discriminating in the price of the policy based on medical or health status or receipt of health care by the individual. Refunds of unearned premiums are required upon cancellation of the policy (Subsection 627.6741(4), F.S.).

The enactment substantially rewords Section 627.6744, F.S., to provide that the insurer is prohibited from issuing or selling a Medicare supplement policy to an individual who is entitled to Medicaid or to an individual who has another Medicare supplement policy.

The act amends Section 627.6745, F.S., to require that loss ratios are to be calculated in accordance with a uniform methodology, including uniform reporting standards specified by the National Association of Insurance Commissioners under

the Omnibus Budget Reconciliation Act of 1990. The law takes effect October 1, 1991.

The same amended section requires the Department to adopt a policy regarding the holding of public hearings prior to approval of any premium increases for Medicare supplement policies.

SENATE BILL 1686 (CHAPTER 91-185) amends Sections 627.6415, 627.6578 and 641.31, F.S., to provide that individual and group health insurance policies, as well as health maintenance organization contracts, which provide coverage to an adopted child of an insured must not exclude coverage for preexisting conditions of the adopted child. The act takes effect October 1, 1991.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 777 (CHAPTER 91-73) adds Subsection 627.410(8), F.S., to provide that the benefits of an individual accident and health insurance policy are deemed to be reasonable in relation to premiums charged if the rates, other than initially filed rates, are filed under a loss ratio guarantee that meets certain requirements. Under a guaranteed loss ratio plan, an insurer guarantees that it will pay out in claims a specified percentage of earned premiums. If the actual percentage of earned premiums paid out as claims falls below the guarantee, the insurer is required to provide refunds to policyholders sufficient to bring the loss ratio up to the guarantee.

The measure also requires that the loss ratio projected by the insurer must be supported by an actuarial memorandum and must be approved by the Department. The insurer must guarantee that the actual loss ratios for the year in which the new rates will take effect and each year thereafter will meet or exceed the ratio projected under the actuarial memorandum.

The loss ratio guarantee must include provisions for an annual independent audit in accordance with accepted accounting and actuarial principles at the insurer's expenses.

The loss ratio guarantee must also include a provision for proportional refunds, with interest, to affected Florida policyholders when necessary to bring the loss ratio up to the projected amount. In order to allow the Department time to review the audit report, refunds may not be made until 60 days after the audit report is filed. The act takes effect October 1, 1991.

## Motor Vehicle Insurance

COMMITTEE SUBSTITUTE FOR SENATE BILL 310 (CHAPTER 91-128) adds Subsection 627.33(5), F.S., to provide military personnel on or called to active duty outside of the United States in an emergency situation an exemption from motor vehicle insurance requirements. The act specifies that the exemption only applies while the serviceman is on active duty and the vehicle is not driven.

The law requires the insurer to return unearned premium. The measure also prohibits the Department of Highway Safety and Motor Vehicles from suspending the registration or operator's license of a person that qualifies for the military exemption.

**State Fire Marshal Revisions**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1996 (CHAPTER 91-189) revises rules and requirements related to basic fire prevention and control criteria. Section 633.382, F.S., currently provides a salary incentive program for firefighters to obtain a college degree. Supplemental compensation is paid to a firefighter who:

- 1) is certified as per Section 633.35, F.S., which requires successful completion of a firefighter training program of less than 280 hours;
- 2) is employed solely within the fire department of the employing agency as full-time firefighter whose primary responsibility is the extinguishment of fires; and,
- 3) has earned a bachelor's degree or an associate degree in a readily identifiable and applicable fire-related de-

gree. The supplemental compensation is paid in the amounts of \$110 (bachelor's degree) and \$50 (associate degree) per month. Under current law a firefighter, receiving supplemental compensation, promoted to a position that requires a degree as a condition of employment would lose his supplemental compensation.

This measure expands the eligibility for supplemental compensation for firefighters who meet certain basic criteria and obtain either an associate or bachelor's degree.

The law amends Section 633.025, F.S., to authorize municipalities, counties, and special districts with firesafety responsibilities to adopt subsequent editions of the National Fire Protection Association Pamphlet 1, the Standard Fire Code, and the National Fire Protection Association (NFPA) 101, Life Safety Code. This act is effective October 1, 1991.

## LAW ENFORCEMENT AND CRIMINAL JUSTICE\*

**Federal Law Enforcement Officers**

SENATE BILL 1640 (CHAPTER 91-43) authorizes a federal law enforcement officer to make a warrantless arrest of any person who commits a violent felony or violent misdemeanor under Florida law, provided the offense was committed in his presence, and while the officer is engaged in the exercise of his federal law enforcement duties.

The federal officer is authorized to use any force, including deadly force, which he reasonably believes is necessary to defend himself or another from bodily harm while actually making an arrest, or while arresting a felon fleeing from justice when the officer reasonably believes that the felon poses a threat of death or serious physical harm to the officer or others, or that the felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another.

The officer is authorized to conduct a warrantless search incident to lawful arrest or any other constitutionally permissible search. A federal law enforcement officer is authorized to possess firearms and to seize weapons to protect himself from attack, to prevent the escape of an arrested person, and to assure the subsequent lawful custody of the fruits of a crime or the articles used in the commission of a crime, as provided in Section 901.21, F.S.

**State Attorneys and Public Defenders**

Under Parts I and II of Chapter 27, F.S., counties are required to cover certain operational expenses for state attorneys and public defenders, respectively. COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2385 (CHAPTER 91-303) creates Section 27.005, F.S., to provide definitions for various terms used in this statutory context with these legal offices.

Section 27.54, F.S., is revised to require counties to provide library and transportation services to the public defender's office which heretofore the counties have provided to the state attorney. The act also directs counties to pay out-of-jurisdiction travel expenses incurred by the public defender in the preparation of a defense in a criminal case.

Paragraph 744.331(7)(b), F.S., is amended to alter the time period within which a county must file claims against guardianship property to recover certain fees associated with incapacity proceedings.

Section 27.57, F.S., which requires each public defender to file quarterly reports describing the activities of the office with the Justice Administrative Commission is repealed.

**Firearm Use/Intoxication**

HOUSE BILL 309 (CHAPTER 91-84) creates Sections 790.151-790.157, F.S., to provide a second-degree misdemeanor for anyone to either discharge a firearm or to hold a

loaded firearm in his hand while under the influence of alcoholic beverages, or chemical or controlled substances. Persons who commit this act in self-defense or defense of one's property are exempt from this law.

[A trial, either by jury or judge, for this offense proceeds much like a driving under the influence (DUI) trial. Many of the provisions of this law are patterned after the DUI sections in Chapter 316, F.S.] This act sets forth the same DUI statutory presumptions for impairment which are as follows:

- 1) 0.05 percent or less by weight of alcohol in the blood is presumed not to be under the influence;
- 2) 0.05 percent but less than 0.10 percent by weight of alcohol in the blood, there is no presumption of impairment or lack of impairment; or
- 3) 0.10 percent or more by weight of alcohol in the blood is prima facie evidence or evidence that is sufficient to establish that the person is under the influence of alcoholic beverages to the extent his normal faculties are impaired.

A suspect shall submit to an approved test; however, the suspect may refuse a test, unless a death or serious bodily injury is involved, and his refusal may be used against him in court.

Under the law, where a death or serious bodily injury to a human being occurred and the law enforcement officer has probable cause to believe that the suspect used a firearm to cause the death or injury while under the influence, the suspect shall submit to a blood test to determine the presence and amount of alcohol or drugs in the person's system. Reasonable force may be used to obtain a sample for testing purposes.

The methods and means used to determine a person's blood alcohol content must meet the rules and regulations already set forth in the Department of Health and Rehabilitative Services (DHRS) rules for testing under the DUI statute. These provisions take effect October 1, 1991.

**Handguns/3-Day Waiting Period**

HOUSE BILL 883 (CHAPTER 91-24) creates Section 790.0655, F.S., to implement a constitutionally mandated 3-day waiting period, excluding weekends and legal holidays, between the retail purchase and delivery of a handgun. The waiting period applies to all firearms capable of being carried and used by one hand for which there is a transfer of money or other valuable consideration to the retailer for its purchase. A retailer is defined as a "person engaged in the business of making sales at retail or for distribution, or use, or consumption, or storage to be used or consumed in this state, as defined in Section 212.02(14), F.S." Concealed weapons permit-holders and those trading a handgun are exempt from the provisions of this law.

\*Prepared by Senate Criminal Justice Committee

This act provides that it is a third-degree felony, punishable by imprisonment not to exceed 5 years and up to a \$5,000 fine, to obtain delivery of a handgun by fraud, false pretense or false representation or for a retailer, employee or agent to violate the 3-day waiting period. These provisions take effect October 1, 1991.

#### **Animal Control/Tranquilizer Devices**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 18 (CHAPTER 91-228) exempts from the canine rabies quarantine requirement a dog that is used in law enforcement or that is used as a service dog for blind, hearing impaired or disabled persons that has bitten another animal or human if the dog has a current rabies vaccination that has been administered by a licensed veterinarian.

This law further amends Section 828.27, F.S., to authorize animal control officers to carry devices to chemically subdue and tranquilize animals provided the officer has met training and proficiency requirements.

Citations issued for violations of local animal control or cruelty ordinances must contain a conspicuous statement informing the person that if that person is required to appear in court, the option of paying the civil penalty in lieu of appearing in court is not available.

The court has the authority to issue an order to show cause for any person who fails to take appropriate action regarding the citation. If the person fails to appear before the court pursuant to the order, the court may then hold that person in contempt of court.

Authorization is provided for a local governing body to require mandatory court appearances for certain aggravated violations of local ordinance violations resulting in the unprovoked biting, attacking, or wounding of a domestic animal; violations resulting in the destruction or loss of personal property; violations of local cruelty laws; or violations resulting in the issuance of a third or subsequent citation to a person.

This law further requires the governing body of the county or municipality to maintain sufficient records to prove the number of citations issued to a person.

#### **Law Enforcement Officers' Authority**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1188 (CHAPTER 91-174) creates Section 901.252, F.S., to extend a municipal police officer's jurisdiction to include municipally owned property and facilities which are located outside the city limits. [Examples of such property include a park, an airport, or a sewage treatment plant.]

Under this law, a city police officer is authorized to patrol the area, take into custody, and detain any person who has committed or is committing a crime or violating an ordinance provided probable cause exists. The officer shall then call for assistance from the agency with territorial jurisdiction.

The officer is not liable, either civilly or criminally, for false arrest, false imprisonment, or unlawful detention if he is in compliance with the law.

The law amends Section 117.10, F.S., to authorize traffic accident investigation officers and traffic infraction enforcement officers to be notaries public when engaged in the performance of official duties. Paragraph 318.141(2)(b), F.S., is amended to provide that a traffic infraction enforcement officer is now able to perform his duties under the direction of a qualified law enforcement officer without necessarily being under the immediate supervision of that officer.

This law also amends Subsection 784.07(2), F.S., to add both types of officers to the list of victims which triggers the reclassification of the crimes of assault, battery, aggravated assault, and aggravated battery. The elevated status would only apply while such officers are performing their lawful duties. This law takes effect October 1, 1991.

#### **Criminal Justice Assessment Centers**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 663 (CHAPTER 91-205) authorizes the creation statewide of regional criminal justice assessment centers to be under the direction and control of a postsecondary public school. A postsecondary public school means a community college or vocational technical school currently housing a police academy or training school. A region shall encompass no less than one county and the center shall serve the participating police departments and corrections agencies for the purpose of hiring and inservice promotions. Each center will provide standardized screening, testing, physical examinations, and background investigations of all applicants.

An advisory board comprised of not more than 11 members shall establish or assist in establishing the center's policies. The schools' board of directors will have the ultimate approval of any policies. The advisory board members will not receive compensation for their services but may receive expenses.

The centers will receive their funding from applicant fees or user fees, grants, and donations. Annual audits shall be conducted by an independent certified public accountant (CPA). The audit must comply with the rules of the Auditor General.

The Criminal Justice Standards and Training Commission will oversee the operation of the centers to make sure they are in compliance with the law.

The idea behind the regional assessment centers is to improve the quality and uniformity of recruitment and provide cost-effective standardized screening and recruitment of candidates.

This law further authorizes the Department of Legal Affairs to pursue, administer and disburse grant money for the Florida Association of Crime Stoppers, Inc. This law takes effect October 1, 1991.

#### **Prostitution**

COMMITTEE SUBSTITUTE FOR SENATE BILL 104 (CHAPTER 91-32) implements a recommendation made by the Florida Supreme Court's Gender Bias Study Commission. A civil cause of action is created against a person, such as a pimp, who coerces another to enter into or remain in prostitution or who uses coercion to collect or receive any part of another

person's earnings which are derived from prostitution. "Prostitution" has the same meaning as defined in Section 796.07, F.S. (i.e., the giving or receiving of the body for sexual activity for hire). "Coercion" is defined as any practice of domination, restraint, or inducement used to accomplish these objectives, and includes such practices as physical force, blackmail or extortion, exploitation of disabilities and exploitation of human needs for food, shelter, safety or affection.

In these civil actions, plaintiffs and their witnesses who testify or produce evidence will be granted immunity against subsequent criminal prosecution, except for purposes of perjury. Defendants will be precluded from alleging certain defenses related to a prostitute's compensation and involvement with the defendant. In addition, prior prostitution or prostitution-related convictions may not be admitted into evidence in this civil proceeding to attack the plaintiff's credibility.

A person bringing this civil action will be able to allege and recover compensatory as well as punitive damages. A judge may award reasonable attorney's fees and costs. The law takes effect October 1, 1991.

### **Controlled Substance Violations**

COMMITTEE SUBSTITUTE FOR SENATE BILL 132 (CHAPTER 91-118) creates a new criminal offense involving controlled substances. Leasing or renting any place, structure, trailer or other conveyance knowing that it will be used for the sale of or trafficking in controlled substances will constitute a third-degree felony, punishable by up to 5 years in prison and up to a \$5,000 fine. Habitual offender penalties may also be imposed, if applicable.

### **False Pretenses**

COMMITTEE SUBSTITUTE FOR SENATE BILL 626 (CHAPTER 91-133) creates Section 817.025, F.S., which establishes a new criminal offense involving fraudulent practices. Obtaining access to a home or private business by false personation or representation with the intent to commit a felony (for example, burglary or sexual battery) will constitute a second-degree felony, punishable by up to 15 years in prison and up to a \$10,000 fine. If serious injury or death occurs as a result of this act, the penalty will be enhanced to a first-degree felony, punishable by up to 30 years in prison and up to a \$10,000 fine. Habitual offender penalties may be imposed, if applicable. The law takes effect October 1, 1991.

### **Obstruction of Justice**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 457 (CHAPTER 91-163) creates Section 843.085, F.S., which establishes criminal penalties for unlawful acts relating to law enforcement badges, uniforms and other criminal justice agency items, including marked motor vehicles. The following acts will constitute first-degree misdemeanors, punishable by up to 1 year imprisonment and up to a \$1,000 fine: 1) unless authorized by an appropriate agency or displayed in a closed or mounted case, wearing or displaying law enforcement or other criminal justice agency badges and other indicia of authori-

ty, or wearing or displaying such items which portray certain words identifying criminal justice agency officers (e.g., "police," "highway patrol," or "wildlife officer"); 2) unless authorized by the appropriate agency, owning or operating a motor vehicle which displays certain words identifying criminal justice agency officers or other markings (e.g., stars, badges, or shields) officially used to identify such agency vehicles; and 3) except for authorized criminal justice agency purchases, selling, transferring or giving away authorized or imitation criminal justice agency badges, including miniatures or transferring badges without authority which portray certain words identifying criminal justice agency officers. In order for a conviction to occur, however, the prohibited acts described above must also deceive a reasonable person into believing that the use of the item is actually authorized.

Persons who sell, transfer, or give away badges will be required to maintain written records of these transactions for 2 years, including recording of the identification shown by a person purchasing or receiving a badge. If the transferor is a business, these records will be subject to inspection by law enforcement agencies.

An exemption to the newly created prohibitions will permit fraternal, benevolent, or labor organizations to use certain criminal justice agency-related words in their official organization or association name.

The legislation also creates Section 843.081, F.S., to prohibit the use of certain blue lights by persons other than authorized law enforcement officers. The unauthorized use of a flashing or rotating blue light in or on a nongovernmentally owned vehicle or vessel will be a first-degree misdemeanor. This provision, however, will not apply to persons who are licensed to sell or repair law enforcement equipment. The law takes effect October 1, 1991.

### **Chemicals Used In the Manufacture of Controlled Substances**

HOUSE BILL 1609 (CHAPTER 91-279) addresses the misuse of chemicals for the illegal production of controlled substances and creates new criminal penalties. The legislation is patterned in part after a federal law, "The Chemical Diversion and Trafficking Act," passed by Congress in 1988 (Pub. Law 100-690).

Section 893.033, F.S., is added to Chapter 893, Florida's Comprehensive Drug Abuse Prevention and Control Act, designating 23 precursor chemicals and 7 essential chemicals commonly used in the illicit manufacture of controlled substances, as "listed chemicals." Existing Section 893.02, F.S., is amended to include a definition of "listed chemical."

Section 893.149, F.S., is created to provide criminal penalties for acts relating to the unlawful possession of listed chemicals. The knowing or intentional possession of a listed chemical with the intent to unlawfully manufacture a controlled substance will constitute a second-degree felony, punishable by up to 15 years in prison and up to a \$10,000 fine. Habitual offender penalties may be imposed, if applicable. In addition, a person possessing or distributing a listed chemical, knowing,

or having reasonable cause to believe, that it will be used to unlawfully manufacture a controlled substance commits a second-degree felony.

[This legislation is designed to assist law enforcement authorities in prosecuting persons who are found in possession of listed chemicals, but who have not yet established a working drug lab.] Persons transporting chemicals for use in illicit drug production will also be subject to these penalties.

Section 893.105, F.S., is amended to provide for the sample testing of listed chemicals seized as evidence, and for the subsequent destruction of those chemicals not retained for testing. Section 893.12, F.S., is amended to include listed chemicals as contraband which, if used in violation of Chapter 893, may be seized and disposed of pursuant to the provisions of that section. In addition, certain statutorily enumerated personal property, such as vehicles, drug paraphernalia, moneys and negotiable instruments, may be subject to seizure and forfeiture when used, or intended to be used, to commit or to facilitate the commission of a violation of Chapter 893 relating to listed chemicals. The act takes effect October 1, 1991.

### **Sentencing**

HOUSE BILL 2509 (CHAPTER 91-270) amends Section 921.141, F.S., relating to aggravating circumstances in death penalty cases, to allow for aggravation of sentence if a capital felony, such as first-degree murder, is committed by a person who is on community control.

The law implements the Sentencing Guidelines Commission's recommendations as accepted by the Florida Supreme Court in March 1991. The proposed revisions to Rules 3.701 and 3.988, Florida Rules of Criminal Procedure, will clarify the scoring of legal status of the defendant and victim injury and resolve conflicting case law in these areas.

[Under the present sentencing guidelines, when a person commits an offense while under a form of legal constraint, such as probation or community control, additional points beyond those imposed for the offense before the court for sentencing are scored on the guidelines score sheet. This revision clarifies the Commission's intent that legal status points are to be assessed only once upon conviction of the defendant, regardless of the number of offenses committed by him.

[The legislation also clarifies that victim injury, which is scored for each victim physically injured during a criminal episode or transaction, may be scored more than once where multiple crimes are committed against a single victim.]

### **Hate Crimes**

SENATE BILL 1482 (CHAPTER 91-83) amends Section 775.085, F.S., to provide for enhancement of criminal penalties when a crime is committed which evidences prejudice based on a victim's sexual orientation. In addition, where a person or organization establishes by clear and convincing evidence that such person or organization has been coerced, intimidated, or threatened by the commission of a crime evidencing prejudice based on sexual orientation, a civil cause

of action is available for treble damages and other appropriate relief.

Section 775.085, F.S., is further amended to require, as an essential element of that section, a finding that the defendant perceived, knew, or had reasonable grounds to know or perceive that the victim was of a particular race, color, ancestry, ethnicity, religion, sexual orientation or national origin.

Currently, Section 877.19, F.S., requires the collection of data on hate crime incidents by the Florida Department of Law Enforcement, and annual publication of such data by the Attorney General. This section is amended to include the collection and publication of data of criminal incidents involving prejudice based on sexual orientation.

Further, Sections 876.18 and 876.21, F.S., are amended to increase the existing penalty for placing a burning or flaming cross on another person's property without permission from a second-degree misdemeanor to a first-degree misdemeanor. This act will be punishable by up to 1 year imprisonment and up to a \$1,000 fine. The law takes effect October 1, 1991.

### **Sexual Offenses Involving Children**

SENATE BILL 152 (CHAPTER 91-33) amends the definition of sexual conduct relating to physical contact with certain clothed or unclothed body parts in Section 827.071, F.S., relating to crimes involving the promotion of or use of children under 18 years of age in a sexual performance, to require an intent to arouse or gratify the sexual desire of either party. The act takes effect October 1, 1991.

