

# Florida Legislature

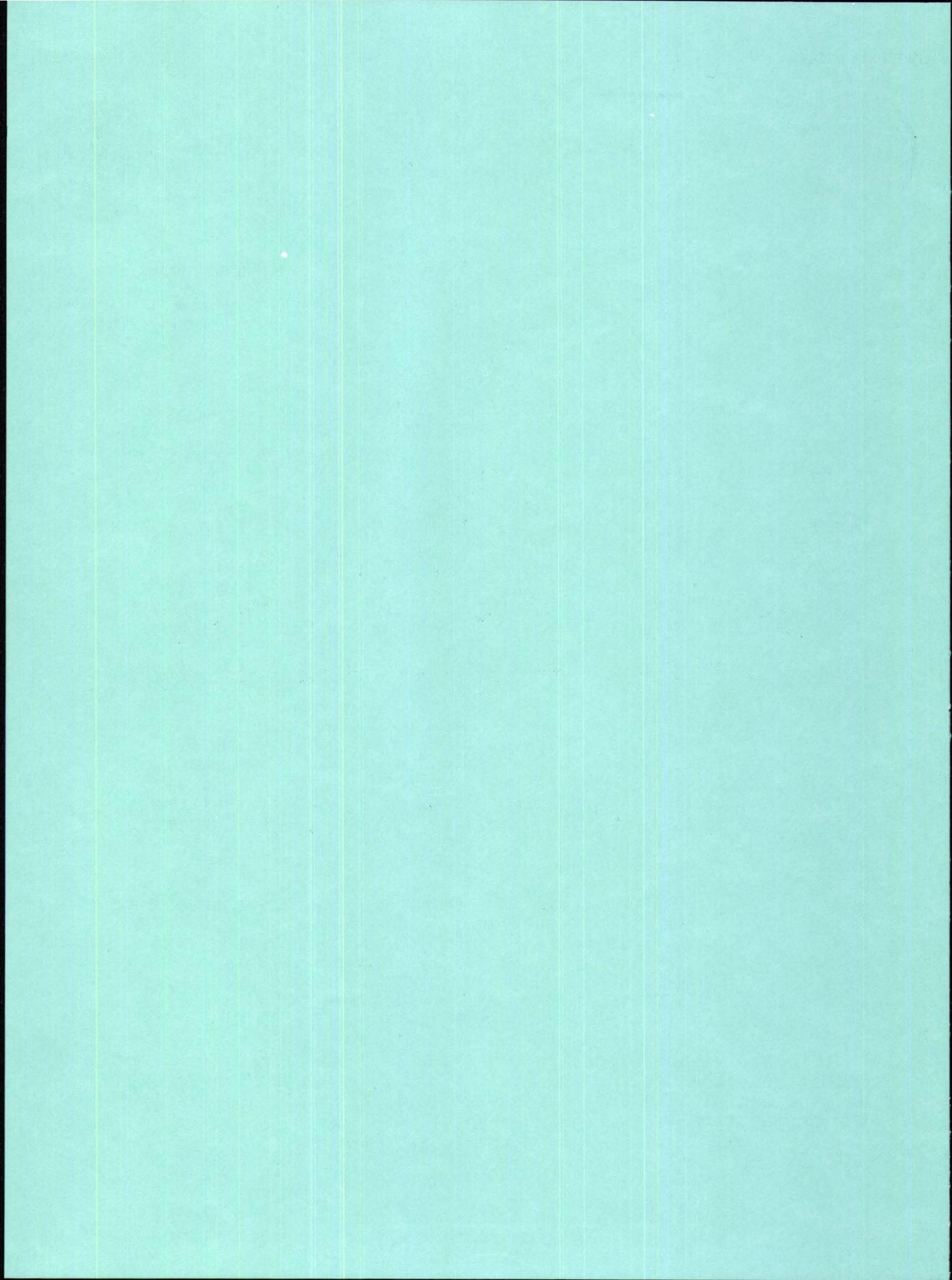
## 1992 SUMMARY OF GENERAL LEGISLATION

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### *INCLUDING*

- Special Session D - December 10 - 13, 1991
- Regular Session - January 14 - March 13, 1992
- Special Session E - March 23 - April 1, 1992
- Special Session F - April 1, 1992
- Special Session G - April 2 - 10, 1992
- Special Session H - June 1 - July 10, 1992



GWEN MARGOLIS  
President

T.K. WETHERELL  
Speaker



THE FLORIDA LEGISLATURE  
**JOINT LEGISLATIVE MANAGEMENT COMMITTEE**

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September 1992

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**FOREWORD**

This SUMMARY OF GENERAL LEGISLATION covers, within broad subject areas, the general laws enacted during the 1992 Regular Session of January 14 to March 13, 1992, and five special sessions held in 1991-1992.

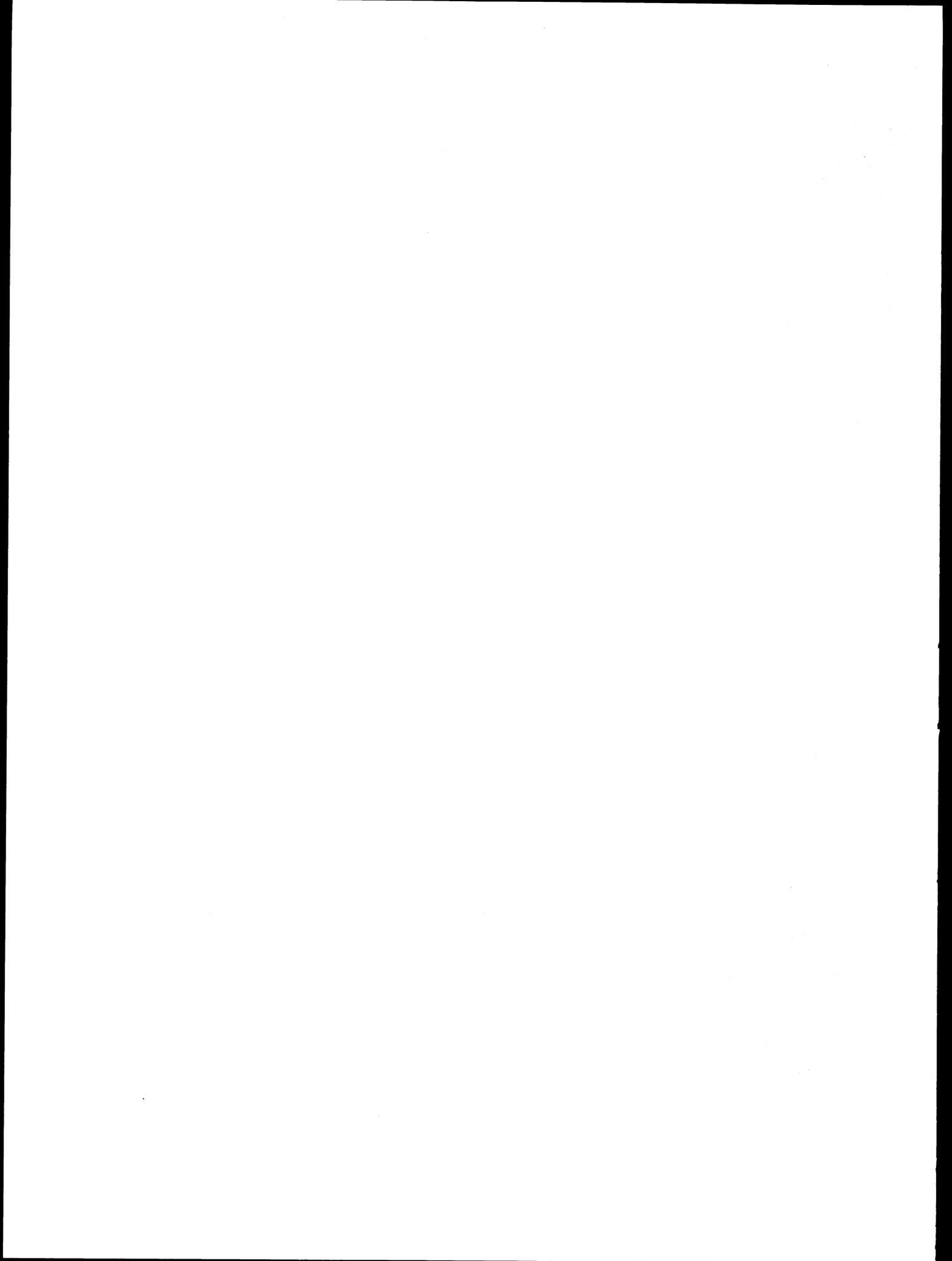
Major enactments of the 1991-1992 regular and special sessions include: reorganization of the Department of Agriculture and Consumer Services and the Department of Health and Rehabilitative Services; revision of the Condominium and Cooperative Acts and creation of regulatory law for homeowner associations; a moratorium on the construction of biohazardous waste incinerators until October 1, 1994; creation of a Jails Standards Commission within the Department of Corrections to make recommendations on local detention facilities; creation of the Florida Civil Rights Act of 1992; expansion of the use of revenues from the local option tourist development tax; reactivation of midwifery licensure; revision of the law concerning "advance directives"; creation of the Employee Health Care Access Act; creation of an antistalking law; implementation of the "Jobs Florida" initiative for public sector employment; reorganization of the Department of General Services as the Department of Management Services; legislative apportionment; enactment of an omnibus corrections law and creation of affordable housing programs.

Those offices and committees which initially prepared the articles are identified, respectively, with each article. The Legislative Library 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.

This Division wishes to thank the personnel from the committees, 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 D - 1990-1992 LEGISLATURE\***

Special Session D, held December 10 to December 13, 1991, was called by the Governor to address the following issues:

1. Reducing appropriations and releases sufficiently to prevent a deficit in the General Revenue Fund.
2. Revising Chapter 216, F.S., and other statutory provisions to manage the appropriations and budget process.
3. Revising the Career Service System for state employees.
4. Implementing the recommendations of the Governor and Cabinet Task Force on Governmental Efficiency for reorganization of state agencies.
5. Implementing the Governor's plan for reorganizing the Department of Health and Rehabilitative Services.

A summary of the enactments of the session follows.

**Appropriations**

SENATE BILL 16-D (CHAPTER 91-427) serves as an add-on to Chapter 91-193, Laws of Florida, the General Appropriations Act for fiscal year 1991-1992. It became effective on December 27, 1991. This law deletes 1,908 state positions, decreases the General Revenue Fund by \$513,334,832 and deducts \$123,732,010 from trust funds for a total revenue shortfall of \$637,066,842. In summary, line items 1 through 9 (line item 2 was vetoed by the Governor) reduce the appropriations made in Chapter 91-193 for administered funds such as state building rental increases, salary increases, and insurance. Line items 10 through 612 amend the appropriations to certain divisions and departments.

Specifically, line item 10 denotes a \$66,943 deduction from general revenue for the Office of the Secretary in the Department of Administration; this amount is offset by \$27,805 from the State Personnel System Trust Fund. The Department of Agriculture and Consumer Services, Division of Consumer Services, (line items 28 and 29) had 1 position deleted, \$18,950 deducted from general revenue for salaries and benefits, and \$15,000 deducted from general revenue for operating capital outlay. The Department of Corrections Office of the Secretary and Office of Management and Budget (line item 47) had \$1,197,876 transferred to general revenue from the Grants and Donations Trust Fund, \$500,000 transferred from the Inmate Work Trust Fund, and \$139,288 transferred from the Sale of Foods and Services Clearing Trust Fund. The Assistant Secretary for Health Services lost a total of 83 positions and \$3,558,496 from general revenue (line items 49-53).

Line items 69 through 82 provide various deductions from general revenue regarding the Department of Education and Commissioner of Education. Deductions regarding private colleges and universities can be found in line items 111 through 134. Transferred \$1,363,418 from the General Revenue Fund into the Florida Academic Scholars Fund (line item 141). Line

item 184 specifies that the grant for library automation is to be reduced by \$202,840, \$111,462 of which became effective February 15, 1992. Budget items regarding education go through line item 216. Items 218 and 219 relate to the Department of Environmental Regulation; most of the deduction from general revenue is offset from various trust funds. Items 231 through 237 relate to the Executive Office of the Governor; item 233 deducts \$403,493 from general revenue for reorganization. The Department of Health and Rehabilitative Services is dealt with in line items 238 through 336; the Department of Highway Safety and Motor Vehicles in items 337 through 354; the judicial branch in items 358 through 502; the Department of Law Enforcement in items 504 through 525; the legislative branch in items 526 through 536; the Department of the Lottery in items 537 through 539; and the Department of Revenue in items 558 through 577.

The Division of Library and Information Services of the Department of State is addressed in line items 584 through 587; a deduction of \$24,320 is made regarding salaries and benefits, but is offset from the Library Services Trust Fund. The personal services allocation is reduced by \$981, operating capital is reduced by \$21,369 and the allocation for library resources is reduced by \$89,648.

Section 2 deals with fixed capital outlay; Section 2G deals with grants and aids to local governments and nonprofit organizations; Section 3 requires the Executive Office of the Governor to place certain amounts in mandatory reserve; Section 4 repeals a possible reduction to the Public Medical Assistance Trust Fund; Section 5 repeals a pilot program for the sale of lottery tickets in one of Florida's Welcome Stations; and Section 6 directs the Department of Health and Rehabilitative Services (DHRS) to pursue third-party liability Medicare HMO's.

SENATE BILL 18-D (CHAPTER 91-428) implements the appropriations and became effective on December 27, 1991. This law changes the effective date of various appropriations; reduces and eliminates various Medicaid funding; requires the Comptroller to release the total amount of approved budgets to the Chief Justice of the Supreme Court for various budget entities; reduces state employee pay raises; transfers the Dog Fly Program and the Mosquito Control Program to the Department of Agriculture and Consumer Services; requires the DHRS to use certain reports; allows the annual salary calculations of county constitutional officers to be reduced; allows school districts to shift funds; transfers funds from the Economic Development Transportation Trust Fund to the Working Capital Fund; and requires the Department of Highway Safety and Motor Vehicles to transfer \$5.2 million into the Working Capital Fund.

\*Prepared by Legislative Library and Statutory Revision

## Public Officers and Employees

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 33-D (CHAPTER 91-431) implements state career service reform through amendment of various provisions of Chapter 110, F.S., relating to state employment. The legislation provides that the Department of Administration shall maintain the centralized authority to promulgate rules, in consultation with the employing agencies, in the areas of:

- 1) education and training of state employees (Subsection 110.1099(5), F.S.);
- 2) a uniform classification system (Paragraph 110.207(1)(f), F.S.);
- 3) a uniform pay plan (Paragraph 110.209(2)(c), F.S.);
- 4) collective bargaining (Section 22 of the act);
- 5) attendance and leave provisions (Subsection 110.219(5), F.S.); and
- 6) demotion, reassignment, separation, promotion, original appointments and status (Subsection 110.217(5), F.S.).

The enactment provides to the employing agencies the authority to promulgate and implement rules within the parameters of a model rule to be developed by the Department of Administration. Those areas would include:

- 1) personnel (Subsection 110.201(1), F.S.);
- 2) recruitment of employees (Subsection 110.211(6), F.S.);
- 3) selection of employees (Subsection 110.213(4), F.S.); and
- 4) appointment and promotion of employees (Subsection 110.217(1), F.S.).

The measure revises Section 110.203, F.S., to redefine the terms "class of position", "classification plan", "pay plan", "promotion", "demotion", "reassignment", "dismissal", "suspension" and creates the term "furlough".

Section 110.205, F.S., is amended to give employing agencies the authority to exempt additional managerial positions from the Career Service System.

Section 18 of the act provides legislative intent that state agencies should be guided by a commitment to quality management and quality performance at all levels of government, and directs the Department of Administration to provide state agencies, upon their request, with a training program to implement these principles. Section 20 of the law provides that administrative rules promulgated by the Department of Administration pursuant to this act and prior to their adoption, shall be forwarded to the President of the Senate and the Speaker of the House of Representatives for review.

## Insurance Premium Tax

HOUSE BILL 25-D (CHAPTER 91-425) reenacts, without amendment, the retaliatory provisions of the insurance premium tax contained in Section 624.5091, F.S., and states that the reenactment operates retroactively to October 1, 1991. [These retaliatory provisions had been subject to the Regulatory Sunset Act until 2 years ago when the Legislature reenacted and renumbered Section 624.5091, F.S., for the pur-

pose of removing the Sunset provision. There was, however, some question over whether the Legislature's action was worded correctly, and whether the retaliatory provision, in fact, was repealed effective October 1, 1991. The purpose of this act is to insure that retaliatory taxes will be collected without interruption.]

## Indigent Care Surtax

HOUSE BILL 19-D (CHAPTER 91-423) amends Section 212.055, F.S., to clarify existing law as passed by the 1991 Legislature and ratify any ordinance which was submitted to the electorate and approved by vote of the electors to levy an indigent care surtax in any county defined in Subsection 125.011(1), F.S. Additionally, technical revisions are made to clarify that, prior to passage of an ordinance, any county defined in Subsection 125.011(1), F.S., is not required to submit a plan outlining how such local option tax revenues will be expended.

## State Agency Functional Plans

SENATE BILL 28-D (CHAPTER 91-429) Sections 186.021 and 186.022, F.S., relating to state agency functional plans, to require agencies, in consultation with legislative standing committees, to include performance measures in their functional plans. The performance measures will provide methods and criteria to measure an agency's performance in conducting the activities assigned to it by law. The act also amends Section 11.143, F.S., relating to the responsibilities of legislative committees, to require standing committees to review the agency functional plans developed by agencies within each committee's jurisdiction. Each standing committee is directed by the enactment to consider in a public hearing the recommendations made by the Auditor General in performance audits within the respective committee's jurisdiction. [Assigning these additional duties to standing committees of the Legislature will increase overall legislative oversight of executive agencies.]

Section 11.45, F.S., relating to the duties of the Auditor General, is also amended by the measure. In conducting performance audits, the Auditor General is directed, when appropriate, to identify and comment upon alternatives for accomplishing the goals of the program undergoing audit. The Auditor General is authorized to suggest alternative funding sources, and to comment on ways in which other states or the federal government accomplish similar program goals.

The Auditor General will evaluate the performance of an agency against performance measures contained within the agency's functional plan. Also, the Auditor General will evaluate whether an agency's performance measures provide effective criteria. Audited agencies will be required to follow-up, within 18 months after the release of a performance audit report, with information to the Auditor General specifically describing the agency's response to the recommendations made in the original performance audit report. After verifying the sufficiency and accuracy of the data and information, the Auditor General will report to the Joint Legislative Auditing

Committee and standing committees of jurisdiction regarding the agency's response, which will include the Auditor General's evaluation and recommendations relative to the response.

The legislation requires any unit of local government which requests the Auditor General to conduct an audit of its operations to pay the expenses incurred in the course of the audit.

Section 11.60, F.S., relating to the Administrative Procedures Committee, is amended to require the Committee to consult regularly with the standing legislative committees regarding rulemaking and legislative authority for agency action by the agencies under each standing committee's jurisdiction.

The Regulatory Sunset Act, Section 11.61, F.S., and the Sundown Act, Section 11.611, F.S., are repealed, effective the day following adjournment sine die of the 1993 Regular Session. All statutory sections scheduled for repeal under the two laws will be revived and reenacted.

A Sunrise Act (Section 11.62, F.S.) is created by the law. Legislative intent is provided which states that no profession or occupation may be regulated by law unless such regulation is necessary to protect the public health, safety or welfare from significant and discernible harm. The Legislature will be required to consider several factors prior to regulating professions and occupations not presently subject to state regulation including: (1) whether the unregulated practice of the profession or occupation poses a danger to the public, (2) whether the practice of the profession or occupation requires specialized training or skills, (3) whether the public could be protected by other means, and (4) whether the cost-effectiveness of state regulation would be favorable to consumers.

Both the Department of Professional Regulation (DPR) and proponents seeking regulation of a profession or occupation are required under the Sunrise Act to provide the specific information to the Legislature. The Department and professional associations will be required to provide information describing similar legislation in other states, the number of individuals who would be subject to the regulation and documentation demonstrating harm to the public if the profession or business is not regulated. In addition, DPR will be required to compare the proposed regulation to current professional regulation statutes to ensure uniformity and consistency with existing law.

The act also requires the Governor to direct any departments under the jurisdiction of the Governor to enter into interagency agreements to eliminate duplication of inspections among the departments that are parties to the agreement. Departments so directed are those with the head appointed by and serving at the pleasure of the Governor. The law permits other agencies, such as those headed by a cabinet officer or the Governor and Cabinet, to be a party to such interagency agreements.

The interagency agreements authorize agents of one department to conduct inspections required to be performed by another agency and, in so doing, permit the agents to exercise all of the powers of the department on whose behalf the inspection is being conducted. Agents of the department con-

ducting the inspection are required to have sufficient knowledge of inspection requirements so as to conduct proper inspections. Each such agreement must be approved by the Governor. Inspections conducted under an agreement are deemed to be sufficient for enforcement purposes. Departments party to an agreement are not allowed to charge nor accept any funds with respect to duties performed that are in excess of the direct costs of conducting the inspections.

The Governor is required to make an annual report to the President of the Senate and the Speaker of the House of Representatives regarding the interagency agreements which are in effect. The report is directed to identify each interagency agreement authorized by the enactment to describe the duplication eliminated, provide data that measure the effectiveness of the inspections conducted, and provide an estimated cost savings resulting from the agreement. The report also is to recommend appropriate remedial legislative action for any obstacles in implementing such agreements.

Finally, the legislation directs the Legislature to examine and consider, during the 1992 Regular Session, the following functions of the executive branch: law enforcement; protection of natural and environmental resources, including permitting, other regulatory functions; acquisition and administration of state land; and administrative and management-support functions common to all agencies, including purchasing, building construction and facilities management.

The Legislature is directed to use the following in its examination of each function:

- 1) whether the function is duplicated among agencies, and to what extent duplication is warranted;
- 2) whether the function, as allocated among agencies, is being accomplished efficiently and effectively;
- 3) whether the public is able to determine which agency or other entity is accountable for the function;
- 4) whether the function could be decentralized, and the benefits and disadvantages of same;
- 5) whether the function could be privatized, and the benefits and disadvantages of same; and
- 6) whether the current organizational structure accounts for the most effective use of the state resources.

Unless otherwise provided in the act, its provisions take effect July 1, 1992.

### Health and Rehabilitative Services

COMMITTEE SUBSTITUTE FOR HOUSE BILL 43-D (CHAPTER 91-432) provides legislative findings to the effect that working partnerships between the Department of Health and Rehabilitative Services (DHRS) and local communities are essential to ensure responsiveness to local priorities and that the District Advisory Councils (DACs), established by Section 20.19(8), F.S., are inadequate to meet the needs and expectations of local citizens respective to the planning and delivery of health and human services in local communities. The measure further finds that the Department's goals and mission were broadly defined in 1975 and that the size and the expan-

sive mission of the Department make accountability difficult and contribute to a lack of public confidence.

The law provides that it is the intent of the Legislature to address the organization of the Department during the 1992 Legislative Session. This is to include an examination of existing geographic service district, provision of a local entity to replace the DACs, and provision of necessary personnel and budget flexibility to the Department and local entity. The measure also provides for a review of the Department's regulatory functions and establishes criteria to be used for making determinations regarding the transfer of existing regulatory functions to other state agencies.

### **Juries**

SENATE BILL 50-D (CHAPTER 91-430) directs the Commission on Legal Representation of Grand Jury Witness, created by Chapter 91-250, Laws of Florida, to study the current grand jury process, primarily the protection of witnesses testifying before the grand jury. The Commission is composed 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 President of the Senate and one person appointed by the Speaker of the House of Representatives.

The Commission is to recommend changes to ensure the effectiveness of the grand jury, as well as fairness to witnesses testifying before the grand jury. No later than January 1, 1993, the Commission is 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. HOUSE BILL 23-D (CHAPTER 91-424) changes the effective date of Section 3 of Chapter 91-235, Laws of Florida, relating to the purging of jury lists by the clerk of the circuit court from January 1, 1992 to January 1, 1997. The effective date of Section 1, relating to elector qualifications; Section 4, relating to entities or persons eligible to receive copies of county voter registers, and Section 6 relating

to the qualifications of statewide grand jury members are changed from January 1, 1992 to January 1, 1998.

### **Condominiums, Cooperatives and Time-Share Plans**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 37-D (CHAPTER 91-426) provides various effective dates for provisions of statutory Chapters 718, relating to condominiums; 719, relating to cooperatives and 721, relating to vacation and time-share plans, as amended by Chapters 91-103 and 91-116, Laws of Florida. The Division of Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation is directed not to conduct random investigations or to assess civil penalties against any condominium developer, association, officer or individual or condominium board of administration member until April 1, 1992.

### **Bingo**

COMMITTEE SUBSTITUTE FOR SENATE BILL 20-D (CHAPTER 91-421) repeals Chapter 91-206, Laws of Florida, reinstating the provisions in Section 849.093, F.S., that were in effect prior to the 1991 legislative revisions with minor changes. The act amends Section 723.079, F.S., relating to the conduct of bingo by home owners associations, and provides the conditions under which condominium associations, mobile home owners' associations, or a group of residents in a mobile home park may conduct bingo. The measure states in its introductory "whereas" clauses the importance of immediate law enforcement action for violation of bingo laws. In addition, Section 849.093, F.S., is made the subject of the Regulatory Sunset Act (Section 11.61, F.S.), prior to the repeal date of June 1, 1992.

### **1992 Second Primary Election**

In order to prevent a conflict with the Jewish New Year, Rosh Hashanah, SENATE BILL 32-D (CHAPTER 91-422) changes the date of the second primary election in 1992 from Tuesday, September 29, 1992 to Thursday, October 1, 1992, the provisions of Florida general law (Section 100.091, F.S.) to the contrary notwithstanding.

## AGRICULTURE\*

## Governmental Reorganization

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 721 (CHAPTER 92-180) relates to food safety. The act streamlines various governmental programs which inspect grocery and convenience stores and restaurants. Pursuant to revised Section 381.0072, F.S., the Department of Health and Rehabilitative Services (DHRS) will no longer duplicate the grocery and convenience store inspections performed by the Department of Agriculture and Consumer Services (DACS). Additionally, the contract between the Department of Business Regulation (DBR) and DHRS, which provides for DHRS to inspect restaurants that are not part of a lodging establishment, will be terminated, leaving DBR as the only state agency inspecting all restaurants.

The funding for the grocery and convenience store inspection program now will be derived solely from food permit revenues, as provided in new Subsection 509.036(5), F.S., eliminating the need for more than \$4.1 million in general revenue currently used for funding. In addition, a new program for regulating and inspecting packaged ice plants is created within DACS [Section 500.509, F.S.]. Regulatory programs for bottled water plants and water vending machines are transferred from DHRS to DACS pursuant to Sections 381.007 and 381.0071, F.S., renumbered and revised as Sections 500.457 and 500.459, F.S., respectively.

Section 500.165, F.S., is created to provide that transporting food in vehicles which previously were used to transport hazardous materials is unlawful; punishable by a \$50,000 fine.

Among its other provisions, summarized in the **PROFESSIONAL REGULATION** article, HOUSE BILL 2341 (CHAPTER 92-203) statutorily transfers the authority over the Mosquito, Dog Fly, and Home Pest Control Programs under Chapters 388 and 482, F.S., from the Department of Health and Rehabilitative Services (DHRS) to the Department of Agriculture and Consumer Services (DACS). With the exception of the John A. Mulrennan, Sr., Laboratory in Panama City, Florida, and its personnel, the Office of Entomology Services is transferred from DHRS to DACS through a type four transfer. The Mulrennan Laboratory and its personnel are transferred through a type four transfer from DHRS to the Department of Education. The Laboratory is to be administered by Florida Agricultural and Mechanical University.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1903 (CHAPTER 92-147) amends Sections 369.25 and 581.031, F.S., and creates Section 581.145, F.S., to transfer the inspection and regulatory authority over aquatic plants in plant nurseries from the Department of Natural Resources (DNR) to the Department of Agriculture and Consumer Services (DACS). In order to eliminate duplication of regulatory authority over plant nurseries, Section 581.035, F.S., is created to preempt regulatory, inspection and permitting authority to DACS.

Revised Section 581.131, F.S., specifies notice of plant nursery registration renewal and provides a penalty of \$10 or 20 percent of the registration fee, whichever is greater, for late renewal. If the registration is not renewed within 10 days of the renewal date, DACS shall stop sale or stop movement on all nursery stock until the registration is renewed and the applicable fee and penalty are paid.

Section 586.045, F.S., is modified to establish a registration fee of up to \$100 for honeybee keepers. [This provision is expected to raise \$123,725.]

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2363 (CHAPTER 92-151) transfers the Seafood Marketing Program and the Bureau of Marketing and Extension Services and its personnel from the Department of Natural Resources (DNR) to the Department of Agriculture and Consumer Services (DACS) through a type four transfer. The Saltwater Products Promotion Trust Fund, which receives up to 25 percent of the Saltwater Products License Fee, is administered by DACS instead of DNR as provided by amended Section 327.28, F.S. However, the Commissioner of Agriculture and the Executive Director of DNR must submit a joint recommendation to the Legislature relating to the equitable distribution of the Saltwater Products License Fee by December 1, 1992. Section 370.07, F.S., as revised, directs DACS to administer the Saltwater Promotion Trust Fund for the promotion of all Florida fish and saltwater products.

Sections 450.021 and 450.061, F.S., are amended to clarify the conditions of the employment of minors in domestic or farm work and provide that they may work as apprentices in meat packing plants. Under Section 3 of the act, farmers who allow people to remove produce or crops remaining in the fields after harvest (gleaning) are exempt from civil liability arising out of any injury or death resulting from the condition of the land or crops.

Amended Sections 535.01-535.05, F.S., revise the requirements for the public sale of thoroughbred horses.

Section 570.07, F.S., permits DACS to accept gifts to further its mission and allows the Commissioner of Agriculture to establish advisory committees for 3 years.

Sections 570.901-570.906, F.S., are created to delineate the powers and duties of the Florida Agricultural Museum and its direct-support organization. Sections 570.91-570.916, F.S., establish the Florida Agriculture in the Classroom Program and delineates DACS responsibilities for the program. The creation of a direct-support organization for this program is authorized.

Sections 590.61-590.615, F.S., create and establish the duties of the Forestry Arson Alert Program and its direct-support organization.

The Florida Farm Winery Program is created in Section 599.004, F.S., to promote Florida's wines and vineyards.

\*Prepared by House Agriculture Committee

The DACS is authorized under modified Section 601.29, F.S., to enter all commercial citrus groves in Florida for the purpose of gathering data necessary for estimating and forecasting citrus production.

Provisions relating to the expiration, suspension, revocation or granting of an agricultural products dealer's license in Sections 604.19 and 604.25, F.S., are revised.

**Consumer Protection**

COMMITTEE SUBSTITUTE FOR SENATE BILL 2142 (CHAPTER 92-133) relates to consumer protection and creates the Dance Studio Act. This legislation creates Section 501.143, F.S., which requires annual registration of all ballroom dance studios with the Department of Agriculture and Consumer Services (DACS). It requires written contracts disclosing all costs to potential customers and providing for cancellation for any reason at any time, with refunds adjusted accordingly. Ballroom dance studios which require advance payments in excess of \$250 or which enter into retail installment contracts must be bonded. Section 570.5441, F.S., the Consumer Protection Trust Fund, is also created as a depository for fines and penalties recovered by DACS.

Part II of Chapter 501, F.S., [Sections 501.201-501.213] the Florida Unfair and Deceptive Trade Practices Act, is amended to delete language requiring rules to be adopted by the Department of Legal Affairs (DLA) upon majority vote of the Governor and Cabinet [Subsection 501.205(1), F.S.], extend the limitations period for enforcement actions brought under the act [Subsection 501.207(5), F.S.], increase the civil penalties from \$5,000 to \$10,000 per violation [Section 501.2075, F.S.], and clarify that the DLA may recover costs and attorney's fees for litigation or investigation proceedings [Section 501.2101, F.S.].

**General Agriculture**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 283 (CHAPTER 92-140) continues the spending authority through June 30, 1993, for the remaining balance of the \$31,127,474 appropriated from the Florida Citrus Canker Compensation Trust Fund in the Department of Banking and Finance for Fiscal Year 1991-1992. The purpose of the extension of the funding is to pay the remaining compensation for citrus plants destroyed during the eradication program and for attorney fees and administrative costs. The law extends the repayment date for the moneys borrowed to fund the compensation program to June 30, 1993, for the industry portion and to June 30, 1994, for the general revenue portion.

Effective July 1, 1992, the excise tax on each standard box of fruit will decrease from 8.79 cents per box to 1.5 cents per box under revised Section 601.282, F.S. The \$1.50-per-plant tax on the sale of door-yard trees [Section 581.192, F.S.] and the 20-cent-per-plant tax on citrus nursery stock sales to commercial producers [Section 581.193, F.S.] will be continued through June 30, 1993. These taxes make up the industry share of funding to provide one-half of the additional moneys necessary to pay for the Citrus Canker Compensation Pro-

gram. At these levels the taxes should provide the funding necessary to pay for industry's portion of the program by June 30, 1993. The taxes are repealed effective July 1, 1993.

The act clarifies that the source of funding for the Citrus Canker Compensation Program and the Citrus Canker Eradication Program between July 1, 1989 and June 30, 1991, is one-third industry taxes and two-thirds general revenue. Further, the law makes clear that the repayment of trust fund loans and all expenditures made after July 1, 1991, will be paid by industry taxes and general revenue in equal shares. At the conclusion of the program Section 602.025, F.S., as revised, requires that a financial audit be conducted by the Auditor General. Any remaining moneys will be appropriated by the Legislature to the Citrus Advertising Trust Fund and the General Revenue Fund in proportion to the moneys contributed after the completion of the Auditor General's report.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 729 (CHAPTER 92-187) relates to forestry firefighters. The act amends Sections 590.02 and 633.35, F.S., to clarify statutory authority for the training and certification of forestry firefighters. This law authorizes the Division of Forestry of the Department of Agriculture and Consumer Services, and the Division of Fire Marshal of the Department of Insurance to develop the forestry firefighter training curriculum, and authorizes the State Fire Marshal to resume certifying forestry firefighters under Section 633.35, F.S. This legislation also makes explicit that certified forestry firefighters are entitled to the same rights, privileges and benefits provided for by law as certified firefighters.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 839 (CHAPTER 92-143) amends Chapters 575, 576, 578 and 580, F.S., to increase revenues and provide more effective enforcement of the laws relating to fertilizer, seed, and feed. A new fertilizer distributor license which will cost \$100 per year is established by revised Section 576.021, F.S. Specialty fertilizers will have to be registered at \$100 each for the first five per licensee; thereafter each registration will cost \$25. The inspection fee for fertilizers is increased from 50-cents-per-ton to 75-cents-per-ton, and the inspection fee for raw phosphate is increased from 20-cents-per-ton to 30-cents-per-ton by amended Section 576.041, F.S. The sliding scale for seed dealer registration fees is increased, and the \$10,000 exemption is deleted pursuant to modified Section 578.08, F.S. A late or false filing fee for feed sales is established in revised Section 580.061, F.S., at \$25 or 10 percent, whichever is greater. Feed cooperatives which sell feed outside of their membership will be subject to an administrative fine not to exceed \$10,000. [The new revenues generated by this law will offset the need for almost a million dollars in general revenue funding for the programs.] All provisions of the act take effect July 1, 1992, except amendments to 580.061, F.S., which take effect October 1, 1992.

HOUSE BILL 1167 (CHAPTER 92-206) clarifies tax exemptions to those who raise ostriches. The ostrich is defined as both a "domestic animal" under Subsection 585.01(9), F.S., and as "livestock" under Subsection 585.01(12), and Sections 588.13 and 828.23, F.S. By specifically including ostriches under the definition of livestock, the act guarantees that those

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who raise these birds will receive an agricultural classification for their lands for ad valorem tax purposes. Section 212.08, F.S., also exempts ostrich feed from sales tax.

[The designation of ostriches as domestic animals through this measure may have removed the Game and Fresh Water Fish Commission's authority to regulate the care of this wild animal on preserves, farms and in zoos. The Commission may also be precluded from investigating alleged importation of endangered ostriches or ostrich products. It is estimated that the Commission would lose \$1,000 in annual permit fees.] This act becomes effective on October 1, 1992.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 717 (CHAPTER 92-43) amends Subsection 701.10(8), F.S., to provide that insofar as any information held by the Department of Citrus is considered a trade secret, it is confidential. Membership in the advisory council to the Department established pursu-

ant to the Citrus Stabilization Act of Florida [Section 601.154, F.S.] is increased. Provisions concerning the lettering on vehicles transporting citrus are revised by the modification of Section 601.731, F.S.

Assessments made under authority of the Florida Boll Weevil Eradication Law [Chapter 593, F.S.] are altered by revised Section 593.114, F.S., effected by COMMITTEE SUBSTITUTE FOR SENATE BILL 456 (CHAPTER 92-23). A maximum assessment is set at \$35 per-acre per-year and per-acre fees are established for the years 1987-1991, but payments already made for levies on or before the effective date of this act [March 16, 1992] are considered paid in full and a payment schedule is provided for all other growers. Provision is made for the handling of assessments annulled, vacated or set aside by a court.

APPROPRIATIONS

For the 1992 Legislative Session, the major work products of the Committee on Appropriations were the 1992-1993 General Appropriations Act (GAA), SENATE BILL 278-H, (CHAPTER 92-293), and a supplemental appropriations act, SENATE BILL 288-H (CHAPTER 92-294).

The 1992-1993 General Appropriations Act and supplemental appropriations act combined provide for total expenditures of \$31.8 billion. From this amount, \$11.9 billion comes from the General Revenue Fund, \$19.1 billion from trust fund sources and \$834 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). The following is a breakdown of the total appropriations for the fiscal year: Education and PECO received 30.6 percent of the total appropriations; General Government received 32.6 percent; Criminal Justice 4.8 percent; and DHRS 32 percent. The appropriation for General Government includes agency budgets such as the departments of Transportation, Revenue, Natural Resources, Lottery and Game and Fresh Water Fish Commission.

Budget cuts of \$569 million enacted by the Legislature in the December 1991 and February 1992 Special Sessions were continued and annualized in the General Appropriations Act. In addition, \$562 million of new budget cuts were included in the General Appropriations Act.

An amount of \$1 billion was provided for Public Education Capital Outlay (PECO), the funding for public school construction. Items funded include: \$147 million for maintenance as recommended by the State Board of Education, \$34 million for asbestos abatement; \$25 million for science facilities; community education facilities as recommended by the State Board of Education; \$217.3 million for new construction at community colleges; \$186.6 million for new construction and land acquisition for the State University System; and \$380.8 million for new construction for public schools.

In this difficult year, funding for public schools was a major consideration throughout the budget process. The major portion of the public schools budget was an increase of \$231 million for the projected 68,397 additional student enrollments expected in 1992-1993. Also, an additional \$155 million was provided to maintain funding to public schools at the 1991-1992 level after mandatory reserves.

State funding for community colleges was \$559.2 million, 1.8 percent of this year's total appropriation. Included in the total was \$29.3 million to restore cuts previously required due to revenue shortfalls. In addition to the level of funding provided in the appropriations acts, the community colleges collected a minimum of \$198.3 million in student fees. This amount was based upon a fee increase of 15 percent for all in-state and out-of-state students.

Florida's State University System was appropriated \$1.4 billion for fiscal year 1992-1993. Funding at this level was partially accomplished with a 15 percent increase in tuition for undergraduate students and a 25 percent increase for graduate students.

The Department of Health and Rehabilitative Services' operating budget for fiscal year 1992-1993 contained a 18.96 percent increase over the Department's 1991-1992 appropriation after mandatory reserves. Some enhancements and restorations of previous funding cuts to the DHRS operating budget were the following:

1. \$81 million to continue the Medically Needy Program through March 1993.
2. \$48.2 million to continue eligibility for Pregnant Women and Children through March 1993.
3. \$60.2 million for a supplemental reimbursement for nursing home care.
4. \$40.8 million to continue eligibility for Elderly and Disabled Persons with incomes below 90 percent of poverty level through March 1993.
5. \$20.1 million for implementing a Medicaid waiver to provide community-based services for persons with Developmental Disabilities.
6. \$18.2 million to continue increased Medicaid reimbursement for Obstetrical Care through February 1993.
7. \$6.1 million for eligibility workers for public assistance programs.
8. \$7.1 million for Therapeutic Services for children.
9. \$11.7 million for community-based Alcohol, Drug Abuse and Mental Health services for children and adults.
10. \$8.3 million for Mental Health Institutions.
11. \$22.6 million for Foster Care/Child Welfare services.
12. \$19.1 million for Juvenile Justice Reform.
13. \$5 million in Healthy Start initiatives.
14. \$9 million including 179 positions for Child Support Enforcement.

Again this year the Legislature continued to show a strong commitment to environmental issues in the General Government area. This was evidenced in part by the following appropriations:

1. \$17.8 million for hazardous waste clean-up and site restoration.
2. \$147.2 million for identification and clean-up of leaking underground petroleum storage tanks.
3. \$8 million for waste tire abatement.
4. \$33.2 million for solid waste management grants.
5. \$300 million for a third installment of the Preservation 2000 Program.
6. \$30.2 million for the Conservation/Recreational Land Acquisition (CARL) program.

\*Prepared by House Appropriations Committee

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7. \$77.5 million for distribution to the Water Management Districts for land acquisition under the Save Our Rivers program.
8. \$7 million in new General Revenue funding to match \$35 million of new federal grant funds for low interest loans to local governments to construct waste water treatment facilities. This was in addition to \$103.4 million which was also appropriated for this program, primarily from revenues associated with the repayment of prior loans to local governments.

In other areas of General Government, the following significant new funding was provided:

1. \$2.6 million for additional state aid to public libraries.
2. \$1.4 million for Historic Preservation grants.
3. \$24.7 million for energy conservation grants.
4. \$3 million for infrastructure needs relating to the Leon Satellite Facility.
5. \$21 million for the Duval County Regional Service Center.
6. \$6 million to complete the DNR/USF Joint Use Marine Research Facility in St. Petersburg.
7. \$4.9 million for affordable housing programs (\$3.4 for SAIL, and \$1.5 for Housing Pre-development Assistance). This was in addition to \$29 million in federal affordable housing funds appropriated in the 1992-1993 GAA, and \$37.5 million in new state funding for affordable housing programs provided in COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 94-H (CHAPTER 92-317).
8. \$0.8 million for grants to Community Development Corporations.
9. \$20 million for a transfer from the Department of Lottery to the Educational Enhancement Trust Fund.
10. 174 positions and \$9.3 million for the Department of Revenue to enhance tax collections.

Transportation appropriations issues contained in the 1992-1993 budget include:

1. \$2.4 billion for the Department of Transportation Work Program, of which \$1.4 billion was appropriated for construction. The level of funding for transportation has additional projects to be funded by increased federal aid, totaling approximately \$400 million in 1992-1993, included in the recently passed Federal Transportation Act.
2. 111 positions and \$6.4 million to enhance the Department's ability to produce the Work Program.
3. \$9.3 million for computer enhancements, which included \$4.6 million for additional Computer Aided Drafting Design Equipment.
4. Criminal Justice received \$1.3 billion in this year's allocation. Of this, \$28 million will fund the opening of all 3,308 newly constructed prison beds.

In addition to the two appropriations bills, the Committee on Appropriations passed several substantive bills in the regular and special sessions that became law:

1. HOUSE BILL 371-H (CHAPTER 92-316) is the Governmental Efficiency Act of 1992. Part one establishes a

statewide toll-free hotline that any citizen of the state may use to suggest improvements and efficiencies for government. Part two provides for the temporary suspension of nearly three dozen government activities that were determined to be nonessential to the public in difficult economic times. Part three amends the Whistle-blower's Act of 1986.

2. COMMITTEE SUBSTITUTE FOR HOUSE BILL 497 (CHAPTER 92-142) addresses the sections of the state budget law declared unconstitutional by the Florida Supreme Court in *Chiles v. Children* 16 Fla. L.W.708 (Fla. October 29, 1990). It also creates a 48-hour cooling off period on conference reports on appropriations and revenue bills, requires a summary in appropriation bills to make them more understandable, allows the Chief Justice to handle budget amendments and trust fund transfers for the Judicial Branch, and requires the Executive Office of the Governor to develop procedures for drawing down federal funds more effectually. It requires the Legislature to provide, annually, directions for using the working capital trust fund in General Revenue (GR) deficits and sets a threshold of \$300 million after which the Legislature must resolve any deficits in GR. This act requires the Comptroller to provide reports of trust funds for the legislature annually, and it provides for paperwork reduction associated with the collection and distribution of government information.
3. SENATE BILL 280-H (CHAPTER 92-326) is the implementing bill for the 1992-1993 general and supplemental appropriation bills. Among its 94 provisions, it prevents the reversions of a number of university and community college construction projects, extends budget and personnel flexibility to the Department of State, contains several provisions on retirement, and expands the allowable uses of the discretionary capital outlay millage by school boards.
4. HOUSE BILL 2327 (CHAPTER 92-15) allows DHRS to transfer funds to meet 1991-1992 deficits, permits the Governor to transfer funds to bolster the Working Capital Fund for the 1991-1992 fiscal year, provides for a number of other transfers and allows the refinancing of state bonds.
5. HOUSE BILL 115-E (CHAPTER 92-275) provided a supplemental appropriation of \$24.7 million for the medically needy program to continue to provide services to Floridians during the final quarter of the 1991-1992 fiscal year.
6. HOUSE BILL 423-H (CHAPTER 92-311) relates to Medicaid clinic services. It allows county public health clinic services to be reimbursed at a rate per visit based upon total reasonable costs of the clinic.
7. SENATE BILL 246-H (CHAPTER 92-322) creates a mental health institution disproportionate share program that generates \$39 million of federal matching funds, which were appropriated in the General Appropriations Act. For a fuller analysis of 1992 appropriations, see *Fiscal Analysis in Brief*, published each year by the Senate and House Appropriations Committees.

**BUSINESS REGULATION\***

**Law Enforcement Radio**

SENATE BILL 112 (CHAPTER 92-72) revises Subsection 282.1095(3), F.S., to extend by 2 years the pilot project of a radio communications system intended to serve state law enforcement agencies. [The project is 18 months behind in its construction schedule.] Section 2 of the act requires the Joint Committee on Information Technology Resources, in consultation with the House and Senate Governmental Operations Committees, to conduct a study. The study is to focus on whether the state competitive bid processes meet the state's needs when purchasing equipment affected by rapidly changing technology. The law further requires that a report of this study's conclusions be filed with the Legislature by January 15, 1993. Finally, the legislation provides for a December 31, 1994, termination of the \$1 surcharge on vehicle [Section 320.0802, F.S.] and vessel [Subsection 327.25(6), F.S.] registrations unless the pilot project is deemed successful.

**Public Service Commission**

SENATE BILL 1732 (CHAPTER 92-126) authorizes the Florida Public Service Commission to exempt pay telephone service providers from the requirements of Section 364.3375, F.S. The Commission may waive these requirements only to prevent fraud or upon a finding that the exemption would be in the public interest.

**Telephone Solicitation**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 465 (CHAPTER 92-186) revises several consumer protection provisions in Chapter 501, F.S., regarding residential telephone solicitation. Revised Subsection 501.059(4), F.S., requires telephone solicitors and certain other sellers of lists containing residential telephone numbers to screen and exclude numbers that appear on the then current "no sales solicitation calls" list. It also aids implementation and administration of the 1991 Florida Telemarketing Act [Sections 501.601-501.626, F.S.] by:

- 1) clarifying the definitions of "commercial telephone solicitation" and "commercial telephone seller" [Subsections 501.603(1) and (2), F.S.];
- 2) amending the exemptions for magazine, retail and business-to-business sales [Subsections 501.6046(6), (11), (12) and (24), F.S.];
- 3) requiring disclosure of an applicant's driver's license number [Paragraphs 501.605(2)(a) and 501.607(1)(a), F.S.];
- 4) allowing certain salesperson applicants to operate on an interim basis pending approval or denial of licensure [Subsection 501.607(3), F.S.]; and
- 5) establishing uniform information to appear on the face of commercial telephone seller and salesperson licenses [Subsection 501.608(1), F.S.].

**Solar Energy**

COMMITTEE SUBSTITUTE FOR SENATE BILL 608 (CHAPTER 92-89) amends Section 163.04, F.S., to clarify existing law relating to the prohibition of the installation of solar or other renewable resource devices on real property. The act provides that effective October 1, 1992, no person shall be prohibited, by any governing body, deed restriction, covenant, or binding agreement, from installing solar collectors or other renewable resource devices on real property that does not exceed 3 stories in height, within an orientation to the south or within 45 degrees east or west of due south.

**Water and Wastewater Systems**

HOUSE BILL 859 (CHAPTER 92-181) repeals Section 367.0815, F.S., which provides for apportionment of rate case expenses to be paid by water and wastewater utilities regulated by the Florida Public Service Commission under certain circumstances. The law amends Section 180.191, F.S., to expand the exemption from county regulation of municipal water and sewer utilities which operate and provide service to consumers outside the boundaries of the municipality, by allowing such an exemption, pursuant to interlocal agreement, if the municipal water and sewer utility serves consumers beyond the confines of a single county. It requires just and equitable rates, fees and charges for services to consumers outside the boundaries of the municipality, and conforms the May 1, 1988, applicability cutoff date for municipalities who provide service to consumers outside its municipal boundaries.

**Alcoholic Beverage Licenses**

SENATE BILL 2314 (CHAPTER 92-176) amends several areas of the alcoholic beverage law.

The legislation expands the definition of an alcoholic beverage licensee's "licensed premises" in Subsection 561.01(11), F.S., to include a sidewalk or other outside area that is contiguous to the premises. The law also grants the Department of Business Regulation the authority to approve applications for temporary expansions of a licensed premises for special events. The licensee would be required to gain written approval from the county or municipality within which the establishment is located prior to the Division approving a sidewalk or other outside area as part of the licensed premise.

The measure changes the quota ratio found in Subsection 561.20(1), F.S., on the number of alcoholic beverage liquor licenses which may be issued in a county from one license for each 2,500 residents to one license for every 5,000 residents. License fees established in Subsection 565.02(1), F.S., are increased by 4 percent and the one-time assessment on new quota liquor licenses is increased from \$5,000 to \$10,750 pursuant to revised Subsection 561.19(6), F.S. [Estimates show

\*Prepared by House Regulated Services and Technology and Regulated Industries Committees

these fee increases will offset the negative fiscal impact caused by the reduced number of licenses issued.]

The legislation includes out-of-state identification cards as an acceptable form of identification for a handicapped person seeking to purchase or consume alcoholic beverages under revised Paragraph 562.11(1)(b), F.S.

Through amendment of Subsection 562.13(2), F.S., the enactment provides exceptions for minors employed in the entertainment industry, theme parks, department stores, florists and specialty gift shops from the prohibition of employment by vendors who sell alcoholic beverages.

The act revises Subsections 563.02(1), 564.02(1) and 565.02(1), F.S., to provide that beer and beer/wine license fees may be adjusted annually according to the population of a county as determined by the latest population estimate pre-

pared pursuant to Section 186.901, F.S., rather than the federal decennial census. The provisions of the law takes effect October 1, 1992.

#### **Alcoholic Beverage Licenses/Performing Arts Centers**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 861 (CHAPTER 92-205) adds Paragraph 561.20(2)(j), F.S., to authorize the Division of Alcoholic Beverages and Tobacco to issue special alcoholic beverage licenses to qualifying performing arts centers. A "performing arts center" is defined in new Subsection 561.01(17), F.S., as a facility consisting of not less than 200 seats which is owned by a nonprofit corporation and which is used to promote development of the performing, visual, or fine arts and to encourage and cultivate public and professional knowledge and appreciation of the arts.

## COMMERCE\*

**Securities/Business With Cuba**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1771 (CHAPTER 92-198) requires issuers of securities who present prospectus to buyers to disclose if the corporation or any affiliated corporation is doing business with the government of Cuba or with any person or affiliate located in Cuba.

Penalties for failure to disclose range from injunctions to a maximum of \$5,000 per incident.

The Division of Securities of the Department of Banking and Finance must, prescribe by rule, a form which will become part of all initial security filings and will provide the Division and consumers with the minimum specified information. Disclosure is required as of April 10, 1992, when the Governor signed the legislation into law.

**Securities Regulation**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 837 (CHAPTER 92-45) amends Chapter 517, F.S., to clarify certain regulatory exemption [Sections 517.051 and 517.061, F.S.] grounds to deny applications for security registration [Section 517.111, F.S.] or dealer registration [Section 517.161, F.S.], and procedures for obtaining recovery from the Securities Guaranty Trust Fund [Sections 517.131 and 517.141, F.S.]. Additionally, the act prohibits certain conduct in connection with the rendering of investment advice [Section 517.301, F.S.].

**Unclaimed Property/Reports**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1484 (CHAPTER 92-169) revises Subsection 717.117(2), F.S., to provide that for those persons holding property presumed abandoned and subject to custody as unclaimed property under Chapter 717, F.S., the threshold level of value is increased from \$25 to \$50 for the requirement of reporting the names and addresses of owners of abandoned property to the Department of Banking and Finance. It also amends Section 717.1035, F.S., to allow the Department to collect on intangible property when the owner's last address is unknown and the issuer of the intangible is a corporation located in Florida.

**Business Opportunities**

COMMITTEE SUBSTITUTE FOR SENATE BILL 900 (CHAPTER 92-161) amends Section 559.801, F.S., to expand the definition of "business opportunity" for purposes of regulating businesses which sell or lease products, equipment, supplies or services which are sold to start a business pursuant to Sections 559.80-559.815, F.S., the "Sale of Business Opportunities Act." This law adds advertisers of business opportunities and persons who are affiliated with or referred by the seller to the section applicability. [They are prohibited from offering

guaranteed sales or income levels. They also must register with the Division of Consumer Services of the Department of Agriculture and Consumer Services, provide extensive disclosure statements to their clients and the Division, post bonds and have written contracts or be subject to penalties.]

**Consumer Fraud/Elderly/Handicapped**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 415 (CHAPTER 92-40) is a joint product of the Pepper Commission on Aging and the Department of Legal Affairs. It creates Section 501.2077, F.S., to provide additional penalties of up to \$10,000 per instance of consumer transaction fraud against senior citizens or persons with mental or educational impairment. It directs that proceeds from collection of those fines be allocated to the Department of Legal Affairs to be spent on preparation and distribution of consumer education materials or on enforcement efforts. The law is given an effective date of October 1, 1992.

**Motor Vehicle Sales Warranties**

COMMITTEE SUBSTITUTE FOR SENATE BILL 602 (CHAPTER 92-88) amends the Motor Vehicle Warranty Enforcement Act [Lemon Law, Chapter 681, F.S.] by revising numerous provisions relating to new motor vehicle warranties, certified dispute settlement procedures and the Florida New Motor Vehicle Arbitration Board. The law extends the Lemon Law rights period from 12 months or 12,000 miles to 18 months or 24,000 miles [renumbered and revised Subsection 681.102(9), F.S.] and allows for a 6-month extension of the Lemon Law rights period if a reported nonconformity has not been cured by the expiration of the initial period [Paragraph 681.104(3)(b), F.S.]. The measure applies to motor vehicles purchased or leased after January 1, 1989, and its provisions take effect July 1, 1992.

The enactment also adds Subsection 319.14(8), F.S., which under certain circumstances permits the issuance of title certificates that do not contain a statement of the prior use of a motor vehicle as a lease vehicle.

**Uniform Commercial Code**

COMMITTEE SUBSTITUTE FOR SENATE BILL 378 (CHAPTER 92-82) revises and updates Chapters 673 and 674, F.S., and makes conforming amendments to other Uniform Commercial Code material in the statutes [Chapters 671-679]. [These changes are based on the recommendations of the National Conference of Commissioners on Uniform State Laws and the American Law Institute.]

The law changes the status of money orders, certified checks and travelers' checks, making them negotiable as personal checks, but no longer obligations of the bank [Section 673.1041, F.S.].

\*Prepared by House and Senate Commerce Committees

The definition of "ordinary care" [Paragraph 673.1031(1)(g), F.S.] is also changed to delete the requirement that banks individually review each instrument delivered to them. Section 674.1101, F.S., is created to allow the check clearing process to be truncated: checks will no longer be returned to the customer and statements will include only the clearing date, check number and amount. The cutoff point for stop orders, garnishments and the like is now transmission of the item image or information and not posting as provided in Section 674.109, F.S., which is repealed. Customers will now have 30 days rather than 14 to notify the bank of any discrepancies under revised Paragraph 674.406(4)(b), F.S. Truncated checks will be kept by the processor for 7 years pursuant to Subsection 674.406(2), F.S. A comparative negligence standard is established. As stipulated in Subsection 674.406(5), F.S., a customer who does not discover an unauthorized signature will have to show that the bank failed to follow its own procedure in order to shift any portion of the loss to the bank.

Agents who sign corporate checks will now be given full protection from individual liability, even if their status is not reflected anywhere on the instrument under Section 673.4021, F.S., as created by the law.

The reservation of rights doctrine has been abolished with respect to rights on instruments by revision of Section 671.207, F.S. The burden of proving the loss is now on the surety of the instrument. The burden of proving loss caused by a modification other than a change in due date is now on the person seeking to enforce the instrument. This act becomes effective January 1, 1993.

### **Condominiums, Cooperatives and Homeowners' Associations**

COMMITTEE SUBSTITUTE FOR SENATE BILL 2334 (CHAPTER 92-49) amends the Condominium Act (Chapter 718, F.S.) and the Cooperative Act (Chapter 719, F.S.) and creates within the Florida Not For Profit Corporation Act (Chapter 617, F.S.) Sections 617.301-617.306, F.S., to provide for the regulation of homeowners' associations.

Paragraph 718.111(1)(a), F.S., is revised to strike the reference to a fiduciary relationship between the manager of a condominium association and the unit owners and a statement of legislative intent is added stating that nothing in the paragraph should be construed as establishing or removing the requirement of such a relationship between association managers and unit owners.

An association officer, director or manager is prohibited from accepting any thing or service of value for his own or his family's benefit from any person proposing to provide or providing goods or services to the association. Paragraph 718.111(1)(b), F.S., is amended to permit officers to be elected by secret ballot, an exception to the ban on proxy or secret voting by directors.

Under modified Paragraph 718.111(12)(b), F.S., the official records of the association are to be kept within the state and made available, with certain exceptions, to any unit owner within 5 working days of a written request to the board. This

requirement may be satisfied by keeping a copy of the records for examination or duplication on the condominium or association property. Paragraph (c) of this subsection entitles a unit owner denied access to official records with minimum damages of \$50 per day for up to 10 days beginning on the 11th working day after receipt of the written request rather than a lump sum of \$500 as heretofore provided.

Subsection 718.111(15) is revised to permit the commingling of the association's reserve and operating funds for investment as long as separate accounts are kept for each.

Provisions relating to the bylaws of the association in Section 718.112, F.S., are amended to require prompt response on the part of the board of administration of the association to a written complaint from a unit owner and to deny the board recovery of attorney fees in any subsequent litigation, administrative proceeding or arbitration arising from failure to satisfy this requirement.

Bylaw provisions in this section are further revised to permit the board to consider new business at its meeting without prior notice by vote of a majority plus one and to alter the notice requirements for board and unit owner meetings. New requirements are spelled out for the filling of vacancies on the board resulting from recall. By proxy vote, an association of less than 25 units may set out alternative methods of voting and election.

In additional revisions to the bylaw standards, a scale of charges are instituted for fidelity bonding of the association.

Section 718.113, F.S., is amended to permit alterations or additions to common elements of the association by approval of 75 percent of the total voting interests of the association when the manner is not specified in the declaration creating the condominium.

Under modified Section 718.115, F.S., unpaid common expenses or assessments of a unit extinguished by operation of law are collectable from all unit owners in the relevant condominium.

The holder of a first mortgage is liable, commencing 30 days after the date the mortgagee received the last payment of principal or interest, for all unpaid assessments due prior to the receipt of the deed by the mortgagee, pursuant to revised Section 718.116, F.S. Such liability cannot exceed 1 percent of the original mortgage debt.

Provisions in Section 718.1255, F.S., relating to nonbinding arbitration for the settlement of disputes under the auspices of the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business Regulation, the costs of such arbitration, a court of competent jurisdiction and recovery of attorney fees are amended.

Section 718.301, F.S., which prescribes the manner of the transfer of association control is modified to change the timetable.

Bidding requirements for the procurement of goods and services set out in Section 718.3026, F.S., are amended to exempt associations with less than 100 units from statutory requirements and to set the bid threshold for applicability of those requirements at 5 percent of the annual budget of an

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association. Language is added exempting certain contracts from meeting these requirements.

Provisions relating to affirmative action within the powers and duties of the Division contained in Section 718.501, F.S., are revised to permit an officer or board member to seek redress for any action taken before being penalized, create a voluntary system of mediation of condominium disputes, prescribe the procedure for the Division in response to a complaint that has been filed and increase the per residential unit annual fee to be paid to the Division by each association which has more than two units from \$3 to \$4.

Provisions relating to random investigations and the office of ombudsman are repealed [Sections 718.5015-718.5018, F.S.].

Paragraph 718.503(2)(b), F.S., is added to exempt licensed salespersons who secure for buyers condominium disclosure documents required by the subsection from any liability for errors or inaccuracies in the documents.

This enactment also conforms the provisions of Chapter 719, F.S., to the changes made in Chapter 718, F.S.

Of the new provisions regulating homeowners' associa-

tions, Section 617.301, F.S., provides definitions for the terms used in Sections 617.301-617.306, F.S.

Section 601.302, F.S., exempts from operation of these new provisions homeowners' associations regulated by Chapters 718, 719, 721 and 723, F.S.; such associations serving less than 50 parcels or assessing less than \$150 per year; and any such association prior to transfer of its control to parcel owners other than the developer.

Section 617.603, F.S., defines the homeowners' association and its operation.

The right of owners to assemble peacefully, to invite candidates for public office and to bring legal action for infringement of these rights is established by Section 601.304, F.S.

Section 601.305, F.S., provides for appointment of a receiver as a remedy for the failure to fill sufficient vacancies on the association board of directors to constitute a quorum.

Section 601.306, F.S., sets out voting and election procedures for homeowners' associations.

All provisions of the act except those relating to homeowners' associations have an April 1, 1992, effective date. The latter are to take effect October 1, 1992.

## CONSERVATION AND NATURAL RESOURCES\*

**Biohazardous Waste Incinerator Moratorium**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1451 (CHAPTER 92-31) imposes a moratorium on the construction of biohazardous waste incinerators until October 1, 1994. During this period, a person is prohibited from beginning construction or being issued a permit for construction of a biohazardous waste incinerator. The moratorium does not apply to modifications or replacements of existing incinerators that will not result in an increase in allowable emissions of air pollutants regulated by the Department of Environmental Regulation (DER). The act requires the DER to study permitting and construction requirements for biohazardous waste incinerators and make a report and recommendations to the Legislature by December 1, 1993.

**Coastal Construction Control Lines**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1211 (CHAPTER 92-191) addresses three issues relating to the coastal construction control line (CCCL) program of the Department of Natural Resources (DNR):

- 1) extends the deadline (from December 31, 1991 to December 31, 1993) for reestablishing CCCLs in counties where the lines had not been reestablished since June 30, 1989 [Subsection 161.053(3), F.S.];
- 2) makes it clear that a CCCL takes effect upon its being filed with the Department of State [Subsection 161.053(2), F.S.]; and
- 3) provides a specific time period during which construction begun prior to the establishment of a CCCL is exempt from coastal construction regulation under Section 161.053, F.S., but provides for an exception to the time limit for judicially confirmed exemptions [Subsection 161.053(9), F.S.].

**Coastal Zone Protection**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 101 (CHAPTER 92-7) amends Subsection 161.054(12), F.S., to change the definition of "substantial improvement" to mean a repair, reconstruction, *rehabilitation*, or improvement of a structure (the cost of which equals or exceeds a cumulative total of 50 percent of the market value of the structure). The act also provides that a substantial improvement to a structure in the coastal building zone may occur every 5 years before the structure must meet stricter building standards (generally, elevation of the building). Current law allows a substantial improvement to occur only one time over the life of a structure before it must meet the stricter standards. The law takes effect October 1, 1992.

**Cross Florida Barge Canal Lands**

SENATE BILL 1432 (CHAPTER 92-116) amends Paragraph 253.783(2)(f), F.S., to add the Department of Agriculture and Consumer Services to the members of the advisory committee to the Canal Authority of the State of Florida. The legislation also revises Subsection 374.001(1), F.S., to make transfer of the Canal Authority to the Department of Natural Resources contingent on deauthorization of the Cross Florida Barge Canal by Congress or upon completion and adoption by the Legislature of the canal lands management plan, whichever occurs later. The law modifies Subsection 253.7829(3), F.S., to direct that operation and maintenance of the water control structures on Cross Florida Barge Canal lands be delegated to the Southwest Florida Water Management District and the St. Johns River Water Management District until the management plan is completed and adopted by the Legislature. Finally, the measure authorizes the advisory committee to recommend that canal lands be used by local governments or state agencies under certain circumstances before the management plan is completed.

**Damages to Natural Resources**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1304 (CHAPTER 92-113) is landmark legislation that is among the first of its kind in the nation. The enactment provides in statute [Subsection 376.121(4), F.S.] a schedule for damages to natural resources caused by pollutant discharges. [As a result, the amount of damages to natural resources will be removed as an issue in litigation and dispute resolution of cases resulting from pollutant discharges of less than 30,000 gallons, saving both the state and private parties potentially millions of dollars in legal fees and investigation costs. This money can now be applied to the immediate cleanup of the discharge.]

The act specifies a mathematical formula for computing damages caused by discharges, establishing a compensation schedule based pursuant to revised Subsection 376.121(2), F.S., upon the cost of restoration and of the loss of use of natural resources. The compensation schedule takes into account the volume of the pollutant discharge, characteristics of the discharged pollutant that may affect the severity of the effects on the receiving environment, the type and sensitivity of natural resources affected by a discharge, the location of the discharge, the location of the discharge with respect to special management areas, and the areal or linear extent of the natural resources impacted. The enactment also provides in new Subsection 376.121(6), F.S., for \$10,000 compensation for the death of any animal designated as endangered, and \$5,000 compensation for the death of any animal designated as threatened. This legislation also adds Subsection 376.121(10), F.S., to provide that for discharges greater than 30,000 gal-

\*Prepared by House Natural Resources Committee

lons, the responsible party has the option to pay the amount of compensation calculated pursuant to the compensation schedule or to pay the amount determined by a damage assessment as authorized by the section. [Provisions in the measure which preclude disputes over the amount of damages in cases where discharges are under 30,000 gallons should result in a more timely and efficient recovery of compensation for harm to natural resources. This policy for the determination of damages is particularly advantageous in those situations where it is difficult, if not impossible, to determine the amount of actual damages to a natural resource.]

**Divers-down Flags**

SENATE BILL 670 (CHAPTER 92-92) amends Subsection 327.33(2), F.S., to require that persons operating a vessel upon the waters of the state have regard for the presence of a divers-down flag, as defined in Section 861.065, F.S. The act also requires persons operating vessels on rivers, inlets or navigation channels make a reasonable effort to maintain a distance of 100 feet from divers-down flags. Violations constitute careless operation of a vessel and violators are guilty of a noncriminal infraction, subject to a civil penalty of \$35 under Section 327.73, F.S. These provisions take effect October 1, 1992.

**Graves Track**

SENATE BILL 1314 (CHAPTER 92-114) amends Subsection 253.033(3), F.S., to direct the Board of Trustees of the Internal Improvement Trust Fund to convey to the City of North Miami any portions of Parcels No. 1 and No. 2 of the Graves Tract, which were retained by the Board and not included in the recorded rights-of-way for improvements to State Road 5. These lands are located along or near U.S. 1 (Biscayne Boulevard). [This is partial compensation for the financial loss incurred by the city upon statutory dissolution of the Inter-American Center Authority.]

**Hazardous Waste/Human Remains**

SENATE BILL 1070 (CHAPTER 92-104) amends Paragraph 381.0098(2)(a) and Subsections 403.703(23), (39) and (41) F.S., relating to the regulation of wastes by the Department of Health and Rehabilitative Services and the Department of Environmental Regulation, to provide that as used in provisions regulating the treatment and disposal of certain hazardous wastes, the terms "biohazardous waste," "biological waste" and "hazardous waste" do not include human remains disposed of by persons licensed under Chapter 470, F.S., which relates to the practice of funeral directing.

**Pollution Control**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 2122 (CHAPTER 92-132) will allow Florida to take an enormous step toward improving its air quality by providing streamlined and comprehensive regulation of major stationary source air emissions and by providing incentives for industry to use equipment and processes that will reduce air

pollution. The law also will enable the state to obtain delegation of a major federal permitting program, so that regulation will remain in Florida rather than the federal agency.

The law provides a statutory framework for implementing an air operation permit program for major stationary air pollution sources. Significant elements of the measure provide that:

1. An annual license fee based on pollutant emissions replaces an application fee [Paragraph 403.0872(10)(a), F.S.].
2. The fees are set at \$10-per-ton of regulated pollutant for 1993 and 1994, and \$25-per-ton after that, with the fee subject to increase, by rule, up to an overall cap of \$35-per-ton [Subparagraph 403.0872(10)(a)1., F.S.].
3. Permits are limited to a term of 5 years [Subsection 403.087(1), F.S.].
4. An account in the existing Air Pollution Control Trust Fund is established to collect annual license fees, to be spent only for the air program as specified [Section 403.0873, F.S.].
5. A Small Business Stationary Air Pollution Source Technical and Environmental Compliance Assistance Program is established [Section 403.0852, F.S.].
6. Changes are made to Florida's Motor Vehicle Refrigerant Recovery and Recycling Program to make it consistent with Title VI of the federal Clean Air Act Amendments of 1990 [Subsections 325.222(2), (3) and (4), F.S.].

The enactment also revises Subsection 320.03(6), F.S., to provide, effective in fiscal year 1992-1993, for the distribution of additional air quality tag fee revenues to DER-approved local air pollution control programs provided that the programs' unencumbered fund balance from the preceding year does not exceed 50 percent of the fees allocated during that year. Presently, counties with such programs receive 50 cents of each \$1 fee collected within the county for every license registration sold, transferred, or replaced. Such programs will receive an additional 25 cents out of each license registration sold, transferred, or replaced in the county, for a total of 75 cents. Finally, the law adds Subsection 403.918(5), F.S., and includes provisions relating to mining which:

- 1) provide that mine reclamation may be considered as wetlands mitigation if it restores or improves the water quality and the function of biological systems present prior to mining;
- 2) allow for a variance from water quality standards for dissolved oxygen within the lower layers of reclaimed pits;
- 3) allow for fuller's earth mining and limerock and sand mining reclamation to satisfy mitigation requirements if it offsets the projects' adverse impacts on surface waters;
- 4) authorize offsite mitigation for limerock and sand mining under certain circumstances; and
- 5) in Section 21 of the act, establish the Northwest Dade County Freshwater Lake Plan Implementation Committee to develop and implement a comprehensive limerock mine reclamation plan for a mining area in South Florida.

### Sale and Lease of State Lands

SENATE BILL 1180 (CHAPTER 92-109) revises Subsection 253.03(2), F.S., to direct the Board of Trustees of the Internal Improvement Trust Fund to adopt, by rule, an annual administrative fee to be charged to agencies leasing trustees-held lands. The act also amends Paragraph 253.034(5)(d), F.S., to provide that up to \$500,000 from the sale of surplus lands shall be deposited annually in the Internal Improvement Trust Fund and that proceeds in excess of \$500,000 shall be deposited in the Conservation and Recreation Lands Trust Fund. Finally, the legislation modifies Paragraph 253.01(1)(c), F.S., to require that all proceeds derived from the sale of state-owned lands in the Everglades Agricultural Area (EAA) be deposited into the Internal Improvement Trust Fund, removes restrictions on the use of such proceeds, and deletes the requirement that affected counties have an opportunity to receive state-owned lands in the EAA before they are sold by amending Subsections 253.111(6), F.S.

### Sea Snakes/Lobster Traps

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1299 (CHAPTER 92-60) amends Section 370.081, F.S., to permit a zoological park and aquarium to import sea snakes for exhibition purposes under the following conditions:

- 1) only male sea snakes may be possessed;
- 2) the zoological park and aquarium cannot be located in a coastal county or have contiguous connection with the waters of the state;
- 3) each zoological park and aquarium must provide the Department of Natural Resources with quarterly reports on the sea snakes;
- 4) sea snakes may not be released into the waters of the state;
- 5) each zoological park and aquarium must post a \$1 million letter of credit to the Florida Department of Natural Resources;
- 6) sea snakes may not be bartered, sold or traded;
- 7) sea snakes may only be imported by airplane, and the airplane may only land at an airport located in a non-coastal county within the state; and
- 8) a zoological park and aquarium possessing sea snakes must abide by all statutory and regulatory requirements of the Game and Fresh Water Fish Commission with respect to venomous reptiles.

The law also addresses provisions in Section 370.142, F.S., relating to the spiny lobster trap certificate program. It delays the start of the certificate program from July 1, 1992 to April 1, 1993, [Paragraph 370.142(2)(a), F.S.] and delays for 1 year the limitation on the number of certificates issued by the Department of Natural Resources [Subparagraph 370.142(2)(a)4., F.S.]. As a result, there will be no reduction of the number of traps a fisherman may use in the 1992-1993 fishing season, regardless of the number of certificates he was allocated. The only difference is that each trap tag will

cost 50 cents instead of 15 cents [Paragraph 370.142(2)(b), F.S.]. During the 1993-1994 fishing season, each fisherman will only be allowed to fish traps for which he is allocated certificates. By delaying the implementation of the program, the measure also postpones the date by which the Trap Certificate Technical Advisory and Appeals Board may be established. Section 3 of the act relating to supplemental appropriations and other provision adding Paragraph 370.06(2)(e), F.S., relating to restricted saltwater products licenses took effect April 7, 1992. All other provisions of the law take effect October 1, 1992.

### Underground Petroleum Storage Tank Cleanup

HOUSE BILL 2477 (CHAPTER 92-30) revises provisions relating to the regulation of pollutant and hazardous substance underground petroleum storage tanks and certain above-ground tanks by the Department of Environmental Regulation (DER). Major features of the law include:

1. Phasing-out the state's liability for reimbursement of costs associated with the cleanup of sites contaminated by such tanks, and requiring owners of sites with reported pollutant discharges to bear financial responsibility for a deductible and for liability in excess of the state's decreasing level of liability. [Section 376.3072, F.S.]
2. Requiring all sites currently granted state conducted cleanup eligibility to complete site restoration and seek reimbursement under certain circumstances. Site owners and operators that are small businesses or not-for-profit corporations, or for good cause shown, are exempted from this transfer to the reimbursement program. [Subparagraph 376.3071(12)(c)1., F.S.]
3. Providing for the payment of interest on applications for reimbursement. [Subparagraph 376.3071(12)(d)2., F.S.]
4. Expanding the uses of the Inland Protection Trust Fund, but limiting the amount of the fund that can be used for state conducted cleanup and administrative costs to guarantee an adequate amount for reimbursement. [Subsection 376.3071(4), F.S.]
5. Authorizing the DER to establish a registration program for aboveground hazardous substance storage tank systems and compression vessels. [Paragraph 376.303(1)(c), F.S.]

The law also increases the excise tax on fuels and other pollutants for deposit in the Inland Protection Trust Fund. The three levels of the existing excise tax are increased, including an increase of 50-cents-per-barrel of pollutant at the highest level of the tax. [The increase is from 30 cents to 80 cents-per-barrel at this level.] Estimated revenues from the 50-cent increase in the tax are \$100 million annually. [Paragraph 206.9935(3)(b), F.S.] These tax provisions take effect April 1, 1992, but all other provisions take effect July 1, 1992.

CONSTITUTIONAL AMENDMENTS\*

The 1992 Regular Session produced three proposed amendments to the State Constitution which are to be offered for ratification by the electorate at the November 1992 general election. They would take effect January 1, 1993, if approved.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE JOINT RESOLUTIONS 1727, 863 AND 2035 proposes a constitutional amendment which would create Section 24 of Article I and Section 20 of Article XII for the voters' consideration during the November 1992 general election.

Every person would have the right to inspect or copy any public record made or received in connection with the official business of any public body, officer or employee of the state, or persons acting on their behalf. Records of the legislative, executive and judicial branches of governments, and each agency or department created thereunder, are specifically included. Likewise, records of counties, municipalities and districts, and each constitutional officer, board and commission, or entity created pursuant to law or the State Constitution, are also included. Exceptions to public access to records would be made for records specifically made confidential by the Constitution and for records exempted by general law. Additionally, each house of the Legislature would be able to adopt rules to exempt legislative records from public access.

The public would have access to all meetings of any collegial public body of the executive branch of state government, of a county, municipality, school district or of a special district, at which official acts are to be taken or at which public busi-

ness of such body is to be transacted or discussed. Such meetings must be open and noticed to the public. Meetings of the Legislature would continue to be governed by Article III, Section 4(e), of the State Constitution. Like public records, exemptions to public access would be made for meetings specifically made confidential by the Constitution and for meetings exempted by general law.

All laws that limit public access to records or meetings that are in effect on July 1, 1993, remain in force until they are repealed. Likewise, rules of the court that are in effect on the date of adoption of this constitutional amendment that limit access to records remain in force until such rules are repealed.

SENATE JOINT RESOLUTION 152 would amend Section 3 of Article VII of the State Constitution to enable counties or municipalities to grant ad valorem tax exemptions to owners of historic properties for the rehabilitation or renovation of such properties in accordance with approved historic preservation guidelines. The exemption could be granted only by ordinance, but the amount or amount limit of the exemption, the time period of the exemption and the eligibility requirements for the property would be established by general law.

SENATE JOINT RESOLUTION 162 proposes to amend Section 5 of Article VI of the Florida Organic Law to permit the suspension or delay of a general election for reasons of state of emergency or pending emergency pursuant to general law.

\*Prepared by Legislative Library

## CORRECTIONS\*

Limited resources hindered the 1992 Legislature from enacting major reforms to the correctional system that could have made an impact on the number and type of offenders entering the prison system and the length of time served by offenders. However, the Legislature did adopt legislation, which, after nearly 20 years and several million dollars, may bring closure to the federal case of *Costello v. Dugger* [353 F. Supp. 1324]. Other initiatives ratified include:

- 1) authorizing the Department of Corrections to place more offenders in work release programs, thereby enabling them to work to subsidize the state for the cost of incarceration, pay restitution and court fines;
- 2) requiring the Department, Parole Commission and Control Release Authority to provide specific information about sex offenders who are released into a community to the sheriff prior to the inmate being released;
- 3) exempting correctional probation officers from the requirements of the concealed weapons law; and
- 4) exempting inmates from rule challenges.

**Costello v. Dugger**

HOUSE BILL 2165 (CHAPTER 92-47) amends Sections 945.602-945.6032, F.S., and creates Section 945.6034, F.S., to strengthen membership, powers and duties of the Correctional Medical Authority (CMA) to enable it to further its oversight and monitoring functions currently performed for the U.S. District Court in the case of *Costello v. Dugger*. The Legislature created the CMA in 1986 to ultimately assume these functions which were being performed by the Special Master, the Monitor, the Medical Survey Team and associated support personnel.]

The legislation also revises Section 945.6035 and creates Section 945.6036, F.S., to establish a dispute resolution and appeal process for failure on the part of the Department to comply with health care standards for inmates, with provisions for enforcement of decisions. The legislation revises the definition of "lawful capacity" in Paragraph 944.023(1)(b), F.S., to place into law language from the most recent court agreement to enable the Department to regulate the maximum capacity of the state correctional system.

[In 1981, the state entered into a consent agreement with the plaintiffs concerning the overcrowding issue. This agreement was reduced to judgment and limits the state in the number of prisoners which can be housed at any given time, i.e., 133 percent of design capacity. In December 1987, a Consent Order was issued by the court outlining a specific corrective action plan for the improvement of health care services. In September 1990, the Special Master filed his final Report and Recommendation stating that the survey responsibilities should be relinquished to the CMA and that the CMA should monitor the Department of Corrections' (DOC) compliance with the 1981 and 1987 settlement agreements.

[On May 30, 1991, an agreement was reached between the plaintiff inmate class, the DOC, the Governor and the Attorney General assuring full and complete support to the CMA as it carries out its duties to monitor the delivery of health care services within DOC, and to assure that quality care is delivered. In addition, it was agreed that the CMA survey and monitor the delivery of mental health care to inmates. The parties also agreed that a permanent injunction be entered to provide that the capacity of the prison system remain at 133 percent of design capacity. It was agreed that the Legislature be requested to establish this capacity by statute, and, upon that statute becoming law [Sections 944.023, 944.096 and 944.598, F.S., as revised], the injunction would be automatically terminated.

[It is anticipated that the enactment of this legislation should enable the U.S. District Court to finally bring closure to this almost 20-year-old, multimillion dollar lawsuit.] All provisions of the act take effect July 1, 1992, except those relating to lawful capacity which take effect upon vacation of the permanent injunction and entry of final judgment by the federal district court.

**Work Release**

SENATE BILL 1168 (CHAPTER 92-27) extends the period during which an inmate may be allowed to be placed in a community correctional (work release) facility from within the last 24 months of confinement to within the last 36 months of confinement. This extension expands the potential "pool" of inmates eligible for placement into a work release facility.

[Because the average percentage of sentence served by most inmates is 31.5 percent, those who are assigned to the work release program are due for release within a few months after arriving at a work release center.

[The total combined design capacity of work release facilities within the Department is 2,515 beds (27 centers for males and 8 for females). As of January 24, 1992, there were 1,892 inmates assigned to work release facilities. Since this represents a 25-percent vacancy rate in the program, this legislation allows the Department to assign more inmates to vacant beds in the work release centers, conceivably freeing up secure beds for the more serious offenders.

[The high vacancy rate is a result of an incident in June 1990 when an offender housed in a community vocational center escaped from a work detail in the community and committed a violent crime. An Executive Order was issued which significantly restricted the classification system used to determine who was placed on work release. There were 1,009 offenders in work release who were reclassified and returned to close custody status within the system. At the same time, the Control Release Authority (CRA) was becoming fully operational. In fulfilling its mandate to manage the prison population within lawful capacity, the Authority advanced release dates for

\*Prepared by House Corrections Committee

many of the same inmates who were likely candidates for work release.

[According to the Department, there are 1,143 inmates who are currently classified in minimum custody status who are within 24 and 36 months of release and could be eligible for community placement under this act. Work release is considered a privilege and the Department has sole discretion as to which inmates are approved for placement in the program. Inmates ineligible for this program are those who have been convicted of sexual battery or any other sex offense and those who have existing detainers.

[Work release enables selected inmates to work at paid employment in the local community. When not involved in work or authorized activities (substance abuse treatment or educational programs), inmates live at a work release center. Inmates assigned to work release pay up to 45 percent of their earned wages to subsidize the state for the cost of incarceration and transportation fees of \$2 per day. Assuming that 800 of the eligible inmates would be approved for placement, the subsistence and transportation payments to the state by the inmates would be approximately \$480,000. Inmates on work release may also be required to pay up to 10 percent of their earnings for victim restitution, and up to 10 percent of earnings for court costs and miscellaneous fines.]

**Notification of Release of Sex Offenders**

SENATE BILL 208 (CHAPTER 92-76) creates Section 944.606, F.S., to require the Department of Corrections (DOC), the Parole Commission and the Control Release Authority to release specific information to law enforcement officers within 6 months prior to release from prison of any sex offender. This information shall be released to the sheriff of the county from which the person was sentenced, to the sheriff of the county in which the person plans to reside and, if applicable, to the chief of police of the municipality in which the inmate plans to reside.

The type of information required to be released includes: the offender's name, social security number, race, sex, date of birth, height, weight, hair and eye color; date and county of sentence and each crime for which the offender was sentenced; a copy of the offender's fingerprints and a photograph; and the offender's intended residence address, if known.

[Under current law, the law enforcement community as well as the victim, or the victim's representative, if requested, are required to be notified of the release of any inmate from prison. The Victims' Rights Act was approved by Florida voters in the November 1988 election to require the DOC to notify the victim or victim's representative 6 months prior to release of an inmate from prison due to expiration of sentence or any release program. As a result of the statutory change, the DOC and the Control Release Authority mail approximately 3,000 release notifications to victims and certain criminal justice officials each month.]

In addition, the legislation amends Subsection 947.177(2), F.S., to extend the time frame for exit photos from within 90

days to within 120 days prior to the anticipated release of an inmate from prison. This extension, however, does not apply to sex offenders. The Department is still required to photograph sex offenders within 90 days prior to the anticipated release date [Paragraph 944.606(2)(b), F.S.]. These provisions take effect October 1, 1992.

[The 1991 Legislature adopted legislation to require the DOC to take exit photos of all inmates 90 days prior to release. The Department spent over \$100,000 purchasing cameras for every institution that did not previously have one and paying developing fees. Since implementing this legislation the Department found that photographing an inmate 90 days prior to release is impractical given the short period of time most inmates serve in prison. Furthermore, facial features do not normally change enough to warrant an additional photograph.

[Finally, offenders placed on probation or community control for a violation of sexual battery or child abuse are required to be subject to the maximum level of supervision provided by the DOC for the full term of the court-imposed supervision. All offenders, when initially placed on felony probation by the court, are classified as maximum by the Department (DOC Manual of Procedures). Maximum supervision means that the offender receives not less than two face-to-face field or office contacts, and two field or office collateral contacts each month.

[After a period of 3 months, if the offender has exhibited satisfactory behavior, the probation officer can request that the offender's supervision be reduced to medium or minimum. There are 5,376 convicted sex offenders. Of that number, 355 sex offenders are on parole, misdemeanor probation, or in a pretrial intervention program.

[Violators of sexual battery and child abuse, however, have traditionally been provided closer supervision than others. Many of the judicial circuits have specialized sex offender caseloads which are designed to afford the maximum level of probation supervision possible. Caseloads range from 60-70 offenders per officer, however, recent budgetary cuts have caused them to rise to 80-90 per officer. The agency practice has been to increase other supervision levels to accommodate this priority.

[The community control program was designed to be a home detention program. All offenders are supervised at the maximum level. Also, as a special condition of community control, a judge may order the offender to wear an electronic monitor. There are currently 11,171 offenders in this program, including 785 convicted sex offenders.]

**Concealed Weapons License**

Among its other provisions, COMMITTEE SUBSTITUTE FOR HOUSE BILL 1817 (CHAPTER 92-183) revises Paragraph 790.06(5)(b), F.S., to exempt law enforcement officers, correctional officers and correctional probation officers who hold an active certification from the Criminal Justice Standards and Training Commission from the standard background investigation and relevant fees prerequisite to the granting of a concealed weapon license, but requires such officers to pay

current license fees. The exemption is valid for 1 year from the date of retirement.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 271 (CHAPTER 92-52) amends the same paragraph cited above to exempt these same officers from all licensing requirements of Section 790.06, F.S., for 1 year after retirement.

#### Local Detention Facilities

COMMITTEE SUBSTITUTE FOR SENATE BILL 1498 (CHAPTER 92-117) creates Paragraph 951.23(5)(e), F.S., to establish a Jail Standards Committee within the Department of Corrections to make recommendations to the secretary of the Department of minimum standards and requirements for the construction, equipping, maintenance, operations and inspection of county and municipal detention facilities. Pursuant to amended Paragraph 951.23(5)(a), F.S., the secretary maintains final authority over the establishment of standards and requirements. Provisions are also made for enforcement of the standards in revised Paragraph 951.23(6)(a), F.S.

The Committee is composed of the secretary of the Department and seven members appointed by the secretary: two of whom are employees of the Department; two members who represent the Florida Sheriffs Association; one member who represents the jail administrators; one member who represents the Florida Association of Counties; and one member who shall be a citizen of the state knowledgeable about the county jail system.

[Chapter 951, F.S., provides the general regulatory authority for the Department to establish standards for the confinement of prisoners in county and municipal correctional facilities. Even though state regulation of jails dates back to 1974, an aggressive enforcement of standards did not occur until a class action lawsuit [*Arias v. Wainwright*, TCA 79-0792] was filed in 1979 by an inmate who challenged the lax enforcement.

[In a settlement of that lawsuit, standards were upgraded to follow existing federal and appellate case law, professional standards and accepted corrections practices, and the inspection and compliance-monitoring process was strengthened. This resulted in inspections being monitored, violations documented and rules consistently enforced. Variances, which previously had been granted routinely, are now granted only by exercising an appeals process through a Jail Review Committee which, until this legislation, consisted of Department employees.

[Over the past 10 years, there has been a tremendous statewide growth in jail construction and operations, with the jail population increasing from 12,000 to over 36,700 as of October 1991. Sixty counties have built new jails or substantially increased the total number of beds. All 67 counties have completed other renovations to meet various fire and safety codes.

[Even with the physical plants in an improved condition, counties still face overcrowding. Some facilities are over 20 years old and are very expensive to operate because of deteriorating conditions and because the design is not staff-

efficient. Shrinking revenues in smaller counties are making it difficult to solve these problems. Because of fiscal constraints, county officials felt that the jail standards were too restrictive and exceeded constitutional requirements, and some correctional administrators questioned whether the standards were consistent with current correctional practices.]

The law previously provided that the authorized capacity established by a *federal* court must be exceeded before tents could be used to relieve overcrowding at jail facilities. This legislation provides that all counties and municipalities will be authorized to use tents to house reduced custody prisoners when either the *state or federally* authorized capacity is exceeded [Subparagraph 951.23(5)(a)3., F.S.].

[Legislation was passed in 1991 requiring a study be conducted of Chapter 33-8, Florida Administrative Code (FAC). This legislation is in response to recommendations made by that study which was completed by Rosazza Associates, Inc., a criminal justice consulting firm based in Colorado Springs, Colorado, on October 21, 1991.]

#### Exemption from Rule Challenges

SENATE BILL 1354 (CHAPTER 92-166) amends Paragraph 120.52(12)(d), F.S., to bar inmates from obtaining or participating in administrative rule challenge proceedings under Subsections 120.54(4) and (9), F.S., or Section 120.56, F.S., and from obtaining appellate review of any agency action under Section 120.68, F.S.

[Inmates have been excluded from Section 120.57, F.S., the most substantial proceeding under the Administrative Procedures Act (APA), since 1978. Subsequent to this date, inmates have continued to be excluded from other proceedings under the APA, including their right to appeal agency action to the District Court. The act adds rule challenges to a list of administrative remedies unavailable to inmates.

[The intended goal of this change, as stated by the Department of Corrections, was to "restrict forum shopping by inmates by directing them to the proper procedures for addressing legitimate concerns, and to put an end to the unnecessary and costly abuse of the rule challenge process." The Department also stated that, "It has become common for inmates to abuse the discovery process in rule challenges by filing numerous interrogatories and requests for admissions, the content of which are irrelevant, vague, or repetitious. Substantial staff and attorney time must be spent responding to these requests."

[Inmates already have existing avenues through which individual complaints concerning rules may be addressed. They may utilize the inmate grievance procedure, file with the agency pursuant to Subsection 120.54(5), F.S., petitions to initiate rulemaking, and they are allowed input into the rule promulgation process through the submission of written comments to the agency pursuant to Subsection 120.54(3), F.S. Inmates are also able to obtain redress and to protect their constitutional rights through the circuit and federal courts.]

## COURTS AND CIVIL LAW\*

**Adoption**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 756 (CHAPTER 92-96) amends various statutes relating to adoption. The legislation repeals much of the current law relating to the role of the Department of Health and Rehabilitative Services in adoptions. Various responsibilities are shifted to the court.

The law amends Section 63.092, F.S., to provide that an intermediary must report to the court any intended placement of a minor for adoption with a person not related within the third degree of consanguinity or a stepparent if the intermediary knows of, or participates in such placement.

Effective upon the act becoming a law, the court is to order a preliminary home study of the adoptive home before the minor may be placed in the home unless a stepparent, a spouse of the birth parent, or a relative of the minor is petitioning to adopt the minor. The court is to appoint a licensed child-placing agency, or a licensed professional or agency that conducts social investigations in child custody disputes, to conduct the study. The Department must conduct the study only if no qualified agency or professional is available in the county where the prospective adoptive parents reside.

If the home study is favorable, the child may be placed in the home pending entry of judgment of adoption. If the home study is unfavorable, the intermediary or petitioner for adoption, may, within 20 days after receiving results of the study, petition the court to determine the suitability of the home.

Effective upon the act becoming a law, Section 63.125, F.S., is created to require final home studies to be conducted by a licensed child-placing agency or a professional in the same manner as preliminary home studies. The legislation specifies what must be included in the final home study report.

The person seeking adoption through an intermediary must pay for the home studies and for counseling provided to him on adoptive parenting pursuant to amended Section 63.097, F.S. The court may waive all or part of the costs if the family or person seeking adoption is not able to pay full costs.

The measure deletes a provision that includes intermediary or attorney fees within the \$1,000 fee an intermediary may charge for arranging an adoption.

An intermediary is authorized by revised Section 63.207, F.S., to place a "special needs child" for adoption in another state. The act defines the term "special needs child" and provides in amended Section 63.212, F.S., that the intermediary's fees and costs for such an adoption must be approved in advance by the court. Revised Section 63.207, F.S., further provides that the court in Florida retains jurisdiction over the adoption until it is final. The adoptive parents must come to Florida to finalize the adoption.

The term "abandoned" is defined by amendment to Section 63.032, F.S., for purposes of provisions relating to the consent

required from parents, custodians and relatives of a minor in order for the minor to be adopted. The definition of the term "abandoned" is the same as the definition for that term specified in Chapter 39, F.S., except that the definition specified in the measure provides for judicial consideration of a father's conduct prior to his child's birth in determining whether he abandoned the child.

Under revised Section 63.052, F.S., in the act, an intermediary is "responsible" for a minor who has been voluntarily surrendered to the intermediary through an execution of consent for adoption until the child is placed in a prospective adoptive home, at which time the adoptive parents become guardians pending the court's decision regarding the adoption of the child. If a minor is surrendered to an intermediary for adoption and the adoption does not become final within 180 days, the intermediary must report to the court on the status of the child. The court may conduct judicial review of the status of the child as if the child were in foster care.

Under amended Section 63.162, F.S., a court is authorized to appoint an intermediary or a licensed child-placing agency to contact a birth parent of an adult adoptee if the parent has not registered with the adoption registry. The intermediary or agency may be appointed to contact the birth parent in order to advise him of the availability of the registry. The court may make the appointment upon petition of the adult adoptee and upon a showing of good cause.

The act revises a definition in Section 63.032, F.S., to provide that United States Department of State personnel living in a foreign country who designate Florida as their place of residence have a primary residence and place of employment in Florida and therefore meet the residency requirement for adoption in this state. Except as otherwise provided.

**Attorneys for the Department of HRS**

SENATE BILL 1594 (CHAPTER 92-170) amends portions of Chapter 39 and Section 287.059, F.S. This act codifies language which has been in the appropriations implementing enactment for several years and provides that in dependency cases, families and children in need of services, foster care review, and termination of parental rights, an attorney for the Department of Health and Rehabilitative Services (DHRS) will represent the state. The DHRS is given the authority to contract with outside counsel or the state attorney, but these contracts must be approved by the Attorney General.

**Support/Children and Families**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 237 (CHAPTER 92-138):

1. By amending Section 61.14, F.S., it revises existing law on enforcement of support by a contempt action. The

\*Prepared by Senate Judiciary Committee and Legislative Library

- act requires a court entering an order for alimony, child support, or both to make a finding of the obligor's present ability to comply with the order. If the obligor subsequently fails to make payment and a contempt hearing is held, the order creates a presumption that the obligor has the present ability to pay and purge himself from the contempt. The obligor has the burden of proof to show that he lacks the present ability to pay and purge himself.
2. Authorizes the court to appoint an attorney to prosecute criminal contempt and to assess attorney's fees and costs against the contemnor (Section 61.16, F.S.).
  3. Provides that when a person seeks child support services from the Department of Health and Rehabilitative Services (DHRS), an attorney-client relationship exists only between the Department and the legal services provider in Title IV-D cases (Sections 409.2564 and 409.2567, F.S.). The attorney is to advise the person that he represents the Department, not the person seeking services.
  4. Requires a payor on an income deduction order to provide the clerk of the circuit court with the specific date on which each income deduction is made. The clerk is to forward this information to DHRS (Section 61.1301, F.S.).
  5. Fee Increases and Disposition Thereof. The act:
    - a. Increases the clerk's fee for processing support payments, with 75 percent of the amount of this increase to be deposited in the Clerk of the Court Child Support Enforcement Collection System Trust Fund, which the law creates (Sections 61.181 and 61.1811, F.S.). The remaining 25 percent goes to the clerks and depositories without guidelines or restrictions on how it is to be used. The Trust Fund is to be administered by DHRS, which is to contract with the Florida Association of Court Clerks and Comptrollers and the depositories to automate the collection and transfer of support enforcement information. The measure also appropriates \$3 million to the Trust Fund for these purposes (Section 30 of the act).
    - b. Increases to \$25 the current application fee of 1 cent for each applicant for DHRS support services who is not a public assistance recipient (Section 409.2567, F.S.).
    - c. Creates an annual user fee of \$25 for each obligor (Section 409.2567, F.S.).
    - d. Creates the Child Support Enforcement Application and User Fee Trust Fund for the deposit of the funds collected pursuant to b. and c. above (Section 409.2566, F.S.). The funds are to be used for the Child Support Enforcement Program.
  6. Provides that the child support guidelines and the reasonable availability of medical insurance may provide the basis for proving a substantial change in circumstances upon which a modification of an existing order may be granted (Sections 61.14 and 61.30, F.S.).
  7. Provides that in Title IV-D cases brought pursuant to Chapter 61, F.S., attorney's fees, suit money and costs, including filing fees, recording fees, mediation costs, service of process fees, and other expenses incurred by the clerk of the circuit court, shall be assessed only against the nonprevailing obligor (Sections 61.16 and 61.183, F.S.).
  8. Provides that the Department of Revenue may disclose location information to DHRS to assist in the location of responsible parents who owe or potentially owe a duty of support pursuant to Title IV-D of the Social Security Act (Section 213.053, F.S.).
- The legislation takes effect July 1, 1992, with the exception of a provision requiring the clerks of court to notify obligors and payors of the depository fee increase.

**DNA Analysis**

COMMITTEE SUBSTITUTE FOR SENATE BILL 980 (CHAPTER 92-101) creates Section 760.40, F.S., to provide that a "DNA (deoxyribonucleic acid) analysis" may be performed on a person only if he provides informed consent to the analysis. The legislation defines the term "DNA analysis" as a medical and biological examination and analysis of a person to determine the presence and composition of genes. The term includes DNA typing and genetic testing.

All public or private records, results and findings of a DNA analysis performed on a person are confidential. Records, results and findings of DNA analyses held by a public entity are exempt from statutes requiring public access to public records. Under the law, the records, results and findings are the exclusive property of the person tested. The information may not be released to anyone, unless the person who is the subject of the genetic test gives his informed consent to such disclosure. A person who violates these restrictions is guilty of a first-degree misdemeanor.

The enactment does not apply to DNA analyses conducted as part of a criminal investigation, analyses performed pursuant to law in order to maintain records of persons convicted of sexual offenses, and human leucocyte antigen (HLA) tests conducted pursuant to law in a civil action in order to determine paternity.

A person who performs a DNA analysis must notify the person tested about the performance of the test. Similarly, a person who receives the records, results or findings of a DNA analysis must notify the person tested about his receiving the test results. Upon the request of the person tested, the results must be provided to his physician. The notice must specify whether the DNA information was used in a decision to grant or deny insurance, employment, financial credit or an educational opportunity. If the decision is to deny the person such service or employment, the test must be repeated and if the first test results are inaccurate, the decision must be reviewed. The act takes effect October 1, 1992.

### Civil Liability

COMMITTEE SUBSTITUTE FOR SENATE BILL 582 (CHAPTER 92-85) creates a statute that exempts farmers from civil liability under certain circumstances effective October 1, 1992.

A farmer is exempt from civil liability if he allows persons to enter upon his property gratuitously for the purpose of removing crops left in the fields after the harvest period. A person entering a farmer's premises under these conditions must take the land and the farm produce in the condition that he finds them. A farmer is not civilly liable to the entrant if death or injury of the entrant results from the nature or condition of the land, or from the nature, age, or condition of the farm produce.

The law provides, however, that a farmer is not exempt from liability if death or injury of the entrant directly results from the farmer's gross negligence or intentional act.

In addition, the farmer is not exempt from liability for injury or death resulting directly from known dangerous conditions not disclosed by the farmer. [Under the common law standard of care, the farmer has a duty to warn the licensee only of dangerous conditions of which the farmer has actual knowledge and which are not open to ordinary observation by the licensee.]

The legislation amends Section 768.73, F.S., to revise the distribution of punitive damages awarded to a claimant. Under the act, 65 percent of the award is payable to the claimant. Thirty-five percent of the award is payable to the Public Medical Assistance Trust Fund if the cause of action is based upon personal injury or wrongful death. If the cause of action is not based upon personal injury or wrongful death, 35 percent of the award is payable to the General Revenue Fund.

Section 768.73, F.S., is also amended to require the court to order the distribution of the award in accordance with the statute in its final order. The clerk of the court is to send a copy of the jury verdict to the State Treasurer by certified mail. The Department of Banking and Finance is to collect the share of the awards payable to the state pursuant to Section 768.73, F.S., and deposit them into the appropriate trust fund.

If the original parties to the case enter into a settlement agreement after the verdict is returned, a portion of the settlement amount is payable to the appropriate trust fund designated in the statute. The amount payable to the trust fund is 35 percent of a portion of the settlement amount that is proportionate with the punitive damages portion of the total award of damages in the verdict.

The amendments made to Section 768.73, F.S., by the legislation take effect upon the act becoming a law. Effective July 1, 1995, the enactment repeals provisions within Section 768.73, F.S., that distribute punitive damages awards. The act provides for legislative review of those provisions prior to that date.

### Medical Malpractice Relating to the Board of Regents

COMMITTEE SUBSTITUTE FOR HOUSE BILL 739 (CHAPTER 92-44) amends Section 240.15, F.S., to address medical

malpractice liability in the context of students, interns, residents and faculty employed by, or acting as agents of, the Board of Regents and provides that such liability shall be limited to the Board of Regents and shall not extend to the private nonprofit institutions where such persons are practicing or teaching. The act takes effect October 1, 1992.

### Statute of Limitations

COMMITTEE SUBSTITUTE FOR SENATE BILL 1018 (CHAPTER 92-102) extends the current 4-year statute of limitations for a civil action founded on alleged abuse or incest through amendment of Section 95.11, F.S. Under the law, an action could be commenced at any time within 7 years of the age of majority. An action also could be brought within 4 years after the injured person leaves the dependency of the abuser, or within 4 years after the time the injured party discovers both the injury and the causal relationship between the injury and the abuse, whichever occurs later.

The law permits a plaintiff whose claim would be barred under the new limitations period to bring an action within 4 years after the effective date of the enactment.

### Florida Civil Rights Act of 1992

COMMITTEE SUBSTITUTE FOR SENATE BILLS 1368 AND 72 (CHAPTER 92-177) revises the Human Rights Act of 1977, Sections 760.01-760.10 and Section 509.092, F.S., and entitles them the Florida Civil Rights Act of 1992. The act creates Section 760.11, F.S., to:

- 1) revise the existing remedy provisions relating to discrimination in employment, including authorizing compensatory damages and punitive damages of up to \$100,000 in any civil action based on any violation of the act's provisions;
- 2) require that the Human Relations Commission make a reasonable cause determination within 180 days of receipt of a complaint, as opposed to requiring final action within that time period;
- 3) allow the complainant to either bring a civil action or request an administrative hearing subsequent to a finding of reasonable cause; and
- 4) allow a complainant to request an administrative hearing in front of a hearing officer to appeal a finding of no reasonable cause.

New Section 760.07, F.S., provides that the new monetary remedies for employment discrimination also apply to any violation of any Florida statute which makes it unlawful to discriminate because of race, color, religion, gender, national origin, age, handicap, or marital status in the area of education, employment, housing, or public accommodations unless the existing statute provides a greater remedy.

The enactment also contains provisions prohibiting discrimination in evaluating applications for membership in certain private clubs.

The majority of the measure takes effect July 1, 1992. The new remedy provisions take effect October 1, 1992. The provi-

sions on discrimination in private clubs take effect January 1, 1993.

### **Probate, Trusts, and Guardianship**

HOUSE BILL 1901 (CHAPTER 92-200) is an omnibus probate, trusts, and guardianship act. The law:

- 1) creates Section 732.216, F.S., the Florida Uniform Disposition of Community Property Rights at Death Act;
- 2) redefines the terms "owner" and "devise" in Section 732.4015, F.S., for purposes of determining whether property is homestead in probate matters;
- 3) by revision of Section 744.301, F.S., makes mandatory the appointment of a guardian ad litem for a minor who has a claim for personal injury, property damage, or wrongful death in which the gross settlement for the claim equals or exceeds \$25,000;
- 4) revises the provisions on estate tax of trusts in Section 733.817, F.S., in keeping with an Internal Revenue Service interpretation of the federal tax code; and
- 5) allows a trustee through revision of Section 737.402, F.S., to acquire an undivided interest in a trust asset of a money market or other mutual fund from which the trustee, a co-trustee or any affiliate or associate of the trustee is entitled to receive compensation for providing service as an investment advisor, portfolio manager, or servicing agent.

The measure also amends Section 28.24, F.S., to clarify that the Public Records Modernization Trust Fund maintained by each clerk of the circuit court is to be used for equipment and maintenance of equipment, personnel training, and technical assistance in modernizing the public records system of each clerk's office. On or before December 1, 1993, each clerk is to file a report on the Trust Fund with the Legislature. The report must itemize each expenditure made from the Trust Fund since its inception and each obligation payable from the Trust Fund on that date. The act repeals the Trust Fund effective July 1, 1994, and requires the Legislature to determine the necessity for the fund prior to the 1994 Regular Legislative Session.

The provisions on a trustee acquiring an interest in a trust asset from which he is entitled to receive compensation take effect July 1, 1992. All other provisions take effect October 1, 1992.

### **Durable Powers of Attorney**

SENATE BILL 108 (CHAPTER 92-71) amends Section 709.08, F.S., to delete the requirement of notification of the execution of a durable power of attorney. The act takes effect October 1, 1992.

### **Landlord and Tenant**

SENATE BILL 1278 (CHAPTER 92-36) amends Section 83.59, F.S., to authorize a residential landlord to file a complaint for the removal of a tenant through an attorney or other agent. A nonattorney agent is only permitted to file the complaint and cannot take any further action. Section 83.803, F.S., is modified to redefine "last known address" for purposes of

the Self-Storage Facility Act and Section 83.806, F.S., is revised to permit notice by certified mail for enforcement of certain liens.

### **Federal Lien Registration Act**

SENATE BILL 730 (CHAPTER 92-25) creates the Florida Uniform Federal Lien Registration Act. This measure provides that federal liens on real property will be filed with the clerk of the circuit court in the county where the property is located instead of being filed in the federal district court.

Federal liens on personal property will no longer be filed in the federal district court but will either be filed with the Secretary of State or the clerk of the circuit court. If a lien is against a corporation or partnership, certain trusts, or a decedent's estate, it will be filed with the Secretary of the State. Other federal liens for personal property will be filed with the clerk of the circuit court. A fee may be charged by the Secretary of State and by the clerk of the circuit court for the filings. The fee is tied to existing statutory rates. Section 28.222, F.S., is amended to conform to the act.

An appropriation of four full-time positions and \$137,283 is made to the Division of Corporations of the Department of State from the Corporation Trust Fund to implement the law which takes effect January 1, 1993.

### **Psychotherapist-Patient Privilege**

HOUSE BILL 1925 (CHAPTER 92-57) amends Section 90.503, F.S., to expand the psychotherapist-patient privilege. The privilege prohibits the disclosure in certain legal proceedings of information relating to a patient if that information was obtained in the course of psychotherapy treatment.

The act expands the privilege by including within the definition of the term "psychotherapist" social workers, marriage and family therapists, and mental health counselors, who are licensed or certified in Florida and who are engaged primarily in the treatment of mental or emotional conditions, including alcoholism and other drug addictions.

### **Judicial Nominating Commissions**

HOUSE BILL 2275 (CHAPTER 92-202) amends Section 43.29, F.S., to provide that a member of a judicial nominating commission may be suspended by the Governor and removed by the Senate for cause pursuant to uniform rules of procedure adopted by the judicial nominating commissions. The rules must be consistent with constitutional provisions that authorize the Governor to suspend, and the Senate to remove, constitutional officers.

### **Jury Service**

HOUSE BILL 563 (CHAPTER 92-8) amends Section 40.013, F.S., relating to persons disqualified or excused from jury service. The legislation disqualifies the Lieutenant Governor from service and deletes sheriffs, their deputies and municipal police officers from the list of disqualified persons. The law excuses any full-time federal, state or local law enforcement officer or such entities' investigative personnel from service unless the person chooses to serve. The measure takes effect October 1, 1992.

## ECONOMIC DEVELOPMENT AND TOURISM\*

**Spaceport Florida Authority**

COMMITTEE SUBSTITUTE FOR SENATE BILL 676 (CHAPTER 92-93) provides protection in the Florida Statutes for the Spaceport Florida Authority's (SFA) tradename and provides notice of other intellectual property claims. The legislation, which creates Section 331.355, F.S., does not itself confer intellectual property protections on the SFA nor does it defeat other entities' claims. Such claims would be adjudicated under the intellectual property laws of the United States or Florida.

The notice of tradename provisions apply to most entities doing business in Florida, not just corporations, and would apply prospectively after October 1, 1992. [The notice of other intellectual property claims was taken from language in Section 601.101, F.S., vesting such rights in the Department of Citrus (instead of in the Department of State which is the presumption under Chapter 286, F.S.).]

Finally, the Department of State is given the authority to administratively dissolve corporations in violation of the tradename provision, the same enforcement authority used by the Department for any other such violations under Florida's tradename law. [The legislation does not confer such enforcement authority as to noncorporate entities. The SFA would have to sue the offending entity in court on the basis of the new law.]

**Sellers of Travel**

SENATE BILL 848 (CHAPTER 92-160) amends Paragraph 559.927(9)(l), F.S., relating to exemptions from registration with the Department of Agriculture for "sellers of travel," expanding the exemption for persons offering diving services to apply to all "prearranged travel-related or tourist-related services" rather than just accommodations in conjunction with a primarily dive-related event. [This proposed change to the law would be in keeping with current agency practice.]

**Department of Commerce**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1280 (CHAPTER 92-111) represents the Department of Commerce's legislative package.

The measure amends Section 20.17, F.S., to authorize the Department to form a direct support organization "to assist the department in the promotion and development of the motion picture, television, video, recording, and related entertainment industries."

The act amends the law regarding travel and entertainment expenses (Section 288.011, F.S.) to authorize the Department of Commerce to request, accept, and use complimentary travel, accommodations and other goods or services beneficial to the Department's purposes as long as the items do not conflict with state gift laws. Internal controls are required.

The legislation amends Section 288.08, F.S., to allow the "department," as opposed to the "Division of Economic Development," to sell certain state publications at cost, to expand the types of things to be sold by the state, to delete language limiting this sale to those using the agency product "in the conduct of their business," and to require any unexpended proceeds from these sales to be transferred to the "trust fund of the division which incurred the cost of the item charged."

The enactment amends the law regarding the Division of Economic Development's acceptance of gifts or grants (Section 288.09, F.S.) to require transfer to the Economic Development Trust Fund of any funds thus received and unexpended at fiscal year's end.

The measure creates Section 288.095, F.S., which establishes the Economic Development Trust Fund within the Division of Economic Development to be "used only to support the authorized activities and operations of the division." The legislation provides that funds collected from the sale of agency products or services, grants or gifts unexpended at fiscal year's end, and income from Seed Capital Board investments, must be transferred to this trust fund.

The legislation revises Paragraph 288.121(1)(i), F.S., to make the proceeds of the Division of Tourism's charge of fees at seminars remaining after state costs are satisfied transferrable to the Tourism Promotional Trust Fund instead of the General Revenue Fund.

The law repeals Section 149.445, F.S., to abolish the Florida Seed Capital Board and its Fund. All records, property, funds, and obligations of the Board, and all money and investments in the Fund would revert to the Department. Any income generated from investments may be placed in trust by the Department. [No such income is currently generated.] The legislation states that it does not nullify or impair existing contracts of the Board.

The act amends Subsection 229.8053(2), F.S., to move the Florida High Technology and Industry Council from the Executive Office of the Governor to the Department of Commerce for administrative purposes only, provides for automatic removal of Council members for three consecutive absences, provides for removal of the chairman for cause, and deletes the vice-chairman office.

**Local Option Tourist Development Tax**

SENATE BILL 2178 (CHAPTER 92-175) contains curative legislation that would require the governing body of a county under specified circumstances to use the proceeds from an invalidated tourist development tax for purposes authorized in a new levy. Alternatively, if a new tax is disapproved by a majority of the electors, the proceeds of the invalidated tax shall be used for any purpose which was authorized in the initial ordinance.

\*Prepared by Senate International Trade, Economic Development & Tourism Committee and Legislative Library

The measure also expands the local option tourist development tax in Section 125.0104, F.S. Paragraphs (a) and (b) of Subsection (5) of Section 125.0104, F.S., are amended to expand the authorized uses of the local option tourist development tax revenues for certain museums in all counties (regardless of population) levying this tax. To qualify for the tax proceeds, the museum must be publicly owned and operated or owned and operated by not-for-profit organizations and open to the public. Additionally, the law provides for the automatic expiration of the tourist development tax upon the retirement of bonds issued to finance such museums.

Paragraph (b) of Subsection (5) of Section 125.0104, F.S., is also amended to raise the population cap from 500,000 to 600,000 for counties that are authorized to use the proceeds of the local option tourist development tax for specified purposes related to certain zoos, fishing piers or nature centers.

County tourism promotion agencies created in Subsection (9) of Section 125.0104, F.S., are authorized to undertake marketing and advertising research and provide certain reservation and booking services. The measure also provides for the confidentiality of certain information given to or held by county tourism promotion agencies.

The Joint Study Committee on Tourist-Related Taxes is created to review specific issues related to tourist taxes. The Committee is made up of three members of the Senate and three members of the House of Representatives. The Committee is required to report its findings to the Legislature by January 1, 1993.

The enactment contains an additional curative provision validating certain referendum elections levying a local option sales surtax on transactions occurring within the county for the purpose of providing funds for local government infrastructure needs.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 147 (CHAPTER 92-204) enacts the same provisions except for those raising the population cap for counties authorized to use the local option tourist development tax for certain purposes and those curative provisions relating to the funding of local government infrastructure needs.

### **Film Financing**

HOUSE BILL 2223 (CHAPTER 92-201) creates the Florida Film and Television Investment Board within the Department of Commerce. The Board is to induce filmmakers, television production companies and distributors to use Florida as their site for location product by the investment or loan of funds into the Print and Advertisement (P&A) portion of film project budgets or the marketing and advertisement budget of television projects.

[The availability of P&A or T.V. marketing funds is essential to film and television projects. These funds finance the duplication of movie negatives for projection in theaters; finance the advertising and marketing of the movie, video or television feature; and finance the marketing of television programs, serials and mini-series. Without these types of funds, it is virtually impossible for filmmakers and distributors to generate income. The availability of these funds is a factor that is strong enough to induce filmmakers, distributors and television production companies to choose Florida as the site for production.]

The enactment allows the Board to invest funds into the P&A or television marketing and advertising budget only after verification that 40 percent of a project's production budget is expended within the state. Additionally, the legislation allows the Board to use trust fund profits to leverage additional investors to invest in these projects.

### **Private Activity Bonds**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1788 (CHAPTER 92-127) creates Section 159.8081, F.S., to establish a separate bond allocation pool for manufacturing facility bonds. The manufacturing facility bond pool would be available exclusively for allocations for manufacturing facilities.

Pursuant to amended Section 159.804, F.S., commencing on January 1, 1993, the first \$75 million of the state volume limitation for private activity bonds would be allocated to the manufacturing facility bond pool. This initial allocation may be increased in subsequent years by increments of \$7.5 million, if on November 15 of each year 75 percent of the preceding year's allocation to the pool was used. The law takes effect January 1, 1993.

## EDUCATION\*

**Public School Discipline**

SENATE BILL 144 (CHAPTER 92-74) revises Subsection 232.26 (2), F.S., to authorize a principal to suspend a student for a period of time that could exceed the 10-day limit imposed by law if the student were charged with an act committed off school property that would be a felony if committed by an adult. The student must be in a daytime educational alternative program that continues the delivery of educational services during the suspension.

**Vocational and Adult Education**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 167 (CHAPTER 92-136) repeals all laws relating to vocational, adult and community education; removes references to vocational and adult education from laws that deal with a number of types of education; and creates a new Chapter 239 of the Florida Statutes specifically to address vocational and adult general education.

The new chapter contains many variations from the old laws. Some are technical or stylistic changes, such as using the word "instruction" instead of "training"; others are substantive. Following is a description of the changes that will affect the planning, delivery, evaluation or funding of vocational and adult education.

The responsibility for regional planning for the delivery of vocational programs will be transferred from the regional coordinating councils to the community college president and school district superintendent or superintendents in each education planning region. All reference to regional coordinating councils is removed from the statutes, and interinstitutional articulation agreements are required at the regional and state levels.

The Accountability Commission will have responsibility for school district vocational technical centers as well as schools for K-12 students. The standards are set for each level of vocational education, and the Commission must use the standards in its deliberations. For the level called postsecondary adult vocational education, which both community colleges and school districts may deliver, the State Board of Community Colleges must collaborate with the Commission in applying the standards.

Community college apprenticeship students will be exempt from fees.

Lifelong learning courses must generate at least 50 percent of their cost from fees or other nonstate funding; their subject matter is limited to social and economic issues related to health and human relations, government, parenting, consumer economics, and senior citizens.

The method of determining whether a vocational course is supplemental, job preparatory or lifelong learning will change. The determination will not be based on student intent but on

the classification of the course by its administrators. Lifelong learning will be a separate category instead of the authority for people to take a vocational or adult course for avocational reasons.

A new system will be created to deal with vocational equipment needs.

Teachers of adults will not be required to be fingerprinted.

Up to 30 open entry high schools will be authorized to focus on developing the academic and vocational competencies required to enter certain related careers.

Beginning in 1995, the outcome standards required of vocational education programs will be expanded from the required 70 percent placement and 20 percent completion to include other measures of effectiveness. The act also requires advertisements for vocational education programs at public and private postsecondary schools to include the placement rate; the reported placement rates will be calculated at the state level by the Department of Education's automated follow-up system.

In 1993, the responsibility for certifying nurse assistants will transfer from the Department of Education to the Department of Professional Regulation.

The community college challenge grant fund for nursing programs will be broadened to include other health education fields.

**Multicultural Education**

COMMITTEE SUBSTITUTE FOR SENATE BILL 916 (CHAPTER 92-100) enacts several recommendations of the Multicultural Education Review Task Force that was created by the 1991 Legislature to review the status of multicultural education in Florida's public schools. The act amends Section 229.594, F.S., to require the Florida Commission on Education Reform and Accountability to review the performance of students in various culture groups and measure the extent to which school districts are providing multicultural education for students and multicultural inservice training for personnel within the school improvement process. The Commission must make a preliminary report to the Legislature by January 15, 1993, and make a final report by October 1, 1993. The report must include recommendations for changes in statute or administrative rule to enable the Commission, the Commissioner of Education and the State Board of Education to determine if a school district is providing sufficient multicultural education to meet the needs of its student population.

Section 229.601, F.S., the Florida Career Education Act, is amended to establish the purpose of the act as promotion of career opportunities for all students regardless of their race, color, creed, national origin, ancestry, socioeconomic status, or gender.

Section 231.613, F.S., is amended to require multicultural education as a subject area for inservice training institutes.

\*Prepared by Senate Education Committee

Amendments to Section 236.0811, F.S., require each school district's 5-year master plan for inservice training to include a component consisting of competencies in instruction for multicultural sensitivity. Classroom teachers and guidance counselors must participate in training for multicultural sensitivity education. The multicultural training could include negotiation and conflict resolution training.

Amendments to Section 233.07, F.S., require that the membership of each state instructional materials committee reflect the broad racial, ethnic, socioeconomic, and cultural diversity of the state and that each committee have the capacity to address the diversity of the student population of the state. Section 233.09, F.S., is revised to require that each district instructional materials committee reflect the broad racial, ethnic, socioeconomic, and cultural diversity of the district and that each committee have the expertise to address the diversity of the student population of the district. Section 233.095, F.S., which requires the Department of Education's training programs for members of instructional materials committees to assist the members to develop the skills to make valid, objective decisions, is amended to specify that the decisions should be culturally sensitive as well. Section 233.165, F.S., which establishes standards for selection of instructional materials, library books and other reading materials used in the public school system, is amended to add the consideration of the broad racial, ethnic, socioeconomic, and cultural diversity of the children of the state as a standard.

#### School Crossing Guards/Training

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1401 (CHAPTER 92-194) creates Section 234.302, F.S., to require local governmental entities to provide a training program for school crossing guards according to uniform guidelines adopted by the Department of Transportation. Each school crossing guard will have to successfully complete the program except for guards in the following categories:

1. Those trained as law enforcement officers.
2. Those paid less than \$5,000 per year in counties with a population of less than 75,000.
3. Students serving in the school patrol.

The act amends Section 316.660, F.S., as of July 1, 1992, to permit local governments to enact a surcharge on parking tickets for the sole purpose of funding school crossing guard programs. The law also revises Section 318.21, F.S., which governs how municipalities, counties and special taxing districts must spend the revenue they receive from traffic violation civil penalties to remove the requirement that crossing guard programs be established by ordinance and to direct the money to school crossing guard training programs.

#### Student Financial Aid

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILLS 1177 AND 1045 (CHAPTER 92-144) consolidates as of July 1, 1993, similar financial aid programs, contained in Chapter 240, Part IV, F.S., to revise, simplify and standardize the application and eligibility requirements and

processes for the programs. The measure consolidates the Florida Undergraduate Scholars' Fund and the Challenger Astronauts Memorial Award to provide that the highest ranked applicant in each of the 67 counties be designated a Challenger Astronauts Memorial Award recipient and receive an annual award of \$4,000. All other eligible recipients of the Florida Undergraduate Scholars' Fund will receive annual awards of \$2,500. In the case of insufficient funds, aid will be prorated for distribution.

The legislation revises Section 240.404, F.S., to restrict students to accepting only one state academic merit scholarship; provides in amending Section 240.437, F.S., for the repeal of financial aid programs that do not receive funding within 3 years; and requires the Department of Education pursuant to amended Section 240.424, F.S., to include in its budget request a calculation of the amount of need-based financial aid required as a result of fee increases by the Board of Regents and community colleges. An amendment to Section 240.4021, F.S., clarifies institutional eligibility for participation in the Vocational Gold Seal Endorsement Scholarship Program.

The newly created Section 240.4063, F.S., the Florida Teacher Scholarship and Forgivable Loan Program, effective July 1, 1993, is aimed at attracting students to the teaching profession in areas of projected or critical shortages. Three programs will be consolidated under the new program:

1. The "Chappie" James Most Promising Teacher Scholarship Program (Section 240.4068, F.S.).
2. The Critical Teacher Shortage Forgivable Loan Program (Section 240.4062, F.S.).
3. The Masters' Fellowship Loan Program (Section 240.4066, F.S.).

All programs are oriented towards attracting students to the teaching profession. The scholarship and forgivable loan awards will be funded by the Legislature through the Critical Teacher Shortage Trust Fund.

The act amends Section 240.4069, F.S., relating to Virgil Hawkins Fellows Scholarships, specifying that after the 10 scholarship awards each are made to Florida State University and the University of Florida law schools' minority students, any remaining funds may be used as matching grants for additional fellowships.

Amendments to Section 240.409, F.S., the Florida Public Student Assistance Grant Fund, standardize the grant awards methodology. The measure revises Section 240.4985, F.S., the Good-Gulfstream Trust Fund for Higher Education, to clarify that the Fund should be used to provide scholarships to state university students and eligible nonpublic college students.

The act creates, effective July 1, 1993, Section 240.606, F.S., the Florida Work Experience Program, consolidating the provisions of the college career work experience program and the public work experience program for purposes of complementing and reinforcing students' educational program and career goals. The law repeals Section 240.403, F.S., the Ex-Confederate Soldiers' and Sailors' Home Endowment Trust

Fund, and transfers any balance and accrued interest to the Florida Chapter of the Daughters of the Confederacy.

The newly created Occupational Therapist or Physical Therapist Critical Shortage Program has three main components:

- 1) the Critical Occupational Therapist or Physical Therapist Shortage Student Loan Forgiveness Program;
- 2) the Critical Occupational Therapist or Physical Therapist Shortage Scholarship Loan Program; and
- 3) the Critical Occupational Therapist or Physical Therapist Shortage Tuition Reimbursement Program.

The program will financially assist eligible candidates who plan to study occupational therapy and who intend to serve, or are serving, in the state's public schools.

The enactment creates Section 240.4988, F.S., to establish the Theodore R. and Vivian M. Johnson Scholarship Program and Trust Fund to provide scholarships on a matching grant basis to disabled students attending state universities. The measure also repeals:

- 1) Section 240.4062, F.S., the Critical Teacher Shortage Scholarship Loan Program;
- 2) Section 240.4066, F.S., Masters Fellowship Loan Program for Teachers;
- 3) Sections 240.60, 240.601, 240.602 and 240.603, F.S., the college career work experience program;
- 4) Section 240.4068, F.S., the "Chappie" James Most Promising Teacher Scholarship Loan Program; and
- 5) Section 240.604, F.S., the public school work experience program.

Unless otherwise noted, the law's provisions take effect July 1, 1992.

#### **Public School Personnel**

COMMITTEE SUBSTITUTE FOR SENATE BILL 58 (CHAPTER 92-67) is the result of a Sunset review of several sections of Chapter 231, F.S., which deal with public school personnel. The issues addressed by the review and addressed in the act include various types of leave for personnel, employee contracts and general provisions covering employment and training.

Most of the sections reviewed were revived and readopted without change. Of the modifications that were made, most updated terminology and cross-references. There were, however, three sections of law that received more extensive changes. Responsibility for the review and approval of local personnel assessment systems was shifted from the Department of Education to local school boards by revision of Section 231.29, F.S. The requirement in Section 231.36, F.S., that community college directors of vocational education have a teaching certificate was deleted. Amended Section 231.40, F.S., provides for the establishment of employee sick leave pools through collective bargaining, and authorizes the establishment of a pool for each of the employee groups bargaining with a school board.

Section 231.06, F.S., is revised to make the assault and battery penalties set out therein cover attacks on elected officials of a district school board as well as employees of the board.

SENATE BILL 896 (Chapter 92-99) repeals the provision enacted in 1991 at Section 231.15, F.S., that denied eligibility for unemployment compensation benefits to a teacher terminated from his job because he could not meet the requirements necessary to receive a teaching certificate. The measure also provides that anyone denied unemployment compensation benefits by the 1991 enactment is now entitled to receive such payment.

#### **Teacher Certification**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1104 (Chapter 92-106) revises Section 231.24, F.S., to allow teachers to use college course credit and inservice points that provide training in the area of exceptional student education for certificate renewal, regardless of their teaching specialization areas and extends the duration of certificates of teachers at certain nonpublic schools.

The legislation also directs the Education Standards Commission to review the feasibility of requiring all prospective teachers enrolled in the State University System to receive instruction in teaching children with exceptionalities. The Commission is to report its findings to the Legislature and State Board of Education by February 1, 1993.

#### **Florida Academic Scholar/Service Work**

SENATE BILL 1076 (Chapter 92-105) adds a new requirement, effective July 1, 1992, to the academic accomplishments listed in Section 232.2465, F.S., which are required of a student to be designated a Florida Academic Scholar and to become eligible for the scholarship that goes with the designation. The new requirement is that the student complete a program of community service work.

#### **Capital Outlay**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1151 (CHAPTER 92-190) sets up a special system as of July 1, 1992, in which, for the next 3 years, a school district might receive an allocation from the Public Education Capital Outlay and Debt Service Trust Fund (PECO) to construct a vocational facility. Under the old system, construction of vocational centers was not treated separately from K-12 schools in the distribution of PECO allocations. The new law creates Section 235.199, F.S., to establish the requirements of the new system. The school district must be the designated vocational technical center, levy the maximum non-voted capital outlay millage, be approved by the Office of Educational Facilities for the construction project, provide at least 40 percent of the construction cost and be in a priority list provided by a state vocational education construction committee. If the district does not levy the maximum millage, the funding available will be reduced proportionally. The amount of PECO funding available for such projects is limited to 2 percent of

the new construction allocation to public schools, or about \$5.4 million.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1648 (Chapter 92-123) creates a new statutory provision, Section 235.215, F.S., which authorizes school boards, community college boards of trustees and the Board of Regents to enter into guaranteed energy savings contracts with qualified providers for the purpose of reducing energy costs.

A board must publicly notice its intent to enter into an energy savings contract. The notice must include:

1. The time and place of the board meeting where the contract action is to be taken.
2. The names of the parties to the contract.
3. The contracts' purpose.

A qualified contract provider must be selected through competitive negotiations or bid in accordance with Sections 287.055 or 287.057, F.S. Before beginning work the contract provider must issue a report summarizing the costs of the project and the estimated savings in energy or operating costs to the board. If the prospective contract provider's report indicates that board costs could be recovered in at least 10 years through reduced energy and operating expenses, if the provider guarantees in writing that the energy or operating cost savings will meet or exceed the costs of the system, and if the provider submits a 100 percent project value bond as required by Chapter 287, F.S., the board may enter into the energy savings contract.

A board is authorized to pay for the guaranteed energy savings contract on an installment basis for a term of up to 10 years. Provision is also made for contract continuance subject to a board including any amounts payable in its appropriations for a later fiscal year.

The act also revises Section 235.42, F.S., to empower the Commissioner of Education to encumber anticipated proceeds from PECO bonds for authorized capital outlay projects.

#### **Education Accountability**

HOUSE BILL 2453 (Chapter 92-64) amends Paragraph 229.592(6)(a), F.S., to add to the list of laws that may be held in abeyance for the 1992 and 1993 fiscal years, if the General

Appropriations Act does not provide a specific line-item appropriation that funds the programs the laws create.

Most of the statutes affected create categorical programs that include such topics as model dropout prevention programs, math/science pilot programs and vocational improvement funds.

The enactment designates a second group of laws to be held in abeyance until July 1, 1994. The abeyance provision, in this case, is not triggered by absence of funding in the General Appropriations Act. Laws in this second abeyance group address such items as high school security programs, water safety education and educational centers for gifted students.

The Florida Commission on Education Reform and Accountability is required to consider the effect that holding laws in abeyance has on the school improvement process.

The legislation also adds to the list of laws in Paragraph 229.592(6)(b), F.S., for which school boards may petition the Commissioner of Education to have waived.

These additions include laws containing reporting and monitoring requirements, as well as those prescribing certain management functions such as reports to parents, pupil progression and equipment purchasing or leasing.

A new waiver process is created in Paragraph 229.592(6)(c), F.S., to allow school boards to submit waiver requests that apply districtwide, and for school advisory committees to submit waiver requests through the school board that have individual school application. The waiver requests must be tied to planned districtwide improvements or a school improvement plan. Each school board is required to report to the Accountability Commission on the number of waivers requested by school advisory committees, the number approved and not approved, and, for those not approved, what they were intended to do and why they were denied.

Pursuant to new Paragraph 229.592(6)(e), F.S., waiver requests must describe how the general statutory purpose of the law being waived will still be met, how the waiver will lead to improved student performance in school and how this improvement will be evaluated.

The Commissioner of Education has to ensure that the health, safety, welfare, and civil rights of students and the public interest are protected when considering any waiver request.

**EMPLOYEES, BARGAINING AND BENEFITS\*****State Retirement Systems**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1614 (CHAPTER 92-122) which relates to state-administered retirement systems, amends Paragraph 121.011(3)(b), F.S., to provide proper placement of language that pertains to employees of the local retirement system who may or may not wish to be placed in the Florida Retirement Systems (FRS). Section 121.021, F.S., is revised to modify definitions of "average final compensations" and "beneficiary," and provides a definition for "plan year." Section 121.031, F.S., is altered to change the term "evaluation" to a more appropriate term of "valuation."

Under amended Section 121.052, F.S., retirement membership options are made available to an elected officer upon dual employment in a second position that is in a different membership class, plan, or system and obsolete language on contribution payments is deleted.

Section 121.053, F.S., as revised, allows retirees returning to employment to combine Elected State and County Officers' Class and Regular Class employment toward a second career benefit.

Language in Section 121.081, F.S., that allow employees of local retirement systems to elect membership in FRS is moved to a more appropriate place in Section 121.011, F.S.

Disability provisions in Section 121.091, F.S., are revised to:

(1) clarify the section and remove the exclusion that prevents a member who has already reached normal retirement age from receiving the minimum benefit required, to comply with recent federal legislation (Age Discrimination in Employment Act); (2) allow a surviving spouse of a member killed in the line of duty to collect that person's monthly pension even after he or she is remarried; and (3) allow elected officers who renewed membership in the FRS on or after July 1, 1991, to continue membership.

Pursuant to amended Section 121.122, F.S.: (1) contributions are provided for renewed services; an incorrect date for purchasing post-retirement service credit is revised; (2) members are allowed to claim retirement credit for the entire period of service prior to the effective date of renewed membership in the regular class; and (3) provision is made for earning additional credit toward the maximum Health Insurance Subsidy.

Section 121.125, F.S., is modified to restrict a member from receiving retirement credit for workers' compensation payments paid after reaching maximum medical improvement or termination of employment.

Section 121.35, F.S., is revised to provide membership options for the State University Systems' Optional Retirement Program. It also eliminates full-time status as a requirement of membership in the Optional Retirement Program.

Section 121.40, F.S., as amended, provides for payment of full retirement contributions for retirees of the Institute of Food and Agricultural Sciences (IFAS), effective July 1, 1991.

The act revises Section 122.03, F.S., to change workers' compensation provisions in State and County Officers and Employees Retirement System (SCOERS) to agree with FRS provisions and restrict a member from receiving retirement credit for workers' compensation payments after reaching maximum medical improvement or termination of employment.

Section 122.07, F.S., is amended to provide clearer language for SCOERS seasonal state employees to receive credit for work completed in another state.

The measure amends Section 122.09, F.S., to revise SCOERS disability provisions in Chapter 122, F.S., removing the exclusion that prevents a member who has reached normal retirement age from receiving the minimum benefit provided which complies with recent federal legislation (Age Discrimination in Employment Act).

Section 122.16, F.S., is revised to provide for payment of full retirement contributions for reemployed SCOERS retirees, effective July 1, 1991.

As provided in amended Section 238.06, F.S., workers' compensation provisions in the Teachers' Retirement System (TRS) are conformed to agree with provisions in the FRS, and a member is barred from receiving retirement credit for workers' compensation payments after reaching maximum medical improvement or termination of employment.

Paragraph (h) is added to Subsection 238.07(11), F.S., to revise TRS disability provisions in Chapter 238, F.S., removing the exclusion that prevents a member who has reached normal retirement age from receiving the minimum benefit provided to comply with recent federal legislation (Age Discrimination in Employment Act).

The measure amends Section 238.181, F.S., to modify the reemployment-after-retirement provisions found in the TRS to agree with the provision in the FRS.

Amended Section 321.203, F.S., provides for payment of full retirement contributions for reemployed retirees of the Highway Patrol Pension System, effective July 1, 1991.

**Teachers' Retirement System/Retirement At 30 Years**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 241 (CHAPTER 92-139) liberalizes the age and service limitations under the Teachers' Retirement System and the State and County Officers' and Employees' Retirement System [Sections 238.07 and 122.08, F.S., respectively] by providing, effective January 1, 1993, for retirement after 30 years of service, regardless of age. The act funds the benefits by increasing the employer contribution rate by 3.99 percent, also effective on that date [Sections 238.11 and 122.35, F.S., respectively].

\*Prepared by House Employee and Management Relation Committee

**Public Safety Officers/Health Insurance**

HOUSE BILL 187 (CHAPTER 92-51) will allow certain cities to establish by ordinance retiree health insurance subsidy plans for retired law enforcement officers and firefighters [Sections 175.401 and 185.50, F.S., respectively]. These plans will provide retirees with a health insurance subsidy of at least \$3 per month for each year of covered service. Each city's subsidy plan will be supported by three funding sources: a share of the city's insurance premium tax; a 1-percent-of-payroll employee contribution; and mandatory payment by the city of "a sum necessary to maintain the actuarial soundness of the fund."

Statewide costs to institute these plans cannot be predicted, since the governing body of each city would enact its own plan voluntarily after conducting an actuarial valuation to determine cost and feasibility of the plan.

**Public Safety Officer/Death Benefits**

HOUSE BILL 935 (CHAPTER 92-59) amends Paragraph 112.19(1)(b), F.S., to expand the current definition of "law enforcement officer" to include those certified law enforcement officers who serve process or attend terms of circuit or county court as bailiffs.

Paragraph 112.191(2)(c), F.S., is revised to provide identical death benefits to a firefighter who dies while in the performance of duty when the origin of the fire was caused by an act of arson, as are presently provided to a firefighter who is "unlawfully and intentionally" killed while in the performance of duty.

Most provisions of the act took effect April 7, 1992, however, the firefighter death benefits as provided in Section 2 of this law shall be applied retroactive to September 1, 1991.

**Collective Bargaining Agent Certification**

SENATE BILL 836 (CHAPTER 92-17) amends Paragraph 447.307(3)(b), F.S., to fix the effective time of certification of a collective bargaining agent as exclusive for a employee bargaining unit as at the issuance of the final order by the Public Employees Relations Commission or, if such order is appealed, when the appeal is exhausted or a stay is vacated by the Commission or the court. Paragraph (d) of this same section is revised to bar the filing of a petition seeking an election in any proposed or existing bargaining unit within 12 months after the date of a Commission order verifying an election or within 12 months after the date of an effective certification of a bargaining agent.

**Unemployment Compensation**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 133 (CHAPTER 92-38) will implement the consensus recommendations of the Special Study Commission on Unemployment Compensation and recommendations of the Senate Commerce Committee in its interim report "A Review of Florida's Unemployment Compensation System" (August 1991). Effective July 1,

1992, the act amends Chapter 443, F.S., the Unemployment Compensation Law, to:

1. Eliminate the 50-percent offset of unemployment benefits against Social Security benefits also received by a claimant, beginning with claims filed on or after July 5, 1992 [Paragraph 443.101(8)(c), F.S.]. (Cost: \$5.9 million.)
2. Change the income amount disregarded when calculating benefits for partial unemployment from a flat \$5--a day's wage when originally enacted--to current 1 day's minimum wage rounded off (\$4.25 per hour X 8 = \$34) [Paragraph 443.111(3)(b), F.S.]. (Cost: \$3.6 million.)
3. Revise the term "annual payroll" to eliminate the potential tax rate penalty imposed upon employers for untimely filing of required wage and tax reports [Paragraph 443.131(3)(f), F.S.] and, instead, increase the interest charged on untimely contributions (without good cause) and increase the monetary penalty for delinquent reports [Subsection 443.141(1), F.S.]. (Savings: \$4.5 million.)
4. Create the Training Investment Program, a pilot program to continue unemployment benefits to eligible claimants enrolled in vocational training that will lead to employment in a new occupation [Section 443.231, F.S.]. (Cost: \$8.3 million.)

SENATE BILL 548 (CHAPTER 92-84) creates Paragraph 443.101(4)(b), F.S., to provide that nonstriking individuals will not be disqualified for unemployment benefits if the reason for their unemployment is that they have been denied entry to their place of employment by their employer, subject to restrictions prohibiting payment of benefits in cases involving actual or impending property damage or violence, or production slowdowns, instigated by employees.

**Florida National Guard**

COMMITTEE SUBSTITUTE FOR SENATE BILL 592 (CHAPTER 92-86) is strictly housekeeping in nature done at the request of the Florida National Guard. The act:

1. Clarifies current law by stating that selected uniformed employees of the Department of Military Affairs are exempt from the state career service system [Paragraph 110.205(2)(o), F.S.], while subject to the Florida Code of Military Justice [Section 250.35, F.S.]. These employees, however, shall retain eligibility for career service benefits such as medical, insurance and retirement.
2. Removes the requirement from the State Tuition Exemption Program that applicants must exhaust Montgomery G. I. Bill benefits prior to application for partial tuition grants from state institutions of higher learning [Subparagraph 250.10(6)(a)6., F.S. Removal of this requirement will afford 95 percent of National Guard members the opportunity to participate in the State Tuition Exemption Program.]
3. Extends the retirement eligibility compilation date to include all Florida National Guard soldiers federalized for

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Operation Desert Storm [Subsection 250.22(4), F.S.]. Such personnel are eligible to compute state retirement at double the time served while federalized.

4. Conforms the Florida Code of Military Justice to current federal statutes codifying the Uniform Code of Military Justice (UCMJ) [Sections 250.35, 250.36 and 250.39, F.S.]. [The Florida Code of Military Justice, passed in 1985, was promulgated consistent with the federal

UCMJ. This legislation updates case law since implemented by Congress.]

5. Conforms the Florida State Guard (unorganized militia) to standards recently released by the National Guard Bureau pursuant to a National Guard Regulation (NGR 10-4). Changes include renaming the Florida State Guard the Florida State Defense Force [Sections 250.01-250.06 and 250.08-250.17, F.S.].

## ETHICS AND ELECTIONS\*

**Ethics**

COMMITTEE SUBSTITUTE FOR SENATE BILL 500 (CHAPTER 92-35) adds Subsection 112.313(14), F.S., to extend the 2-year prohibition against representation of clients for compensation before one's former agency to include local elected officers of the governing body of counties, municipalities, and special districts. The act retains authority already in the statutes in Subsection 112.313(13), F.S., for municipalities and counties to adopt ordinances which limit such representation of clients by appointed officers and employees and adds this authority for special districts. These provisions take effect October 1, 1992.

The law revises Section 112.3215, F.S., to clarify the purpose of the Executive Branch Lobby Registration Trust Fund to include the expenditure of Fund moneys for salaries and other expenses. It provides for renewal of executive lobbyist registration on a calendar year basis; provides a due date of January 15 and July 15 for the statement of lobbying expenditures; clarifies that reportable expenditures shall not include personal expenses for lodging, meals, travel, salary and office expenses; and requires the filing of a statement whether or not executive branch lobbying expenditures have been incurred.

**Elections**

COMMITTEE SUBSTITUTE FOR SENATE BILL 2308 (CHAPTER 92-134) creates the "Ann Kravitz Kids Voting Program" in Florida. This act amends Paragraph 102.031(3)(a), F.S., to allow persons assisting with or participating in a simulated election for minors to be in the polling place on election day, with the approval of the supervisor of elections. [This change will allow Florida's students to participate in the Kids Voting Program, which is designed to educate children about the rights and responsibilities of citizens and to instill lifelong voting habits in school-age children, while increasing voter participation among adults. After completing a curriculum on voting and the democratic process, students participating in the program accompany their parents to the polls on election day and cast mock ballots on the same candidates and issues as are on the official ballots.]

SENATE JOINT RESOLUTION 162 proposes an amendment to Section 5 of Article VI of the Florida Constitution to allow the general election to be suspended or delayed due to an emergency situation pursuant to general law. This amendment will be voted on by the electors at the November 1992 general election. If this amendment is approved by the voters, COMMITTEE SUBSTITUTE FOR SENATE BILL 314 (CHAPTER 92-16) will take effect to implement the suspension and delay provisions. This act creates the "Elections Emergency Act," Sections 101.731-101.74, F.S., to expand the authority of the Governor to suspend any election in the state in the event of an emergency or impending emergency. Although the Governor has the authority under the emergency powers granted to him in Chapter 252, F.S., to take whatever measures he feels necessary to protect the lives and property of the people of Florida and to maintain order in emergency situations, there are no guidelines for handling the suspension of county, district or statewide elections. This law requires the Division of Elections of the Department of State to develop an elections emergency contingency plan by administrative rule, providing specific guidelines to state and local election officials when suspending or delaying an election.

Section 38 of COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 721 (CHAPTER 92-180) specifically prohibits any business which is inspected, licensed or otherwise authorized to do business as a food outlet or convenience store under Chapter 500, F.S., or any director, officer, lobbyist, or controlling interest of that business, or related political committee, from making or soliciting a contribution in excess of \$100 for any candidate for the office of Commissioner of Agriculture and Consumer Services; and prohibits any candidate for such office from soliciting and accepting from such persons a campaign contribution in excess of \$100. In addition, certain employees of the Department of Agriculture and Consumer Services are prohibited from soliciting a campaign contribution from such persons for any candidate for the office of Commissioner of Agriculture and Consumer Services. Additional provisions of this act are summarized in the **AGRICULTURE** article.

\*Prepared by House Ethics and Elections Committee

## FINANCE AND TAXATION\*

Tax provisions enacted during the 1992 Regular Session dealt almost entirely with administrative matters, particularly in the area of ad valorem taxation. Legislation was enacted which will implement a constitutional amendment that authorizes counties and municipalities to grant ad valorem tax exemption to owners of historic property who are restoring the property, if that amendment is approved by the voters in November 1992. Sales tax exemptions were enacted for organizations that maintain certain community cemeteries, for Coast Guard-affiliated organizations, and for works of art sold to educational institutions or purchased to be loaned for display at such institutions. Also, promotional materials which are exported and sale of certain printed material to a nonresident purchaser were exempted from sales tax. A 50-cent surcharge on automobile license taxes was adopted to fund a Florida Motor Vehicle Theft Prevention Trust Fund.