### **Driving Under the Influence (DUI)**

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 343, 759, 1139 AND 2073 (CHAPTER 91-255) amends Section 316.1932, F.S., by providing a statutory standard for breath alcohol levels in the pertinent statutes relating to testing for alcohol or drug impairment (grams of alcohol per 210 liters of breath), which eliminates the need to mathematically convert breath alcohol levels to blood alcohol levels. In addition, the category of persons statutorily authorized in this section and Section 316.1933, F.S., to withdraw blood is expanded to include all other personnel authorized by a hospital to draw blood. The act also deletes the requirement in Section 316.1932, F.S., that the medical facility blood test is a result of the driver's involvement in an accident.

Section 316.1934, F.S., is amended to allow blood alcohol level affidavits into evidence in a DUI prosecution under the public records hearsay exception without further authentication, if the affidavit contains certain verification information. Thus, these affidavits can be admitted into evidence without the need for a test operator's live testimony. However, the right of the defendant to subpoena the test operator is preserved. The Department of Health and Rehabilitative Services is required to provide standard forms for the affidavits.

The act further amends this section by providing specific examples of what constitutes normal faculties for purposes of determining DUI, such as the ability to see, hear, walk, make judgments and drive a car.



The law provides that the statutory duty of a person to give information about an accident under Section 316.062, F.S., does not cover information which violates that person's privilege against self-incrimination. In addition, an officer at a criminal trial can testify as to statements made to him by a person involved in an accident pursuant to Section 316.066, F.S., as long as that person's privilege against self-incrimination is not violated.

The legislation amends Section 316.193, F.S., by providing that a person arrested for DUI shall be held in custody until either the person's blood alcohol level is less than 0.05 percent, the person's normal faculties are no longer impaired, or 8 hours have elapsed from the time the person is arrested. This section is also amended to provide that any person who is convicted of DUI who has a minor in the vehicle shall be fined no less than \$500 and may be imprisoned for up to one year, depending on the number of previous convictions. In addition, a minimum mandatory fine of \$1,000 is provided for a fourth or subsequent DUI conviction under Paragraph 316.193(2)(b), F.S.

Sections 316.192 and 316.193, F.S., are amended to provide that when a person is convicted of DUI or reckless driving which is alcohol- or drug-related and that person fails to report for or complete the court ordered education or treatment, the Department of Highway Safety and Motor Vehicles (DHSMV) shall cancel the person's driving privilege. The Department shall reinstate the person's driving privilege when the person completes the DUI education or re-enters the court ordered treatment.

The act amends Sections 322.271, 322.28 and 322.282, F.S., to provide that a previous conviction in another state for DUI or other similar alcohol- or drug-related traffic offenses, shall be recognized as a previous conviction in Florida.

Section 316.1937, F.S., is amended to provide that the fine paid by a DUI probationer may be used to defray the costs of installing an ignition interlock device into that person's motor vehicle if the court determines that the probationer is unable to pay the costs.

The law amends Sections 322.2615 and 322.64, F.S., to allow correctional officers, as well as law enforcement officers, to administratively suspend a vehicle driving privilege or disqualify a commercial motor vehicle driving privilege of a person the officer has arrested for having an unlawful blood alcohol level or for refusing to submit to a breath, blood, or urine test.

The legislation also amends provisions in these sections relating to informal and formal administrative hearings. The DHSMV is no longer required to conduct an informal hearing on every administrative suspension case where the driver does not request a formal hearing. Instead, the Department is only required to conduct an informal hearing when the driver requests it, just like the current law provides for formal hearings. The requirement that evidentiary materials be received by the DHSMV within 10 days after the arrest to be considered in an informal hearing is deleted. Similarly, the act provides that the failure of an officer to submit materials within 5 days after the

arrest does not affect the Department's ability to consider these materials.

The measure amends the formal administrative hearing provisions in three ways. First, it allows the court to enforce the Department's subpoena power by holding a witness who fails to appear at a formal administrative hearing in contempt of court. It also clarifies that if a formal hearing cannot be scheduled within 30 days of the request for one, then the suspension is invalidated. The act provides that a formal hearing can be conducted upon review of an officer's reports; however, the driver retains his right to subpoena the officer or technician who administered the breath or blood test.

Secondly, a driver whose license suspension is sustained is no longer required to wait 30 days after the expiration of his temporary driving permit before obtaining a business or employment hardship license under the law, provided he is otherwise eligible for a driving privilege.

Finally, the act deletes the provision in Subsection 322.271(4), F.S., which requires that a person whose driving privilege has been permanently revoked must participate and remain in a continuous, 1-year supervised DUI program before being eligible for driver license reinstatement.

### **Elderly Abuse**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 613 (CHAPTER 91-258) amends Section 775.15, F.S., to increase the current statute of limitation time periods for prosecuting the second-degree felony and first-degree misdemeanor offenses of knowingly abusing an aged person or disabled adult under Section 415.111, F.S. Under the act, the felony prosecution time limitation is increased from 3 to 4 years and the misdemeanor time limitation is increased from 2 to 3 years. Thus, a state attorney will have 4 years instead of 3 to initiate a felony prosecution against a person who willfully abuses an aged person and causes great bodily harm. This act takes effect October 1, 1991.

### **Pyramid Sales Scheme**

COMMITTEE SUBSTITUTE FOR SENATE BILL 828 (CHAPTER 91-15) specifically defines what a "pyramid sales scheme" is under Section 849.091, F.S. Any sales plan or operation whereby a person, for a consideration or for an investment in excess of \$100, acquires the right to receive something of value that is not contingent upon the quantity of bona fide goods sold to consumers, but rather is related to the recruitment of additional participants in the same sales plan or operation, is defined to be a pyramid sales scheme. "Consideration" or "investment" does not include the purchase of goods or services furnished at cost for promotional use only, or time and effort spent in pursuit of sales or recruiting activities. Participation in such scheme, which is deemed to be a lottery, is punishable as a first-degree misdemeanor. This act takes effect October 1, 1991.



### Worthless Checks

HOUSE BILL 1019 (CHAPTER 91-211) enhances the penalty from a second-degree misdemeanor to a first-degree misdemeanor for making, drawing or uttering a worthless check, regardless of its amount, when neither the check writer nor the check holder receives something of value for it under Subsection 832.05(2), F.S.

The law also clarifies that in a worthless check diversion program, the fee imposed on the face value of a \$50 to \$300 check is \$30.

Finally, it increases from \$15 to \$20 the maximum service charge that can be imposed against a person making or drawing worthless checks, drafts, or orders of payment in both the criminal prosecution (Section 68.065, F.S.) and the civil action (Section 832.07, F.S.) to recover damages. This act takes effect October 1, 1991.

### Grand Juries

SENATE BILL 2506 (CHAPTER 91-250) creates a Commission on Legal Representation of Grand Jury Witnesses. The Commission will consist of the following members: the Attorney General or his designee; the Executive Director of the Department of Law Enforcement; a state attorney; a public defender; a criminal defense attorney; two persons appointed by the Governor; two persons appointed by the Chief Justice; one person appointed by the Speaker of the House of Representatives; and one person appointed by the President of the Senate. The Commission will study the current grand jury process, including primarily the protection of witnesses testifying before the grand jury, and will recommend changes ensuring the effectiveness of the grand jury, as well as fairness to witnesses. The act requires the Commission to report its findings and recommendations to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court by January 1, 1992.

### Domestic Violence

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILLS 997 AND 1701 (CHAPTER 91-210) amends Section 26.20, F.S., to require at least one judge to be available in each circuit on Saturdays, Sundays, holidays, and after hours on weekdays to hear motions for temporary injunctions ex parte in domestic violence cases.

The law redefines the term "domestic violence" as it is used in Sections 25.385, 741.30 and 943.171, F.S., as any assault, battery, sexual assault, sexual battery or any crime resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit. The term "family or household member" is defined, for purposes of those sections, as a spouse, person related by blood or marriage, persons who live or have lived together as if a family, and persons who have a child in common, regardless of whether they have been married or have resided together at any time.

The act amends Section 741.29, F.S., to require the Department of Law Enforcement (FDLE) to revise the notice of rights and remedies that law enforcement officers must give to victims of domestic violence and distribute copies of the notice to all law enforcement agencies throughout the state on or before January 1, 1992.

This section is also amended to provide that a police report of an investigation of an alleged incident of domestic violence must include the following: a determination of whether the alleged offense was domestic violence; a description of physical injuries observed, if any; a statement explaining why no arrest was made; a statement that the legal rights and remedies notice was given to the victim, pursuant to Subsection 741.29(1), F.S.; and a written statement from the victim and witnesses, if possible.

Each law enforcement agency is required to send a copy of each such report to the nearest locally certified domestic violence center within 24 hours after receiving the report. Copies of the reports are to be sent to FDLE for inclusion in the uniform crime reports.

A law enforcement officer who determines that there is probable cause that an act of domestic violence has been committed, is authorized to arrest the person suspected of committing the act and to charge him with the appropriate crime, without the consent of the victim or consideration of the relationship between the parties. Law enforcement officers are provided immunity from liable for such arrests, pursuant to Paragraph 901.15(7)(b), F.S.

Section 741.2901, F.S., is created to require state attorneys' offices to assign all domestic violence cases to specialized domestic violence units or specialized prosecutors. These cases are then to be treated in a pro-prosecution manner, as criminal cases rather than private matters. State attorneys are required to thoroughly investigate each domestic violence defendant's background including prior walk-in complaints, prior arrests or injunctions issued for domestic violence, and prior arrests in general. That information shall be made available to a court at the defendant's first appearance for consideration in setting bond or passing sentence.

The law also provides that a court may order a respondent to pay any filing fees and costs waived pursuant to a victim's affidavit of indigency, or to reimburse a victim who paid such costs at the time of filing for a domestic violence injunction.

The legislation amends Section 741.30, F.S., to provide that when a petitioner files an injunction for protection against domestic violence, the clerk of the court shall assist in that process. The clerk must also ensure that each petitioner's privacy is protected when filing for an injunction.

Section 901.15, F.S., is amended to allow law enforcement officers to arrest a person without a warrant, even over a petitioner's objection, when there is probable cause to believe that the person has knowingly committed an act in violation of an injunction for protection which creates a threat of imminent danger to the petitioner or household members. They are also permitted to make such an arrest if there is probable cause to believe that the person committed an act of domestic violence or child abuse when the officer reasonably be-

believes that there is danger of violence unless that person is arrested without delay.

The act requires FDLE to develop rules to establish uniform statewide policies and procedures for the handling of domestic violence disputes by law enforcement officers, which are to be incorporated into required law enforcement training courses. These policy and procedure areas must be developed with the advice and cooperation of the Florida Coalition

Against Domestic Violence and other domestic violence agencies.

Finally, the law requires state law enforcement, prosecutorial and monitoring agencies to keep records on each domestic violence case for use by investigators preparing for bond hearings and prosecutions, and requires FDLE to include separate domestic violence crime statistics in its annual crime statistics report. The act takes effect January 1, 1992.

## LOCAL GOVERNMENT\*

**Community Development Districts**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2029 (CHAPTER 91-308) revises Chapter 190, F.S., which is entitled the "Uniform Community Development District Act of 1980."

This legislation offers private sector developers a statutory framework through which to establish large-scale, community-type developments and to provide the infrastructure and governing mechanisms necessary to serve these community developments.

Some of the major changes contained in the act include:

1. Requiring that all bonds issued by community development districts (CDDs) be subject to the validation procedures of Chapter 75, F.S. (Subsection 75.05(3), F.S., as revised.)
2. Changing certain provisions concerning CDD board elections. (Section 190.006, F.S.)
3. Adding several criteria to provisions which trigger the conversion of CDD governing bodies from landowner control to control by residents. (Subparagraph 190.006(3)(a)2., F.S., as revised.)
4. Establishing competitive bidding provisions which apply to CDD purchases of goods and services. (Section 190.033, F.S., as revised.)
5. Revising the types of revenue sources CDDs use to fund district operations. (Sections 190.021 and 190.022, F.S.)
6. Modifying language concerning the expansion or contraction of CDD boundaries. (Section 190.046, F.S., as revised.)

**Department of Community Affairs Programs**

HOUSE BILL 2607 (CHAPTER 91-113) adds Subsection 20.18(6), F.S., to transfer the State Energy Office and all energy-related functions to the Office of the Secretary within the Department of Community Affairs. [The transfer of the State Energy Office is a part of the initiative to streamline the administration of government. Energy-related functions are logically linked with the Department of Community Affairs, because the Department is statutorily designated the state land planning agency and also has the responsibility for the state's role in housing and urban development.] This enactment allocates \$1.2 million to assist, by direct monetary grant from the Department of Community Affairs, the most needy small rural cities and counties and small cities throughout the state in writing their comprehensive plans and land development regulations (zoning ordinances). (Sections 17 and 18 of the act.) Funds are to be allocated according to Department formula and according to criteria contained in the measure.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 827

(CHAPTER 91-86) which provides numerous revisions to the Safe Neighborhoods Program. This act transfers the Safe Neighborhoods Program from the Department of Community Affairs to the Department of Legal Affairs. (Subsection 163.503(3), F.S.) [The Department of Legal Affairs, which is headed by the state's chief legal officer, the Attorney General, has administered the Crime Prevention Through Environmental Design Program since the inception of the Safe Neighborhoods Act in 1987.]

Safe neighborhood improvement districts may access additional funds for district improvements and reasonable operating expenses through the use of special assessments subject to the approval of the district voters. (Paragraphs 163.506(1)(d) and 163.511(1)(c), F.S., as revised.) A competitive selection process replaces the previous first-come-first-served process to provide a more orderly, equitable means of distributing planning grants. (Subsection 163.517(1), F.S., as revised.) A new type of neighborhood improvement district is authorized to allow for the creation of a neighborhood improvement district within a community redevelopment area. (Subsection 163.522(2), F.S., as created.) Community redevelopment agencies may now benefit from the availability of various funding options available through the Safe Neighborhoods Act. In addition, more accountability is provided before a safe neighborhood district within an enterprise zone may request capital improvement funds. (Section 163.521, F.S., as revised.)

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1971 (CHAPTER 91-262) revises the Florida Enterprise Zone Act and the Community Development Corporation Support and Assistance Program. Under the Enterprise Zone Act, local governments with enterprise zones must review their ordinances to determine those which may have a negative impact upon housing improvements or business activity within these zones. (Section 290.0135, F.S., as created.) Local governments have the option to waive, amend or modify the ordinances to minimize any adverse impact on development. Specific authority is provided to local governments to make low-interest or interest-free loans or grants to businesses for new construction or rehabilitation of the structures occupied by businesses within an enterprise zone. (Paragraph 290.007(i)(h) F.S., as added.) This act also provides that enterprise zone boundary changes requested and approved between January 1, 1991 and December 31, 1992, are to be effective January 1, 1993. (Subparagraph 290.0065(8)(c)2., as amended.)

The revisions to the Community Development Corporation Support and Assistance Program include a repeal of this program on June 30, 1998 (Section 290.0301, F.S., as revised) and an evaluation by the Auditor General that same year. (Section 290.0395, F.S., as created.) This enactment also deletes the 7-year limitation on the receipt of administrative

\*Prepared by House Community Affairs Committee

grants (Subsection 290.036(3), F.S., as revised), but allows for 3-year grants, competitively scored according to a 3-year plan submitted by the community development corporation (CDC) (Subsections 290.036(4) and (6), F.S., as amended). CDCs that have never received administrative funding may also benefit from planning grants during the years in which a competitive scoring cycle is not conducted. (Section 290.0365, F.S., as created.) In an attempt to ameliorate some of the Auditor General's concerns, specific eligible activities are provided for the use of grant funds, and CDCs are required to annually report their activities to the Department of Community Affairs. (Section 290.037, F.S., as revised.) The provisions of this act are to take effect October 1, 1991, unless otherwise provided in the law.

### **Housing Issues**

SENATE BILL 430 (CHAPTER 91-287) puts into law the Weatherization Program for residences of low-income households which has been administered by the Department of Community Affairs since 1977. This program distributes weatherization grants to 35 community-based organizations.

SENATE BILL 286 (CHAPTER 91-6) amends Section 421.05, F.S., that a housing authority may have up to seven members on its commission, regardless of the date of creation. Housing authorities which have more than seven members as of effective date of the act (March 28, 1991) are authorized to maintain the same number of commissioners.

SENATE BILL 578 (CHAPTER 91-27) extends the authority for the Affordable Housing Study Commission (Section 420.609, F.S.) to October 1, 2001, and also amends Section 420.5087, F.S., to allow nonprofit homes for the aging to benefit from extended loan terms offered under the particular set-aside from State Apartment Incentive Loan Program funds. These loans may now also be used for the purposes of building preservation, health and sanitation.

### **Developments of Regional Impact**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2229 (CHAPTER 91-309) creates an exemption for sports arenas with more than 50,000 permanent seating capacity from the development of regional impact (DRI) review process outlined in Section 380.06, F.S. Increases in current seating capacity, not to exceed 5-percent-per-year or a total of 10 percent in a 5-year period, would be exempt from DRI review requirements if certain notification requirements were met which could trigger a traffic management plan prepared by the local government.

This act passed the Legislature, but was superseded by two bills containing identical language which passed later during the legislative session and which contained additional exemptions from Section 380.06, F.S. In addition to the provisions in this act, both COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1120 (CHAPTER 91-305) AND HOUSE BILL 1413 (CHAPTER 91-192) create Paragraph (g) of Subsection 380.06(24), F.S., which exempts the expansion of a sports facility from DRI review if current

seating capacity is greater than 41,000; if the sum of seating capacity expansions does not exceed 10 percent in any 5-year period or a cumulative total of 20 percent; or, on a one-time basis, if the increase in additional parking facilities does not exceed 3,500 spaces. Both acts require that the appropriate local government includes in its development order for the expansion, a finding of fact that the expansion is consistent with selected elements of the local comprehensive plan and local land development regulations.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1120 (CHAPTER 91-305) AND HOUSE BILL 1413 (CHAPTER 91-192) also outline a review to replace the DRI review process for qualifying expansions. The process includes providing a copy of the local government application for a development permit to the Department of Community Affairs (DCA), an advisory opinion from DCA as to the applicability of the section to a proposed project exemption, an appeal provision, and a condition by which a sports facility would undergo DRI review for previous expansions.

### **Municipal Service Taxing Units/Benefit Units**

SENATE BILL 804 (CHAPTER 91-238) revises Paragraph 125.01(1)(q), F.S., to allow counties to create municipal service taxing units/municipal service benefit units (MSTUs/MSBUs) which include all or part of a city, if the city's governing body approves the inclusion.

The legislation deletes statutory language which authorized counties to create MSTUs/MSBUs in unincorporated and municipal areas of the county (to provide fire control and rescue services). The deleted language required the permission of both the city governing body and approval of city voters residing in the area to be included. Another provision in this legislation clarifies that city residents included within an MSTU/MSBU cannot have more than a combined 10 mills of property tax levied on them for both city and MSTU/MSBU purposes.

The act also allows local governments which intend to impose a non-ad valorem special assessment for the first time to adopt a resolution prior to March 1 of any year stating such intent. Currently, the statutes require local governments to adopt this resolution prior to January 1 of any year. However, if a local government wishes to use the later date (March 1), it must obtain the approval of the county property appraiser and the tax collector. (Paragraph 197.3632(3)(a), F.S., as amended.)

### **"911" Emergency Telephone System**

HOUSE BILL 1223 (CHAPTER 91-100) amends Subsection 365.171(13), F.S., to provide a mechanism for all the counties in the state to become a part of the "911" Emergency Telephone System. It provides an extended period of time (up to 36 months) by which counties may collect (for the first time) the "911" fee to pay for the installation of the "911" system. This legislation allows counties to use other sources of revenue for improvements, replacements, or expansions of their "911" system. It also provides that counties experiencing some fiscal instability that could be preventing them from hooking up with

the "911" system may establish a combined "911" system by interlocal agreement. The law also offers explicit language relating to what items and costs are eligible for a county regarding the operation of a "911" system. The act takes effect October 1, 1991.

### **County Boundaries**

SENATE BILL 1092 (CHAPTER 91-310) amends Sections 7.17 and 7.55, F.S., to redefine the boundaries of Escambia and Santa Rosa counties, removing Navarre Beach from the jurisdiction of Escambia County and placing it into the jurisdiction of Santa Rosa County. Provisions of the legislation ensure cooperation between the two counties should a channel and navigable waterway be considered for construction, ensure that school children are provided an education, continue certain state licenses in Navarre Beach, and permit a construction moratorium under certain conditions.

SENATE BILL 630 (CHAPTER 91-39) amends Section 7.31, F.S., to redefine and clarify the boundaries of Brevard and Indian River counties. By changing "medial line" to "thread," the statutorily defined legal boundary of Indian River County is now consistent with that of Brevard County.

### **Municipal and County Seals**

COMMITTEE SUBSTITUTE FOR SENATE BILL 818 (CHAPTER 91-59) protects the official seals of counties and municipalities from use by individuals or entities seeking to profit from its use. The law allows governmental officers and employees use of the seal in the course of conducting official business. The act provides a penalty of a second-degree misdemeanor.

### **Public Nuisance Abatement**

Section 893.138, F.S., as amended by COMMITTEE SUBSTITUTE FOR SENATE BILL 992 (CHAPTER 91-143) provides that any place or premises that has been used on more than two occasions within a 6-month period as the site of a violation of prostitution and related offenses set out in Section 796.07, F.S., may be declared a public nuisance and abated by local administrative boards created to hear complaints regarding nuisances.