**Ad Valorem Taxation**

COMMITTEE SUBSTITUTE FOR SENATE BILL 776 (CHAPTER 92-159) provides implementing law for a constitutional amendment which will appear on the November 1992 ballot and which authorizes counties and municipalities to grant ad valorem tax exemption to owners of historic property who are restoring the property; it will take effect January 1, 1993, if that amendment is approved. The act creates Section 196.1997, F.S., which specifies procedures for, and limitations on, granting such exemptions. It requires the county or municipality to adopt an ordinance allowing an exemption for up to 100 percent of the value of improvements resulting from such restoration; the improvements must be made after adoption of the ordinance and must meet specified criteria. The ordinance must designate the type and location of eligible property. An exemption can remain in effect for up to 10 years for any particular piece of property if the historic character is maintained. Applications must be reviewed by a local historic preservation office or the Division of Historical Resources of the Department of State, which will make a recommendation to the governing board (county or city commission), and a majority vote of the governing board is required to approve an exemption. The owner must covenant with the governing board that the character of the property will be maintained during the term of the exemption, and violation of the covenant subjects the owner to payment of taxes previously exempted. If an improvement qualifies for exemption under these provisions, and the property is used for nonprofit or governmental purposes and is regularly open to the public, new Section 196.1998, F.S., provides that the exemption may be granted for up to 100 percent of the value of the entire property, not just the improvement, as long as the assessed value of the improvement equals at least 50 percent of the property's total assessed value.

Provisions which grant ad valorem tax exemptions to disabled persons are revised by SENATE BILL 1434 (CHAPTER 92-167). The language of Section 196.081, F.S., which provides exemptions for disabled veterans, is revised to clarify that the exemption applies to both men and women veterans. This amendment also provides that if the exemption has carried over to the veteran's widow or widower and he or she sells the property, the amount of the exemption may be transferred to the new residence and shall apply as long as he or she does not remarry. This act also amends Sections 196.012 and 196.101, F.S., to allow certification of disability of a totally and permanently disabled person for exemption purposes to be made by an award letter from the Social Security Administration.

Two bills adopted during the 1992 Regular Session deal with ad valorem tax administration. COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1062 (CHAPTER 92-163) revises provisions in Subsection 200.065(5), F.S., which authorize taxing authorities to adjust their adopted millage rates without public hearing when the variance between the certified assessment roll and the roll as subsequently changed exceeds 3 percent, to allow municipalities, counties, school boards, and water management districts to make such adjustment when the variance exceeds 1 percent. This act also creates Subsection 200.065(13), F.S., which allows property appraisers to correct certain types of errors in the notice of proposed property taxes by mailing a short form of the notice to those taxpayers affected by the error and its correction, rather than mailing a corrected notice to all taxpayers. Section 200.069, F.S., is amended to conform. Finally, this law amends Subsection 200.065(14), F.S., which provides that Section 200.065, F.S., controls over inconsistent special laws unless the special law expressly exempts a taxing authority, to provide that no budget or ad valorem tax levy shall be invalidated for failure to comply with conflicting special law provisions if there is no such express exemption.

COMMITTEE SUBSTITUTE FOR SENATE BILL 2022 (CHAPTER 92-32) contains various provisions relating to ad valorem tax administration. With respect to value adjustment board proceedings, new Paragraph 194.011(3)(g), F.S., specifies that the individual or legal entity that signs the petition to the board becomes an agent of the taxpayer for the purpose of serving process, and new Paragraph 194.034(1)(f), F.S., requires a return to be filed, if required, before an assessment may be contested before the board. An amendment to Paragraph 195.096(2)(c), F.S., authorizes the Division of Ad Valorem Tax to use an assessment-to-sales ratio study in the conduct of assessment ratio studies. Sections 196.011 and 196.031, F.S., are revised to designate January 1 as the date requirements for ad valorem tax exemption must be met, and clarify the date by which application for exemption must be filed.

\*Prepared by House Bill Drafting Services

The status of cooperative and condominium property is also dealt with in this act. Subsection 196.031(2), F.S., is amended to require that, for homestead exemption purposes, the right of a tenant-stockholder or member to occupy an apartment in a building owned by a cooperative apartment corporation must be evidenced in the official records of the office of the clerk of the circuit court of the county in which the apartment building is located. An amendment to Subsection 719.114(1), F.S., requires that the property appraiser be provided necessary documents to determine ownership of cooperative parcels for assessment and homestead purposes. Section 197.192, F.S., is amended to specify that no declaration of condominium may be filed or recorded until all taxes have been paid.

New Subsection 197.122(3), F.S., authorizes property appraisers to correct a material mistake of fact relating to an essential condition of property on the tax roll (which conditions are specifically listed) to reduce an assessment, if to do so requires only the exercise of judgment as to the effect on assessed or taxable value of the mistake of fact, and if the correction is made within 60 days after certification of the roll. Finally, an amendment to Subsection 197.172(2), F.S., provides that tax certificates shall not bear interest nor shall the mandatory 5-percent charge on such certificates be levied during the 60-day period of time from the date of delinquency; this applies to certificates sold before the effective date of the law, unless the mandatory charge has been paid.

#### Sales Tax

SENATE BILL 1458 (CHAPTER 92-168) relates to sales tax exemptions. New Paragraph 212.08(7)(bb), F.S., provides an exemption for any nonprofit, tax-exempt corporation operated for the purpose of maintaining a cemetery that was donated to the community by deed. New Paragraph 212.08(7)(cc), F.S., provides an exemption for any nonprofit, tax-exempt organization that is affiliated with the Coast Guard, the primary purpose of which is to promote safe boating and to conduct free public education classes in basic seamanship. This legislation also creates Subsection 212.06(11), F.S., which provides that promotional materials which are imported, purchased, sold, used, manufactured, printed, assembled, distributed, or stored in Florida are not subject to tax if they are subsequently exported. This exemption inures to the taxpayer only by refund or self-accrual, and Subsection 212.183(6), F.S., is created to authorize self-accrual for purchases of such promotional materials.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1064 (CHAPTER 92-164) creates Paragraph 212.08(7)(bb), F.S., to provide an exemption for works of art sold to or used by nonprofit libraries, art galleries, museums, or other educational institutions, and for works of art purchased or imported by any person exclusively for the purpose of being loaned for display by any such institution, if the term of the loan agreement is for at least 10 years. It is specified that this provision is a remedial clarification of legislative intent and applies to all taxes that re-

main open to assessment or contest when it takes effect on July 1, 1992.

HOUSE BILL 1479 (CHAPTER 92-207) amends Sections 212.0596 and 212.06, F.S., to provide that a printer who mails or delivers material for an out-of-state print purchaser is not considered the purchaser's agent for purposes of the tax on mail order sales; that the term "dealer" for sales tax purposes does not include a person whose only owned or leased property (including property owned or leased by an affiliate) in this state is located at the premises of a printer with which it has contracted for printing, if such property consists of the final printed product, property which becomes a part of the final printed product, or property from which the printed product is produced; and that it is not the intent of Chapter 212, F.S., to levy a tax on the sale of printed material by a printer to a nonresident purchaser when the purchaser does not furnish the printer a resale certificate containing a sales tax registration number, but does furnish a statement declaring that the material will be resold:

This enactment also creates Subsection 283.62(3), F.S., which provides that legislative publications may be printed and prepared in-house, by another agency, or purchased on bid, whichever is more economical and practicable; that binding may be contracted for separately; and that a bidder may subcontract for binding.

#### Corporate Income Tax

HOUSE BILL 2231 (CHAPTER 92-10) 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, 1992.

HOUSE BILL 1479 (CHAPTER 92-207) amends Paragraph 220.03(1)(aa), F.S., to exclude from the definition of "taxpayer" under the Code any corporation having no individuals receiving compensation in this state, whose only property in this state is located at the premises of a printer with which it has contracted for printing and is associated with a final printed product.

#### Excise Tax on Documents

COMMITTEE SUBSTITUTE FOR SENATE BILL 2022 (CHAPTER 92-32) amends Subsection 201.02(2), F.S., to specify that documents relating to a dwelling on property owned by any form of cooperative association defined in Section 719.103, F.S., are subject to documentary excise tax. Subsection 201.022(1), F.S., which requires a return to be filed as a condition precedent to recording a deed transferring an interest in real property, is amended to authorize the Department of Revenue to prescribe the manner in which the parcel identification number is stated on the return. This legislation also amends Paragraph 719.105(1)(a), F.S., to require evidence of ownership of a cooperative parcel and description of each dwelling unit to be recorded in the office of the clerk of the circuit court.

### Fuel Taxes

COMMITTEE SUBSTITUTE FOR HOUSE BILL 833 (CHAPTER 92-184) deals with the administrative aspects of fuel taxes. Sections 206.05 and 206.065, F.S., are amended to authorize licensed wholesalers who do not have the authority to self-accrue and remit fuel tax to import tax-exempt motor fuel or make specific purchases tax exempt for resale to the federal government, and to authorize licensed importers to purchase motor fuel tax exempt for export if the seller is duly licensed as a refiner or importer, if specified requirements, including filing of an additional bond with the Department of Revenue, are met.

This law also amends Sections 206.41, 206.60, 206.605, 212.62, 336.021, 336.025 and 336.026, F.S., to require that the constitutional gas tax, the county and municipal gas taxes on motor fuel, the tax on the sale of fuel, the voted gas tax, the local option gas tax, and the State Comprehensive Enhanced Transportation System Tax be remitted on the net amount of fuel, rather than the gross amount, as long as the local option gas tax or the State Comprehensive Enhanced Transportation System Tax is imposed. Licensees owning or operating retail stations or having fuel on consignment at such stations who sell more fuel than was purchased tax-paid or was reported to the state when purchased or removed from storage tax-free must report the additional gallons sold and pay the additional tax due, and retail dealers under Sections 336.021, 336.025 and 336.026, F.S., who sell more fuel than was purchased from suppliers must remit the taxes levied under Parts I and II of Chapter 206 and Part II of Chapter 212, F.S. The administrative and enforcement provisions of Chapters 206 and

212, F.S., which are applicable to the voted gas tax and local option gas tax are specifically listed. Also, Section 206.59, F.S., is amended to provide that any refiner, importer, wholesaler, or person who collects more tax on the sale of motor fuel than is remitted to the Department of Revenue or paid to his supplier is liable for the difference in tax plus all applicable interest and penalties.

### Motor Vehicle License Tax

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1283 (CHAPTER 92-145) creates the Florida Motor Vehicle Theft Prevention Act and is more fully discussed under the heading **LAW ENFORCEMENT AND CRIMINAL JUSTICE**. In order to fund a Florida Motor Vehicle Theft Prevention Trust Fund, the act creates Section 320.08045, F.S., which imposes a 50-cent surcharge on all motor vehicle license taxes, except those for mobile homes. This section is repealed on October 1, 1998.

### District School Tax

Subsection 236.25(2), F.S., which authorizes school boards to levy up to 2 mills of tax for capital outlay, is amended by COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 684 (CHAPTER 92-95), to revise the purposes for which the tax may be used. The purchase of school buses is expanded to include purchase of other vehicles, such as drivers' education, maintenance, and security vehicles. Also, the 3-year limitation on the use of this tax to lease relocatable educational facilities is removed, and Paragraph 235.435(3)(c), F.S., is amended to conform.

## HEALTH AND REHABILITATIVE SERVICES\*

The 1992 Legislature addressed a number of issues relating to the Department of Health and Rehabilitative Services (DHRS), most notably in the areas of departmental organization and health. The legislation dealing with the reorganization of the DHRS includes several other provisions concerning such things as the establishment of an electronic benefit transfer program, public records exemptions and foster care citizen review panels. That legislation is summarized here as are acts relating to the establishment of a nursing scholarship loan program, the licensure of licensed midwives, advance directives, patient referrals, relative placement of dependent children and the administration of the food stamp program.

**Nursing Scholarship Loan Program**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 189 (CHAPTER 92-137) establishes a Nursing Scholarship Loan Program to provide scholarships to students enrolled in an approved nursing program leading to the award of an associate, baccalaureate or advanced registered nurse practitioner degree in nursing. Employment must be at a health care facility in a medically underserved area approved by the Department of Health and Rehabilitative Services (DHRS).

The act amends Subsections (5), (6), and (7) of Section 240.4075, F.S., relating to the Nursing Student Loan Forgiveness Program, to:

- 1) authorize DHRS to administer the provisions related to the Nursing Scholarship Loan Program;
- 2) authorize that up to 50 percent of the revenue in the Nursing Student Loan Forgiveness Trust Fund be available for the Nursing Scholarship Loan Program; and
- 3) delete the requirements specifying the level of nursing education for which trust fund money may be used.

The measure creates Section 240.4076, F.S., to direct DHRS to establish and administer a Nursing Scholarship Loan Program to encourage employment in health care facilities in underserved areas. Eligible health care facilities include state-operated medical or health care facilities, county public health units, federally sponsored community health centers or teaching hospitals as defined in Subsection 407.002(27), F.S. This section establishes criteria related to eligibility, loan amounts and repayment schedules including creditable work and penalties for noncompliance. Scholarship recipients who do not seek employment at an approved health care facility or who do not complete 12 months of approved employment for each year of scholarship loan assistance received shall repay 3 times the scholarship loan amount. Rulemaking authority is granted to DHRS, including rules to address any extraordinary circumstances that may result in default. The Department is authorized to recover from the Nursing Student Loan Forgiveness Trust Fund administrative costs of this new program.

The enactment appropriates \$31,519 in recurring dollars and \$9,259 in nonrecurring dollars to DHRS, and authorizes one full-time career service position specifically for the Nursing Scholarship Loan Program.

**Licensed Midwifery**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 553 (CHAPTER 92-179) reactivates the licensure of licensed midwives (formerly referred to as "lay midwives") under Chapter 467, F.S. Regulation of licensed midwifery is transferred from the Department of Health and Rehabilitative Services to the Department of Professional Regulation (DPR or the Department).

The act revises Section 467.006, F.S., to authorize a midwife who holds a valid license on October 1, 1992, to continue practicing midwifery, but imposes certain restrictions until the licensee obtains further training. It amends Section 467.009, F.S., to revise the educational requirements that midwifery training programs must provide and the requirements that midwifery school applicants and applicants for licensure as a midwife must meet. The penalty in Section 467.201, F.S., is increased for violations of the regulatory provisions.

By amendment to Section 467.205, F.S., the enactment authorizes any accredited or state-licensed public or private institution of higher learning to offer a midwifery program. However, Subsection 467.009(7), F.S., requires the Florida Department of Education to adopt the curriculum for midwifery programs established in public institutions. Midwifery programs provided through private institutions must be accredited by a member of the Council on Postsecondary Accreditation and must be licensed by the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools under Subsection 467.009(8), F.S. The Department of Professional Regulation is required by Subsection 467.205(4), F.S., to certify every 3 years that an approved midwifery program is in compliance with the regulatory requirements outlined in the law.

Persons having acceptable midwifery training may receive a license to practice midwifery in Florida by "endorsement pursuant to Section 467.0125, F.S." This means upon presentation of the appropriate documentation, they can receive their license to practice midwifery after completing a 4-month prelicensure course and meeting other requirements but will not have to attend a 3-year midwifery program to be eligible for licensure. The Department is authorized to issue a temporary certificate upon payment of a fee to applicants for licensure by endorsement for the practice of midwifery in areas of critical need, as these areas have been determined by the Department of Health and Rehabilitative Services.

The measure clarifies that midwives licensed under Chapter 467, F.S., may be reimbursed as Medicaid providers for prenatal and postpartal care provided in the home for Medicaid recipients as authorized by revised Subsection 409.908(12),

\*Prepared by Senate Health and Rehabilitative Services and House Health Care Committees

F.S. However, they may not be reimbursed by Medicaid for home deliveries. They may be reimbursed by Medicaid for deliveries in birth centers and hospitals. Midwives licensed under Chapter 467, F.S., are added to the list of health care providers in Subparagraph 627.351(4)(h)1., F.S., eligible for participation in the Medical Malpractice Risk Apportionment program.

The advisory body established (Advisory Council of Lay Midwifery) under Section 467.004, F.S., to assist the regulatory agency in the regulation of midwifery under Chapter 467, F.S., is increased from seven to nine members, given new responsibilities, and renamed Council of Licensed Midwifery. Members serve without pay but are authorized to receive per diem reimbursement and travel expenses for official business.

The administrative rules adopted prior to October 1, 1992, by the Department of Health and Rehabilitative Services for the implementation of the regulation of midwifery authorized under Chapter 467, F.S., will remain in effect and are to be administered by the DPR until it adopts superseding rules which must be adopted by July 31, 1993, pursuant to amended Section 467.209, F.S. One full-time equivalent position is allocated to the DPR and an appropriation from the Professional Regulation Trust Fund of \$28,347 is provided for the implementation of the act which takes effect October 1, 1992.

#### Children

SENATE BILL 658 (CHAPTER 92-158) authorizes a judge to place a dependent child in the long-term custody of an adult relative when parents have failed to comply with a written protective supervision case plan and the conditions for a relative placement disposition under Section 39.41, F.S., are met. The act amends Chapter 39, F.S., to:

1. Define "protective supervision case plan" (Subsection 39.01(68), F.S.).
2. Clarify requirements for reasonable efforts to prevent removal of a child or to reunify a family by DHRS (Subparagraph 39.402(8)(b)5. and Paragraphs 39.41(4)(d) and (e), F.S.).
3. Require DHRS to prepare and file a protective supervision case plan with the court (Subparagraph 39.41(1)(a)1., F.S.).
4. Authorize another dispositional option for the court in protective supervision cases under certain circumstances (Subparagraph 39.41(1)(a)3., F.S.).
5. Provide that the court shall determine compliance with the protective supervision case plan (Subparagraph 39.41(1)(a)7.b., F.S.).
6. Add that failure by a parent to comply with a protective supervision case plan constitutes evidence of abuse, neglect or abandonment for the purpose of terminating parental rights (Subsection 39.464(5), F.S.).

In addition, Section 9 of the law requires that medical examinations in child sexual abuse cases be paid by the Crime Victim's Services Office of the Department of Legal Affairs pursuant to Section 960.28, F.S. Finally, the measure revises Subsection 39.467(5), F.S., to authorize a judge to consider in-

court testimony previously given at any properly noticed hearing, regardless of the availability of the witness, as long as the recorded testimony is provided to the judge.

#### Public Assistance

COMMITTEE SUBSTITUTE FOR SENATE BILL 1686 (CHAPTER 92-125) amends Chapter 409, F.S., relating to social and economic assistance, to improve the administration of Florida's Food Stamp Program. The act addresses three major policy areas:

1. *Electronic Benefit Transfer System.* The enactment authorizes DHRS to establish an electronic benefit transfer (EBT) system for the distribution of food stamps and other public assistance benefits. It requires DHRS to develop minimum program requirements in accordance with federal law and submit an EBT planning document to the United States departments of Agriculture and Health and Human Services for program implementation by December 31, 1992.
2. *Public Assistance Fraud.* The measure revises Section 409.325, F.S., concerning provisions and penalties relating to public assistance fraud to include fraudulent activities involving computer systems, related information or files and other forms of benefit payments. It requires DHRS to establish procedures for referral to the Office of the Auditor General of any case involving violation of the Food Stamp Program (Section 409.326, F.S.) and authorizes the Attorney General's Office to have access to all DHRS records relating to public assistance fraud investigations (Subsection 409.325(9), F.S.). It creates Section 409.326, F.S., to provide administrative penalties, including disqualification from the program in accordance with federal regulations, in addition to any criminal penalties which may be imposed, for certain violations. The law outlines procedures for issuing complaints, hearings and determinations in compliance with Chapter 120, F.S., Section 409.285, F.S., and federal regulations for program disqualification.
3. *Retail Store Disqualification.* The measure creates Section 409.327, F.S., to provide administrative penalties, including license revocation, fines and certain disqualifications for retailers engaging in a pattern of fraud in violation of food stamp program regulations. Retailers found in violation are subject to a 10-year prohibition from securing a food permit, selling or promoting lottery tickets, or securing a license to sell or distribute alcoholic beverages, as well as the imposition of allowable fines. It requires DHRS to establish procedures to notify the U.S. Department of Agriculture and appropriate state regulatory agencies of failure by a retail food store to comply with the Food Stamp Act and applicable federal regulations. An administrative proceeding or the court must determine if a pattern of fraud exists based on the definition provided in the act.

In addition, this legislation creates Section 409.328, F.S., to require DHRS to prepare and submit an annual report to the

Legislature and Auditor General concerning administrative complaints and disciplinary actions involving Food Stamp Program violations and implementation of the EBT system. The act also provides for specified cause for dismissal of Department employees who knowingly and willfully allow an ineligible person to obtain public assistance, and allows DHRS to determine, by rule, retail items not purchasable with food stamp coupons or access cards. Finally, this law requires DHRS to implement electronic eligibility verification and adjudication of Medicaid pharmacy claims by October 1, 1992 and to request federal waivers as necessary to implement any provision of this act.

### Advance Directives

HOUSE BILL 1851 (CHAPTER 92-199) revises the law relating to the appointment of a health care surrogate and advance decisionmaking pertaining to life-prolonging procedures by consolidating the two statutory chapters (Chapters 745 and 765, F.S.) containing the provisions of these laws into one chapter (Chapter 765, Parts I through IV, F.S.) and expanding the type of circumstances and settings to which these provisions of law apply. Besides appointment of a surrogate, the legislation provides for the appointment of an alternate surrogate to act on behalf of the person appointing him once the person's primary surrogate's authority has been suspended or revoked (Subsection 765.202(3), F.S.). A proxy may be obtained by a health care facility to make certain health care decisions for a patient when the patient has not previously designated a surrogate (Subsection 765.202(4), F.S.). A health care surrogate directive is created and provided in statute as a suggested form by which a person may appoint a surrogate and may provide guidelines for his surrogate to follow when making decisions on his behalf (Section 765.203, F.S.). The law also provides a suggested declaration (living will) form (Section 765.303, F.S.). These forms, along with do-not-resuscitate orders, as specified in the act, are collectively referred to as "advance directives."

This legislation also provides for refusal of cardiopulmonary resuscitation through a do-not-resuscitate order when a patient with a terminal condition has been discharged from a health care facility and sent home (Section 765.307, F.S.). The Department of Health and Rehabilitative Services (DHRS) is required to develop a form for this purpose. A surrogate need not consent to a do-not-resuscitate order if the person appointing him authorized one while he had the capacity to do so. After a person has consented to a do-not-resuscitate order, his physician must make periodic review of his medical and clinical records to determine whether a do-not-resuscitate order continues to be appropriate given the patient's current medical condition.

Appointment of one's spouse as a surrogate or alternate surrogate is automatically revoked upon the dissolution of the marriage (Subsection 765.104(2), F.S.). Persons honoring a revoked advance directive are exempted from criminal and civil liability unless they had actual knowledge of the revocation when they acted in compliance with its provisions (Subsection

765.104(3), F.S.). Once received, a revocation of an advance directive must be noted in a patient's medical record.

The restriction in Subsection 745.44(1), F.S., 1991, that a physician evaluating a patient's capacity to make health care decisions could not be affiliated with other health care providers caring for the patient has been eliminated in Subsection 765.204(2), F.S. Likewise, an absolute prohibition in Subsection 745.44(2), F.S., 1991, on employees of health care providers serving as surrogates or proxies of patients of the health care provider has been modified in Paragraph 765.401(1)(f), F.S., to allow those employees who are relatives of such a patient to act as a surrogate or proxy for the patient.

Pursuant to Subsection 765.308(1), F.S., health care providers who have certain moral or ethical beliefs concerning life-prolonging procedures and who are not willing to honor a declaration or surrogate's instruction to withhold or withdraw life-prolonging procedures are made responsible for providing written notice of their policy when a patient is admitted to their facility for nonemergency care. If a patient or his surrogate subsequently desires to have life-prolonging procedures withheld or withdrawn, Subsection 765.308(2), F.S., requires the health care provider to transfer the patient to another health care provider within 7 days of the request or, within that time frame, initiate an expedited judicial intervention under the Florida Probate Code Rules or carry out the directions of the patient's declaration or his surrogate. The health care provider must pay the cost of such a transfer or expedited judicial intervention.

The guardianship statute is amended by creating Section 744.3115, F.S., to require the courts, when appointing a guardian, to ascertain as a part of the process whether the person (ward) for whom a guardian is to be appointed has executed an advance directive providing instructions relating to life-prolonging procedures. The court is to make a determination and specify in its order and the letters of guardianship what effect such an advance directive will have in conjunction with the guardianship. Section 744.345, F.S., is amended to require that in the case of a limited guardianship, the letters must specify whether or not and to what extent the guardian is authorized to designate a health care surrogate for purposes of decisionmaking related to life-prolonging procedures on behalf of the ward and state to what extent the limited guardian may make decisions related to life-prolonging procedures under any advance directive previously executed by the ward prior to his incapacity. The durable power of attorney for health care statute, Section 709.08, F.S., is amended to make the attorney acting on behalf of the person designating him subject to the requirements of Chapter 765, F.S., as amended.

### Patient Referrals

COMMITTEE SUBSTITUTE FOR SENATE BILL 2264 (CHAPTER 92-178) enacts into law several incentives for health care providers [allopathic and osteopathic physicians, chiropractors, optometrists, podiatrists, and dentists] to discontinue their ownership of or investments in clinical laboratory services, speech therapy services, occupational therapy ser-

vices, physical therapy services, diagnostic imaging services, and radiation therapy services. The act *does not* expressly require health care providers to divest their interests in the specified services.

This legislation provides for the regulation of certain referrals by health care providers on two "tiers." Under the first tier a health care provider may not refer a patient (for whom he or she provides primary care) for the provision of designated health services [diagnostic imaging centers]; comprehensive rehabilitation services—speech therapy, occupational therapy, or physical therapy, provided on an outpatient or ambulatory basis; physical therapy (apparently when other than as an outpatient or ambulatory service); radiation therapy services; clinical laboratory services, when the referring health care provider is an owner or investor in such a service but is not himself or herself providing the referred service.

However, as an exception to the general prohibition, a health care provider who owns or holds an investment interest in a radiation therapy center which was in operation on or before April 1, 1991, may continue to refer his or her patients for services at the center. This exception is contingent on the Health Care Cost Containment Board (HCCCB or Board) conducting annual studies of the charges for services offered at these centers and HCCCB regulation of the fees charged at these centers as provided by Section 407.60, F.S., created by this law. The Board is authorized to make certain adjustments to the rates these radiation therapy health care providers may charge based on documented charity care or to allow a reasonable rate of return. Rate adjustments may be reviewed by the Board and revised 12 months after the effective date of the adjustment. Any person who charges in excess of the authorized rate is subject to an administrative fine of up to \$5,000 to be imposed and collected by the HCCCB. A non-profit research institute and teaching hospitals are excluded from this rate regulation.

Under the second tier of regulation of health care provider referrals, a health care provider who owns a business that provides health care items or services may refer his or her patients to the business, when the business *does not* provide one of the designated health services, if he or she complies with the following conditions:

1. The ownership or investment interest is in a corporation that is publicly traded on a national stock exchange or the over-the-counter market and such a corporation's total assets at the end of its most recent fiscal quarter exceeded \$50 million.
2. The ownership or investment interest is in a privately held business under circumstances where:
  - a. less than 50 percent of the ownership is by investors who can refer patients;
  - b. the terms of investment are the same for referring and nonreferring investors;
  - c. the terms of investment for referring (and potentially referring investors) are not related to previous or expected volume of referrals; and
  - d. referral is not a requirement for becoming an investor or remaining an investor.

3. Whether the ownership or investment is in a public or private business entity, loan guarantees or money loaned by the entity to the investor cannot be used to obtain his investment interest in the entity and the distribution of return on the investment interest to an investor who has the ability to make referrals must be directly proportionate to his or her capital investment in the entity.
4. Licensees (apparently professionals licensed by the Department of Professional Regulation) and hospitals are to use the declaratory statement procedure to determine when the conditions in 1–3 above apply to them. Once the Department of Health and Rehabilitative Services (DHRS) or the appropriate regulatory board under the Department of Professional Regulation conclude, pursuant to a declaratory statement procedure, that a health care provider may legitimately refer his or her patients for health care items or services to a business in which he or she is an investor, the DHRS must periodically examine the businesses for compliance with quality assurance rules and utilization review rules adopted as authorized.

Health care providers are prohibited from submitting claims for payment for prohibited referrals and they must refund any money collected that was billed in violation of the prohibition or restrictions on referrals. For knowingly submitting such a bill, a health care provider is subject to a civil penalty of up to \$15,000 to be imposed and collected by the appropriate regulatory board. A health care provider or other entity that enters into a cross-referral arrangement in an effort to circumvent the referral prohibition or restrictions is subject to a civil penalty of up to \$100,000 to be imposed and collected by the appropriate regulatory board. Health care providers found in violation of the referral prohibition or restrictions are made subject to the disciplinary action under their respective practice acts and hospitals found in violation are subject to rules adopted by the DHRS under the hospital regulatory law.

Health care providers who are authorized to make referrals to businesses in which they are investors [by meeting the criteria described under 1. and 2. above] must make certain disclosures to their patients at the time of referral and at the time just prior to providing the service to the patient for which the patient was referred. Health care providers and providers of health care services are prohibited from receiving kickbacks for referring or for soliciting patients. Furthermore, health care providers are limited to charging a maximum of \$2 additional for services rendered by someone outside of their practices.

The Department of Health and Rehabilitative Services is required to license an entity [individual, partnership, firm, or other business entity] which provides designated health services and it is explicitly made unlawful for an entity to operate in Florida without such a license. The Department is required to adopt rules for licensure that are to include: a charge of an annual license fee ranging from \$400 to \$1,500, parameters of quality for ancillary services, periodic inspection of facilities to ensure compliance with quality parameters, and the submis-

sion of information on ownership and each investor's percentage of ownership.

In addition to the study of rate regulation applicable to certain radiation therapy health care providers, the HCCCB is empowered under Section 407.61, F.S., to conduct data-based studies and evaluations and make recommendations to the Legislature and the Governor (apparently on an on-going basis) on the effectiveness of limitations on referrals, restrictions on investment interests and compensation arrangements, and effectiveness of public disclosure, including utilization of services, cost of care, quality of care, and access to care. From the information developed, the HCCCB is to report to the Governor and the Legislature by January 1, 1995, its findings and make recommendations regarding the need for additional legislation relating to health care provider referrals. Five positions and \$243,602 are appropriated to the HCCCB to conduct its studies. No appropriation is provided for DHRS licensure activities created under the measure.

Anyone providing designated health services to non-Medicare and non-Medicaid patients, effective July 1, 1992, will be limited to charging no more than 15 percent in excess of the Medicare limiting charge for the same procedure when performed by physicians who are not participants in the Medicare or Medicaid program, as determined by the U.S. Secretary of Health and Human Services. Anyone charging in excess of this rate is subject to an administrative fine of up to \$5,000 per violation to be imposed and collected by the appropriate regulatory board. Group practices and hospitals are exempted from this rate regulation.

The enactment has an "upon becoming law" effective date. However, Section 15 of the law states that for those business interests acquired in designated health services prior to May 1, 1992, the prohibition on referrals is not applicable until October 1, 1995; referrals to businesses providing health care items or services other than designated health services and that meet the specified conditions described in 1. and 2. above are subject to the restrictions contained in the measure effective July 1, 1992; and referrals to facilities for which a certificate of occupancy had been received and in which provision of a designated health service was begun between October 1, 1991 and January 1, 1992, are not subject to the provisions of the act until October 1, 1996.

#### **DHRS Reorganization Act of 1992**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2379 (CHAPTER 92-58) implements two recommendations made by the local interim planning groups established by the 1991 Legislature to review the local governance needs of the Department of Health and Rehabilitative Services (DHRS) service districts: (1) a health and human services board is created in each DHRS district or subdistrict, and (2) four new DHRS service districts are established.

The act requires DHRS to develop a functional organization plan addressing the reorganization, consolidation or division of programs and services currently under the program office structure into logical functional areas. The functional organiza-

tion plan must: (1) identify fundamental program components of the various program offices that can be organized into a logical functional services continuum based upon needs and problems of clients, (2) delineate operational and policy issues that may arise regarding functional organization of the Department's program and services, (3) identify strategies for development and implementation of the functional services continuum, (4) propose changes to the current organization structure of the Department to facilitate the functional services continuum, (5) propose changes to laws, policies, and the budget necessary to facilitate the implementation of the function and services continuum, and (6) propose evaluation criteria. The plan will be developed with the participation of representatives of a broad group of specified interests and submitted to the Legislature no later than December 1, 1992.

A pilot project in one DHRS district testing the feasibility of a functional, integrated system of children's services will be implemented by January 1, 1993. The pilot project will be a collaborative effort between state and local governments and private agencies designed to reduce fragmentation of client service delivery systems by implementing an integrated services system to uniformly assess children's and families' service needs, identify appropriate community-based services, monitor the effectiveness of each child's service plan, and evaluate program and client outcomes through follow-up. The prospective providers will bear the cost of the services and will be reimbursed by the Department only if savings result for the state. The Auditor General will assist the Department in determining the cost savings. The department will submit a status report on the project to the Governor and the Legislature by October 1, 1993. A first-year evaluation report is due to the Governor and Legislature by January 1, 1994.

The law amends Section 20.19, F.S., to add the following to the purposes of the Department: (1) advocating certain programs for children who have been adjudicated delinquent, (2) conducting public health surveillance and investigative activities necessary to detect environmentally related diseases, (3) providing preventive and primary health care services through county public health units, and (4) assisting in the support of education through the support of families in the community.

The Inspector General function is added to the responsibilities of the secretary in Paragraph 20.19(2)(g), F.S. Authority is provided for the secretary of DHRS to establish regional processing centers that consolidate certain administrative functions to achieve more effective and efficient performance of service delivery and support functions to multiple districts (Paragraph 20.19(2)(h), F.S.).

The legislation revises Subsection 20.19(3), F.S., to add duties and responsibilities of the State Health Officer for declaring public health emergencies and issuing public health advisories and ensuring that county public health units cooperate with school authorities developing supplemental school health programs.

Additional responsibilities are added in Paragraph 20.19(4)(a), F.S., to the Deputy Secretary for Human Services for ensuring the continued interagency collaboration with the Department of Education for the development and integration

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of effective programs to serve children and families and ensuring the development and implementation of a client-oriented case management system.

The measure creates in Paragraph 20.19(4)(b), F.S., the Delinquency Services Program Office headed by the Assistant Secretary for Delinquency Services responsible for all programs, activities and functions of the Department relating to all delinquency services. The Medicaid Program Office is created in Sub-subparagraph 20.19(4)(b)2.e., F.S., that is responsible for planning and developing policies and programs, program and provider monitoring, provider relations, interprogram planning, and program surveillance and utilization review. As provided in amended Sub-subparagraph 20.19(4)(b)2.f., F.S., Aging and Adult Services Program Office responsibilities now include SSI-related program eligibility determinations.

The word "Youth" is removed from the name of the Children, Youth and Families Program Office (Sub-subparagraph 20.19(4)(b)2.g., F.S.). Advisory boards are created for each civil mental health and developmental services institution to assist in policy development, the institution's quality assurance process, and to coordinate the delivery of community and institutional services in revised Subparagraph 20.19(4)(b)3., F.S.

Four new service districts are created by amended Subsection 20.19(6), F.S. Marion, Citrus, Hernando, Sumter and Lake counties (currently subdistrict 3B) become District 13. Flagler and Volusia counties (currently subdistrict 4B) become District 14. Polk, Hardee and Highlands counties (currently subdistrict 6B) become District 14. Indian River, Okeechobee, St. Lucie and Martin counties (currently a part of District 9) become District 15. Calhoun and Franklin counties which are assigned to different subdistricts of District 2 are each switched to the opposite subdistrict. In District 11, Dade County is designated subdistrict A, and Monroe County is designated subdistrict B.

The current 11 service districts are retained in Section 381.702, F.S., for the certificate-of-need program.

The act deletes current provisions of Subsection 20.19(8), F.S., and all other references to District Advisory Councils and the District Advisory Council Statewide Coordinating Council.

A health and human services board is created in every service district or subdistrict pursuant to new Subsection 20.19(7), F.S. The size of each board is specified and the members allocated among the counties in each district and the authority to appoint allocated between county commissions and the Governor. In order to adequately represent the diversity of the population within the district or subdistrict, each health and human services board may adopt bylaws that designate district or subdistrict boards and adjust the size and composition of the board as provided in Paragraph 20.19(7)(b), F.S. The size of a district or subdistrict board may not exceed 23 members. As provided by Subparagraph 20.19(7)(d)2., F.S., employees of provider agencies, other than employees of units of local or state government, may not serve on a board but may serve in an advisory capacity. Salaried employees of units of local or state government occupy-

ing positions providing services under contract with DHRS or who work for DHRS are prohibited from serving on a health and human services board. Elected officials who have authority to appoint board members are prohibited from service on a board. The district administrator serves as a nonvoting ex officio member.

Each health and human services board must have minimum consumer representation and the Governor's appointments are to be used to assure that the composition of the boards includes consumers and reflects the demographic characteristics of the respective districts as provided in Paragraph 20.19(7)(c), F.S. The law specifies the duties of the health and human services boards including their role in the selection and evaluation of the district administrator and conducting district needs assessment in Paragraph 20.19(7)(o), F.S. All local health and human services related planning or advisory bodies under the jurisdiction of DHRS are to report to the local health and human services board (Paragraph 20.19(7)(k), F.S.).

Under Paragraph 20.19(7)(m), F.S., the boards will operate through an annual agreement with the secretary that must include expected outcomes, require periodic reports and evaluations, and must include core service elements to be used in district needs assessments in order to assure consistency in district legislative budget requests. Agreements must also provide procedures for resolution of differences in interpretation or in disputes regarding adequacy of compliance (Paragraph 20.19(7)(n), F.S.).

The law creates Subsection 20.19(8), F.S., to provide a nominee qualifications review committee in each district or subdistrict to screen and evaluate applicants for appointment to the health and human services board and select a pool of nominees equal to three times the number of vacancies on the district or subdistrict board. Appointments to each board must be selected from the nominees submitted by the appropriate nominee qualifications review committee. The legislation specifies the source and number of appointments to the nominee committees and the Legislature's intent that members represent specified public, private and governmental entities and interests in the community.

The measure provides in Paragraph 20.19(9)(b), F.S., that upon the resignation or removal of a district administrator, the secretary will notify the affected health and human services board, advertise the position, cooperate with the board in soliciting applicants, and request the submission of three qualified nominees for the district administration position. The secretary will make the appointment from the nominees submitted and may request additional recruitment efforts if it is determined that none of the initial nominees should be appointed. The boards are authorized to establish a procedure for soliciting, interviewing and evaluating candidates for the district administrator appointments.

The act creates Subsection 20.19(10), F.S., to establish a Statewide Health and Human Services Board composed of the chairs of the district and subdistrict health and human services boards or their designees. The purpose of the statewide board is to advise the secretary on statewide issues.

The Department's budget entities set out in Subsection 20.19(11), F.S., are revised, and DHRS is directed to transfer funds and positions among budget entities to realign appropriations with the revised budget entity designations. The law directs DHRS to develop a formula when proposing budget reductions that equitably treats counties that voluntarily appropriate funds to Department programs and services.

The Deputy Secretary for Management Systems is deleted and a Chief Management Information Officer is created in Subsection 20.19(13), F.S., to serve as the Department's information resource manager.

The legislation provides for the health and human services boards to propose innovation zones (Subsection 20.19(20), F.S.). An innovation zone is defined as a district, county, municipality, service delivery area, school campus or neighborhood where an experimental, pilot, or demonstration project is conducted on specified departmental policies. These projects may last for 2 years and only 15 projects may exist at any one time. The secretary may waive policies and procedures to the extent authorized by law and may seek a statutory waiver from the Legislature or from appropriate federal officials.

The Legislature intends to review the managerial authority of the health and human services boards during the 1995 Regular Legislative Session. By August 1, 1994, each board will submit to the secretary and the Legislature a report that includes:

- 1) an assessment of the board's current authority;
- 2) the board's recommendations for increased responsibility or authority to direct and manage the service delivery operation of the district, including the authority to appoint and terminate the district administrator;
- 3) the board's assessment of the capacity to perform the recommended responsibilities;
- 4) statutory changes that will enhance the ability of the board to carry out its assigned or proposed duties and responsibilities; and
- 5) recommendations for the creation of additional districts including the designation of single populous counties as districts. By November 15, 1994, the secretary and the Statewide Health and Human Services Board will submit recommendations and proposed legislation to the Legislature for implementation of the proposals from the districts. This report must include an assessment of the capacity of the boards to assume the recommended level of management responsibility.

The law provides for the divestiture of several DHRS regulatory and other functions to other agencies:

1. The certification of equipment used in implied consent testing and the authority to establish and approve testing methods for chemical analysis of a person's breath, blood, and urine to determine its content for alcohol or chemical substances is transferred to the Department of Law Enforcement through amendment of Sections 316.1933, 316.1934, 322.63 and 327.354, F.S.
2. The certification of the breath testing component of ignition interlock devices provided for in Subsection

316.1938(1), F.S., is transferred to the Department of Highway Safety and Motor Vehicles.

3. The regulatory responsibility for clinical laboratory personnel is transferred to the Department of Professional Regulation through creation of Sections 483.800 through 483.827, F.S. A seven-member Board of Clinical Laboratory Personnel is to be appointed by the Governor which will have regulatory jurisdiction over clinical laboratory personnel.
4. Project Independence and the Office of Disability Determinations are transferred to the Department of Labor and Employment Security (Sections 38 and 55 of the act). The Project Independence transfer is effected through contract.
5. The Food Distribution Program is transferred to the Department of Agriculture and Consumer Services (Section 52 of the act).

In addition to local governance provisions, the creation of four new service districts, and the transfer of DHRS functions to other departments, the enactment contains other provisions that:

1. Modify the membership and the powers and duties of the juvenile delinquency and gang prevention councils (Section 39.025, F.S.). The measure provides for the councils to use public hearings and other appropriate processes for input on the delinquency prevention plan.
2. Develop a family preservation service integration plan in each service district as provided in Section 409.152, F.S. Health and human services boards are encouraged to designate programs within their district that provide a laboratory for demonstrating a family-centered constellation of services.
3. Amend Section 402.165, F.S., to enlarge the size of the Statewide Human Rights Advocacy Committee to conform with the 15 district configuration. Four additional members are to be allocated among the identified groups: one provider, one non-salaried representative of a civic or non-profit organization, one consumer, and one representative of the legal profession.
4. Repeal Section 394.715, F.S., on July 30, 1994, eliminating Alcohol, Drug Abuse and Mental Health Planning Councils (Section 19 of the act).
5. Create a Study Commission on Employment Opportunities and Self-Sufficiency to recommend changes to the state's current social welfare, vocational, and educational policies and programs and report its findings to the Legislature by December 31, 1992 (Section 39 of the act).
6. Transfer the Florida Cancer Control and Research Act to the Board of Regents and renumbers Section 381.201, F.S., as Section 240.5121, F.S. The Florida Cancer Control and Research Advisory Council is transferred to the H. Lee Moffitt Cancer Center and Research Institute, Inc., as provided by revised Subsection 240.5121(4), F.S. The number of Council members will be increased from 28 to 30 members. The Council

is required to report to the Board of Regents as well as to the secretary of the DHRS.

7. Remove public record requirements exemptions for reports of abuse, neglect, or exploitation which are the subject of an active criminal investigation and for quality assurance reports completed by DHRS by repeal of Paragraph 119.07(7)(d) and Subsections 415.107(3) and 415.51(3), F.S.
8. Specify in revised Section 39.453, F.S., the establishment, composition and administration of foster care citizen review panels to review the status of dependent children in foster care.
9. Provide by amendment of Paragraph 420.627(4)(e), F.S., for the emergency financial assistance program to make one-party checks payable to the landlord, mortgageholder, or vendor.
10. Require in Section 57 of the act, that, by December 31, 1992, DHRS will submit to the United States departments of Health and Human Services and Agriculture a plan to establish in one or more areas of the state an electronic benefit transfer program for the dissemination of food stamp purchase authorization.
11. Require in Section 58 of the law, that DHRS prepare a strategic plan relating to the child protection system that establishes clear and consistent direction for policy and programs for the child protection system, including goals, objectives and strategies.

Unless otherwise provided within the act, its provisions take effect July 1, 1992.

#### Clean Indoor Air Act 1992

HOUSE BILL 19 (CHAPTER 92-185) expands the provisions of Part II of Chapter 386, F.S., which regulates smoking in indoor areas.

The list of public places listed in Subsection 386.203(1), F.S., where smoking may be restricted is expanded to include health care facilities, day care centers and common areas of retirement homes and condominiums. The definition of "common areas" found in Subsection 386.203(6), F.S., where smoking is prohibited is broadened to include not only the restrooms and water fountain areas of public places, but also hallways, corridors, lobbies, aisles, stairwells, entryways and conference rooms. Smoking is also now prohibited in day care centers and educational facilities pursuant to amended Paragraph 386.205(2)(a), F.S.

Under revised Subsections 386.205(3) and (4), F.S., the requirement that no more than one-half of the total square footage in a public place within a single enclosed area be designated as a smoking area now applies to private offices ordinarily accessible to the public. A restaurant which seats more than 50 persons must now ensure that no more than 65 percent of the seats existing in its dining room at any time are located in an area designated as a smoking area.

Finally, new Subsection 386.211, F.S., provides that mass transportation terminals located in metropolitan areas with populations over 230,000 must make announcements at least

every 30 minutes that Florida is a clean indoor air state and that smoking is permitted only in designated areas. The act takes effect October 1, 1992.

#### Spinal Cord Injury and Head Injury Research

The Impaired Drivers and Speeders Trust Fund, Section 413.613, F.S., is amended by COMMITTEE SUBSTITUTE FOR SENATE BILL 40 (CHAPTER 92-65) to authorize the payment of 10 percent of the revenues deposited monthly in the Fund pursuant to the statutory requirements on the disposition of civil penalty moneys by county courts [Paragraph 318.21(2)(d), F.S.] to two state universities. The University of Florida and the University of Miami are each to receive 5 percent in quarterly payments based on quarterly receipts for spinal cord injury and head injury research. The total amount distributed may not exceed \$500,000 per year.

The act also requires the Board of Regents to establish a program review process for which up to \$10,000 of Fund receipts may be allocated which is to include: a prospective program plan with goals, research design and proposed outcomes, and an annual report of research activities and findings. The Board is to release funds upon its acceptance of proposed program plans. The annual report of research activities and findings is to be given to the Board with executive summaries to the Presiding Officers of the Legislature and the secretary of the Department of Labor and Employment Security.

#### Health Care Reform

COMMITTEE SUBSTITUTE FOR SENATE BILL 2390 (CHAPTER 92-33) is a comprehensive act that provides for major health care reform. The foundation for reform is the creation of a new Agency for Health Care Administration, effective July 1, 1992, which is placed for administrative purposes only in the Department of Professional Regulation [Section 20.42, F.S.].

The Agency consolidates the regulatory functions that are currently the responsibility of three state agencies and reduces existing duplication and lack of coordination. The Health Care Cost Containment Board is transferred to the Agency and renamed the Health Care Board by Section 83 of the act. Pursuant to Section 10 of the law, the Office of Regulation and Health Facilities, which is responsible for the licensing and regulation of hospitals, nursing homes, and other health care facilities as well as the certificate-of-need program, is transferred from the Department of Health and Rehabilitative Services to the Agency. Effective July 1, 1993, all health care related professional licensure boards are transferred from the Department of Professional Regulation to the Agency. Also, effective July 1, 1993, a Division of State Health Purchasing is created within the Agency which includes Medicaid, the Health Access contract, the Florida Pooled Purchasing Cooperative, and State Employees Health Insurance.

The act's reforms are encompassed in the Florida Health Plan [Sections 408.004-408.006, F.S.]. The Florida Health Plan includes five goals related to: (1) access to an affordable basic

health benefit package, (2) cost containment, (3) insurance reforms, (4) health regulation, and (5) data collection. The Agency is responsible for preparing for the Legislature *interim* recommendations by December 31, 1992, and *final* recommendations by December 31, 1993, for implementing each goal of the Florida Health Plan.

A central focus is the health access goal in Subsection 408.006(1), F.S., which provides that all Floridians shall have access to an affordable basic health benefit package by December 31, 1994. To accomplish this goal, the Agency is responsible for the creation of a voluntary health insurance and cost containment program under Section 408.01, F.S. The program shall be designed to encourage employers to increase health care coverage and health care providers to hold down health care costs. Targets relative to the percentage of employees and their dependents covered by health insurance shall be established by the Agency and shall serve as benchmarks against which efforts to increase health insurance coverage will be measured. Concurrently, the Agency is responsible for the parallel development of strategies that can take effect in 1995 if the voluntary initiatives to expand health access and control costs do not succeed.

Subsection 408.003(1), F.S., specifies that the Health Care Board shall be composed of 11 members and shall include more representation from employers and consumers than the current Health Care Cost Containment Board. Paragraph 20.42(2)(d), F.S., dictates the Health Care Board shall be responsible for controlling the escalation of hospital charges through the annual review of hospital budgets, for evaluating nursing home financial reports, and for conducting special studies. One special study, which is contained in the legislation in Subsection 408.08(12), F.S., shall focus on recommendations concerning the need for granting hospitals and professional boards additional authority to control the utilization of services, the phasing in of practice parameters beyond the demonstration project, and the impact of penalties contained in the measure on hospital operating revenues.

The act establishes a comprehensive data collection system in Section 408.061, F.S., by expanding the agency's authority to collect data from all health care facilities, health care providers, and insurers. With this information, the Agency is directed to produce annually a state health expenditure report of dollars spent on health care by type of service and of dollars contributed by type of payer. In addition, the transferral of the

State Center of Health Statistics to the Agency in Section 13 of the enactment will result in the centralization of nonfinancial health care data, including health status indicators, as well as financial health care data.

Under Section 408.02, F.S., the Agency, with the assistance of an advisory committee, is directed to guide the state's adoption by January 1, 1993, of nationally developed practice parameters for the respective practices of physicians, osteopaths, chiropractors and podiatrists in order to reduce the variation in health care practices. The Agency shall then establish a 5-year demonstration project to evaluate the effectiveness of practice parameters with regard to the costs of defensive medicine and liability insurance.

New public health initiatives are contained in the law. The Department of Health and Rehabilitative Services is directed by Section 408.601, F.S., to develop a biennial *Healthy Communities, Healthy People* plan for the Governor and the Legislature which will provide: (1) health data on the status of the state's population, (2) health status objectives, (3) outcome measures, and (4) strategies for improving the health status of the citizens of the state. The first report is due on December 31, 1992. With the plan, the Department is to develop a comprehensive and community-based health promotion and wellness program designed to reduce the major behavioral risk factors associated with chronic diseases.

In Section 111 of the measure, the Department of Health and Rehabilitative Services is also directed, in conjunction with the Department of Education and the State University System, to develop the *Florida Health Services Corps* to encourage medical professionals to practice in locations where there is a shortage of medical personnel. Under the program, scholarships will be offered to medical, chiropractic, dental and nursing students in exchange for services in a public health care program.

Finally, as a part of the Florida Health Plan's effort to increase the percentage of employees with health care coverage, a new requirement for state contractors is included in Section 115 of the act. Effective July 1, 1994, every contractor, and each subcontractor of every contractor, shall ensure that each of his employees who works on a competitively bid state agency contract in excess of \$100,000 has access to hospitalization and medical insurance benefits.

See the **INSURANCE** article for the insurance components of this law.

## INSURANCE\*

## MAJOR HEALTH INSURANCE REFORMS

COMMITTEE SUBSTITUTE FOR SENATE BILL 2390 (CHAPTER 92-33) contains the major health insurance reforms enacted in 1992, summarized below. (For a summary of the health care provisions of this act, see the HEALTH AND REHABILITATIVE SERVICES article.)

## Employee Health Care Access Act

The law creates Section 627.6699, F.S., the "Employee Health Care Access Act," the purpose and intent of which is to promote the availability of health insurance coverage to small employers regardless of their claims experience or their employees' health status. The act:

1. Requires that small employer carriers offer on a guarantee-issue basis, standard and basic health benefit plans to small employers with 3 to 25 employees. [Subsection 627.6699(5), F.S.]
2. Requires small employer carriers to elect to become a risk-assuming carrier (one which internalizes all risks) or a reinsuring carrier (one which chooses to reinsure certain risks with the reinsurance pool). [Subsection 627.6699(6), F.S.]
3. Establishes a reinsurance pool for risks that a carrier chooses to reinsure. [Subsection 627.6699(8), F.S.] The carrier will have to pay a premium for reinsuring risks. Carriers will be assessed for deficits in the pool and may be assessed under a two-tier formula. [Subparagraph 627.6699(8)(j)2., F.S.] The first-tier assessment is up to 5 percent of each carrier's premiums from health benefit plans issued to small employers. The second-tier assessment is up to 0.5 percent of premiums collected on all health benefit plans. Reinsuring carriers will be authorized to take a credit against their second-tier assessment for any assessment paid in the first tier. Risk-assuming carriers are not subject to assessments.

Carriers will also be authorized to credit any second-tier assessment against any assessments made by the Florida Comprehensive Health Association. [Paragraph 627.6699(11)(c), F.S.]

4. Allows a small employer carrier to cease guarantee issue if the carrier meets a specified cap. The cap for 1993 is 3 times the carrier's small group premium volume reported in 1992 if the carrier writes at least 2 percent of the small group market. [Sub-subparagraph 627.6699(5)(f)3.b., F.S.] For 1994 and thereafter, the cap is 3 times the carrier's previous year's small group market share multiplied by all carriers' aggregate premium volume for new guarantee issue business, if the carrier writes at least 2 percent of the new guarantee

- issue business in the small group market. [Sub-subparagraph 627.6699(5)(f)4.b., F.S.]
5. As an absolute cap, no carrier will be required to take over 25 percent of the small group market. [Sub-subparagraphs 627.6699(f)3.b. and 4.b., F.S.]
6. Portability of coverage—credit must be given to the covered employee for any time spent under a qualified previous policy for preexisting conditions. [Subparagraph 627.6699(5)(e)2., F.S.]
7. Creates the Health Benefit Plan Committee composed of 4 small employer carriers, 2 small employers and 1 employee of a small employer to develop a standard health benefit plan and a basic health benefit plan which must be offered by small employer carriers to small employers. [Paragraph 627.6699(9)(a), F.S.] The standard health benefit plan must include coinsurance of 80 percent of the covered expenses after the deductible has been met, up to \$10,000 and 90 percent thereafter, or 100 percent thereafter if the insured is in a case management program. [Subparagraph 627.6699(9)(b)4., F.S.] Both plans must provide: inpatient hospitalization coverage; out-patient coverage; coverage for newborns, adopted and handicapped children; coverage for child care supervision; coverage for mammograms and emergency coverage out of the geographic service area. [Subparagraphs 627.6699(9)(b)5. and 7. F.S.] The policy must make payment to a mandated provider that provides a service for a covered benefit. [Subparagraph 627.6699(9)(b)8., F.S.] However, the carrier is authorized to limit utilization as long as the limitations are fair and nondiscriminatory among providers. The basic health benefit may reduce some benefits, further limit utilization, and impose greater cost containment measures. [Subparagraph 627.6699(9)(b)7., F.S.]
8. Allows the sale of limited benefit policies to small employers who reject the standard and basic plans which enables the small employer and the carrier to negotiate benefits and rates. [Paragraph 627.6699(9)(c), F.S.]
9. Establishes standards for the marketing of health benefit plans to small employers and requires that carriers actively market such products. [Subsection 627.6699(10), F.S.]
10. Creates an initial board, which consists of the Insurance Commissioner or his designee as chairman, the largest health insurer in Florida, the largest HMO in Florida, three members selected from a list recommended by Health Insurance Association of America, and two members selected from a list recommended by the Florida Insurance Council to develop the plan of operation of the reinsurance program. [Paragraph 627.6699(8)(b), F.S.]

\*Prepared by House Insurance Committee

11. Specifies the following dates for implementation of the act:

- May 1, 1992 Appointment of initial board for the re-insurance pool.
- May 15, 1992 Appointment of Health Benefit Plan Committee.
- July 1, 1992 Committee submits standard and basic plans to Department for approval.
- Aug. 1, 1992 Department approval of standard and basic plans.
- Aug. 15, 1992 Board submits plan of operation to Department.
- Sept. 15, 1992 Department approval of plan of operation.
- Sept. 15, 1992 Carriers file forms and rates with Department.
- Oct. 31, 1992 Existing carriers make election to be an assuming or reinsuring carrier.
- Nov. 1, 1992 Department approval of forms and rates.
- Jan. 1, 1993 Carriers begin guarantee issue.

**Out-Of-State Group Health Policies**

The provisions of the small group rating law [Section 627.4106, F.S.] (summarized below) and the Employee Health Care Access Act [Section 627.6699, F.S.] (summarized above) are fully applicable to out-of-state policies that cover small employers (3 to 25 employees) in Florida. In addition, Section 627.6473, F.S., is amended to make the mandated benefit for mammogram coverage that applies to in-state policies [Section 627.6613, F.S.] applicable to out-of-state policies.

**Small Group Rating**

Changes are made to Section 627.4106, F.S., the small group rating law enacted in 1991, in order to close loopholes that have been recognized by the National Association of Insurance Commissioners as enabling an insurer to "game" or avoid the rate limitations of the law. This law is designed to require a greater spreading of costs and premiums among all of an insurer's small group policyholders, rather than severely impacting employers and employees with health problems.

**Conversion Policies**

The amendments to Section 627.6675, F.S., limit premiums and simplify and improve the level of benefits that must be offered in an individual conversion policy to an individual whose group coverage terminates. Benefits must be 80 percent of covered medical expenses, until 20 percent of such expense reaches \$2,000, after which benefits must be paid at a rate of 90 percent for the remainder of the year. The maximum benefit level remains at \$250,000, with an annual deductible of \$500, \$1,000, or \$2,000 at the option of the policyholder. The revision clarifies the intent of both the present law and the provisions of this enactment that the insurer is not (and was not) required to provide coverage equal to the coverage that the individual had under the group contract. The act also limits the premiums charged for conversion policies to 200 percent of the standard risk rate as established by the Florida Comprehensive Health Association with adjustments made for differences in the policies.

**Preferred Provider Organizations**

The legislation renumbers and revises Section 627.6471, F.S., to increase the allowable percentage difference between what an insurer may pay a preferred provider and nonpreferred provider from 30 percent to 50 percent and allows reasonable per-visit copayments.

**Medicare Supplement Insurance**

Paragraph 627.6741(1)(b), F.S., is added to require insurers to offer Medicare Supplement policies to persons 65 or older who were covered under a group health policy within the previous 2 months, and Paragraph 627.6741(2)(c), F.S., is revised to require credit for preexisting condition time periods met under a previous group policy. Paragraph 627.6745(3)(b), F.S., as modified, applies the loss ratio requirements to the lifetime

**Exclusive Provider Organizations**

The enactment creates Section 627.6472, F.S., which allows health insurers to issue policies that provide coverage through a network of exclusive health care providers (EPO policies), similar to a health maintenance organization contract. The Department of Health and Rehabilitative Services is required to approve an insurer's plan of operation for the EPO.

**Portability of Coverage Credit For Preexisting Condition Period**

Section 627.6561, F.S., is created by the act, effective October 1, 1992, which requires health insurers to give credit under preexisting condition limitation periods for time covered under a previous group health policy which provides similar or greater benefits, if the new coverage is obtained within 30 days of the previous coverage. This section also prohibits group insurers from imposing a preexisting condition requirement which is greater than 12 months.

**Coverage For Dependents**

Effective October 1, 1992, the measure requires group policies which cover dependent children to cover such children at least until the end of the calendar year in which the child reaches age 25 if they are living at home or are full-time or part-time students. Insurers are permitted to cover any dependent child, regardless of age, under individual family policies.

**Coverage For Full-Time Employees**

Section 627.6563, F.S., which is created to take effect October 1, 1992, requires, upon the employer's request, that a "full-time employee" include any employee that works at least 25 hours per week.

of the policy. Section 627.6736, F.S., is amended to require that out-of-state policies be filed in Florida 30 days prior to issuance. Changes to Section 627.674, F.S., update references to the latest model laws and regulations of the National Association of Insurance Commissioners. Added Subsection 627.673(4), F.S., requires existing policies to continue to meet loss ratio requirements that applied at issue, even if such policies no longer qualify as Medicare Supplement policies. New Subparagraph 627.674(4)(f)2., F.S., clarifies which non-Medicare Supplement policies must contain a Medicare Supplement buyers guide. Added Paragraph 627.6744(2)(a), F.S., conforms to federal law by authorizing insurers to offer policies to Medicaid recipients if Florida's Medicaid plan pays the premiums or pays less than the individual's liability for Medicare cost sharing. All these provisions are effective October 1, 1992.

### Health Insurance Benefits

Subsections 627.6418(2) and 627.6613(2), F.S., as amended, clarify that mammogram benefits must be paid with or without a physician's prescription when the mammogram is performed within the specified schedule. Added Subsections 627.641(4), 627.6415(2), 627.6575(4), and 627.6578(2), F.S., specify procedures for notification by the insured of the birth or adoption of a child and for payment of any additional premiums. Renumbered and revised Section 627.6041, F.S., and amended Section 627.6615, F.S., require insurers which deny claims for children who have reached the limiting age for dependent children to notify policyholders of their burden to establish that the child is handicapped in order to obtain coverage.

### Minimum Standards For "Total Disability"

New Section 627.4233, F.S., provides a minimum standard definition for "total disability" for disability income policies. Section 627.4237, F.S., is created to provide that any restriction by a state licensing board of a health care practitioner's practice because of testing HIV positive would constitute a sickness disability as defined by the section.

### Long-Term Care Insurance

Amended Section 627.9407, F.S., and created Sections 627.94071 and 627.94072, F.S., establish minimum standards under long-term care policies for home health care coverage, require insurers to offer inflation protection and nonforfeiture protection benefits, prohibit prior institutionalization requirements as a condition of coverage, and prohibit attained-age rating.

## INSURANCE (SINKHOLE COVERAGE; PRODUCER CONTROLLED INSURER ACT; REINSURANCE INTERMEDIARY ACT; OTHER AGENT ISSUES)

### Sinkhole Insurance

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1723 (CHAPTER 92-146) relates to sinkhole insurance.

Present law requires sinkhole coverage to be included in all homeowners policies. However, there is no provision prohibiting insurers from not renewing a policy due to a sinkhole claim. Section 627.707, F.S., as created by this act requires insurers to follow specified claims investigation standards for a sinkhole claim. Section 2 of the law provides that until July 1, 1993, insurers are prohibited from nonrenewing a policy on the basis of a claim for sinkhole damage or clay shrinkage, and Section 3 requires a study to be conducted by a university under the direction of the Department of Insurance by January 1, 1993, to examine the issue of insurance coverage of sinkholes, funded by a \$200,000 assessment against property insurers.

### Model Acts

The enactment creates Section 627.7491, F.S., to establish the "Business Transacted with Producer Controlled Property or Casualty Insurer Act" and adds Section 627.7492, F.S., the "Reinsurance Intermediary Act," both based on model acts adopted by the National Association of Insurance Commissioners (NAIC). [In order to obtain accreditation from the NAIC, Florida is required to adopt both of these model acts, summarized below.]

### Producer Controlled Insurer

The "Business Transacted with Producer Controlled Property or Casualty Insurer Act" provides for regulation of the relationship between an insurance agent (producer) and an insurer controlled by the agent, in order to prevent insolvencies of insurers in situations where an agent has the ability and incentive to place high-risk business or an excessive volume of business with an insurer, or to pay himself excessive commissions. The definition of "control" includes the power to direct or cause the direction of the management and policies of an insurer. Subject to certain exceptions, the act applies to an agent who exercises such control over an insurer and if, in any one year, the amount of premiums written with the insurer by the agent is 5 percent or more of the assets of the insurer. The law requires a written contract between the agent and controlled insurer and specifies contract provisions relating to remission of funds to the insurer, commission schedules, underwriting standards, rates and other matters. An independent audit committee of the insurer is required to review the adequacy of the insurer's loss reserves. The measure requires annual reporting to the Department of loss ratios, commissions and other information. Disclosure requirements to policyholders and penalties for violation of the act are also provided.

### Reinsurance Intermediary

At the present time, reinsurance intermediaries are not regulated. Reinsurance is insurance purchased from one insurer by another to reduce the risk of the insurer purchasing coverage for losses under direct insurance that it has written. A reinsurance intermediary negotiates reinsurance contracts between a ceding (buying) and assuming (selling) insurance company. The "Reinsurance Intermediary Act" provides for li-

censure of reinsurance intermediaries and is intended to give the Department regulatory authority to curb abuses in this area, primarily fraud. Insurers are required to use only licensed reinsurance intermediaries. The law also requires written contracts between reinsurance intermediaries and insurers, providing separate requirements for contracts with reinsurance "brokers" who place reinsurance on behalf of the ceding (buying) insurer, and reinsurance "managers" who act as an agent for the assuming reinsurer. The required contract provisions relate to accounting of transactions, maintenance of funds, record keeping, reinsurance standards of the insurer, and disclosure by the intermediary of relationships with reinsurers. A 10-year record keeping requirement is imposed, and certain prohibited acts of intermediaries are listed, such as paying any reinsurance claim that exceeds 1 percent of the reinsurer's surplus without prior approval of the reinsurer. Penalties for violation of the act are provided.

#### Agent Issues

The legislation creates Section 626.032, F.S., to add a new licensing designation of "administrative agent" for those life and health agents who: (1) are employed by a full-time life agent or health agent, (2) perform primarily administrative functions, (3) receive no commissions, and (4) do not solicit business outside of an agency office. An administrative agent is subject to all requirements of a licensed agent except that the continuing education (CE) requirements are one-half of the CE requirements of an agent (14 hours rather than 28 hours every 2 years). The administrative agent may be reinstated as a regular agent upon satisfying the full 28-hour CE requirement.

Subsection 626.381(1), F.S., is revised to conform the appointment renewal date for agents to the continuing education reporting requirements for individuals (the agent's birth date). For entities the renewal date would remain the date of initial licensure.

Section 626.8695, F.S., is created to require the designation of a primary adjuster at adjusting firms, and Sections 626.8696 and 626.8967, F.S., are enacted to provide for the licensure of adjusting firms and grounds for refusal, suspension or revocation of such licenses.

Presently, agents who solicit health insurance and Medicare Supplement insurance must ask each person solicited whether he is currently covered under a health insurance or Medicare Supplement insurance policy. Section 626.8373 is revised to apply these requirements to agents who solicit continuing care contracts and health maintenance contracts.

Other changes include: the creation of Subsection 626.601(6), F.S., to provide an exemption from the public records law [Section 119.07, F.S.] for the Department to keep as confidential a complaint and any information obtained in an investigation until a certain time; Subsections 626.7851(3) and 626.8311(3), F.S., are added to provide an exemption from examination in Florida for life and health agents licensed in other states if those states of licensure grant reciprocal treatment to Florida agents; Subsection 626.9541(1), F.S., is amended

to establish prohibitions against certain uses of powers of attorney and "sliding" of additional sales of products by agents; Section 626.9361, F.S., is created to provide an administrative penalty for failure to file a quarterly report for surplus lines insurers; imposition of a 9-percent per annum interest penalty on surplus lines agents for delinquent surplus lines taxes is effected through the addition of Paragraph 626.932(2)(b), F.S.; and a number of technical changes relating to customer representatives to make Sections 626.072, 626.611, 626.621 and 626.7351-626.7353, F.S., of the law consistent with the changes made in the Insurance Sunset Act of 1990.

#### HIV GOOD SAMARITAN EXCEPTION

COMMITTEE SUBSTITUTE FOR SENATE BILL 1730 (CHAPTER 92-171) expands the definition of "disability" in order to permit health care practitioners to qualify for disability insurance coverage, and creates a Good Samaritan exception for nonmedical personnel who render emergency medical assistance by allowing such persons access to the test results for human immunodeficiency virus (HIV--the virus that causes AIDS) of the persons they assisted.

Pursuant to Section 1 of the act, individual or group disability insurance policies for health care practitioners delivered in this state will include in the definitions of "sickness disability" or "disability due to sickness" any restriction of practice imposed by the state's licensing board as the result of a positive HIV test. The law does not require the payment of disability income benefits unless the insured suffers an actual loss of income.

The legislation also creates an exception to the confidentiality of HIV test results by amending Sub-subparagraph 381.004(3)(i)11., F.S., to permit nonmedical personnel, as well as emergency medical technicians and paramedics, who offer emergency medical assistance during a medical emergency to gain access to the HIV results of the person receiving the assistance if a significant exposure occurs. A significant exposure is defined in Paragraph 381.004(2)(c), F.S., as an exposure to blood or bodily fluids through needle stick, instruments, or sharps, including exposure of mucous membranes and exposure of skin to visible blood or bodily fluids.

In addition, the measure amends Section 395.0147, F.S., which requires a hospital to notify anyone who renders aid to a person who is subsequently diagnosed as having an infectious disease, to exempt this section from any conflict with the restrictions on access to HIV test results imposed by Section 381.004, F.S.

#### PRENEED FUNERAL CONTRACTS

SENATE BILL 758 (CHAPTER 92-97) gives the Department of Insurance the discretionary authority to use the Preneed Funeral Contract Trust Fund to provide restitution to consumers whose preneed contracts have been breached by a provider.

The Preneed Funeral Contract Trust Fund is established for the purpose of providing restitution to preneed contract purchasers and their estates due to a certificateholder's failure to provide the benefits of a preneed contract or failure to re-

fund the appropriate principal amount by reason of cancellation. [There is approximately \$500,000 in the Trust Fund at this time.]

The Department may use moneys from the Trust Fund to contract with outside vendors to administer the requirements of this act. [The Department estimates that it will cost \$57,500 to administer the Trust Fund.]

**FINANCIAL RESPONSIBILITY REQUIREMENTS FOR TAXICABS**

SENATE BILL 1516 (CHAPTER 92-29) amends Section 324.031, F.S., to provide that the owners or operators of taxicabs, limousines and jitneys and other for-hire vehicles must meet the financial responsibility (F.R.) requirements of Chapter 324, F.S., (liability coverage of \$10,000 per person/\$20,000 per occurrence/\$10,000 property damage) by obtaining liability insurance from an insurer that is a member of the Florida Insurance Guaranty Association (an authorized insurer). [This eliminates the other F.R. options currently authorized of self-insuring or obtaining insurance from a captive insurer or risk retention group.] However, pursuant to new Subsection 624.4075(2), F.S., a captive insurer in existence on October 1, 1989 (applicable to a captive insurer currently providing coverage to taxicabs) is permitted to form a domestic insurer with an initial surplus requirement of \$1.5 million rather than the \$2.5 million normally required. [A captive insurer is a form of domestic insurer licensed under Chapter 628, F.S., that is owned by the corporation for which it insures risks. In the taxicab situation, for example, the captive insurer is owned by the same corporation that owns or controls the vehicles being insured. A captive insurer has lower surplus requirements than authorized insurance companies and is not covered by the Florida Insurance Guaranty Association in the event of insolvency.] The act takes effect October 1, 1992.

**TITLE INSURANCE**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 429 (CHAPTER 92-34) changes the amount that a title insurer must deposit in an unearned premium reserve (which must be maintained for the purpose of paying claims or procuring replacement coverage in the event of the insurer's insolvency) and the rate of release of moneys from the unearned premium reserve. [Prior to the enactment of this law, Section 625.111, F.S., required Florida-based title insurers to place an amount equal to 10 percent of its risk premiums in the reserve, regardless of the location of the covered property, and required other title insurers to reserve 10 percent of risk premiums with respect to properties located in Florida. Prior law allowed the insurer to release moneys from the reserve in 20 equal annual installments.]

As amended, Section 625.111, F.S., links the amount reserved to the amount of liability assumed by the insurer rather than the amount of risk premium collected. The title insurer is required to place moneys in the unearned premium reserve at the rate of 30 cents per \$1,000 of net retained liability. The rate of release of moneys from the reserve is accelerated: all funds remaining in the reserves at the end of calendar year 1992, regardless of when deposited, are to be released in 12 equal annual installments beginning with 1993, and, with respect to later years, all funds deposited in the reserve in a particular year are to be released in 12 equal annual installments beginning with the subsequent calendar year.

**CONTINUING CARE RETIREMENT COMMUNITIES**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1711 (CHAPTER 92-56) makes a variety of changes to Chapter 651, F.S., relating to regulation of continuing care retirement communities (CCRCs). The act revises the current requirement in Section 651.085, F.S., that the board of directors or other governing body of a continuing care retirement facility hold quarterly meetings with the residents of the facility to permit the election of a resident to represent residents before the board; Subsection 651.022(3) and Section 651.023, F.S., are amended to require that a CCRC's financial projections be submitted with the application for certificate of authority, rather than with the application for provisional certificate of authority; amended Section 651.026, F.S., requires providers that operate more than one CCRC to submit certain financial information on each facility and removes the requirement that CCRCs attain a ratio of current assets to current liabilities of at least 1 to 1 within their first 5 years of operation, replacing it with a requirement that the Department of Insurance adopt rules setting out meaningful measures of a CCRC's financial viability. A new provision in this section provides the Department with limited access to accounting working papers and similar documents. Revised Section 651.095, F.S., limits the Department's authority to approve or disapprove advertisements and adds a prohibition on false advertising. Modified Subsection 651.119(3), F.S., clarifies a provision relating to assistance to displaced residents. This act removes the July 1, 1992 repeal date of Section 651.119, F.S. Paragraph 651.121(1)(e), F.S., requires that the consumer members of the Continuing Care Advisory Council be residents of Florida CCRCs. Added Subsection 651.125(5), F.S., expands the Department's power to order the removal of affiliated persons whose identity is required in applications for provisional certificates of authority and certificates of authority for CCRCs. The act repeals Subsection 651.055(8), F.S., which removes the exemption of continuing care contracts from securities fraud laws.

LAW ENFORCEMENT AND CRIMINAL JUSTICE\*

**Offense of Stalking**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 97 (CHAPTER 92-208) creates Section 784.048, F.S., which provides for the offenses of "stalking," a misdemeanor of the first degree, and "aggravated stalking," a felony of the third degree.

Under this measure, any person who willfully, maliciously, and repeatedly follows or harasses another person commits the offense of stalking. Additionally, any person who willfully, maliciously, and repeatedly follows or harasses another person and makes a credible threat with the intent to place that person in reasonable fear of death or great bodily injury commits the offense of aggravated stalking. Further, any person who, after an injunction for protection against repeat violence, an injunction for protection against domestic violence, or any other court imposed prohibition of conduct toward the subject person, willfully, maliciously, and repeatedly follows or harasses another person commits the offense of aggravated stalking.

**Sexual Battery**

SENATE BILL 2452 (CHAPTER 92-135) addresses recent decisions of the Florida Supreme Court relating to sexual battery offenses. The legislation provides that:

- 1) under new Section 794.005, F.S., it was, and remains, the intent of the Legislature that the least serious sexual battery offense, described in Subsection 794.011(5), F.S., is included in any sexual battery offense charged under Subsections 794.011(3) and 794.011 (4), F.S.; and
- 2) the Legislature never intended that the least serious sexual battery offense require any force or violence beyond the force and violence that is inherent in the accomplishment of "penetration" or "union."

Furthermore, the law addresses the scoring of victim injury under the statewide sentencing guidelines in certain cases involving sexual contact through revision of Section 921.001, F.S. The measure provides that regardless of whether there is evidence of any physical injury:

- 1) if the conviction is for an offense involving sexual contact which includes sexual penetration, the sexual penetration must receive the score indicated for penetration or slight injury; and
- 2) if the conviction is for an offense involving sexual contact which does not include sexual penetration, the sexual contact must receive the score indicated for contact but no penetration.

Any physical injury to the victim directly resulting from the primary offense or any other offense resulting in conviction must be scored separately and in addition to the points scored for the sexual penetration or sexual contact.

**Theft/Intent to Defraud/Convictions**

COMMITTEE SUBSTITUTE FOR SENATE BILL 316 (CHAPTER 92-79) provides in amended Paragraph 812.014(2)(d), F.S., for the inclusion of any prior theft conviction when enhancing a second or subsequent conviction of petit theft. Also, this act eliminates the requirement in Subsection 812.015(6), F.S., of a conviction of the underlying theft before a person can be convicted of the offense of resisting a merchant. This measure requires, simply, that the person commit the offense of resisting a merchant while committing or after committing a theft of property.

This law also revises Subsection 812.035(10), F.S., to extend the period of limitation for a criminal proceeding when the defendant is continuously absent from the state or is without a verifiable place to live or work within the state. Such period of limitation shall not be extended for more than 1 year beyond the current 5-year period of limitation.

Further, this legislation creates Section 812.15, F.S., making it unlawful to fraudulently obtain, hire, or lease personal property or equipment by false representation. If the value of property or equipment was less than \$300, the violation is a second-degree misdemeanor. If the value of the property or equipment was \$300 or more the violation is a third-degree felony. Evidence of fraudulent intent may be inferred when a person absconds without payment or surreptitiously removes or attempts to remove the property or equipment from the county. Also, the person's failure to make payment or to redeliver the property upon demand made either in person or by certified mail, constitutes evidence of intent to defraud. The act takes effect October 1, 1992.

**Robbery Redefined**

COMMITTEE SUBSTITUTE FOR SENATE BILL 166 (CHAPTER 92-155) enhances the definition of "robbery" in Subsection 812.13(1), F.S., to include the taking of money or other property which may be the subject of larceny from the person or custody of another, "with intent to either permanently or temporarily deprive the person or the owner of the money or other property."

All references to "cable television service" and "community antenna line service" are deleted from Section 812.14, F.S., which relates to the trespass and larceny of utility fixtures.

Section 812.15, F.S., is created to prohibit the unauthorized interception or reception of communication service over a cable system or the act of assisting in the interception or reception of such service. Civil and criminal penalties are established for such activity. The provisions of the law are effective October 1, 1992.

\*Prepared by House Criminal Justice Committee

### Crimes Against Elderly

HOUSE BILL 115 (CHAPTER 92-50) amends Subsection 784.08(2), F.S., effective October 1, 1992, to provide that enhanced penalties are applicable for the crimes of knowingly committing an assault, aggravated assault, battery or aggravated battery upon a person aged 65 or older, regardless of whether the assailant knew or had reason to know the age of the victim.

### Child Pornography

Under Subsection 827.071(5), F.S., as revised by SENATE BILL 380 (CHAPTER 92-83), the possession of each photograph, motion picture, exhibition, show, representation or presentation showing sexual conduct by a child is a separate offense, punishable as a third-degree felony, effective October 1, 1992.

### Drug Possession

HOUSE BILL 405 (CHAPTER 92-19) adds Subsection 893.02(16), to define "possession" for purposes of Chapter 893, F.S., relating to drug control and abuse as the "temporary possession for the purpose of verification or testing, irrespective of dominion or control." The enactment also expands the definition of "counterfeit controlled substance" found in Paragraph 831.31(2)(b), F.S., to mean any substance falsely identified rather than falsely identified "by container or labeling." This law is effective October 1, 1992.

### Victim Assistance

COMMITTEE SUBSTITUTE FOR SENATE BILL 1152 (CHAPTER 92-107) expands the definition of persons eligible for compensation under renumbered and amended Section 960.065, F.S., of the Florida Crimes Compensation Act [Chapter 960, F.S.] by including a sibling of a deceased victim or intervenor and by broadening the definition of "crime" in Subsection 960.03(3), F.S., to include "hit and run" and certain vehicular homicide offenses.

The legislation increases the cost imposed upon offenders in felony, misdemeanor, and criminal traffic cases pursuant to amended Section 960.20, F.S., from \$20 to \$50, which is to be deposited in the Crimes Compensation Trust Fund. The measure also clarifies by the revision of Paragraph 775.089(1)(a), F.S., that an order requiring an offender to make restitution to a specific victim or victims does not remove or diminish the requirement that the offender make the mandatory payment to the Crimes Compensation Trust Fund.

Additionally, the act provides under added Paragraph 90.616(2)(d), F.S., that in a criminal case, a witness who is a victim of the crime, or the victim's representative, may not be excluded from the proceedings unless the court determines that the person's presence is prejudicial.

### Capital Felonies/Victim Impact Evidence

SENATE BILL 362 (CHAPTER 92-81) addresses the admissibility of victim impact evidence during the sentencing pro-

ceedings in capital felony cases. The act brings state law in line with a recent United States Supreme Court decision which stated that "A State may legitimately conclude that evidence about the victim and about the impact of the murder on the victim's family is relevant to the jury's decision as to whether or not the death penalty should be imposed." [Payne v. Tennessee, 111 S.Ct. #2597(1991)].

The legislation provides that the prosecution may introduce, and subsequently argue, victim impact evidence during the separate sentencing proceeding in capital felony [Subsection 921.141(7), F.S.] and capital drug trafficking felony cases [Subsection 921.141(8), F.S.]. Victim impact evidence may be introduced once the prosecution has provided evidence of the existence of one or more statutory aggravating circumstances. The victim impact evidence must be designed to demonstrate the victim's uniqueness as a human being and the resultant loss to members of the community by the victim's death. Characterizations and opinions about the crime, the defendant, and the appropriate sentence cannot be part of the victim impact evidence.

### Crime Victims' Rights

SENATE BILL 1060 (CHAPTER 92-66) creates Section 39.0515, F.S., to provide that a victim of a juvenile offense, or the victim's lawful representative, has the right to be informed, to be present, and to be heard when relevant, at all crucial stages of the proceedings involving the juvenile offender, to the extent that these rights do not interfere with the constitutional rights of the juvenile offender.

In addition, the legislation amends provisions of Chapter 960, F.S., which establish guidelines for the fair treatment of victims and witnesses in the criminal justice system, to provide that victims of crime have a right to a "prompt and timely disposition of the case in order to minimize the period during which the victim must endure the responsibilities and stress involved, to the extent that this right does not interfere with the constitutional rights of the accused" [Subparagraph 960.00(1)(a)7., F.S.].

### Criminal Justice Standards and Training

COMMITTEE SUBSTITUTE FOR SENATE BILL 2108 (CHAPTER 92-131) amends Section 943.133, F.S., to require agencies that employ law enforcement, correctional and correctional probation officers to conduct a thorough background investigation for each applicant. Also, the law requires in new Subsection 943.1395(5), F.S., that an employing agency conduct an internal investigation when there is reason to suspect that an officer is not in compliance with the minimum employment standards. For each investigation in which an allegation is sustained, the employing agency must submit the investigative findings to the Criminal Justice Standards and Training Commission. This information may provide the Commission with sufficient evidence to take disciplinary action against the officer.

The law also directs the Commission pursuant to renumbered and revised Subsection 943.1395(8), F.S., to adopt

rules which establish disciplinary guidelines and procedures for implementing penalties in officer discipline cases. Further, hearing officers assigned to conduct formal hearings in officer discipline cases are directed to: adhere to the disciplinary guidelines or prescribed penalty; and specify, in writing, any aggravating and mitigating circumstance that was considered by the hearing officer when determining the recommended penalty.

#### **Concealed Weapons Licensure**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1817 (CHAPTER 92-183) amends several provisions of the concealed weapon statute. Pursuant to revised Subsection 790.06(2), F.S., the measure permits the Department of State to issue a concealed weapons license to qualified applicants who are residents of the United States. The enactment modifies Paragraph 790.06(5)(b), F.S., to exempt law enforcement officers, correctional officers and correctional probation officers who hold an active certification from the Criminal Justice Standards and Training Commission from the standard background investigation and from paying the background investigation fees. However, the officers must pay the current license fee required of all nonexempt applicants to obtain a concealed weapons license. The act permits the Department of State to determine the applicant's eligibility to receive a license upon a name check when the Department or the FBI cannot obtain a legible set of fingerprints.

The law exempts by amendment of Subsection 790.065(1), F.S., individuals holding a valid concealed weapons or firearms license or holding an active certification from the Criminal Justice Standards and Training Commission from the criminal history background check system for the purchase of a firearm. The measure revises Paragraph 790.065(2)(a), F.S., to require the Florida Department of Law Enforcement [FDLE] to collect additional information to determine the eligibility of the applicant to purchase a firearm. Finally, the measure reduces the FDLE's hours of operation for the criminal history checking system from 16- to 12-hours-per-day, starting at 9 am and ending at 9 pm and sets the fee to conduct the criminal background check at \$5 in Paragraph 790.065(1)(b), F.S.

Amendments to Paragraph 790.06(5)(b), F.S., provided by COMMITTEE SUBSTITUTE FOR HOUSE BILL 271 (CHAPTER 92-52) exempt a "correctional probation officer" from concealed weapons licensing and the required fees and background investigations for such licensing for 1 year following retirement which exemptions already apply to "law enforcement" and "correctional officers." See the revisions to this same paragraph contained in COMMITTEE SUBSTITUTE FOR HOUSE BILL 1817 (CHAPTER 92-183) summarized above.

However, the measure summarized here also modifies Section 843.025, F.S., to make it a felony of the third degree to deprive a "correctional officer" or a "correctional probation officer" of the officer's weapon or radio or to deprive the officer of the means to defend himself or summon help. Heretofore, this activity was an offense only when committed against a "law enforcement officer."

#### **Firearms/Dragon's Breath Shotgun Shells**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 417 (CHAPTER 92-141) revises Subsection 790.31(2), F.S., to provide a third-degree felony for the manufacture, sale, delivery or possession of either "dragon's breath shotgun shells", "bolo shells" or "flechette shells." The act excludes law enforcement officers who possess the shells in the course of their official duties [Paragraph 790.31(3)(a), F.S.].

#### **Firearms/Firearms and Weapons on School Property**

SENATE BILL 1902 (CHAPTER 92-130) creates Section 810.095, F.S., to provide that any person who trespasses upon school property and carries or possesses any weapon or firearm commits a third-degree felony. The section defines "school property" to include public or nonpublic kindergarten and elementary schools, middle and junior high schools, secondary and vocational schools and postsecondary schools.

The law amends Subparagraph 230.23(6)(d)4., F.S., to require each school board to adopt a student conduct code, which includes notification to students that certain drug or firearm violations on school property or at school functions may result in criminal penalties in addition to other school disciplinary actions.

The legislation provides in amended Paragraph 39.037(1)(b), F.S., that the district school superintendent must be immediately notified whenever a student is taken into custody for committing a violent crime or act involving a deadly weapon. Information concerning reports of a student's delinquent acts or violations of law in the possession of school officials is not to be disclosed as "public information," and the information can not be permanently placed and retained in the student's record.

The act also creates Section 790.115, F.S., to provide felony criminal penalties for persons who possess, exhibit or discharge weapons or firearms on any school grounds, with specific exceptions. This law is to take effect October 1, 1992.

#### **Statewide Grand Jury**

SENATE BILL 1158 (CHAPTER 92-108) amends Paragraph 16.56(1)(a), F.S., to permit the Statewide Prosecutor to investigate and prosecute all crimes involving fraud or deceit. Section 905.34, F.S., is revised to extend the jurisdiction of the Statewide Grand Jury to cover all crimes involving fraud or deceit.

#### **Grand Jury Witness Counsel**

COMMITTEE SUBSTITUTE FOR SENATE BILL 66 (CHAPTER 92-154) amends Section 905.17, F.S., to permit a witness who is testifying before a grand jury, other than the statewide grand jury, to have one attorney present in the grand jury room only for advice and consultation. This act states that this provision is permissive only and does not create the right to counsel for a witness testifying before a grand jury. The act takes effect October 1, 1992.

**Sealing and Expunction of Criminal History Records**

COMMITTEE SUBSTITUTE FOR SENATE BILL 120 (CHAPTER 92-73) amends provisions which address the sealing and expunction of criminal history records to provide, in new Subsection 943.0585(1), F.S., that when a person petitions the court to seal or petitions the court to expunge a criminal history record, the petition is complete only when accompanied by:

1. A certificate of eligibility issued by the Department of Law Enforcement (FDLE).
2. The petitioner's sworn statement that the petitioner has: (a) never previously been adjudicated guilty of a criminal offense or comparable ordinance violation; (b) not been adjudicated guilty of any of the charges stemming from the arrest or alleged criminal activity to which the petition pertains; (c) never obtained a prior sealing or expunction of a criminal history record; and (d) is eligible for such relief to the best of the petitioner's knowledge.

Any person who knowingly provides false information on the sworn statement commits a third-degree felony.

The law also prohibits in Subparagraph 943.0585(2)(a)3., F.S., the sealing or expunction of criminal history records which relate to certain criminal offenses, such as sexual battery and drug trafficking.

**Domestic Violence/Mutual Protective Orders**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 507 (CHAPTER 92-42) amends the domestic violence statutes in Section 741.30, F.S., to prohibit a trial court from issuing mutual orders of protection unless specific criteria are met, including:

- 1) both parties have filed a petition for an injunction against domestic violence;
- 2) a sworn petition has been served upon the original petitioner;
- 3) both parties personally appeared before the court; and
- 4) the court finds that each party seeking a mutual order meets the criteria of domestic violence set out in the statute.

The legislation requires the trial court to set forth written findings of fact and conclusions of law in any mutual order of protection and requires sufficient specificity to enable any law enforcement officer to determine which party has violated the order. Additionally, the fact that a mutual order of protection is granted may not be legally sufficient to deny any remedy to a petitioner or counter-petitioner or to prove that the parties are equally at fault or equally endangered.

**Contraband Forfeiture**

THE COMMITTEE SUBSTITUTE FOR HOUSE BILL 397 (CHAPTER 92-54) amends the Florida Contraband Forfeiture Act [Sections 932.701-932.704, F.S.] which provides for the civil forfeiture of contraband articles.

Under Section 932.703, F.S., as revised by this legislation, any person who is entitled to notice in real or personal property forfeiture cases must be notified of their right to a preliminary adversarial hearing to determine whether there is proba-

ble cause to believe that the subject property was used in violation of the forfeiture law. When probable cause is found, the court shall order that any seized property should be restrained by the least restrictive means to prevent waste, disposal, or continued criminal use.

Reworded Section 932.704, F.S., provides that any action under the Contraband Forfeiture Act must be initiated by a complaint in the civil division of the circuit court where the violation occurred or where the property was seized. Replies to the complaint must be filed within 20 days after the complaint is noticed. When the seizing agency proves by clear and convincing evidence that the contraband article was used in violation of the Act, the contraband shall be forfeited and all interests will be perfected in the seizing agency. Pursuant to Paragraph 932.703(6)(c), F.S., as added, the measure provides that no interests of innocent owners and co-owners shall be forfeited under the Act if such owner establishes by a preponderance of the evidence that he neither knew, nor should have known, that the property was employed or likely to be employed in violation of the Act.

Every law enforcement agency must submit semiannual reports to the Florida Department of Law Enforcement indicating any actions such agency has taken under the Act under new Paragraph 932.705(8)(a), F.S., or face a \$5,000 civil fine established by new Section 732.707, F.S.

**Motor Vehicle Theft Prevention Act**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1283 (CHAPTER 92-145) creates the Florida Motor Vehicle Theft Prevention Authority for the purpose of preventing, combatting, and reducing motor vehicle theft in Florida. The Authority, although established within the Department of Legal Affairs, will function independently of the Department. The powers and duties of the Authority will be administered by a board of directors and the executive director of the Authority will be appointed by the Attorney General.

The Authority will be funded through a 50-cent surcharge on each motor vehicle registration or renewal authorized by Section 320.08045, F.S. [The surcharge will generate approximately \$5.2 million each year.] The Authority is also empowered to apply for and solicit funds from any other source. All moneys will be deposited into the newly created Motor Vehicle Theft Prevention Trust Fund. The moneys from the Trust Fund can be used to make grants and to provide financial assistance to federal and state agencies, units of local government, corporations, and local organizations for the purpose of preventing auto theft.

**Citation Quotas**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 223 (CHAPTER 92-18) revises Paragraph 316.640(1)(a), F.S., to prohibit state agencies which enforce traffic laws from establishing a traffic citation quota. Further, the legislation prohibits the Florida Marine Patrol from establishing a citation quota for the enforcement activity of marine patrol officers.

### **DUI Trust Fund**

Provisions relating to the Florida DUI (Driving Under the Influence) Programs Coordination Trust Fund in Section 25.387, F.S., are amended by SENATE BILL 680 (CHAPTER 92-94) to increase the assessments to be deposited monthly in the Fund for each conviction that results in attendance at a DUI program from \$6 to \$10. The DUI Programs Coordination Office is directed to conduct an ongoing evaluation of the effectiveness of the programs in terms of curriculum, client treatment referrals and recidivism rates. The Office is to report each January 1 beginning in 1994 on the progress of the programs and offer any recommendations for improvements to the Chief Justice of the Supreme Court, the Presiding Officers of the Legislature, the Minority Legislative Leaders and appropriate legislative committees.

### **Juvenile Civil Citation**

HOUSE BILL 1273 (CHAPTER 92-20) modifies a reporting requirement in Subsection 39.0255(3), F.S., for a juvenile who has been issued a civil citation by a law enforcement officer to permit the juvenile to report to the community service per-

formance monitor within 7 working days rather than 7 calendar days.

### **Florida Vessel Registration and Safety Law Amended**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 789 (CHAPTER 92-188) relates to the Florida Vessel Registration and Safety Law and amends Subsection 327.22(1), F.S., to authorize any county or municipality to adopt ordinances which provide for the enforcement of noncriminal violations of Section 327.33 F.S., concerning the careless operation of a vessel which endangers or damages property. Such ordinances are applicable only in marked areas in need of shoreline protection. Citations are to be mailed to the designated owner of the vessel.

The lessor is absolved of all responsibility once he has supplied the law enforcement agency with the name and address of the lessee who is responsible for all citations.

The act also revises Subsection 327.50(1), F.S., to require every person under the age of 6 who is aboard a motorboat, sailboat or vessel under 26 feet in length which is underway to wear a Coast Guard approved personal flotation device. The provisions of this law are to take effect October 1, 1992.

## LOCAL GOVERNMENT\*

## Comprehensive Planning

COMMITTEE SUBSTITUTE FOR SENATE BILL 1882 (CHAPTER 92-129) provides a number of revisions to the Local Government Comprehensive Planning and Land Development Regulation Act (Sections 163.3161-163.3243, F.S.), plus statutory changes relating to developments of regional impact, development agreements and special districts. Primary provisions of the act include:

1. Expanding the definition of "public facilities" in Section 163.3164, F.S., to include spoil disposal sites for maintenance dredging located in the intracoastal waterways, except for spoil disposal sites used by certain ports, and expanding the definition of "affected person" in Section 163.3184, F.S., to allow people who have submitted "comments," in addition to those who have objected to the local plan, to intervene in the plan review process.
2. Pursuant to revised Subsection 163.3177(10), F.S., permitting challenges to Chapter 9J-5, Florida Administration Code (F.A.C.), which establishes the minimum criteria for local government comprehensive plans, pursuant to Section 120.56, F.S., after April 1, 1993.
3. Creating Subsection 163.3177(11), F.S., stating the legislative intent that local government comprehensive plans provide not only for efficient land use in urban areas, but also allow for the conversion of rural lands to other uses where appropriate. This is to be accomplished through the application of innovative and flexible planning strategies including: urban villages, new towns, satellite communities, area-based allocations, clustering and open space provisions, mixed-use development and sector planning. The Department of Community Affairs (DCA) is directed to implement these provisions by rule.
4. Creating Section 163.3179, F.S., to provide authorization for local government comprehensive plans to allow property to be used as a homestead by an individual who is the grandparent, parent, stepparent, adopted parent, sibling, child, stepchild, adopted child or grandchild of the person who conveyed the parcel, regardless of the density or intensity of use assigned to the parcel in the plan. The provision would apply only once to an individual.
5. Amending Subsection 163.3184(7), F.S., to increase the time frame for review of a comprehensive plan and plan amendments by allowing 120 rather than 60 days for the local government to adopt a plan or plan amendment after it receives comments from DCA, and by allowing 10 rather than 5 days for the local government to submit an adopted plan or amendment to DCA. The Department is authorized to provide by rule for the number of copies of proposed and adopted plans and amendments that local governments must submit.
6. Creating Subsection 163.3184(16), F.S., to provide codification of the compliance agreement process through which local governments and the DCA negotiate and resolve local comprehensive plan issues. Affected persons may enter into the agreement which may encompass one or more issues raised in the proceedings. All intervenors must be given reasonable notice of the compliance agreement process and meetings must be open to the public. The DCA must provide each intervenor a copy of the compliance agreement within 10 days after it is executed. The agreement must specify remedial actions which the local government must complete within a specified time in order to bring the plan or plan amendment into compliance. If an agreement is reached, any pending administrative proceeding under Section 120.57, F.S., will be stayed.
7. Revising Section 163.3187, F.S., relating to the parameters for small-scale amendments (which are exempt from the twice-per-year limit on amendments) by doubling the allowed residential parcel size and density and the annual cumulative acreage. Amendments involving small-scale development would now include residential land use of up to 10 acres instead of 5 acres, with a density of up to 10 units per acre instead of 5 units, and other land use categories of up to 10 acres instead of 3 acres. Cumulative annual amendments would be limited to 60 acres instead of 30 acres. Procedures for the adoption and review of small-scale amendments are streamlined by requiring only one public hearing and providing for an abbreviated review by DCA which does not include written comments. The DCA is authorized to adopt rules to establish alternative procedures for public notice of small-scale amendments. The act specifies that plan amendments required by a compliance agreement are not subject to the twice-per-year limit on plan amendments.
8. Creating Section 163.3189, F.S., to provide an alternative plan amendment approval procedure that allows a local government to avoid monetary sanctions by delaying the effective date of the amendment until it is found in compliance. If any affected person files a petition challenging a plan amendment pursuant to Section 120.57, F.S., relating to agency decisions which affect a party's substantial interests, the adopted amendment will remain effective unless the hearing officer enters a preliminary determination that the effectiveness of the amendment is stayed or unless the Administration Commission enters a final order finding the adopted plan amendment not in compliance.

\*Prepared by Senate Community Affairs Committee

9. Amending Section 163.3191, F.S., thereby delaying the deadline for the first evaluation and appraisal reports from local governments by 1 year, from 1993 to 1994.
10. Modifying Section 163.3229, F.S., to provide an extension of the maximum duration of a development agreement from 5 to 10 years. No development agreement would be effective unless the local government's comprehensive plan and any amendments relating to the development agreement are found in compliance by the DCA. Pursuant to amended Section 163.3235, F.S., each annual review conducted during years 6 through 10 of a development agreement must be presented to the parties to the agreement and to the DCA by the local government in the form of a written report determining the extent to which the parties are proceeding in good faith to comply with the development agreement.
11. Pursuant to revised Subsection 380.06(19), F.S., beginning on the effective date of the act (April 8, 1992) and effective through December 31, 1994, the time periods which determine whether an extension of the date of buildout of a development of regional impact creates a substantial deviation are extended by 2 years. Any extension of the buildout date of a project or phase of a project would automatically extend the commencement date of the project and the phases thereof by a like period of time.
12. Section 17 of the act requires the DCA to evaluate the development of regional impact process in relationship to comprehensive planning, taking into consideration the recommendations of the Environmental Land Management Study Committee concerning the appropriate role of the developments of regional impact (DRI) process, and make recommendations to the Governor and the Legislature by December 1, 1992.
13. Under Section 18 of this measure, a repeal of all special acts creating dependent fire control districts, effective October 1, 1992, is mandated with the special acts converted to ordinances of the local government to which the special district is dependent.

### Regional Planning

HOUSE BILL 1061 (CHAPTER 92-182) provides for the Sunset (Section 11.61, F.S.) of the Florida Regional Planning Council Act (Sections 186.501-186.515, F.S.), effective September 1, 1993. The Act will be reviewed by the Advisory Council on Intergovernmental Relations (ACIR), in conjunction with the third Environmental Land Legislature by November 1, 1992. The review must consider the impact of a repeal of the Act on counties with a population of 50,000 or less. The ACIR recommendations must ensure that functions currently provided to small counties by the regional planning councils will continue to be made available.

### Mobile Homes/Mobile Home Parks

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2179 (CHAPTER 92-148), amends Chapters 320, 713 and 723 F.S., relating to mobile homes. The act:

- 1) eliminates a construction lien for work done on a mobile home in a mobile home park (Subsection 713.10(3), F.S.);
- 2) provides that a lien for the lot rent and a lien for towing charges will supersede the lien on the mobile home (Subsections 713.78(2) and (5), F.S.);
- 3) applies Chapter 723, F.S., to park trailers located on a mobile home lot in a mobile home park (Subsection 723.004(1), F.S.);
- 4) modifies the mediation process for disputes between a park owner and a mobile home owner (Subsections 723.038(3), (4) and (5), F.S.);
- 5) creates a provision for payment of capital improvements (Section 723.046, F.S.);
- 6) requires an eviction notice to be posted on the premises (Section 723.061, F.S.);
- 7) refers to a subdivision form of ownership and allows the board of directors of a homeowners' association to determine what form of ownership the home owners will have when a park is purchased from a park owner (Section 723.077, F.S.);
- 8) makes a number of changes to the bylaws of the homeowners' association to give the board more power (Section 723.078, F.S.);
- 9) authorizes subscriptions to be sold to allow the homeowners' association to purchase the park (Section 723.079, F.S.);
- 10) requires a lienholder to pay storage charges on a mobile home in certain instances (Section 16 of the act);
- 11) gives the lienholder certain rights in the mobile home park when the mobile home is foreclosed (Section 17 of the law); and
- 12) deletes certain disclosure requirements (Section 723.010 and Subsection 723.013(4), F.S.).

### Local Improvements

SENATE BILL 444 (CHAPTER 92-156) amends Chapter 170, F.S., which authorizes municipalities to impose special assessments to pay for specific improvements. By amending Section 170.01, F.S., it adds several public projects for which the special assessment can be imposed. These additional projects include:

- 1) the construction or reconstruction of permanent sidewalk canopies over public sidewalks and related lighting, landscaping, street furniture, signage and other amenities as determined by the governing authority of the municipality;
- 2) the construction or reconstruction of parks and other public recreational facilities, including appurtenances;
- 3) the construction or reconstruction of sea walls; and
- 4) improvements to permit the passage and navigation of watercraft.

Approval of the assessment for offstreet parking facilities, parking garages or other similar facilities and mass transit systems must be subject to a majority vote of the affected property owners.

Under revised Subsection 170.01(3), F.S., all municipalities, not just those located in Dade County, will be authorized to impose special assessments to stabilize and improve retail or wholesale business districts, or historic districts through promotion, management, marketing, and other similar services. The location of the recreational facilities and the location of the sea walls proposed to be improved are included in the resolution required to declare the use of special assessments pursuant to Section 170.03, F.S.

The act also modifies Section 170.11, F.S., to expand the authority of a local government to pledge other revenue sources, in addition to proceeds from the special assessments, for bonds issued pursuant to Chapter 170, F.S. Municipalities will also be authorized to issue refunding bonds to refund previous bond issues. The law also clarifies that these special assessment bonds cannot be considered a general obligation of the municipality. Pursuant to amended Section 170.17, F.S., these bonds are to bear interest until paid in full rather than until maturity and 10 percent per year thereafter.

#### **Community Development Block Grant Advisory Council**

SENATE BILL 252 (CHAPTER 92-12) amends Section 290.049, F.S., to reestablish the Community Development Block Grant (CDBG) Advisory Council within the Department of Community Affairs. The act specifies the composition and responsibilities of the Council and provides for travel compensation and 4-year staggered terms for council members as required by Section 11.611, F.S., the Sundown Act.

The measure increases the minimum number of required meetings from one to two and requires the Council to meet prior to any significant program revisions or prior to the publication of an administrative rule. The law also provides for an annual report to the Governor, Legislature and the secretary of the Department and directs the Department to furnish assistance to the Council.

#### **Community Redevelopment Areas**

SENATE BILL 1038 (CHAPTER 92-162) amends Subsection 163.380(2), F.S., to eliminate provisions requiring that real property be sold, leased or otherwise transferred at not less than its fair value.

The act provides that the standard for determining the value of real property is that value which is in the public interest. Competitive bidding procedures are deleted and the county, municipality, or Community Redevelopment Agency (CRA) disposing of the property is required to consider long-term benefits to be achieved by the county, municipality or community redevelopment agency resulting from incurring short-term losses or costs in the disposal of such real property.

The enactment further provides that, should the value of the real property being disposed of be less than the fair value, such disposition shall require the approval of the city or coun-

ty governing body, which approval may only be given following a duly noticed public hearing. The law takes effect October 1, 1992.

#### **Local Governments/Outstanding Employees**

SENATE BILL 616 (CHAPTER 92-90) amends Section 125.01, F.S., relating to the powers and duties of the governing body of a county, to authorize the body to, notwithstanding the provisions of Section 215.425, F.S., provide for a lump-sum bonus payment program to reward outstanding employees whose performance exceeds standards. The program must provide that a bonus payment may not be included in an employee's regular base rate of pay and may not be carried forward in subsequent years. The act extends the same authority to a municipal governing body by adding Subsection 166.021(7), F.S.

#### **Law Enforcement Agencies/Mutual Aid**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1134 (CHAPTER 92-165) revises provisions in Chapter 23, F.S., relating to mutual aid agreements between law enforcement agencies. The powers, duties and rights of parties to mutual aid agreements are specified and clarified (Section 23.127, F.S.); procedures for entering mutual aid agreements are modified (Section 23.1225, F.S.); and new authority is provided for law enforcement agencies in Florida to enter into mutual aid agreements with law enforcement agencies in other states (Paragraph 23.121(1)(g), F.S.).

An amendment to Section 316.655, F.S., allows any county participating in an intergovernmental radio communications program approved by the Department of General Services to assess a surcharge of up to \$12.50 on every moving traffic violation within the county. Proceeds for the surcharge would be used to fund county participation in the radio program.

#### **Florida Hazardous Materials Emergency Response and Community Right-to-Know**

HOUSE BILL 2337 (CHAPTER 92-150) addresses several provisions in the existing Florida Hazardous Materials Emergency Response and Community Right-to-Know Act [Sections 252.81-252.91, F.S.].

This act continues the current registration fees in Subsection 252.85(1), F.S., paid by owners or operators of facilities required to file under Section 302 or 312 of the federal Superfund Amendments and Reauthorization Act of 1986 (SARA), Title III which is the Emergency Planning and Community Right-to-Know Act of 1986. The fees are based on the number of employees within the subject facility. The measure clarifies the definition of agricultural employees to eliminate double counting of temporary or seasonal employees.

The legislation imposes a fee on owners of facilities in the manufacturing sector with a Standard Industrial Classification (SIC) Code between 20 and 39. Fees are no more than \$150 per report. The enactment retains the reduced fee for owners and operators of petroleum, gas transmission and liquified pe-

troleum facilities. Under Subsection 252.87(6), F.S., governmental entities are exempt from any fees.

The Department of Community Affairs (DCA) is required to utilize reporting capabilities of other state agencies that regulate hazardous materials (i.e., Department of Environmental Regulation, Department of Insurance, etc.) pursuant to revised Subsection 252.87(7), F.S. Other state agencies are required to assist DCA in informing facility owners of the requirements of this law. Section 9 of the act requires the fee schedule to be reviewed and possibly repealed effective June 30, 1996.

The State Hazardous Materials Emergency Response Commission must establish an efficiency task force to examine the program and recommend to the Legislature ways to improve the program and reduce duplication under Section 10 of the law.

The efficiency task force must also make recommendations on the effectiveness and need for the Commission, the planning districts and local committees. Loan start-up costs are to be repaid from fee money in equal annual installments for the 5 years beginning July 1, 1994, under Section 252.91, F.S., created by the act whose provisions take effect October 1, 1992.

#### Convenience Store/Requirements

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1026 (CHAPTER 92-103) amends existing law providing security standards to protect employees of convenience businesses. "Convenience business" is redefined in Section 812.171, F.S., as any place of business open between the hours of 11 p.m. and 5 a.m., and primarily engaged in the retail sale of groceries or groceries and gasoline. Certain larger stores and restaurants are excluded from the definition.

The act creates statewide convenience business security standards through amendments to Sections 812.173 and 812.174, F.S. Political subdivisions of the state are precluded from adopting different standards; however, under new Section 812.1725, F.S., local ordinances that provide stricter standards and were adopted before September 1988 are not preempted and superseded for 2 years after the effective date of this act.

In addition to refining existing security standards (security camera, lighting, unobstructed view from exterior, etc.), this act requires that convenience businesses where specified serious felonies have occurred must provide enhanced or more stringent security measures between 11 p.m. and 5 a.m. After a minimum of 24 months without an incident of crime, these convenience business may file, with the Department of Legal Affairs, a notice of exemption from these enhanced measures.

Section 812.174, F.S., specified training standards and procedures for new and existing retail employees. Section 812.175, F.S., transfers the burden of enforcement from local government to the State Attorney General. The Attorney General is provided with authority to investigate alleged violations, impose civil fines not to exceed \$5,000, petition for injunctive relief and enter into enforcement agreements with local governments. The Convenience Business Security Trust Fund is established for administration and enforcement of the provisions of this act. The effective date of these provisions is December 31, 1992, unless otherwise provided in the act.

#### Plumbing Fixtures

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 76 (CHAPTER 92-68) states the Legislature finds that current standards regarding the number of sanitary facilities (including water closets and urinals) under state building codes do not adequately provide for the sanitary needs of women.

The act requires a building that is newly constructed after September 30, 1992, whether a publicly owned building or privately owned building with restrooms open to the public, to have a ratio of 3 to 2 water closets provided for women as the combined total of water closets and urinals provided for men. An exemption is provided when a public restroom has two or fewer fixtures for men.

The law defines the term "newly constructed" to mean new construction, building, alteration, rehabilitation, or repair that equals or exceeds 50 percent of the replacement value existing on October 1, 1992, unless the same was under design or construction, or under construction contract before October 1, 1992. The Board of Building Codes and Standards is authorized to adopt rules to administer this enactment, which takes effect October 1, 1992.

#### Veterans

SENATE BILL 348 (CHAPTER 92-80) revises Chapter 296, F.S., relating to veterans services and the Department of Veterans' Affairs. Sections 296.06 and 296.36, F.S., are revised to grant eligibility to Persia Gulf War veterans for benefits available to wartime veterans under the statute. Also revised are fiscal, personnel, and eligibility requirements relating to the Veterans' Domiciliary Home of Florida. In addition, the "Veterans' Nursing Home of Florida Act" is created to provide standards for the operation of the Veterans' Nursing Home of Florida, including requirements for audits and inspections of the Home.

**MOTOR VEHICLES AND TRANSPORTATION\***

The 1992 Legislature focused its transportation program primarily on the creation of jobs. Early in the Session, the Governor and Legislative leadership announced the "Jobs Florida" initiative, which focused on the need to expedite public sector construction projects in an attempt to provide counter-cyclical relief from the national recession. This program was enacted by COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152), and expanded to aid in the growth of private sector construction and employment. The major provisions of the act include:

- 1) provisions which will allow the Department of Transportation to issue approximately \$500 million in bonds to construct two vitally important turnpike projects, the Branan Field/Chaffee Road Facility in Northeast Florida and the Polk County Parkway in Central Florida;
- 2) provisions that will result in the expediting of construction projects utilizing right-of-way bonds, including projects in Dade and Broward counties, among others;
- 3) provisions relating to the permitting of access connections to the State Highway System, which should provide a much needed stimulus for managed growth in urban and rural areas of Florida;
- 4) provisions extending the availability of state funding for commuter rail programs, including Tri-Rail;
- 5) provisions authorizing the creation of a public-private partnership to construct a statewide high-speed rail system, if financially feasible; and
- 6) provisions providing greater flexibility to the Department to fund intermodal connections linking Florida's major transportation modes, which should increase Florida's interstate and international trade capabilities.

Legislation addressing various highway safety issues was also passed during the 1992 Session. This legislation covered a diverse subject matter, including the creation of additional specialty license plates (the "Olympics" plate and the "Purple Heart" plate), the regulation of driving schools by the Department of Highway Safety and Motor Vehicles, the provision of additional consumer protection relating to vehicle emission repairs, and the prohibition of the establishment of traffic citation quotas.

**MOTOR VEHICLES**

**Motor Vehicle License Plates**

HOUSE BILL 927 (CHAPTER 92-189) authorizes the issuance of two new categories of motor vehicle license plates, the Purple Heart license plate and the Florida United States Olympic Committee license plate.

As provided in amended Subsection 320.089(1), F.S., the Purple Heart license plate may be issued to a recipient of a Purple Heart medal upon presentment of proof of being a recipient of such medal and payment of the applicable license

tax and an additional fee of \$2.50. Sales during the 1995-1996 fiscal year will determine continued authorization.

The Florida United States Olympic Committee license plate may be issued upon payment of the applicable license tax and a special use fee of \$15 pursuant to Section 320.08075 as created by the law. The first \$5 million collected annually from the special use fee must be distributed to the Florida Governor's Council on Physical Fitness and Amateur Sports to be used as follows: 50 percent of the proceeds to the Florida United States Olympic Committee and 50 percent to the Florida Sunshine State Games. Any additional fees collected must be deposited into the General Revenue Fund.

The enactment also modifies Section 320.0808, F.S., to revise the distribution, purpose, and use of the annual use fee of the Challenger license plate to provide a funding mechanism for the Center for Space Education operated by the Astronauts Memorial Foundations, Inc. The 50 percent share of the annual use fee which had previously been allocated for the construction and maintenance of the astronaut's memorial is dedicated instead for the design, construction, and maintenance of the Center for Space Education. [The memorial has been constructed and sufficient funds have been allocated for future maintenance needs.] Any funds remaining are to be used to fund the Astronauts Memorial Foundation, Inc.'s Classroom of the Future.

The Auditor General is authorized to examine all records pertaining to the Astronauts Memorial Foundation, Inc., and to the Technological Research and Development Authority. Such audit must be completed by December of 1993 and the findings reported to the Legislature. The act is to take effect October 1, 1992.

**Driver Improvement Schools**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1441 (CHAPTER 92-195) repeals the Sunset of Subsection 318.14(9), and Sections 318.1451 and 322.291, F.S., relating to driver improvement schools. Section 318.1451, F.S., is amended to clarify that the Department of Highway Safety and Motor Vehicles must license and regulate driver improvement schools. Further, the Department is directed to perform studies of driver improvement courses to determine the effectiveness of such courses on crash and violation rates and report such findings to the Legislature by October 1, 1997. For the purpose of assessing the effectiveness of such courses, the Department is authorized to suspend normal penalties provided by Chapters 316, 318 and 322, F.S., with respect to those persons participating in the studies. Finally, the act amends Section 322.291, F.S., to require attendance at an advanced driver improvement course for certain traffic offenses resulting in the suspension or revocation of a person's driver's license.

\*Prepared by Senate Transportation Committee

### Motor Vehicle Emissions Repairs

Section 325.202, F.S., is revised by COMMITTEE SUBSTITUTE FOR HOUSE BILL 275 (CHAPTER 92-39) to define the term "short-term rental vehicle." "Short-term rental vehicle" means a motor vehicle leased without a driver and under a written agreement to one or more persons from time to time for a period of less than 3 months.

The act amends Section 325.203, F.S., to exempt new motor vehicles which are utilized as short-term rental vehicles from having to undergo emissions inspection at the time of the first registration. Short-term rental vehicles are also exempt from emissions inspection at the time of the first registration renewal by the original owner provided the renewal occurs within a year of the first registration of the motor vehicle.

The law modifies Section 325.210, F.S., to provide that if any motor vehicle repair shop advertises or represents to its customers that repairs will be made enabling a vehicle to pass the state emissions inspection and the shop makes any repairs it determines to be necessary to enable the vehicle to pass the inspection and the vehicle fails the inspection and is brought back to the repair shop within 2 weeks for any additional repairs necessary for it to pass, the repair shop is required to make the additional repairs and charge the vehicle owner for only the generally accepted retail cost of parts for the additional repairs.

Further, any motor vehicle repair shop that tests a vehicle within 90 days of the expiration of the vehicle's registration is required to disclose, prior to undertaking repairs, the statutory limits on emissions-related repair costs and must also disclose that the cost of any repairs made more than 30 days before the emissions inspection will not satisfy these limits. This disclosure must be made to the consumer on at least one form that is signed by the consumer prior to the repairs being made and must also be prominently posted in a public area in the repair shop's place of business. The disclosure must contain the following language: "LIMITS ON EMISSIONS REPAIR: Waivers from additional repair costs in excess of \$100 for model years 1975-1979, and \$200 for model years 1980 and thereafter, may be available from the Department of Highway Safety and Motor Vehicles for repairs done after failing the state certified emissions inspection or within 30 days prior to such inspection."

Any repair shop which charges the vehicle owner more than the generally accepted retail cost of the repair parts, or that fails to make the required disclosure, is guilty of a misdemeanor in the first degree, punishable by up to 1 year in prison, a fine not to exceed \$1,000, or both. This provision does not apply if the vehicle owner takes the vehicle to another repair shop for the additional repairs.

This act also provides, in an amendment to Section 325.209, F.S., that emissions-related repairs that have been performed within 30 days prior to inspection may be considered in determining whether to grant a waiver from inspection.

### Traffic Enforcement

COMMITTEE SUBSTITUTE FOR HOUSE BILL 223 (CHAPTER 92-18) amends Section 316.640, F.S., to prohibit the Florida Highway Patrol, the Division of Law Enforcement of the Game and Fresh Water Fish Commission, and the Division of Law Enforcement of the Department of Natural Resources from establishing a traffic citation quota.

In addition, any disciplinary action taken or performance evaluation conducted by the Florida Highway Patrol, the Division of Law Enforcement of the Game and Fresh Water Fish Commission, or the Division of Law Enforcement of the Department of Natural Resources must be in accordance with written work performance standards, which must be approved by the agency and any collective bargaining unit representing the law enforcement officers of that particular agency.

The law also prohibits the Division of Law Enforcement of the Department of Natural Resources from establishing a citation quota for marine patrol officers. The Department of Natural Resources is required to promulgate rules by October 1, 1992, to implement this provision.

The measure also revises Section 316.304, F.S., to authorize the operator of a motor vehicle to use a headset in conjunction with a cellular telephone that only provides sound through one ear but allows surrounding sounds to be heard with the other ear.

HOUSE BILL 1397 (CHAPTER 92-193), as it amends Section 316.1906, F.S., redefines the term "radar" to include laser-based or microwave-based speed-measurement systems employed by a law enforcement agency to detect the speed of motorists.

### Odometer Fraud Prevention and Detection Trust Fund

By revision of the provisions in Subsection 319.324(2), F.S., SENATE BILL 1602 (CHAPTER 92-119) permits the Department of Highway Safety and Motor Vehicles to use the funds deposited in the Odometer Fraud Prevention and Detection Trust Fund for the cost of general operations.

### Port Vehicles

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1665 (CHAPTER 92-197) revises Section 320.525, F.S., to exempt port vehicles and equipment from vehicle registration requirements, including the payment of license taxes and the display of license plates, when operating within the port facility of any deepwater port of the state and engaged in the transportation of cargo, containers, or other equipment to and from the wharves, storage areas or terminals. The exemption extends to port vehicles or equipment operating on a public road within a deepwater port facility.

## TRANSPORTATION

### Airport Zoning and Regulation

Section 333.025, F.S., as amended by COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152), pro-

vides that any person wishing to erect a structure in an airport hazard area, which structure would exceed federal standards, must obtain a permit from the Department of Transportation if the proposed construction is within a 10-nautical-mile radius of the center of a publicly owned or operated airport, a military airport, or an airport licensed for public use. Permit requirements do not apply to projects having received a construction permit from the Federal Communications Commission for structures exceeding federal obstruction standards prior to May 20, 1975, provided such structures currently exist. A permit for a structure is not required from the Department when the political subdivision in which the structure is to be erected has adopted adequate height zoning ordinances, and such regulations are on file with the Department. In determining whether to issue or deny a permit, the Department must consider the safe and efficient use of navigable airspace, and the cumulative effects on navigable airspace of all existing and proposed structures. The Department may not approve a permit for a structure unless the applicant submits documentation showing compliance with the federal requirement for notification of proposed construction and a valid aeronautical evaluation.

The act creates Section 331.21, F.S., to provide that the presiding member of an airport authority which operates an international airport enplaning more than 8 million passengers annually may serve a term of office of no more than 8 consecutive years.

Section 333.031, F.S., is amended to direct the Airport Safety and Land Use Compatibility Study Commission to assess the effectiveness of the Commission's 1991 report to the Governor and Legislature, to make any appropriate modifications, and to subsequently provide a final report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader by July 1, 1993. The law repeals Section 333.031, F.S., upon submission of the report to the Legislature.

[Other provisions of this act are discussed under the TRANSPORTATION sections *Public Transit, Passenger Rail, Center for Urban Transportation Research, Transportation Contracts, The Florida Turnpike, Expressway and Bridge Authorities, Transportation Planning, Transportation Disadvantaged Commission, Access Management, Department of Transportation Organization, and Transit Bus Benches.*]

### Public Transit

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152) amends Section 341.031, F.S., to authorize the Department to implement a commuter assistance program to promote the use of ridesharing arrangements and transportation demand management strategies, including the creation of transportation management associations. Section 341.041, F.S., is revised to permit public agencies, and private nonprofit corporations approved by the local government and the Department as being consistent with local, regional, and state transportation plans to receive funds under the commuter assistance program.

Section 341.051, F.S., is modified to authorize the Department to fund up to 50 percent of the nonfederal share of the cost of a public transit capital project, not to exceed the local share.

Section 341.052, F.S., is amended to require that the use of block grant funds for eligible public transit operating costs may not exceed 50 percent of such costs or an amount equal to the total revenue, excluding farebox, charter, and advertising revenue and federal funds, received by the provider for operating costs, whichever amount is less. Each applicant will receive no less than \$20,000. Any funds that cannot be expended by the provider within the limitations of the block grant program will be returned to the Department for redistribution; or the provider may agree to accept a block grant for less than the total amount if the full amount cannot be expended. If an audit reveals that the eligible provider spent block grant funds on unauthorized uses, such funds must be repaid to the Department.

Under revised Section 341.053, F.S., provision is made for the construction of intermodal or multimodal transportation terminals, and other projects which facilitate the intermodal or multimodal movement of people and goods by road, rail, or fixed-guideway access to, from, or between seaports, airports, and other transportation terminals.

Section 341.102, F.S., is amended to provide that Dade County and any local government located within the county may not unduly restrict or impose any economic regulation upon any private-sector contract transportation agreement, an agreement between a bus owner and a private-sector or public-sector entity for the prearranged transportation of specified passengers. A vehicle designed for carrying more than 10 passengers may prearrange transportation of specific passengers over public roads that do not overlap public transportation corridors by more than 70 percent, provided that such passengers are employees, patients, or clients of the entity with whom the agreement is made.

[Other provisions of this act are discussed under the TRANSPORTATION sections *Airport Zoning and Regulation, Passenger Rail, Center for Urban Transportation Research, Transportation Contracts, The Florida Turnpike, Expressway and Bridge Authorities, Transportation Planning, Transportation Disadvantaged Commission, Access Management, Department of Transportation Organization, and Transit Bus Benches.*]

### Passenger Rail

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152), revises Section 339.08, F.S., to provide that State Transportation Trust Fund moneys may not be used to fund the administrative expenses of commuter rail authorities that do not operate rail service.

The act amends Section 341.302, F.S., to provide that the Department of Transportation rail system plan must be updated once every 2 years and must include plans for both passenger rail service and freight rail service.

Section 341.3025, F.S., as modified by the law, provides that any entity that owns or operates a public rail system in two or more counties may adopt rules and regulations relating to the operation and management of its rail system.

The enactment also amends Section 341.303, F.S., to require rail projects to be consistent, to the maximum extent feasible, with the approved local government comprehensive plan of the unit of government of the areas served by the rail service. The act further amends the section to authorize the Department to fund up to 50 percent of the net operating costs of any intercity or commuter rail service development project that is local in scope, not to exceed the local match. The Department is authorized to fund up to 100 percent of the net operating costs of an intercity or commuter service development project that is statewide in scope.

For a commuter rail service development project, after the 5th year of operation, the Department's participation is limited to a maximum of 50 percent of the net operating costs of the service, and after the 7th year, the Department's participation is limited to 25 percent of the net operating costs for a maximum of 3 years. Any service development project funded under the section must meet a system-wide operating ratio of 25 percent or more during the 5th year to continue to be eligible for such funds.

Section 343.54, F.S., is revised to require that expansions of the service currently operated by the Tri-County Rail Commuter Authority must be consistent, to the maximum extent feasible, with the appropriate approved local government comprehensive plans.

The act also amends Section 343.64, F.S., to authorize the Central Florida Commuter Rail Authority to develop and provide feeder bus service to rail stations, and to purchase liability insurance directly rather than through the Department of General Services (DGS). The section is further amended to require the Central Florida Commuter Rail Authority to develop and adopt a plan for the development of the commuter rail system by February 1, 1993. The plan must be updated annually.

Further, the law modifies Section 343.73, F.S., to authorize the Department of Transportation district secretary or his designee to be a voting member of the Tampa Bay Commuter Rail Authority. Section 343.74, F.S., is amended to authorize the Tampa Bay Commuter Rail Authority to purchase liability insurance directly rather than through DGS.

Legislative authority is provided in Section 162 of the act for the Florida Department of Transportation to implement AMTRAK rail passenger service between New Orleans, Louisiana and Tallahassee, Florida.

Section 341.3201, F.S., is created to designate Sections 341.3201-341.382, F.S., as the Florida High-Speed Rail Transportation Act. These sections are amended by the measure to transfer all powers, duties, property, and functions of the Florida High-Speed Rail Transportation Commission to the Department of Transportation.

Section 341.321, F.S., is revised to provide legislative intent in order to promote the advancement of the High-Speed Rail Act of 1984 and to ensure a relationship between the act and

the various growth management laws. The section is further amended to require the high-speed rail line, transit stations, and any associated development to be consistent, to the maximum extent feasible, with local comprehensive plans.

The term "ancillary facilities" is deleted throughout Sections 341.3201-341.382, F.S., and replaced with the term "associated development," which is defined to mean property, equipment, or buildings which are built, installed, or established to provide financing, funding, or revenues for the planning, construction, management, and operation of a high-speed rail transportation system and which are *directly associated* with the transit station. The term includes property, including air rights, necessary for joint development.

The measure modifies the High-Speed Rail Act to create a step-by-step approach for the franchise application and review processes, and the certification process. The act imposes a nonrefundable franchise application fee of \$25,000.

[Other provisions of this act are discussed under the TRANSPORTATION sections *Airport Zoning and Regulation, Public Transit, Center for Urban Transportation Research, Transportation Contracts, The Florida Turnpike, Expressway and Bridge Authorities, Transportation Planning, Transportation Disadvantaged Commission, Access Management, Department of Transportation Organization, and Transit Bus Benches.*]

#### Center for Urban Transportation Research

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152) amends Section 334.065, F.S., to expand the authorization for the Center for Urban Transportation Research (CUTR) to serve as an information depository for information pertaining to urban transportation to include related issues. Except for projects required by law, no state-funded project may be undertaken without the approval of CUTR's advisory board. The membership of the advisory board must consist of nine experts in transportation-related areas, including the secretaries of the departments of Transportation, Community Affairs, and Environmental Regulation, or their designees, and a member of the Florida Transportation Commission. The appointment of the other members must be reviewed and approved by the Florida Transportation Commission.

The Center is authorized to develop a budget and submit it to the Governor along with the budget of the Board of Regents. Section 212.69, F.S., is amended by the act to annually allocate \$1.5 million from the Gas Tax Collection Trust Fund to be transferred to the Board of Regents to be used solely for funding CUTR.

[Other provisions of this act are discussed under the TRANSPORTATION sections *Airport Zoning and Regulation, Public Transit, Passenger Rail, Transportation Contracts, The Florida Turnpike, Expressway and Bridge Authorities, Transportation Planning, Transportation Disadvantaged Commission, Access Management, Department of Transportation Organization, and Transit Bus Benches.*]

### Transportation Contracts

Section 337.106, F.S., as amended by COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152), exempts a person or firm providing professional services of a research or training nature to the Department of Transportation from the requirement of maintaining a professional liability insurance policy or other form of indemnification for services rendered. The section is further amended to provide that for persons or firms authorized to substitute letters of credit when contracting with the Department, such letters of credit must be solely for the benefit of the Department and must be valid until 3 years after final acceptance of the project.

The act revises Section 337.18, F.S., to authorize the use of incentives for early completion of a revenue-producing project. The Department may exceed the maximum incentive payment for revenue-producing projects if an analysis indicates that additional revenues estimated to be received due to the early completion of the project exceed the cost of the incentive payments.

Section 337.175, F.S., is modified to authorize Department contractors to substitute securities pursuant to Section 255.052, F.S., in lieu of retainage.

The State Arbitration Board, as authorized by Section 337.185, F.S., facilitates the prompt settlement of claims. The section is revised to authorize a Department contractor, at his option, to have every contractual claim or claims in an aggregate amount in excess of \$100,000, but not exceeding \$250,000 per contract, that cannot be resolved by the Department and the contractor arbitrated by the Board. The section is further amended to increase the fee charged to the party requesting arbitration to \$1,000 when such claim is in excess of \$100,000.

The act also revises Section 337.221, F.S., to simplify the claim settlement process. The Department must include in its claim settlement process documentation of the final decision on all claims with reasonable support for such decision. In addition, certain specified procedures are established for claim settlements which increase a contract by more than \$500,000. The Department must annually file a summary report on all claim settlements with the transportation committees of the Legislature by October 1 of each year.

Section 337.108, F.S., is created to provide that the Department may hold harmless and indemnify a contractor for damages when the contractor discovers or encounters hazardous materials or pollutants during the performance of services, if the presence of such materials were unknown or not reasonably discoverable. Such indemnification agreement may not indemnify the contractor for damages resulting from any willful, wanton, or intentional conduct of the contractor.

A new subsection is added to Section 337.015, F.S., relating to the administration of public contracts, to require the Department to make payments for road and bridge contracts throughout the month to provide for the minimization of fluctuation of the Department's cash balance.

The law amends Section 287.042, F.S., to provide that architectural, engineering, or other related services are subject to

contracting procedures established by the Department for minority business enterprises.

[Other provisions of this act are discussed under the TRANSPORTATION sections *Airport Zoning and Regulation, Public Transit, Passenger Rail, Center for Urban Transportation Research, The Florida Turnpike, Expressway and Bridge Authorities, Transportation Planning, Transportation Disadvantaged Commission, Access Management, Department of Transportation Organization, and Transit Bus Benches.*]

### The Florida Turnpike

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152) amends Section 338.2275, F.S., to make various revisions to approved turnpike projects. The act redefines the Branan Field/Chaffee Road Facility to increase its length by one-half mile and redefines the Western Beltway to exclude that portion of the roadway known as the Northwest Beltway Part A. The Central Connector is approved as a turnpike project and the Department is authorized to expend up to \$350 million for such project. The Northern Extension Project is also approved as a turnpike project, for which the Department is authorized to expend up to \$336 million. Further revisions to approved project amounts are provided as follows:

- 1) Polk County Parkway is increased from \$335 to \$412 million;
- 2) Branan Field/Chaffee Road Facility is increased from \$52.2 to \$102 million;
- 3) Palmer Expressway is increased from \$102 to \$121 million;
- 4) Seminole County Expressway, Project #1 is increased from \$182.4 to \$200 million;
- 5) Northwest Hillsborough Expressway is increased from \$325.9 to \$333 million;
- 6) Southern Connector Extension is increased from \$81.5 to \$82 million;
- 7) Seminole County Expressway, Project #2 is increased from \$149.8 to \$150 million;
- 8) North Suncoast Corridor is increased from \$402.5 to \$434 million; and
- 9) Western Beltway is decreased from \$636.8 to \$453.2 million.

The section is further amended to increase from \$1.1 billion to \$1.5 billion the maximum amount of bonds that may be issued to fund the approved turnpike projects.

Section 338.223, F.S., as amended by the act, provides that State Transportation Trust Fund moneys spent prior to July 1, 1992, included in the work program adopted in July 1991, or included in the work program adopted no later than July 1, 1992, for a proposed turnpike project do not have to be reimbursed to the Fund nor used in determining the economic feasibility of the proposed project.

[Other provisions of this act are discussed under the TRANSPORTATION sections *Airport Zoning and Regulation, Public Transit, Passenger Rail, Center for Urban Transportation Research, Transportation Contracts, Expressway and Bridge Authorities, Transportation Planning, Transportation*

*Disadvantaged Commission, Access Management, Department of Transportation Organization, and Transit Bus Benches.*]

**Expressway and Bridge Authorities**

Section 338.251, F.S., as amended by COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152), provides that funds may be advanced for appropriate project-related professional services on toll projects. The section is further amended to provide that funds may not be advanced for funding final design cost beyond 60 percent until an acceptable plan to finance all project costs, including the reimbursement of outstanding trust fund advances, is approved by the Department.

Section 348.60, F.S., is revised to provide that the Tampa-Hillsborough County Expressway System is part of the State Highway System.

Authorization is provided by Section 134 of the act to the Orlando-Orange County Expressway Authority to issue bonds for the financing of improvements to toll collection facilities, interchanges to the expressway system, and any other facilities appurtenant, necessary, or incidental to the approved system. The Authority is also authorized by Section 135 of the law to construct the Northwest Beltway Part A, as part of the Authority's 20-year capital projects plan. However, any portion of such project which is financed by the Authority's revenue bonds cannot be part of the Florida Turnpike.

Provisions relating to the Santa Rosa Bay Bridge Authority in Section 348.968, F.S., are amended to redefine the Santa Rosa Bay Bridge System to include the possible connection to Santa Rosa Island, together with any and all appurtenant facilities, approaches, and avenues of access. The section is further amended to delete as a source of revenues for purposes of bonding those funds defined as the "Santa Rosa County gasoline tax funds."

The act revises Section 348.969, F.S., to authorize the Authority to make and issue bonds, which bonds may be issued pursuant to the State Bond Act or pursuant to procedures provided by the law. The Authority may hire consultants, subject to applicable state bidding laws as provided by the legislation, and may also participate in any grants, advances, or technical support provided by any federal agency, state agency, the county or other political subdivision, or any other expressway authority, transportation authority, or similar organization.

Section 348.97, F.S., as amended by the enactment, provides that nothing in the lease agreement with the Department of Transportation is intended to require on-going appropriations from the state nor does it provide any rights to any bond holder for such continuing appropriation.

The measure creates Section 348.9761, F.S., which exempts the Authority from the payment of any taxes upon any property acquired by or upon any revenues received by such Authority. However, this exemption does not apply to any tax imposed by Chapter 220, F.S., on interest, income, or profits on debt obligations owned by corporations.

New Section 348.9781, F.S., provides that the powers granted to the Authority by the act are supplemental to any existing powers and are not to be construed as repealing any of the provisions of any other law, general, special or local. However, powers provided by the legislation supersede all others if there are any apparent inconsistencies.

Section 348.0004, F.S., is modified to provide that any expressway authority established in Dade County may not undertake any construction that is not consistent with both the applicable metropolitan planning organization's transportation improvement plan and the county's comprehensive plan.

The law also requires the Department of Transportation, in Section 164, by no later than July 1, 1992, to adjust toll rates to authorize any person who wishes to purchase an annual permit allowing unlimited passage over the Bryant Grady Patton Bridge in Franklin County by the motor vehicle for which it is purchased to do so at an annual cost of \$100.

[Other provisions of this act are discussed under the TRANSPORTATION sections *Airport Zoning and Regulation, Public Transit, Passenger Rail, Center for Urban Transportation Research, Transportation Contracts, The Florida Turnpike, Transportation Planning, Transportation Disadvantaged Commission, Access Management, Department of Transportation Organization, and Transit Bus Benches.*]

**Transportation Planning**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152) amends Section 339.155, F.S., to require the Department of Transportation to hold an annual systems planning hearing for metropolitan statistical areas and areas projected to become metropolitan statistical areas within the next 10 years. A hearing held on a metropolitan urban area transit study or on an equivalent comprehensive transportation planning study may be substituted for the planning hearing requirement if it is so stated in the public notice of the study hearing.

The act requires the Department, prior to holding a planning hearing, to publish a notice in the Florida Administrative Weekly and a newspaper of general circulation for the metropolitan statistical area. Notices of the hearing are required to be published twice prior to the day of the hearing, with the first notice published at least 14 days prior to the hearing.

Section 339.175, F.S., is amended by the law to authorize the Governor to provide for metropolitan planning organization (MPO) members who represent municipalities to alternate annually with representatives from other municipalities within the designated urban area that do not have members on the MPO.

The annual transportation improvement program is required to be submitted to each member of the Legislature who represents the MPO area at least 120 days prior to the submission of the tentative work program to the Florida Transportation Commission.

The Metropolitan Planning Organization Advisory Council is created to augment, and not supplant, the role of the individual MPO's in the cooperative transportation planning process

and provides for the council's membership, powers, and duties.

Section 339.135, F.S., is revised to require that prior to submittal of the district work program to the central office, a district office must provide an affected metropolitan planning organization with written justification if the district plans to reschedule or delete from its work program any project which is part of the MPO's transportation improvement program and which is contained in the last 4 years of the previous adopted work program. The affected MPO has up to 14 days after submittal of the district work program to the central office to object to the deletion or rescheduling.

The Department is required to submit the tentative work program to the Executive Office of the Governor, the Legislative Appropriations Committees, the Florida Transportation Commission, and the Department of Community Affairs at least 14, rather than 30, days prior to the convening of the regular legislative session.

The Florida Transportation Commission is required to conduct a statewide public hearing on the tentative work program and to advertise the time, place, and purpose of the hearing in the Florida Administrative Weekly at least 7 days prior to the hearing. By no later than 14 days after the beginning of the regular legislative session, the Commission must submit a report to the Executive Office of the Governor and the Legislative Appropriations Committees evaluating the tentative work program. Following this evaluation, the Department is required to submit the tentative work program to the Executive Office of the Governor and the Legislative Appropriations Committees no later than 14 days after the regular legislative session begins.

The Department of Transportation is required to maintain at all times a list of projects on which construction could begin *within the next 2 years* if additional sources of revenue become available. This list must include all project phase costs required to complete construction, including construction engineering inspection at present cost. The list must be submitted to the Executive Office of the Governor and the Legislative Appropriations Committees no later than 14 days after the regular legislative session begins. The Department is further required to maintain at all times a list of projects on which construction could begin *immediately* if additional revenue sources become available. This list may include not more than 50 percent of the annual construction program and must include state and federal projects.

Section 339.135, F.S., is further amended to authorize a district secretary to loan funds to another district under certain conditions which are specified in the act.

The act also provides that a proposed amendment to the adopted work program which advances or defers a project phase is subject to the Department's amendment notification procedures only if such phase is advanced or deferred to another fiscal year. Further, a phase which is advanced or deferred for 90 days or less is not subject to such procedures, even if such advancement or deferral is to another fiscal year.

Section 337.276, F.S., is modified to authorize the Department to spend bond proceeds to acquire right-of-way for a

project in the Department's adopted work program if: the acquisition of such right-of-way is necessary to ensure the availability of previously donated right-of-way; the majority of the costs of a construction phase of the project will be financed by local or private funds; or a local government enters into an agreement to advance the construction phase of the project. Such use of bond proceeds must be specifically and separately identified in the tentative work program.

The act amends Section 204.46, F.S., to require that a maximum of \$50 million must be transferred annually from the State Transportation Trust Fund (STTF) to the Right-of-Way Acquisition and Bridge Construction Trust Fund as needed to meet the debt requirements of the right-of-way bonds. Section 215.605, F.S., is amended to permit excess funds not needed for such purposes to be transferred back to the STTF to be used for any transportation purpose.

Section 336.045, F.S., is revised to require the Department to consider design approaches compatible with the surrounding natural or manmade environment, the safety and security of public spaces, and appropriate aesthetics in the development of uniform design standards and criteria. The Department must annually provide funds in the tentative work program to implement such aesthetic design standards.

The section is further amended to provide that if the governing body of a county or municipality has adopted a design element as part of its comprehensive plan, the Department must consider such element during project development of transportation facilities and the design of such facilities must be consistent with that element to the maximum extent feasible.

Section 6 of the act authorizes the Department to accept donations of plans, materials, installation, and maintenance for landscape projects on the State Highway System. The Department must adopt rules based on specified criteria for review and permitting of landscape donations. The Department is further authorized to permit the placement of signs at the site of such donations.

The enactment deletes the requirement that any funds provided under Section 335.20, F.S., the Local Government Transportation Assistance Act, which are not expended or committed by a district prior to April 1, must be redistributed to the other districts for use under the program pursuant to a formula based on population and fuel tax collections. The Department is authorized to provide up to 50 percent of the cost of any project funded pursuant to the Local Government Transportation Assistance Act.

[Other provisions of this act are discussed under the TRANSPORTATION sections *Airport Zoning and Regulation, Public Transit, Passenger Rail, Center for Urban Transportation Research, Transportation Contracts, The Florida Turnpike, Expressway and Bridge Authorities, Transportation Disadvantaged Commission, Access Management, Department of Transportation Organization, and Transit Bus Benches.*]

#### Transportation Disadvantaged Commission

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152) amends Section 287.042, F.S., to authorize pri-

vate nonprofit community transportation coordinators, while conducting business related solely to the Transportation Disadvantaged Commission, to make purchases at state contract rates and to exempt such purchases from competitive sealed bid requirements.

The act modifies Section 427.011, F.S., to define the term "nonsponsored transportation disadvantaged services." The term is defined as transportation disadvantaged services that are not sponsored or subsidized by any funding source other than the Transportation Disadvantaged Trust Fund.

The membership of the Transportation Disadvantaged Commission is expanded by revision of Section 427.012, F.S., to include the secretary of the Department of Elderly Affairs or his designee and two representatives of current private for-profit or private not-for-profit transportation operators. Each of the latter two representatives must have a minimum of 5 years of continuous experience operating a broad-based system of ambulatory and wheelchair/stretchers type transportation, utilizing not less than 50 vehicles, including dispatch and scheduling responsibilities. The two representatives of private for-profit or private not-for-profit transportation operators are to be appointed by the Commissioner of Agriculture and Consumer Services to serve a term of 4 years.

Section 427.013, F.S., is amended by the law to clarify that the goal of coordinating transportation disadvantaged services is to assure the cost-effective provision of transportation by qualified transportation operators without any bias or presumption in favor of multioperator systems or not-for-profit transportation operators over single-operator systems or for-profit transportation operators.

The section is further amended to add 3 new responsibilities to the 21 current responsibilities of the Transportation Disadvantaged Commission: development of needs-based criteria for the delivery of nonsponsored transportation disadvantaged services; establishment of a review procedure for comparing the rates proposed by alternate transportation operators with the rates charged by a community transportation coordinator to determine which rate is more cost-effective; and performance of a cost-comparison study of single-coordinator, multi-coordinator and brokered community transportation coordinator networks to ensure that the most cost-effective and efficient method of providing transportation disadvantaged services is programmed for development.

Community transportation coordinators, with the assistance of local coordinating boards and pursuant to criteria developed by the Transportation Disadvantaged Commission, are required by the act, as it revises Section 427.0155, F.S., to prioritize the delivery of nonsponsored transportation disadvantaged services.

The law provides through modification of Section 427.0159, F.S., that funds for nonsponsored transportation disadvantaged services must be distributed based upon the need of the recipient. Section 427.016, F.S., as amended, requires transportation disadvantaged funds to be used to purchase transportation services from public, private, or private nonprofit transportation operators, except when the rates charged by proposed alternate operators are proven, pursuant to review

procedures established by the Commission, to be more cost-effective and are not a risk to the public health, safety, or welfare. Section 427.016, F.S., is also revised to require each state agency, whether or not it is a member of the Transportation Disadvantaged Commission, to inform the Commission in writing, before the start of each fiscal year, of the specific amount of any money the agency allocated for transportation disadvantaged services.

[Other provisions of this act are discussed under the TRANSPORTATION sections *Airport Zoning and Regulation, Public Transit, Passenger Rail, Center for Urban Transportation Research, Transportation Contracts, The Florida Turnpike, Expressway and Bridge Authorities, Transportation Planning, Access Management, Department of Transportation Organization, and Transit Bus Benches.*]

### Access Management

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152) amends Section 335.181, F.S., to encourage property owners to implement the use of joint access where legally available. The act provides further that nothing in the State Highway System Access Management Act limits the Department's power of eminent domain or creates any additional property rights and that the denial of reasonable direct access to an abutting state highway is not compensable under the State Highway System Access Management Act unless such denial would be otherwise compensable absent the act. The law also provides that the denial of an access permit by the Department does not, in and of itself, constitute grounds for a cause of action pursuant to the eminent domain provisions of the Florida Constitution.

Section 335.181, F.S., is further amended to provide that the State Highway System Access Management Act does not prohibit the construction of service roads along a state highway so long as the service roads provide reasonable access to such highway. A property owner whose land abuts a service road is entitled to reasonable access to the service road but is not entitled to direct access across the service road to the state highway served by such road.

The authority for local governments and transportation and expressway authorities to adopt access standards for connections to the State Highway System is deleted in Section 335.1825, F.S. The section is further amended to prohibit the construction or *substantial* alteration of a connection to the State Highway System without an access permit. The Department may restrict, as well as deny, access to the State Highway System and may require a permittee to pay the costs of alterations to an access connection, if the Department establishes the need for such alteration.