The act also permits enforcement of a board order through the procedures for enforcement of agency action under Section 120.69, F.S., of the Administrative Procedure Act, but such action does not subject a municipality or board to any other provisions of the act.

The law also permits a board to seek temporary as well as permanent injunctive relief under the provisions of Section 60.05, F.S. An effective date of October 1, 1991 is given this enactment.

### **County Commission Meetings--Sheriffs**

HOUSE BILL 1043 (CHAPTER 91-95) revises Section 30.115, F.S., to remove the requirement that the sheriff or his deputy attend all meetings of the board of county commissioners. The legislation provides that the sheriff or his deputy attend commission meetings at the will of the commission. The act takes effect October 1, 1991.

### **Building Permits**

SENATE BILL 168 (CHAPTER 91-7) amends Subsection 553.79(10), F.S., to require that the notice statement of a building permit, which present law requires to be attached to the permit, contain a declaration which states that there may be additional permits required from other governmental entities such as water management districts, state or federal agencies. An effective date of October 1, 1991 is supplied.

### **Florida Board of Building Codes and Standards**

SENATE BILL 1144 (CHAPTER 91-172) amends Section 553.49, F.S., to name the advisory committee to the Florida Board of Building Codes and Standards the Handicapped Accessibility Advisory Council. It sets the member terms in a staggered fashion. Once the staggered terms are established, all member terms are for 4 years. Explicit authority to provide per diem and travel expenses to the Council members is established.

Paragraph 553.73(4)(c), F.S., is revised to explicitly establish "standing" for state agencies or boards with construction-related regulation responsibilities to request local jurisdictions provide them with copies of their local amendments to the State Minimum Building Codes.

Subsections 553.74(1) and (2), F.S., are amended to require members of the Board of Building Codes and Standards to be actively engaged in their profession. Board membership terms are reestablished on a staggered basis.

Revised Section 553.77, F.S., requires cooperation between the Board of Building Codes and Standards and the Florida Fire Code Advisory Council. It requires the Board to submit an annual report to the Department containing the Board's recommendations for Department or legislative action. The Department would include the Board's report (with the Department's responses) in the annual report required of the Department by Paragraph 420.6075(1)(d), F.S.

The act also saves Subsection 553.71(1) and Sections 553.49 and 553.74 through 553.77, F.S., relating to the Board, from Sundown (Section 11.611, F.S.) repeal on October 1, 1991, and sets a new Sundown date of October 1, 2001, for these statutory provisions. The act has an effective date of October 1, 1991.

## MOTOR VEHICLES AND TRANSPORTATION\*

## Motor Vehicle Emissions

COMMITTEE SUBSTITUTE FOR SENATE BILLS 2224 AND 2086 (CHAPTER 91-299) modifies the state's motor vehicle emissions inspection program (the Clean Outdoor Air Act) to address problems encountered in implementing the program. The act amends Subsection 325.203(1), F.S., to allow commercial motor vehicles and heavy trucks to obtain an annual inspection or a waiver at any time prior to the expiration of the vehicles' registration period rather than within 90 days prior to expiration. However, Paragraph 325.217(3), F.S., as revised by this act, requires owners of such vehicles to spend the required minimum on emission repairs within 90 days before expiration as a prerequisite for a waiver. The legislation creates Section 325.2075, F.S., to provide certain administrative powers to the Department of Highway Safety and Motor Vehicles (DHSMV) to require contractors conducting the vehicle inspection to make certain changes in procedures in order to reduce waiting times for inspections. The measure also adds Subsection 325.217(3), F.S., to require the DHSMV to provide a report to the Legislature by December 15, 1991, on the status and progress of implementation of the inspections program, with emphasis on actions taken to reduce problems with the program. The law adds Subsection 325.217(5), F.S., to provide that the DHSMV may grant a permanent exemption to a motor vehicle which cannot be brought into compliance with emissions standards because emissions control parts are no longer manufactured. The law has an effective date of October 1, 1991.

## Driver Improvement Schools

COMMITTEE SUBSTITUTE FOR SENATE BILL 2010 (CHAPTER 91-200) creates Section 318.1451, F.S., which requires the Department of Highway Safety and Motor Vehicles to oversee driver improvement schools and approve driver improvement courses. [This is a departure from having the chief circuit judges certify the schools and will allow for-profit providers to offer the courses.] The act also alters the amount of the reduction in civil penalties that speeding violators receive when electing to attend a class at a driver improvement school through amendment to Subsection 318.14(9), F.S. [Currently, if a person were caught speeding 10-miles-per-hour over the speed limit and elected to attend the class, that person would pay \$37 to the state as opposed to the \$92 if they had not elected to attend the class. Under the new law, a speeding violator electing to attend class would pay approximately \$77. Most of the anticipated new revenue generated by the law is directed through revision of Section 318.21, F.S., to the General Revenue Fund (\$10.9 million in Fiscal Year 1991-1992, \$22.4 million in Fiscal Year 1992-1993), while the current trust funds and local governments are not affected or

receive slight increases (\$3.2 million in Fiscal Year 1991-1992).

## State Transportation Trust Fund

SENATE BILL 1314 (CHAPTER 91-272) directs that the proceeds of the \$100 fee collected for the initial application for registration of all private automobiles, trucks of 3000-5000 pound net weight, motor homes and truck campers (Subsection 320.072(1), F.S.) be deposited in the State Transportation Trust Fund for the period July 1, 1992 through June 30, 1994.

Subsection 335.035(2), F.S., is amended to require the repayment, by June 1, 1992, of \$109.5 million in funds appropriated from the General Revenue Fund by the Department of Transportation for completion of the interstate highway system. To facilitate this repayment, Paragraph 339.135(7)(b), F.S., is revised to reduce the minimum cash balance which the Department must maintain in the State Transportation Trust Fund to \$50 million or 5 percent of the unpaid balance of all Fund obligations at the close of each quarter of the fiscal year, whichever is less.

## Transportation Corridors

COMMITTEE SUBSTITUTE FOR SENATE BILL 970 (CHAPTER 91-142) modifies state law which allows an airport authority to enter into a joint project agreement with a port district to establish a transportation corridor connecting the airport and the port. The measure also creates certain requirements for a corridor developed entirely within Brevard and Orange counties. The act provides that:

- 1) a transportation corridor between an airport and a port may be used to transport passengers between the airport and the port, to transport cargo, and to locate and operate lines for the transmission of water, electricity, communications, information, petroleum products, products of a public utility and materials (Subsection 332.115(1), F.S., as revised);
- 2) the provisions of the Florida High-Speed Rail Act (Sections 341.321-341.386, F.S.) apply to any high-speed rail line in a corridor except for a high-speed rail line in a Brevard-Orange corridor (Subsection 332.115(4), F.S., as added);
- 3) the Department of Community Affairs is required to review the Brevard-Orange corridor joint project agreement for consistency with applicable local government comprehensive plans and the state comprehensive plan;
- 4) the Department of Transportation is required to review the Brevard-Orange corridor joint project agreement for compatibility with existing or proposed high-speed rail technology;

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- 5) the Brevard-Orange corridor joint project agreement must specify the agency responsible for operating the corridor;
- 6) the Brevard-Orange corridor project (and any subsequent changes) is a development-of-regional-impact (DRI) and is subject to DRI review;
- 7) passenger terminals within the Brevard-Orange corridor can be located only at the port and airport; and
- 8) the Brevard-Orange corridor cannot be used to transport coal slurry.

The enactment also amends Paragraph 343.64(1)(a), F.S., to remove Brevard County from the Central Florida Commuter Rail Authority, and eliminates a requirement (Subsection 348.968(4), F.S.) that the Santa Rosa Bay Bridge System be reviewed and approved by a resource planning and management committee under Chapter 380, F.S.

#### **Fees Imposed on Certain Motor Vehicle Registrations and Motor Fuel Taxes**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILLS 212 AND 266 (CHAPTER 91-82), addresses various tax issues that are related to transportation. The measure phases out the option of using either net or gross gallons for motor fuel taxes and requires the taxes to be based upon gross gallons after June 30, 1991 (Paragraphs 206.41(1)(a), 206.60(1)(a), 206.605(1)(a) and 212.62(2)(a), F.S., as revised). The act also provides that a \$2 license plate fee is to be paid each year, rather than paying the entire \$10 plate replacement fee once every 5 years pursuant to amended Paragraph 320.06(1)(b), F.S. In addition, the law improves the collection of the \$295 impact fee by creating Section 319.231, F.S., requiring persons to pay the fee when submitting an out-of-state title as proof of ownership in applying for a Florida title. The exemptions from paying the \$295 impact fee are expanded to include:

- 1) nonresident military personnel stationed in Florida;
- 2) other military personnel or ex-military personnel who were Florida residents at the time of enlistment in the U.S. Armed Forces;
- 3) nonprofit organizations; and
- 4) title applications where a reassignment is being made by a licensed Florida motor vehicle dealer.

In addition, the same military exemptions for the \$295 fee are provided under revised Section 320.072, F.S., for the \$100 new wheels on the road fee.

Section 320.1325, F.S., is created to require registration of motor vehicles owned by nonresidents temporarily employed within the state. Such registration shall be for up to 90 days with payment of a \$40 fee, and may be renewed only once.

Subsection 322.08(6), F.S., is added to require holders of out-of-state driver licenses who are applying for a Florida license to present a Florida registration certificate for each vehicle owned or an affidavit to the effect that applicant owns no vehicles.

#### **Privately Owned Transportation Facilities**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 175 (CHAPTER 91-160) creates Section 334.30, F.S., to establish a process to review and approve the construction and operation of privately owned roads and bridges in Florida. Broad policy guidelines for regulating such facilities are assigned to the Department of Transportation. With legislative approval, private entities would be allowed to build, operate and maintain the transportation facilities and charge tolls for their use by the public. All private transportation facilities constructed must comply with federal, state and local laws. The measure provides that all reasonable costs to the state, affected local governments, and utilities associated with a private transportation facility must be borne by the private entity.

#### **Hazardous Materials**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1116 (CHAPTER 91-146) creates a 20-member Study Commission on the Intrastate Transportation and Conveyance of Hazardous Materials to study the intrastate transportation of hazardous materials by motor carrier, air, rail and water, and make recommendations to the Legislature regarding legislation on this issue. The Commission would be comprised of representatives of various state agencies, certain professional associations, and industries involved in the transportation of hazardous materials. The Commission would be required to submit its recommendations to the Legislature prior to the 1993 Legislative Session, and would be dissolved upon submittal of the recommendations.

#### **Motor Vehicle Window Tinting**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1492 (CHAPTER 91-42) revises how the darkness of window tint on motor vehicles may be tested for compliance with state law. The legislation accomplishes this in two ways. First, the requirement in Section 316.2953, F.S., that testing of the sunscreen material be done on clear glass is changed to allow testing of the sunscreen material on the motor vehicle window. Second, the measure amends existing darkness standards in Paragraph 316.2954(1)(a), F.S., to allow motor vehicles that are presently in compliance to also be in compliance with the amended standards. The act also revises Subsection 320.8256(1), F.S., to clarify recreational vehicle inspection laws to allow licensed recreational vehicle dealers who meet standards set by the Department of Highway Safety and Motor Vehicles to inspect used recreational vehicles in their inventory that are offered for sale.

#### **Valuation of Used Motor Vehicles and Mobile and Manufactured Homes**

SENATE BILL 2234 (CHAPTER 91-66) deletes the requirement found in Paragraphs 212.05(1)(a), 319.30(3)(b) and 723.061(2)(a), F.S., that the NADA book (Official Used Car Guide of the National Automobile Dealers Association) be



used for valuations and allows any officially recognized national publication to be so used for valuations.

### **Parking Ticket Violations**

SENATE BILL 1634 (CHAPTER 91-180) relates to motor vehicle registration. The act amends Subsection 316.1967(6), F.S., to allow cities to provide a magnetically encoded computer tape reel or cartridge to the Department of Highway Safety and Motor Vehicles (DHSMV) which lists persons who have three or more outstanding parking violations or any handicapped parking violations. The law requires DHSMV to mark the vehicle registration of such persons and withhold registration until the parking fines are paid. The act revises Subsections 316.650(3), (4) and (5), F.S., to provide for the issuance of tickets by an automated citation issuance system.

### **Driver's Licenses**

SENATE BILL 1702 (CHAPTER 91-243) amends various driver's license statutes. The enactment amends Paragraph 316.302(2)(j), F.S., to provide for an exception to federal vision requirements for intrastate commercial drivers. Under revised Subsection 322.056(1), F.S., the period of driver's license suspensions for youthful drug offenders is increased. The act provides for a waiver of certain tests for holders of licenses from other states and Canada by amending Subsection 322.12(1), F.S., and simplifies examinations for renewal of commercial driver's licenses through revision of Subsections 322.121(7) and (8), F.S. A \$1 delinquent fee is provided for driver's license renewals by amendment to Paragraph 322.21(1)(a), F.S. The law also provides for mail-in renewal extensions of driver's licenses by adding Subsection 322.18(8), F.S. The act has an effective date of October 1, 1991.

### **Certificate of Right of Possession Program Repeal and Odometer Fraud**

SENATE BILL 892 (CHAPTER 91-138) repeals Section 319.36, F.S., which relates to mandatory certification procedures for vehicles being transported from this state to a destination outside of the United States. [This program is no longer necessary because of other federal requirements.] This measure also provides that vehicles with tampered odometers are

contraband and are subject to seizure and forfeiture proceedings through revision of Section 319.35, F.S.

### **School Zone Speed Limits**

COMMITTEE SUBSTITUTE FOR SENATE BILL 254 (CHAPTER 91-124) amends Subsection 316.1985(4), F.S., to prohibit school zone speed limits from exceeding 20-miles-per-hour in urbanized areas. In addition, the act extends the enforcement of school zone speed limits to those times when students are arriving at regularly scheduled school breakfast programs or school sessions.

### **Child Restraint and Motor Vehicle Defects**

COMMITTEE SUBSTITUTE FOR SENATE BILL 674 (CHAPTER 91-136) increases the penalty for violation of child restraint requirements and revises the procedure for processing citations involving the correction of motor vehicle defects. The act revises Sections 316.613, 318.18 and 322.27, F.S., to increase the penalty for violations of child restraint laws from a \$37 fine and no driver's license points assessed, to a \$155 fine and a three-point assessment against the driver's license of the violator. The measure also increases the time period from 10 to 20 days for the driver of a defective vehicle to make vehicle repairs in order to qualify for a reduction of the fine to \$9. Under the law, \$4 of that fine is paid directly to the local law enforcement agency verifying that the defect has been corrected. Previously, this amount was collected by the clerk of the court and then returned to the appropriate law enforcement agency. The law takes effect October 1, 1991.

### **Vessel Movements**

SENATE BILL 1462 (CHAPTER 91-198) revises Section 313.22, F.S., to enhance the ability of port authorities to require vessels to move or change position within the port's jurisdiction. The law authorizes a port authority or district to order a vessel within the port to change position, whether the vessel is in public or private areas and at the vessel's expense and risk, to facilitate dredging of channels or berths. For a vessel's failure to comply with orders to change positions, ports may assess a penalty of up to \$1,000 per hour, plus one-and-one-half times the delay costs incurred by a waiting vessel. An effective date of October 1, 1991, is supplied.

## PROFESSIONAL REGULATION\*

## Department of Professional Regulation

COMMITTEE SUBSTITUTE FOR SENATE BILL 724 (CHAPTER 91-137) revises several statutory provisions related to the regulation of professions by the Department of Professional Regulation (DPR). The act creates Section 455.224, F.S., authorizing the Department to issue citations for minor violations to licensees under its regulatory jurisdiction. The legislation revises Subsection 455.255(2), F.S., to grant the Department the authority to dismiss cases any time after legal sufficiency is found if the Department determines that there is insufficient credible evidence to support the prosecution of the alleged violations in the cases. The act adds Paragraph 455.217(1)(e), F.S., to also authorize the DPR to share for a fee, with the concurrence of the appropriate board, an examination developed by or for the Department with the licensing authorities in other states unless prohibited by a contract entered into by the Department for development or purchase of the examination.

The act also revises enforcement provisions under Sections 489.127 and 489.531, F.S., related to the local building code citation program applicable to contractors. The law authorizes a county or municipality to impose an administrative fine not to exceed \$500 on both locally licensed contractors and unlicensed persons engaged in contracting. By adding Paragraph 489.105(3)(o), F.S., the measure also provides for the regulation of solar contractors by DPR.

The legislation revises provisions in Section 463.0055, F.S., governing the establishment of a committee to develop a formulary of topical ocular pharmaceutical agents which can be administered and prescribed by certified optometrists. The act provides that the committee is advisory to the Board of Optometry within the DPR and that the Board, rather than the secretary, will establish, add to, delete from or modify the formulary by rule. The law revises the composition of the committee to include two licensed optometrists appointed by the Board of Optometry, two board-certified ophthalmologists appointed by the Board of Medicine, and a pharmacologist appointed by the secretary of DPR who is not a physician or osteopath. The act also gives the secretary of DPR standing to challenge a rule or proposed rule of the Board of Optometry related to the formulary in an administrative hearing.

The law authorizes through amendment of Paragraph 466.006(3)(c), F.S., graduates of unaccredited dental colleges or schools who otherwise meet appropriate licensure requirements to take the dental licensure examination after successful completion of a 2-year supplemental dental education program at an accredited dental school. The legislation extends the repeal date for a period of 3 months for statutory provisions which provide that graduates of unaccredited dental colleges or schools may be certified by the Board of Dentistry to take the dental licensure examination once they have successfully passed the manual skills examination.

The legislation adds Subsection 473.303(2), F.S., which authorizes the Board of Accountancy to allow the probable cause panel of the Board to be composed of at least one current board member who must serve as chairman and additional board members or one past board member who is a licensee in good standing. The act amends Subsection 473.314(2), F.S., to increase the maximum fee for temporary accountancy licenses to \$400 and amends Paragraph 473.323(3)(c), F.S., to allow the Board to impose an administrative fine not to exceed \$5,000 for violation of the disciplinary provisions under Chapter 473, F.S.

The act amends Section 454.18, F.S., to provide that the restriction against the practice of law by a sheriff or clerk of a court, or his deputy, does not apply when the person is representing the office or agency in the course of his duties as an attorney. The legislation additionally provides for several minor or technical changes to statutory provisions related to several professions and occupations regulated by the DPR, including funeral directing and embalming (Chapter 470, F.S.), nursing (Chapter 464, F.S.), interior design (Chapter 481, F.S.), podiatry (Chapter 461, F.S.), geology (Chapter 492, F.S.), and hearing aid dispensing (Chapter 484, F.S.).

SENATE BILL 942 (CHAPTER 91-140) reenacts, pursuant to Open Government Sunset Review in accordance with Section 119.14, F.S., various provisions of the Florida Statutes relating to exemptions from the public records and meetings laws contained in the chapters providing for regulation by the Department of Professional Regulation (DPR) of the practice of various professions and occupations in Florida. The exemptions from the public records and meetings laws reenacted in the act include uniform language approved by the Legislature for open government exemptions. The following provisions related to public records and meetings law exemptions are reenacted:

1. National examination materials and meetings held for creating or reviewing examination questions. (Paragraphs 455.217(1)(c) and Subsections 455.217(2) and (4), F.S.)
2. Complaints and information obtained pursuant to an investigation by the DPR until 10 days after probable cause is determined to exist or the subject of the investigation waives confidentiality. (Subsections 455.225(4) and (10), F.S.)
3. Financial information provided by applicants for licensure and licensure examination questions, answers, papers, grades, and grading keys. (Section 455.229, F.S.)
4. Patient records obtained by the Department pursuant to the subpoena of the records of certain health care practitioners suspected of specified disciplinary violations. (Subsections 455.241(2) and (3), F.S.)
5. The names and addresses of injured persons obtained through reports furnished to the DPR concerning pro-

\*Prepared by Senate Professional Regulation Committee

professional liability claims against licensed health care practitioners. (Paragraph 455.247(2)(d), F.S.)

6. Certain information obtained by the consultant for the DPR's impaired practitioner program for certain health care practitioners including physicians (Paragraphs 458.3315(4)(e) and (6)(a), F.S.), osteopaths (Paragraphs 459.0155(4)(e) and (7)(a), F.S.), podiatrists (Paragraphs 461.0132(4)(c) and (6)(a), F.S.), optometrists (Paragraphs 463.0165(4)(e) and (6)(a), F.S.), nurses (Paragraphs 464.0185(4)(e) and (6)(a), F.S.), pharmacists (Paragraphs 465.0165(4)(e), and (6)(a), F.S.), veterinarians (Paragraphs 474.2141(4)(e) and (6)(a), F.S.), and psychologists (Paragraphs 490.0095(4)(e), and (6)(a), F.S.).
7. Personal medical records of physicians (Subsection 458.339(3), F.S.), veterinarians (Subsection 474.2185(3), F.S.), osteopaths (Subsection 459.017(3), F.S.), or dentists (Subsection 466.0275(2), F.S.) obtained by DPR pursuant to an investigation of disciplinary charges against such practitioners.
8. Patient records acquired by the DPR pursuant to a search of an osteopath or physician's office if certain disciplinary violations are suspected. (Sections 459.018 and 458.341, F.S., respectively.)
9. Information identifying a patient contained in the records maintained by DPR pursuant to the conduct of peer review proceedings involving chiropractic physicians. (Subsections 460.4104(6) and (7), F.S.)
10. Certain records obtained by the DPR pursuant to reports of peer review activities involving licensed dentists. (Subsections 466.022(2) and (3), F.S.)
11. Reports of hepatitis B virus carrier status filed by dental licensees with the Board of Dentistry within the DPR. (Subsection 466.041(3), F.S.)