The law revises Section 335.183, F.S., to require the Department to establish a graduated schedule of fees for permit applications and deletes the requirement that the Department assess a fee of at least \$25 for each permit application.

Section 335.184, F.S., is modified to require a person seeking an access permit to file an application with the Department in the district in which the property for which the permit

being requested is located. The section is also amended to require the Department to adopt, by rule, specific criteria under which an access permit may be denied. The criteria may include, but is not limited to:

- 1) number or severity of traffic accidents occurring on the segment of the highway to which access is sought, and the impact thereon from providing access;
- 2) operational speed on the segment of the highway to which access is sought and the level and amount of deceleration which would be caused by granting the access;
- 3) geographic location of the segment of the highway to which the access is sought;
- 4) operational characteristics of the segment of highway to which access is sought and the impact thereon from providing the access; or
- 5) level of service of the segment of highway to which access is sought and the impact thereon from providing the access.

If the Department denies the application for an access permit, it must notify the applicant in writing of the reasons for the denial and must also inform the applicant of his rights. An applicant whose permit has been denied may, within 7 days after being notified of the denial, request a meeting with departmental personnel to ascertain whether means exist by which to mitigate the reasons for the denial. Upon the timely receipt of a written request for such a meeting, the appropriate departmental personnel must meet with the applicant to attempt mitigation. A request for such a meeting or the failure to make such a request, any statements made during the meeting, and the results of the meeting are not admissible in any subsequent judicial or administrative proceeding regarding the denial of an access permit.

The denial of an access permit is subject to administrative review pursuant to the provisions of Chapter 120, F.S.

The act amends Section 335.185, F.S., to authorize the Department to extend the expiration date of an access permit, for good cause, upon its own initiative or at the request of a permittee.

Section 335.188, F.S., is revised to require that any change in the assignment of a road segment to a specific access category must be noticed in a local newspaper of general circulation prior to the change.

Section 335.189, F.S., which authorizes the Department to delegate its permit responsibilities to local governments is repealed by Section 107 of the law.

[Other provisions of this act are discussed under the TRANSPORTATION sections *Airport Zoning and Regulation, Public Transit, Passenger Rail, Center for Urban Transportation Research, Transportation Contracts, The Florida Turnpike, Expressway and Bridge Authorities, Transportation Planning, Transportation Disadvantaged Commission, Department of Transportation Organization, and Transit Bus Benches.*]

## Department of Transportation Organization

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152) amends Section 20.23, F.S., to require the Department, prior to making a decision to centralize or decentralize Department operations, to determine if the decision would be cost-effective and in the public's best interest and to periodically evaluate such decisions to ensure that they are appropriate.

The Department is also authorized to contract with local governmental entities and with the private sector if the Department first determines that:

- 1) consultants can do the work at less cost than state employees;
- 2) state employees can do the work at less cost, but sufficient positions have not been approved by the Legislature as requested in the Department's most recent legislative budget request;
- 3) work requires specialized expertise, and it would not be economical for the state to acquire and maintain the expertise;
- 4) workload is at a peak level, and it would not be economical to acquire and maintain extra manpower; or
- 5) the use of such entities is clearly in the public's best interest.

The Florida Transportation Commission is directed by Section 163 of the act, to review Florida's regulation of axle weights, gross weights, and the penalties associated with each, and to report the findings of such study and any proposed legislative changes to the transportation committees of the Legislature by August 1, 1993.

Section 337.26, F.S., is amended to authorize the chief administrative officer of the Florida Turnpike to execute and effect an instrument of sale, lease, or conveyance in the name of the Department or to undertake eminent domain actions.

The Department of Transportation is authorized pursuant to newly created Section 337.107, F.S., to enter into contracts through competitive negotiation for right-of-way services, including negotiation and acquisition services and appraisal services on transportation corridors and transportation facilities.

Section 337.25, F.S., is revised to provide that when lands, buildings, or other improvements are needed by the state for transportation purposes and are held by a state or local governmental entity and utilized for public purposes other than transportation, the Department may compensate the entity for such properties by providing functionally equivalent replacement facilities. The providing of such replacement facilities may only be undertaken with the agreement of the affected governmental entity.

The act further amends the section to provide that if the Department begins, on its own initiative, the process for disposing of property which it has determined is not needed for transportation purposes and which is not located in a transportation corridor, a Department appraiser may be used to determine the fair market value of the property.

[Other provisions of this act are discussed under the TRANSPORTATION sections *Airport Zoning and Regulation, Public Transit, Passenger Rail, Center for Urban Transportation Research, Transportation Contracts, The Florida Turnpike, Expressway and Bridge Authorities, Transportation Planning, Transportation Disadvantaged Commission, Access Management, and Transit Bus Benches.*]

**Transit Bus Benches**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2439 (CHAPTER 92-152) revises Section 337.407, F.S., to allow a municipality or county to authorize the installation, without public bid, of bus benches and shelters and the advertising displayed thereon within the rights-of-way of roads within its ju-

risdiction. The act affirms the validity of any contract for such installation which was entered into before the effective date of the act, (April 8, 1992, unless otherwise provided in the law) provided the contract is otherwise valid, and provides that transit bus benches which were in existence prior to April 1, 1992, do not have to comply with bench size and advertising display size requirements which have been established by the Department prior to March 1, 1992.

[Other provisions of this act are discussed under the TRANSPORTATION sections *Airport Zoning and Regulation, Public Transit, Passenger Rail, Center for Urban Transportation Research, Transportation Contracts, The Florida Turnpike, Expressway and Bridge Authorities, Transportation Planning, Transportation Disadvantaged Commission, Access Management, and Department of Transportation Organization.*]

## PROFESSIONAL REGULATION\*

## Department of Professional Regulation

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2249 (CHAPTER 92-149) makes numerous substantive and technical changes to Chapter 455, F.S., the general practice act relating to regulation of professions, and it also revises several medical and nonmedical practice acts. Specifically, the law creates Section 455.204, F.S., which requires the Department of Professional Regulation (DPR) to work with the various regulatory boards to implement a long-range planning and monitoring component, including a 5-year fiscal and management plan which contains detailed recommendations for all professions.

Regarding construction contracting and electrical contracting issues [Parts I and II of Chapter 489, F.S.], the measure adds Subsection 489.131(7), F.S., to provide local jurisdictions greater disciplinary authority and more extensive disciplinary powers for dealing with registered contractors. Under added Subsection 489.127(4), F.S., local jurisdictions are authorized to collect outstanding fines issued by the Construction Industry Licensing Board, and to keep 25 percent of what they collect. Section 489.120, F.S., is created to require DPR to design and implement an automated system to provide licensure information to local jurisdictions. The definition of "contractor" is narrowed in Subsection 489.105(3), F.S., and the types of contractors the Construction Industry Licensing Board is required to register is restricted by amended Subsection 489.117(5), F.S. As provided in revised Section 489.113, F.S., the enactment clarifies that the Board does not have the authority, through rule, to require licensure of a person or group not already required by statute to be licensed. [These provisions should reduce the amount of time it takes to discipline practitioners who violate rules and should produce a regulatory system which will prevent unlicensed contracting to a greater degree than currently exists.] HOUSE BILL 1055 (CHAPTER 92-55) provides similar amendments to Sections 489.105, 489.117, 489.119, 489.120, 489.127 and 489.131, F.S.

The legislation expands the consumer-oriented posture of the Department in several ways. Specifically, it establishes legislative intent that enforcement of licensure for certain Department regulated professional activities is a state priority [Subsection 20.30(10), F.S.] and enforcement costs should be covered by the various regulated professionals [Subsection 215.37(2), F.S.]. The act authorizes the boards to impose a special fee to develop an "unlicensed activity" fund to facilitate enforcement of unlicensed activity through creation of Section 455.2281, F.S. The law further streamlines many of the Department's administrative functions to provide a more timely, cost-effective response to consumer complaints.

With regard to dentistry and dental hygiene, the measure authorizes the chairman of the Council on Dental Hygiene to call meetings of the Council [Paragraph 466.004(2)(a), F.S.]; authorizes a graduate of an unaccredited dental school (for-

eign-trained dentist) to be licensed as a dental hygienist upon meeting certain continuing education, examination, and credential requirements [Subsection 466.007(3), F.S.]; and authorizes DPR to certify a foreign dental school whose dentistry program is reasonably comparable to accredited dental schools located in the United States [Section 466.008, F.S.].

In the area of examinations, legislation authorizes the Department to administer exams in languages other than English, provided practice of the profession by non-English speaking individuals will not result in a threat to the health, safety, and welfare of the consumer as provided in Section 455.201, F.S. Subsections 455.217(5) and (6), F.S., require applicants seeking to take the exam in a language other than English to incur all relevant costs and authorizes boards, or the Department when there is no board, to require applicants to pass an exam pertaining to applicable state laws and rules.

In the financial area, Subsection 455.219(5), F.S., requires the Department to produce a concise, quarterly management report which appraises boards of their financial status, including a summary sheet with cash balances for all boards. The legislation would also require the Department to implement "direct billing" procedures, to the maximum extent possible, rather than relying totally on the existing cost-allocation procedure which makes it hard to pinpoint how much the Department is actually charging for specific activities. Under revised Subsection 455.219(1), F.S., the boards must ensure license fees are adequate to cover anticipated costs. The act requires the boards to maintain minimum cash balances and authorizes boards to increase fees or borrow money from the Professional Regulation Trust Fund to comply with minimum cash balance requirements. If the boards do not address cash balance problems within 1 year of notification by the Department, the Department is authorized to raise fees to cover the deficit and ensure compliance with minimum cash balance requirements.

Regarding indigent and under-served populations, Subsection 455.213(7) is created to authorize boards to adopt rules to allow retired professionals to serve indigent, under-served, or critical need populations. The act encourages such activities by allowing pro bono service to substitute for a portion of required mandatory continuing education requirements for licenses in instances where continuing education is required.

In the area of legal issues and discipline, the enactment establishes a mediation process under Section 455.2235, F.S., that authorizes boards, or the Department when there is no board, to designate suitable disciplinary violations. The measure authorizes the Department to use letters of guidance in lieu of a finding of probable cause by amendment to Subsection 455.225(4), F.S., and clarifies that letters of guidance do not constitute discipline and are not appropriate for citation procedures. The act revises Subsection 455.228(1) F.S., to es-

\*Prepared by House Regulatory Reform Committee

establish that a notice to cease and desist is not a final agency action and does not require a Chapter 120, F.S., hearing.

Regarding medical quality assurance professions, the law reinstates Subsection 458.311(3), F.S., which expired October 1, 1991, and addresses the existing licensure program for American college graduates who attend a recognized foreign medical school and complete an academic year of supervised clinical training in an approved American hospital. The measure makes several amendments to statutory authority of the Board of Medicine:

- 1) specifies certain penalties for practicing medicine without an active license [Paragraph 458.327(2)(e), F.S.];
- 2) requires hospitals utilizing services of unlicensed physicians as resident physicians, assistant resident physicians, house physicians, interns or fellows to register such activity with the Board [Subsections 458.345(3) and (4), F.S.];
- 3) clarifies what chiropractic colleges are accepted in Florida [Section 460.406, F.S.];
- 4) addresses third-party payor provisions [Paragraph 460.413(1)(bb), F.S.];
- 5) eliminates a requirement that names of nurse licensure applicants be submitted to the Department of Health and Rehabilitative Services for an abuse registry check [Subsection 464.008(1), F.S.];
- 6) amends licensure requirements for audiologists and speech-language pathologists [Section 468.1155, F.S.]; and
- 7) amends provisions relating to hearing aid specialists [Sections 468.1225, 468.1245 and 468.1265, F.S.], veterinary medicine [Subsection 474.203(1), F.S.], psychology [various sections of Chapter 490, F.S.], and tattooing [Section 877.04, F.S.].

Section 160 of the act requires medical doctors, osteopaths, chiropractors, and podiatrists to accept Medicare assignment when treating a patient for an emergency condition as of January 1, 1993. Additionally, all consulting physicians will be required to accept assignment when treating a Medicare beneficiary, if the patient's primary physician accepts assignment, unless the patient agrees, in writing and prior to receiving the treatment, that such acceptance is not required. Any attempt by any of these physicians to collect more than the amount authorized under assignment will be considered null, void and of no merit. Similar provisions are enacted by COMMITTEE SUBSTITUTE FOR SENATE BILL 1580 (CHAPTER 92-118).

Regarding nonmedical quality assurance professions, the law addresses technical concerns presented by various professions (auctioneering, barbering, construction, employee leasing, engineering, funeral directing/embalming, opticianry, and real estate). These changes clarify, conform, and delete obsolete language; enable DPR to assess fees to cover certain administrative costs; correct statutory references; and enhance the ability of DPR and the regulatory boards to function more efficiently. Notably, these changes:

- 1) clarify by adding Subsection 468.395(5), F.S., that no claims shall be submitted for payment from the Auctioneer Recovery Trust Fund until October 1, 1995;
- 2) amend Sections 476.144 and 476.184, F.S., to clarify that applicants for restricted barber's licenses need not have practiced for a minimum length of time in another state, and authorize the Department to collect a fee of \$125 for the transfer of a barbershop license from one location to another; and
- 3) require realtors, through creation of Section 475.422, F.S., upon written request of any party to a real estate sales transaction, to disclose termite and roof inspection reports ordered within the year preceding the contract's effective date.

Regarding the organizational structure of the boards, the enactment amends Section 20.30, F.S., to require consistent and staggered member terms for all boards, with specified termending dates. The measure authorizes boards to increase the number of probable cause panels. The law specifies that probable cause panel membership must include both consumer and professional representation, if at all possible. An effective date of October 1, 1992 is supplied for all provisions of the act unless otherwise specific in the act itself.

#### Florida Drug and Cosmetic Act/Sunset

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 84 (CHAPTER 92-69) provides for the Sunset review of Chapter 499, F.S., relating to the regulation of drugs, devices, and cosmetics revises and reenacts provisions contained in that Chapter.

Most provisions of the act conform Chapter 499, F.S., to federal regulations of the Prescription Drug Marketing Act of 1987 [21 U.S.C. 331, et seq., 1988], some of which include provisions relating to prohibitions of certain acts relating to:

- 1) legend drug samples, coupons, counterfeit drugs, devices, and cosmetics [Section 499.005, F.S.];
- 2) advertising and labeling [Section 499.054, F.S.];
- 3) misbranding of drugs and devices [Section 499.007, F.S.];
- 4) licensure of all in-state and out-of-state drug wholesalers [Section 499.01, F.S.];
- 5) storage and handling of drugs [Section 499.0121, F.S.]; and
- 6) complimentary or sample drugs [Section 499.028, F.S.]. Another provision in the law conforms Section 893.03, F.S., relating to the state anabolic steroid controlled substance schedule, to federal law.

Section 53 of the legislation also establishes:

- 1) drug copayment amounts on all prescriptions under the State Employees Prescription Drug Program;
- 2) allows prescriptions, written by health care providers under the State Group Insurance Program Law, to be filled by any licensed pharmacy;
- 3) requires the Department of Administration to develop a generic drug reimbursement schedule;
- 4) implement a drug utilization review program;

- 5) rebid or amend the State Group Health Self-Insurance Plan contract to include provisions of this Section; and
- 6) not reduce the existing benefit configuration or increase current employee premiums, deductions or co-payment levels provided in the Fiscal Year 1992-1993 General Appropriations Act.

**Medical Transportation Services/Sunset**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 294 (CHAPTER 92-78) resulted from the Sunset review of Chapter 401, Part III, F.S., relating to medical transportation services. The measure reenacts the regulation with some modifications. Many of these modifications are revisions to existing language which provide better clarity, facilitate proper interpretation, and better reflect the current role of emergency medical services. Notable changes to the regulations are:

- 1) authorization to Emergency Medical Services (EMS) personnel to honor "do not resuscitate" orders pursuant to Subsection 401.35(4), F.S.;
- 2) providing "Good Samaritan" immunity status for EMS personnel in Subsection 401.45(4), F.S.;
- 3) unlicensed activity provisions set out in amended Section 401.41, F.S.; and
- 4) standardization of training for first respondents effective July 1, 1993, as provided in Section 401.435, F.S.

**Operators of Water Purification Plants and Domestic Wastewater Treatment Plants/Sunset**

COMMITTEE SUBSTITUTE FOR SENATE BILL 154 (CHAPTER 92-75) is produced by the Sunset review of Section 403.101, F.S. The act reenacts and transfers the regulation of water and domestic wastewater treatment plant operators from the Department of Environmental Regulation (DER) to the Department of Professional Regulation (DPR) through enactment of Sections 468.540-468.552, F.S., the Water and Waste Water Operators Certification Act. The legislation also allows a utility to establish more stringent requirements than set forth in statute including certification requirements for water distribution systems and domestic wastewater collection systems [Section 468.544, F.S.]. Section 403.101 F.S., is amended to conform to this change of authority and to empower DER to establish levels of licensed operators for air and water contaminant sources.

The law takes effect October 1, 1992, but carries over those water and wastewater operators certified by DER until expiration of their current certification.

**Pest Control/Sunset**

HOUSE BILL 2341 (CHAPTER 92-203) is a result of the Sunset review of Chapter 482, F.S. The act revises and reenacts Chapter 482, F.S., saving it from Sunset repeal and preempts pest control regulation to the state (except for six areas of exception to the preemption), protecting persons operating a pest control business from having to face a "patchwork" of varying local ordinances. The act creates a special certification

category for landscape maintenance operators [Section 482.156, F.S.]. The law provides expanded and more detailed provisions regarding the registry for pesticide sensitive persons, and it places those provisions in statute [Section 482.2265, F.S.], (rather than in rule, where they currently are located). Extra distance notification provisions for "hypersensitive" persons are provided. The Department of Agriculture and Consumer Services is provided greater latitude in determining the hiring qualifications for inspectors [Section 482.061, F.S.]. The "yardman" exemption for a person who applies a small amount of pesticides as an incidental part of yard-work is retained, and moved from rule to statute [Subsection 482.211(11), F.S.]. Persons qualifying for the examination by having completed college level courses are required to also have 1 year of experience working in the pest control industry [Paragraph 482.132(2)(b), F.S.].

In addition, the legislation which contains provisions to transfer the authority over to the Mosquito, Dog Fly and Home Pest Control Programs from the Department of Health and Rehabilitative Services (DHRS) to the Department of Agriculture and Consumer Services by statute and through a type four transfer [Section 1 of the act]. Also, the administration of the John A. Mulrennan, Sr., Laboratory in Panama City is transferred from DHRS to the Florida Agricultural and Mechanical University.

**Pesticides/Sunset**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1430, (CHAPTER 92-115) represents the Sunset review of Chapter 487, F.S. Changes made by the act are almost entirely clarifying, technical or reorganizational. One substantive change concerns the enactment of provisions establishing a general preemption to the state (away from local governments) of the authority to regulate pesticides [Subsection 487.051(2), F.S.]. The law clarifies that other state agencies are able to regulate pesticides only pursuant to a clear statutory grant of authority. Four specific areas in which local jurisdictions may continue to regulate with regard to pesticides are excepted from the preemption, and returned to the local jurisdictions. These areas are: occupational licenses; building and zoning laws; pesticide containment at the storage site; and disposal or spillage in a water well zone.

**Railroads/Sunset**

HOUSE BILL 1355 (CHAPTER 92-192) reflects the Sunset review of Sections 318.18 and 361.025, F.S., and Chapters 351 and 354, F.S. The act removes obsolete language relating to the powers of the Public Service Commission and saves, from Sunset repeal, laws describing the duties of railroads, the state railroad safety program, the railroad special officer authority, and the eminent domain authority of railroads. Future review and repeal is scheduled for October 1, 2002, pursuant to Section 11.61, F.S., for these statutory provisions which have been given an effective date of October 1, 1992.

The law also increases the fine for violation of Subsection 316.1575(2), F.S., from \$57 up to \$1,500. This section relates

to obedience to traffic control devices at railroad-highway grade crossings. Local municipalities and counties are authorized to install additional safety control devices to secure crossings, and after meeting federal and state safety requirements and guidelines and upon approval by the Federal Railroad Administration and Florida Department of Transportation, to implement whistle ban ordinances.

**Council for the Infant Hearing Impairment Program/Sundown**

HOUSE BILL 455 (CHAPTER 92-41) reflects the Sundown review of Section 383.144, F.S., relating to the Council for the Infant Hearing Impairment Program. The act repeals the Council—which has accomplished its purpose—and deletes obsolete language relating to pilot sites and programs.

**Emergency Medical Services Advisory Council/Sundown**

HOUSE BILL 881 (CHAPTER 92-46) represents the Sundown review of Section 401.245, F.S., relating to the Emergency Medical Services Advisory Council. The act saves statutory provisions relating to the Council from Sundown repeal with the following modifications:

- 1) provides a clear designation of the Council's responsibilities;
- 2) provides for 4-year staggered terms as required by the Sundown Act [Section 11.611, F.S.]; and
- 3) provides for ex officio members to be appointed from the Department of Highway Safety and Motor Vehicles and the Department of Transportation. A date of October 1, 2002, is fixed for Sundown review.

**Endangered Plant Advisory Council/Sundown**

SENATE BILL 64 (CHAPTER 92-153) is the product of the Sundown review of Section 581.186, F.S., relating to the Endangered Plant Advisory Council. The act provides for 4-year staggered terms as required by the Sundown Act [Section 11.611, F.S.]. The measure also stipulates that the Regulated Plant Index be used solely for the purposes specified in Section 581.185, F.S., and may not be used for regulatory purposes by other agencies. The Council is scheduled for Sundown repeal October 1, 1997.

**Florida Advisory Council on Environmental Education/Sundown**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1850 (CHAPTER 92-128) provides the Sundown review of sections in 229.8055, 229.8056, 229.8058, 229.8059, 229.8061, 229.8062, 229.8063 and 229.8064, F.S., relating to the Florida Advisory Council on Environmental Education (FACEE) and the Interagency Coordinating Committee for Environmental Education (ICCEE). Revised Section 229.8058 saves the FACEE from repeal and adds representatives of the Department of Environmental Regulation, Department of Natural Resources, Game and Fresh Water Fish Commission, Executive Office of the Governor and Environmental Education Foundation to the membership of the Council which is given a Sundown repeal

date of October 1, 1997. Language relating to projects funded from the Aquatic Resources Education Account is clarified in Subsection 229.864(2), F.S., and the ICCEE [Section 229.8059, F.S.], environmental education grants [Section 229.8061, F.S.], Governor's Environmental Education Trust Fund [Section 229.8062, F.S.], and environmental education programs of nonprofit support corporations [Section 229.8063, F.S.] are repealed.

In revised Section 229.8055, F.S., the duties of the Department of Education relating to environmental education were revised to redesignate positions and provide requirements for administration of regional service projects [Section 229.8056, F.S.]. Also added in Section 5 of the act was language directing the FACEE to work with the Department of Highway Safety and Motor Vehicles to redesign the panther license plate.

**State Retirement Commission/Sundown**

HOUSE BILL 2339 (CHAPTER 92-63) results from the Sundown review of Sections 121.22-121.24, F.S., relating to the State Retirement Commission. The law saves the affected statutes from October 1, 1992, repeal and removes future requirements for legislative review and repeal.

**Student Financial Aid Advisory Council/Sundown**

COMMITTEE SUBSTITUTE FOR SENATE BILL 60 (CHAPTER 92-11) is the product of the Sundown review of Section 240.421, F.S. The act reestablishes the Florida Council of Student Financial Aid Advisors with more specific membership and requires the Council to develop 5-year, long-range financial aid plans as well as annual reports. The legislation requires the Council to advise the State Board of Education, Legislature, Governor, Board of Regents, State Board of Community Colleges and Postsecondary Education Planning Commission on matters relating to financial aid. The law authorizes the Council to review and make recommendations to the Legislature related to proposed financial aid legislation. No provision is made for future Sundown review.

**Acupuncture**

COMMITTEE SUBSTITUTE FOR SENATE BILL 882 (CHAPTER 92-28) in Subsection 457.103(1), F.S., deletes the requirement that the Board of Acupuncture within the Department of Professional Regulation include one member who is a medical doctor who uses acupuncture in his practice. The act further specifies that three board members be licensed to practice acupuncture, and that the remaining two members be lay members. These provisions take effect October 1, 1992.

**Electrolysis Practice Act**

SENATE BILL 1824 (CHAPTER 92-172) creates the "Electrolysis Practice Act" which requires persons who practice electrolysis to be licensed and subject to regulation by the Department of Professional Regulation (DPR). A regulatory scheme is created for this purpose.

The act creates the Electrolysis Council under the Board of Medicine to carry out the functions of the law. The legislation prohibits the practice of electrolysis by unlicensed persons. In addition, the Department is authorized to impose various disciplinary actions against licensees, and nonlicensees which includes authority to impose an administrative penalty of up to \$5,000 against persons who fail to become licensed.

The law establishes certain educational and other requirements which must be met prior to licensure as an electrologist by the state. Electrologists who were engaged in the practice prior to October 1, 1991, and apply before a date established by the Board, are "grandfathered in" and are not required to meet the educational requirements. Electrologists who hold certificates issued by the American Electrology Association are not required to take the examination. The measure also authorizes the Board to establish fees (i.e., application, exams, initial license, and renewal license, etc.) which cannot exceed certain limits. The act takes effect October 1, 1992.

**Florida Birth-Related Neurological Injury Compensation Plan**

HOUSE BILL 1505 (CHAPTER 92-196) amends Section 766.314, F.S., to clearly define "supervision" requirements for certified nurse midwives to be covered under the Florida Birth-Related Neurological Injury Compensation Plan. Participating nurse midwives are required to pay 50 percent of the physician assessment required and must be supervised by a participating physician who has paid the required assessment.

**Hearing Aid Specialists**

COMMITTEE SUBSTITUTE FOR SENATE BILL 148 (CHAPTER 92-2) amends Paragraph 427.705(5)(a), F.S., to change the term "speech pathologist" to "speech language pathologist" and adds hearing aid specialists to the list of persons eligible to certify a person as being hearing impaired. The act also requires that procedures developed for distribution of specialized communications devices must stipulate the types of impairments which may be certified by specified practitioners.

**Medical Practice/Nicaraguan Professionals**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 287 (CHAPTER 92-53) extends for 2 years, until July 1, 1994, the period for certain citizens of Nicaragua to reapply for examination and licensure as a physician pursuant to Section 458.311, F.S. To qualify for the extended date, the initial application must be made by July 1, 1992. In addition, the act amends the supervision requirements to expand the potential work areas while under supervision.

**Physical Therapy**

COMMITTEE SUBSTITUTE FOR SENATE BILL 104 (CHAPTER 92-70) revises the definition of "practice of physical therapy" in Subsection 486.021(11), F.S., effective October 1, 1992, to allow a physical therapist to directly evaluate and initiate treatment to a patient without having to--as is presently

required--obtain a referral from a doctor licensed as a physician, an osteopathic physician, a chiropractor, a podiatrist, or a dentist. The measure also limits such treatment to 21 days, at which time a physical therapist is required to get a doctor to review and sign the physical treatment plan; requires a physical therapist to refer the patient to or consult with a doctor if the patient's condition is found to be outside the scope of practice of physical therapy; prohibits a physical therapist from implementing a treatment plan for a patient who is being treated in a hospital; and provides disciplinary action for a physical therapist who practices outside the authorized scope of practice. Violation of the limitations is made grounds for disciplinary action by the addition of Paragraph 486.125(1)(j), F.S.

**Physician Assistants**

COMMITTEE SUBSTITUTE FOR SENATE BILL 240 (CHAPTER 92-22) amends Sections 458.347 and 459.022, F.S., to permit a supervising physician or osteopathic physician to delegate to a fully certified physician assistant the authority to prescribe any medication the supervising physician is authorized to prescribe in his or her practice. The act also creates a five-member committee which is required to establish a listing of drugs which a physician assistant is allowed to prescribe; however, the listing cannot include certain drugs (i.e., controlled substances, antipsychotics, general anesthetics, etc.). The committee will be appointed by the secretary of the Department of Professional Regulation. These provisions take effect October 1, 1992.

**Secondary Metals Recycling**

COMMITTEE SUBSTITUTE FOR SENATE BILL 642 (CHAPTER 92-157) amends Section 538.26, F.S., to prohibit a secondary metals recycler from purchasing regulated metals property from any seller at the recycler's registered location when such property was not transported in a motor vehicle, unless the seller can prove ownership of the property being offered for sale. Additionally, a recycler is barred from making a cash purchase at other than a fixed location from a seller required to prove ownership.

Paragraph 538.23(1)(c), F.S., is added to make violation of these provisions a misdemeanor of the first degree, effective October 1, 1992.

**Yacht and Ship Brokers' Act**

SENATE BILL 798, (CHAPTER 92-13) revises Section 326.004, F.S., to provide for a national criminal history analysis by the Florida Department of Law Enforcement (FDLE) of applicants for licensure as yacht and ship brokers. The enactment eliminates the requirement that applicants submit three personal references. The law requires applicants to submit a set of fingerprints in furtherance of the FDLE check. Finally, the legislation provides for temporary 90-day licensure of applicants pending results of the FDLE check.

**Notaries**

House Bill 2269 (CHAPTER 92-209) amends Section 117.05, F.S., to provide that a notary may not notarize a signature of an incapacitated person where the notarization relates to a right that the notary actually knows has been suspended by a court.

The act amends Section 117.107, F.S., by substituting the term "mentally incapacitated" for the term "mentally ill" in the

prohibitions section of the notary act. As a result, a notary who knows that a person has been adjudged "mentally incapacitated" may not take an acknowledgement of or administer an oath to such person.

The law also revises Subsection 117.01(2), F.S., to provide for a \$4 notary application surcharge appropriated to the Executive Office of the Governor to be used to educate and assist notaries.

## STATE GOVERNMENT\*

**Paperwork Reduction Act**

COMMITTEE SUBSTITUTE FOR SENATE BILL 868 (CHAPTER 92-98) amends Subsection 282.305(1), F.S., to authorize the Information Resource Commission to coordinate the planning of the reduction of paperwork by state governmental entities and provide technical assistance for same. The act also creates Section 282.3051, F.S., to require these entities to take steps to eliminate unnecessary and duplicative forms. All agencies are to perform systematic reviews of certain reporting requirements and forms, and to include such information, along with a summary of the activities undertaken to reduce paperwork, in the annual performance reports required by statute. Certain entities must report this information to the Legislature. Statutory reporting requirements would be met by the filing of an abstract with the designated recipient and the Division of Library and Information Services of the Department of State pursuant to amended Section 286.001, F.S. The Division, in turn, would be required to compile, update, and distribute bibliographic information on reports submitted to it.

**State Agency Purchasing**

COMMITTEE SUBSTITUTE FOR SENATE BILL 868 (CHAPTER 92-98) also creates Section 287.056, F.S., to authorize state agencies to purchase commodities and contractual services from a local purchasing source, with specified exceptions, if the commodities or contractual services cost less than that provided on state contract. A local purchasing source as defined in added Subsection 287.012(12), F.S., means any person who or place of business which can provide a commodity or contractual service to an agency and who has a principal place of business in Florida. In making such purchases, each state agency is required to:

- 1) include certain costs and consider certain specifications when deciding to make such purchases;
- 2) document how the purchase provided a cost savings to the state; and
- 3) provide to the Auditor General any cost savings realized and a listing of the purchase order numbers associated with such purchases by August 31 of each year.

The Auditor General is required to review such purchasing practices, not only during his regular audits of state agencies, but prior to January 1, 1994, at which time he will report to the Legislature on his findings. The Legislature is required to review this new section of law prior to October 1, 1997, the date on which it would expire, as well as to review it annually, as part of its oversight functions, to determine the fiscal impact it has on the state contracting process.

**Library Cooperatives**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1266 (CHAPTER 92-110) creates language in Chapter 257, F.S., providing

legislative intent for the recognition and support of library cooperative development [Section 257.40, F.S.]. The act provides for the creation of library cooperatives and authorizes the Division of Library and Information Services of the Department of State to establish operating standards and rules under which such a cooperative would be eligible to receive state moneys [Subsection 257.41(2), F.S.].

A grant program is created by the law in Section 257.42, F.S., to aid libraries currently operating under separate governance structures in the formation of cooperatives.

The administrative unit of a library cooperative would be eligible to receive an annual grant from the state in an amount not to exceed \$200,000 for the purpose of sharing resources. The measure stipulates in Subsection 257.41(1), F.S., that such cooperatives must consist of more than one type of library including any combination of academic, school, special, state institutional and public libraries. This is intended to provide an effective means for sharing resources among various types of libraries and to foster cooperative programs in order to provide greater access to library resources for state residents. The cooperative would have to match the grant with local funds equal to 10 percent of the grant award.

**Insurance for Museums, Artifacts, Fine Arts**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2111 (CHAPTER 92-61) adds Subsection 265.284(7) and Subparagraph 267.061(3)(m)8., F.S., to permit the divisions of Cultural Affairs and Historical Resources of the Department of State, respectively, to purchase insurance for museum collections, artifacts, relics and fine arts to which they hold title.

The act specifically exempts them from the requirement in Section 287.022, F.S., that insurance coverage for state agencies, with certain exceptions, be purchased through the Division of Purchasing of the Department of General Services and the prohibition in Paragraph 287.025(1)(e), F.S., against the purchase of insurance on museum collections, artifacts, relics and fine arts to which the state holds title.

**Florida Women's Hall of Fame**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1148 (CHAPTER 92-48) establishes the Florida Women's Hall of Fame. The Division of Facilities Management of the Department of General Services is required to set aside an area on the Plaza Level of the Capitol Building and to consult with the Florida Commission on the Status of Women as to design and theme. The Governor is to reinstate the original 27 members and to annually select one member from five persons recommended by the Commission. The Commission is authorized to set times for the acceptance of nominations and selection of members.

\*Prepared by House Governmental Operations Committee

**Division of the Treasury**

SENATE BILL 594 (CHAPTER 92-87) authorizes the State Treasurer to more effectively diversify and manage the state's investments by allowing him to:

- 1) invest in money market mutual funds [Paragraph 18.10(2)(0), F.S.];
- 2) approve and supervise any banking relationship entered into by a state agency, and to have direct access to any information regarding an agency's depository accounts maintained by the bank [Subsection 18.10(6), F.S.]; and
- 3) charge 0.2 percent of the average daily balance of any moneys made available by agencies for investment into an account separate from that of the Treasury pool [Paragraph 18.125(4)(b), F.S.].

The act also revises Section 255.052, F.S., to allow local government contractors to substitute certain securities and expand the types of securities to include cash for deposit into the Treasury Cash Deposit Trust Fund. Certificates of deposit, which are currently accepted by the Treasurer as security, are required to meet the eligibility requirements specified by other sections of law.

**Administrative Procedure Act**

COMMITTEE SUBSTITUTE FOR SENATE BILL 1354 (CHAPTER 92-166) provides for enhanced review of administrative agency rulemaking activity by the Joint Administrative Procedures Committee (JAPC). The act establishes additional criteria for review of rules by the JAPC through amendment to Subsection 120.545(1), F.S. The JAPC is provided authority to request information from agencies which is reasonably necessary for review of rules under the statutory criteria. The JAPC is required to consult with the standing committees of the Legislature which have jurisdiction over subject areas pertinent to rules under review regarding legislative authority for the rules. If the JAPC objects to a rule, it must report the objection to the President of the Senate and the Speaker of the House of Representatives.

The law also provides through amended Paragraph 120.54(9)(a), F.S., for JAPC review of emergency rules.

It may challenge the rule in an administrative or judicial proceeding pursuant to amended Paragraph 11.60(2)(k), F.S.

Subparagraph 120.53(2)(a)3., F.S., is revised to permit a state agency to substitute an electronic data base of its administrative orders with an ad hoc indexing system for research and retrieval by the general public instead of a hierarchical subject-matter index of such orders. A statement of legislative finding that the official reporters used by the Public Employees Relations Commission satisfy this accessibility requirement is provided. Final orders relating to rule challenge proceedings pursuant to Section 120.535, F.S., must be included in the subject-matter index made available for public inspection and copying.

Paragraph 120.52(12)(d), F.S., is amended to bar prisoners from obtaining or participating in administrative rule challenge proceedings under Subsections 120.54(4) and (9), F.S., or

Section 120.56, F.S., and from obtaining appellate review of any agency action under Section 120.68, F.S.

Paragraph 120.54(2)(a), F.S., is amended to conform the definition of "small business" to that found in the Small Business Assistance Act of 1985 [Section 288.703, F.S.]. Subsections 120.54(1), (2) and (12), F.S., are modified to provide for additional notice in the process of administrative rulemaking.

Subsection 120.535(10), F.S., is added to exempt agency statements relating to cost-recovery clauses, factors or mechanisms implemented under Chapter 366, F.S., (Public Utilities) from the requirement that agency statements be adopted as rules.

The measure creates Section 120.543, F.S., to provide procedures for the adoption of federal rules by the state. The act is effective July 1, 1992, except for those portions of the act regarding the JAPC which took effect April 9, 1992.

**Exemptions to the Public Records and Public Meetings Laws**

During the 1992 Regular Session, new exemptions to the public records and public meetings laws were enacted. These exclusions are listed below.

SENATE BILL 808 (CHAPTER 92-26) clarifies by amendment to Paragraph 230.23(6)(c), F.S., that public school board student expulsion hearings are closed to the public. The pupil's parent or legal guardian must be given notice of the provisions of the state's public meetings law and may elect to have the hearing held in compliance with that law. This act takes effect October 1, 1992.

SENATE BILL 1676 (CHAPTER 92-124) amends the Florida Prepaid Postsecondary Education Expense Program [Section 240.551, F.S.] to establish an exemption from the public records requirement of Subsection 119.07(1), F.S., for information on the purchasers or beneficiaries of any plan and the advance payment accounts of such purchasers or beneficiaries, but permits the Prepaid Postsecondary Education Expense Board to allow the records administrator of the Program to release this information to a community college, college or university in which the purchasers or beneficiaries may enroll or are enrolled. The exemption is subject to the Open Government Sunset Review Act, Section 119.14, F.S.

SENATE BILL 280 (CHAPTER 92-77) provides an exemption to the public records law for the identities of certain prospective donors to private sector fine arts organizations:

- 1) the direct-support organization of the Ringling Museum of Art [Paragraph 265.26(7)(b), F.S.];
- 2) the State Theater Program's contract organizations [Subsection 265.289(3), F.S.]; and
- 3) local organizations receiving State Fine Arts Endowment Trust Fund moneys [Paragraph 265.605(2)(c), F.S.]. The organizations must identify the prospective donors themselves and may not have obtained the names by copying, purchasing or borrowing names from another organization or source.

The legislation also creates Section 943.1728, F.S., to direct the Criminal Justice Standards and Training Commission to

develop standards for instruction in the protection of archaeological sites and requires such standards to be implemented by July 1, 1993.

The Department of Law Enforcement is required to make recommendations to the Legislature concerning the protection of historical sites, and the Department of State is to report recommendations to the Legislature on the state's historic preservation laws. In each case, the lead agency is to consult with specific state agencies and file its report by December 1, 1992. Unless otherwise provided in the act, its provisions are to take effect October 1, 1992.

In addition, two exemptions to the public records law were repealed. COMMITTEE SUBSTITUTE FOR HOUSE BILL 2379 (CHAPTER 92-58), by repealing Paragraph 119.07(7)(d), F.S., and Subsections 415.107(3) and 415.51(3), F.S., removes the prohibition against releasing two types of reports held or promulgated by the Department of Health and Rehabilitative Services: (1) abuse, neglect, and exploitation reports that are the subject of an active criminal investigation; and (2) a quality assurance report that reviews the Department's actions when investigating abuse, neglect, or exploitation. Please see the HEALTH AND REHABILITATIVE SERVICES article for a fuller discussion of this enactment.

Finally, a series of exemptions to the public records and public meetings laws were reviewed and reenacted during the 1992 Regular Session. Under the aegis of the Open Government Sunset Review Act [Section 119.14, F.S.], exemptions to the public records and public meetings laws contained in Titles XXXIII through XXXVI and Title XXXVIII were reviewed. Most of these exemptions were reenacted; some were made more narrow; and some were repealed. The acts resulting from the Open Government Sunset Review process are described below.

SENATE BILL 86 (CHAPTER 92-3) amends Subsection 501.075, F.S., to reenact an exemption from the public record requirements of Subsection 119.07(1), F.S., for any information obtained as a result of examinations and investigations made pursuant to the Hazardous Substances Law concerning any method of process of a hazardous substance which meets the statutory definition of trade secret [Section 688.002, F.S.]. The exemption is subject to the provision of the Open Government Sunset Review Act [Section 119.14, F.S.]. The act takes effect October 1, 1992.

SENATE BILL 650 (CHAPTER 92-91) reenacts exemptions to the public records law for information relating to the drawing results for licenses for alcoholic beverages. It narrows the exemption in Paragraph 561.19(2)(b), F.S., to exempt only the rank order of persons selected to apply for an alcoholic beverage license, and allows for release of this rank order when all the licenses in a particular county have been issued. In addition, written requests to the Department of Business Regulation from alcoholic beverage distributors for statements of reclamation would still be required pursuant to amended Subsection 561.67(1), F.S. These provisions take effect October 1, 1992.

SENATE BILL 160 (CHAPTER 92-4) reenacts exemptions to the public records law for:

- 1) dairy [Section 502.222, F.S.];
- 2) plant [Subsection 581.199, F.S.];
- 3) fruit and vegetable [Subsection 570.48(2), F.S.];
- 4) industry trade secrets held by the Department of Agriculture and Consumer Services (DACs) [Section 502.222, F.S.];
- 5) trade secrets of persons subject to Department of Citrus marketing orders [Paragraph 601.152(8)(c), F.S.];
- 6) information gathered as part of administering or enforcing a Department of Citrus marketing order [Paragraph 601.152(8)(c), F.S.]; and
- 7) the Department of Citrus's access to the criminal justice information system for the purpose of processing citrus fruit dealer license applications [Subsection 601.57(6), F.S.]. Furthermore, this law reenacts and expands exemptions to the public records law for trade secrets of any person subject to a DACs marketing order [Subsection 573.123(2), F.S.] and formulas for citrus fruit coloring matter held by DACs [Section 601.76, F.S.].

This measure also reenacts and narrows exemptions to the public records law for appraisal reports used in DACs' Forestry Lands Trust Fund purchases [Paragraph 589.08(3)(d), F.S.].

In addition, this enactment repeals exemptions to the public records law for DACs providing information to the consuming public [Subsection 570.07(31), F.S.]; for information which reveals the operations of persons in commercial feeds or feedstuffs [Section 580.141, F.S.]; by eliminating the requirement for a written request in order to receive a copy of a DACs or Department of Citrus marketing order [Section 573.111, F.S.]; and by eliminating the 6-month waiting period before the Department of Citrus may publish noncommodity incentive advertising programs [Paragraph 601.15(7)(f), F.S.]. Finally, the legislation repeals DACs marketing order provisions for foliage plants, watermelons, soybeans, flue-cured tobacco, and peanuts, [Sections 573.50-573.908, F.S.] as these provisions are duplicative of other, almost identical provisions. This law takes effect October 1, 1992.

SENATE BILL 88 (CHAPTER 92-1) repeals the provision in Subsection 501.205(1), F.S., which requires a written request before copies of proposed deceptive and unfair trade practices rules may be obtained from the Department of Legal Affairs, which copies must be mailed at least 30 days prior to the meeting at which the Governor and Cabinet may consider the proposed rules. The legislation reenacts the exemption to the public records law which allows the Department of Legal Affairs to have access to criminal investigative and other information obtained from state and federal agencies on a confidential basis. The exemption is expanded to make such information confidential while in the Department. The act has an effective date of October 1, 1992.

HOUSE BILL 893 (CHAPTER 92-14) reenacts, effective October 1, 1992, exemptions to the public records law in Subsections 607.0505(6) and 620.192(7), F.S., for information pertaining to corporations and domestic and foreign limited partnerships obtained during investigations by the Department of Le-

gal Affairs. The exemptions are narrowed by allowing release of certain information when the investigation is completed or ceases to be active. The penalty for disclosure is reduced from a felony of the third degree to a misdemeanor of the first degree.

HOUSE BILL 2279 (CHAPTER 92-62) reenacts and clarifies exemptions in Subsection 570.544(8), F.S., to the public records law for certain consumer complaint information. Customer lists, customer names, and trade secrets held by the Division of Consumer Services in the Department of Agriculture and Consumer Services are deemed confidential. The provisions take effect October 1, 1992.

SENATE BILL 698 (CHAPTER 92-24) reenacts, effective October 1, 1992, the exemption to the public records law in Subsection 542.28(9), F.S., for information gathered by the Attorney General and state attorneys during civil antitrust investigations.

SENATE BILL 648 (CHAPTER 92-6) reenacts and revises exemptions to the public records law pertaining to the Division of Liquefied Petroleum Gas within the Department of Insurance. Pursuant to Subsection 527.02(2), F.S., the act requires that requests of the Division to transfer competency qualifications be made in writing. The measure clarifies the public records exemption in Subsection 527.062(1), F.S., for information obtained by the Division pursuant to accident investigations. These provisions take effect October 1, 1992.

HOUSE BILL 2153 (CHAPTER 92-9) establishes a uniform exemption to the public records law for information obtained by the Department of Banking and Finance pursuant to investigations or examinations under Chapters 494 (mortgage brokerage and lending), 517 (securities transactions), and 520 (retail installment sales) [Sections 494.00125, 517.2015 and 520.9965, F.S., respectively]. The act reenacts the exemption to the public records law provided for reports of currency securities transactions in excess of \$10,000 [Subsection 517.12(14), F.S.]. The provisions take effect October 1, 1992.

#### **Holiday Greeting Cards**

SENATE BILL 102 (CHAPTER 92-21) creates Section 286.27, F.S., to prohibit the expenditure of state funds for the purchase, preparation, printing, or mailing of any card or similar item the sole purpose of which is to convey holiday greetings.

#### **Construction Project Management**

SENATE BILL 1294 (CHAPTER 92-112) creates Section 255.31, F.S., to authorize the Division of Building Construction within the Department of General Services to manage construction projects for which the funds are appropriated directly to the Department; to enter into contracts with other state agencies, upon request, to manage their construction projects for a fee; and to enter into contracts with local governments, upon request, to manage their construction projects for a fee.

#### **Office of Policy Analysis and Agency Review**

COMMITTEE SUBSTITUTE FOR HOUSE BILL 497 (CHAPTER 92-142) deletes certain provisions in Section 11.513, F.S., relating to the hiring of consultants to perform agency evaluation and justification reviews. It also removes the requirement in Section 216.0165, F.S., that the Senate, the House of Representatives and the Governor prepare point-by-point responses to any recommendations contained in the report of the director of the legislative office of Policy Analysis and Agency Review relating to their respective offices. The legislation also removes language specifying the order that agencies are to be evaluated and reviewed, and authorizes the Joint Legislative Auditing Committee to establish such order.

#### **Deceptive and Unfair Trade Practices**

COMMITTEE SUBSTITUTE FOR SENATE BILL 2142 (CHAPTER 92-133) deletes the requirement in Subsection 501.205(1), F.S., that rules specifying violations of the Deceptive and Unfair Trade Practices Act must be approved by the Governor and Cabinet after being proposed by the Department of Legal Affairs. The measure extends the limitations period for enforcement of actions under the act to 4 years [Subsection 501.207(5), F.S.]; raises the amount which can be assessed as a civil penalty under the enactment to \$10,000 [Section 501.2075, F.S.]; and clarifies provisions regarding the recovery of costs and attorneys' fees under the legislation [Section 501.2101, F.S.].

SPECIAL SESSION E - 1990-1992 LEGISLATURE\*

Special Session E of the 1990-1992 Legislature met March 23 to April 1, 1992, for which the Governor listed the following items as being within the "call" of the session:

1. Congressional reapportionment.
2. Regulation of Bingo.
3. Regulation of financial institutions and mortgage lending and foreclosures.
4. Regulation of Insurance.
5. Regulation of medical facilities.
6. Merit retention of judges.
7. Local bills concerning Jacksonville Beach, Palm Beach County and Orlando. The following general laws were enacted.

**Health Care**

HOUSE BILL 61-E creates (CHAPTER 92-278) Section 766.1115, F.S., the "Access to Health Care Act" to provide sovereign immunity to private-sector health care providers who contract as agents of governmental entities for the purpose of providing free health care services to low-income clients of the entities. The terms "contract," "department," "governmental contractor," "health care provider" or "provider" and "low-income" are defined for purposes of the law.

The contract must provide:

1. Right of dismissal of the provider by the governmental contractor.
2. Governmental contractor's right of access to patient records.
3. Adverse incidents and treatment outcomes be reported by the provider.
4. Patient selection and referral be made solely by the governmental contractor, and that the provider accept all referred patients.
5. The patient be referred within 48 hours after emergency care is provided.
6. Patient care be subject to the governmental contractor approval.
7. The provider be subject to the supervision and inspection by the governmental contractor.

The governmental contractor is required to provide written notice to all clients that the provider is an agent of the contractor and that the exclusive remedy for injury is under the sovereign immunity statute. The governmental contractor must establish a quality assurance program to monitor contractual health services under this statute. Governmental contractors other than the Department of Health and Rehabilitative Services (DHRS) are responsible for any costs and attorney fees resulting from malpractice litigation arising out of health care services delivered pursuant to this act.

The Department of Insurance is to compile an annual report of all claims statistics generated by this law for all entities participating in the risk management program administered by

the Division of Risk Management. The report shall be forwarded to DHRS and included in that agency's annual report to the Legislature beginning January 1, 1993.

The provisions of the enactment are limited to incidents occurring on or after the effective date of this law [April 17, 1992] but do not reduce or limit any rights otherwise available under Section 768.28, F.S., nor apply to contracts entered into by the Department of Corrections pursuant to Subsection 768.28(10), F.S. A Sunset review date, of July 1, 1997, is stipulated.

Paragraph 768.28(9)(b), F.S., is revised to include health care providers providing services pursuant to this act, as agents of the State covered by sovereign immunity. Florida Health Service Corps members who provide uncompensated care to the medically indigent are also covered.

Section 627.6415, F.S., is amended to require that individual family health insurance policies provide coverage for foster children, or children in courtordered temporary or other custody of the insured, as well as adopted children. However, such policies do not have to provide coverage for preexisting conditions of foster children.

Modified Section 627.6578, F.S., establishes the same requirement for all group, blanket and franchise health insurance policies.

Up to \$1,487,907 of the state Medicaid funds saved by requiring private insurance to provide coverage for foster children are to be transferred by DHRS from the General Revenue Fund to establish 15 full-time positions to carry out the provisions of this act.

Section 111 of COMMITTEE SUBSTITUTE FOR SENATE BILL 2390 (CHAPTER 92-33) as enacted by the 1992 Regular Session of the Legislature, which created the "Florida Health Services Corps" is revised to:

- 1) restrict the definition of "medically indigent" to persons who lack health insurance, are unable to pay for health care, and are at or below 185 percent of the federal poverty level;
- 2) provide that the Health Service Corps be developed cooperatively with Health Education Center programs (defined in Section 381.0402, F.S.) and the state's health care education and training institutions (rather than the Department of Education and the State University System);
- 3) provide that a corps member may be supervised by the physician designee as well as the State Health Officer;
- 4) delete language specifying the obligations of corps members that must be addressed by DHRS rule; and
- 5) restrict sovereign immunity protection to corps members who provide uncompensated care.

\*Prepared by Legislative Library

**Economic Development**

HOUSE BILL 55-E (CHAPTER 92-277) creates four entities dealing with economic development:

- 1) Enterprise Florida, Inc.;
- 2) the Seaport Employment Training Grant Program;
- 3) the International Trade Data Resource and Research Center; and
- 4) the Partners for a Better Florida Advisory Council.

To carry out its corporate purpose, Enterprise Florida, Inc., a private nonprofit corporation, (Chapter 617, F.S.) is granted specific powers and duties that include assisting in the coordination of state economic development efforts, the development of strategic economic development plan, and the ability to secure funding for the corporation's programs and activities.

The 21-member board of directors is to consist of 9 ex officio members and 12 private sector members initially chosen by the Governor from a list submitted by nominating council subject to Senate confirmation. Provision is made for the appointment of an executive director with specified duties.

The corporation is to submit an annual report to the Governor and Legislature before December 1 setting forth its operations, accomplishments, assets, liabilities and recommendations. The act also requires a yearly compliance and financial audit of the corporate accounts and records.

The measure creates Section 288.8155, F.S., which directs the Department of Commerce, the Florida International Affairs Commission, and the Florida Seaport Transportation and Economic Development Council to establish the International Trade Data Resource and Research Center. An operational plan for the establishment and management of the Center is to be prepared within 90 days of the effective date provided the Legislature has made a specific appropriation for such purposes for fiscal year 1992-1993.

The law specifies the kinds of data to be developed by the Center and the items which may be included in the contract between the Department of Commerce and the Center.

Section 288.012, F.S., is revised to permit offices of the Department located in foreign countries to collect information and research on trade and the opportunities for trade.

Section 288.025, F.S., is amended to permit the Division of International Trade and Development of the Department to assist businesses in locating and acquiring trade data information and research and in gathering, storing, promoting, packaging and disseminating such information and research for purposes of the Center and use by Florida and non-Florida businesses.

The Division of Economic Development of the Department is given the same responsibility to gather, store, promote, package and disseminate trade data information and research through modification of Section 288.03, F.S.

The enactment, in creating the Seaport Employment Training Grant Program, permits the Department to grant funds appropriated by the Legislature to cover up to 50 percent of the total costs of the Program. Such moneys are to be disbursed from the Seaport Employment Training Trust Fund estab-

lished for that purpose within the Department. The Department is granted appropriate rulemaking authority for these purposes. This Program requires a specific 1992-1993 appropriation to become effective.

By creating Section 403.0612, F.S., the Partners for a Better Florida Advisory Council is established to provide means for state agencies, environmental organizations and business and industry to consider environmental impacts in planning economic development and economic impacts in planning environmental protection.

Membership is specified for the 25-member Council, which includes 6 nonvoting members. The Council is housed for administrative and fiscal purposes within the Executive Office of the Governor. The act also sets out the body's powers and duties. An appropriation of \$60,000 is provided for the Council. The Council is repealed effective October 1, 1994.

Section 288.021, F.S., is created to direct the heads of the departments of Environmental Regulation, Natural Resources, Community Affairs, Commerce, Transportation, Labor and Employment Security, Education, General Services, and the Game and Fresh Water Fish Commission to name an economic development liaison as the primary representative for each agency on Florida economic development issues and projects. Each liaison is to have general knowledge of the state's regulatory functions and its economic goals, policies and programs. It is the duty of each liaison to keep the agency head informed as well as being economic development spokesperson for the agency. The liaisons are to be named to the Governor within 30 days of the effective date of the act.

**Appropriations**

HOUSE BILL 115-E (CHAPTER 92-275) restores budget reductions for the period April 1, 1992 through June 30, 1992, to the Medicaid Medically Needy Program by transferring \$11,216,507 from the Public Medical Assistance Trust Fund, and \$13,470,855 from the Medical Care Trust Fund to the Department of Health and Rehabilitative Services. The act also transfers \$11,216,507 from the General Revenue Fund to reimburse the Public Medical Assistance Trust Fund.

**Coastal Zone Management**

SENATE BILL 28-E (CHAPTER 92-276) amends Section 380.31, F.S., to reauthorize the Coastal Resources Interagency Management Committee and add the Secretary of the Department of Labor and Employment Security to its membership. Amended Section 380.33, F.S., designates the Secretary of the Department of Community Affairs (DCA) as the chairperson of the Committee and the Secretary of the Department of Environmental Regulation (DER) as the vice chairperson and specifies that DCA is to provide staff support for the Committee. Provisions relating to the Committee are given a Sun-down (Section 11.611, F.S.) repeal date of October 1, 1994.

Lead agency authority and duties for implementation of the Federal Coastal Zone Management Act of 1972 at the state level is transferred from DER to DCA through the revision of

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Section 380.22, F.S. The position of Coastal Zone Administrator is established within the coastal zone program of DCA.

New Paragraph 380.23(2)(b), F.S., provides that from October 1, 1992 to October 1, 1994, the Governor is to make the final determination as to the consistency of certain proposed federal activities with Florida's approved coastal management program when the DCA cannot resolve a finding or recommendation of inconsistency.

The law prohibits any state agency from seeking positions or spending authority for fiscal year 1992-1993 for the coastal zone management program in excess of that authorized by the 1992-1993 General Appropriations Act.

Section 380.19, F.S., relating to the Florida Coastal Coordinating Council, and Section 380.28, F.S., relating to the South Atlantic and Gulf States Coastal Protection Compact are repealed.

**SPECIAL SESSION F - 1990-1992 LEGISLATURE\***

Special Session F, the sixth of the 1990-1992 Legislature, was called by the Governor for the sole purpose of enacting legislation to abolish the Department of Administration, transfer its powers and duties to the Department of General Services and rename that department as the Department of Management Services. This was accomplished by the enactment of a single law on April 1, 1992.

Effective January 1, 1993, the Department of Management Services will be created pursuant to SENATE BILL 2F (CHAPTER 92-279) and will include most of the divisions and functions of the current departments of Administration and General Services. The Department of Management Services will provide support and administrative services to state agencies and state personnel.

The Department of Management Services will be headed by a Secretary appointed by the Governor. The Department will be comprised of 12 divisions as follows [Section 20.22, F.S.]:

1. Division of Administration
2. Division of Building Construction
3. Division of Communications
4. Division of Facilities Management
5. Division of Information Services
6. Division of Motor Pool
7. Division of Personnel Management Services
8. Division of Purchasing
9. Division of Retirement
10. Division of State Employees' Insurance
11. Division of Administrative Hearings
12. Division of Capitol Police

The Department of General Services will be renamed as the Department of Management Services (DMS). The newly created DMS will be comprised of the functions of the four current divisions of the Department of Administration, and all but one of the current divisions of the Department of General Services.

The Department of Administration will be abolished pursuant to Section 1 of the act, and its functions will be transferred to the newly created Department of Management Services, except that the Human Relations Commission will be transferred to the Executive Office of the Governor.

One division and one function of the Department of General Services will be transferred to other agencies, as follows: Section 3 of the law transfers the office of Executive Clemency to the Florida Parole Commission, and the Division of Bond Finance is transferred to the State Board of Administration under Section 2. The Governor and the Cabinet will remain as the governing board of the Division of Bond Finance. In addition, the Division of Surplus Property will be reduced to the status of a bureau of the Division of Purchasing and the Department of Management Services [Subparagraph 20.22(2)(h)1., F.S.].

The Auditor General is required by Section 323 of the measure to review the functions performed by the current Department of General Services divisions of Purchasing, Motor Pool, Building Construction, and Facilities Management. In conducting its review, the Auditor General is directed to consider whether the functions would be most effectively administered in a centralized agency, or whether the responsibility for performing the functions should be delegated to agencies or privatized. The Auditor General is directed to consider these issues in accordance with specified criteria, and to submit his findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 1992.

Section 338 of the enactment requires the Department of Management Services to reduce funds expended for salaries and benefits by 5 percent in fiscal year 1993-1994, and by 10 percent in fiscal year 1994-1995. The reduction in expenditures must be based upon the current salary and benefit levels of the departments of Administration and General Services, exclusive of the units of government transferred to agencies other than DMS.

Under Section 324, the act also extends and expands, for the next fiscal year, a pilot program currently in effect that provides flexibility to the Department of Revenue, and to the Division of Workers' Compensation of the Department of Labor and Employment Security, to operate outside of statutes governing personnel and budgeting procedures. Besides reauthorizing the pilot program for an additional fiscal year, the act expands the component of the pilot program in the Department of Labor and Employment Security to include the entire department.

In Section 322, the law creates the State Agency Evaluation and Review Committee as a joint standing committee of the Legislature. The Committee is established for the purpose of evaluating and reviewing programs, functions, and activities of the executive branch to determine benefits and efficiencies, and to make recommendations as appropriate. The act establishes criteria by which such reviews shall be conducted.

The State Agency Evaluation and Review Committee will be composed of six members: three members of the Senate appointed by the President, of which one is required to be a member of the minority party, and three members of the House of Representatives appointed by the Speaker, of which one is required to be a member of the minority party. The chairman will be appointed by the President of the Senate and the Speaker of the House of Representatives in alternate years.

The legislation will be effective on January 1, 1993, except those sections in the act which direct the Auditor General to review certain functions of the Department of General Services [323], which extend the pilot programs of the Depart-

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ment of Revenue and Department of Labor and Employment Security [324], and which creates the State Agency Evaluation and Review Committee [322]. These enumerated sections will become effective upon the legislation becoming law.

## SPECIAL SESSION G - 1990-1992 LEGISLATURE\*

**Apportionment and Redistricting**

The Florida Constitution requires the Legislature to reapportion the state and redraw legislative district boundaries in the second year after the Federal decennial census. Federal law similarly requires the states to redraw congressional districts after the census. In 1992, as required, the Legislature reapportioned the state and redrew the district boundaries for all state legislative offices. *A Federal panel of three judges conducted congressional redistricting.* Statistical reports and maps of the new congressional and legislative districts are appended.

Beginning in September and ending in December 1991, the Florida Legislature held a series of 32 public hearings which gave the public an opportunity to present its views on the reapportionment issues. To ensure full access to ethnic and language minorities these hearings were held from Pensacola to Key West, with special emphasis on the 5 counties subject to preclearance by the United States Department of Justice (DOJ). Four hearings were held in Dade County: Opa-locka, downtown Miami, South Dade and Hialeah.

The hearings were held in the evenings and on Saturdays, as well as during normal business hours. They were heavily publicized in the print and electronic media using a variety of techniques including public service announcements, paid advertisements and press releases. Spanish language materials were provided where appropriate.

Senate and House members alternated the Chair and began each hearing with a videotape explaining reapportionment. The Chair suggested issues of concern to the panel, including single-member or multi-member districts, communities of interest, the Voting Rights Act requirements, municipal and county boundaries, the use of adjusted census data, and enhancement of minority participation. Speakers were allowed to speak for as long as they chose.

The hearings were recorded and staff prepared summaries of the testimony. Speakers were asked to submit electronic or paper versions of their proposals. Public participation was further enhanced by the availability of the "TRACTOR" computer program and associated materials. These included an atlas of census tract-level maps and population counts and a personal computer program on disc for assigning tracts to districts and calculating district statistics. These materials were provided free of charge to all public libraries, university and college libraries, and supervisor of elections offices throughout the state.

The Senate and the House provided many workstations for their members and the public to build and analyze redistricting plans. Substantial technical support was provided equally for members and the public. The House and Senate provided extensive access to these workstations not only during regular business hours, but also during evenings and weekends. The House and Senate redistricting systems, while different,

were electronically compatible. Both systems were heavily used.

The Legislature used the satellite network of the Florida Department of Education to link 28 sites around the state for 2 statewide teleconferences--electronic "town meetings." These teleconferences were held after the congressional and legislative plans had been drawn and heard in Committee, but prior to consideration of the plans by the full membership. The "town meeting" on the congressional plan was held in January and the one on the legislative plans in February. Maps and general reapportionment data were mailed to the local locations so that participants would have the same information as the legislators in Tallahassee. The "town meetings" were publicized through public service announcements and press releases and by such groups as the League of Women Voters and the National Association for the Advancement of Colored People (NAACP).

On the first day of the Regular Session (January 14, 1992), before the Legislature had even been gavelled to order, a complaint was filed in the United States District Court for the Northern District of Florida asking that Court to take over all reapportionment activities.

On March 27, 1992, the Court imposed a two-track process: the Legislature would continue its redistricting work while, at the same time, the Court would prepare to implement a plan of its own should the Legislature fail. When the Legislature was unable to agree upon a congressional redistricting plan, the Court imposed one drawn by David Gelfand of Tulane University School of Law, the court's appointed expert. This plan incorporated the Senate's proposed plan for north Florida; a plan submitted by the public interest group Common Cause in central Florida; and a plan submitted by the plaintiffs in south Florida.

During the Regular Session, the Senate and the House considered a variety of statewide legislative redistricting plans, including those submitted by Common Cause, various members, the Florida Caucus of Black State Legislators and a law student. The black caucus ultimately split on redistricting and individual members submitted plans during the regular and special apportionment sessions. Plans evolved to reflect continuing public input.

The Legislature adjourned the Regular Session on March 13, 1992, without having adopted a joint resolution of legislative apportionment, and the Governor convened a special apportionment session on April 2, 1992 (Session G). A legislative plan was adopted during this session (Senate Joint Resolution 2-G) and, as required by the Florida Constitution, submitted to the Florida Supreme Court for validation. Upon validation, the plan was then submitted to the DOJ for preclearance review of the five counties subject to Section 5 of the Voting Rights Act (42 U.S.C. Sec. 1973c, (1988)). The plan was also submitted to the Federal District Court which declined to act

\*Prepared by Senate and House Reapportionment Committees

until the DOJ completed its review of the plan. The Department of Justice ruled that the House redistricting plan did not violate Section 5 of the Voting Rights Act and found the Senate plan should have linked minority communities in St. Petersburg and Tampa. The Florida Supreme Court accordingly modified the Senate plan. The Federal three-judge panel adopted the plan as its own, obviating the need for DOJ preclearance.

The Senate plan has minimal population deviations. The House made a policy decision to underpopulate minority access districts to adjust for the census undercount. Otherwise the House redistricting plan has minimal population deviations. The number of black minority-majority districts was increased in the House and the Senate, and the possibility of enhanced minority participation was provided for in several other districts in the House portion of the plan.

The Senate plan creates two black majority Senate districts in south Florida and attempts to preserve black voting strength in the Duval County area where that population has decreased relative to the white population over the last 10 years. Hispanic representation in Dade County is increased in both the House and the Senate plans. The number of Hispanic minority-majority districts increased from 7 to 9 in the House portion.

The Department of Justice, the NAACP, and the original Federal plaintiffs then alleged that the House and modified Senate plans violated Section 2 of the Voting Rights Act (42 U.S.C. Sec. 1973 (1988)). The plaintiffs ultimately limited their

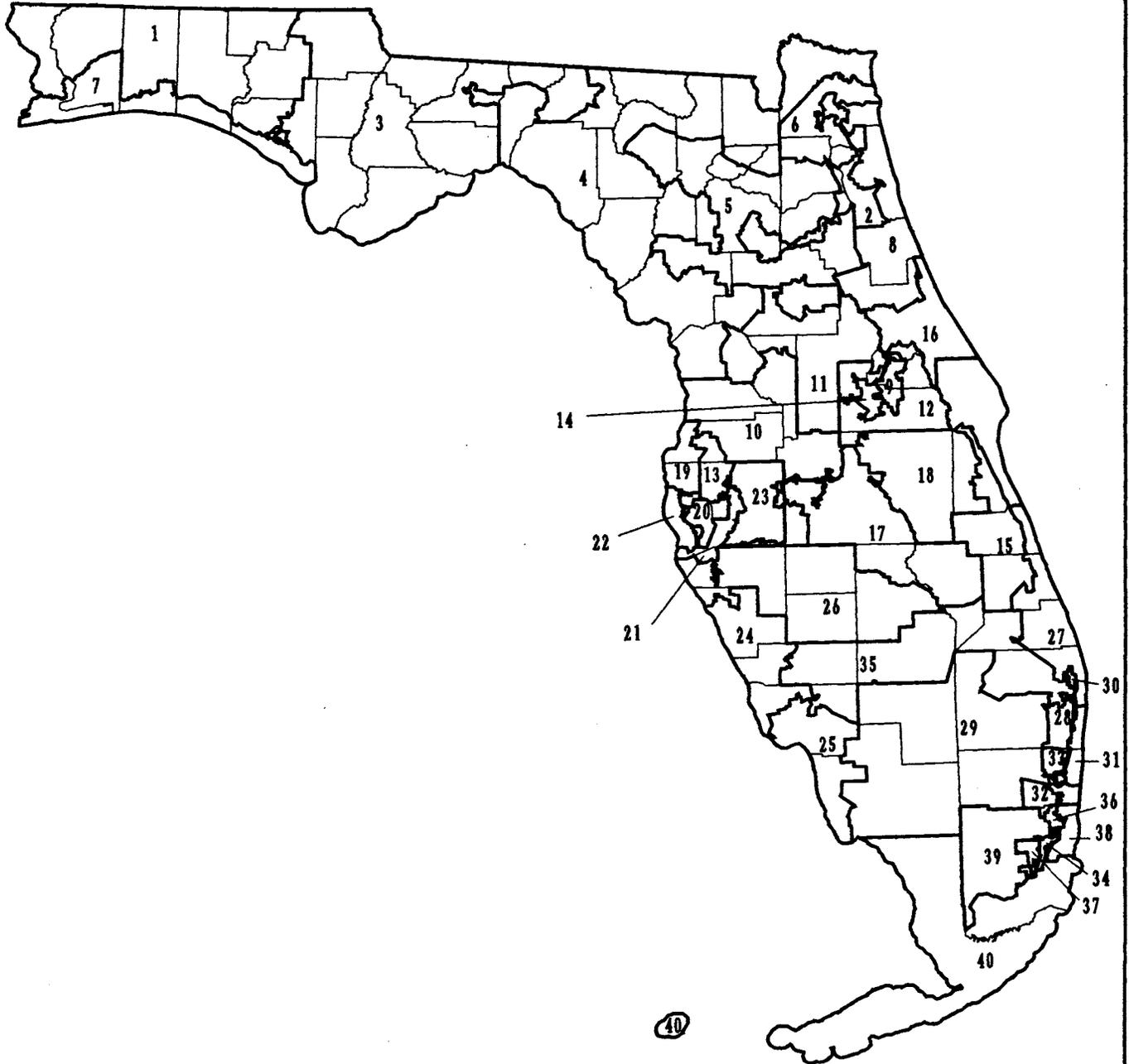
challenge to the House districts in Escambia County as being unfair to blacks, and House and Senate districts in Dade County as being unfair to blacks and Hispanics. The parties entered a consent judgment modifying the House districts in Escambia County, settling that part of the litigation.

On July 2, 1992, the United State District Court for the Northern District of Florida ruled that the House plan violated the Voting Rights Act in Dade County. To remedy the violation, the Court imposed a plan submitted by private plaintiff Miguel DeGrandy which changed House districts in Dade, Broward, Palm Beach and Collier counties.

In a separate judgment on July 2, 1992, the Court ruled the Senate plan did not violate the Voting Rights Act. The Court reasoned in its opinion issued July 17 that while the Senate plan diluted Hispanic voting strength in Dade County, remedying that dilution would have a retrogressive effect on black voters there.

Appeals concerning both the House of Representatives plan and the Senate plan are pending before the United States Supreme Court. In a preliminary ruling, that Court ordered that the November elections would occur based on the plan approved by the Legislature as modified by the Florida Supreme Court and the consent order with regard to House districts in Escambia County. The picture cannot be completed until the United States Supreme Court rules, and even then additional litigation is possible. Plaintiffs' challenges to other areas of the state were voluntarily dismissed without prejudice to refile.