The act reenacts various statutory provisions relating to the regulation of various professions within the DPR which do not constitute exemptions to the public records or meetings laws. The legislation repeals Section 455.230, F.S., which contains provisions relating to licensure examination challenges by unsuccessful candidates that duplicate provisions found in Section 455.229, F.S. The law also repeals Section 476.224, F.S., relating to the procedure for prosecuting complaints against licensed barbers. The act takes effect October 1, 1991.

#### **Chiropractic/Physical Therapy**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1411 (CHAPTER 91-277) amends Paragraph 460.406(1)(e), F.S., to provide that the required training program for chiropractic certification applicants under Chapter 460, F.S., be not less than 3 months and at least 300 hours under the supervision of a licensed chiropractic physician. The act specifies that while in the required training program, a chiropractic physician candidate must be under the supervision of a licensed chiropractic physician until results of the first licensure examination for which the candidate is qualified have been received, at which time the candidate's training program shall be terminated.

Effective January 1, 1992, the law also creates Subsection 460.406(4), F.S., which requires the Department of Professional Regulation (DPR) to notify chiropractic certification applicants in writing within 5 working days of their successful completion of the certification requirements. The legislation authorizes chiropractic applicants who have been notified of successful completion of the certification requirements by DPR to lawfully engage in chiropractic practice for a maximum period of 45 days or until DPR receives the licensing fee, whichever occurs sooner.

Finally, the act adds Section 486.109, F.S., relating to the regulation of physical therapists, to require continuing education for physical therapists as a condition of licensure renewal.

#### **Physicians and Osteopathic Physicians**

HOUSE BILL 211 (CHAPTER 91-22) deletes certain alternative certification requirements (former Subsection 458.347(7)(f), F.S.) for physician assistants regulated by the Board of Medicine within the Department of Professional Regulation and provides two alternative certification paths for unlicensed physicians who graduated from a foreign medical school listed with the World Health Organization (Subparagraph 458.347(7)(b)1. and Sub-subparagraph (7)(a)3.a., F.S.). The act provides for the examination of these unlicensed physicians for physician assistant certification and requires application and examination fees (Sub-subparagraphs 458.347(7)(b)1.a. and b., F.S.). The law revises the Board of Medicine's authority to grant temporary physician assistant certificates to applicants who have met the requirements to be certified for the proficiency examination established by the act (Subparagraph 458.347(7)(b)2., F.S.). The measure authorizes any community college to conduct a physician assistant program and to admit unlicensed physicians who are graduates of foreign medical schools (Paragraph 458.347(6)(c), F.S.). The act provides requirements for such programs, which include a minimum of one 16-week semester of supervised clinical and didactic education.

The legislation amends the physician assistant continuing education renewal requirements under both the medical practice act (Paragraph 458.347(7)(d), F.S.) and the osteopathic practice act (Paragraph 459.022(7)(c) to allow a physician assistant to renew his certificate by holding a current certificate issued by the National Commission on Certification of Physician Assistants. The act authorizes the executive director of the Board of Medicine between meetings of the Physician Assistant Committee to grant temporary certificates to physician assistant applicants who have completed the physician assistant training and education requirements (Subparagraph 458.347(7)(b)2., F.S.). The law similarly authorizes the Osteopathic Physician Assistant Committee between meetings of the Board of Osteopathic Medical Examiners to grant temporary certificates to physician assistant applicants who have met the training and education requirements (Paragraph 459.022(7)(f), F.S.). The measure also expands the authority of the Board of Medicine and the Board of Osteopathic Medical Examiners to deny, suspend, or place restrictions upon

the permanent or temporary certification of physician assistants (Paragraphs 458.347(7)(g) and 459.022(7)(e), F.S., respectively).

The enactment also amends Subsection 458.347(8), F.S., to revise requirements and terms of physician assistant members of the Physician Assistant Committee to provide for staggered 4-year terms. The law requires a term of 4 years for all appointments to the committee. The legislation additionally provides for resident physicians, house physician interns or fellows in fellowship training programs to renew their registration with the Board of Medicine under revised Subsection 458.345(4), F.S.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 891 (CHAPTER 91-88) amends Subparagraph 458.317(1)(a)1. and Paragraph 459.0075(1)(a), F.S., to waive respectively, the application fee and all licensure fees for individuals applying for a limited license as a medical physician or osteopathic physician who submit notarized statements from the employing agency that they will not receive monetary compensation for any service involving the practice of medicine.

### **Veterinary Medicine**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1536 (CHAPTER 91-176) makes various minor and technical changes to the veterinary practice act. The law revises certain definitions (Section 474.202, F.S.), exemptions (Section 474.203, F.S.), licensure renewal procedures (Section 474.211, F.S.) and streamlines the licensure provisions related to inactive status of licenses (Section 474.212, F.S.). The legislation also provides additional acts which constitute grounds for disciplinary action to be taken against veterinary medicine applicants or licensees, including a plea of nolo contendere to a crime which directly relates to the practice of veterinary medicine or the ability to practice veterinary medicine (Section 474.214, F.S.). These provisions take effect October 1, 1991.

### **Accountants**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1316 (CHAPTER 91-63) amends Section 473.316, F.S., relating to privileged communications between clients and individuals engaged in the practice of public accountancy. The law defines the term "quality review" to encompass a study, appraisal, or review by a professional organization of one or more aspects of a licensed accountant's professional work to evaluate quality assurance required by professional standards. This includes a quality assurance or peer review.

A review committee's proceedings, records, and workpapers are privileged and are not subject to discovery, subpoena or other means of legal process. These documents cannot be introduced into evidence in specific types of proceedings. The law also provides that quality review committee members or others involved in a quality review may not testify in specific types of proceedings. Finally, the law provides exceptions to the privilege for certain public records and materials, as well as for disputes between a review committee and

an individual subject to a quality review. This enactment takes effect October 1, 1991.

### **Auctioneers**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 771 (CHAPTER 91-207) amends Part VI of Chapter 468, F.S., relating to the regulation of auctioneers by the Board of Auctioneers within the Department of Professional Regulation. Many of the changes are technical or administrative, rather than substantive in nature.

Major provisions include: redefining an auctioneer as a licensee holding a valid Florida license (Subsection 468.382(2), F.S.); defining an agricultural product (Subsection 468.382(7), F.S.); repealing the bonding requirements of Sections 468.385 and 468.387, F.S., on October 1, 1995; amending provisions of Section 468.388, F.S., relating to auction advertising conduct; raising the cap on the amount of the surety bond the Board may require for an auctioneer or auction business under the penalty provisions of Section 468.389, F.S.; and providing for the creation of the Auctioneer Recovery Fund in Section 468.392, F.S. The act provides for the Fund's operation, including procedures, conditions, eligibility for recovery from the Fund and claims payment (Sections 468.393-468.399, F.S.).

The law schedules a Sunset Review (Section 11.61, F.S.) of new provisions of the law in conjunction with other provisions of Part VI of Chapter 468, F.S. The act is effective October 1, 1991.

### **Electrical and Alarm System Contracting**

SENATE BILL 154 (CHAPTER 91-119) provides for the registration of alarm system contractors by the Department of Professional Regulation. The act defines three classes of registered alarm system contractors for purposes of regulating these contractors (Subsections 489.505(21), (22) and (23), F.S.). The measure requires the Department of Professional Regulation to license any registered electrical contractor or any locally licensed alarm contractor as a registered alarm system contractor if the individual has filed with the Electrical Contracting Licensing Board certain evidence of successful compliance with local written or oral examination requirements for the current license he holds and was engaged in business as an alarm system contractor for at least 3 consecutive years prior to the time of making application and prior to October 1, 1993 (Subsection 489.537(8), F.S.).

The law authorizes a registered electrical contractor to bid on electrical contracts which include alarm system contracting (Paragraph 489.537(2)(b), F.S.). The act extends the requirement imposed on electrical contractors to provide the Department of Professional Regulation with evidence of workers' compensation coverage to include alarm system contractors (Section 489.510, F.S.). The legislation adopts the 1990 edition of the National Electrical Code (Subsection 553.19(1), F.S.).

## Employee Leasing

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1005 (CHAPTER 91-93) provides for the regulation of employee leasing. It creates the Board of Employee Leasing Companies within the Department of Professional Regulation (DPR). The act defines employee leasing as an arrangement in which leasing company employees are assigned to work at a client company under specified conditions, including shared employment responsibilities, long-term employee assignments, and a majority of leased workers in the workplace at the worksite.

The legislation provides exceptions and exemptions, and establishes fees for licensure application and renewal. The measure also provides reporting requirements and for the regulation of financial responsibilities and other arrangements, including insurance, employment tax, benefit plans, and contractual arrangements. The act includes prohibitions, penalties, and grounds for disciplinary action by the Board.

The act provides for a Sunset Review (Section 11.61, F.S.), repeals the law on October 1, 2001, and appropriates \$245,000 from the Professional Regulation Trust Fund to the Department of Professional Regulation to fund five career service positions for the act's implementation. The law is effective on January 1, 1992.

## Real Estate

HOUSE BILL 907 (CHAPTER 91-89) amends Chapter 475, F.S., concerning the regulation of real estate appraisers. Major provisions of the act include: providing that it is in the public interest to regulate real estate appraisers to assure their competence in federally related transactions and to protect the public from potential economic harm (Section 475.610, F.S.); providing that the scope of practice for a real estate broker specifically excludes appraisal services which must be performed only by state-licensed or state-certified appraisers and registered appraisers (Paragraph 475.01(c), F.S.); creating the Florida Real Estate Appraisal Board within the Division of Real Estate in the Department of Professional Regulation to regulate real estate appraisers (Paragraph 20.30(6)(b), F.S.); eliminating the requirement that an individual must be licensed as a real estate broker or salesperson in order to be certified or registered as an appraiser to perform federally related transactions (Subsection 475.501(5), F.S.); prohibiting the use of specific titles or abbreviations or the issuance of certain federally related appraisal reports unless an individual is regulated by the Department of Professional Regulation (Subsection 475.612(1), F.S.); and delineating the qualifications for the registration, licensure, and certification of appraisers (Section 475.615, F.S.). The act also requires appraisers to comply with specific practice standards (Section 475.628, F.S.).

COMMITTEE SUBSTITUTE FOR SENATE BILL 586 (CHAPTER 91-289) amends Paragraph 475.045(5)(a), F.S., requiring the Foundation Advisory Committee, the administrative arm of the Florida Real Estate Commission Education and Research Foundation, to solicit advice and information for sub-

mitting proposals related to its purposes, objectives and duties. The act allows full-time faculty members of a Florida university or college, with the institution's consent, to perform specific education, research or other projects (Paragraph 475.045(5)(c), F.S.). The law also allows the advisory committee to select other entities in the event that no proposal is received from Florida educational institutions or faculty members.

The measure contains several changes related to advertising and time-share periods (Paragraph 475.01(1)(c), Subsection 475.011(8) and Paragraph 475.42(1)(n), F.S.). The legislation also creates Paragraph 475.25(1)(r), F.S., to authorize the Florida Real Estate Commission to take disciplinary action against persons who fail to include required information in the listing agreement and who fail to give the principals a copy of the listing agreement within a specified time period. The law also requires brokers to maintain copies of brokerage records for a specified time period (Section 475.5015, F.S.).

Brokers registering out-of-state offices are required to provide a written agreement to cooperate with investigations by the Department of Professional Regulation or the Commission (Subsection 475.22(2), F.S.). The act requires these brokers to supply information and appear at meetings. A broker who fails to appear for an interview or produce documents upon request is subject to penalties. This act has an effective date of October 1, 1991.

## Buying Clubs

COMMITTEE SUBSTITUTE FOR HOUSE BILL 595 (CHAPTER 91-72) creates the Buying Services Act of 1991, relating to buying clubs, which covers any business enterprise organized primarily to provide benefits to members from the cooperative purchase of service or merchandise through consumer solicitation or other business activity (Subsection 559.3902(2), F.S.). The measure provides procedures for cancellation of club membership and refund requirements (Section 559.3904, F.S.). The law also specifies contract requirements and provides for the disclosure of information to consumers (Section 559.3905, F.S.). A violation of the act is subject to the Florida Deceptive and Unfair Trade Practices Act, Part II of Chapter 501, F.S. (Section 559.3906, F.S.).

## Notaries Public

COMMITTEE SUBSTITUTE FOR SENATE BILL 856 (CHAPTER 91-291) amends Chapter 117, F.S., relating to notaries public. Significant provisions include: amending Section 117.01, F.S., to make explicit the grounds for the Governor to suspend a notary public commission for malfeasance, misfeasance, or neglect of duty; requiring a \$5,000 bond, payable to any individual harmed as a result of a breach of a notary public's duties; amending Section 117.03, F.S., relating to the administration of oaths to require certification for types of identification and oaths; specifying in Section 117.05, F.S., procedures related to the notary public's seal, the identity of those signing documents, prohibited acts, liability, penalties and copies of documents; creating Section 117.103, F.S., to pro-

vide for the certification of a notary public's authority by the Secretary of State, upon request; excepting law enforcement and correctional officers from Section 117.103, F.S. (Section 117.10, F.S.); and adding provisions to Section 695.25, F.S., for statutory short forms of acknowledgement. The law requires a notary public who is not an attorney to provide specific statements in advertisements for services. The legislation also repeals current Sections 117.02, 117.07, 117.08 and 117.09, F.S. The act is effective January 1, 1992.

#### **Private Investigative, Security and Repossession Services**

COMMITTEE SUBSTITUTE FOR SENATE BILL 2144 (CHAPTER 91-248) provides a number of technical and administrative changes to Chapter 493, F.S., relating to the regulation of private investigative, private security, and repossession services by the Department of State, including those related to: initial licensure applications (Section 493.6105, F.S.); requirements and posting (Section 493.6106, F.S.); payment of licensure fees (Section 493.6107, F.S.); possession of licenses while on duty (Subsection 493.6111, F.S.); authorized use of firearms (Section 493.6115, F.S.); grounds for disciplinary action (Section 493.6118, F.S.); and classes of licensure (Sections 493.6301 and 493.6401, F.S.).

The act exempts from application of Chapter 493, F.S., an individual employed as a proprietary security officer by a business conducting or contracting for background investigations on its own applicants for proprietary security positions (Subsection 493.6102(11), F.S.). This exemption applies when these investigations are conducted in compliance with or exceed standards established by Department rule. The law provides for the confidentiality of certain criminal justice information submitted to the Department of State and for the addresses and home phone numbers of certain licensees (Subsection 493.6121(5), F.S.). The legislation provides for a future Open Government Sunset Review (Section 119.14, F.S.) of these exemptions. The regulatory structure for private investigative, private security, and repossession services otherwise remains the same. The act is effective October 1, 1991.

#### **Solicitation of Funds/Regulation**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 803 (CHAPTER 91-208) substantially amends Chapter 496, F.S., relating to the solicitation of funds for charitable purposes. The act provides legislative intent to protect the public by requiring full public disclosure of those who solicit public contributions (Section 496.402, F.S.). The law provides for the registration of charitable organizations or sponsors, professional fundraising consultants, and professional solicitors with the Department of Agriculture and Consumer Services. As provided in Section 496.403, F.S., it does not apply to bona fide religious institutions, educational institutions, state agencies or other government entities or political contributions solicited in accordance with Florida's election laws. The legislation requires charitable organizations or sponsors to register prior to engaging in solicitation activities (Paragraph 496.405(1)(a), F.S.). Under Subsections 496.409(1) and 496.410(1), F.S., individuals are prohibited from acting as professional fundraising consultants and professional solicitors until certain conditions are met.

The act provides for recordkeeping requirements (Section 496.418, F.S.) and specific disclosures by charitable organizations and sponsors (Section 496.411, F.S.), professional fundraising consultants (Section 496.409, F.S.) and professional solicitors (Section 496.412, F.S.). The law also requires detailed written information from applicants for registration (Sections 496.405, 496.409 and 496.10, F.S.) and addresses the donation of tickets, as well as specific registration provisions for individuals who solicit contributions on behalf of named individuals (Sections 496.412 and 496.413, F.S.). The measure amends Section 617.1002, F.S., to specify the procedure by nonprofit corporations for amending articles of incorporation when the articles of incorporation do not provide an alternative procedure.

The legislation repeals Sections 496.001-496.007, 496.0085, 496.009 and 496.011, F.S. It does not preempt more stringent local regulation of solicitation activities (Section 496.421, F.S.). The act is effective January 1, 1992.

## PUBLIC OFFICERS AND EMPLOYEES\*

The 1991 Legislature dealt with a myriad of personnel-related issues, but due to budgetary constraints, only a small number of these proposals became law. In spite of the limited quantity, the personnel-related issues which became law were, for the most part, quite significant. For example, the Career Service System was repealed effective July 1, 1992, while other personnel legislation which passed provided for parental or family medical leave to state employees; the "Whistle-blower's Act of 1986" was significantly strengthened, as was the law relating to state officers' and employees' child care services; and the Department of Administration was directed to establish a comprehensive package of insurance benefits under the State Group Insurance Program.

There was minimum activity, however, in the areas of retirement and collective bargaining legislation during the 1991 Legislature.

## Public Employment

COMMITTEE SUBSTITUTE FOR HOUSE BILL 463 (CHAPTER 91-164) repeals the Career Service System (Part II, Chapter 110, F.S.) effective July 1, 1992. Further, the act directs the Department of Administration to conduct a review of the Career Service System and submit its recommendations to the Legislature by November 1, 1991. In addition, the legislation directs the Department to study the concept of providing retirement after 25 years of creditable service for members of the Florida Retirement System (FRS). The Department is required to consult with the appropriate substantive committees in the House and Senate prior to undertaking this study and is directed to submit a report relative to the concept of providing 25-year retirement to members of the FRS to the Legislature by November 1, 1991.

HOUSE BILL 2075 (CHAPTER 91-264) amends Paragraph 110.123(3)(d), F.S., which directs the Department of Administration to establish, after consultation with representatives of state collective bargaining unions, a comprehensive package of supplemental insurance benefits. The comprehensive package of supplemental insurance benefits shall include, but not be limited to, supplemental health and life coverage, dental care, and vision care and shall be offered to state employees on an optional basis. The legislation also provides for a bid procedure for insurance providers who are interested in participating in the State Group Insurance Program and also provides for enrollment in the pretax benefit program of those state employees who elect coverage under the aforementioned comprehensive package of supplemental insurance benefits. Lastly, the legislation directs the Department to study the feasibility of establishing a State Employee Cafeteria Benefit Program. In studying this issue, the Department is required to establish a public forum at which unions and other interested parties may have an opportunity to have input relative to the establishment of the Program. [Under a "cafeteria-

style benefit program," employees are permitted to select from a wide variety or "menu" of benefits, thereby tailoring their own benefit package so long as they stay within a predetermined monetary allocation.] The Department is directed to make its written recommendations relative to this concept to the Legislature by November 1, 1992.

COMMITTEE SUBSTITUTE FOR SENATE BILL 74 (CHAPTER 91-285) amends the "Whistle-blowers' Act of 1986" (Section 112.3187, F.S.) to provide that employees who disclose information known by them to be false shall not receive any protection under the law, and includes "gross waste of funds" under the list of information which may be disclosed by reporting employees. The legislation also revises Section 112.3188, F.S., to provide for confidentiality of reporting employees, subject to the Open Government Sunset Review Act (Section 119.14, F.S.), who disclose "reportable information" under the legislation to agency internal auditors or inspector generals. The legislation further prohibits employers of 10 or more persons from taking retaliatory personnel actions against disclosing employees under specified conditions; authorizes judicial relief for employees who have had retaliatory personnel actions taken against them; and provides for the award of reasonable attorney fees and court costs to the prevailing party in an action brought pursuant to this act.

COMMITTEE SUBSTITUTE FOR SENATE BILL 458 (CHAPTER 91-36) amends Section 110.221, F.S., to create "parental leave" and "family medical leave" provisions for state Career Service employees. Under the parental leave provisions, the state may not terminate the employment of a Career Service employee due to the pregnancy of the employee or the employee's spouse or due to the adoption of a child by the employee. Further, the state may not refuse to grant parental or family medical leave without pay for a period not to exceed 6 months. The legislation also defines "family" and specifies the conditions under which family medical leave may be granted. Additionally, the law provides that employees may use their accumulated and unused annual and sick leave in conjunction with parental leave or family medical leave. Upon return to employment after parental leave or family medical leave, the employee must be reinstated to the same or equivalent position with all rights and benefits held prior to such leave. The act takes effect October 1, 1991.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1672 (CHAPTER 91-184) amends the existing statutes (Section 110.151, F.S.) relating to state officers' and employees' child care services to provide that the sponsoring state agency may be responsible for the operation of a child care center, in lieu of a contracted child care service provider, when a qualified child care service provider is unavailable. The legislation also provides that in areas where the state does not have a sufficient number of employees to justify a child care center, a state agency may join in a consortium arrangement with other pub-

\*Prepared by Senate Personnel, Retirement & Collective Bargaining Committee



lic employers to provide child care services. The legislation also directs the Department of Administration to develop a model rule establishing family support personnel policies for all Executive Branch agencies, except the State University System. "Family support personnel policies" is defined as personnel policies affecting employees' ability to both work and devote care and attention to their families and includes policies on flexible hour work schedules, compressed time, job sharing, part-time employment, maternity or paternity leave for employees with a newborn or newly adopted child, and paid and unpaid family or administrative leave for family responsibilities. Implementation procedures for the family support personnel policies model rule are provided in the legislation. In addition, the legislation amends Section 110.121, F.S., to provide that part-time employees may also participate in agency sick leave pools on a pro rata basis.