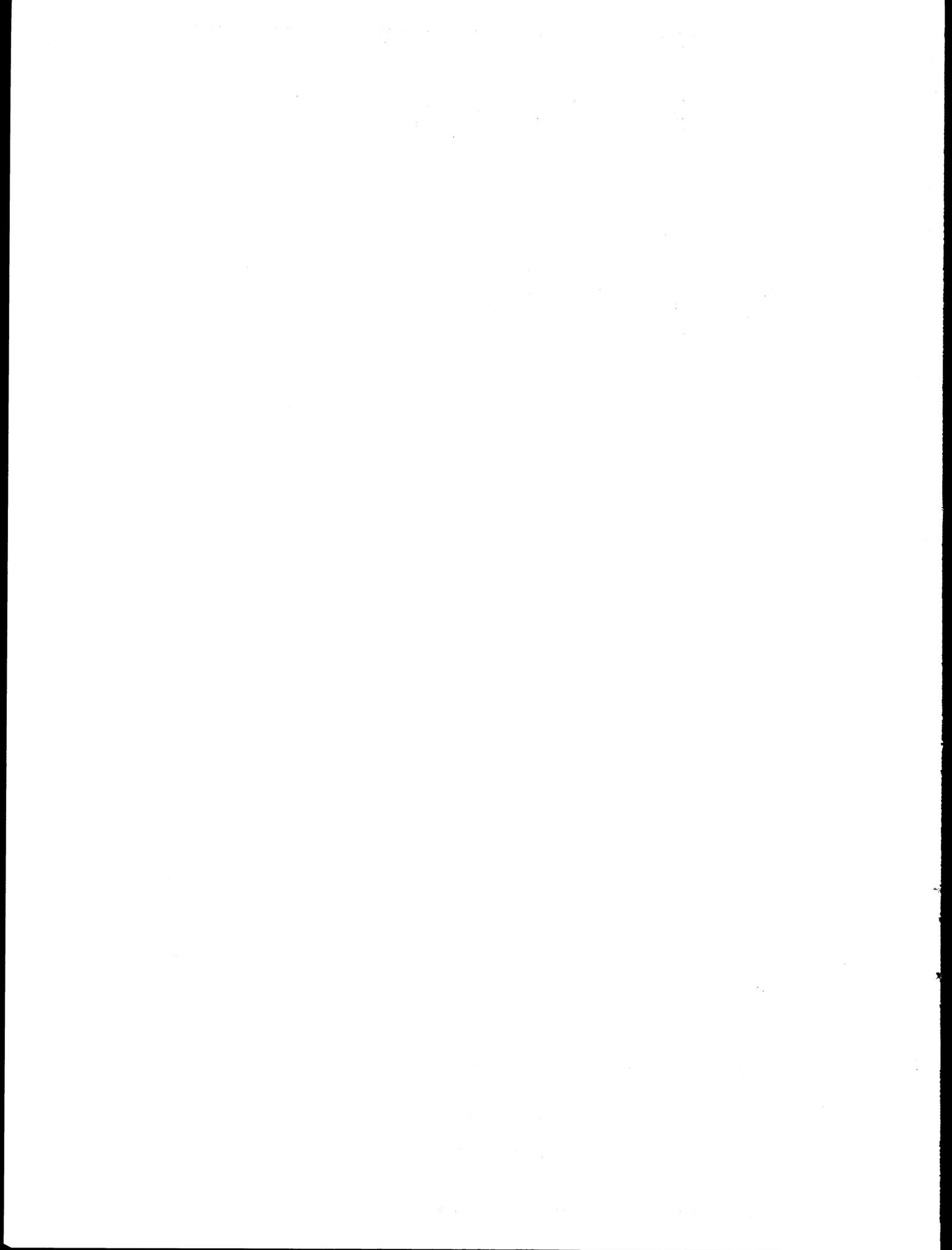
# SENATE PLAN 330



Florida Senate Committee on Reapportionment

Source: U.S. Bureau of the Census TIGER/Line files

Albers equal-area projection. October 01, 1992



Senate District & County	Total Population (1990 Census)										Registered Voters (1990)								
	Population	Total		White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.				
Florida	12,937,926	10,071,689	78%	8,619,155	86%	1,150,556	11%	301,978	3%	1,181,454	12%	6,031,267	60%	90%	10%	1%	52%	41%	7%
1 District	322,018	236,201	73%	189,649	80%	40,671	17%	5,881	2%	3,456	1%	153,774	65%	84%	15%	1%	74%	23%	3%
Bay	23,429	16,617	71%	10,540	63%	5,687	34%	390	2%	153	1%	9,508	57%	66%	34%	0%	76%	21%	4%
Escambia	163,869	120,573	74%	89,724	74%	27,513	23%	3,336	3%	1,826	2%	70,568	59%	77%	22%	1%	72%	25%	3%
Holmes	15,778	11,857	75%	11,028	93%	650	5%	179	2%	121	1%	7,945	67%	98%	2%	0%	94%	5%	0%
Okaloosa	33,479	24,769	74%	21,589	87%	2,662	11%	518	2%	725	3%	15,806	64%	92%	7%	1%	63%	33%	4%
Santa Rosa	45,823	32,784	72%	30,633	93%	1,342	4%	809	2%	393	1%	27,354	83%	96%	4%	1%	70%	27%	3%
Walton	22,721	16,952	75%	15,384	91%	1,223	7%	345	2%	124	1%	13,014	77%	90%	9%	0%	82%	16%	2%
Washington	16,919	12,649	75%	10,751	85%	1,594	13%	304	2%	114	1%	9,579	76%	87%	12%	0%	89%	10%	1%
2 District	322,460	233,725	72%	124,523	53%	105,188	45%	4,014	2%	4,094	2%	153,097	66%	53%	47%	0%	78%	18%	4%
Alachua	21,027	14,549	69%	6,192	43%	8,238	57%	119	1%	178	1%	6,617	45%	46%	54%	0%	81%	15%	4%
Clay	2,971	2,122	71%	1,263	60%	841	40%	18	1%	26	1%	1,402	66%	69%	31%	0%	63%	32%	6%
Duval	277,275	202,333	73%	109,414	54%	89,164	44%	3,755	2%	3,645	2%	136,187	67%	53%	46%	0%	78%	18%	4%
Putnam	8,606	5,721	66%	2,889	50%	2,786	49%	46	1%	79	1%	3,592	63%	52%	48%	1%	82%	15%	3%
St. Johns	12,581	9,000	72%	4,765	53%	4,159	46%	76	1%	166	2%	5,299	59%	51%	48%	0%	78%	19%	3%
3 District	322,259	241,458	75%	174,458	72%	62,533	26%	4,467	2%	4,879	2%	156,432	65%	74%	25%	1%	78%	17%	4%
Bay	31,257	22,741	73%	21,293	94%	813	4%	635	3%	360	2%	13,172	58%	98%	2%	0%	64%	30%	5%
Calhoun	11,011	8,140	74%	6,816	84%	1,187	15%	137	2%	85	1%	5,380	66%	88%	11%	0%	96%	4%	0%
Franklin	8,967	6,814	76%	6,037	89%	713	10%	64	1%	44	1%	5,742	84%	88%	12%	0%	92%	7%	1%
Gadsden	41,105	28,941	70%	13,288	46%	15,170	52%	483	2%	620	2%	18,998	66%	45%	55%	0%	93%	6%	1%
Gulf	11,504	8,681	75%	7,135	82%	1,480	17%	66	1%	59	1%	7,182	83%	83%	17%	0%	93%	7%	0%
Jackson	41,375	31,096	75%	23,163	74%	7,602	24%	331	1%	840	3%	18,356	59%	79%	21%	0%	89%	11%	1%
Jefferson	3,917	2,919	75%	1,783	61%	1,124	39%	12	0%	36	1%	2,295	79%	64%	36%	0%	89%	10%	1%
Leon	141,162	108,916	77%	78,239	72%	28,158	26%	2,519	2%	2,527	2%	69,235	64%	72%	26%	1%	67%	25%	8%
Liberty	5,569	4,221	76%	3,320	79%	831	20%	70	2%	98	2%	2,909	69%	89%	11%	0%	97%	3%	0%
Madison	12,190	8,807	72%	4,463	51%	4,287	49%	57	1%	147	2%	5,088	58%	57%	43%	0%	91%	8%	1%
Wakulla	14,202	10,182	72%	8,921	88%	1,168	11%	93	1%	63	1%	8,075	79%	88%	12%	0%	87%	11%	2%
4 District	322,039	243,389	76%	208,191	86%	32,365	13%	2,833	1%	4,468	2%	161,041	66%	89%	11%	0%	74%	22%	4%
Alachua	14,474	10,292	71%	8,337	81%	1,877	18%	78	1%	167	2%	5,440	53%	84%	16%	0%	75%	21%	4%
Baker	18,486	12,855	70%	10,802	84%	1,934	15%	119	1%	165	1%	8,202	64%	88%	12%	0%	94%	6%	0%
Bradford	11,864	9,240	78%	6,242	68%	2,845	31%	153	2%	276	3%	3,846	42%	77%	23%	0%	87%	11%	2%
Citrus	43,782	35,340	81%	34,380	97%	678	2%	282	1%	503	1%	23,269	66%	98%	2%	0%	52%	40%	8%
Columbia	14,346	10,084	70%	6,586	65%	3,412	34%	86	1%	116	1%	6,025	60%	67%	33%	0%	85%	14%	1%
Dixie	10,585	7,997	76%	7,249	91%	686	9%	62	1%	70	1%	7,552	94%	92%	8%	0%	92%	7%	1%
Gilchrist	9,667	7,245	75%	6,554	90%	630	9%	61	1%	122	2%	4,856	67%	97%	3%	0%	89%	10%	1%
Hamilton	10,930	7,774	71%	4,827	62%	2,803	36%	144	2%	206	3%	5,562	72%	68%	32%	0%	96%	4%	0%
Jefferson	7,379	5,109	69%	3,041	60%	2,035	40%	33	1%	61	1%	3,939	77%	59%	41%	0%	91%	7%	2%
Lafayette	5,578	4,198	75%	3,434	82%	616	15%	148	4%	196	5%	3,138	75%	94%	6%	0%	96%	4%	0%
Leon	51,331	40,452	79%	34,775	86%	4,941	12%	736	2%	1,315	3%	30,336	75%	88%	10%	1%	69%	25%	6%
Levy	8,727	6,972	80%	6,773	97%	138	2%	61	1%	78	1%	4,444	64%	99%	0%	0%	76%	21%	2%
Madison	4,379	3,202	73%	2,851	89%	322	10%	29	1%	42	1%	2,143	67%	91%	9%	0%	86%	12%	1%
Marion	28,197	23,009	82%	21,146	92%	1,643	7%	220	1%	443	2%	15,249	66%	94%	6%	0%	47%	45%	8%
Nassau	43,941	32,037	73%	28,746	90%	3,034	9%	257	1%	306	1%	19,319	60%	91%	9%	0%	74%	22%	4%
Suwannee	16,478	11,977	73%	9,782	82%	2,053	17%	142	1%	165	1%	7,570	63%	83%	17%	0%	85%	13%	1%
Taylor	17,111	12,288	72%	10,208	83%	1,921	16%	159	1%	114	1%	8,210	67%	86%	14%	0%	89%	10%	1%
Union	4,784	3,318	69%	2,458	74%	797	24%	63	2%	123	4%	1,941	58%	85%	14%	0%	95%	4%	1%

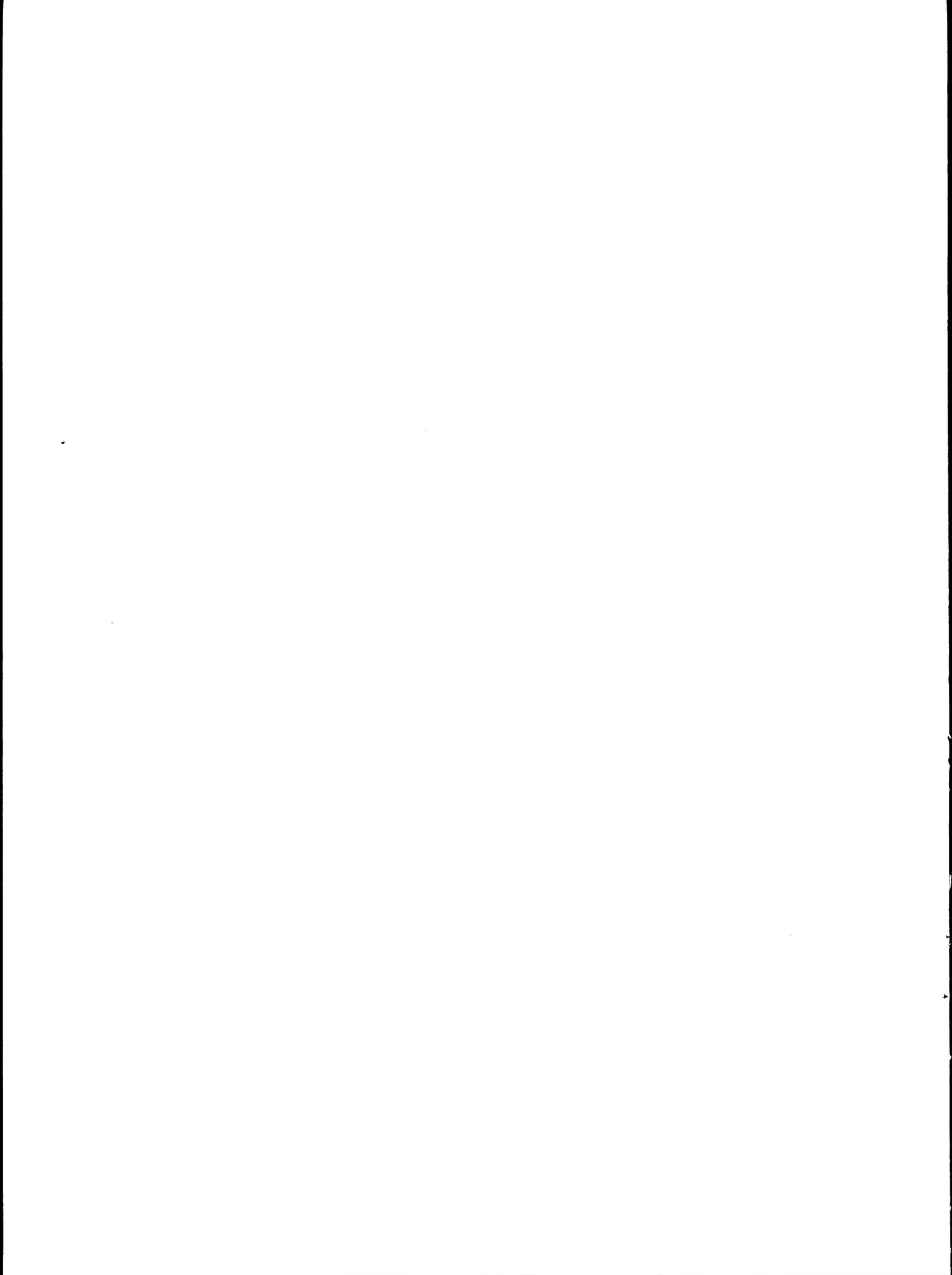
Senate District & County	Total Population	Voting Age Population (1990 Census)										Registered Voters (1990)							
		Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.					
5 District	322,055	248,955	77%	214,740	86%	27,480	11%	6,735	3%	7,635	3%	145,369	58%	91%	8%	1%	68%	27%	5%
Alachua	146,095	117,240	80%	99,666	85%	12,630	11%	4,944	4%	5,064	4%	66,568	57%	92%	8%	1%	61%	32%	7%
Bradford	10,651	7,869	74%	7,196	91%	615	8%	58	1%	81	1%	4,610	59%	93%	7%	0%	80%	16%	3%
Clay	20,777	15,418	74%	14,885	97%	374	2%	159	1%	219	1%	9,135	59%	98%	2%	0%	62%	34%	4%
Columbia	28,267	20,628	73%	18,802	91%	1,542	7%	284	1%	305	1%	12,486	61%	94%	6%	0%	79%	19%	1%
Levy	17,196	12,672	74%	10,522	83%	1,965	16%	185	1%	255	2%	7,856	62%	86%	14%	0%	85%	14%	1%
Marion	26,835	20,317	76%	15,799	78%	4,237	21%	281	1%	421	2%	9,630	47%	84%	16%	0%	65%	30%	5%
Putnam	56,464	42,807	76%	37,601	88%	4,559	11%	647	2%	984	2%	28,146	66%	91%	9%	1%	73%	23%	4%
Suwannee	10,302	7,705	75%	7,141	93%	480	6%	84	1%	138	2%	4,831	63%	94%	6%	0%	84%	15%	1%
Union	5,468	4,299	79%	3,128	73%	1,078	25%	93	2%	168	4%	2,107	49%	86%	13%	0%	96%	4%	1%
6 District	324,338	237,340	73%	218,151	92%	12,466	5%	6,723	3%	6,079	3%	139,088	59%	96%	3%	0%	54%	40%	6%
Clay	82,238	57,912	70%	53,986	93%	2,269	4%	1,657	3%	1,544	3%	33,736	58%	98%	2%	0%	44%	49%	7%
Duval	235,467	174,605	74%	159,415	91%	10,169	6%	5,021	3%	4,474	3%	102,043	58%	96%	4%	0%	58%	37%	6%
St. Johns	6,633	4,823	73%	4,750	98%	28	1%	45	1%	61	1%	3,309	69%	99%	0%	0%	50%	46%	4%
7 District	322,358	243,788	76%	220,126	90%	15,446	6%	8,216	3%	5,522	2%	155,748	64%	95%	4%	1%	54%	41%	5%
Bay	72,308	55,387	77%	51,596	93%	2,328	4%	1,463	3%	993	2%	32,843	59%	98%	2%	0%	63%	31%	5%
Escambia	98,929	75,845	77%	66,522	88%	6,553	9%	2,770	4%	1,776	2%	50,821	67%	94%	5%	1%	55%	39%	6%
Okaloosa	110,297	81,692	74%	72,556	89%	5,785	7%	3,351	4%	2,319	3%	49,072	60%	95%	4%	1%	44%	51%	5%
Santa Rosa	35,785	26,650	74%	25,308	95%	772	3%	570	2%	387	1%	19,909	75%	97%	2%	1%	57%	39%	4%
Walton	5,039	4,214	84%	4,144	98%	8	0%	62	1%	47	1%	3,103	74%	94%	6%	0%	53%	42%	5%
8 District	323,777	252,122	78%	227,761	90%	16,033	6%	8,328	3%	9,432	4%	147,534	59%	96%	4%	0%	50%	44%	7%
Duval	160,229	121,687	76%	106,848	88%	10,040	8%	4,799	4%	4,091	3%	65,939	54%	94%	5%	1%	49%	43%	7%
Flagler	28,701	23,222	81%	21,229	91%	1,626	7%	367	2%	909	4%	15,723	68%	94%	6%	0%	48%	45%	8%
Marion	36,779	29,123	79%	27,119	93%	1,532	5%	472	2%	910	3%	19,143	66%	96%	4%	0%	49%	43%	7%
St. Johns	64,615	51,373	80%	50,093	98%	722	1%	558	1%	1,156	2%	32,930	64%	99%	1%	0%	51%	44%	5%
Volusia	33,453	26,717	80%	22,472	84%	2,113	8%	2,132	8%	2,366	9%	13,799	52%	97%	3%	0%	49%	45%	6%
9 District	322,309	250,190	78%	228,965	92%	9,408	4%	11,817	5%	23,258	9%	123,739	49%	95%	2%	3%	38%	54%	7%
Orange	181,827	144,327	79%	130,879	91%	5,342	4%	8,106	6%	15,788	11%	68,248	47%	93%	2%	5%	39%	54%	7%
Seminole	140,482	105,863	75%	98,086	93%	4,066	4%	3,711	4%	7,470	7%	55,491	52%	98%	2%	0%	38%	55%	8%
10 District	324,581	255,172	79%	240,700	94%	10,615	4%	3,857	2%	7,384	3%	161,079	63%	97%	3%	0%	53%	41%	6%
Hernando	101,115	82,467	82%	79,217	96%	2,502	3%	748	1%	2,068	3%	67,016	81%	98%	2%	0%	47%	45%	8%
Pasco	105,919	81,867	77%	77,122	94%	2,853	3%	1,892	2%	3,368	4%	49,465	60%	97%	3%	0%	52%	41%	7%
Polk	91,059	70,013	77%	66,413	95%	2,631	4%	969	1%	1,514	2%	33,134	47%	97%	2%	0%	59%	39%	3%
Sumter	26,488	20,825	79%	17,948	86%	2,629	13%	248	1%	434	2%	11,464	55%	91%	9%	0%	69%	28%	3%
11 District	323,591	256,829	79%	233,810	91%	19,855	8%	3,164	1%	6,292	2%	155,036	60%	94%	6%	0%	49%	45%	6%
Citrus	49,733	41,709	84%	40,587	97%	785	2%	337	1%	788	2%	29,231	70%	99%	1%	0%	56%	37%	7%
Lake	152,104	121,841	80%	111,095	91%	9,272	8%	1,474	1%	2,802	2%	71,100	58%	95%	5%	0%	44%	52%	5%
Marion	103,022	79,292	77%	69,378	87%	8,810	11%	1,104	1%	2,322	3%	46,552	59%	90%	10%	0%	55%	38%	7%
Seminole	13,643	10,240	75%	9,768	95%	243	2%	229	2%	327	3%	6,029	59%	98%	2%	0%	37%	56%	7%
Sumter	5,089	3,747	74%	2,982	80%	745	20%	20	1%	53	1%	2,124	57%	83%	17%	0%	70%	27%	3%
12 District	324,729	243,759	75%	224,801	92%	9,064	4%	9,894	4%	18,244	7%	122,381	50%	95%	2%	2%	37%	55%	8%
Orange	198,259	149,342	75%	136,320	91%	5,889	4%	7,133	5%	12,430	8%	68,468	46%	94%	2%	4%	39%	54%	8%
Osceola	5,032	3,912	78%	3,725	95%	39	1%	148	4%	219	6%	2,257	58%	94%	1%	5%	46%	44%	10%
Seminole	108,620	80,837	74%	75,644	94%	2,816	3%	2,377	3%	4,663	6%	45,464	56%	98%	2%	0%	34%	59%	7%
Volusia	12,818	9,668	75%	9,112	94%	320	3%	236	2%	932	10%	6,192	64%	97%	3%	0%	45%	47%	8%

Senate District & County	Total Population	Young Age Population (18-29 Census)									Registered Voters (1997)			Dem.	Rep.	Ind.			
		Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other								
13 District Hillsborough Pasco	324,569	254,222	78%	237,067	93%	8,214	3%	8,941	4%	36,228	14%	152,669	60%	97%	3%	0%	52%	40%	8%
	269,618	208,520	77%	192,000	92%	7,996	4%	8,524	4%	35,195	17%	119,038	57%	97%	3%	0%	53%	39%	8%
	54,951	45,702	83%	45,067	99%	218	0%	417	1%	1,033	2%	33,631	74%	100%	0%	0%	49%	43%	8%
14 District Orange Seminole	322,189	240,018	74%	165,956	69%	64,479	27%	9,583	4%	17,669	7%	105,266	44%	72%	25%	3%	55%	39%	6%
	297,405	222,336	75%	157,270	71%	55,722	25%	9,344	4%	17,195	8%	97,047	44%	73%	24%	3%	54%	40%	6%
	24,784	17,682	71%	8,686	49%	8,757	50%	239	1%	474	3%	8,219	46%	56%	44%	0%	63%	33%	4%
15 District Brevard Indian River St. Lucie	324,229	248,588	77%	211,977	85%	31,111	13%	5,500	2%	8,614	3%	154,487	62%	90%	10%	0%	47%	45%	7%
	179,158	139,146	78%	123,565	89%	12,183	9%	3,398	2%	4,527	3%	86,940	62%	93%	7%	0%	46%	47%	7%
	74,306	58,150	78%	52,510	90%	4,949	9%	691	1%	1,720	3%	38,794	67%	93%	7%	0%	42%	51%	7%
	70,765	51,292	72%	35,902	70%	13,979	27%	1,411	3%	2,367	5%	28,753	56%	77%	23%	0%	60%	33%	7%
16 Volusia	324,441	261,304	81%	237,248	91%	20,532	8%	3,524	1%	6,910	3%	164,096	63%	93%	6%	0%	52%	41%	7%
17 District Highlands Hillsborough Okeechobee Polk	322,803	248,106	77%	223,055	90%	18,640	8%	6,411	3%	11,102	4%	133,058	54%	94%	6%	0%	58%	39%	3%
	43,740	35,204	80%	31,045	88%	3,294	9%	865	2%	1,553	4%	21,579	61%	94%	6%	0%	54%	43%	3%
	1,080	790	73%	783	99%	0	0%	7	1%	19	2%	306	39%	100%	0%	0%	72%	24%	4%
	14,184	9,496	67%	7,132	75%	1,018	11%	1,346	14%	1,499	16%	5,157	54%	84%	16%	0%	78%	20%	2%
	263,799	202,616	77%	184,095	91%	14,328	7%	4,193	2%	8,031	4%	106,016	52%	94%	5%	0%	58%	39%	3%
18 District Brevard Osceola	322,516	249,045	77%	230,456	93%	11,805	5%	6,784	3%	12,569	5%	165,429	66%	95%	3%	2%	46%	47%	7%
	219,820	172,378	78%	160,961	93%	8,191	5%	3,226	2%	4,249	2%	118,178	69%	97%	3%	0%	44%	49%	6%
	102,696	76,667	75%	69,495	91%	3,614	5%	3,558	5%	8,320	11%	47,251	62%	90%	3%	7%	48%	42%	9%
19 District Pasco Pinellas	323,098	268,595	83%	262,405	98%	3,349	1%	2,841	1%	5,240	2%	199,000	74%	99%	1%	0%	39%	50%	10%
	120,261	103,339	86%	102,027	99%	387	0%	925	1%	1,824	2%	78,445	76%	100%	0%	0%	46%	46%	8%
	202,837	165,256	81%	160,378	97%	2,962	2%	1,916	1%	3,416	2%	120,555	73%	99%	1%	0%	35%	53%	12%
20 District Hillsborough Pinellas	324,336	265,175	82%	251,463	95%	6,602	2%	7,110	3%	10,019	4%	176,347	67%	98%	2%	0%	47%	43%	9%
	79,871	64,421	81%	58,987	92%	3,165	5%	2,269	4%	4,930	8%	40,740	63%	97%	3%	0%	56%	36%	7%
	244,465	200,754	82%	192,476	96%	3,437	2%	4,841	2%	5,089	3%	135,607	68%	99%	1%	0%	45%	46%	10%
21 District Hillsborough Manatee Pinellas Polk	323,356	231,003	71%	118,371	51%	105,714	46%	6,918	3%	21,785	9%	126,127	55%	51%	49%	0%	72%	23%	5%
	159,953	113,644	71%	60,231	53%	48,918	43%	4,495	4%	17,217	15%	57,432	51%	52%	48%	0%	76%	18%	6%
	32,741	23,603	72%	14,772	63%	7,764	33%	1,067	5%	2,467	10%	12,853	54%	65%	34%	1%	60%	34%	5%
	80,138	58,745	73%	26,402	45%	31,542	54%	801	1%	1,172	2%	40,226	68%	45%	55%	0%	69%	25%	6%
	50,524	35,011	69%	16,966	48%	17,490	50%	555	2%	929	3%	15,616	45%	51%	48%	0%	73%	24%	2%
22 Pinellas	324,219	275,448	85%	266,870	97%	5,342	2%	3,236	1%	5,299	2%	196,189	71%	99%	1%	0%	38%	52%	10%
23 Hillsborough	323,532	244,405	76%	225,451	92%	11,041	5%	7,913	3%	20,741	8%	130,110	53%	96%	4%	0%	51%	41%	9%
24 District Charlotte Lee Sarasota	324,674	278,269	86%	272,179	98%	3,712	1%	2,378	1%	4,566	2%	209,423	75%	99%	1%	0%	34%	59%	7%
	94,045	79,609	85%	76,926	97%	1,872	2%	811	1%	1,654	2%	59,105	74%	98%	1%	0%	37%	56%	6%
	28,819	25,434	88%	25,202	99%	66	0%	166	1%	295	1%	16,789	66%	100%	0%	0%	38%	54%	8%
	201,810	173,226	86%	170,051	98%	1,774	1%	1,401	1%	2,617	2%	133,529	77%	99%	1%	0%	31%	61%	7%
25 District Collier Lee	324,520	266,871	82%	259,562	97%	3,469	1%	3,840	1%	11,499	4%	163,419	61%	99%	1%	1%	31%	61%	8%
	131,685	108,409	82%	104,470	96%	2,170	2%	1,769	2%	6,794	6%	63,336	58%	98%	1%	1%	26%	67%	7%
	192,835	158,462	82%	155,092	98%	1,299	1%	2,071	1%	4,705	3%	100,083	63%	99%	0%	0%	34%	58%	8%

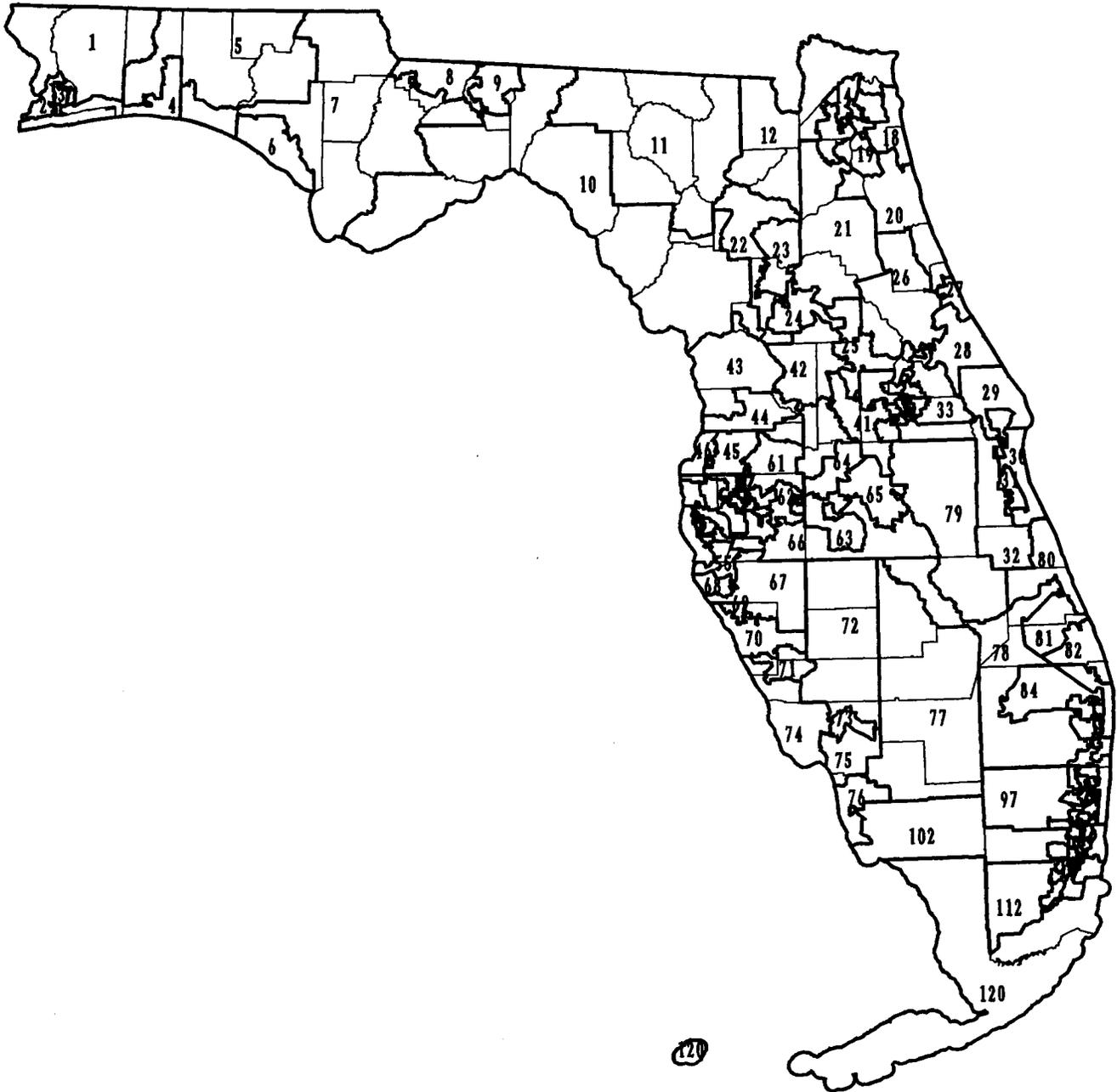
Senate District & County	Total Population	Voting Age Population (1990 Census)										Registered Voters (1990)							
		Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.					
26 District	322,988	260,747	81%	243,197	93%	12,741	5%	4,809	2%	10,037	4%	182,044	70%	96%	3%	0%	43%	50%	6%
DeSoto	23,865	18,199	76%	15,082	83%	2,495	14%	622	3%	1,545	8%	10,354	57%	89%	11%	0%	78%	21%	2%
Hardee	19,499	13,811	71%	12,015	87%	657	5%	1,139	8%	2,582	19%	7,584	55%	87%	8%	5%	86%	13%	1%
Highlands	24,692	20,410	83%	19,180	94%	907	4%	323	2%	767	4%	13,774	67%	97%	3%	0%	53%	43%	3%
Manatee	178,966	147,488	82%	142,798	97%	2,632	2%	2,058	1%	3,451	2%	106,766	72%	99%	1%	0%	39%	53%	7%
Sarasota	75,966	60,839	80%	54,122	89%	6,050	10%	667	1%	1,692	3%	43,566	72%	93%	7%	0%	35%	58%	7%
27 District	322,577	265,611	82%	255,375	96%	6,132	2%	4,104	2%	8,694	3%	189,420	71%	99%	1%	0%	34%	57%	10%
Indian River	15,902	14,572	92%	14,488	99%	28	0%	56	0%	141	1%	12,180	84%	100%	0%	0%	22%	72%	7%
Martin	98,342	80,920	82%	75,816	94%	3,345	4%	1,759	2%	2,989	4%	55,248	68%	97%	3%	0%	31%	62%	7%
Palm Beach	128,927	105,862	82%	103,101	97%	1,340	1%	1,421	1%	3,801	4%	78,670	74%	99%	1%	0%	35%	53%	12%
St. Lucie	79,406	64,257	81%	61,970	96%	1,419	2%	868	1%	1,763	3%	43,322	67%	98%	2%	0%	39%	51%	10%
28 District	323,191	269,419	83%	258,643	96%	5,532	2%	5,244	2%	15,309	6%	185,919	69%	99%	1%	0%	52%	38%	10%
Broward	20,692	19,154	93%	18,481	96%	429	2%	244	1%	581	3%	14,710	77%	99%	1%	0%	70%	22%	8%
Palm Beach	302,499	250,265	83%	240,162	96%	5,103	2%	5,000	2%	14,728	6%	171,209	68%	99%	1%	0%	50%	39%	11%
29 District	324,508	251,489	77%	208,657	83%	32,552	13%	10,280	4%	31,052	12%	145,936	58%	89%	10%	1%	60%	33%	7%
Broward	241,901	196,181	81%	172,490	88%	18,775	10%	4,916	3%	17,354	9%	121,007	62%	91%	8%	1%	59%	33%	7%
Collier	20,414	13,350	65%	8,899	67%	2,348	18%	2,103	16%	6,811	51%	3,192	24%	75%	12%	13%	57%	38%	5%
Hendry	25,773	17,695	69%	13,371	76%	2,553	14%	1,771	10%	3,632	21%	8,584	49%	87%	13%	0%	75%	22%	3%
Palm Beach	36,420	24,263	67%	13,897	57%	8,876	37%	1,490	6%	3,255	13%	13,153	54%	70%	30%	0%	54%	37%	8%
30 District	324,262	234,069	72%	107,000	46%	120,963	52%	6,106	3%	18,584	8%	128,389	55%	53%	46%	0%	68%	25%	7%
Broward	173,441	120,431	69%	37,625	31%	80,151	67%	2,655	2%	7,755	6%	62,032	52%	38%	61%	1%	77%	18%	5%
Palm Beach	150,821	113,638	75%	69,375	61%	40,812	36%	3,451	3%	10,829	10%	66,357	58%	68%	32%	0%	61%	31%	8%
31 District	324,815	279,104	86%	264,907	95%	8,233	3%	5,964	2%	17,092	6%	191,980	69%	98%	1%	0%	37%	53%	10%
Broward	246,853	211,381	86%	199,891	95%	6,710	3%	4,780	2%	14,112	7%	142,007	67%	98%	1%	1%	39%	52%	9%
Palm Beach	77,962	67,723	87%	65,016	96%	1,523	2%	1,184	2%	2,980	4%	49,973	74%	99%	1%	0%	31%	58%	11%
32 District	323,601	244,904	76%	209,539	86%	24,715	10%	10,650	4%	48,085	20%	147,810	60%	91%	8%	2%	57%	36%	7%
Broward	247,897	189,306	76%	173,165	91%	9,402	5%	6,739	4%	23,479	12%	122,549	65%	96%	2%	1%	57%	37%	7%
Dade	75,704	55,598	73%	36,374	65%	15,313	28%	3,911	7%	24,606	44%	25,261	45%	62%	36%	2%	60%	33%	7%
33 Broward	324,704	262,417	81%	245,836	94%	9,994	4%	6,587	3%	16,532	6%	172,915	66%	98%	2%	1%	57%	34%	9%
34 Dade	323,536	260,538	81%	237,445	91%	6,623	3%	16,470	6%	172,805	66%	117,560	45%	97%	2%	1%	40%	52%	8%
35 District	322,870	251,997	78%	218,604	87%	26,320	10%	7,073	3%	18,567	7%	148,031	59%	93%	6%	0%	56%	36%	8%
Charlotte	16,930	14,078	83%	12,662	90%	1,253	9%	163	1%	395	3%	8,338	59%	97%	3%	0%	48%	47%	5%
Glades	7,591	5,735	76%	4,771	83%	552	10%	412	7%	382	7%	4,195	73%	86%	10%	4%	81%	16%	3%
Lee	113,459	85,647	75%	71,588	84%	11,834	14%	2,225	3%	4,834	6%	44,613	52%	90%	9%	1%	50%	44%	6%
Martin	2,558	2,242	88%	1,364	61%	839	37%	39	2%	221	10%	673	30%	75%	25%	0%	59%	35%	6%
Okeechobee	15,443	12,081	78%	11,725	97%	59	0%	297	2%	559	5%	7,619	63%	100%	0%	0%	73%	25%	2%
Palm Beach	166,889	132,214	79%	116,494	88%	11,783	9%	3,937	3%	12,176	9%	82,593	62%	95%	5%	0%	57%	33%	10%
36 Dade	323,369	227,610	70%	96,809	43%	119,580	53%	11,221	5%	75,405	33%	106,596	47%	39%	59%	1%	76%	19%	5%
37 Dade	322,180	240,993	75%	214,912	89%	8,124	3%	17,957	7%	154,901	64%	110,028	46%	96%	2%	2%	38%	52%	10%
38 Dade	323,071	269,667	83%	231,687	86%	25,374	9%	12,606	5%	80,670	30%	138,898	52%	94%	5%	1%	64%	27%	9%

#	County	Population	Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.					
39	Dade	323,441	246,385	76%	217,925	88%	8,274	3%	20,186	8%	187,433	76%	85,733	35%	96%	2%	2%	35%	56%	8%
40	District	323,817	232,762	72%	140,684	60%	80,265	34%	11,813	5%	53,304	23%	130,070	56%	60%	39%	1%	66%	27%	7%
	Dade	245,793	168,293	68%	80,675	48%	77,304	46%	10,314	6%	46,026	27%	89,762	53%	44%	54%	2%	72%	21%	7%
	Monroe	78,024	64,469	83%	60,009	93%	2,961	5%	1,499	2%	7,278	11%	40,308	63%	96%	4%	0%	52%	39%	8%

*SOURCE: Counts of Population and Voting Age Population (18 years and older) from the U.S. Department of Commerce, Bureau of the Census (P.L. 94-171 data for the 1990 Census). Registration data for the 1990 General Election compiled from Supervisor of Elections records by the Florida Senate Committee on Reapportionment.*



# HOUSE PLAN 352



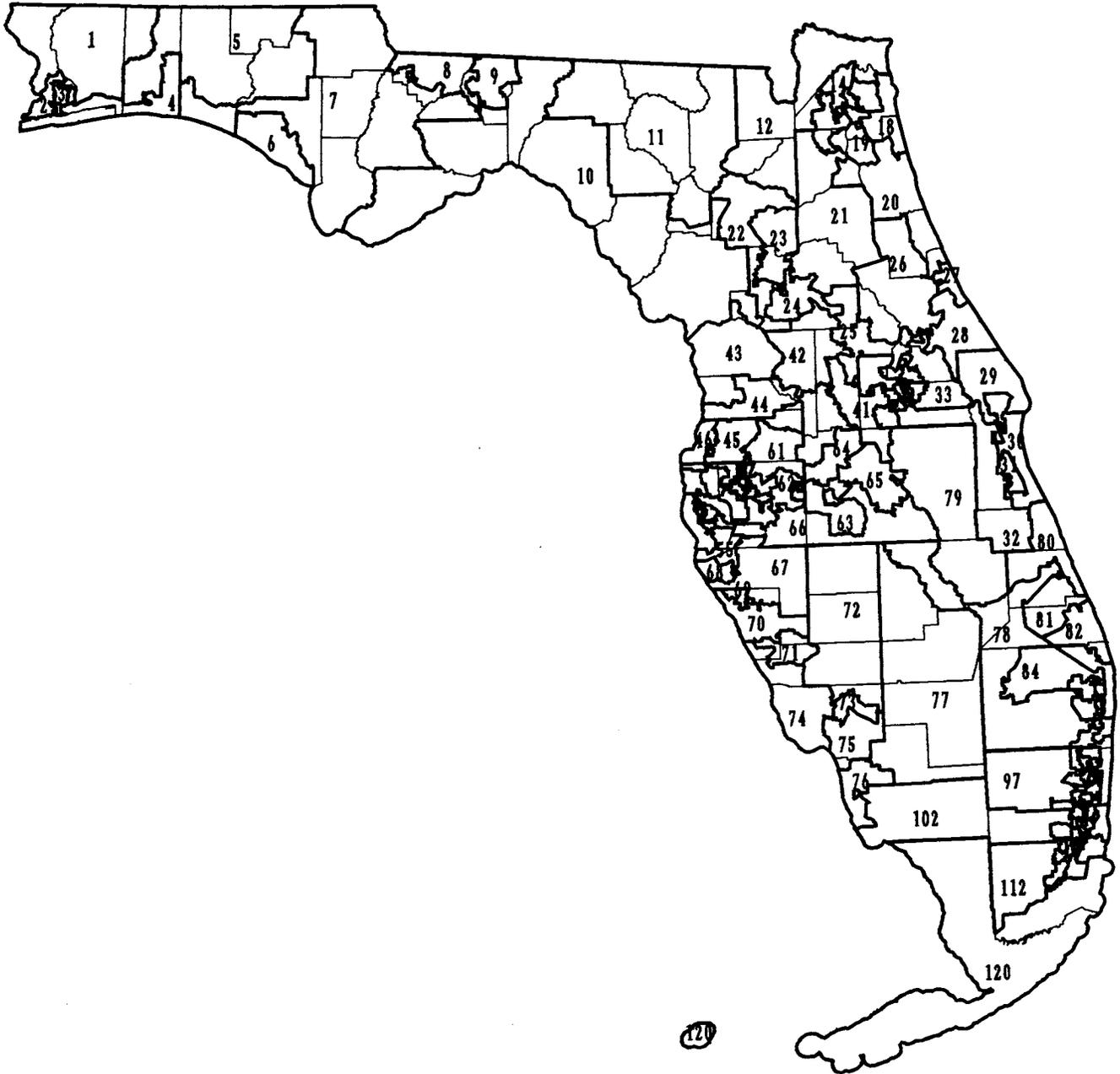
Florida Senate Committee on Reapportionment

Source: U.S. Bureau of the Census TIGER/Line files

Albers equal-area projection. October 01, 1992



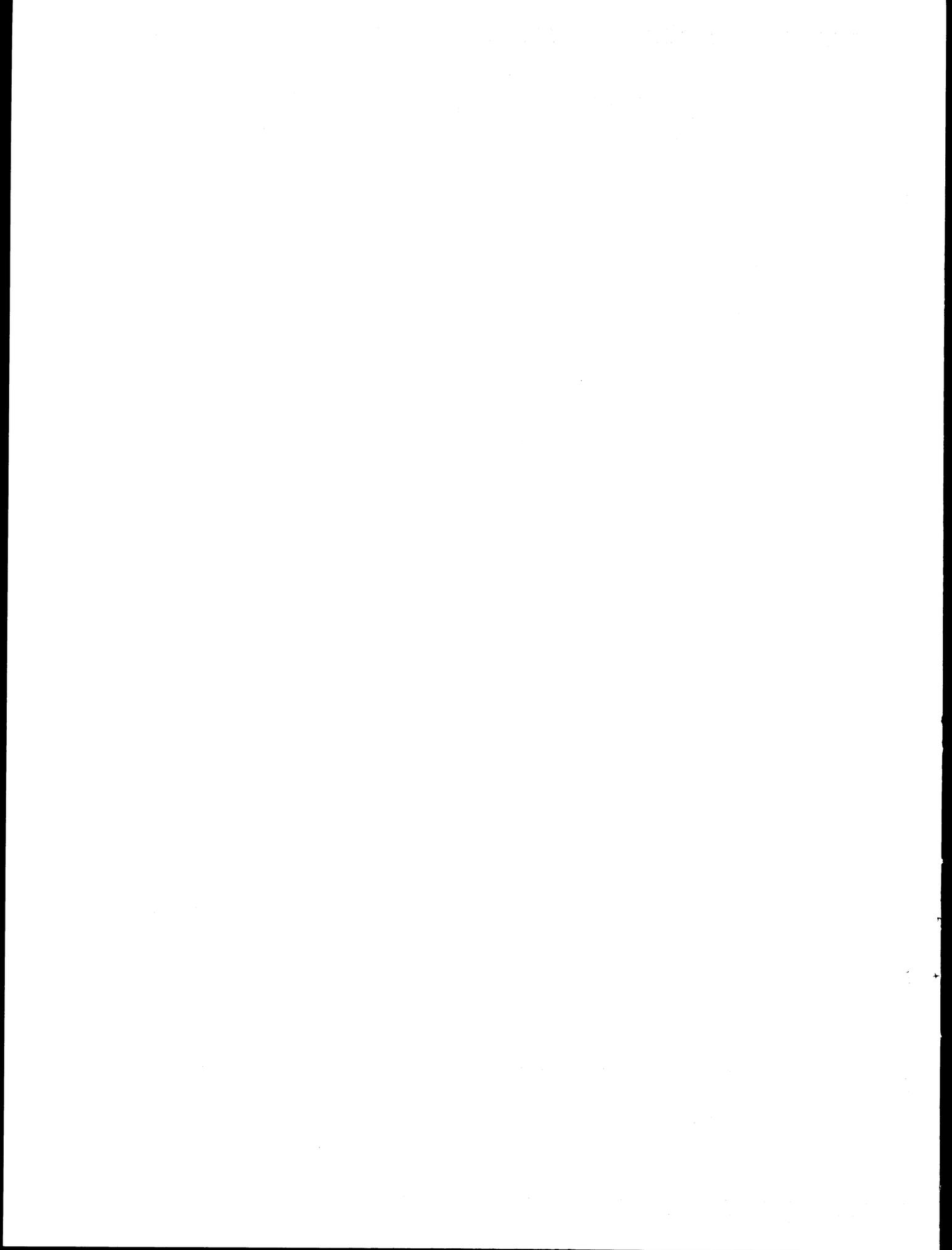
# HOUSE PLAN 352

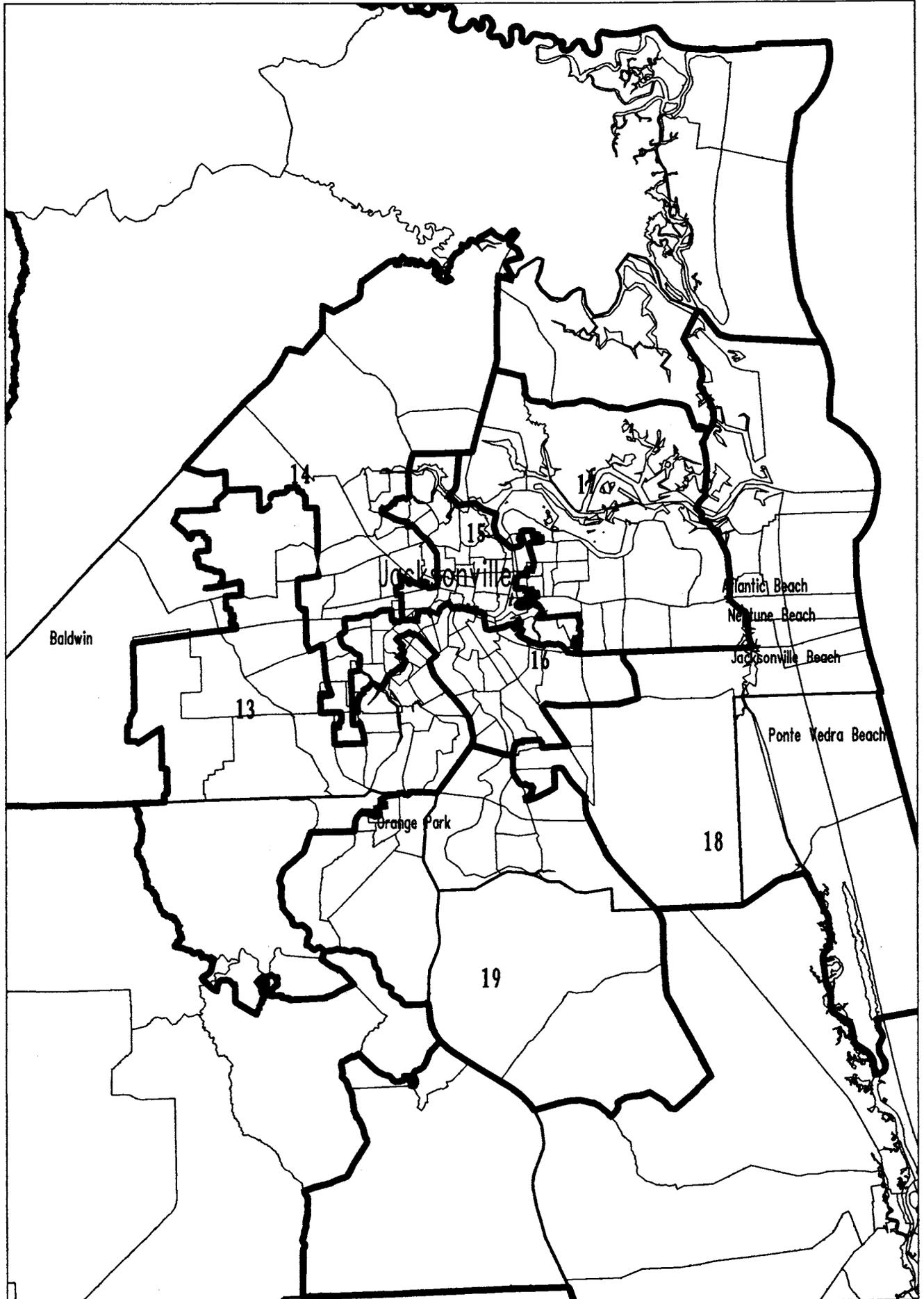


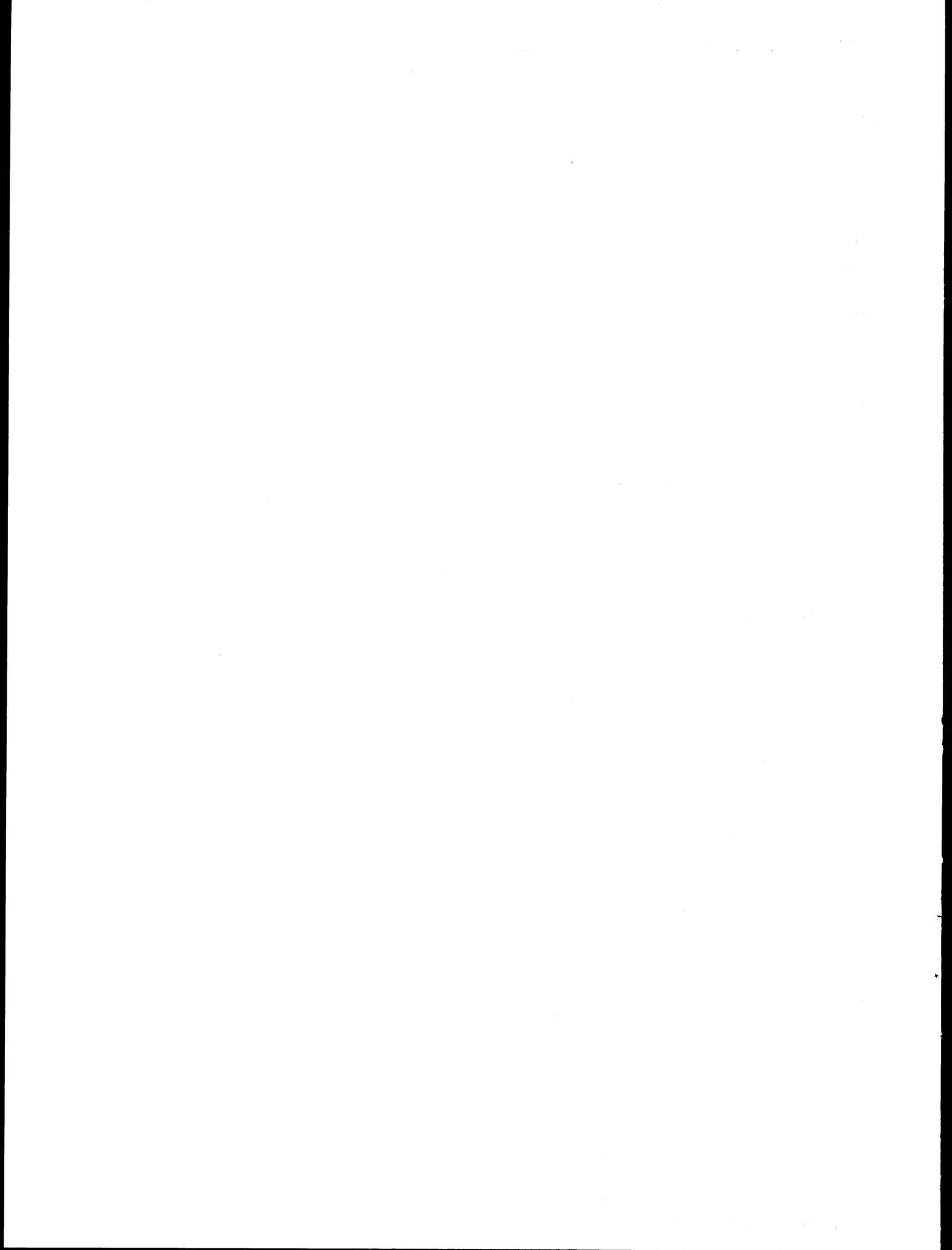
Florida Senate Committee on Reapportionment

Source: U.S. Bureau of the Census TIGER/Line files

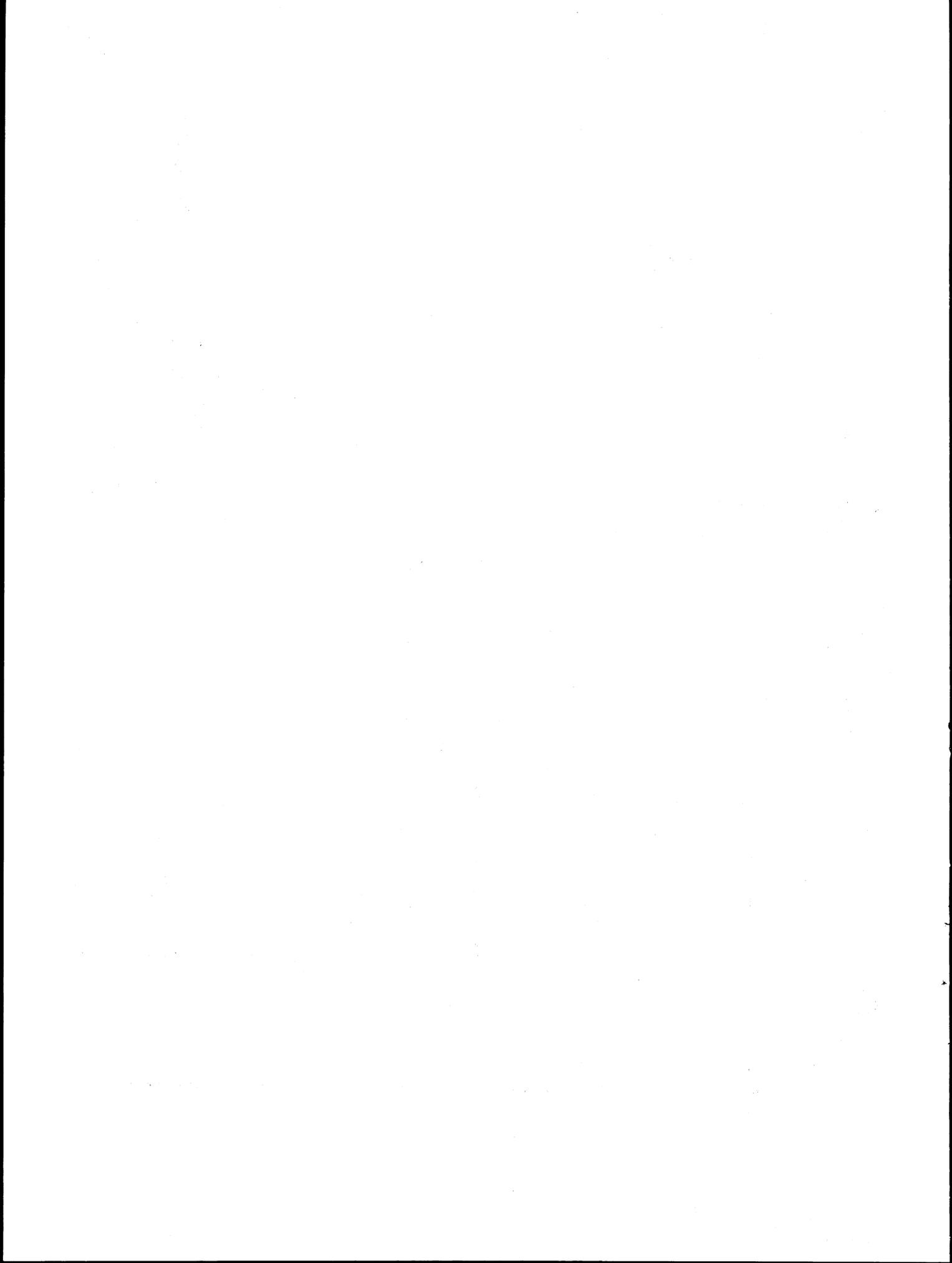
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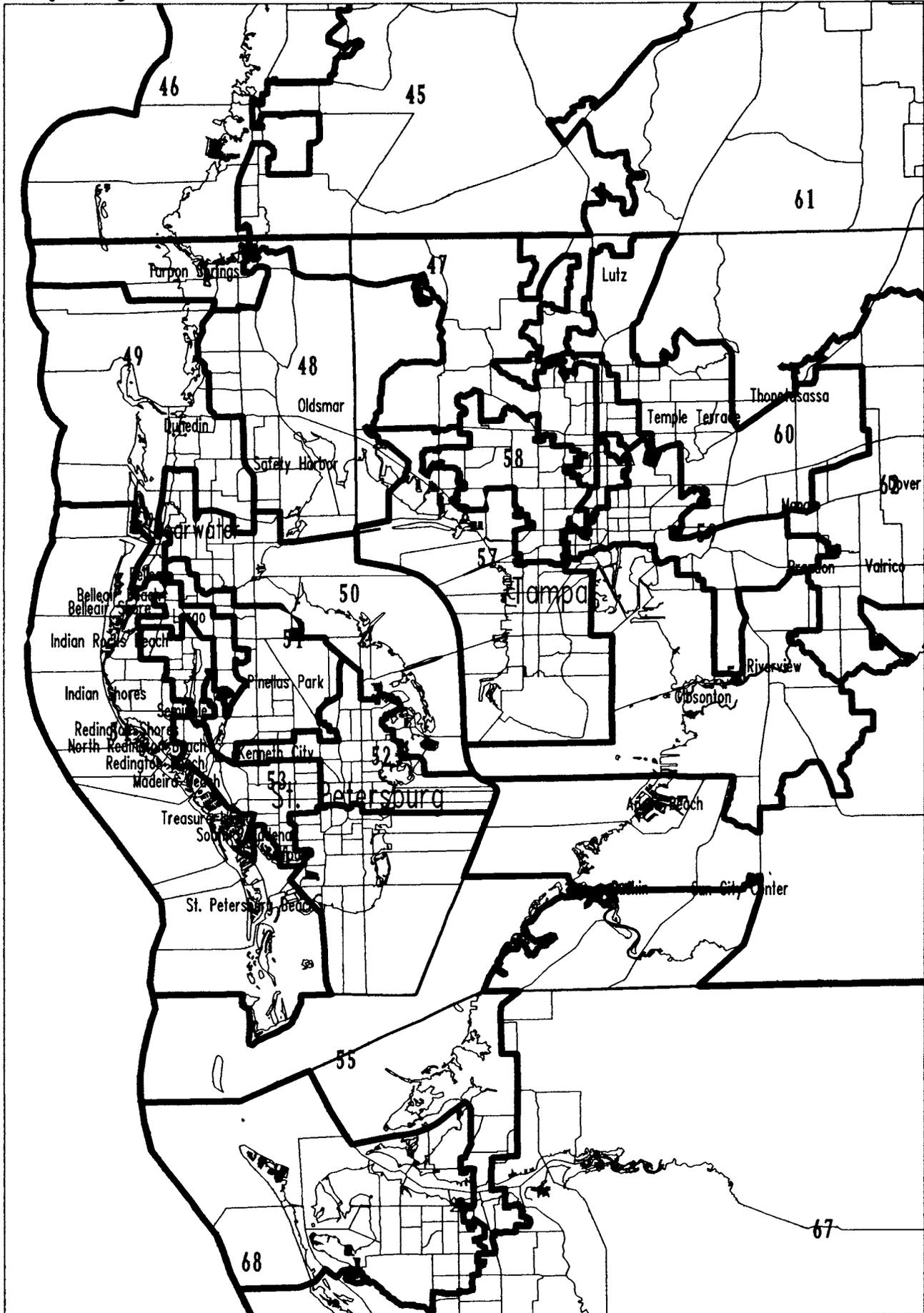


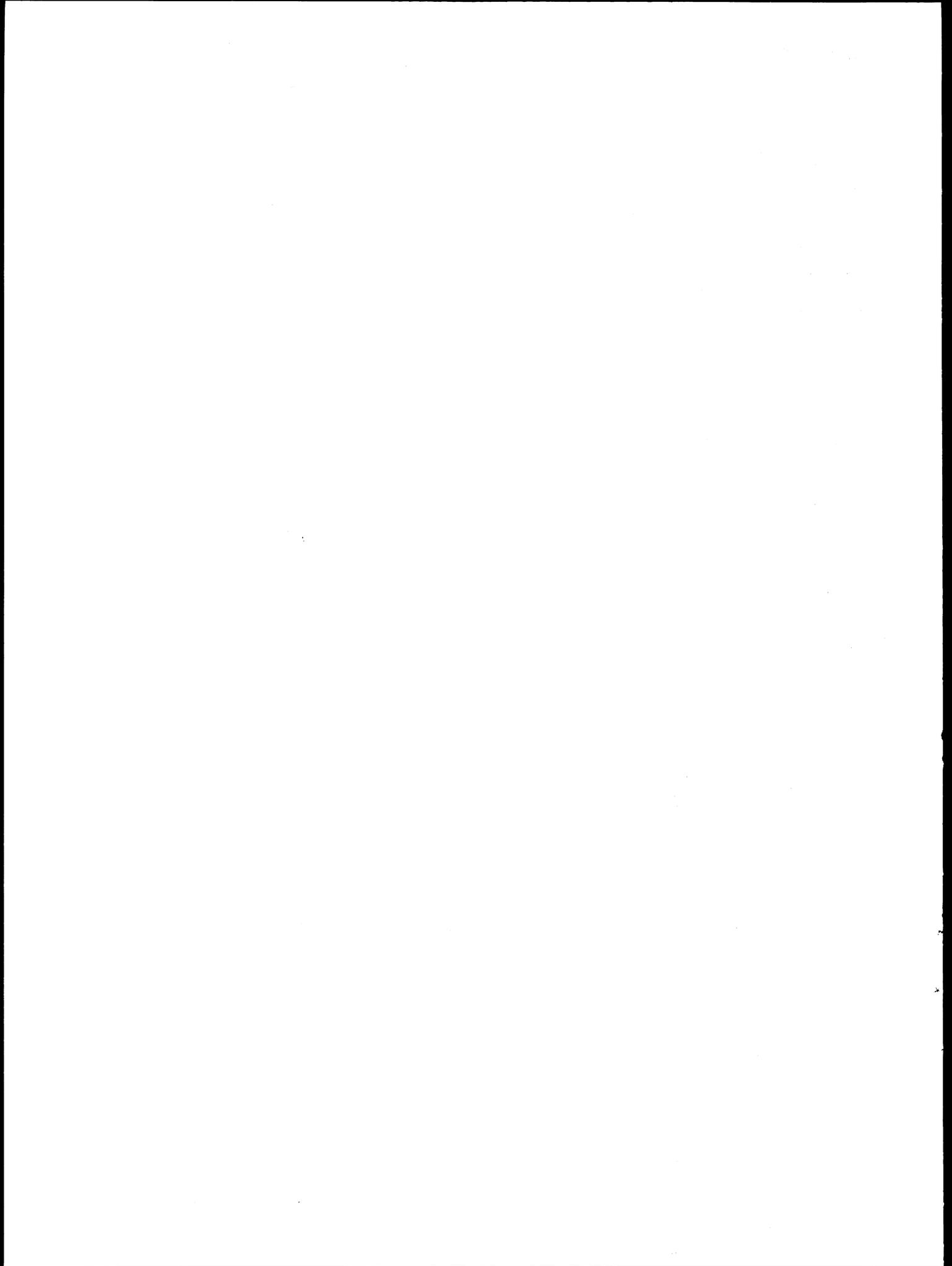


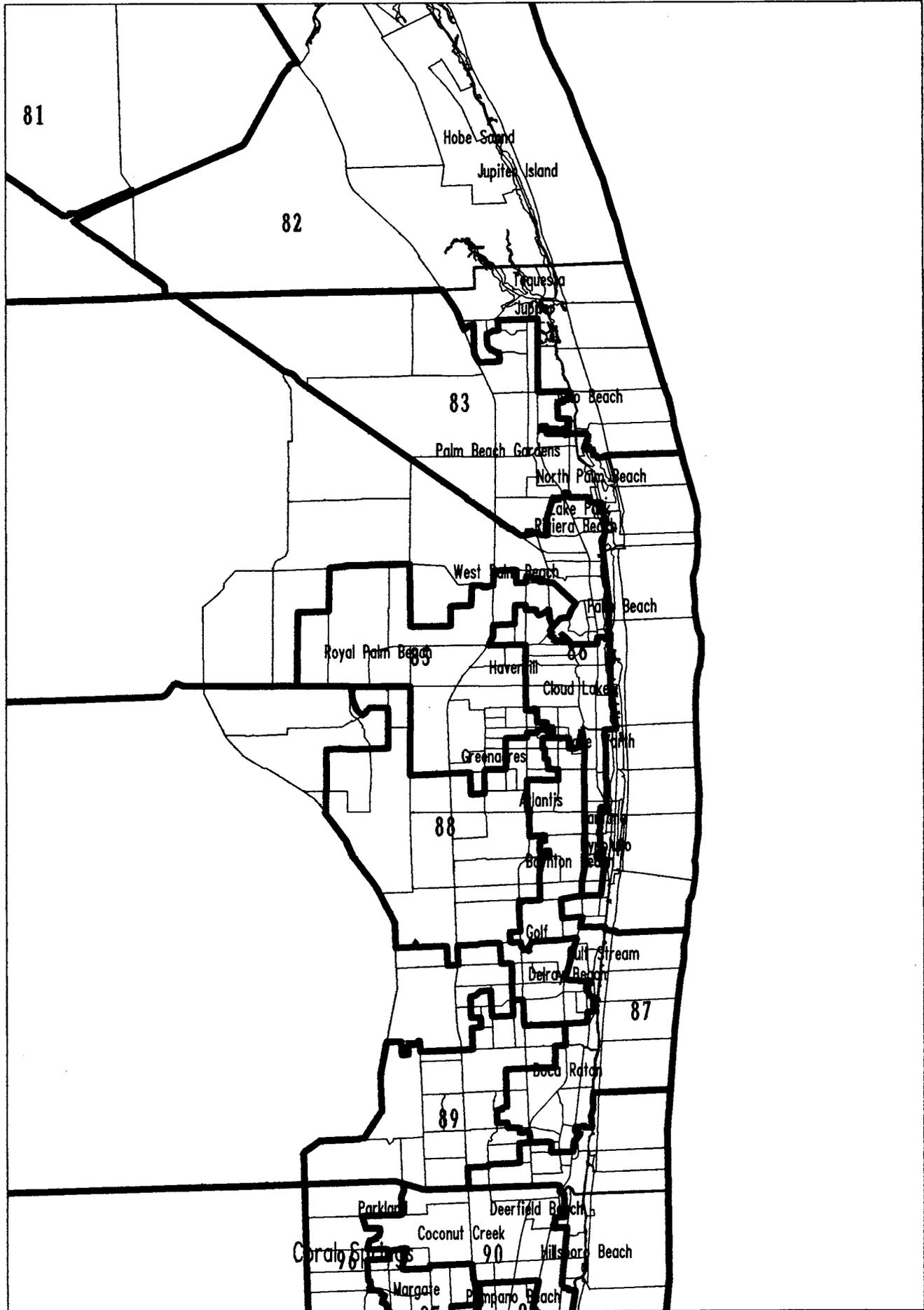




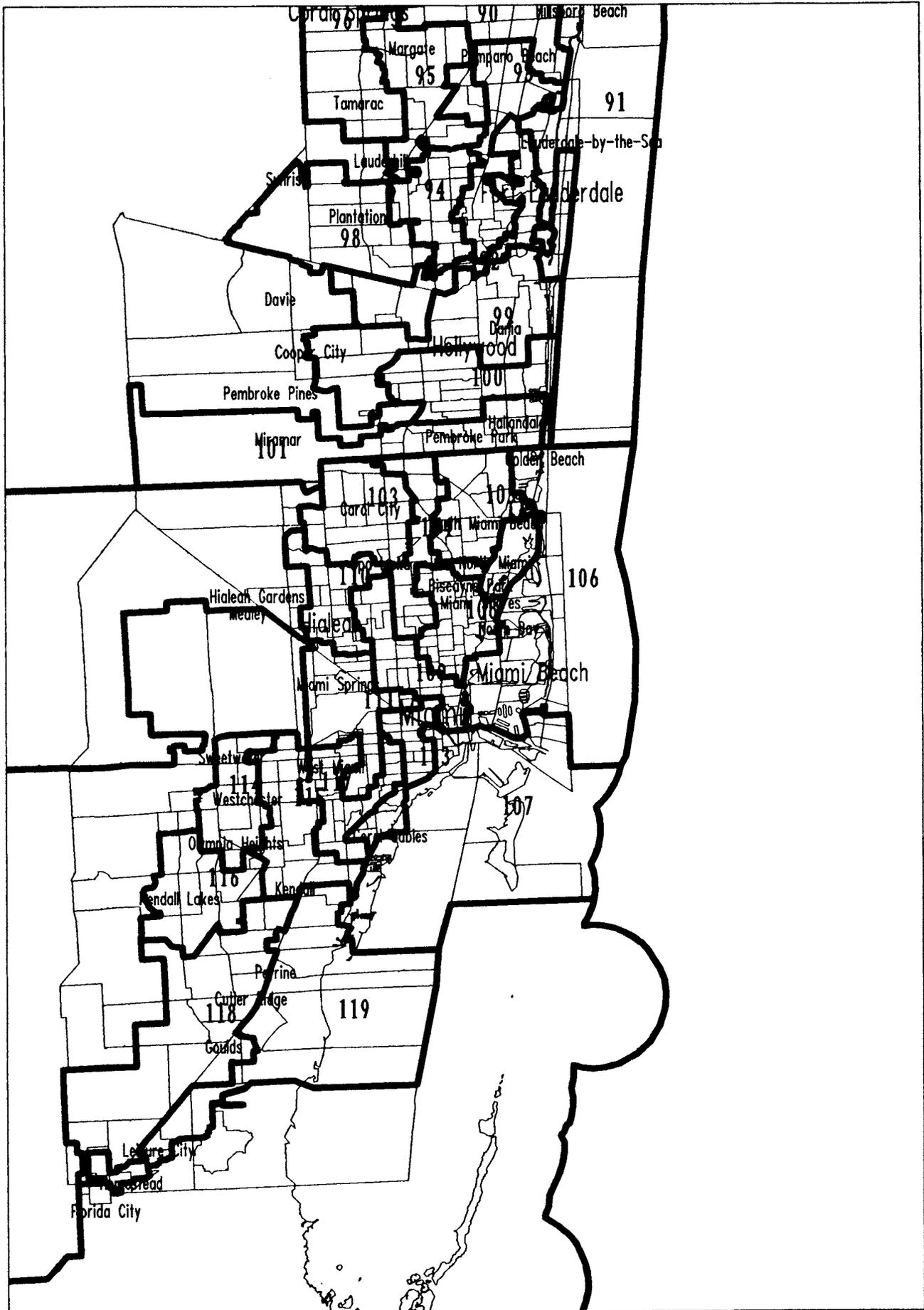


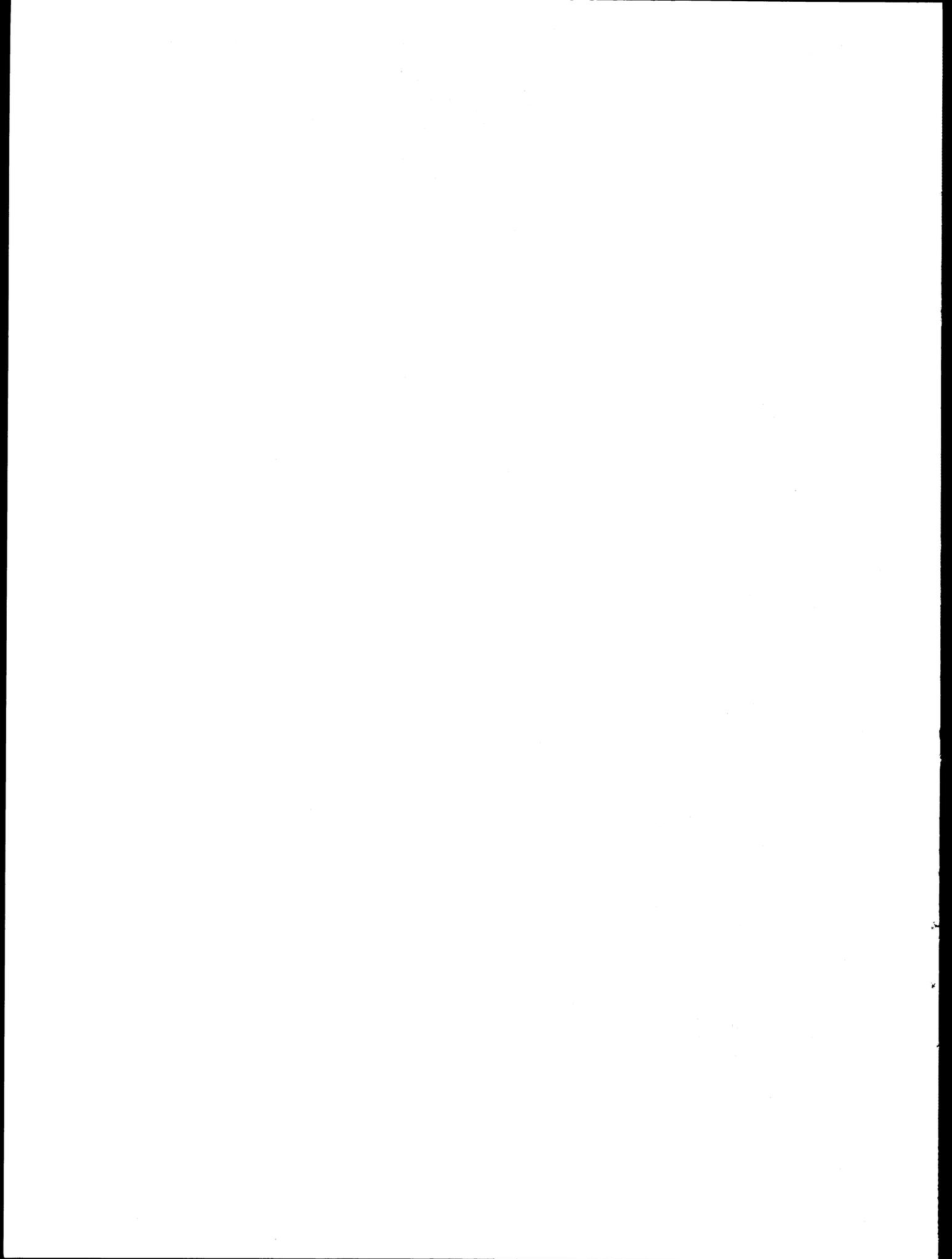






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& County	Population	Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.					
Florida	12,937,926	10,071,689	78%	8,619,155	86%	1,150,556	11%	301,978	3%	1,181,454	12%	6,031,267	60%	90%	10%	1%	52%	41%	7%
1 District	109,468	79,140	72%	71,561	90%	5,709	7%	1,870	2%	935	1%	55,659	70%	94%	6%	1%	71%	26%	3%
Escambia	44,319	32,235	73%	27,911	87%	3,486	11%	838	3%	411	1%	18,374	57%	91%	9%	1%	70%	27%	3%
Okaloosa	8,504	6,108	72%	5,779	95%	265	4%	64	1%	39	1%	3,970	65%	96%	3%	0%	77%	21%	2%
Santa Rosa	56,645	40,797	72%	37,871	93%	1,958	5%	968	2%	485	1%	33,315	82%	95%	4%	1%	70%	26%	3%
2 Escambia	109,810	83,107	76%	76,735	92%	3,475	4%	2,897	3%	1,602	2%	50,576	61%	96%	3%	1%	61%	35%	4%
3 Escambia	104,431	77,358	74%	47,936	62%	27,088	35%	2,334	3%	1,533	2%	50,121	65%	69%	30%	1%	68%	28%	4%
4 District	109,744	83,692	76%	78,242	93%	2,793	3%	2,657	3%	1,932	2%	56,335	67%	97%	2%	1%	45%	50%	5%
Escambia	4,238	3,718	88%	3,664	99%	17	0%	37	1%	56	2%	2,318	62%	99%	0%	0%	47%	46%	7%
Okaloosa	80,543	61,337	76%	56,508	92%	2,620	4%	2,209	4%	1,581	3%	40,069	65%	97%	2%	1%	43%	52%	5%
Santa Rosa	24,963	18,637	75%	18,070	97%	156	1%	411	2%	295	2%	13,948	75%	99%	0%	1%	50%	45%	5%
5 District	108,340	79,113	73%	67,684	86%	9,023	11%	2,406	3%	1,779	2%	50,613	64%	90%	9%	1%	74%	23%	3%
Holmes	15,778	11,857	75%	11,028	93%	650	5%	179	2%	121	1%	7,945	67%	98%	2%	0%	94%	5%	0%
Okaloosa	54,729	39,016	71%	31,858	82%	5,562	14%	1,596	4%	1,424	4%	20,839	53%	89%	10%	1%	53%	42%	5%
Walton	20,914	15,591	75%	14,047	90%	1,217	8%	327	2%	120	1%	12,250	79%	90%	10%	0%	83%	15%	2%
Washington	16,919	12,649	75%	10,751	85%	1,594	13%	304	2%	114	1%	9,579	76%	87%	12%	0%	89%	10%	1%
6 Bay	108,440	81,212	75%	70,350	87%	8,623	11%	2,239	3%	1,364	2%	48,437	60%	91%	9%	0%	65%	29%	5%
7 District	108,417	81,139	75%	67,788	84%	12,222	15%	1,129	1%	1,511	2%	49,547	61%	86%	13%	0%	84%	14%	2%
Bay	18,554	13,533	73%	13,079	97%	205	2%	249	2%	142	1%	7,086	52%	99%	0%	0%	69%	27%	4%
Calhoun	11,011	8,140	74%	6,816	84%	1,187	15%	137	2%	85	1%	5,380	66%	88%	11%	0%	96%	4%	0%
Gadsden	2,732	2,025	74%	1,736	86%	168	8%	121	6%	157	8%	1,251	62%	90%	9%	1%	92%	7%	1%
Gulf	11,504	8,681	75%	7,135	82%	1,480	17%	66	1%	59	1%	7,182	83%	83%	17%	0%	93%	7%	0%
Jackson	41,375	31,096	75%	23,163	74%	7,602	24%	331	1%	840	3%	18,356	59%	79%	21%	0%	89%	11%	1%
Leon	10,826	7,868	73%	7,058	90%	735	9%	75	1%	79	1%	3,516	45%	90%	9%	1%	75%	19%	6%
Liberty	5,569	4,221	76%	3,320	79%	831	20%	70	2%	98	2%	2,909	69%	89%	11%	0%	97%	3%	0%
Walton	6,846	5,575	81%	5,481	98%	14	0%	80	1%	51	1%	3,867	69%	95%	5%	0%	56%	40%	4%
8 District	106,377	81,289	76%	41,953	52%	37,401	46%	1,935	2%	1,956	2%	49,684	61%	49%	50%	1%	78%	16%	6%
Gadsden	38,373	26,916	70%	11,552	43%	15,002	56%	362	1%	463	2%	17,747	66%	42%	58%	0%	93%	6%	1%
Leon	68,004	54,373	80%	30,401	56%	22,399	41%	1,573	3%	1,493	3%	31,937	59%	53%	45%	2%	69%	22%	9%
9 Leon	108,403	83,409	77%	72,480	87%	9,362	11%	1,567	2%	2,243	3%	62,175	75%	89%	10%	1%	66%	27%	6%
10 District	107,956	79,996	74%	67,619	85%	11,572	14%	805	1%	918	1%	56,530	71%	86%	14%	0%	85%	13%	2%
Alachua	4,403	3,071	70%	2,714	88%	346	11%	11	0%	36	1%	1,712	56%	88%	12%	0%	75%	22%	4%
Dixie	10,560	7,979	76%	7,231	91%	686	9%	62	1%	70	1%	7,536	94%	92%	8%	0%	92%	7%	1%
Franklin	8,967	6,814	76%	6,037	89%	713	10%	64	1%	44	1%	5,742	84%	88%	12%	0%	92%	7%	1%
Gilchrist	4,001	3,113	78%	2,475	80%	595	19%	43	1%	66	2%	1,826	59%	93%	7%	0%	89%	10%	1%
Jefferson	11,296	8,028	71%	4,824	60%	3,159	39%	45	1%	97	1%	6,234	78%	61%	39%	0%	90%	8%	1%
Leon	5,260	3,718	71%	3,075	83%	603	16%	40	1%	27	1%	1,943	52%	82%	17%	1%	75%	19%	6%
Levy	25,923	19,644	76%	17,295	88%	2,103	11%	246	1%	333	2%	12,300	63%	91%	9%	0%	82%	17%	2%
Marion	6,233	5,159	83%	4,839	94%	278	5%	42	1%	68	1%	2,952	57%	94%	6%	0%	50%	42%	8%
Taylor	17,111	12,288	72%	10,208	83%	1,921	16%	159	1%	114	1%	8,210	67%	86%	14%	0%	89%	10%	1%
Wakulla	14,202	10,182	72%	8,921	88%	1,168	11%	93	1%	63	1%	8,075	79%	88%	12%	0%	87%	11%	2%

House District & County	Total Population	Voting Age Population (1990 Census)										Registered Voters (1990)							
		Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.					
11 District	108,161	78,525	73%	61,983	79%	15,550	20%	992	1%	1,371	2%	49,889	64%	83%	17%	0%	86%	13%	1%
Columbia	42,613	30,712	72%	25,388	83%	4,954	16%	370	1%	421	1%	18,511	60%	85%	15%	0%	81%	17%	1%
Dixie	25	18	72%	18	100%	0	0%	0	0%	0	0%	16	89%	100%	0%	0%	88%	13%	0%
Gilchrist	5,666	4,132	73%	4,079	99%	35	1%	18	0%	56	1%	3,030	73%	99%	1%	0%	89%	10%	2%
Hamilton	10,930	7,774	71%	4,827	62%	2,803	36%	144	2%	206	3%	5,562	72%	68%	32%	0%	96%	4%	0%
Lafayette	5,578	4,198	75%	3,434	82%	616	15%	148	4%	196	5%	3,138	75%	94%	6%	0%	96%	4%	0%
Madison	16,569	12,009	72%	7,314	61%	4,609	38%	86	1%	189	2%	7,231	60%	67%	33%	0%	90%	9%	1%
Suwannee	26,780	19,682	73%	16,923	86%	2,533	13%	226	1%	303	2%	12,401	63%	87%	13%	0%	85%	14%	1%
12 District	108,091	78,835	73%	67,285	85%	10,721	14%	829	1%	1,200	2%	44,363	56%	89%	11%	0%	81%	16%	3%
Baker	18,486	12,855	70%	10,802	84%	1,934	15%	119	1%	165	1%	8,202	64%	88%	12%	0%	94%	6%	0%
Bradford	22,515	17,109	76%	13,438	79%	3,460	20%	211	1%	357	2%	8,456	49%	86%	14%	0%	83%	14%	3%
Duval	12,897	9,217	71%	8,713	95%	418	5%	86	1%	81	1%	4,338	47%	94%	6%	0%	70%	24%	5%
Nassau	43,941	32,037	73%	28,746	90%	3,034	9%	257	1%	306	1%	19,319	60%	91%	9%	0%	74%	22%	4%
Union	10,252	7,617	74%	5,586	73%	1,875	25%	156	2%	291	4%	4,048	53%	86%	14%	0%	95%	4%	1%
13 District	108,070	77,798	72%	68,641	88%	5,850	8%	3,307	4%	2,638	3%	40,555	52%	94%	5%	1%	54%	39%	7%
Clay	16,826	12,189	72%	11,346	93%	455	4%	388	3%	381	3%	6,816	56%	98%	2%	0%	47%	46%	7%
Duval	91,244	65,609	72%	57,295	87%	5,395	8%	2,919	4%	2,257	3%	33,739	51%	93%	6%	1%	55%	38%	7%
14 Duval	106,414	76,692	72%	34,026	44%	41,412	54%	1,254	2%	1,092	1%	50,520	66%	37%	62%	0%	85%	12%	3%
15 Duval	106,429	77,176	73%	36,595	47%	39,511	51%	1,070	1%	1,164	2%	55,271	72%	49%	50%	0%	79%	16%	5%
16 Duval	108,068	83,682	77%	73,193	87%	8,525	10%	1,964	2%	2,058	2%	53,355	64%	93%	7%	0%	65%	30%	4%
17 Duval	107,966	79,632	74%	70,326	88%	6,251	8%	3,055	4%	2,355	3%	45,785	57%	94%	6%	1%	55%	39%	6%
18 District	107,867	84,788	79%	75,410	89%	6,780	8%	2,598	3%	2,679	3%	47,631	56%	95%	5%	1%	45%	48%	7%
Duval	92,756	72,538	78%	63,385	87%	6,696	9%	2,457	3%	2,448	3%	38,792	53%	94%	6%	1%	48%	45%	8%
St. Johns	15,111	12,250	81%	12,025	98%	84	1%	141	1%	231	2%	8,839	72%	99%	1%	0%	31%	63%	6%
19 District	108,213	77,187	71%	72,283	94%	2,909	4%	1,995	3%	1,901	2%	49,010	63%	97%	3%	0%	44%	49%	7%
Clay	53,000	37,210	70%	34,420	93%	1,615	4%	1,175	3%	1,065	3%	22,782	61%	97%	3%	0%	41%	51%	8%
Duval	47,197	34,079	72%	32,144	94%	1,165	3%	770	2%	755	2%	22,369	66%	97%	3%	0%	46%	47%	6%
St. Johns	8,016	5,898	74%	5,719	97%	129	2%	50	1%	81	1%	3,859	65%	99%	1%	0%	52%	44%	4%
20 District	107,926	85,390	79%	77,814	91%	6,563	8%	1,013	1%	2,202	3%	55,879	65%	93%	7%	0%	55%	39%	6%
Clay	7,526	5,545	74%	4,668	84%	820	15%	57	1%	89	2%	3,571	64%	87%	13%	0%	68%	28%	5%
Flagler	23,292	19,445	83%	18,155	93%	960	5%	330	2%	862	4%	13,413	69%	96%	4%	0%	43%	48%	8%
St. Johns	60,702	47,048	78%	41,864	89%	4,696	10%	488	1%	1,071	2%	28,840	61%	90%	10%	0%	62%	33%	5%
Volusia	16,406	13,352	81%	13,127	98%	87	1%	138	1%	180	1%	10,055	75%	100%	0%	0%	46%	47%	7%
21 District	107,743	79,835	74%	70,397	88%	8,415	11%	1,023	1%	1,411	2%	48,681	61%	90%	10%	1%	69%	27%	4%
Clay	28,634	20,508	72%	19,700	96%	594	3%	214	1%	254	1%	11,104	54%	98%	2%	0%	58%	37%	5%
Marion	14,039	10,799	77%	10,207	95%	476	4%	116	1%	94	1%	5,839	54%	96%	4%	0%	61%	33%	6%
Putnam	65,070	48,528	75%	40,490	83%	7,345	15%	693	1%	1,063	2%	31,738	65%	86%	13%	1%	74%	22%	4%
22 District	107,976	81,301	75%	71,294	88%	8,062	10%	1,945	2%	3,137	4%	50,169	62%	92%	7%	1%	62%	32%	6%
Alachua	93,003	69,606	75%	60,581	87%	7,300	10%	1,725	2%	2,347	3%	44,362	64%	92%	7%	1%	63%	31%	6%
Marion	14,973	11,695	78%	10,713	92%	762	7%	220	2%	790	7%	5,807	50%	93%	7%	0%	51%	41%	8%

& County	Population	Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.					
23 District	106,917	85,769	80%	57,826	67%	24,361	28%	3,582	4%	3,354	4%	40,083	47%	74%	25%	1%	65%	28%	7%
Alachua	84,190	69,404	82%	50,900	73%	15,099	22%	3,405	5%	3,026	4%	32,551	47%	81%	18%	1%	64%	29%	8%
Marion	22,727	16,365	72%	6,926	42%	9,262	57%	177	1%	328	2%	7,532	46%	44%	56%	0%	73%	22%	4%
24 Marion	107,404	84,583	79%	78,791	93%	4,518	5%	1,274	2%	2,292	3%	55,848	66%	96%	4%	0%	50%	43%	7%
25 District	108,129	84,694	78%	79,661	94%	3,573	4%	1,460	2%	3,259	4%	51,214	60%	97%	3%	0%	41%	53%	6%
Lake	51,547	41,004	80%	37,736	92%	2,643	6%	625	2%	869	2%	23,740	58%	96%	4%	0%	42%	53%	4%
Marion	3,948	3,289	83%	3,278	100%	4	0%	7	0%	21	1%	1,752	53%	100%	0%	0%	54%	37%	9%
Seminole	19,400	14,496	75%	13,754	95%	445	3%	297	2%	408	3%	8,897	61%	97%	3%	0%	31%	62%	7%
Volusia	33,234	25,905	78%	24,893	96%	481	2%	531	2%	1,961	8%	16,825	65%	99%	1%	0%	44%	48%	8%
26 District	107,825	83,790	78%	74,153	88%	6,667	8%	2,970	4%	4,511	5%	47,760	57%	95%	5%	0%	52%	41%	6%
Flagler	5,409	3,777	70%	3,074	81%	666	18%	37	1%	47	1%	2,310	61%	83%	17%	0%	73%	24%	3%
Lake	8,657	6,754	78%	6,660	99%	10	0%	84	1%	106	2%	3,064	45%	100%	0%	0%	52%	44%	4%
Volusia	93,759	73,259	78%	64,419	88%	5,991	8%	2,849	4%	4,358	6%	42,386	58%	95%	5%	0%	51%	42%	7%
27 Volusia	107,903	88,687	82%	73,400	83%	13,937	16%	1,350	2%	1,804	2%	52,146	59%	86%	14%	0%	59%	36%	5%
28 Volusia	107,824	88,295	82%	85,243	97%	2,213	3%	839	1%	1,343	2%	57,460	65%	98%	2%	0%	51%	43%	7%
29 Brevard	107,309	80,060	75%	67,726	85%	11,009	14%	1,325	2%	1,821	2%	50,535	63%	90%	10%	0%	52%	43%	5%
30 Brevard	108,151	87,885	81%	84,404	96%	1,766	2%	1,715	2%	2,342	3%	64,051	73%	99%	1%	0%	38%	54%	8%
31 Brevard	108,098	86,213	80%	78,449	91%	5,440	6%	2,324	3%	2,953	3%	51,355	60%	95%	5%	0%	46%	46%	7%
32 District	108,304	80,941	75%	74,803	92%	3,432	4%	2,706	3%	4,674	6%	49,957	62%	96%	3%	1%	44%	50%	6%
Brevard	75,420	57,366	76%	53,947	94%	2,159	4%	1,260	2%	1,660	3%	39,177	68%	97%	3%	0%	45%	49%	6%
Indian River	4,782	3,406	71%	3,137	92%	143	4%	126	4%	603	18%	1,791	53%	93%	6%	0%	47%	46%	6%
Orange	28,102	20,169	72%	17,719	88%	1,130	6%	1,320	7%	2,411	12%	8,989	45%	90%	4%	7%	39%	54%	7%
33 District	108,223	79,155	73%	67,024	85%	10,094	13%	2,037	3%	3,956	5%	39,326	50%	89%	10%	1%	46%	47%	7%
Orange	29,963	22,924	77%	21,299	93%	804	4%	821	4%	1,476	6%	9,911	43%	95%	1%	4%	42%	50%	8%
Seminole	66,674	48,040	72%	37,975	79%	9,034	19%	1,031	2%	1,918	4%	24,200	50%	85%	15%	0%	49%	45%	6%
Volusia	11,586	8,191	71%	7,750	95%	256	3%	185	2%	562	7%	5,215	64%	97%	3%	0%	43%	49%	9%
34 District	108,087	81,315	75%	75,521	93%	3,147	4%	2,647	3%	5,377	7%	46,038	57%	98%	2%	0%	36%	57%	7%
Orange	10,652	8,293	78%	8,152	98%	41	0%	100	1%	177	2%	6,326	76%	99%	0%	1%	34%	61%	5%
Seminole	97,435	73,022	75%	67,369	92%	3,106	4%	2,547	3%	5,200	7%	39,712	54%	97%	3%	0%	36%	56%	8%
35 District	108,410	83,811	77%	75,796	90%	2,822	3%	5,193	6%	10,402	12%	36,879	44%	92%	2%	6%	38%	54%	8%
Orange	96,714	74,869	77%	67,408	90%	2,570	3%	4,891	7%	9,812	13%	32,200	43%	91%	2%	7%	37%	54%	8%
Seminole	11,696	8,942	76%	8,388	94%	252	3%	302	3%	590	7%	4,679	52%	99%	1%	0%	40%	53%	7%
36 Orange	108,401	90,577	84%	82,584	91%	4,131	5%	3,862	4%	7,389	8%	42,920	47%	95%	2%	3%	44%	50%	6%
37 District	107,969	81,664	76%	75,569	93%	3,382	4%	2,713	3%	5,466	7%	42,964	53%	97%	3%	0%	34%	58%	8%
Orange	15,645	11,542	74%	10,871	94%	337	3%	334	3%	648	6%	5,249	45%	96%	2%	2%	36%	57%	6%
Seminole	92,324	70,122	76%	64,698	92%	3,045	4%	2,379	3%	4,818	7%	37,715	54%	97%	3%	0%	34%	58%	8%

House District & County	Total Population	Voting Age Population (1990 Census)										Registered Voters (1990)							
		Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.					
38 District	108,258	78,781	73%	60,851	77%	14,833	19%	3,097	4%	5,239	7%	32,727	42%	80%	17%	3%	49%	45%	6%
Lake	3,358	2,393	71%	1,459	61%	896	37%	38	2%	66	3%	1,312	55%	64%	36%	0%	62%	34%	4%
Orange	104,900	76,388	73%	59,392	78%	13,937	18%	3,059	4%	5,173	7%	31,415	41%	81%	17%	3%	48%	46%	6%
39 Orange	106,429	75,225	71%	34,483	46%	37,769	50%	2,973	4%	5,630	7%	31,387	42%	45%	52%	3%	68%	27%	5%
40 Orange	108,253	85,242	79%	77,059	90%	3,251	4%	4,932	6%	9,032	11%	42,403	50%	93%	2%	4%	41%	52%	7%
41 District	107,959	81,682	76%	73,668	90%	5,043	6%	2,971	4%	5,160	6%	41,092	50%	93%	4%	3%	40%	52%	8%
Lake	24,198	18,970	78%	17,030	90%	1,667	9%	273	1%	579	3%	10,330	54%	95%	5%	0%	38%	57%	5%
Orange	68,432	50,776	74%	45,502	90%	2,983	6%	2,291	5%	3,665	7%	22,963	45%	92%	5%	3%	39%	53%	8%
Osceola	15,329	11,936	78%	11,136	93%	393	3%	407	3%	916	8%	7,799	65%	92%	3%	5%	44%	46%	9%
42 District	108,325	87,026	80%	79,018	91%	7,240	8%	768	1%	1,591	2%	52,385	60%	94%	6%	0%	52%	43%	5%
Lake	59,148	49,044	83%	44,874	91%	3,812	8%	358	1%	819	2%	31,350	64%	95%	5%	0%	45%	50%	5%
Marion	22,828	17,610	77%	16,608	94%	779	4%	223	1%	476	3%	9,062	51%	96%	4%	0%	53%	38%	8%
Sumter	26,349	20,372	77%	17,536	86%	2,649	13%	187	1%	296	1%	11,973	59%	89%	11%	0%	69%	28%	3%
43 District	107,870	89,228	83%	86,924	97%	1,615	2%	689	1%	1,442	2%	62,433	70%	99%	1%	0%	53%	39%	8%
Citrus	93,515	77,049	82%	74,967	97%	1,463	2%	619	1%	1,291	2%	52,500	68%	99%	1%	0%	54%	38%	8%
Hernando	11,674	9,938	85%	9,877	99%	9	0%	52	1%	124	1%	8,151	82%	100%	0%	0%	47%	44%	8%
Marion	2,681	2,241	84%	2,080	93%	143	6%	18	1%	27	1%	1,782	80%	93%	7%	0%	55%	38%	7%
44 District	107,820	85,986	80%	81,522	95%	3,487	4%	977	1%	2,629	3%	63,674	74%	98%	2%	0%	48%	44%	7%
Hernando	88,458	71,798	81%	68,636	96%	2,477	3%	685	1%	1,934	3%	58,336	81%	98%	2%	0%	47%	45%	7%
Lake	5,196	3,676	71%	3,336	91%	244	7%	96	3%	363	10%	1,304	35%	96%	4%	0%	50%	46%	3%
Pasco	928	655	71%	649	99%	0	0%	6	1%	9	1%	413	63%	100%	0%	0%	52%	39%	10%
Polk	8,010	5,657	71%	5,507	97%	41	1%	109	2%	132	2%	2,006	35%	99%	1%	0%	62%	36%	2%
Sumter	5,228	4,200	80%	3,394	81%	725	17%	81	2%	191	5%	1,615	38%	99%	1%	0%	70%	27%	3%
45 District	108,249	84,720	78%	81,085	96%	2,032	2%	1,603	2%	2,878	3%	56,921	67%	98%	2%	0%	49%	43%	8%
Hernando	983	731	74%	704	96%	16	2%	11	2%	10	1%	529	72%	99%	1%	0%	45%	48%	7%
Pasco	107,266	83,989	78%	80,381	96%	2,016	2%	1,592	2%	2,868	3%	56,392	67%	98%	2%	0%	49%	43%	8%
46 Pasco	108,305	94,112	87%	93,028	99%	320	0%	764	1%	1,702	2%	72,188	77%	100%	0%	0%	47%	45%	8%
47 District	108,243	83,227	77%	77,761	93%	3,053	4%	2,413	3%	7,203	9%	51,204	62%	97%	3%	0%	50%	40%	10%
Hillsborough	89,891	68,473	76%	64,093	94%	2,135	3%	2,245	3%	6,978	10%	41,088	60%	97%	3%	0%	51%	40%	9%
Pinellas	18,352	14,754	80%	13,668	93%	918	6%	168	1%	225	2%	10,116	69%	95%	5%	0%	45%	41%	14%
48 District	107,904	86,035	80%	83,923	98%	1,045	1%	1,067	1%	2,072	2%	62,708	73%	99%	1%	0%	33%	54%	13%
Hillsborough	4,665	3,591	77%	3,445	96%	71	2%	75	2%	214	6%	1,619	45%	98%	2%	0%	48%	43%	8%
Pinellas	103,239	82,444	80%	80,478	98%	974	1%	992	1%	1,858	2%	61,089	74%	99%	1%	0%	33%	54%	13%
49 Pinellas	108,333	91,996	85%	90,288	98%	666	1%	1,042	1%	1,653	2%	66,492	72%	99%	1%	0%	35%	54%	10%
50 Pinellas	108,300	89,671	83%	82,675	92%	5,501	6%	1,495	2%	2,354	3%	59,066	66%	95%	5%	0%	41%	50%	10%
51 Pinellas	108,323	87,442	81%	83,433	95%	2,118	2%	1,891	2%	2,028	2%	54,843	63%	99%	1%	0%	43%	46%	11%
52 Pinellas	108,138	89,308	83%	85,671	96%	1,328	1%	2,309	3%	2,201	2%	59,704	67%	99%	1%	0%	46%	44%	9%
53 Pinellas	107,973	89,285	83%	85,590	96%	2,387	3%	1,308	1%	1,888	2%	64,284	72%	98%	2%	0%	45%	46%	9%

& County	Population	Total		White		Black		Other		Hispanic Origin		Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.
54 Pinellas	107,987	94,612	88%	93,663	99%	183	0%	766	1%	1,569	2%	74,419	79%	100%	0%	0%	34%	56%	10%
55 District	106,476	78,962	74%	40,168	51%	37,061	47%	1,733	2%	3,353	4%	52,809	67%	52%	48%	0%	67%	27%	6%
Manatee	25,462	18,271	72%	9,508	52%	7,853	43%	910	5%	2,153	12%	10,245	56%	54%	45%	1%	66%	29%	5%
Pinellas	81,014	60,691	75%	30,660	51%	29,208	48%	823	1%	1,200	2%	42,564	70%	51%	49%	0%	67%	27%	7%
56 Hillsborough	108,119	82,323	76%	73,174	89%	6,276	8%	2,873	3%	8,585	10%	43,331	53%	94%	6%	0%	57%	34%	8%
57 Hillsborough	107,942	86,444	80%	79,470	92%	3,852	4%	3,122	4%	7,982	9%	53,882	62%	97%	3%	0%	54%	38%	8%
58 Hillsborough	107,049	83,835	78%	72,623	87%	6,370	8%	4,842	6%	26,009	31%	42,542	51%	93%	7%	0%	59%	33%	7%
59 Hillsborough	106,377	73,171	69%	32,838	45%	38,052	52%	2,281	3%	8,102	11%	40,702	56%	44%	56%	0%	78%	17%	5%
60 Hillsborough	107,975	83,582	77%	72,977	87%	7,685	9%	2,920	3%	6,584	8%	43,071	52%	92%	8%	0%	53%	38%	9%
61 District	108,424	84,482	78%	76,918	91%	5,671	7%	1,893	2%	3,876	5%	48,898	58%	95%	5%	0%	52%	41%	7%
Hillsborough	43,792	32,330	74%	26,760	83%	4,549	14%	1,021	3%	2,230	7%	16,350	51%	87%	13%	0%	55%	37%	8%
Pasco	64,632	52,152	81%	50,158	96%	1,122	2%	872	2%	1,646	3%	32,548	62%	99%	1%	0%	50%	43%	7%
62 Hillsborough	108,336	78,167	72%	73,838	94%	1,665	2%	2,664	3%	6,105	8%	42,406	54%	98%	2%	0%	51%	41%	8%
63 Polk	107,930	81,283	75%	73,709	91%	6,015	7%	1,559	2%	2,840	3%	44,262	54%	93%	6%	0%	59%	38%	3%
64 Polk	107,976	81,427	75%	69,207	85%	11,028	14%	1,192	1%	2,038	3%	38,084	47%	89%	11%	0%	62%	36%	3%
65 Polk	108,209	83,090	77%	68,452	82%	13,347	16%	1,291	2%	2,863	3%	40,884	49%	86%	14%	0%	60%	37%	3%
66 District	108,187	82,620	76%	75,819	92%	4,460	5%	2,341	3%	6,689	8%	43,907	53%	96%	4%	0%	52%	43%	5%
Hillsborough	34,930	26,437	76%	25,220	95%	442	2%	775	3%	4,088	15%	14,377	54%	99%	1%	0%	41%	50%	9%
Polk	73,257	56,183	77%	50,599	90%	4,018	7%	1,566	3%	2,601	5%	29,530	53%	95%	5%	0%	57%	40%	3%
67 District	108,368	88,212	81%	84,967	96%	1,766	2%	1,479	2%	3,253	4%	60,907	69%	99%	1%	0%	37%	55%	8%
Hillsborough	14,978	13,427	90%	13,014	97%	23	0%	390	3%	1,225	9%	8,258	62%	100%	0%	0%	37%	54%	10%
Manatee	77,885	62,679	80%	60,058	96%	1,633	3%	988	2%	1,787	3%	43,286	69%	98%	1%	0%	40%	53%	8%
Sarasota	15,505	12,106	78%	11,895	98%	110	1%	101	1%	241	2%	9,363	77%	99%	1%	0%	28%	64%	7%
68 Manatee	108,360	90,141	83%	88,004	98%	910	1%	1,227	1%	1,978	2%	66,088	73%	99%	1%	0%	39%	54%	7%
69 Sarasota	108,404	88,733	82%	80,661	91%	6,868	8%	1,204	1%	2,719	3%	61,299	69%	95%	5%	0%	36%	56%	7%
70 Sarasota	108,442	94,140	87%	93,178	99%	429	0%	533	1%	944	1%	76,388	81%	100%	0%	0%	28%	64%	7%
71 District	108,187	90,457	84%	87,382	97%	2,176	2%	899	1%	1,764	2%	66,534	74%	98%	2%	0%	39%	54%	7%
Charlotte	75,118	62,486	83%	60,002	96%	1,776	3%	708	1%	1,440	2%	45,173	72%	98%	2%	0%	40%	54%	6%
Sarasota	33,069	27,971	85%	27,380	98%	400	1%	191	1%	324	1%	21,361	76%	99%	1%	0%	37%	55%	8%
72 District	108,391	85,701	79%	78,510	92%	4,844	6%	2,347	3%	5,354	6%	52,114	61%	95%	4%	1%	55%	41%	4%
Charlotte	27,960	24,131	86%	22,572	94%	1,334	6%	225	1%	548	2%	16,857	70%	98%	2%	0%	37%	58%	5%
DeSoto	23,865	18,199	76%	15,082	83%	2,495	14%	622	3%	1,545	8%	10,354	57%	89%	11%	0%	78%	21%	2%
Hardee	19,499	13,811	71%	12,015	87%	657	5%	1,139	8%	2,582	19%	7,584	55%	87%	8%	5%	86%	13%	1%
Lee	37,067	29,560	80%	28,841	98%	358	1%	361	1%	679	2%	17,319	59%	99%	1%	0%	44%	49%	7%

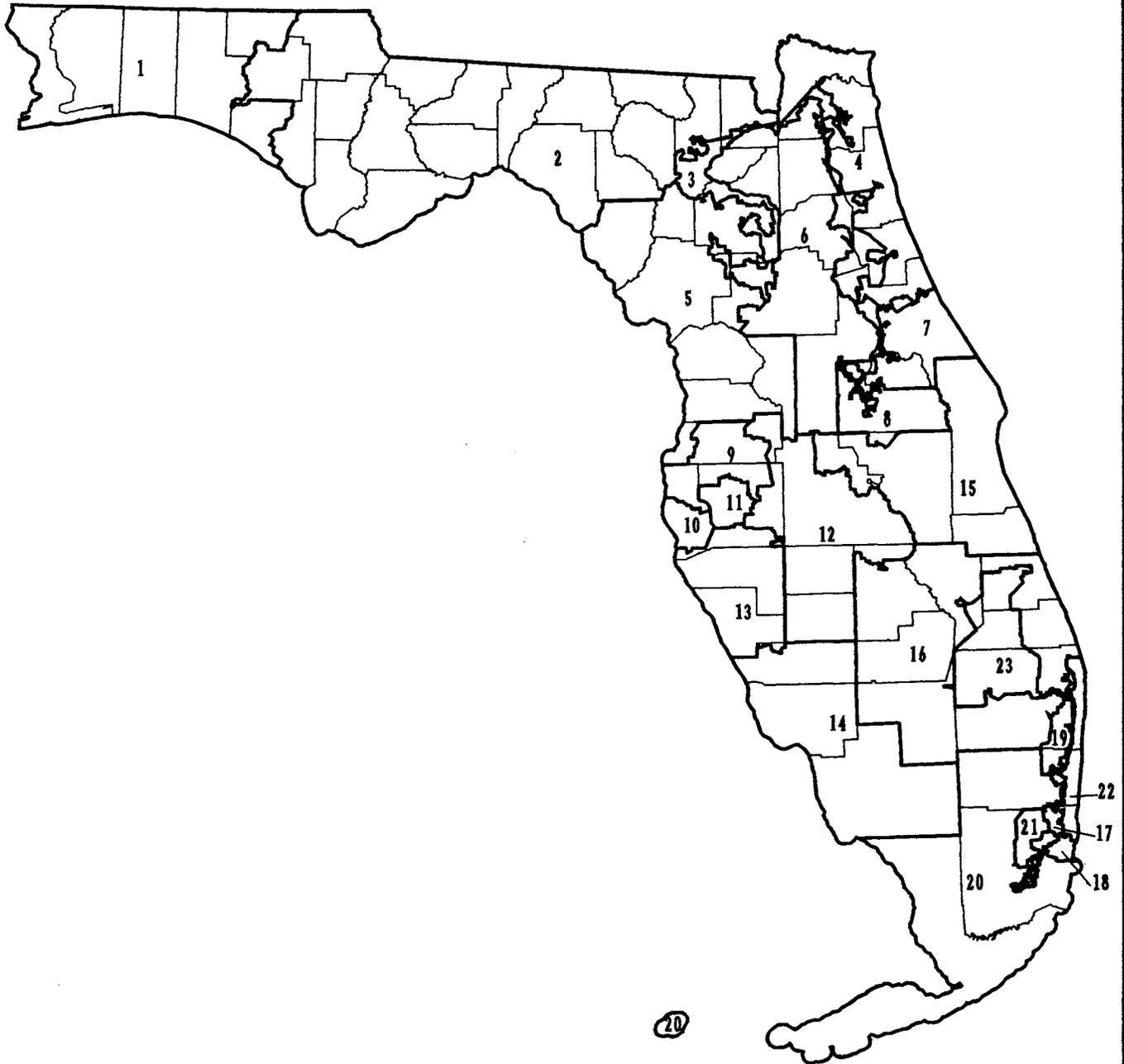
House District & County	Total Population	Voting Age Population (1990 Census)										Registered Voters (1990)								
		Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.						
73 Lee	108,391	82,925	77%	68,789	83%	11,880	14%	2,256	3%	4,906	6%	42,614	51%	90%	9%	1%	48%	46%	6%	
74 District	108,403	88,910	82%	87,502	98%	528	1%	880	1%	1,968	2%	60,934	69%	99%	0%	0%	33%	58%	9%	
Charlotte	7,897	7,070	90%	7,014	99%	15	0%	41	1%	61	1%	5,413	77%	100%	0%	0%	33%	59%	8%	
Lee	88,150	70,725	80%	69,429	98%	496	1%	800	1%	1,826	3%	46,837	66%	99%	0%	0%	34%	57%	9%	
Sarasota	12,356	11,115	90%	11,059	99%	17	0%	39	0%	81	1%	8,684	78%	100%	0%	0%	31%	62%	7%	
75 District	108,087	91,933	85%	90,367	98%	476	1%	1,090	1%	2,645	3%	58,124	63%	99%	0%	0%	33%	59%	8%	
Collier	6,582	5,600	85%	5,544	99%	11	0%	45	1%	222	4%	3,409	61%	99%	0%	1%	26%	67%	8%	
Lee	101,505	86,333	85%	84,823	98%	465	1%	1,045	1%	2,423	3%	54,715	63%	99%	0%	0%	33%	59%	8%	
76 Collier	108,275	89,184	82%	86,443	97%	1,602	2%	1,139	1%	4,532	5%	54,402	61%	98%	1%	1%	25%	68%	7%	
77 District	108,384	81,409	75%	67,181	83%	8,977	11%	5,251	6%	12,406	15%	45,063	55%	91%	8%	1%	60%	37%	3%	
Collier	17,436	10,973	63%	6,658	61%	2,263	21%	2,052	19%	6,350	58%	1,983	18%	60%	19%	21%	65%	32%	3%	
Glades	7,591	5,735	76%	4,771	83%	552	10%	412	7%	382	7%	4,195	73%	86%	10%	4%	81%	16%	3%	
Hendry	25,773	17,695	69%	13,371	76%	2,553	14%	1,771	10%	3,632	21%	8,584	49%	87%	13%	0%	75%	22%	3%	
Highlands	57,584	47,006	82%	42,381	90%	3,609	8%	1,016	2%	2,042	4%	30,301	64%	95%	5%	0%	53%	44%	3%	
78 District	108,380	80,597	74%	61,954	77%	16,268	20%	2,375	3%	4,610	6%	48,515	60%	85%	15%	0%	62%	31%	7%	
Highlands	10,848	8,608	79%	7,844	91%	592	7%	172	2%	278	3%	5,052	59%	96%	4%	0%	58%	39%	3%	
Martin	2,593	1,714	66%	675	39%	732	43%	307	18%	481	28%	398	23%	62%	38%	0%	59%	35%	6%	
Okeechobee	13,832	10,976	79%	10,654	97%	56	1%	266	2%	375	3%	6,980	64%	100%	0%	0%	72%	25%	2%	
Palm Beach	30,772	23,605	77%	21,786	92%	1,395	6%	424	2%	1,502	6%	17,365	74%	96%	4%	0%	54%	35%	11%	
St. Lucie	50,335	35,694	71%	20,995	59%	13,493	38%	1,206	3%	1,974	6%	18,720	52%	66%	34%	0%	67%	27%	6%	
79 District	108,194	79,244	73%	70,287	89%	4,281	5%	4,676	6%	9,306	12%	47,505	60%	89%	5%	6%	52%	39%	8%	
Okeechobee	15,795	10,601	67%	8,203	77%	1,021	10%	1,377	13%	1,683	16%	5,796	55%	85%	15%	0%	78%	20%	2%	
Osceola	92,399	68,643	74%	62,084	90%	3,260	5%	3,299	5%	7,623	11%	41,709	61%	90%	3%	7%	49%	42%	9%	
80 District	108,460	89,143	82%	83,177	93%	5,191	6%	775	1%	1,537	2%	63,057	71%	96%	4%	0%	37%	55%	8%	
Indian River	85,426	69,316	81%	63,861	92%	4,834	7%	621	1%	1,258	2%	49,183	71%	95%	5%	0%	37%	56%	7%	
St. Lucie	23,034	19,827	86%	19,316	97%	357	2%	154	1%	279	1%	13,874	70%	99%	1%	0%	40%	50%	10%	
81 District	108,319	85,917	79%	81,650	95%	2,684	3%	1,583	2%	3,026	4%	57,160	67%	98%	2%	0%	37%	54%	9%	
Martin	31,517	25,889	82%	24,089	93%	1,136	4%	664	3%	1,149	4%	17,679	68%	98%	2%	0%	30%	64%	7%	
St. Lucie	76,802	60,028	78%	57,561	96%	1,548	3%	919	2%	1,877	3%	39,481	66%	98%	2%	0%	40%	50%	10%	
82 District	108,120	89,357	83%	85,343	96%	2,901	3%	1,113	1%	2,248	3%	63,370	71%	98%	2%	0%	31%	60%	9%	
Martin	66,790	55,559	83%	52,416	94%	2,316	4%	827	1%	1,580	3%	37,844	68%	97%	3%	0%	31%	61%	7%	
Palm Beach	41,330	33,798	82%	32,927	97%	585	2%	286	1%	668	2%	25,526	76%	99%	1%	0%	31%	57%	12%	
83 Palm Beach	108,175	89,967	83%	87,852	98%	1,023	1%	1,092	1%	2,615	3%	66,446	74%	100%	0%	0%	37%	51%	12%	
84 Palm Beach	106,352	74,881	70%	31,432	42%	39,800	53%	3,649	5%	7,557	10%	41,806	56%	46%	54%	0%	72%	22%	6%	
85 Palm Beach	108,085	84,819	78%	78,824	93%	3,790	4%	2,205	3%	7,007	8%	51,565	61%	98%	2%	0%	53%	37%	11%	
86 Palm Beach	107,986	86,311	80%	72,977	85%	10,240	12%	3,094	4%	12,942	15%	51,400	60%	94%	6%	0%	56%	36%	8%	
87 Palm Beach	108,283	90,674	84%	86,079	95%	2,596	3%	1,999	2%	4,992	6%	59,952	66%	99%	1%	0%	36%	53%	11%	
88 Palm Beach	107,972	87,107	81%	76,303	88%	8,991	10%	1,813	2%	5,784	7%	56,406	65%	94%	6%	0%	52%	37%	11%	

& County	Population	Total		White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.				
89 Palm Beach	108,435	91,558	84%	89,429	98%	713	1%	1,416	2%	3,499	4%	67,533	74%	100%	0%	0%	56%	34%	10%
90 Broward	108,152	88,997	82%	78,492	88%	8,489	10%	2,016	2%	5,433	6%	54,790	62%	93%	6%	1%	53%	37%	10%
91 District	108,191	96,133	89%	94,322	98%	584	1%	1,227	1%	3,415	4%	70,776	74%	100%	0%	0%	30%	59%	11%
Broward	72,063	64,888	90%	63,886	98%	280	0%	722	1%	2,212	3%	46,820	72%	100%	0%	0%	30%	60%	9%
Palm Beach	36,128	31,245	86%	30,436	97%	304	1%	505	2%	1,203	4%	23,956	77%	100%	0%	0%	30%	57%	13%
92 Broward	108,067	91,574	85%	86,909	95%	2,255	2%	2,410	3%	7,792	9%	57,634	63%	98%	1%	1%	44%	46%	9%
93 Broward	106,340	77,461	73%	37,112	48%	38,772	50%	1,577	2%	5,049	7%	40,284	52%	55%	44%	1%	64%	29%	6%
94 Broward	106,358	78,765	74%	37,114	47%	39,511	50%	2,140	3%	5,631	7%	44,439	56%	57%	42%	1%	72%	21%	6%
95 Broward	108,208	89,862	83%	85,097	95%	2,629	3%	2,136	2%	5,605	6%	60,217	67%	98%	1%	1%	58%	33%	9%
96 Broward	108,296	81,310	75%	75,655	93%	3,303	4%	2,352	3%	5,410	7%	53,717	66%	97%	2%	1%	54%	36%	10%
97 Broward	108,355	81,701	75%	75,575	93%	3,594	4%	2,532	3%	8,763	11%	51,122	63%	97%	2%	1%	54%	37%	9%
98 Broward	107,942	85,967	80%	80,460	94%	3,274	4%	2,233	3%	6,187	7%	61,566	72%	97%	2%	1%	57%	34%	8%
99 Broward	108,164	84,834	78%	74,270	88%	7,897	9%	2,667	3%	8,133	10%	51,936	61%	92%	7%	1%	54%	38%	7%
100 Broward	108,403	89,126	82%	83,467	94%	2,993	3%	2,666	3%	9,286	10%	60,235	68%	97%	2%	1%	61%	33%	6%
101 District	107,400	85,876	80%	70,449	82%	12,841	15%	2,586	3%	11,045	13%	53,202	62%	87%	12%	1%	65%	30%	5%
Broward	105,140	84,385	80%	69,451	82%	12,464	15%	2,470	3%	10,312	12%	52,460	62%	87%	11%	1%	65%	29%	5%
Dade	2,260	1,491	66%	998	67%	377	25%	116	8%	733	49%	742	50%	76%	22%	2%	44%	47%	9%
102 District	106,793	80,588	75%	71,917	89%	3,091	4%	5,580	7%	52,931	66%	29,527	37%	95%	3%	2%	35%	58%	8%
Collier	19,806	16,002	81%	14,724	92%	642	4%	636	4%	2,501	16%	6,734	42%	97%	1%	2%	34%	58%	8%
Dade	86,987	64,586	74%	57,193	89%	2,449	4%	4,944	8%	50,430	78%	22,793	35%	95%	4%	2%	35%	58%	8%
103 Dade	106,871	73,672	69%	26,770	36%	42,871	58%	4,031	5%	22,133	30%	37,408	51%	27%	71%	2%	80%	15%	5%
104 Dade	106,508	77,694	73%	33,530	43%	41,287	53%	2,877	4%	12,773	16%	37,118	48%	47%	52%	1%	78%	17%	5%
105 Dade	108,429	85,461	79%	67,093	79%	14,122	17%	4,246	5%	15,428	18%	44,805	52%	91%	8%	1%	72%	21%	7%
106 Dade	108,426	94,319	87%	86,607	92%	3,741	4%	3,971	4%	28,431	30%	50,972	54%	97%	2%	1%	65%	25%	10%
107 Dade	106,408	88,991	84%	79,417	89%	3,703	4%	5,871	7%	56,820	64%	35,525	40%	96%	3%	1%	46%	44%	10%
108 Dade	106,556	73,276	69%	26,511	36%	44,345	61%	2,420	3%	12,466	17%	35,094	48%	46%	53%	1%	77%	18%	5%
109 Dade	106,481	72,965	69%	26,178	36%	42,918	59%	3,869	5%	28,021	38%	41,344	57%	23%	76%	1%	82%	14%	4%
110 Dade	106,368	82,368	77%	73,886	90%	2,249	3%	6,233	8%	68,896	84%	28,653	35%	95%	3%	2%	34%	59%	7%
111 Dade	106,317	84,834	80%	74,582	88%	4,034	5%	6,218	7%	64,945	77%	31,734	37%	96%	3%	1%	39%	54%	7%
112 Dade	106,623	77,843	73%	68,489	88%	3,689	5%	5,665	7%	53,454	69%	31,152	40%	96%	2%	2%	33%	58%	10%

House District & County	Total Population	Voting Age Population (1990 Census)										Registered Voters (1990)							
		Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.					
113 Dade	106,385	85,733	81%	71,721	84%	7,919	9%	6,093	7%	64,901	76%	31,945	37%	87%	12%	1%	41%	51%	8%
114 Dade	106,381	81,429	77%	71,652	88%	1,491	2%	8,286	10%	63,825	78%	32,886	40%	98%	1%	1%	31%	59%	9%
115 Dade	106,514	84,937	80%	77,784	92%	1,444	2%	5,709	7%	55,449	65%	42,166	50%	98%	1%	1%	39%	53%	9%
116 Dade	107,150	79,007	74%	69,152	88%	3,954	5%	5,901	7%	36,639	46%	36,160	46%	95%	3%	2%	45%	43%	11%
117 Dade	106,498	87,834	82%	79,292	90%	3,586	4%	4,956	6%	60,761	69%	40,815	46%	94%	5%	1%	40%	52%	8%
118 Dade	107,546	74,932	70%	46,865	63%	23,740	32%	4,327	6%	20,794	28%	40,003	53%	62%	36%	2%	64%	28%	8%
119 Dade	108,116	77,355	72%	65,141	84%	6,997	9%	5,217	7%	19,456	25%	43,446	56%	90%	8%	2%	52%	38%	10%
120 District	108,294	84,826	78%	72,975	86%	8,637	10%	3,214	4%	12,769	15%	49,385	58%	90%	10%	1%	54%	37%	9%
Dade	30,270	20,357	67%	12,966	64%	5,676	28%	1,715	8%	5,491	27%	9,077	45%	61%	37%	3%	60%	30%	10%
Monroe	78,024	64,469	83%	60,009	93%	2,961	5%	1,499	2%	7,278	11%	40,308	63%	96%	4%	0%	52%	39%	8%

**SOURCE:** *Counts of Population and Voting Age Population (18 years and older) from the U.S. Department of Commerce, Bureau of the Census (P.L. 94-171 data for the 1990 Census). Registration data for the 1990 General Election compiled from Supervisor of Elections records by the Florida Senate Committee on Reapportionment.*

# CONGRESSIONAL PLAN 309



## Florida Senate Committee on Reapportionment

Source: U.S. Bureau of the Census TIGER/Line files

Albers equal-area projection. October 01, 1992



& County	Population	Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.					
Florida	12,937,926	10,071,689	78%	8,619,155	86%	1,150,556	11%	301,978	3%	1,181,454	12%	6,031,267	60%	90%	10%	1%	52%	41%	7%
1 District	562,518	419,490	75%	360,282	86%	46,792	11%	12,416	3%	8,073	2%	271,534	65%	90%	9%	1%	62%	34%	4%
Bay	30,798	24,154	78%	23,394	97%	284	1%	476	2%	355	1%	13,942	58%	99%	0%	0%	58%	36%	6%
Escambia	262,798	196,418	75%	156,246	80%	34,066	17%	6,106	3%	3,602	2%	121,389	62%	84%	15%	1%	65%	31%	4%
Holmes	15,778	11,857	75%	11,028	93%	650	5%	179	2%	121	1%	7,945	67%	98%	2%	0%	94%	5%	0%
Okaloosa	143,776	106,461	74%	94,145	88%	8,447	8%	3,869	4%	3,044	3%	64,878	61%	94%	5%	1%	49%	47%	5%
Santa Rosa	81,608	59,434	73%	55,941	94%	2,114	4%	1,379	2%	780	1%	47,263	80%	96%	3%	1%	64%	32%	4%
Walton	27,760	21,166	76%	19,528	92%	1,231	6%	407	2%	171	1%	16,117	76%	91%	8%	0%	77%	21%	2%
2 District	562,519	419,703	75%	323,415	77%	88,343	21%	7,945	2%	8,352	2%	275,920	66%	80%	20%	1%	79%	18%	4%
Baker	8,844	5,972	68%	5,850	98%	78	1%	44	1%	51	1%	4,130	69%	99%	1%	0%	94%	6%	0%
Bay	96,196	70,591	73%	60,035	85%	8,544	12%	2,012	3%	1,151	2%	41,581	59%	90%	10%	0%	68%	27%	5%
Calhoun	11,011	8,140	74%	8,116	84%	1,187	15%	137	2%	85	1%	5,380	66%	88%	11%	0%	96%	4%	0%
Columbia	26,070	19,069	73%	17,555	92%	1,236	6%	278	1%	280	1%	11,641	61%	96%	4%	0%	80%	19%	1%
Franklin	8,967	6,814	76%	6,037	89%	713	10%	64	1%	44	1%	5,742	84%	88%	12%	0%	92%	7%	1%
Gadsden	41,105	28,941	70%	13,288	46%	15,170	52%	483	2%	620	2%	18,998	66%	45%	55%	0%	93%	6%	1%
Gulf	11,504	8,681	75%	7,135	82%	1,480	17%	66	1%	59	1%	7,182	83%	83%	17%	0%	93%	7%	0%
Hamilton	10,930	7,774	71%	4,827	62%	2,803	36%	144	2%	206	3%	5,562	72%	68%	32%	0%	96%	4%	0%
Jackson	41,375	31,096	75%	23,163	74%	7,602	24%	331	1%	840	3%	18,356	59%	79%	21%	0%	89%	11%	1%
Jefferson	11,296	8,028	71%	4,824	60%	3,159	39%	45	1%	97	1%	6,234	78%	61%	39%	0%	90%	8%	1%
Lafayette	5,578	4,198	75%	3,434	82%	616	15%	148	4%	196	5%	3,138	75%	94%	6%	0%	96%	4%	0%
Leon	192,493	149,368	78%	113,014	76%	33,099	22%	3,255	2%	3,842	3%	99,571	67%	77%	21%	1%	68%	25%	7%
Liberty	5,569	4,221	76%	3,320	79%	831	20%	70	2%	98	2%	2,909	69%	89%	11%	0%	97%	3%	0%
Madison	16,569	12,009	72%	7,314	61%	4,609	38%	86	1%	189	2%	7,231	60%	67%	33%	0%	90%	9%	1%
Suwannee	26,780	19,682	73%	16,923	86%	2,533	13%	226	1%	303	2%	12,401	63%	87%	13%	0%	85%	14%	1%
Taylor	17,111	12,288	72%	10,208	83%	1,921	16%	159	1%	114	1%	8,210	67%	86%	14%	0%	89%	10%	1%
Wakulla	14,202	10,182	72%	8,921	88%	1,168	11%	93	1%	63	1%	8,075	79%	88%	12%	0%	87%	11%	2%
Washington	16,919	12,649	75%	10,751	85%	1,594	13%	304	2%	114	1%	9,579	76%	87%	12%	0%	89%	10%	1%
3 District	562,519	400,759	71%	190,807	48%	202,653	51%	7,299	2%	10,687	3%	227,434	57%	49%	51%	1%	76%	19%	4%
Alachua	39,977	27,596	69%	13,646	49%	13,724	50%	226	1%	407	1%	13,251	48%	55%	45%	0%	78%	18%	4%
Baker	3,860	2,738	71%	1,048	38%	1,645	60%	45	2%	79	3%	1,415	52%	36%	64%	0%	95%	5%	0%
Clay	8,443	6,330	75%	4,937	78%	1,291	20%	102	2%	116	2%	3,966	63%	85%	15%	0%	53%	41%	6%
Columbia	16,543	11,643	70%	7,833	67%	3,718	32%	92	1%	141	1%	6,870	59%	67%	33%	0%	84%	15%	2%
Duval	250,032	181,317	73%	89,052	49%	89,195	49%	3,070	2%	3,201	2%	119,976	66%	47%	52%	0%	80%	16%	4%
Flagler	2,002	1,303	65%	617	47%	676	52%	10	1%	20	2%	733	56%	52%	48%	0%	73%	24%	3%
Lake	2,203	1,497	68%	529	35%	940	63%	28	2%	40	3%	843	56%	43%	57%	0%	54%	41%	4%
Levy	1,994	1,356	68%	406	30%	943	70%	7	1%	7	1%	794	59%	34%	66%	0%	89%	10%	1%
Marion	25,809	18,386	71%	8,657	47%	9,521	52%	208	1%	359	2%	8,398	46%	49%	51%	0%	71%	24%	5%
Orange	118,161	81,468	69%	32,189	40%	46,712	57%	2,567	3%	4,751	6%	34,601	42%	40%	57%	2%	69%	27%	5%
Putnam	27,383	19,974	73%	13,992	70%	5,651	28%	331	2%	480	2%	12,897	65%	75%	24%	0%	77%	19%	4%
Seminole	22,668	15,475	68%	6,431	42%	8,822	57%	222	1%	364	2%	7,186	46%	49%	51%	0%	57%	38%	5%
St. Johns	7,623	5,272	69%	1,312	25%	3,914	74%	46	1%	95	2%	3,252	62%	25%	75%	0%	81%	16%	3%
Volusia	35,821	26,404	74%	10,158	38%	15,901	60%	345	1%	627	2%	13,252	50%	40%	60%	0%	77%	20%	3%
4 District	562,518	436,058	78%	402,730	92%	22,041	5%	11,287	3%	12,369	3%	268,677	62%	96%	3%	0%	55%	40%	6%
Duval	324,505	247,425	76%	225,009	91%	15,042	6%	7,374	3%	6,811	3%	150,285	61%	96%	4%	0%	54%	40%	6%
Flagler	26,699	21,919	82%	20,612	94%	950	4%	357	2%	889	4%	14,990	68%	96%	4%	0%	46%	46%	8%
Nassau	43,941	32,037	73%	28,746	90%	3,034	9%	257	1%	306	1%	19,319	60%	91%	9%	0%	74%	22%	4%
St. Johns	76,206	59,924	79%	58,296	97%	995	2%	633	1%	1,288	2%	38,286	64%	98%	1%	0%	52%	43%	5%
Volusia	91,167	74,753	82%	70,067	94%	2,020	3%	2,666	4%	3,075	4%	45,797	61%	98%	2%	0%	53%	41%	6%

Cong. District & County	Total Population	Voting Age Population (1990 Census)										Registered Voters (1990)							
		Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.					
5 District	562,518	460,123	82%	430,573	94%	21,444	5%	8,106	2%	11,927	3%	314,783	68%	97%	3%	0%	56%	38%	7%
Alachua	141,619	114,485	81%	100,549	88%	9,021	8%	4,915	4%	5,002	4%	65,374	57%	94%	5%	1%	61%	32%	7%
Citrus	93,515	77,049	82%	74,967	97%	1,463	2%	619	1%	1,291	2%	52,500	68%	99%	1%	0%	54%	38%	8%
Dixie	10,585	7,997	76%	7,249	91%	686	9%	62	1%	70	1%	7,552	94%	92%	8%	0%	92%	7%	1%
Gilchrist	9,667	7,245	75%	6,554	90%	630	9%	61	1%	122	2%	4,856	67%	97%	3%	0%	89%	10%	1%
Hernando	101,115	82,467	82%	79,217	96%	2,502	3%	748	1%	2,068	3%	67,016	81%	98%	2%	0%	47%	45%	8%
Levy	23,929	18,288	76%	16,889	92%	1,160	6%	239	1%	326	2%	11,506	63%	95%	5%	0%	81%	17%	2%
Marion	28,620	22,740	79%	20,281	89%	2,173	10%	286	1%	534	2%	12,910	57%	91%	9%	0%	54%	39%	7%
Pasco	121,891	105,280	86%	103,937	99%	435	0%	908	1%	2,027	2%	79,481	75%	100%	0%	0%	48%	44%	8%
Sumter	31,577	24,572	78%	20,930	85%	3,374	14%	268	1%	487	2%	13,588	55%	90%	10%	0%	69%	28%	3%
6 District	562,518	427,389	76%	391,309	92%	27,429	6%	8,651	2%	11,102	3%	247,740	58%	95%	4%	0%	53%	41%	6%
Baker	5,782	4,145	72%	3,904	94%	211	5%	30	1%	35	1%	2,657	64%	99%	1%	0%	94%	6%	0%
Bradford	22,515	17,109	76%	13,438	79%	3,460	20%	211	1%	357	2%	8,456	49%	86%	14%	0%	83%	14%	3%
Clay	97,543	69,122	71%	65,197	94%	2,193	3%	1,732	3%	1,673	2%	40,307	58%	98%	2%	0%	48%	45%	7%
Duval	98,434	69,883	71%	61,616	88%	5,136	7%	3,131	4%	2,198	3%	33,908	49%	93%	6%	1%	59%	34%	7%
Lake	149,901	120,344	80%	110,566	92%	8,332	7%	1,446	1%	2,762	2%	70,257	58%	96%	4%	0%	43%	52%	5%
Marion	140,404	110,615	79%	104,504	94%	4,528	4%	1,583	1%	3,203	3%	69,266	63%	97%	3%	0%	51%	41%	7%
Putnam	37,687	28,554	76%	26,498	93%	1,694	6%	362	1%	583	2%	18,841	66%	93%	5%	1%	71%	24%	4%
Union	10,252	7,617	74%	5,586	73%	1,875	25%	156	2%	291	4%	4,048	53%	86%	14%	0%	95%	4%	1%
7 District	562,518	435,985	78%	410,120	94%	15,056	3%	10,809	2%	21,841	5%	249,753	57%	97%	2%	0%	43%	50%	7%
Orange	53,933	40,306	75%	35,760	89%	2,952	7%	1,594	4%	2,765	7%	16,698	41%	91%	6%	3%	43%	50%	7%
Seminole	264,861	199,147	75%	185,753	93%	7,060	4%	6,334	3%	12,570	6%	108,017	54%	98%	2%	0%	37%	56%	7%
Volusia	243,724	196,532	81%	188,607	96%	5,044	3%	2,881	1%	6,506	3%	125,038	64%	98%	2%	0%	49%	44%	7%
8 District	562,518	436,210	78%	392,874	90%	20,160	5%	23,176	5%	44,554	10%	206,980	47%	92%	3%	5%	42%	51%	7%
Orange	505,397	394,231	78%	356,520	90%	17,289	4%	20,422	5%	37,897	10%	182,464	46%	93%	3%	4%	41%	52%	7%
Osceola	57,121	41,979	73%	36,354	87%	2,871	7%	2,754	7%	6,657	16%	24,516	58%	86%	5%	9%	50%	41%	9%
9 District	562,518	447,843	80%	427,770	96%	12,601	3%	7,472	2%	16,451	4%	300,086	67%	98%	2%	0%	41%	49%	10%
Hillsborough	138,990	102,295	74%	95,397	93%	3,657	4%	3,241	3%	8,579	8%	58,358	57%	97%	3%	0%	48%	42%	9%
Pasco	134,387	107,881	80%	105,859	98%	742	1%	1,280	1%	2,574	2%	72,452	67%	100%	0%	0%	47%	45%	8%
Pinellas	289,141	237,667	82%	226,514	95%	8,202	3%	2,951	1%	5,298	2%	169,276	71%	97%	3%	0%	37%	52%	11%
10 Pinellas	562,518	462,536	82%	419,612	91%	35,081	8%	7,843	2%	9,678	2%	323,301	70%	93%	7%	0%	45%	46%	9%
11 Hillsborough	562,519	430,766	77%	351,919	82%	62,405	14%	16,442	4%	59,096	14%	238,172	55%	86%	14%	0%	60%	33%	7%
12 District	562,519	419,836	75%	364,068	87%	44,697	11%	11,071	3%	21,329	5%	215,031	51%	91%	9%	0%	61%	36%	3%
DeSoto	23,865	18,199	76%	15,082	83%	2,495	14%	622	3%	1,545	8%	10,354	57%	89%	11%	0%	78%	21%	2%
Hardee	19,499	13,811	71%	12,015	87%	657	5%	1,139	8%	2,582	19%	7,584	55%	87%	8%	5%	86%	13%	1%
Highlands	16,467	12,472	76%	10,205	82%	1,876	15%	391	3%	600	5%	6,835	55%	89%	10%	0%	59%	38%	3%
Hillsborough	95,179	67,748	71%	60,549	89%	4,693	7%	2,506	4%	5,416	8%	33,617	50%	94%	6%	0%	54%	38%	7%
Pasco	24,853	17,747	71%	14,420	81%	2,281	13%	1,046	6%	1,624	9%	9,608	54%	88%	12%	0%	66%	30%	5%
Polk	382,656	289,859	76%	251,797	87%	32,695	11%	5,367	2%	9,562	3%	147,033	51%	90%	9%	0%	60%	38%	3%
13 District	562,518	465,139	83%	438,875	94%	19,689	4%	6,575	1%	16,095	3%	335,071	72%	97%	3%	0%	36%	56%	7%
Charlotte	35,669	29,012	81%	27,545	95%	1,104	4%	363	1%	857	3%	20,878	72%	97%	2%	0%	42%	52%	5%
Hillsborough	37,366	30,971	83%	29,587	96%	365	1%	1,019	3%	5,011	16%	17,479	56%	99%	1%	0%	37%	54%	9%
Manatee	211,707	171,091	81%	157,570	92%	10,396	6%	3,125	2%	5,918	3%	119,619	70%	95%	5%	0%	42%	51%	7%
Sarasota	277,776	234,065	84%	224,173	96%	7,824	3%	2,068	1%	4,309	2%	177,095	76%	98%	2%	0%	32%	60%	7%

Cong. District & County	Total Population	Voting Age Population (1990 Census)									Registered Voters (1990)								
		Total	White	Black	Other	Hispanic Origin	Total	%VAP	White	Black	Other	Dem.	Rep.	Ind.					
14 District Charlotte Collier Lee	562,518	455,977	81%	427,294	94%	19,738	4%	8,945	2%	24,631	5%	274,578	60%	97%	2%	1%	36%	57%	7%
	75,306	64,675	86%	62,043	96%	2,021	3%	611	1%	1,192	2%	46,565	72%	98%	1%	0%	37%	57%	6%
	152,099	121,759	80%	113,369	93%	4,518	4%	3,872	3%	13,605	11%	66,528	55%	97%	1%	2%	27%	66%	7%
	335,113	269,543	80%	251,882	93%	13,199	5%	4,462	2%	9,834	4%	161,485	60%	97%	3%	0%	39%	54%	8%
15 District Brevard Indian River Osceola Polk	562,519	440,627	78%	404,067	92%	27,887	6%	8,673	2%	13,431	3%	288,817	66%	95%	5%	0%	44%	49%	7%
	398,978	311,524	78%	284,526	91%	20,374	7%	6,624	2%	8,776	3%	205,118	66%	95%	5%	0%	45%	48%	7%
	90,208	72,722	81%	66,998	92%	4,977	7%	747	1%	1,861	3%	50,974	70%	95%	5%	0%	37%	56%	7%
	50,607	38,600	76%	36,866	96%	782	2%	952	2%	1,882	5%	24,992	65%	95%	1%	4%	46%	44%	10%
22,726	17,781	78%	15,677	88%	1,754	10%	350	2%	912	5%	7,733	43%	84%	6%	1%	56%	40%	4%	
16 District Glades Hendry Highlands Martin Okeechobe Palm Beach St. Lucie	562,519	447,765	80%	422,517	94%	14,277	3%	10,971	2%	24,400	5%	295,460	66%	98%	2%	0%	45%	46%	9%
	7,591	5,735	76%	4,771	83%	552	10%	412	7%	382	7%	4,195	73%	86%	10%	4%	81%	16%	3%
	22,233	15,568	70%	12,929	83%	935	6%	1,704	11%	3,521	23%	7,609	49%	96%	4%	0%	73%	24%	3%
	51,965	43,142	83%	40,020	93%	2,325	5%	797	2%	1,720	4%	28,518	66%	96%	4%	0%	52%	45%	3%
	93,036	77,311	83%	73,885	96%	2,543	3%	883	1%	1,682	2%	54,377	70%	98%	2%	0%	30%	63%	7%
	18,267	13,140	72%	11,831	90%	120	1%	1,189	9%	1,553	12%	7,599	58%	99%	1%	0%	75%	23%	2%
	251,434	198,784	79%	188,838	95%	5,358	3%	4,588	2%	12,918	6%	131,371	66%	98%	2%	0%	47%	42%	11%
	117,993	94,085	80%	90,243	96%	2,444	3%	1,398	1%	2,624	3%	61,791	66%	98%	2%	0%	42%	48%	10%
17 Dade	562,519	391,015	70%	159,867	41%	211,077	54%	20,071	5%	94,269	24%	198,818	51%	39%	59%	2%	78%	17%	5%
18 Dade	562,519	450,048	80%	403,258	90%	16,507	4%	30,283	7%	303,669	67%	196,035	44%	96%	3%	1%	41%	51%	9%
19 District Broward Palm Beach	562,519	461,448	82%	441,253	96%	10,334	2%	9,861	2%	25,215	5%	317,449	69%	99%	1%	0%	52%	38%	10%
	276,571	221,436	80%	209,507	95%	6,570	3%	5,359	2%	13,255	6%	148,612	67%	98%	1%	1%	55%	35%	10%
285,948	240,012	84%	231,746	97%	3,764	2%	4,502	2%	11,960	5%	168,837	70%	99%	1%	0%	49%	40%	11%	
20 District Broward Dade Monroe	562,518	440,467	78%	409,728	93%	17,017	4%	13,722	3%	50,505	11%	288,322	65%	97%	2%	1%	55%	37%	8%
	421,015	329,724	78%	307,473	93%	12,021	4%	10,230	3%	33,790	10%	219,293	67%	97%	2%	1%	56%	36%	8%
	63,479	46,274	73%	42,246	91%	2,035	4%	1,993	4%	9,437	20%	28,721	62%	95%	3%	1%	50%	40%	10%
	78,024	64,469	83%	60,009	93%	2,961	5%	1,499	2%	7,278	11%	40,308	63%	96%	4%	0%	52%	39%	8%
21 Dade	562,519	424,355	75%	372,596	88%	17,142	4%	34,617	8%	299,432	71%	161,789	38%	95%	3%	2%	37%	54%	9%
22 District Broward Dade Palm Beach	562,519	490,832	87%	466,844	95%	11,878	2%	12,110	2%	57,429	12%	319,110	65%	99%	1%	0%	48%	43%	9%
	267,489	234,702	88%	224,537	96%	5,637	2%	4,528	2%	15,262	7%	153,970	66%	99%	1%	1%	43%	48%	9%
	165,342	142,849	86%	132,967	93%	4,697	3%	5,185	4%	33,440	23%	82,230	58%	98%	1%	1%	67%	24%	9%
	129,688	113,281	87%	109,340	97%	1,544	1%	2,397	2%	8,727	8%	82,910	73%	99%	1%	0%	36%	53%	11%
23 District Broward Dade Hendry Martin Okeechobe Palm Beach St. Lucie	562,519	407,318	72%	207,377	51%	186,308	46%	13,633	3%	36,919	9%	216,407	53%	59%	41%	1%	68%	25%	6%
	290,413	213,008	73%	105,971	50%	101,233	48%	5,804	3%	17,506	8%	113,345	53%	57%	42%	1%	71%	23%	6%
	20,716	14,543	70%	4,893	34%	9,134	63%	516	4%	1,599	11%	6,245	43%	47%	51%	2%	77%	18%	6%
	3,540	2,127	60%	442	21%	1,618	76%	67	3%	111	5%	975	46%	18%	82%	0%	93%	6%	2%
	7,864	5,851	74%	3,295	56%	1,641	28%	915	16%	1,528	26%	1,544	26%	78%	22%	0%	59%	35%	6%
	11,360	8,437	74%	7,026	83%	957	11%	454	5%	505	6%	5,177	61%	84%	16%	0%	74%	23%	2%
	196,448	141,888	72%	78,121	55%	58,771	41%	4,996	4%	14,164	10%	78,837	56%	63%	37%	0%	62%	30%	8%
	32,178	21,464	67%	7,629	36%	12,954	60%	881	4%	1,506	7%	10,284	48%	41%	59%	0%	78%	18%	5%

SOURCE: Counts of Population and Voting Age Population (18 years and older) from the U.S. Department of Commerce, Bureau of the Census (P.L. 94-171 data for the 1990 Census).  
Registration data for the 1990 General Election compiled from Supervisor of Elections records by the Florida Senate Committee on Reapportionment.