Section 14 of SENATE BILL 2302 (CHAPTER 91-157), the implementing act for 1991-1992 general appropriations, grants extraordinary flexibility to the Department of Revenue and the Division of Workers' Compensation of the Department of Labor and Employment Security for Fiscal Year 1991-1992 to act outside of the normal personnel and budget requirements of the Florida Statutes. This experimental approach is intended to improve the administration of governmental programs and permit the assessment of the concept of increasing managerial authority for state managers. Section 14 of this legislation also creates the Productivity Advisory Group, consisting of nine members who are charged with evaluating the experimental extraordinary grant of personnel and budget authority to the Department of Revenue and the Division of Workers' Compensation and is to report its findings to the Governor, Cabinet and Legislature on an interim basis by December 2, 1991, and finally, November 1, 1992. This same section of the law creates the Commission on the Florida Government Personnel System. This Commission will also consist of nine members and it is charged with conducting a comprehensive study of the state personnel, pay and classification systems. The Commission is also required to submit a report of its findings, including recommendations, to the Legislature by December 2, 1991.

### State-Administered Retirement Systems

COMMITTEE SUBSTITUTE FOR HOUSE BILL 337 (CHAPTER 91-276) amends the Florida Retirement System (FRS) law relating to reemployment after retirement (Paragraph 121.09(9)(b), F.S.) to provide that retired teacher aides, transportation assistants, bus drivers and food service workers may be reemployed by a district school board for up to 780 hours during their first year of retirement in lieu of having to wait one year after retirement before becoming eligible for reemployment by an FRS employer.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 463 (CHAPTER 91-164) summarized under *Public Employment* subheading above, contains additional retirement-oriented legislation.

SENATE BILL 1478 (CHAPTER 91-148) revises Paragraph 110.123(3)(c), F.S., to provide for a limited open enrollment pe-

riod for all employees who retire before September 1, 1991, and their eligible dependents to participate in the State Group Insurance Program. The limited open enrollment period extends from September 1, 1991, until October 31, 1991; eligible retirees include any retiree who has previously rejected or cancelled his participation in the State Group Insurance Program. To participate, such retirees must notify the Office of State Employees Insurance, in writing, by October 31, 1991, of their intention to join the insurance program.

### Public Sector Collective Bargaining

COMMITTEE SUBSTITUTE FOR SENATE BILL 1694 (CHAPTER 91-151) adds Subsections 447.205(11) and (12), F.S., to provide that any hearing held under the auspices of the Public Employees Relations Commission shall be held by the Commission, a member of the Commission, or a hearing officer appointed by the Commission. The Commission is also granted authority to appoint an employee as an elections supervisor to conduct representation elections in accordance with Chapter 447, F.S. The legislation also amends Section 447.208, F.S., to permit the Commission to grant an extension of time in the setting of hearing dates when there is good cause to do so. Demotion hearings as well as those concerning suspensions or dismissals are included within the operation of Section 447.208, F.S. This act gives the Commission limited authority to reduce agency-assessed penalties in those cases coming before the Commission which involve a Career Service appeal.

### Salary Increases for State and Community College Employees

SENATE BILL 1314 (CHAPTER 91-272) appropriates \$43 million from the General Revenue Fund and \$32 million from trust funds to provide a 3-percent salary increase for state employees. The act also makes fund transfers for productivity enhancement and provides salary increases for community college employees.

### Legislative Employee Subsistence and Transportation

Under Subsection 11.12(1), F.S., as revised by SENATE BILL 358 (CHAPTER 91-34), the subsistence rate to be paid to the employees of each legislator selected to attend sessions of the Legislature is to be set by the Joint Legislative Management Committee alone, rather than by the Committee in accordance with policies and procedures set by the appropriate administrative authorities in each house. The word "transportation" is substituted for the word "travel" to conform with referenced Subsections 112.061(7) and (8), F.S., which covers expenses for which such employees are to be reimbursed.

The act also amends Paragraph 11.147(4)(c), F.S., to charge the Committee with the responsibility of maintaining salary information for the determination of the competitiveness of the legislative pay plan and for a presentation to the Presiding Officers not later than August 1 each year together with a study of employees performing comparable work in other labor markets.

\*Prepared by Senate Personnel, Retirement & Collective Bargaining Committee



## STATE GOVERNMENT\*

The 1991 Legislature took action to improve the status of women, and to augment the state's civil rights laws. As well, the Legislature sought to increase governmental responsibility with respect to its administrative procedures.

A number of laws were enacted relating to public access to government meetings and records. Seven historic preservation boards were recreated, and changes were made to the state's Fine Arts Endowment Program.

These, and other acts relating to the function of the state and its agencies, are discussed below.

**Governmental Reorganization and Procedures**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1142 (CHAPTER 91-171) amends Chapter 282, F.S., the "Information Resources Management Act," which establishes Florida's policy with regard to communications and data processing. [Within that chapter, the Information Resource Commission (IRC) is created to oversee planning by state agencies regarding the procurement and use of computer technology and systems. The Governor and the Cabinet comprise the IRC.]

Under Section 14 of the enactment, the personnel of the IRC, including 14 full-time equivalents (FTEs), and its records, property and appropriations are transferred from the Executive Office of the Governor to the Department of General Services. Three FTEs that were assigned to the IRC [of its total 17 FTEs], as well as approximately \$184,000, are assigned to the Executive Office of the Governor.

Section 282.306, F.S., relating to the responsibilities of the executive administrator of the IRC, is amended. Under the changes, the administrator is specifically responsible for such functions of the Commission as budgeting, personnel, purchasing and other duties delegated by the Commission.

[The IRC was assigned to consider agency budget requests to evaluate requests for data processing equipment.] Under revised Subsection 216.0445(1), F.S., in the act, the Executive Office of the Governor and the appropriations committees of the Legislature will jointly prescribe the format to be used by the IRC in its review and recommendations relating to state agency information resource management budget schedules.

Provisions in Section 282.3115, F.S., which currently require state agencies to submit an annual Information Resources Management Operating Plan are repealed. Specified definitions of terms used by agencies in completing other plans and reports required for annual submission to the IRC are changed in Section 282.303, F.S. The date of submission for several reports are also changed (Sections 282.3062 and 282.312, F.S.), as is the content required in specified reports (Sections 282.1021 and 282.307, F.S.).

Section 282.318, F.S., relating to the security of data and information technology resources, is also amended. State agencies are required under the act to include in their reports

to the IRC a description of how they intend to implement security policies and standards for protecting their information resources pursuant to IRC requirements. The Supreme Court is also required to include, as a part of its information resources management plan, a general description of its existing information resource security plan, including future plans for assuring such security.

HOUSE BILL 755 (CHAPTER 91-54) changes the name of the Department of General Services' Division of Safety and Crime Prevention to the Division of Capitol Police, and expands the Division's investigatory authority.

[Section 281.02, F.S., charges the Division with providing and maintaining the firesafety and security of all state-owned property, with certain exceptions. Until the enactment, Section 281.03, F.S., provided that the Division could only conduct traffic accident and misdemeanor investigations. The Division was required by law to refer all matters deemed to involve a felony to an appropriate law enforcement agency for investigation. Upon the request of that law enforcement agency, the Division could then assist in the felony investigation which it had referred.]

The act authorizes the Division to conduct felony investigations for such offenses occurring on state-owned or state-leased property. In addition, the Division may refer felony investigations to an appropriate law enforcement agency for criminal investigation.

HOUSE BILL 749 (CHAPTER 91-23) transfers responsibilities under the "Florida Crimes Compensation Act" (CHAPTER 960, F.S.) from the Department of Labor and Employment Security to the Department of Legal Affairs. The Bureau of Crimes Compensation and Victim and Witness Services of the Division of Workers' Compensation of the Department of Labor and Employment Security is renamed the Crime Victims' Service Office of the Department of Legal Affairs. Appropriate sections of Chapter 960, F.S., are revised to conform to this change. Subsection 775.0835(2), F.S., is revised and Paragraph 784.046(9)(a), F.S., are reenacted to reflect the transfer.

Section 960.09, F.S., is amended to provide for the determination of claims of victims and witnesses and the holding of administrative hearings on such claims by the Crime Victims' Service Office.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2135 (CHAPTER 91-265) amends the Spaceport Florida Authority Act, which is codified in Chapter 331, F.S. The law clarifies that the Authority is not an "agency" of the state for purposes of having its budget approved by the Legislature, pursuant to Chapter 216, F.S., and is not an agency required to comply with the purchasing provisions in Chapter 287, F.S.

Subsection 331.305(6), F.S., is amended to empower the Authority to enter into financing agreements with persons or spaceport users to facilitate the financing, construction, leasing or sale of any project. The definition of "project" in renun-

\*Prepared by Senate Governmental Operations Committee

bered and revised Subsection 331.303(16), F.S., is expanded to include any rocket, capsule, module, certain facilities, or any other type of spaceport-related transportation vehicle, station or facility, or instrument, equipment, or intellectual property, utility system or distribution or collection system. In connection with any financing agreement, under added Subsection 331.305(23), F.S., the Authority is empowered to fix and collect fees, loan or rental payments, and other charges to provide moneys for the principal of and interest on bonds.

The purposes for which the Spaceport Florida Authority is authorized to issue bonds is broadened in amended Subsection 331.305(21), F.S., to include the "projects" as defined and enumerated above, as well as for payloads and space flight hardware, and equipment for research, development and educational activities. The law (Subsection 331.305(21), F.S.), which currently limits the Authority's power to issue bonds during the first 5 years of its operation to a total of \$500,000, subject to the approval of the Governor and the Cabinet, is amended to provide that such limitation will remain in existence only until December 31, 1994. In addition, conduit bonds, or private activity bonds, are not included in the limitation. Section 331.339, F.S., is revised to permit the Authority to negotiate the sale of bonds pursuant to Section 218.385, F.S., which provides law governing the sale of bonds by local governments.

The Authority is empowered by new Subsection 331.305(24), F.S., to exercise the right and power of eminent domain in spaceport territory only, as defined in Section 331.304, F.S.

Section 235.196, F.S., is amended to authorize the authority to participate, as a noneducational governmental agency, in cooperative agreements in partnership with an educational governmental agency to construct community educational facilities. In addition, Section 11 of the act permits any funds generated by the Spaceport Florida Authority to be used for matching purposes under the State University System's matching grant program.

Section 331.354, F.S., is created to provide that bonds issued by the authority and all instruments securing the bonds are exempt from taxation by the state or any political subdivision of the state. The tax exemptions granted are not applicable to any tax imposed by Chapter 220, F.S., on interest, income or profits on debt obligations owned by corporations.

Section 10 of the enactment directs the Advisory Council on Intergovernmental Relations to conduct a study to determine whether the proceeds raised by the issuance of bonds pursuant to Part VI of Chapter 159, F.S., are being allocated equitably among the regions, and among projects within the regions. [That law, known as the Florida Private Activity Bond Allocation Act, provides for the allocation of private activity bonds under the statewide limitation imposed by Congress in the Tax Reform Act of 1986 (P.L. 99-514, 100 Stat. 2085).] The Council is to report its findings and recommendations to the Legislature prior to the 1992 Regular Session of the Legislature.

HOUSE BILL 2511 (CHAPTER 91-227) repeals Section 283.57, F.S., relating to the purchase of printing equipment by

state agencies. [The statute which is repealed by the act required specific legislative approval prior to the purchase, enhancement or expansion of printing equipment and systems by state agencies. Currently, the Legislature provides oversight of agency purchases through the legislative budgeting process and through purchasing laws and procedures under the auspices of the Department of General Services.]

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1265 (CHAPTER 91-214) amends Section 213.053, F.S., to authorize the Department of Revenue to disclose certain tax filing data to the Division of Corporations of the Department of State to permit recovery of fees and penalties due the state from nonqualified foreign or dissolved corporations. The Division of Corporations is restricted in its use of the information to the pursuit of nonqualified or dissolved foreign corporations, and must maintain the same confidentiality required of the Department of Revenue.

Section 265.286, F.S., is amended to require that funds transferred to the State Major Cultural Institution Trust Fund, pursuant to Paragraph 265.286(1)(d), F.S., be transferred to the 15 Vital Local Cultural Organizations designated in 1991 pursuant to the review process in Subsection 265.286(7), F.S.

Section 265.2861, F.S., is revised to require that \$800,000 per year of the fees collected pursuant to Section 607.1502, F.S., be transferred from the Corporations Trust Fund to the State Major Cultural Institution Trust Fund.

Section 607.0130, F.S., is amended to authorize the Department of State not to file any document submitted by a corporation determined not to have paid all fees, taxes and penalties owed the state. This section also authorizes the Department of State to bring an action in circuit court to collect any moneys owed the state, to compel any filing required by law, to file a lis pendens against any property owned by the corporation, and to certify findings to the Department of Legal Affairs for appropriate action under Section 607.0505, F.S.

Under amended Section 607.1502, F.S., the authority to collect all penalties due under Subsection 607.1502(4), F.S., and to seek recovery in circuit court is transferred from the Department of Legal Affairs to the Department of State.

The act provides for repeal of Subsection 265.286(7), and Paragraph 265.286(1)(d), F.S., on October 1, 1994, and review prior to that date.

### Civil Rights and Minority Affairs

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1431 (CHAPTER 91-74) creates an Office of Civil Rights and focuses on the rights and status of minorities and women. [The act amends laws to implement many recommendations of the Florida Supreme Court Racial and Ethnic Bias Study Commission to improve the representation and treatment of females and minorities in Florida's courts and justice systems. Minorities affected by the amendments are defined as members of a socially or economically disadvantaged group which includes blacks, Hispanics and American Indians.]

Section 43.29, F.S., is amended to require the appointment of women and minorities to the judicial nominating commissions. The act provides that of the nine members appointed by the three respective appointing authorities, as specified in current law, at least three are required to be members of a racial or ethnic minority group or women.

Chapter 39, F.S., is amended to require the composition of the Commission of Juvenile Justice and the Juvenile Justice Standards and Training Council, Sections 39.023 and 39.024, F.S., respectively, to be broadly reflective of the general public and to include minorities and women. New laws which pertain to the clerks of court, the state attorneys and the public defenders, Sections 28.34, 27.182, and 27.5301, F.S., respectively, are added to require those officers to review each of their offices and to eliminate any disparity in salary or compensation which is based upon gender or race.

An Office of Civil Rights is created within the Department of Legal Affairs (Section 16.57, F.S.). The office is directed to investigate violations of constitutional rights of persons, and the Attorney General is authorized, pursuant to new Section 760.51, F.S., to bring civil actions relating to same. Any person who interferes with another's exercise or enjoyment of constitutional or other legal rights is liable for a civil penalty of up to \$10,000 for each violation.

The act creates Paragraph 943.1755(1)(b), F.S., which states that the Legislature finds that there is a need to improve the relationships between law enforcement agencies and the minorities that they serve. Therefore, the Criminal Justice Executive Institute is required to conduct research projects for the purpose of improving law enforcement interaction and intervention in the communities of racial and ethnic minorities. The institute is directed to use the resources of community colleges and universities in conducting the research projects. Section 943.1758, F.S., is created to require the Criminal Justice Standards and Training Commission to develop training standards for the instruction of law enforcement officers in the subject of interpersonal skills relating to racial and ethnic minorities. By January 1, 1993, the training currently required for basic skills for initial certification and for continued employment or appointment as a law enforcement officer, is required to include 8 hours of instruction relating to racial and ethnic minorities under new Sections 943.1715 and 943.1716, F.S. The act takes effect October 1, 1991.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 441 (CHAPTER 91-162) amends the Florida Small and Minority Business Assistance Act of 1985 (Sections 288.701-288.714, F.S.), and other changes are made to the state's contracting procedural requirements and provisions.

Based on the results of a constitutionally required, legislatively funded minority contracting disparity study, Paragraph 287.042(4)(f), F.S., is amended to adopt goals for the expenditure of moneys for general procurement by state agencies with certified minority businesses for construction, architecture and engineering, commodities and contractual services. For contracts with certified minority business enterprises, each agency is encouraged to spend 21 percent of the moneys actually expended for construction contracts, 25 percent

of the moneys actually expended for architecture and engineering contracts, 24 percent of the moneys actually expended for commodities and 50.5 percent of the moneys actually expended for contractual services contracts. [Previously, the spending goal percentage which state agencies were encouraged to attain was set at a fixed 15 percent.]

The enactment subdivides the overall spending goals for the identified industry categories, as follows: for construction contracts, the goals are 4 percent for black Americans, 6 percent for Hispanic Americans and 11 percent for American women; for architecture and engineering contracts, the goals are 9 percent for Hispanic Americans, 1 percent for Asian Americans and 15 percent for American women; for commodities contracts, the goals are 2 percent for black Americans, 4 percent for Hispanic Americans, 0.5 percent for Asian Americans, 0.5 percent for native Americans and 17 percent for American women; and for contractual services contracts, the goals are 6 percent for black Americans, 7 percent for Hispanic Americans, 1 percent for Asian Americans, 0.5 percent for native Americans and 36 percent for American women.

The Department of Lottery also is encouraged to meet the minority goals set out in Chapter 287, F.S., and under revised Subsection 24.113(1), F.S., the Department is required to have 15 percent of its retailers be minority business enterprises [rather than retailers and vendors taken together, as previously mandated].

The 15-percent minority contracting requirement in Section 288.1167, F.S., imposed upon food, beverage and related concessions for sports franchise facilities is also amended to conform to the newly established categories for minority procurement goals. The category percentages, rather than the prior 15-percent expenditure, is specifically applied by Paragraph 325.207(8)(k), F.S., as revised by the enactment to contracts for the construction, maintenance, repair, renovation and expansion of motor vehicle inspection stations and for related printing contracts.

The required annual reporting by agencies to the Division of Purchasing of the Department of General Services regarding minority business contracting is expanded by amendment to Subsection 287.042(15), F.S., to mandate agency identification of subcontracts by dollar amount and number of subcontracts, as well as specific dollar amounts, number, minority status and industry category for both prime contractors and subcontractors.

Pursuant to new Subsection 11.42(9), F.S., the Auditor General is directed to include a statement regarding agency compliance with these minority business enterprise procurement goals as a part of any audit of a state agency's administrative services functions. In the event of budget reductions, under the authority of Subparagraph 287.042(4)(f)1., F.S., the base amounts of the goals may be adjusted to reflect the reductions. The Minority Business Enterprise Assistance Office in the Department of General Services is directed to develop by rule guidelines for agency determinations of base amounts for minority contracting and procedures for adjustments thereto resulting from budget reductions.

Except in construction contracting, the act requires, in Paragraph 287.042(15)(a), F.S., agencies, when practical, to break contracts into smaller contractual units within the larger contract to encourage minority participation and to report activity regarding same to the Division of Purchasing annually.

The Division of Purchasing of the Department of General Services is directed in amended Subparagraph 287.042(4)(f)2., F.S., to make revisions to the minority procurement goals, based upon an updated statistical disparity analysis, at least once every 5 years. The results of the first updated statistical disparity study must be presented to the Legislature no later than December 1, 1995.

Port authorities, expressway and bridge authorities, transportation authorities and water management districts are encouraged to contract for or to conduct studies concerning discrimination against minority groups in their procurement and contracting processes by Section 6 of the act.

The organizational placement of the Minority Business Enterprise Assistance Office is changed from the Office of the Executive Director of the Department of General Services to the Department's Division of Purchasing, where the office is established as a bureau by revised Subsection 287.0945(2), F.S., in the enactment.

[Under Section 255.05, F.S., when a state agency contracts for commodities or services and the contract is for \$100,000 or less, no payment or performance bond may be required. A construction contract for \$200,000 or less also may be exempted from the payment and performance bond requirement at the discretion of the public entity involved. The executive director of the Department of General Services may also delegate to the agencies the authority to exempt the contractor for contracts greater than \$100,000 but less than \$200,000 in value.]

The enactment by amending Paragraph 255.05(1)(a), F.S., directs the Department of General Services to compile an annual report that lists the number of requests by state agencies for delegation of authority to waive the payment and performance bond requirements of Section 255.05, F.S., by agency and project number, and to state whether any request for delegation was denied and the justification for the denial. The report is directed to be submitted no later than February 1 to the Governor, the Legislature and the Small and Minority Business Advisory Council.

The legislation amends Subsection 287.0943(1), F.S., to require the annual recertification of minority business enterprises to be done by affidavit. The Minority Business Enterprise Assistance Office is directed to perform random, on-site reviews of the recertified enterprises to determine whether all certification requirements are being met.

Local governments are required by the act to accept minority business enterprises that are certified by the Department of General Services as fully certified for their respective local minority business enterprise programs when these minority business enterprises fall within one of the racial or gender classifications established by the respective local governmental unit. Local governments are also prohibited by the act from

revoking certifications unless notice is given to the Department of General Services.

Definitions pertaining to the Small and Minority Business Assistance Act of 1985 are revised in Subsections 288.703(1) and (3), F.S., to increase the number of employees—from 25 to 50—that a small business may employ to be eligible for certification as a minority business enterprise. The "native Hawaiian" designation is deleted from the definition of "minority person" as a separate minority category and is included within the category of Asian Americans. The law deletes the "physically disabled person" as a minority category. The measure also revises the definition for "native American" to include any person who has origins in any of the Indian Tribes of North America prior to 1835 pursuant to rules of the Department of General Services. [Prior to the enactment, in order to be considered as a "minority person" under the Small and Minority Business Assistance Act, a "native American" was defined as a member of, or eligible for membership in, a federally recognized Indian tribe.]

Section 17 of the act directs the Department of General Services to further review and assess the recommendations presented in the legislatively funded disparity study regarding the availability of and the use of minority business enterprises in state contracting. The review is to consider whether minority business enterprise goals should be mandatory, whether bid preferences should be provided to minority business enterprises, whether certification and recertification procedures should be modified, methods to improve training and education of agency personnel regarding minority business contracting, methods of conducting minority business outreach programs and methods to monitor the use of minority business enterprises in state contracting.

The Department is also directed to assess the measures that would allow the state to conduct—using state personnel—future disparity studies of minority business enterprise contracting. The Department is directed to present its recommendations, which must include any suggested statutory modifications necessary to implement its recommendations, to the Legislature no later than December 1, 1991.

In addition, the act makes other changes to state procurement procedures that do not specifically deal with minority business enterprises.

All purchasing agreements between an agency and a vendor, as well as agency purchase orders, are required to include a statement of vendors' rights, including the name, telephone number and a brief description of the duties of the vendor ombudsman pursuant to revised Subsection 215.422(5), F.S.

When the contract amount of a project is \$500,000 or less and when public funds are used for the project, the act specifies in amending Section 287.0935, F.S., sureties for the project which cannot be refused, including bid bonds, performance bonds, labor and materials performance bonds and other surety bonds issued by a surety company licensed to do business in Florida, provided other statutory requirements are met.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 109 (CHAPTER 91-77) creates Section 14.24, F.S., to provide for the Florida Commission on the Status of Women within the Office of the Attorney General. The Commission is comprised of 22 members to be appointed as follows: the Attorney General, the Speaker of the House, the President of the Senate and the Governor are each to appoint three members, and each of the other Cabinet officials is to appoint two members. Members are required to be representative of rural and urban interests, as well as the ethnic and cultural diversity of the state's population.

The Commission is charged with studying the changing and developing roles of women in American society. The study is to include, but not be limited to, the socio-economic factors that influence the status of women, development of individual potential, encouragement of women to assume leadership roles, coordination of women's organizations interested in the welfare of women and identification and recognition of contributions made by women to the community, state and nation. The Commission is required to report annually to the Governor, the Cabinet and the Legislature.

The Commission is scheduled for future repeal and prior legislative review on October 1, 2001, pursuant to the Sunset Act (Section 11.611, F.S.). The act is effective October 1, 1991.

#### **Administrative Procedures**

HOUSE BILL 1879 (CHAPTER 91-30) amends Chapter 120, F.S., the Administrative Procedure Act, to clarify which final orders of agencies are required to be indexed and to clarify the role of rulemaking by agencies. [Pursuant to Section 120.52, F.S., final agency orders are those final agency decisions which do not have the effect of a rule and which are not excepted from the definition of a rule. Rules are agency statements of general applicability that implement, interpret or prescribe law or policy.]

The act revises Subsection 120.53(2), F.S., to eliminate the requirement that agencies index by subject matter all agency orders. Instead, the law restricts to final orders the indexing requirement and clarifies that agency orders subject to the indexing requirement include those orders rendered as final agency action in proceedings under Sections 120.57(1) or (2), F.S., relating to formal and administrative proceedings; or entered pursuant to Section 120.57(3), F.S., relating to informal disposition by stipulation, settlement or consent order, which contain statements of agency policy or precedent; declaratory statements; and each final agency order resulting from a proceeding under Subsection 120.54(4), F.S., or Section 120.56, F.S., relating to challenges to proposed and existing rules.

The measure requires final orders entered under Subsection 120.57(3), F.S., which informally dispose of proceedings, but which do not contain precedential statements or statements of agency policy, to be listed only. Copies of the lists and the listed orders are to be made available upon request.

Agency orders are specified under the act in added Subsection 119.041(2), F.S., to be documents of continuing legal significance and are required to be permanently maintained by agencies under the guidance of the Department of State. Orders are required to be indexed or listed within 120 days of filing pursuant to amended Paragraph 120.53(2)(b), F.S.

The Department of State is vested with the responsibility and authority to act as a central agency for providing overall leadership for indexing, management and preservation of agency orders in Sections 8 and 9 of the law. Section 10 of the enactment requires each agency to submit plans for indexing and availability of the agency's orders to the Department of State for the department's written approval. In accordance with new Paragraphs 120.53(2)(c) and (d), F.S., the Department must approve the categories or types of agency orders to be excluded from the indexing and availability requirements, i.e., those orders which are of limited precedential value, which are of limited legal significance or which are ministerial in nature. Once approved, the legislation requires the plans to be promulgated by rule for each agency.

Specifically, agencies must specify by rule those types or categories which are excluded from the indexing and availability requirements, the location at which indexes, lists and orders are maintained and the procedure for inspecting and copying them, all systems in place for searching and locating orders and mechanisms for obtaining assistance and information pertaining to orders, as well as the sequential numbering system the agency employs for orders (Paragraphs 120.53(2)(e), (f), (g) and (h), F.S.).

Among the agency proposals which may specifically meet the indexing and availability requirements under amended Paragraph 120.53(4)(a), F.S., is the designation of an official reporter which publishes a subject-matter index and all orders required to be indexed. The agency may itself publish the reporter or may contract for publishing. If an agency contracts with a publishing firm to publish its reporter, the agency is required to be responsible for the quality, timeliness and usefulness of the reporter (Paragraph 120.53(4)(b), F.S.).

The Department of State is authorized by the same paragraph to publish or to contract for publication of official reporters, and to assess equitable space rate and subscription charges to users of any reporters published by the Department to cover costs of publication by Paragraph 120.53(4)(c), F.S. The Department is required to retain responsibility for the quality, timeliness and usefulness of any reporter for which the Department contracts.

Section 7 of the law requires the Division of Administrative Hearings to direct a study and pilot project to implement a full-text retrieval system to provide access to recommended orders, final orders and declaratory statements.

In the area of rulemaking, the enactment creates Section 120.535, F.S., to declare that rulemaking is not a matter of agency discretion. Each agency statement of general applicability is required to be adopted by the rulemaking procedures of the Administrative Procedure Act as soon as feasible and practicable.

The law creates a statutory presumption that rulemaking is both practicable and feasible, with certain limited exceptions.

Rulemaking is presumed to be feasible unless an agency proves that: (1) the agency has not had sufficient time to acquire the knowledge and experience reasonably necessary to address an agency statement by rulemaking; (2) related matters are not sufficiently resolved to permit an agency to address an agency statement by rulemaking; or (3) the agency is currently using the rulemaking procedure expeditiously and in good faith to adopt rules which address the agency statement.

Rulemaking is presumed to be practicable to the extent necessary to provide fair notice to affected parties of relevant agency procedures and applicable principles, criteria or standards for agency decisions, unless the agency is able to prove that: (1) the detail or precision in the establishment of principles, criteria or standards for agency decisions is not reasonable under the circumstances; or (2) the questions which must be addressed are so narrow in scope that more detail or precision is precluded outside of an adjudication to determine the substantial interests of a party based on individual circumstances.

A challenge to an agency statement is authorized to be instituted by petition filed with the Division of Administrative Hearings by any substantially affected person. The petition is required to be in writing and to allege facts sufficient to demonstrate that the person is substantially affected by an agency statement, that the statement constitutes a rule and that the statement has not been adopted by the established rulemaking procedure.

If a hearing is held, the petitioner has the initial burden of proving the allegations of the petition against the agency. If the allegations of the petition are proven, the burden then shifts to the agency to prove that it was not feasible and practicable to adopt the challenged statement through rulemaking.

Within 30 days after the hearing, the hearing officer is directed by the act to render a decision in which all or part of the challenged agency statement may be found to violate rulemaking standards.

If the final order determines that the agency statement violates the rulemaking standard, the agency is prohibited from further reliance on the statement, or any substantially similar statement, as a basis for agency action. If the agency continues to rely upon the statement or a substantially similar statement as the basis for agency action and the substantial interests of a person are determined by the agency action, that person is entitled to payment by the agency of all reasonable costs and attorney's fees. The award is required to be paid from the budget entity of the agency head and the agency will not be entitled to payment of the award, or for reimbursement for payment of the award, under any provision of law.

The agency is permitted to rely upon the violative statement as a basis for agency action if the agency first initiates rulemaking proceedings under Section 120.54, F.S., and, in so doing, publishes proposed rules which address the statement in question. If the agency fails to adopt rules which address

the violative statement within 180 days of publication of the proposed rules, a presumption is created by the law that the agency is not acting expeditiously and in good faith to adopt rules. If an agency's proposed rules are challenged under Section 120.54, F.S., the 180-day period is tolled until the rule challenge proceeding is concluded.

Each agency statement of general applicability not adopted by the established rulemaking procedure which is relied upon by an agency to determine the substantial interests of a party is subject to de novo review by a hearing officer under new Subparagraph 120.57(1)(b)15., F.S. The act provides that a statement must not enlarge, modify or contravene the specific provision of law implemented or otherwise exceed delegated legislative authority. The statement which is applied as a result of a formal administrative proceeding is required to be demonstrated to be within the scope of delegated legislative authority.

Recommended and final orders in such a proceeding are required to explain the agency statement applied, including the evidentiary basis for the statement and a general discussion of the justification for the statement applied.

SENATE BILL 2504 (CHAPTER 91-191) changes the effective date of another 1991 general law, HOUSE BILL 1879 (CHAPTER 91-30), which relates to indexing of agency orders and procedures for agency rulemaking under the Administrative Procedure Act, which is summarized above.

The effective date of HOUSE BILL 1879 (CHAPTER 91-30) (other than the section providing the effective date and Section 10 of the bill, which will continue to take effect upon the bill becoming law) is changed from January 1, 1992 to March 1, 1992. [Section 10 of HOUSE BILL 1879 (CHAPTER 91-30) requires agencies to submit plans for the indexing and publishing of their agency orders to the Department of State for the department's approval. Although the effective date of that section will continue to be upon the bill becoming law, the act amends the deadline in that section from January 1, 1992 to March 1, 1992 for the agencies to submit their indexing and availability plans to the Department of State.]

### Public Meetings and Records

Several bills concerning public access under the Public Meetings Law, Section 286.011, F.S., and the Public Records Law, Chapter 119, F.S., were enacted. Among these measures is an act opening certain historical records in the Florida State Archives. Another act concerns the fee charged for copying public records. Other enactments limit public access with respect to certain sensitive information or relate to existing access restrictions for public meetings and records reviewed under the Open Government Sunset Review Act, Sections 119.14 and 286.0111, F.S.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 637 (CHAPTER 91-53) amends Section 257.35, F.S., relating to the Florida State Archives of the Department of State. The act provides authority to the Archives to provide public access to public records made confidential by law after a period of 50 years from the date of the creation of the record. Thus, confi-



dential records in the possession of the Florida State Archives which were created prior to 1941 are available to the public.

The Division of Library and Information Services of the Department is also given authority to require state agencies to transfer records to the Florida State Archives once the Division has determined such records to be of historical or other value. An agency head may certify to the Division in writing that the records requested for transfer are necessary in the daily operations of the agency, and thus avoid transferring the records.

SENATE BILL 422 (CHAPTER 91-130) amends Subsection 119.07(1), F.S., to authorize public records custodians to collect a maximum payment of 15 cents-per-one-sided copy of public records, unless a fee is otherwise prescribed by law. [State agencies will continue to be authorized to charge up to \$1 per copy for a certified copy of a public record.]

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1719 (CHAPTER 91-219) amends Subsection 119.07(5), F.S., within the Public Records Law, to clarify that an exemption from the law's public access provisions does not imply a corresponding exemption from the Public Meetings Law in Section 286.011, F.S. An exemption from the Public Meetings Law, therefore, must be expressly provided by statute.

The new law also amends the Open Government Sunset Review Act contained in Section 119.14, F.S., to provide that an exemption to either the Public Records Law or the Public Meetings Law may only be *created* or maintained if it serves an identifiable public purpose as defined by the act. As well, an exemption may be no broader than is necessary to meet the public purpose for which it is created. Other language in the Open Government Sunset Review Act is clarified to specify that the Legislature must find that the purpose for enacting an exemption is sufficiently compelling to override the state's strong public policy of open government, and that such purpose may not be accomplished absent the exemption.

One of the three statutory criteria contained in the Open Government Sunset Review Act which must be considered by the Legislature prior to reenacting or creating an exemption is also amended. If an exemption protects information of a sensitive, personal nature concerning individuals, the act provides that only such information which identifies individuals may be exempt from public access.

As well, public hospital governing boards, i.e., boards of trustees, are granted exemptions by the act to the Public Records and Public Meetings laws under specified conditions. Negotiations of contracts for which a public hospital will receive payment for its services, when such negotiations involve services which may be provided by competitors of the hospital, are exempt from the provisions of Section 286.011, F.S. Also exempt from the provisions of Subsection 119.07(1), F.S., are documents, offers and contracts when they are the product of negotiations which are exempt. Such exempt negotiations, documents, offers and contracts become available for public inspection 30 days before any meeting at which a hospital's governing board is scheduled to vote whether to accept, reject or modify the documents, offers or contracts.

The following documents and records are exempt from the public access provisions of Section 119.07(1), F.S., until a hospital governing board votes to lease, sell or transfer all or any substantial portion of the facilities or property of the hospital:

- 1) preferred provider organization contracts,
- 2) health maintenance organization contracts,
- 3) documents which reveal marketing plans for hospital services in cases in which the hospital's governing board believes that such documents may be available to its competitors, and
- 4) documents which reveal trade secrets as defined by law.

The public meetings and public records exemptions provided to public hospitals are subject to future repeal and review pursuant to the Open Government Sunset Review Act.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1548 (CHAPTER 91-149) amends Paragraph 119.07(3)(k), F.S., within the Public Records Law, to provide a public records exemption for the home addresses, telephone numbers and photographs of certified firefighters. As well, a public records exemption is provided for the home addresses, telephone numbers, photographs and places of employment of spouses and children of such firefighters, and for the names and location of schools and day care facilities attended by the children of certified firefighters.

The act also provides similar exemptions to the same types of information relating to justices of the Supreme Court, judges of district courts of appeal, and circuit court and county court judges. Information identifying the spouses and children of such justices and judges is also exempt.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1065 (CHAPTER 91-96) amends Paragraph 119.07(3)(aa), F.S., within the Public Records Law, to provide an additional public records exemption. [Section 119.07, F.S., presently contains a number of exemptions from the public access provisions of the Public Records Law affecting various entities and types of records.]

Under the enactment, any financial statement which an agency requires a prospective bidder to submit in order to prequalify for a road or other public works project is confidential and therefore exempt from the Public Records Law. [The Department of Transportation currently has such an exemption; thus, the act extends confidentiality to financial statements submitted to local government entities.]

The exemption provided by the law is subject to future repeal and prior legislative review pursuant to the Open Government Sunset Review Act, Section 119.14, F.S. The act takes effect October 1, 1991.

SENATE BILL 1682 (CHAPTER 91-150) amends Section 112.3188, F.S., which is contained in the "Whistle-blower's Act of 1986," to extend the act's complete confidentiality protections to persons employed by regional, county, local and municipal government entities.

[The "Whistle-blower's Act" provides protection to public employees who report certain violations committed by employees or independent contractors employed by the state. Prior to the 1991 enactment, although the "Whistle-blower's Act of 1986" applied as well to regional, county, local and mu-



municipal government entities, the confidentiality protections did not apply to protect from disclosure the name or identity of persons furnishing information under the act to the inspector general or internal auditor of any of those entities.]

Under the enactment, when an internal auditor or inspector general or his staff of a state, regional, county, local or municipal government entity receives a complaint or information that a violation or suspected violation may have occurred of any federal, state or local law, rule or regulation, the name or identity of the individual reporting the violation is protected from disclosure.

The individual's name is not authorized to be disclosed to anyone other than the internal auditor or inspector general of the agency without the written consent of the individual, unless the internal auditor or inspector general determines that such disclosure is unavoidable during the course of an audit, evaluation or investigation. The act takes effect October 1, 1991.

COMMITTEE SUBSTITUTE FOR SENATE BILL 46 (CHAPTER 91-114) creates an exemption from the public access provisions of the Public Records Law in Section 119.07, F.S., and reenacts several other exemptions.

Subsection 570.544(8), F.S., relating to consumer complaints filed with the Department of Agriculture and Consumer Services, is amended to provide confidentiality to all records or information, other than an original consumer complaint, obtained by the Department or by any other office or agency during the investigation of an alleged violation of any of the state's consumer protection laws. Such records and information are exempt from the Public Records Law until such records or information are made part of the official record of any hearing or court proceeding.

Records or other information in the custody of the Department of Agriculture and Consumer Services or any other office or agency which reveal a pattern, formula, device or combination of devices, which may separately disclose the business transactions of any person, trade secrets or names of customers, also are exempt from the public access provisions of Subsection 119.07(1), F.S.

The act also reenacts several other public records exemptions which were inadvertently allowed to repeal in 1989, including exemptions which protect information relating to registration certificates and license plates for vehicles used by law enforcement agencies (Section 320.05, F.S.); information containing trade secrets and methods of operation for land reclamation activities (Section 378.406, F.S.); and records relating to geophysical activities which are conducted on state-owned lands (Section 377.2409, F.S.).

The public records exemptions created and reenacted by the act are subject to future repeal and prior legislative review under the Open Government Sunset Review Act.

HOUSE BILL 1263 (CHAPTER 91-20) amends Sections 487.031, 487.041, 487.0615 and 487.160, F.S., to reenact, with modifications, various public records exemptions pertaining to pesticide records, formulas and similar information. [The act resulted from a mandated review of the various exemptions required under the Open Government Sunset Review

Act, Section 119.14, F.S., conducted by the Legislature prior to the 1991 Legislative Session.]

[The Department of Agriculture and Consumer Services is required by Chapter 487, F.S., to regulate the sale, distribution and use of pesticides in Florida.] The specific public records exemptions which were reenacted include information containing formulas of specific pesticide products; records containing confidential information regarding pesticides which are furnished by sellers and manufacturers of pesticides to the Department of Agriculture and Consumer Services or to other state agencies; confidential information received by the Pesticide Review Council and similar records containing information about pesticides and their application. The law takes effect October 1, 1991.

### State Boards and Sunset/Sundown

COMMITTEE SUBSTITUTE FOR SENATE BILL 162 (CHAPTER 91-120) recreates seven historic preservation boards of trustees for the following areas: St. Augustine, Pensacola, the Florida Keys, Tallahassee, Palm Beach County, Tampa-Hillsborough County and Broward County. The boards of trustees are authorized by the act to approve direct-support organizations to operate on their behalf. The Barrio Latino Commission is also re-established by the act. [The historic preservation boards, their authority to approve direct-support organizations, and the Barrio Latino Commission, repealed October 1, 1990, pursuant to Section 11.611, F.S., the Sundown Act.]

The duties of the boards and their direct-support organizations are similar to those entities previously created by law which were allowed to repeal. The newly created entities, however, are required to be more accountable to the state than those entities which were abolished.

The laws creating each of the boards of trustees state their respective statutory purposes and functions in essentially the same manner. The boards are created to restore, preserve, maintain, reconstruct and operate for the benefit and general welfare of the state historic resources in their respective designated areas.

The historic preservation boards of trustees are comprised of members appointed by the Governor and confirmed by the Senate. The boards are authorized to exercise those powers delegated to them by the Department of State, which include but are not limited to, powers specified in the law. Unlike the previous boards, the boards are not provided such powers as to acquire and dispose of real property or to condemn property for public purposes.

The boards are provided general authority under the act to manage their activities, subject to the review and approval of the Department. They are authorized to manage state properties, the titles to which are to be held by the Board of Trustees of the Internal Improvement Trust Fund. Within guidelines established in Chapter 253, F.S., or rules adopted by the Department, whichever are applicable, the boards are authorized to negotiate the acquisition or disposition of real property on behalf of the Board of Trustees of the Internal Improvement Trust

Fund. The Department is required to adopt rules establishing procedures for the sale and acquisition of real property by the boards prior to January 1, 1992.

The boards of trustees are authorized to establish direct-support organizations, defined as not-for-profit corporations, to receive, invest and administer property and to make expenditures to or for the benefit of their respective boards. The direct-support organizations are permitted to use the properties and personal services of their boards. The law specifies that the members of the direct-support organization's board of directors must include members of the board of trustees. Each direct-support organization is required to operate under a contract with its respective board and is required to comply with certain provisions as provided by law.

The Department of State is directed, in cooperation with the preservation boards and local governmental entities, to determine an appropriate share of the costs of maintaining each preservation board which should be borne by its respective local governmental entities. In making such determinations, the Department is directed to consider, respectively, the amount of property administered by the board, the preservation services provided by the board and the ability of the respective local governmental entities to contribute funding to the board. The Department is directed to deliver its recommendations to the Legislature no later than December 1, 1991.

The laws creating each of the boards and the direct-support organizations are scheduled for future repeal and prior legislative review on October 1, 2001, pursuant to the Sundown Act (Section 11.611, F.S.).

HOUSE BILL 565 (CHAPTER 91-51) provides for the repeal of Section 267.073, F.S., which establishes the Union Bank Advisory Council within the Department of State. This law was scheduled for repeal and prior legislative review on October 1, 1991, pursuant to the Sundown Act. [Thus, the Council was the subject of a Sundown review and was evaluated to determine whether the Council meets the criteria established by law for reenactment.

[The Union Bank Building, which was constructed in 1841, is operated as part of the Florida Museum of History by the Department of State. The Union Bank Advisory Council was created by law in 1985 to assist and advise the Department of State relative to the proper use, furnishings and interpretive programs of the Union Bank Building and to assist in promoting the building to the public. The Council was comprised of nine members appointed by the Secretary of State.

[The Council was active from its creation in 1985 until 1988. Review indicates that, during that time, the Union Bank was furnished, and exhibits and an interpretive program were developed for the benefit of the public. The Council ceased to meet in 1988 and the terms of its members have since expired.

[The findings of the review indicated that no clear problem or service exists which merits retaining the Council to assist or advise the division regarding the Union Bank Building. Based on the conclusions of the review, the Legislature deter-

mined that Section 267.073, F.S., which establishes the Union Bank Advisory Council, be allowed to repeal October 1, 1991.]

SENATE BILL 2026 (CHAPTER 91-201) corrects erroneous repeal clauses and dates in certain sections of the Florida Statutes which are in conflict regarding future Sunset and Sundown repeal dates. It also includes for repeal sections amending, creating or reestablishing programs or functions meeting the criteria of Sunset or Sundown, but which have been given no future repeal dates as required by the Regulatory Sunset Act or the Sundown Act. Sections not meeting Sunset criteria are also removed from that process.

The enactment brings under Sunset new regulatory functions that include the licensing of drug testing laboratories (Subsections 112.0455(12) and (17) and 440.102(9), F.S., cholesterol screening centers (Sections 483.601 and 483.610-483.624, F.S.), and health studios (Sections 501.012-501.019, F.S.), as well as the regulation of motor vehicle refrigerant recycling (Sections 325.221-325.223, F.S.), and minimum standards for drawbridge operators (Section 334.075, F.S.).

The legislation establishes future repeals under Sundown for the Juvenile Justice Standards and Training Council (Subsection 39.024(2), F.S.), the Education Success Incentive Council (Paragraph 228.502(1)(a) and Subsection 228.502(12), F.S.) and the Drug Offender Advisory Board (Parts of Sections 953.003-953.004, 953.007-953.008, 953.25 and 953.35, F.S.). As well, the act schedules for Sundown repeal and prior review the grant review panel to the Instructional Technology Grant Program (Paragraph 229.603(2)(e), F.S.), the advisory committee for teaching profession enhancement grants (Subsection 240.5291(1), F.S., the policy board of the Florida Criminal Justice Executive Institute (Subsections 943.1755(5), (6) and (7), F.S.) and the work group to develop rules for the shared county and state health care program for low-income persons (Subsection 409.2675(2), F.S.). In addition, the committee to select recipients of scholarship loans for nonpublic secondary schools under the "Chappie" James Most Promising Teacher Scholarship Loan Program (Paragraph 240.4068(8)(b), F.S.), is scheduled by the measure for repeal and prior review pursuant to the Sundown Act.

The law would remove from review under Sundown a legislative entity, the Commission on Juvenile Justice (Section 39.023, F.S.), and a program (Section 39.023, F.S.), the Florida Prepaid Scholarship Program (Section 240.552, F.S.). [Neither the Commission nor the program meets the criteria for review under Sundown, although both will continue to be scheduled for repeal and prior legislative review under criteria other than those specified in the Sundown Act.]

Finally, a number of sections lacking repeal dates are included under Sunset in order that they comport with the repeal of other sections dealing with the regulatory function, or included under Sundown in order that they comport with the repeal of other sections pertaining to the relevant board, commission or council.

SENATE BILL 2146 (CHAPTER 91-156) amends various statutory sections and Laws of Florida to change the repeal dates of various regulatory laws and functions under the Regulatory Sunset Act, Section 11.61, F.S. [The Regulatory Sun-

set Act provides for the systematic, periodic repeal of designated sections of the statutes relating to regulatory programs and functions.] The enactment modifies designated repeal dates in order to equalize the number of reviews to be performed, pursuant to the Regulatory Sunset Act, in 1996 and 1997.

The repeal and review of statutory provisions relating to the regulation of auctioneers, Part VI of Chapter 468, F.S., will be changed from October 1, 1996 to October 1, 1995.

The repeal and review of statutory provisions relating to the Florida Patient's Compensation Fund, contained in Section 766.105, F.S., will be changed from October 1, 1992 to October 1, 1995.

Similarly, the repeal and review of statutory provisions relating to the other regulatory programs and functions will be postponed from October 1, 1996 until October 1, 1997, including Sections 455.301-455.309, F.S., relating to asbestos removal and asbestos consultants, contractors, surveyors and similar professions; Chapter 457, F.S., relating to the regulation of acupuncturists and acupuncture; Chapter 464, F.S., relating to the regulation of the nursing profession; Chapter 465, F.S., relating to the regulation of the pharmacy profession; Chapter 466, F.S., relating to the regulation of dentists, dental hygienists and dental laboratories; and Part VII of Chapter 468, F.S., relating to the regulation of the administration of nursing homes.

### State Symbols

HOUSE BILL 243 (CHAPTER 91-252) creates Section 683.21, F.S., to designate Juneteenth Day as a legal holiday in Chapter 683, F.S., which specifies legal and public holidays of the state. Thus, June 19 will be observed as Juneteenth Day, the day that slaves in Florida were notified of the Emancipation Proclamation. [Juneteenth Day will not be a paid holiday for state employees, since only holidays designated in Section 110.117, F.S., are paid holidays for state employees.] The act takes effect October 1, 1991.

HOUSE BILL 1085 (CHAPTER 91-10) creates Section 15.0345, F.S., to designate the Coreopsis as the official state wildflower. The several varieties of Coreopsis are designated as the state's official wildflower in recognition of the fact that many species of the flower are found throughout the state and are used extensively in highway beautification programs.

[Chapter 15, F.S., designates state symbols. The designation of Coreopsis as the official state wildflower will be added to that chapter.]

### Adoption of Official Florida Statutes

HOUSE BILL 2345 (CHAPTER 91-44) amends Sections 11.2421, 11.2422, 11.2424 and 11.2425, F.S., to designate which parts of Florida Statutes, 1991, are the official statutory laws of the state as well as what general laws are repealed and which are not by the adoption of Florida Statutes, 1991.

### Florida National Guard

SENATE BILL 918 (CHAPTER 91-139) amends the Military Code of Florida, as contained in Chapter 250, F.S., to revise laws pertaining to the Florida Department of Military Affairs and the Florida National Guard. The law makes the code gender-neutral and revises provisions regarding other internal administrative matters of Department of Military Affairs.

Subsection 250.22(4), F.S., of the Military Code is amended to provide that members of the Florida National Guard who were inducted into service in the federal military forces during specified years may have such service computed at double the time of the actual period served during the specified years, for purposes of retirement credit. [This is in addition to the current provision that such service during World War II is computed at double the time.] The years are specified as follows: from June 29, 1950 to January 31, 1955 (the Korean Conflict); from August 5, 1964 to May 7, 1975 (the Vietnam Era); and from August 1, 1990 until the President announces a cessation of hostilities for operation "Desert Storm."

[Consequently, some former and current members of the National Guard who have not otherwise been eligible because they lack the required years of service may be able to qualify for the state retirement benefit if the double credit during the specified years brings their total years of service to 30 years.] In addition, the act revises Subsection 250.22(1), F.S., to clarify that any Florida National Guard member at least age 62 who has completed not less than 30 years of service is allowed to retire at the highest rank held by the member during the time of his service in the National Guard.

Section 250.531, F.S., of the Military Code is created to specify that the Florida National Guard is deemed to be a law enforcement agency with respect to its participation in assisting federal law enforcement agencies in drug interdiction missions. The Department is authorized to receive property and revenues seized and forfeited, as a result of these activities, pursuant to the provisions of federal regulations. As well, when Florida National Guard members are participating in a drug interdiction program under the authority of the Governor, such members are considered to be in the active service of the state pursuant to revised Subsection 250.31(1), F.S. [Thus, such members are not liable, civilly or criminally, for any lawful act done by them in performance of such duty.]

COMMITTEE SUBSTITUTE FOR HOUSE BILL 671 (CHAPTER 91-259) amends Subsection 250.31(1), F.S., and creates Section 250.531, F.S., to specify, respectively, that Florida National Guard personnel serving in any drug interdiction program under the authority of the Governor are deemed to be in the active service of the state. When assisting federal law enforcement agencies in drug interdiction programs, the Guard is deemed to be a state investigative law enforcement agency entitled to receive property and revenues consequently seized and forfeited as provided by federal regulation. [The provisions of this law also appear in SENATE BILL 918 (CHAPTER 91-139) summarized above.]

**Fine Arts**

SENATE BILL 570 (CHAPTER 91-132) amends the law pertaining to the Fine Arts Endowment Program to limit the definition of sponsoring organizations eligible to receive funds under the program (Subsection 265.603(5), F.S.) and to delete the requirement (Sections 265.605 and 265.606, F.S.), that such funds must be distributed equally among the five fine arts regions established in Section 265.604, F.S.

The definition of sponsoring organizations is clarified to

mean a *fine arts* organization. [Such organizations are required to be not-for-profit corporations which are established for the primary purpose of conducting fine arts activities.]

Section 265.604, F.S., which establishes and defines the five fine arts regions, is repealed. The moneys in the Fine Arts Endowment Trust Fund are no longer required to be distributed on a pro rata basis to the five fine arts regions. [The Department is thereby permitted to award endowment matching funds to fine arts organizations without regard to regional location.]

## SPECIAL SESSION C - JUNE 6, 1991\*

Pursuant to gubernatorial proclamation, the Legislature met in special session on June 6, 1991 to consider:

- 1) legislation to address executive fiscal management tools to effectively manage revenue deficits;
- 2) legislation to appropriate funds for the purchase, lease or construction of a building to house the National High Magnetic Field Laboratory;
- 3) legislation conforming Florida Statutes to federal regulations regarding truck dimensions and safety requirements including the use of tandem-trailer trucks in Florida and authorizing the Department of Transportation to develop safety and engineering standards to be used when identifying public roads and streets to be restricted to tandem-trailer truck operations; and
- 4) legislation to abolish the Florida High-Speed Rail Commission and transfer its authority and function to the Department of Transportation and legislation to add two members to the Florida Transportation Commission.

The enactments summarized below represent the Legislature's response to these issues.

### Appropriations

COMMITTEE SUBSTITUTE FOR HOUSE BILL 21-C (CHAPTER 91-419) reduces appropriations made in previous years from the State Infrastructure Fund. Moneys from the Principal State School Trust Fund, Law Enforcement Radio System Trust Fund and the Nonmandatory Land Reclamation Trust Fund are transferred to the General Revenue Fund. It provides capital outlay moneys from selected trust funds for Public Education Capital Outlay in the 1991-1992 fiscal year and requires the Department of General Services to conduct a lease-purchase analysis for the Department of Corrections, Parole Commission and Department of Health and Rehabilitative Services.

### General Revenue Shortfall

HOUSE BILL 23-C (CHAPTER 91-420) addresses the projected General Revenue Fund deficit of \$151.3 million for the 1990-1991 fiscal year.

The Administration Commission (Governor and Cabinet) is authorized for the period June 1 to September 30, 1991, to transfer up to \$70 million from selected trust funds to the General Revenue Fund under certain conditions specified in the act which lists trust funds exempt from the application of this authority. Transfers from any trust fund may not exceed the interest earned by the fund for the current year. An agency may substitute General Revenue Fund reductions in place of trust fund transfers.

In preparing the statement of financial outlook, the Revenue Estimating Conference may consider the annual plan of re-

leases prepared by the Executive Office of the Governor pursuant to Section 216.192, F.S.

Section 211.3103, F.S., is revised to direct specific sums from General Revenue Fund to the Nonmandatory Land Reclamation Trust Fund and redirect 5 percent of the total severance tax receipts from that Trust Fund to the Phosphate Research Trust Fund.

Section 378.034, F.S., is amended to increase funds available from the Nonmandatory Land Reclamation Trust Fund for approved reclamation contracts and to require notice of intent to apply for reclamation projects.

### State Transportation System

SENATE BILL 6-C (CHAPTER 91-418) addresses a variety of issues relating to the state's transportation system.

It amends Subsection 20.23(2), F.S., to increase the number of Florida Transportation Commission members from seven to nine and changes the number of members needed for a quorum from five to a majority of the membership. The act also deletes an obsolete requirement that the members of the Commission serve staggered terms.

Section 212.055, F.S., is revised to provide that in a county as defined in Section 125.011, F.S., (currently this only applies to Dade County), the county could spend the proceeds of the discretionary sales surtax of up to one percent directly on certain transportation needs: roads and bridges; an existing bus system; or debt service on existing bonds issued for a fixed guideway rapid transit system, roads or bridges. The proceeds could also be pledged for new bonds or refinancing bonds issued for a fixed guideway rapid transit system, roads or bridges.

The act amends Subsection 316.003(73), F.S., to redefine the term "terminal" as any location where: (1) freight either originates, terminates or is handled in the transportation process; or (2) commercial motor carriers maintain operating facilities. [This change is made to conform to federal requirements on tandem-trailer truck access, which were required to be met by June 1, 1991.] The measure creates Subsection 316.003(80), F.S., to provide a definition for a "maxi-cube vehicle." This is a specialized vehicle consisting of a combined straight-truck and trailer.

Under revised Subsection 316.515(1), F.S., the Department of Transportation (DOT) and local jurisdictions are allowed to restrict the use of certain public roads by vehicles exceeding 96 inches in width when such roads do not have at least one through lane in each direction of 12 feet or more in width, or when such roads may be unsafe for use by these vehicles on the basis of safety or engineering standards.

The law amends Sub-subparagraph 316.515(3)(b)2.b., F.S., to require that semitrailers of more than 48 feet, but not more than 53 feet in length, meet the "Rear End Protection" safety requirements of 49 C.F.R. 393.86.

\*Prepared by Legislative Library

Paragraph 316.515(3)(c), F.S., is revised to meet federal requirements regarding tandem-trailer truck access. Tandem-trailer trucks are allowed access within 5 miles of the Federal National Network for large trucks, while in immediate transit to or from a terminal facility; while in travel to food, repair or rest facilities; or while traveling to points of loading or unloading. However, travel to terminal facilities may also be prohibited on public roads by the Department of Transportation (DOT) and local jurisdictions for safety and engineering reasons or because of residential neighborhood concerns. Also, tandem-trailer trucks employed as household goods carriers will have access to public roads of this state, except for roads that have been restricted because of safety and engineering reasons.

The act creates Paragraph 316.515(3)(d), F.S., to provide that "maxi-cube" vehicles are allowed access to routes open to and under the same conditions as tandem-trailer trucks. [This change is made to comply with federal requirements.]

The law amends Paragraph 316.515(7)(c), F.S., to provide that a commercial motor vehicle load shall not extend 3 feet beyond the front wheels of the transporting vehicle or front bumper if equipped with one, or more than 4 feet beyond the rear of the transporting vehicle.

The enactment revises Subsection 316.515(8), F.S., to provide that the weight and size limitations of the section would apply to a vehicle being towed by a wrecker. It requires the towed vehicle to meet the size and weight statutory requirements or, if the unit is a nonconforming vehicle, it must be operating under a current special use permit or permits. [The

DOT has stated that this change would make the owner of the towed vehicle liable for any size and weight violations of the towed vehicle.]

Paragraph 316.515(9)(a), F.S., is amended to conform with a federal requirement that provides that no bus or motor coach may exceed a width of 102 inches, exclusive of safety equipment.

Revised Subsection 316.515(10), F.S., allows "saddle mount" units up to 75 feet in length, as required by federal law.

The act amends Paragraph 20.23(3)(m), F.S., to assign the high-speed rail program to the state public transportation administrator.

The law also abolishes the Florida High-Speed Rail Transportation Commission and transfers to the DOT all of the responsibilities, duties and functions of the Commission. Numerous sections of Chapter 341, F.S., will be affected by the transfer, as well as statutes relating to the appointment of nonvoting members of the Commission to the state's three commuter rail authorities (Subsections 343.53(2), 343.63(2), as amended by Section 2 of CHAPTER 91-142, and 343.73(2), F.S., as amended by Section 16 of Chapter 90-502, Laws of Florida).

The act also provides that the district secretary (or his designee) for the district served by the authority, would be the DOT secretary's appointment to each commuter rail authority (Tri-County, Central Florida or Tampa Bay). This provides for DOT representation on the governing board to help coordinate activities of the rail authority and the Department.

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Sole proprietor, partner or corporate officer engaged in construction industry; coverage exemption criteria, S8-B(91-1), H11-B(91-2)

Subcontractors; contractor may require subcontractor to provide evidence of insurance or copy of certificate of election, S8-B(91-1)

Third-party payor or contractor liability; benefit collection, procedures, S8-B(91-1), H11-B(91-2)

Workers' Compensation Oversight Board; abolished, H11-B(91-2)

**WORTHLESS CHECKS See: Checks under FINANCIAL INSTITUTIONS****X****XERISCAPING See: WATER**

**CONVERSION TABLE:  
BILL NUMBERS TO SESSION LAW CHAPTER NUMBERS**

<b>Senate Bill No.</b>	<b>Session Law Ch. No.</b>	<b>Senate Bill No.</b>	<b>Session Law Ch. No.</b>	<b>Senate Bill No.</b>	<b>Session Law Ch. No.</b>	<b>House Bill No.</b>	<b>Session Law Ch. No.</b>
S 6-C	91-418	CS/S 856	91-291	CS/CS/S 1890	91-245	H 553	91-204
S 8-B	91-1	S 860	91-195	S 1906	91-188	H 565	91-51
CS/S 10	91-284	CS/S 880	91-271	CS/S 1926	91-199	H 567	91-16
CS/CS/S 18	91-228	S 892	91-138	CS/S 1932	91-246	H 569	91-26
CS/S 46	91-114	S 918	91-139	S 1986	91-155	H 573	91-71
CS/S 58	91-115	CS/S 938	91-239	CS/S 1996	91-189	H 575	91-12
S 68	91-18	S 942	91-140	CS/S 2010	91-200	CS/H 595	91-72
CS/S 74	91-285	S 950	91-60	CS/S 2014	91-273	H 605	91-52
S 78	91-116	S 960	91-141	S 2026	91-201	CS/H 613	91-258
CS/S 96	91-117	CS/S 970	91-142	CS/CS/S 2040	91-274	CS/H 625	91-167
CS/S 104	91-32	CS/S 992	91-143	CS/S 2054	91-283	CS/H 637	91-53
CS/S 114	91-229	CS/CS/S 998	91-240	CS/S 2058	91-247	CS/H 655	91-314
S 120	91-286	CS/CS/S 1000	91-282	CS/S 2086	91-299	CS/H 663	91-205
S 122	91-194	CS/CS/CS/S 1042	91-292	CS/S 2094	91-65	CS/H 671	91-259
CS/S 132	91-118	S 1062	91-144	CS/S 2126	91-79	CS/CS/H 685	91-206
CS/CS/CS/S 142	91-292	CS/CS/CS/S 1070	91-292	CS/S 2144	91-248	CS/H 689	91-168
S 152	91-33	S 1088	91-145	S 2146	91-156	CS/H 737	91-169
S 154	91-119	S 1092	91-310	CS/CS/S 2158	91-282	H 741	91-257
CS/S 156	91-81	CS/S 1116	91-146	S 2210	91-190	CS/H 743	91-170
CS/S 162	91-120	CS/CS/S 1120	91-305	CS/S 2224	91-299	H 749	91-23
S 168	91-7	CS/S 1142	91-171	S 2234	91-66	H 755	91-54
CS/S 204	91-121	S 1144	91-172	CS/S 2250	91-249	CS/H 757	91-166
S 206	91-122	CS/S 1146	91-293	CS/S 2280	91-307	CS/H 759	91-255
CS/CS/S 212	91-82	CS/S 1148	91-173	CS/S 2294	91-115	CS/H 771	91-207
S 232	91-13	CS/S 1164	91-61	S 2300	91-193	CS/H 777	91-73
S 234	91-230	CS/S 1188	91-174	S 2302	91-157	CS/H 803	91-208
S 238	91-123	CS/S 1192	91-76	CS/CS/CS/S 2306	91-158	CS/CS/CS/H 827	91-86
CS/S 254	91-124	S 1196	91-62	CS/S 2342	91-300	CS/H 837	91-87
CS/CS/S 266	91-82	S 1226	91-196	S 2504	91-191	H 845	91-260
CS/S 268	91-125	CS/CS/S 1234	91-282	S 2506	91-250	H 883	91-24
CS/S 284	91-126	CS/S 1246	91-147	<b>House      Session Law</b>		CS/H 891	91-88
S 286	91-6	CS/S 1282	91-40	<b>Bill No.      Ch. No.</b>		H 907	91-89
S 292	91-127	S 1314	91-272	H 5-B	91-4	H 909	91-90
CS/S 310	91-128	CS/CS/S 1316	91-63	H 9-B	91-5	CS/H 929	91-261
S 318	91-231	CS/S 1342	91-197	H 11-B	91-2	CS/CS/H 937	91-209
S 358	91-34	CS/S 1384	91-41	H 15-B	91-3	H 967	91-91
CS/CS/CS/S 366	91-292	CS/S 1400	91-294	CS/H 21	91-67	CS/H 983	91-92
S 380	91-9	CS/S 1428	91-295	CS/H 21-C	91-419	CS/CS/H 997	91-210
S 390	91-19	CS/S 1430	91-296	H 23-C	91-420	CS/CS/H 1005	91-93
CS/S 410	91-129	CS/CS/S 1436	91-297	H 27	91-202	CS/H 1015	91-94
S 418	91-8	CS/S 1440	91-175	H 31-A	90-502	H 1019	91-211
S 422	91-130	S 1462	91-198	CS/H 67	91-67	CS/H 1027	91-212
CS/S 424	91-131	S 1478	91-148	CS/H 91	91-68	H 1043	91-95
S 430	91-287	S 1482	91-83	CS/H 93	91-69	CS/H 1053	91-68
CS/S 438	91-35	CS/S 1492	91-42	CS/CS/H 109	91-77	CS/CS/H 1057	91-213
CS/S 458	91-36	CS/S 1504	91-283	H 157	91-159	CS/H 1065	91-96
S 462	91-14	CS/S 1536	91-176	CS/H 175	91-160	H 1085	91-10
CS/S 464	91-288	CS/S 1548	91-149	CS/H 201	91-11	CS/H 1139	91-255
CS/S 554	91-37	CS/S 1554	91-306	CS/H 203	91-28	H 1167	91-97
CS/S 558	91-232	S 1568	91-177	CS/H 207	91-251	CS/H 1191	91-98
S 570	91-132	CS/S 1578	91-241	CS/H 211	91-22	H 1221	91-99
S 578	91-27	CS/S 1614	91-178	H 243	91-252	H 1223	91-100
CS/S 586	91-289	CS/S 1622	91-179	CS/H 257	91-275	CS/H 1243	91-29
CS/S 602	91-38	CS/S 1624	91-242	H 259	91-253	H 1263	91-20
CS/S 608	91-233	S 1634	91-180	CS/H 275	91-203	CS/CS/H 1265	91-214
CS/S 612	91-234	S 1640	91-43	CS/H 279	91-161	CS/H 1339	91-101
CS/S 626	91-133	S 1644	91-181	CS/H 291	91-70	H 1341	91-21
S 630	91-39	S 1658	91-182	H 309	91-84	H 1381	91-102
CS/S 642	91-134	CS/S 1662	91-183	H 325	91-254	CS/CS/H 1385	91-215
S 644	91-56	CS/S 1672	91-184	CS/H 337	91-276	CS/H 1411	91-277
S 646	91-135	S 1682	91-150	CS/H 343	91-255	H 1413	91-192
CS/S 670	91-57	S 1686	91-185	CS/CS/H 365	91-78	CS/CS/H 1431	91-74
CS/S 674	91-136	CS/S 1694	91-151	CS/CS/CS/H 389	91-75	CS/CS/H 1465	91-103
S 678	91-235	CS/S 1702	91-243	CS/H 417	91-85	CS/H 1493	91-216
S 702	91-58	S 1716	91-152	H 433	91-256	CS/H 1527	91-302
CS/S 724	91-137	S 1726	91-186	CS/H 441	91-162	H 1575	91-104
CS/S 764	91-236	CS/S 1758	91-244	CS/H 457	91-163	CS/H 1587	91-278
CS/S 772	91-237	CS/S 1766	91-153	CS/H 463	91-164	H 1609	91-279
S 804	91-238	CS/S 1768	91-154	H 497	91-165	CS/H 1613	91-217
CS/S 818	91-59	CS/S 1792	91-187	CS/H 539	91-166	CS/H 1637	91-105
CS/S 828	91-15	S 1802	91-64	CS/H 543	91-301	CS/CS/H 1681	91-218
S 854	91-290	CS/S 1850	91-298			CS/CS/H 1701	91-210

**CONVERSION TABLE:  
BILL NUMBERS TO SESSION LAW CHAPTER NUMBERS**

House Bill No.	Session Law Ch. No.	House Bill No.	Session Law Ch. No.	House Bill No.	Session Law Ch. No.	House Bill No.	Session Law Ch. No.
CS/H 1719	91-219	CS/H 2229	91-309	H 2355	91-48	H 2415	91-267
CS/CS/CS/H 1871	91-80	H 2251	91-107	H 2357	91-49	H 2423	91-17
H 1879	91-30	H 2275	91-280	H 2359	91-221	H 2427	91-111
CS/H 1971	91-262	H 2277	91-281	H 2361	91-222	H 2441	91-268
CS/H 1983	91-263	H 2283	91-266	H 2363	91-110	CS/H 2497	91-55
CS/CS/H 2029	91-308	CS/H 2309	91-108	H 2365	91-223	H 2507	91-269
CS/H 2073	91-255	H 2313	91-109	H 2367	91-224	H 2509	91-270
H 2075	91-264	H 2345	91-44	H 2371	91-50	H 2511	91-227
H 2087	91-25	H 2347	91-220	H 2373	91-225	CS/H 2523	91-112
CS/H 2089	91-106	H 2349	91-45	CS/CS/H 2385	91-303	CS/H 2557	91-304
CS/H 2135	91-265	H 2351	91-46	H 2397	91-226	H 2607	91-113
CS/CS/CS/H 2157	91-80	H 2353	91-47	CS/H 2399	91-31		

## STATISTICS REPORT

	SENATE BILLS			HOUSE BILLS			TOTALS		
	FILED	PASSED		FILED	PASSED		FILED	PASSED	
		SENATE	SENATE & HOUSE		HOUSE	HOUSE & SENATE		FIRST CHAMBER	BOTH
CONCURRENT RESOLUTIONS	0	0	0	2	2	2	2	2	2
RESOLUTIONS(ONE CHAMBER)	62	58	0	114	103	0	176	161	0
GENERAL BILLS	1094	307	172	1035	286	156	2129	593	328
LOCAL BILLS	60	44	34	106	71	68	166	115	102
GEN BILL/LOC APPLICATION	0	0	0	0	0	0	0	0	0
JOINT RESOLUTIONS	30	0	0	36	3	0	66	3	0
MEMORIALS	6	2	0	7	5	2	13	7	2
WITHDRAWN	5	0	0	59	0	0	64	0	0
TOTALS	1257	411	206*	1359	470	228*	2616	881	434*
FILED, NOT INTRODUCED			0			37			37
APPROVED BY GOVERNOR			141			120			261
BECAME LAW WITHOUT SIGNATURE			57			94			151
VETOED BY GOVERNOR			8			10			18
LINE-ITEM VETOED BY GOVERNOR			1			0			1
BECAME LAW, VETO NOTWITHSTANDING			0			0			0
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)			0			4			4
RESOLUTIONS ADOPTED			58			103			161
BILLS TO CONFERENCE COMMITTEES			5			3			8
BILLS AMENDED			204			204			408
COMMITTEE SUBSTITUTES (CS)			371			344			715
CS/CS			57			53			110
CS/CS/CS			3			4			7
FAILED TO PASS SENATE			0			1			1
FAILED TO PASS HOUSE			0			4			4
FAVORABLE SENATE COMMITTEE REPORT			288			60			348
FAVOR/AMENDMENT(S) SENATE COM REPT			85			13			98
FAVORABLE HOUSE COMMITTEE REPORT			17			199			216
FAVOR/AMENDMENT(S) HOUSE COM REPT			12			105			117
UNFAVORABLE SENATE COMMITTEE REPT			12			0			12
UNFAVORABLE HOUSE COMMITTEE REPORT			3			12			15
LAI D ON TABLE			150			116			266
WITHDRAWN			5			59			64
WITHDRAWN PRIOR TO INTRODUCTION			0			5			5
WITHDRAWN/FURTHER CONSIDERATION			51			38			89
DIED IN SENATE COMMITTEES			554			129			683
DIED IN HOUSE COMMITTEES			53			477			530
DIED IN CONFERENCE COMMITTEES			2			1			3
DIED ON SENATE CALENDAR			74			3			77
DIED ON HOUSE CALENDAR			12			143			155
DIED IN MESSAGES			77			4			81

\*ONE CHAMBER RESOLUTIONS NOT INCLUDED



## STATISTICS REPORT

	SENATE BILLS			HOUSE BILLS			TOTALS		
	FILED	PASSED		FILED	PASSED		FILED	PASSED	
		SENATE	SENATE & HOUSE		HOUSE	HOUSE & SENATE		FIRST CHAMBER	BOTH
CONCURRENT RESOLUTIONS	0	0	0	0	0	0	0	0	0
RESOLUTIONS(ONE CHAMBER)	2	2	0	2	0	0	4	2	0
GENERAL BILLS	1	0	0	13	1	1	14	1	1
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	1	0	0	1	0	0
MEMORIALS	0	0	0	0	0	0	0	0	0
WITHDRAWN	0	0	0	0	0	0	0	0	0
TOTALS	3	2	0	16	1	1*	19	3	1*
FILED, NOT INTRODUCED			1			9			10
APPROVED BY GOVERNOR			0			1			1
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
RESOLUTIONS ADOPTED			2			0			2
BILLS TO CONFERENCE COMMITTEES			0			0			0
BILLS AMENDED			0			0			0
COMMITTEE SUBSTITUTES (CS)			0			0			0
CS/CS			0			0			0
FAILED TO PASS SENATE			0			0			0
FAILED TO PASS HOUSE			0			0			0
FAVORABLE SENATE COMMITTEE REPORT			0			0			0
FAVOR/AMENDMENT(S) SENATE COM REPT			0			0			0
FAVORABLE HOUSE COMMITTEE REPORT			0			0			0
FAVOR/AMENDMENT(S) HOUSE COM REPT			0			0			0
UNFAVORABLE SENATE COMMITTEE REPT			0			0			0
UNFAVORABLE HOUSE COMMITTEE REPORT			0			0			0
LAI D ON TABLE			0			0			0
WITHDRAWN			0			0			0
WITHDRAWN PRIOR TO INTRODUCTION			0			0			0
WITHDRAWN/FURTHER CONSIDERATION			0			0			0
DIED IN SENATE COMMITTEES			0			0			0
DIED IN HOUSE COMMITTEES			0			6			6
DIED IN CONFERENCE COMMITTEES			0			0			0
DIED ON SENATE CALENDAR			0			0			0
DIED ON HOUSE CALENDAR			0			0			0
DIED IN MESSAGES			0			0			0

\*ONE CHAMBER RESOLUTIONS NOT INCLUDED

## STATISTICS REPORT

	SENATE BILLS			HOUSE BILLS			TOTALS		
	FILED	PASSED		FILED	PASSED		FILED	PASSED	
		SENATE	SENATE & HOUSE		HOUSE	HOUSE & SENATE		FIRST CHAMBER	BOTH
CONCURRENT RESOLUTIONS	1	1	1	1	0	0	2	1	1
RESOLUTIONS(ONE CHAMBER)	2	2	0	3	3	0	5	5	0
GENERAL BILLS	4	1	1	8	4	4	12	5	5
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
WITHDRAWN	0	0	0	0	0	0	0	0	0
TOTALS	7	4	2*	12	7	4*	19	11	6*
FILED, NOT INTRODUCED			0			3			3
APPROVED BY GOVERNOR			1			4			5
BECAME LAW WITHOUT SIGNATURE			0			0			0
VETOED BY GOVERNOR			0			0			0
BECAME LAW, VETO NOTWITHSTANDING			0			0			0
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)			1			0			1
RESOLUTIONS ADOPTED			2			3			5
BILLS TO CONFERENCE COMMITTEES			0			0			0
BILLS AMENDED			1			3			4
COMMITTEE SUBSTITUTES (CS)			0			0			0
CS/CS			0			0			0
FAILED TO PASS SENATE			0			0			0
FAILED TO PASS HOUSE			0			0			0
FAVORABLE SENATE COMMITTEE REPORT			0			0			0
FAVOR/AMENDMENT(S) SENATE COM REPT			0			0			0
FAVORABLE HOUSE COMMITTEE REPORT			0			2			2
FAVOR/AMENDMENT(S) HOUSE COM REPT			0			0			0
UNFAVORABLE SENATE COMMITTEE REPT			0			0			0
UNFAVORABLE HOUSE COMMITTEE REPORT			0			0			0
LAI D ON TABLE			0			0			0
WITHDRAWN			0			0			0
WITHDRAWN PRIOR TO INTRODUCTION			0			0			0
WITHDRAWN/FURTHER CONSIDERATION			0			0			0
DIED IN SENATE COMMITTEES			0			0			0
DIED IN HOUSE COMMITTEES			0			1			1
DIED IN CONFERENCE COMMITTEES			0			0			0
DIED ON SENATE CALENDAR			3			0			3
DIED ON HOUSE CALENDAR			0			1			1
DIED IN MESSAGES			0			0			0

\*ONE CHAMBER RESOLUTIONS NOT INCLUDED

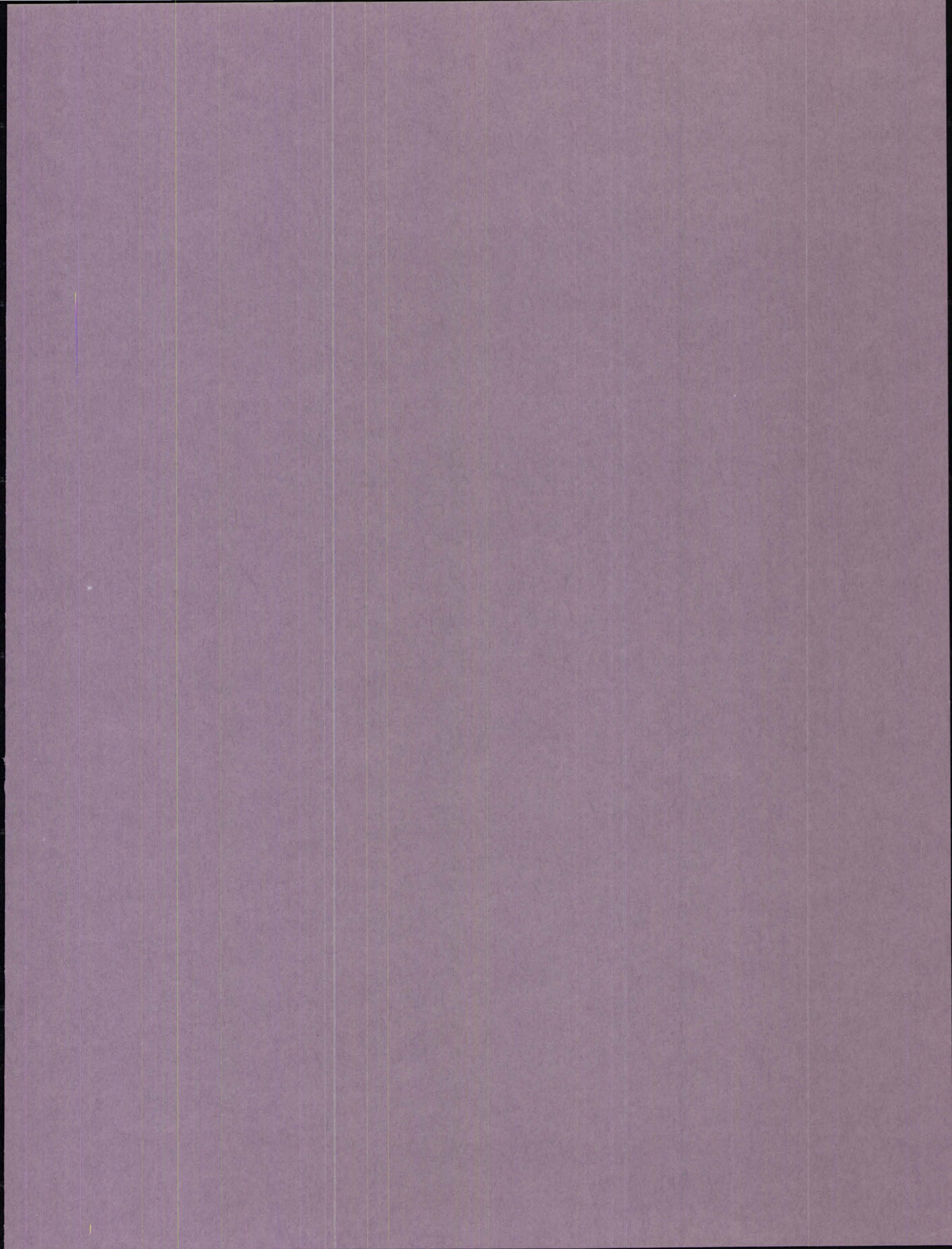
## STATISTICS REPORT

	SENATE BILLS			HOUSE BILLS			TOTALS		
	FILED	PASSED		FILED	PASSED		FILED	PASSED	
		SENATE	SENATE & HOUSE		HOUSE	HOUSE & SENATE		FIRST CHAMBER	BOTH
CONCURRENT RESOLUTIONS	1	1	1	0	0	0	1	1	1
RESOLUTIONS(ONE CHAMBER)	2	2	0	4	3	0	6	5	0
GENERAL BILLS	9	4	1	12	2	2	21	6	3
LOCAL BILLS	1	1	0	0	0	0	1	1	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
WITHDRAWN	0	0	0	0	0	0	0	0	0
TOTALS	13	8	2*	16	5	2*	29	13	4*
FILED, NOT INTRODUCED			3			9			12
APPROVED BY GOVERNOR			1			2			3
BECAME LAW WITHOUT SIGNATURE			0			0			0
VETOED BY GOVERNOR			0			0			0
BECAME LAW, VETO NOTWITHSTANDING			0			0			0
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)			1			0			1
RESOLUTIONS ADOPTED			2			3			5
BILLS TO CONFERENCE COMMITTEES			0			0			0
BILLS AMENDED			2			2			4
COMMITTEE SUBSTITUTES (CS)			2			1			3
CS/CS			0			0			0
FAILED TO PASS SENATE			0			0			0
FAILED TO PASS HOUSE			0			0			0
FAVORABLE SENATE COMMITTEE REPORT			1			0			1
FAVOR/AMENDMENT(S) SENATE COM REPT			0			0			0
FAVORABLE HOUSE COMMITTEE REPORT			0			0			0
FAVOR/AMENDMENT(S) HOUSE COM REPT			0			2			2
UNFAVORABLE SENATE COMMITTEE REPT			0			0			0
UNFAVORABLE HOUSE COMMITTEE REPORT			0			0			0
LAID ON TABLE			0			0			0
WITHDRAWN			0			0			0
WITHDRAWN PRIOR TO INTRODUCTION			0			0			0
WITHDRAWN/FURTHER CONSIDERATION			0			0			0
DIED IN SENATE COMMITTEES			0			0			0
DIED IN HOUSE COMMITTEES			0			1			1
DIED IN CONFERENCE COMMITTEES			0			0			0
DIED ON SENATE CALENDAR			2			0			2
DIED ON HOUSE CALENDAR			0			1			1
DIED IN MESSAGES			4			0			4

\*ONE CHAMBER RESOLUTIONS NOT INCLUDED

## 1991 VETOED GENERAL BILLS

<b>Senate Bills:</b>		<b>Subject</b>	<b>Date</b>
CS/SB-	106	Title Insurance	5/29/91
CS/SB-	174	Discriminatory Practices	5/24/91
CS/SB-	1336	Taxes; Beer & Malt Beverages	5/28/91
SB-	1676	Educational Facilities	5/28/91
SB-	1708	Community Redevelopment Areas	5/28/91
CS/SB-	1876	State Employment	5/09/91
SB-	1902	Motor Vehicle Licenses	6/07/91
SB-	2000	Local Financing	5/28/91
SB-	2300	Appropriations; Line Item	5/28/91
 <b>House Bills:</b>			
CS/HB-	95	Substance Abuse Punishment	5/29/91
CS/HB-	193	Games of Chance	5/30/91
CS/HB-	359	Firearms	5/28/91
HB-	633	Federal Liens	5/30/91
HB-	1809	Elections; Per-signature Fee	5/29/91
HB-	1907	Taxation; Infrastructure Surtax	5/29/91
HB-	1945	Witnesses; Grand Juries	4/26/91





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