**SPECIAL SESSION H - 1990-1992 LEGISLATURE**

Special Session H of the 1990-1992 Legislature was called into session by joint proclamation of the presiding officers on June 1, 1992, for a period of 19 days, but, because of an extension the session lasted until July 10. The following subjects were placed in the scope of the call:

- 1) a General Appropriations Act for fiscal year 1992-1993;
- 2) an implementing bill for such act;
- 3) legislation concerning state and local revenues;
- 4) legislation concerning Public Education Capital Outlay (PECO) and the construction of educational facilities;
- 5) legislation relating to laws and rules which will stand repealed between June 1, 1992, and the convening of the 1993 Regular Session save laws relating to Chapter 395, F.S.;
- 6) regulation of medical facilities pursuant to Chapter 395, F.S.;
- 7) Florida Retirement System legislation;
- 8) amendments to Session Law Chapters 92-127, 92-177 and 92178;
- 9) claim bills;
- 10) properly advertised local bills;
- 11) legislation containing the provisions of Committee Substitute for Senate Bill 1720 as finally amended by the Senate on March 13, 1992;
- 12) legislation authorizing a natural gas pipeline;
- 13) legislation relating to the internal organization of the Department of Agriculture and Consumer Services;
- 14) unemployment compensation benefits legislation;
- 15) solid waste management legislation;
- 16) witness tampering legislation;
- 17) legislation transferring the licensure and recruiting of adult foster homes from the Agency for Health Care Administration to the Department of Health and Rehabilitative Services; and
- 18) legislation limiting the application of definitions contained in Section 408.07, F.S., by excluding such definitions from applying to the provisions of Sections 408.031 through 408.04, F.S.

The legislation summarized on the following pages constitutes the work product of Special Session H.

**AGRICULTURE**

**Departmental Reorganization**

COMMITTEE SUBSTITUTE FOR SENATE BILL 48-H (CHAPTER 92-291) provides significant changes to the laws which establish the organizational structure of the Department of Agriculture and Consumer Services (DACS or Department). The legislation also enacts changes to substantive law enforced by the Department, especially in the area of consumer protection.

The act reorganizes the Department and reassigns many of its responsibilities among its various divisions.

1. Four of DACS's 11 divisions are renamed:
  - a. The divisions of Inspection, Chemistry, Marketing, and Fruit and Vegetable Inspection become the divisions of Agricultural Environmental Services, Food Safety, Marketing and Development, and Fruit and Vegetables, respectively.
  - b. Section 570.091, F.S., authorizes the Commissioner of Agriculture to appoint up to three deputy commissioners.
  - c. The statutory experience and educational requirements for the directors of the divisions of Plant Industry, Dairy Industry, Standards, Food Safety and Forestry are repealed. The experience requirements for the director of the Division of Animal Industry are repealed as well; however, Section 570.37, F.S., still requires this director to be a veterinarian. There were no minimum experience or educational requirements for DACS's other five division directors.
  - d. Effective October 1, 1992, Section 570.073, F.S., authorizes the Commissioner of Agriculture to create the Office of Agricultural Law Enforcement; consolidating DACS's law enforcement responsibilities for agricultural road guard inspection, forestry arson investigation and agricultural crime investigation. This office is under the supervision of a senior manager, reporting directly to the assistant commissioner. Section 932.708, F.S., creates the Agricultural Law Enforcement Trust Fund into which any proceeds DACS receives from state or federal criminal proceedings will be deposited. These funds will be used for DACS's law enforcement purposes.
  - e. Section 570.092, F.S., provides for an inspector general of DACS. The inspector general conducts internal investigations, including criminal and administrative investigations of matters relating to the Department, management reviews, and grievance complaints. The inspector general reports directly to the Commissioner of Agriculture.
2. Effective October 1, 1992, Section 570.55, F.S., the Florida Avocado, Mango, and Lime Sales Law is expanded to require proof of ownership of tomatoes which are transported or sold in the state. Primary responsibility for the enforcement of Section 570.55, F.S., is transferred from the Division of Inspection to the Office of Agricultural Law Enforcement.
3. Effective October 1, 1992, Section 585.21, F.S., is amended to delete the requirement that all manufacturers and sellers of any biological product for animals receive Department permission before the product is sold in the state. There-

## 1992 SUMMARY OF GENERAL LEGISLATION

after, only manufacturers and sellers of specified products, or products which DACS may proscribe by rule, must receive written permission before the product may be sold. Because drugs used in field tests are not approved for use by the United States Department of Agriculture, Section 585.21, F.S., also requires that the manufacturers of these drugs receive written permission from DACS before beginning field tests.

4. Several provisions relating to health studio regulation are amended:

- a. Effective October 1, 1992, Section 501.015, F.S., requires health studios to post proof of a registration certificate at the front desk or registration desk. Additionally, a health studio must show proof of a registration certificate before local occupational license can be issued. Any moneys collected pursuant to this section will be deposited into the General Inspection Trust Fund [GITF].
- b. Effective October 1, 1992, Section 501.016, F.S., requires health studios whose security bonds have been reduced to provide the Department with a list of its members, updated annually. The security requirement is raised to \$50,000 for studios that fail to file the annual report.
- c. Effective October 1, 1992, Section 501.019, F.S., abolishes the existing administrative provisions for a 30-day notice to correct violations, thereby allowing the Department to issue fines immediately upon detection of an infraction. Any moneys collected pursuant to the section will be deposited into the GITF.

5. Section 501.059, F.S., amends the telephone solicitation provisions relating to definitions and prohibited acts. All fees imposed by this section will be deposited into the GITF. Additionally, civil penalties collected as a result of the Department's enforcement actions will also be deposited into the GITF, while civil penalties collected from actions brought by the Department of Legal Affairs (DLA) will be deposited into its Consumer Frauds Trust Fund (CFTF).

6. Section 501.604, F.S., amends the exemptions to the telemarketing statutes. The sale amount necessary to qualify for an exemption from the telemarketing laws for sellers of food or produce is increased from \$100 to \$500.

7. Several changes are enacted within the statutes governing antifreeze:

- a. Section 501.913, F.S., is reworded to clarify registration requirements; the existing \$200 fee has been retained.
- b. Section 501.917, F.S., amends the inspection, sampling and analysis provisions: the provision for "authorized agents" to act on behalf of the Department has been deleted.
- c. Effective October 1, 1992, Section 501.918, F.S., changes provisions relating to prohibited activities. The disposal of unregistered antifreeze is authorized pursuant to conditions to be established by Department rule. Failure to meet minimum standards is added to the list of unlawful activities. Refer-

ence to "manufacturer" is deleted to alleviate redundancy.

- d. Effective October 1, 1992, Section 501.919, F.S., provides for stop-sale orders to be imposed for violations of the antifreeze law.
- e. Effective October 1, 1992, Section 501.922, F.S., amends the violations provisions. The maximum duration of suspension is increased from 90 days to 1 year for violations of the antifreeze law. Failure to pay an administrative fine within 30 days will result in registration suspension until the fine is paid. Fines will be deposited in GITF instead of the General Revenue Fund.

8. Chapter 525, F.S., Gasoline and Oil Inspection, has been rewritten:

- a. Effective upon becoming a law, Section 525.02, F.S., changes the analysis guidelines. The provision for "authorized agents" to act on behalf of the Department to collect samples is deleted. Minor revisions are made to clarify wording and replace references to the "state chemist" with "Department."
- b. Section 525.03, F.S., repeals the provision allowing petroleum sample submission by purchasers. This section is repealed because the Department is required to collect an official sample of the product in question, and therefore, samples submitted by purchasers cannot be analyzed by the Department.
- c. Section 525.035, F.S., establishes criteria for determining whether petroleum fuels are mislabeled.
- d. Effective October 1, 1992, Section 525.037, F.S., establishes product standards. This section provides for stopsale orders for petroleum fuels which fail to meet state standards.
- e. Effective October 1, 1992, Section 525.07, F.S., amends the powers and duties of the Department. Following the recommendation of a recent Auditor General's report (#11522), this section requires persons who install or repair petroleum fuel measuring devices to register with the Department and report the installation of those devices to the Department. Vendors are required to report to the Department the existence of any measuring device installed by nonregistered mechanics.
- f. Section 525.08, F.S., amends the requirements allowing the Department access for purposes of inspection. The term "petroleum terminals" is added to the catch line as a location to which the Department may gain access for the purpose of examination, inspection and sample collection. Provision for authorized agents to act on behalf of the Department is deleted.
- g. Effective October 1, 1992, Section 525.16, F.S., changes the penalty provisions and provides for warning letters to be issued for violations. In addition, an administrative fine capped at \$1,000 per occurrence is provided and guidelines for invoking

penalties are established. Penalties include injunctions and criminal charges for violations committed knowingly.

9. Section 526.53, F.S., deletes outdated reference to agents of the Department and allows for the disposal of substandard brake fluid in accordance with rules to be established by the Department.

10. Section 531.41, F.S., permits the Department to establish by rule a new time frame for correcting rejected weights and measures. Additionally, the reference to the national standards followed by the Department is updated.

11. Some of the statutes regulating sellers of business opportunities are amended:

- a. Effective October 1, 1992, Section 559.805, F.S., increased filing fees for the sellers of business opportunities are increased to cover the costs of administering the program. The initial filing fee increases from \$30 to \$50 and renewals from \$15 to \$30. Moneys collected pursuant to this section will be deposited into the GTF.
- b. Section 559.813, F.S., permits DACS, as well as the Department of Legal Affairs (DLA) and state attorney, to enforce for Chapter 559, Part VII, F.S., relating to the sale or lease of business opportunities.

12. Section 559.927, F.S., permits DACS, assisting the DLA, to regulate travel agents. Applications for registration are subject to the provisions of Section 120.60, F.S. The DLA administrative rules regarding the submission of documents by travel services and promoters are restated in this section, incorporating minor changes for clarity. Statutory requirements for the wording of travel service advertisements are adjusted to save space. The section requires sellers of travel to have a Department-issued certificate before a local occupational license may be issued. Moneys collected from the Department's enforcement of Chapter 559, Part X, F.S., will be deposited into the GTF, while penalties collected from actions brought about by the DLA will be deposited into the CTF. An existing provision which permits violation of Department rules to be treated as a criminal offense is deleted.

13. Section 501.143, F.S., permits registration fees and moneys collected through the Department's enforcement of the Dance Studio Act to be deposited into the GTF rather than the CTF.

14. Section 570.5441, F.S., abolishes the Consumer Protection Trust Fund.

15. Section 616.091, F.S., amends safety standards for public fairs and amusement devices:

- a. The Department may exempt by rule unpowered and coinactuated amusement equipment from inspection.
- b. Qualifications for professional mechanical engineers to inspect amusement devices are established and existing provisions for other persons to certify amusement devices and attractions are deleted.

c. The standards established by the American Society for Non-Destructive Testing are adopted as the state's standards for inspection purposes.

d. Permitting and inspection procedures for companies engaged in rental of amusement devices and amusement attractions are adopted.

e. "Moonwalk" amusements without a roof or with walls of less than 6 feet are prohibited at both public and private functions.

f. Subsection 616.091(2), F.S., is redesignated as Section 616.0915, F.S., and the repeal date is extended to October 1, 1995.

16. Section 932.708, F.S., creates an Agricultural Law Enforcement Trust Fund into which the Department will deposit revenues received as a result of state or federal criminal proceedings and forfeiture proceedings. The Department will use the fund for law enforcement purposes, such as the purchase of new equipment.

17. The repeal dates of Sections 500.12 and 500.121, F.S., are changed from 1993 to 1998. These sections were extensively amended by Chapter 92-180, Laws of Florida, relating to food safety. The extension of the repeal allows the Department the opportunity to operate under the new statutory guidelines and develop appropriate rules and procedures.

HOUSE BILL 459-H (CHAPTER 92-290) reorganizes the Department of Agriculture and Consumer Services (DACCS) and corrects several problems with COMMITTEE SUBSTITUTE FOR SENATE BILL 48-H (CHAPTER 92-291) which were identified after the latter act passed the Legislature. Section 932.708, F.S., which creates the Agricultural Law Enforcement Trust Fund, is repealed. This trust fund is re-created in Subsection 932.705(5), F.S., so that it conforms with new criteria for law enforcement trust funds established in COMMITTEE SUBSTITUTE FOR HOUSE BILL 397 (CHAPTER 92-54).

COMMITTEE SUBSTITUTE FOR SENATE BILL 48-H (CHAPTER 92-291) creates the Office of Agricultural Law Enforcement effective October 1, 1992, and repealed several sections of the Department's law enforcement functions effective July 1, 1992; resulting in a 3-month void in law enforcement. Additionally, provisions in this act regarding penalties for violation of Chapter 525, F.S., Gasoline and Oil Inspection, were repealed July 1, 1992; however, the proposed changes were not effective until October 1, 1992. HOUSE BILL 459-H (CHAPTER 92-290) corrects these voids by extending the repeal dates of these sections to October 1, 1992.

This law also corrects an error in COMMITTEE SUBSTITUTE FOR SENATE BILL 48-H (CHAPTER 92-291) which inadvertently deleted the language which specified that certain analyses performed by the Department are prima facie evidence in a court of law.

Subsection 403.709(2), F.S., allocates 10 percent of the Department of Environmental Regulation's (DER) Waste Tire Account funds to counties for mosquito control. In addition, DACCS will administer a one-time appropriation of \$400,000 for mosquito control research. Effective upon becoming a law, Subsection 403.717(8), F.S., is repealed. This section permit-

ted local governments to obtain funding from the DER for the purpose of developing innovative methods for waste tire disposal.

## BUSINESS REGULATION

### Tobacco Products Sale to Minors

SENATE BILL 152-H (CHAPTER 92-285) provides for enforcement of a law (Section 859.06, F.S.), in existence since 1907, that prohibits the sale of tobacco products to minors.

Similar to the licensing system in place for alcoholic beverage retailers, the act requires purchase of a retail tobacco dealer permit by all entities selling tobacco products at the retail level or through tobacco products vending machines. The law directs the Department of Business Regulation (DBR), Division of Alcoholic Beverages and Tobacco, to administer the permitting program and to enforce penalties against those entities operating without a permit, allowing the sale of tobacco products to children or violating other provisions of the enactment. The permit fee is to be established at a level sufficient to cover the Division's costs related to the program, but may not exceed \$50.

The measure also limits the gift or sale of tobacco products through vending machines to places where the machines are supervised and located within the unobstructed line of sight of the personnel of a business.

The legislation establishes a responsible retailer program that provides for mitigation of penalties against the retailer if program guidelines are followed. If the retailer provides an employee training program that addresses laws covering the sale of tobacco products, methods of recognizing and handling underage customers and methods for properly examining ID cards, the retailer will not be held responsible for an employee's violation as long as he did not direct, approve or participate in the violation. The law is to take effect October 1, 1992.

## COMMERCE

### Bingo Law Reenactment

Chapter 91-421, Laws of Florida, provided for the reenactment of regulatory language concerning bingo (Section 849.093, F.S.) in the statutes prior to the passage of Chapter 91-206, Laws of Florida, and for Sunset review of that text prior to a repeal date of June 1, 1992. When the Legislature failed to act and Section 849.093, F.S., expired, making the playing of bingo in the state illegal, swift and strong reaction on the part of Florida citizens prompted the passage of SENATE BILL 150-H (CHAPTER 92-280) which the Governor signed into law on June 2, 1992. This measure reenacts the law as contained in Chapter 91421, Laws of Florida, and provides an automatic repeal date of June 1, 1993, unless the law is reviewed and reenacted by the Legislature.

### Uniform Commercial Code: Fees, Termination Statements

HOUSE BILL 21-H (CHAPTER 92-307) revises Subsection 479.402(8), F.S., to change the additional filing fee required for any instrument filed on a nonapproved form under Uniform

Commercial Code, Chapter 679, F.S., (Secured Transactions) from \$5.25 to \$5 as required in Paragraph 15.091(1)(f), F.S., as amended by this act. A schedule of nonrefundable processing fees is established in revised Section 15.091, F.S., and the fee for searching papers or records is increased to \$20. The copying fee for any document is reduced to \$1 per page.

The sum of \$245,375 is appropriated from the Corporations Trust Fund to the Division of Corporations of the Department of State and seven additional positions are authorized for the enforcement of this act.

The sum of \$1.5 million is transferred from the Corporations Trust Fund to the International Trade and Promotion Trust Fund of the Department of Commerce for fiscal year 1992-1993.

For fiscal year 1992-1993, the sum of \$1 million is transferred from the International Trade and Promotion Trust Fund to the International Affairs Commission for the support of international programs and activities. For the same time period, \$500,000 is appropriated from the International Trade and Trust Fund for distribution by the International Affairs Commission to be used to support international education programs, including Florida International Linkage Institute program created by Section 240.137, F.S.

The provisions of this act are to take precedence over any conflicting 1992 amendments to the same sections. This law is to take effect October 1, 1992.

### Financial Institutions Sunset Review

SENATE BILL 210-H (CHAPTER 92-303) is a Sunset review concerning Chapters 655-665, F.S., relating to financial institutions, scheduled for repeal on July 1, 1992. The legislation revises and readopts portions of Chapters 655-665, F.S.

Chapters 655-665, F.S., were originally scheduled to Sunset on October 1, 1991. However, during the 1991 Regular Session, the Legislature passed Chapter 91-307, Laws of Florida, which removed all restrictions on state issued credit card interest rates and delayed the Sunset of the concerned chapters until July 1, 1992.

This act reenacts exemptions to the public records law for information contained in various records obtained or compiled by the Department of Banking and Finance. Hearings, proceedings and documents relating to cease and desist and suspension or removal orders could be kept confidential if the Department, after considering the public purposes specified in Paragraph 119.14(4)(b), F.S., makes this determination (re-numbered and amended Section 655.0321 and Subsection 655.033(6), F.S.).

Investigatory records are confidential and exempt from the public records law until the investigation by the Department is complete or ceases to be active, and the term active would be explicated. When an investigation is complete or ceases to be active, certain portions of investigatory records could be released under specified conditions (amended Section 655.057, F.S.).

Examination, operation and condition reports are confidential and exempt from the public records law (amended Section

655.057, F.S.); however, portions of these reports are to be released by the Department 1 year after a liquidator, receiver or conservator is appointed, with only certain identifying portions of these reports kept confidential (Paragraph 655.057(2)(g), F.S.).

In addition, currency transaction reports would be provided to federal, state, and local law enforcement and prosecutorial agencies, as well as federal and state agencies responsible for the regulation and supervision of financial institutions, without requiring these entities to have a court order or subpoena (new Subsection 655.50(7), F.S.).

## CONSERVATION AND NATURAL RESOURCES

### Advance Disposal Fee Program

SENATE BILL 310-H (CHAPTER 92-327) revises Section 403.7197, F.S., to change the implementation date of the advance disposal fee program from October 1, 1992 to January 1, 1993, if the Department of Environmental Regulation has determined that out-of-state containers of glass, plastic, aluminum, plastic-coated paper or other metals sold in the state are being recycled at a sustained rate of less than 50 percent of the quantities sold within the state.

The act also provides for the levying beginning July 1, 1993, of a fee of 1-cent per container on the containers cited above.

### Natural Resource Management

HOUSE BILL 315-H (CHAPTER 92-288) removes certain unnecessary impediments to land acquisition procedures and clarifies certain goals of the Conservation and Recreation Lands (CARL) program by amending provision in Chapters 201.260, 201.253, 201.259, 201.373 and 201.380, F.S. The act also increases funding for the management of public lands and sets aside funds for interim management. The law amends Section 373.59, F.S., to provide relief to 27 predominantly small, rural counties which lose property from the ad valorem tax rolls as the result of a Preservation 2000 acquisition by providing for payment in lieu of taxes lost from CARL funds otherwise available for management of public lands. The enactment creates Section 373.1395, F.S., which limits the liability of water management districts when they open lands to the public at no charge.

### Gas Tax Collection Fund Transferrals

HOUSE BILL 107-H (CHAPTER 92-308) revises Section 212.69, F.S., to increase the funds annually transferred from the Gas Tax Collection Trust Fund to the Department of Natural Resources (DNR) from \$3.8 million to \$7.55 million. Of that amount, \$1.25 million is transferred into the Motorboat Revolving Trust Fund to be used for recreational channel marking, public launching facilities and other boating related needs as determined by the DNR. The remaining \$6.3 million is transferred into the Aquatic Plant Control Trust Fund for aquatic plant management. In addition, \$1.25 million is transferred from the Gas Tax Collection Trust Fund to the State Game

Trust Fund under the Game and Fresh Water Fish Commission to be used for recreational boating activities.

### Preservation 2000

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 94-H (CHAPTER 92-317) appropriates \$11 million from the Land Acquisition Trust Fund in fiscal year 1992-1993 to fund the first year's debt service on a third issue of Preservation 2000 bonds. The act increases by 3 cents the documentary stamp tax on specified documents, including original issues of stocks as well as bonds, debentures, certificates of indebtedness, nonnegotiable notes, promissory notes, and written obligations to pay money.

### Natural Gas Transmission Pipeline Siting

HOUSE BILL 171-H (CHAPTER 92-284) creates the Natural Gas Transmission Pipeline Siting Act (Sections 403.9401-403.9425, F.S.) which establishes a centralized and coordinated process for considering applications to build qualifying pipelines. It will lead to the certification of the location of the corridor in which the pipeline is to be constructed and maintained. The Public Service Commission (PSC) will determine need before a proceeding can begin. The Department of Environmental Regulation and nine state and local agencies and governments must study the application and report on its impacts. A hearing involving these parties will be held, and public hearings can be held at the option of local government. The Governor and Cabinet will finally dispose of the application. Certificated companies will obtain eminent domain rights to lay their pipelines on real property upon compensating the owners. This law also creates the Natural Gas Transmission Pipeline Intrastate Regulatory Act (Sections 2 through 12 of the law) authorizing the PSC to regulate the rates and services of intrastate pipelines. However, for rates negotiated with certain large customers, such as power plants, PSC ratesetting authority is limited.

## CONSTITUTIONAL AMENDMENTS

### Educational Facilities Construction Financing

SENATE JOINT RESOLUTION 2-H would amend Section 9 of Article XII of the State Constitution to:

- 1) continue indefinitely the current dedication of gross receipts taxes to fund construction of educational facilities for the state's public education system;
- 2) continue indefinitely the current dedication of some motor vehicle license taxes to fund construction of educational facilities for public schools and community colleges; and
- 3) remove interest and maturity restrictions on educational bond refunding.

The measure is to be voted on at the next general election.

**CORRECTIONS**

**Inmate and Probationer Costs**

SENATE BILL 166-H (CHAPTER 92-298) amends Paragraph 944.485(1)(a), F.S., relating to inmate and probationer costs to require the disclosure of all income and assets by prisoners in the state correctional system as a condition of any release eligibility, not only parole. Paragraph 944.485(2)(b), F.S., is added to establish that an order directing payment of all or a fair portion of a prisoner's daily subsistence costs may survive against the estate of a prisoner.

Subsection 948.09(1), F.S., is revised to require any person placed on probation, drug offender probation, community control, parole, control release, provisional release supervision or conditional release supervision under Chapters 944, 945, 947, 948 or 958, F.S., or in a pretrial intervention program, by the court, Department of Corrections or the Parole Commission to pay the Department a sum of money equal to the total month or portion of a month of supervision times the court-ordered amount which is not to exceed the actual per diem cost of supervision. The Department is to adopt rules which permit an offender who pays in full and in advance of regular termination of supervision to be eligible for a reduction in the total amount due. The rules are to link the offender's ability to pay with a written payment plan. Any person placed on misdemeanor probation by a county court must pay at least \$40 per month, as decided by the sentencing court, to the court-approved public or private supervising entity.

Pursuant to amended Subsection 948.09(5), F.S., each out-of-state probationer or parolee transferred to the state under the terms of an interstate compact adopted by authority of Chapter 949, F.S., must contribute not less than \$30 or more than the actual cost of supervision each month as certified by the Department of Corrections.

The Department is directed by new Subsection 948.09(7), F.S., to establish a payment plan with priority order for all costs the courts require the Department to collect. Victim restitution payments are to be given first priority over all other court-ordered payments. The provisions of this act are to take effect October 1, 1992.

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 197-H, 19-H, AND 131-H (CHAPTER 92-310) is an omnibus corrections package which includes the following reforms to the correctional system:

1. Creation of the Junny Rios-Martinez, Jr. Act of 1992 (elimination of basic gain-time for sexual battery).
2. Anonymity of Executioner.
3. Provisional Credit eligibility.
4. Study relating to Rehabilitation Alternatives.
5. Control Release eligibility.
6. Conditional Medical Release Program.
7. Study of older inmates and long-term adult inmates with extensive chronic health care needs.
8. Drug-Free Corrections Act of 1992.

9. Expansion of Boot Camp Program.
10. PRIDE.
11. Community Corrections Partnership Act.

**Junny Rios-Martinez, Jr. Act of 1992**

[Junny Rios-Martinez, Jr., an 11-year-old boy from Brevard County, was sexually abused and murdered in April 1991, by an inmate who had been released from prison after serving only 3-1/2 years of an 8-year sentence for a 1988 sexual assault of a 13-year-old.

[Basic gain-time is granted by the Department of Corrections (DOC) at a rate of 10 days for each month of each sentence imposed on a prisoner as a means of encouraging satisfactory behavior. All inmates are eligible to receive basic gain-time, except 3-year minimum mandatory firearm offenders, habitual or habitual violent offenders, lifers with or without a 25-year minimum mandatory sentence, and persons sentenced to death.]

This legislation amends Section 794.011, F.S., to deny *basic gain-time* for all sexual battery offenders convicted for a crime committed on or after October 1, 1992, regardless of the age of the victim. [The elimination of basic gain-time ensures that sexual battery offenders serve a longer time in prison. Basic gain-time presently equates to approximately one-third of the imposed sentence being deducted.]

**Anonymity of State Executioner**

Section 922.10, F.S., specifies that the warden of the state prison shall designate the executioner. [When the state resumed executing persons approximately 12 years ago, the Department of Corrections (DOC) placed advertisements in several major newspapers for persons willing to serve. The Department reports that executioners have been paid in cash, and there is no contract, work agreement, or understanding that has been reduced to writing between the Department and executioners. The Department fears for the life of an executioner and his family and has a long-standing practice of protecting the identity of any individual(s) employed in such capacity; however, there was no statutory authority for an executioner's identity to remain anonymous.

[On July 2, 1991, a citizen made a written public records request of the Secretary of the Department of Corrections and the Superintendent of the Florida State Prison for paychecks and/or forms of payment issued to the executioner, the executioner's per diem and travel expense requests and authorizations, the executioner's job application, and other applications from other persons wishing to serve in such capacity. After several motions, the Department was ordered on April 1, 1992, to produce the records in court unless legislation was passed providing for anonymity prior to that time. The Legislature was in the middle of a special session at the time of the scheduled hearing and had plans for additional special sessions in which the legislation could be considered. The plaintiff agreed not to pursue the matter if the Legislature passed the revision to the law.]

The enacted legislation amends Section 922.10, F.S., to create an exemption to the public records law for information which, if released, would identify an executioner. The exemption is subject to the Open Government Sunset Review Act.

### Provisional Credit Eligibility

Section 944.277, F.S., creates a system of provisional credits which are granted to inmates whenever the inmate population of the state prison system reaches 98 percent of lawful capacity. The Department may grant up to 60 days of provisional credits equally to each inmate who is earning incentive gain-time, with certain exceptions.

[Since the inception of this program, the Department has always exempted an habitual offender from receiving provisional credits even if the offender comes into the system with consecutive sentences, the last one being a sentence as an habitual offender. Recently, in the case of *Dugger v. Anderson*, 593 So 2d 1134 (Fla. 1st DCA 1992), the First District Court of Appeal ruled that this statute does not apply to a sentence which is imposed prior to an habitual offender sentence in Florida, and ordered that the Department grant the inmate provisional credits for the prior sentence.]

Additionally, Paragraph 944.277(1)(e), F.S., prohibits the award of provisional credits to anyone who "is convicted, or has been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery." The First District Court of Appeal in *Bishop v. Dugger*, 582 So 2d 33 (Fla. 1st DCA, 1991), ordered the Department to award provisional credits to a man who had been convicted of "kidnapping with intent to commit sexual battery or lewd act." The Court stated that the inmate could not be denied provisional credits because he "was charged in the disjunctive with kidnapping with intent to commit either sexual battery or a lewd act, rather than only sexual battery."

To clarify the intent of the Legislature, Section 944.277, F.S., is amended to state that, "a person who has ever been convicted as an habitual offender at any time, and any person who is convicted, or has ever been convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense," shall not be eligible for provisional credits. Section 947.146, F.S., is revised to make the same type of offender ineligible for control release.

In addition, the Department of Corrections is authorized to rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense when making provisional credit eligibility determinations.

### Rehabilitation Alternatives/Study and Report

[Since 1975, the DOC has been authorized by the Legislature as the sole agency responsible for the incarceration and

rehabilitation of all felony offenders who are sentenced to more than 364 days of incarceration. The Department is currently in charge of the incarceration and rehabilitation of over 152,000 felony offenders, with approximately 47,000 of those incarcerated in state correctional institutions. The remaining 105,000 are serving sentences on community control, in probation and restitution centers, or on probation.

[Inmates incarcerated in state correctional institutions are currently classified in three custody categories: close, medium and minimum. Minimum custody inmates are considered to be the least dangerous to society and the most rehabilitated. As of March 20, 1992, minimum custody inmates represented one-sixth of the prison population (8,523).

[Presently, the targeted population of most third-degree felony offenders and some second-degree felony offenders is addressed by the Community Corrections Partnership Act (CCPA), though that Act provides for strictly voluntary cooperation between the state and local governments regarding placement of less dangerous inmates in county work camps and in communitybased rehabilitative programs.]

The legislation summarized here directs the Department to determine the feasibility of employing, in tandem with the Community Corrections Partnership Act, a "second tier" alternative for correctional rehabilitation for less serious criminal offenders who have not committed calculated crimes of violence. The Department is authorized to contract, on a sole-source basis, with a private provider for a fiscal analysis of the proposed program. A report of its findings, along with proposed legislation, is required to be submitted to the Legislature no later than January 1, 1993.

### Control Release Eligibility

[The Control Release Program was established as a mechanism to manage the state prison population in order to maintain the prison system below 97.5 percent of its lawful capacity. If the prison population reaches 98 percent of lawful capacity, provisional credits must be awarded. The same type of offenders ineligible for consideration for provisional credits are also ineligible for control release (minimum mandatories, habitual offenders, sexual offenders and offenders committing crimes against a law enforcement officer).]

The Control Release Authority (CRA) is authorized to more closely scrutinize who is released by placing inmates in one of four different pools: immediate, advanceable, fixed date and maximum. [Those inmates in the immediate pool are immediately released. Those in the advanceable and fixed-date pools make up the bulk of the releases and are carefully screened prior to release. For those in the maximum pool, the Authority attempts to keep them in prison until they serve most of their sentence. The advanceable pool is the largest, but recently has been dwindling due to the increase in statutorily ineligible offenders coming into the system and the large number of offenders being placed in the maximum pool who are not reviewed.]

Section 947.146, F.S., is also revised to require the CRA to periodically review the maximum pool of inmates which en-

ables the Authority to identify those who have attempted to improve themselves by completing DOC self-improvement programs and have not been a disciplinary problem.

[One area identified by the CRA as an unnecessary task is the setting of control release dates for inmates who are incarcerated in other states' correctional institutions (228 inmates).] These offenders have no impact on Florida's prison population figures and, therefore, this legislation excludes these out-of-state inmates from consideration for control release.

#### Conditional Medical Release

[The DOC currently has a policy which recommends to the Parole Commission, or if the inmate received a guideline sentence, to the Board of Executive Clemency, parole or clemency for terminally ill and severely disabled inmates (DOC Rule 33.19.008). However, the process is very restrictive and many inmates die before they are released. In the last year, 72 inmates were recommended by institutional physicians for early release (parole or clemency). Forty-five were approved by the Assistant Secretary for Health Services, but only one inmate received clemency—one day before she died.

[The needs of terminally ill and permanently incapacitated inmates have been brought to the forefront in Florida corrections for two reasons. First, corrections experts are concerned that these inmates may be occupying prison beds at a security level higher than what is warranted by the inmates' conditions. Second, because higher security prison beds are more expensive to construct and maintain, taxpayers' dollars may be more effectively spent transferring inmates who pose lower security risks to lower-security housing reserved for such inmates. Approximately 60 percent of these offenders are classified as close custody.]

Section 947.149, F.S., is created to establish a Conditional Medical Release Program in which an inmate who is determined to be physically incapacitated or terminally ill may be recommended by the Department to the Parole Commission for early release. The Parole Commission shall then review the inmate's file and decide whether to release the inmate based on the information provided. Inmates are released under supervision and must satisfy all special conditions imposed by the Parole Commission. The program also provides for revocation of conditional medical release if the inmate's health improves.

[The intent of the program is to reserve secure beds for more violent offenders and save money on the medical costs of incarcerating offenders who may pose a small risk to the community.]

#### Older Inmates/Health Care Needs

[Academic research reveals several characteristics of older inmates that differentiate them from the general prison population. First, older inmates have a much lower recidivism rate than younger prisoners. Several states and the Federal Bureau of Prisons consider this factor heavily when making early release and parole determinations. Second, older inmates sur-

veyed prefer living in housing separate from the younger population, primarily due to their fear of assault. Third, older inmates are disadvantaged in terms of participating in academic, vocational and recreational programs designed for and offered to younger inmates. Fourth, many states, including Florida, are under-equipped to provide appropriate medical care for older inmates because of their increasing numbers and their need for more and different kinds of care. Finally, older inmates' susceptibility to being assaulted and greater medical needs may make the state subject to civil rights and negligence lawsuits.

[The DOC does not have specific policies for older inmates. Instead, the Department prefers to evaluate each inmate individually and to address the inmate's needs as required. The Department does not make an inmate's advanced age a factor in custody classification, medical classification, housing, control release or parole. The Department is presently unable to compile data on the costs involved in caring for older inmates. Figures on the types and costs of medical care requested are unavailable. Until a tracking system is implemented to identify and measure resources spent on older inmates and inmates with chronic health care needs, planning for their unique needs and measuring their impact on the system will remain speculative.]

The legislation requires the Department to establish a planning process for management of certain offenders in the prison population which shall include a feasibility study to provide alternative housing for older inmates and long-term adult inmates with extensive chronic health care needs. A report to the Legislature is required by December 1, 1992.

#### Drug-Free Corrections Act of 1992

[On October 5, 1991, the *Miami Herald* began a three-part series which revealed that Florida's correctional system was teeming with drugs and alcohol. Reporting on a joint investigation by the Department of Corrections and the Florida Department of Law Enforcement (FDLE) called "Operation Crumbling Rock," the *Herald* unveiled some disturbing findings on what it called the "rampant drug trade and abuse in Florida's prisons."

[Florida has doubled its prison capacity in the last 5 years, in large part because of the influx of inmates convicted and sentenced for drug-related crimes. In response to this, the DOC created a multi-tiered drug abuse treatment program for offenders. Even with this "Tier" system in place, the results of the joint DOC/FDLE undercover investigation seem to indicate that substance abuse among inmates within correctional institutions is commonplace, and a problem exists that should be more closely monitored on a systemwide basis.]

This legislation creates Sections 944.471-944.473, F.S., to provide for the establishment of a program for random, non-invasive drug and alcohol testing for all inmates in the Florida correctional system. Once such testing identifies those inmates using drugs or alcohol, disciplinary measures are to be taken in the form of the removal of gain-time and other currently practiced methods of discipline. The Department is re-

quired to provide drug treatment for inmates testing positive if such treatment is requested by the inmate and the treatment program is appropriate and space is available. Additionally, the Department is required to report to the public in its annual report the number of tests run each fiscal year, the number of positive and negative results obtained, the number of inmates requesting and participating in substance abuse treatment programs as the result of random, noninvasive testing, and the number of repeat abuse offenders.

**Boot Camp Expansion**

[In 1987, the Department initiated a Basic Training Program for Youthful Offenders, informally known as "Boot Camp." The diversionary program is voluntary and is intended as a form of "shock" incarceration modeled on military training. For a brief period of 90-120 days, up to 100 young men exercise, march and work in a rigorous daily routine that virtually eliminates idle time. Inmates also receive training in psychological methods that promote responsibility and improve decision-making. The chief aim of this program is to divert offenders from long terms of imprisonment while at the same time deterring them from further criminal activity. The program is designed for young (ages 17-26), first-time offenders. It is a very intensive, strenuous program and most middle-age or older inmates do not qualify medically or are not physically-fit enough to participate.]

[As of January 6, 1992, there were 53 inmates in the Boot Camp Program at Sumter Correctional Institution near Bushnell with 47 beds vacant. There are enough eligible inmates to fill the beds, but either the courts have not responded to written requests from the Department as required by law or the courts have refused to agree to release the inmate to probation supervision upon graduation from the program. As of November 1991, the recidivism rate of those who graduated was approximately 27 percent as opposed to 34 percent for the general population.]

This legislation creates Sections 945.71-945.74, F.S., to authorize the establishment of structured disciplinary training programs within the Department. The creation of this program enables the Department to fill the current vacant beds at the existing boot camp with inmates already in prison who have not been sentenced as "Youthful Offenders," but who are otherwise qualified for this type of voluntary program. Only inmates who are eligible for control release are allowed to participate in this program. The Department is required to submit a report to the Legislature by October 15, 1992, detailing its program implementation and outlining goals and recommendations for future legislative action.

**PRIDE/Sovereign Immunity/Interim Report**

[The 1981 Legislature authorized Prison Rehabilitative Industries & Diversified Enterprises (PRIDE) to assume operation of all prison industries within the state. State government accounted for 77 percent of PRIDE's sales in fiscal year 1989-1990, according to a March 4, 1991, Auditor General Report. However, due to economic conditions in the state and

the recent budget constraints, PRIDE has now trimmed its inmate work force from approximately 2,600 at the beginning of 1991 to 2,455 as of August 31, 1991. PRIDE operates 54 industries, with facilities at 22 major prisons.]

Section 767.28, F.S., provides that neither the state nor its agencies or its subdivisions are liable for payment of a claim or a judgment by any one person which exceeds the sum of \$100,000, or any claim or judgment which, when totaled with all other claims or judgments arising out of the same incident or occurrence, exceeds the sum of \$200,000. If the claim or judgment is in excess of either \$100,000 or \$200,000, as the case may be, that portion of the judgment that exceeds these amounts may be reported to the Legislature, and may be paid in part or in whole only by further action of the Legislature. The state or its agencies or subdivisions may obtain insurance coverage for tortious acts in excess of the \$100,000 or \$200,000 waiver, but are not deemed to have waived any defense of sovereign immunity or to have increased the limits of their liability by obtaining such excess coverage.

The state, its agencies, and its subdivisions are authorized by Paragraph 768.28(14)(a), F.S., to be self-insured, to enter into risk management programs, or to purchase liability insurance for whatever coverage they may choose, or to have any combination thereof, in anticipation of any claim, judgment, or claims bill which they may be liable to pay. The terms "state agencies" or "subdivisions" include the executive departments, the Legislature, the judicial branch (including public defenders) and the independent establishments of the state, counties and municipalities, and corporations primarily acting as instrumentalities or agencies of the state, counties or municipalities, including the Spaceport Florida Authority.

Section 946.510, F.S., provides that the Division of Risk Management of the Department of Insurance is authorized to insure PRIDE under the same general terms and conditions as the Department of Corrections was insured prior to PRIDE leasing the correctional work programs from the Department.

[The Second Judicial Circuit in Leon County, in the case of *Swindell v PRIDE*, Case No. 89-927, found that PRIDE was a corporation primarily acting as an instrumentality of the State of Florida, and was therefore immune from liability for the wanton and malicious acts alleged in that case, and rendered a judgment against PRIDE for the sum of \$572,741. The Division of Risk Management paid \$200,000 to the plaintiffs on behalf of PRIDE, and a claims bill (House Bill 1419) in the amount of \$372,741 was filed during the 1992 Regular Session of the Legislature on behalf of the plaintiffs. House Bill 1419 passed the Legislature but was vetoed by the Governor. This same claims bill was filed during the "H" special session as House Bill 225H. The measure passed the House but was reported unfavorably by the Senate Finance & Taxation Committee.]

Section 946.5026, F.S., is created to statutorily grant sovereign immunity to PRIDE. The enacted legislation also requires a standing committee of the Senate and House to conduct an interim feasibility study of leased or managed prison industries.

**Community Corrections Partnership Act**

[The 1991 Legislature created the Community Corrections Partnership Act to establish a partnership between the state and counties to provide funding for intermediate community-based sanctions and treatment programs as an alternative punishment to fill the void between regular probation and state prison. This is an optional program and counties are not required to participate. Counties may apply for these funds for purposes of providing: community-based programs within residential probation programs, community-based drug treatment programs, and enhancement of programs within county detention facilities. Funds may also be used to acquire, renovate and operate countyowned residential probation facilities or programs.

[Offenders are required to meet their community obligation by maintaining employment, thereby providing resources for their families, restitution to their victims, payment for their cost of supervision and treatment and service to the community.

[Some felony offenders who are currently being sentenced to prison will be diverted from the state prison system into a county work camp constructed and operated with funds provided by the state. No more than one-half of the total beds in a county work camp are designated for offenders who would have been sent to state prison. The remaining one-half of the beds are reserved for offenders sentenced and committed to the custody of the county. The program provides an opt-out provision in the event a county determines that it no longer desires to operate a work camp, or if for any other reason a county work camp contract is otherwise terminated.

[The Community Corrections Partnership Act established an alternative sentence to require residence in a state probation and restitution center or private residential drug treatment program, either secure or nonsecure, for offenders on community control or who have violated conditions of regular probation. Said offenders may be required to work, receive treatment or attend school while residing in the facilities. Caseload for drug offender probation are restricted to a maximum of 50 cases per officer.]

Section 944.026, F.S., is amended to expand the use of secure and nonsecure community-based residential drug treatment facilities to include persons who have violated drug offender probation. Violators of drug offender probation, along with regular violators and violators of community control, if their presumptive sentence exceeds 22 months, may be required to reside in secure or nonsecure community-based drug treatment facilities while working, receiving treatment or attending school.

The enacted legislation amends Section 948.51, F.S., to rename the county correctional planning committees to public safety coordinating councils. County eligibility for community corrections funds is revised to allow counties to cooperate with one another to submit a single application to the Department for funding. Community Corrections Assistance funds may be used for funding costs to enhance public safety and crime prevention programs.

Section 950.002, F.S., is amended to allow any combination of two or more counties to develop a unified plan for a county work camp. Counties are allowed to house *unsentenced* offenders and pretrial detainees in county work camps. The Act also creates the Community Corrections Operating Trust Fund to fund the operation of county work camps.

**COURTS AND CIVIL LAW**

**Florida Human Rights Act Revision**

SENATE BILL 18-H (CHAPTER 92-282) amends various provisions of Sections 760.04, 760.10 and 760.11, F.S., a part of the Florida Human Rights Act of 1992, as these provisions were amended during the 1992 Regular Session by COMMITTEE SUBSTITUTE FOR SENATE BILLS 1368 AND 72 (CHAPTER 92-177).

Under revised Section 760.04, F.S., the Commission on Human Relations is reassigned to the Department of Administration where it had been located prior to Regular Session action transferring it to the Executive Office of the Governor. The Commission retains its exemption from the control, supervision or direction of the Department.

Paragraph 760.10(8)(d), F.S., is added to provide that the taking or failure to take action by an employer, employment agency, labor organization or labor-management committee on the basis of marital status if that status is prohibited under an antinepotism policy and is not an unlawful employment practice in the context of the Florida Human Rights Act of 1992.

New language added in Subsection 760.11(13), F.S., relating to administrative and civil remedies for the Human Rights Act, is revised to specify the legislative intent that attorney fees awarded the prevailing party as part of the cost in any judicial proceeding conducted pursuant to the Human Rights Act be interpreted in a manner consistent with federal case law involving a Title VII action.

A severability clause is provided and the effective date of all CHAPTER 92-177 amendments is changed from July 1 to October 1, 1992.

**Construction Contract Prompt Payment Law**

SENATE BILL 156-H (CHAPTER 92-286) creates the Construction Contract Prompt Payment Law which is applicable to all written contracts for the improvement of real property entered into after December 31, 1992.

All definitions for terms used in the Construction Lien Law, Part I of Chapter 713, F.S., Sections 713.001-713.37, F.S., are adopted for this new act and additional definitions are provided for "obligor," "obligee," and "chain of contracts." Definitions are added to Section 713.01, F.S., for "architect" and "engineer" and the definition of "contractor" is expanded.

Prerequisite events for payments by the obligor to the obligee are spelled out. The interest rate on the payments is prescribed as is the procedure for dealing with incomplete or erroneous requests for payment. Exceptions to standard methods of payment and accrual of interest are addressed.

The enactment also amends Subsection 255.05(2), F.S., to provide that the filing of notice to proceed against the bond of a contractor at a public building site for failure to pay for rental equipment be within 90 days of the last date such equipment was on the site ready to be used. Provision is also made for payment of attorney fees to the prevailing party in any action to enforce a claim against a payment bond as determined by the court and taxed as part of the party's costs.

Subsection 713.08(5), F.S., is revised to establish the same time limit as that set out in the paragraph above for recording the claim of a lien on rental equipment under the Construction Lien Law.

In addition to other requirements, the notice of termination of the effectiveness of a notice of commencement must include a statement that the owner has, before recording the notice of termination, served a copy of the notice of termination on the contractor and each lienor who has given notice pursuant to added Paragraph 713.132(1)(f), F.S.

Subsections 713.16(4) and (5), F.S., are created to permit a contractor who has furnished a payment bond to demand a written statement of account from any lienor when payment has been made by the owner to the contractor or directly to a lienor, and to permit any lienor who has filed a claim of a lien to demand a written statement from an owner showing payments and estimated costs of completion or the actual cost if known. Failure to supply such statements or the supplying of false statements forfeits the rights of the contractor under the bond and prevents the owner from being a prevailing party for purposes of an award of attorney fees.

Section 713.29, F.S., is amended to provide for the award of attorney fees in any action to enforce a claim against a bond.

Section 713.347, F.S., is created to prescribe lender responsibilities with construction loans.

The repeal of Section 713.245, F.S., relating to conditional payment bonds is delayed until July 1, 1993.

All provisions of the act are to take effect October 1, 1992, except for the extension of the repeal date for Section 713.245, F.S., which is to take effect upon becoming a law or retroactively to June 30, 1992.

### Juror Service and Compensation

SENATE BILL 134-H (CHAPTER 92-297) revises Subsection 40.013(7), F.S., to provide that any person who was summoned and reported as a prospective juror in any court in that person's county of residence within 1 year prior to the first day for which the person is being considered for jury duty is exempt for 1 year from the last day of service. Prior exemption language was based on a 2-year time frame.

Section 40.24, F.S., is amended, as of January 1, 1993, to establish the compensation policy of Chapter 40, F.S., relating to jurors and witnesses:

- 1) define jury service and regular employment for purposes of the chapter;
- 2) specify which jurors are to be paid for the first 3 days of service which is to be at the rate of \$15 per day;

- 3) set the rate of \$30 per day for the fourth and subsequent days of service for all jurors;
- 4) prohibit travel and other out-of-pocket expense reimbursement for jurors;
- 5) preserve unemployment benefits for compensated jurors; and
- 6) bar jurors excused at their own request from receiving any compensation for the first 3 days of jury service.

Effective January 1, 1993, provisions relating to the service of petit jurors in Section 40.41, F.S., are altered to require such service not to exceed 1 day, rather than 1 week, unless the trial at which the juror is serving lasts longer or the court orders otherwise. Petit jurors are to be dismissed as soon as it is determined their services are not needed.

The cross-reference to Section 40.24, F.S., in Subsection 905.37(5), F.S., which relates to the compensation of statewide grand jurors is deleted.

## ECONOMIC DEVELOPMENT AND TOURISM

### Private Activity Bonds

HOUSE BILL 187-H (CHAPTER 92-301) revises the provisions in Section 159.807, F.S., relating to eligibility for, and availability of, allocations from the state allocation pool for private activity bonds. Section 159.8081, F.S., is amended to specify the manner in which written confirmations for manufacturing projects are to be made when allocation is not available from the manufacturing facility bond pool. The act is to take effect January 1, 1993.

### Florida Commission on Tourism

COMMITTEE SUBSTITUTE FOR SENATE BILL 196-H (CHAPTER 92-299) creates the Florida Commission on Tourism (FCT). The FCT will consist of 17 members appointed by the Governor, subject to Senate confirmation, with no fewer than two and no more than four members from any of six enumerated regions of the state. Powers and duties of the FCT include:

- 1) advising the Division of Tourism of the Department of Commerce on tourist-related matters and assisting the Division in carrying out special tourism enhancement programs complementary to the work of the Division;
- 2) recommending to the Legislature, prior to December 1, 1992, a 5-year marketing plan to sustain tourism growth (based on the plan recommended by the 1991-1992 Florida Tourism Commission);
- 3) operational structure to implement the plan; and
- 4) additional funding sources as may be required to fulfill the long-range objectives of the Commission's marketing plan.

The Tourism Promotion Investment Corporation, a direct-support organization whose board consists of the same members as make up the FCT, is created. The direct-support organization is organized to receive, hold, invest and administer property and make expenditures for the operation of the FCT and tourism promotion. The Tourism Promotion Investment Trust Fund is created to be administered by the FCT for the

purpose of accepting and expending those voluntary contributions contemplated by the act.

Additionally, several provisions of law are amended in Chapter 288, F.S., to provide that responsibility for international tourism programs and activities will remain with the Division of Tourism instead of being transferred to the Florida International Affairs Commission.

## EDUCATION

### Energy Efficiency Contracts for Educational Facilities

SENATE BILL 198-H (CHAPTER 92-306) amends Subsection 235.215(2), F.S., relating to the execution of a guaranteed energy savings contract, to conform language within the subsection thereby including state community colleges and universities in the exemption to the three firm requirement of the Consultants' Competitive Negotiation Act (Section 287.055, F.S.) if a school district, community college or university determines that fewer than three firms are qualified to perform the required services. Nor would the bid requirements of Section 287.057, F.S., apply.

### Independent Colleges and Universities

SENATE BILL 80-H (CHAPTER 92-321) is the result of a scheduled Sundown review of the State Board of Independent Colleges and Universities and other statutes relating to independent colleges and universities. The legislation amends and reenacts these provisions.

Prior to establishment, operation, or advertising, a nonpublic college must apply for and obtain from the State Board of Independent Colleges and Universities either a license, certificate of exemption, or other authorization to operate (renumbered and amended Subsection 246.081(2), F.S.). The type of credential issued depends on the type of institution. Each of these credentials is subject to annual review and may be denied, revoked, or placed on probation by the Board.

The powers and duties of the Board are expanded to include a requirement that the Board annually review the standards of accrediting agencies whose institutions are eligible for an exemption from the licensing review process (Subparagraph 246.041(1)(n)7.(q), F.S.). The data collection efforts of the Board are revised with attention given to reducing the reporting burden on the institutions (Paragraph 246.041(1)(n), F.S., as revised). The Board is directed to establish a fee schedule sufficient to generate the fee revenue required in the Appropriations Act for support of the Board (Section 246.101, F.S., as amended).

Future review and repeal of the statutes relating to independent colleges and universities is scheduled for October 1, 2002.

### Equity Accountability

Sections 27 and 28 of SENATE BILL 80-H (CHAPTER 92-321) also requires the State University System and the Division of Community Colleges to plan and implement measures to increase both the proportion of women and minorities in

faculty and senior-level administrative positions and the proportion of women and minorities with tenure or a continuing contract. The plan must include annual and long-term goals and measurable objectives. In an annual report, each college and university must identify specific progress toward the goals and objectives. Annual performance evaluations of college presidents must address the degree of success achieved in reaching equity.

A pool of vacant positions is created to reward departments that achieve progress toward equity. The pool is limited to 10 percent of total vacant positions and no department will contribute more than 10 percent of the positions authorized for it. If funds are available, the Legislature will appropriate money to reward department managers who achieve equity goals and objectives.

### Community Colleges

SENATE BILL 80-H (CHAPTER 92-321) adds Subsection 240.35(14), F.S., to authorize each community college to grant fee exemptions for up to 40 full-time equivalent (FTE) students. The legislation also revises Subsection 240.35(13), F.S., to permit use of student capital fee revenues to construct and equip buildings. The act creates Section 240.607, F.S., to authorize the Division of Community Colleges to develop articulation agreements with nonpublic colleges and universities that are accredited by the Southern Association of Colleges and Schools.

### State University System

SENATE BILL 80-H (CHAPTER 92-321) modifies several statutes to enhance the responsibilities of the Board of Regents in administering the State University System. These include: authorization for the Board of Regents (BOR) to provide workers' compensation coverage for contractors or subcontractors employed to do work on or adjacent to property owned or used by the Board (Paragraph 240.209(3)(P), F.S., as amended); exemption for the State University System press from the bid requirements in Section 287.017, F.S., when publishing books (new Subsection 240.209(8), F.S.); authorization for the deposit outside of the State Treasury of assets of the BOR self-insurance trust fund (revised Subsection 240.213(2), F.S.); exemption of the selfinsurance program from the submission of budget requests as required by Section 216.023, F.S., (revised Paragraph 240.277(3)(a), F.S.).

### Florida Atlantic University

SENATE BILL 80-H (CHAPTER 92-321) establishes the Boca Raton and Broward County campuses of Florida Atlantic University as partner campuses with separate budgets and management authority over faculty, staff and programs (Section 240.5285, F.S., as created). The Broward campus is required to establish a Faculty Senate and is permitted to create a direct-support organization.

## Tenth University

SENATE BILL 80-H (CHAPTER 92-321) amends Section 240.522, F.S., to authorize the Board of Regents to establish a direct-support organization and to require a 10-year plan by December 1, 1992. The plan must include transferring to the new university those programs now operated by the Ft. Myers campus of the University of South Florida.

## EMPLOYEES, BARGAINING AND BENEFITS

### Unemployment Compensation Benefits

HOUSE BILL 157-H (CHAPTER 92-313) revises Paragraph 443.111(2)(a), F.S., to raise the cap on weekly unemployment compensation benefits for individuals from \$225 to \$250. In addition, a provision is added which stipulates that the maximum benefit amount in effect at the time a claimant establishes his weekly benefit amount shall be the maximum throughout the claimant's benefit year.

CHAPTER 92-38, Laws of Florida, enacted at the 1992 Regular Session, added Paragraph 443.101(8)(c), F.S., to provide that any benefits received from programs under the Social Security Act are to be excluded from calculations used to compute unemployment compensation benefits for an individual for benefit years beginning on or after July 5, 1992. HOUSE BILL 151-H (CHAPTER 92-283) makes this exclusion applicable to weeks of unemployment beginning on or after July 5, 1992.

## ETHICS AND ELECTIONS

### Campaign Contributions and Solicitations by Insurers

HOUSE BILL 483-H (CHAPTER 92-329) amends Section 627.0623, F.S., as created by the 1992 insurance Sunset legislation (Chapter 92-318, Laws of Florida), which limits campaign contributions by insurers and their affiliates and officers to the Treasurer and candidates for the office of Treasurer. This act revises the definition of "insurer" for purposes of Section 627.0623, F.S., to exclude warranty associations, professional service plans, issuers of ambulance service contracts, issuers of preneed funeral contracts, and continuing care providers from the definition of "insurer." The act takes effect October 1, 1992.

### Political Party Office Candidates

HOUSE BILL 389-H (CHAPTER 92-325) permits a candidate for political party office to authorize the supervisor of elections to change the precinct or district number of the office the candidate is seeking on all qualifying forms if the precinct or district number is changed after the candidate files. The supervisor is required to notify the candidate by certified mail within 3 days after the supervisor has effected the changes on all forms. This act is repealed January 1, 1993.

## FINANCE AND TAXATION

A major focus of Special Session H was the state budget and related tax matters. Funding sources which were adopted

include: an increase in the sales tax on nonresidential telecommunication service and electrical power; application of sales tax to detective, burglar and other protection services; nonresidential cleaning; nonresidential pest control services; the sale of rare coins; elimination of the dealer's credit on amounts above \$1,200; an increase in intangible personal property tax and documentary stamp taxes; a nursing home assessment; and additional corporate fees.

Small counties with a population of 50,000 or less were authorized to levy additional sales surtaxes, and some of the restrictions on use of surtaxes already authorized were relaxed for such counties.

In the administrative area, the Taxpayer's Bill of Rights was adopted, and the Department of Revenue's collection and enforcement powers were enhanced by adoption of a 3-month amnesty program, the doubling of numerous tax penalties, the granting of other specific powers, and the adoption of additional information-gathering procedures such as the Registration Information Sharing and Exchange Program (RISE).

## Sales Tax

SENATE BILL 26-H (CHAPTER 92-319) contains a number of sales tax provisions. An amendment to Paragraph 212.05(1)(e), F.S., increases the tax on charges for nonresidential telecommunication service and electrical power or energy to 7 percent, effective August 1, 1992, and Subsection 212.12(11), F.S., is amended to allow the Department of Revenue to provide tax brackets for such transactions. Effective September 1, 1992, new Paragraphs 212.05(1)(k) and (l), F.S., provide for application of sales tax to detective, burglar and other protection services; nonresidential cleaning and pest control services, and to the sale of any coin or currency which is sold at a rate based on its precious metal content, which is not legal tender, or which, if legal tender, is sold at a rate in excess of its face value. Paragraph 212.08(7)(v), F.S., is amended to conform. Effective August 1, 1992, amendments to Subsections 212.04(5) and 212.12(1), F.S., eliminate the dealer's credit when the tax due exceeds \$1,200. An amendment to Paragraph 212.20(6)(g), F.S., revises the distribution of sales tax revenues.

An amendment to Paragraph 212.05(1)(a), F.S., revises requirements and conditions relating to the sales tax exemption for boats and airplanes removed from the state after purchase. This revision imposes qualifications and responsibilities on the purchaser, revises the seller's responsibilities, and increases to 20 days the length of time the boat or airplane may remain in the state after alterations or repairs. An amendment to Paragraph 212.08(7)(t), F.S., revises requirements and conditions relating to the use tax exemption for boats temporarily docked in the state. The length of time such a boat may remain in the state in any year without losing its exemption is increased to 20 days, not including time spent at a registered repair facility and on sea trials conducted by the facility. The recordkeeping duties of such facilities are revised and they are required to maintain a log. New Subsection 212.02(26), F.S., defines "sea trial" and imposes duties on re-

pair facilities and boat owners. New Subsection 212.06(12), F.S., specifies that a boat that remains in the state for more than 183 days in any 1-year period is presumed to be commingled with the general mass of property of the state, unless specified exemptions apply.

This law also revises Section 212.0515, F.S., which provides for application of tax to sales of foods and beverages through vending machines. The content of the notice which is required to be displayed on such machines is revised. Existing penalties for failing to file required reports and certificates are extended to apply to filing false information. Requirements relating to reports required from persons who sell food or beverages for resale to vending machine operators are revised. The requirement that a dealer purchasing food or beverages for resale provide to the dealer from whom such items are purchased a certificate stating whether or not he is a vending machine operator is removed. Vending machine operators must continue to supply this certificate, and the penalty for failure to do so is reduced.

Finally, this act amends Paragraph 212.04(2)(a), F.S., to provide an exemption for any admissions tax that was not actually collected before that date by any museum or historic building owned by any political subdivision of the state.

#### Local Option Taxes

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 193-H (CHAPTER 92-309) authorizes small counties with a population of 50,000 or less on April 1, 1992, to levy certain additional discretionary surtaxes, and revises restrictions on certain presently authorized surtaxes for such counties. New Paragraph 212.055(2)(i), F.S., allows any such county which imposed a local government infrastructure sales surtax before July 1, 1992, to use surtax proceeds for any public purpose if it has met its debt service obligations and its comprehensive plan is in compliance with the law, and also allows any municipality within such county to do so if its comprehensive plan is in compliance. New Subsection 212.055(3), F.S., authorizes such counties to levy a small county sales surtax at a rate of 0.5 or 1 percent. If imposed by ordinance enacted by extraordinary vote, surtax revenues may be used for infrastructure operation or any other public purpose. If approved by referendum, surtax revenues may be used to service bond indebtedness for infrastructure or for acquisition of land for recreation or conservation. New Subsection 212.055(6), F.S., authorizes such counties to levy a 0.5 percent small county indigent care sales surtax by ordinance approved by extraordinary vote. Such an ordinance must set forth a brief plan for providing health care services to qualified residents; the plan must fund a broad range of health care services for both indigent persons and the medically poor, including primary care and preventive care as well as hospital care. The authority to levy this surtax expires October 1, 1998.

New Subsection 212.055(5), F.S., is a restructuring and clarification of provisions which allow Dade County to levy a sales surtax to support a county public hospital; the October 1, 1998, repeal date for these provisions is removed.

No county is allowed to levy these local option sales surtaxes (including the local government infrastructure surtax and the indigent care surtax) in excess of a combined rate of 1 percent.

This law also deals with local option fuel taxes. The voted gas tax authorized by Section 336.021, F.S., is renamed the "ninth-cent gas tax," and the above-described small counties are authorized to levy the tax by ordinance approved by extraordinary vote if proceeds are not used to service bond indebtedness. New Subsection 336.025(8), F.S., allows such a county to use the proceeds of the local option gas tax authorized for a county transportation system under that section for infrastructure projects, if the projects are consistent with its approved comprehensive plan, or if not yet approved, consistent with its last-submitted plan, and if the county holds a public hearing on the use of the proceeds and adopts a resolution certifying that it has met the transportation needs identified in its comprehensive plan.

This act also creates the Small County Technical Assistance Program to provide technical assistance to counties with a population of 50,000 or less to enable them to implement workable solutions to financial and administrative problems. The Comptroller is directed to enter into contracts with program providers for the purpose of assisting such counties to develop alternative revenue sources and improve their financial management practices. The Advisory Council on Intergovernmental Relations will advise the Comptroller and conduct performance reviews of the program.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 68-H (CHAPTER 92-320) creates Subsection 125.0104(11), F.S., which requires the Department of Revenue, beginning October 1, 1992, to pay interest on undistributed local option tourist development taxes remitted to it by a county levying the tax, beginning on the fourth working day after the tax is due until the Department issues a voucher to the Comptroller for payment.

This measure also requires the state or any local governmental entity that administers specified local option tourist taxes, sales surtaxes, fuel taxes, or documentary surtaxes, which is authorized to deduct a portion of tax revenues for costs of administration, to report annually to the levying authority, the entity that is the principal recipient of tax proceeds, and to the Legislature the amount of tax proceeds that is withheld from the principal recipient, and the purpose of such withholding. This requirement expires January 1, 1995. (SENATE BILL 26-H (CHAPTER 92-319) also creates this provision.)

#### Intangible Personal Property Tax

Effective December 31, 1992, the rate of the annual intangible personal property tax imposed by Section 199.032, F.S., is increased from 1.5 to 2 mills under the provisions of SENATE BILL 26-H (CHAPTER 92-319). Also, Section 199.185, F.S., is amended to extend the application of the exemption of the first \$100,000 of value (\$200,000 for a husband and wife filing jointly) from the last 0.5 mill to the last mill of tax, to ex-

tend the exemption for charitable trusts from 0.5 to 1 mill, and to exempt banks and savings associations from 0.5 mill of tax. Subsection 199.292(3), F.S., is amended to revise the distribution of tax revenues.

New Section 199.106, F.S., provides a credit against the annual tax for intangible personal property that has been deemed to have a taxable situs in this state solely pursuant to Subsection 199.175(1) or (2), F.S., or any similar predecessor statute, in an amount equal to a like tax lawfully imposed and paid by the taxpayer on the same property in another state, territory of the United States, or the District of Columbia, under specified conditions. These credits apply retroactively to December 31, 1979. New Section 199.303, F.S., provides legislative intent regarding application of intangible taxes and severability.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 68-H (CHAPTER 92-320) revises reporting requirements presently applicable to security brokers contained in Subsection 199.062(3), F.S. Effective January 1, 1993, these requirements apply to security dealers and investment advisers; they will be required to file annually either the position statement for each customer with a Florida mailing address required by present law or a statement that they do not hold securities on account for any customer whose mailing address is in Florida. Other amendments to this section authorizes the Department of Revenue to require security dealers and investment advisers to transmit once every 2 years a copy of the Department's intangible tax brochure to each customer whose mailing address is in this state, and to require property appraisers to send, at such times and in such manner as the Department and the property appraisers jointly determine, a copy of the Department's intangible tax brochure to each owner of Florida property. Also, Paragraph 199.282(6)(b), F.S., is amended to provide penalties for security dealers and investment advisers who do not timely file or who fail to file required statements.

**Excise Tax on Documents**

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 94-H (CHAPTER 92-317) increases the excise taxes on various documents. Effective August 1, 1992, the tax on deeds and other instruments relating to real property imposed by Subsection 201.02(1), F.S., is increased from 60 to 70 cents per \$100 of consideration; the tax on stock certificates imposed by Subsection 201.05(1), F.S., is increased from 32 to 35 cents per \$100; the tax on bonds, debentures, and certificates of indebtedness imposed by Section 201.07, F.S., is increased from 32 to 35 cents per \$100; and the tax on promissory or nonnegotiable notes, written obligations to pay money, and assignments of wages imposed by Subsections 201.08(1) and (2), F.S., is increased from 32 to 35 cents per \$100. The distribution of documentary stamp tax revenues under Section 201.15, F.S., is revised to provide for distributions to the State Housing Trust Fund and the Local Government Housing Trust Fund, and this distribution is further re-

vised, effective July 1, 1995, to provide additional distributions to those trust funds.

The 10-cent increase on deeds and other instruments relating to real property does not apply to property located in Dade County, which has implemented a discretionary documentary surtax for housing under the authority of Chapter 83-220, Laws of Florida, and Dade County is not eligible to participate in programs funded by the initial distributions to the State Housing Trust Fund and Local Government Housing Trust Fund, but is eligible to participate in programs funded by the additional distributions to those trust funds that take effect in 1995. An amendment to Chapter 83-220, Laws of Florida, authorizes Dade County to deposit a portion of its surtax revenues in a Home Investment Trust Fund and to use those revenues to fund local matching contributions required by federal law.

To implement the requirements of Paragraph 201.15(1)(a), F.S., regarding distributions of documentary stamp tax revenues to the Land Acquisition Trust Fund, this act appropriates \$11 million from that trust fund to fund the first year's debt service on Preservation 2000 bonds issued in fiscal year 1992-1993.

The remainder of this act, dealing with housing, is discussed under the heading **LOCAL GOVERNMENT**, subheading *Affordable Housing*.

SENATE BILL 26-H (CHAPTER 92-319) creates Subsection 201.022(3), F.S., which requires the clerk of the circuit court to execute and file the return required as a condition precedent to recording any deed transferring an interest in real property if the return is not executed and filed by the person required to do so, and allows the clerk a deduction from the amount of tax due for compensation.

**Ad Valorem Taxation**

HOUSE BILL 7-H (CHAPTER 92-312) includes several provisions relating to ad valorem tax administration. Sections 197.162 and 197.222, F.S., are amended to extend the time periods during which a taxpayer may make early payment of ad valorem taxes and qualify for a discount, and the time periods during which a taxpayer may prepay estimated taxes by installment and qualify for a discount, to the next working day, in cases where those periods end on a Saturday, Sunday, or legal holiday. This act also revises provisions of the Homestead Property Tax Deferral Act. The form of the notice to taxpayers of the right to defer taxes as specified in Subsection 197.254(1), F.S., is simplified. Sections 197.262, 197.482 and 197.502, F.S., are amended, and Paragraph 215.47(2)(d), F.S., is repealed, to delete the requirement for a separate deferred payment tax certificate sale, and the requirement that unsold certificates be purchased by the State Board of Administration, and provide that such certificates be struck off to the county. New Subsection 197.263(6), F.S., provides requirements for the sale of tax certificates for delinquencies of deferred taxes. These amendments all take effect on January 1, 1993.

### Nursing Home Assessment

Section 400.34, F.S., created by SENATE BILL 26-H (CHAPTER 92-319) imposes an assessment on nursing homes of \$1.50 per patient day. The assessment is to be paid quarterly to the Agency for Health Care Administration and deposited into the Public Medical Assistance Trust Fund. The agency is authorized to impose administrative fines for failure to pay the assessment. This section is repealed on May 1, 1993, and shall be reviewed by the Legislature prior to that date.

### Corporate Fees

SENATE BILL 26-H (CHAPTER 92-319) creates Section 607.193, F.S., which imposes an annual supplemental corporate fee of \$138.75 on corporations, limited liability companies, and limited partnerships that are authorized to transact business in this state and required to file an annual report with the Department of State, except nonprofit corporations that are exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code. The fee is to be remitted at the time the business entity files its annual report, and the due date for these annual reports and related fees is revised from July 1 to May 1. Sections 607.0122, 607.1622, 608.452, 617.1622 and 620.182, F.S., are amended to conform.

### Enterprise Zone Tax Credits

SENATE BILL 26-H (CHAPTER 92-319) revises qualifications for the sales tax exemptions for business property and electrical energy used in an enterprise zone and for the enterprise zone property tax credit against the corporate income tax in counties the government of which is consolidated with that of one or more municipalities, and is effective September 1, 1992. In such counties, the requirement that at least 20 percent of the employees of the business currently be residents of the zone is modified to allow employees who were residents of the zone at the time of hiring to be counted toward that percentage. This law also amends Subsection 290.0055(5), F.S., to revise the population limitation for creation of enterprise zones in Dade County.

### Tax Administration

HOUSE BILL 113-H (CHAPTER 92-315) creates the Florida Taxpayer's Bill of Rights. New Section 213.015, F.S., enumerates the rights, safeguards and protections afforded taxpayers during tax assessment, collection, and enforcement processes. New Section 213.018 and Subsection 20.21(5), F.S., provide for a taxpayer problem resolution program and creates a taxpayers' rights advocate within the Department of Revenue, who is authorized to issue taxpayer assistance orders in extraordinary circumstances.

Paragraph 213.21(1)(c), F.S., is created to specify taxpayers' rights regarding informal conferences. New Section 213.025 and Subsection 213.34(4), F.S., and an amendment to Subsection 95.091(3), F.S., deal with rights regarding audits, inspections, and interviews. New Section 213.731, F.S., provides rights relating to collection actions. Section 213.732,

F.S., is created to provide procedures and requirements regarding jeopardy findings and assessments, and various statute sections relating to intangible, fuel, severance, sales, and corporate income taxes are amended to include reference to this new section. Section 213.733, F.S., is created to provide requirements for cancellation, amendment, or modification of warrants when no tax liability exists or the liability has been discharged or the warrant is unenforceable or was filed in error.

This measure also revises provisions which provide procedures and requirements applicable when a taxpayer files a petition to contest taxes, interest, penalties, or denials of refund pursuant to the Administrative Procedure Act. An amendment to Subsection 72.011(1), F.S., prohibits a taxpayer from filing an action in circuit court when an action has been initiated under Section 120.575, F.S. Section 120.575, F.S., is amended to remove provisions which specify requirements applicable to proceedings involving tax on the sale or use of services, and Sections 57.111 and 120.57, F.S., are amended, and Subsection 120.65(5), F.S., is repealed, to conform. New Subsections 120.575(4) and (5), F.S., specify that further collection and enforcement of contested amounts shall be stayed beginning on the date a petition is filed, and provide for recovery of legal costs, including attorney's fees, by the prevailing party, if the losing party fails to raise a justiciable issue of law or fact in its petition or response. These amendments all take effect October 1, 1992.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 68-H (CHAPTER 92-320) contains various provisions designed to enhance the Department of Revenue's tax collection and enforcement authority. Unless otherwise noted, these provisions take effect January 1, 1993. The Department is directed to develop and implement, beginning October 1, 1992, a tax amnesty program for taxpayers subject to any revenue law enumerated in Section 213.05, F.S., for taxes that were due and payable before June 1, 1992. This program represents a one-time opportunity for eligible taxpayers to satisfy their undisclosed or undiscovered state tax liabilities and avoid criminal prosecution and criminal penalties. Taxpayers have until December 31, 1992, to file returns and pay the amount determined to be due.

Paragraph 72.011(1)(b), F.S., is created to provide that a taxpayer cannot file an action to contest an assessment or denial of refund until he complies with the applicable registration requirements contained in the statutes which apply to the tax for which the action is filed. New Paragraph 213.30(1)(b), F.S., authorizes the Department to pay \$100 compensation to any person who provides information leading to the identification and registration of a taxpayer who is not in compliance with the registration requirements of any tax statute that is listed in Section 213.05, F.S. An amendment to Paragraph 212.18(3)(a), F.S., provides that failure of a person who is required to register as a sales tax dealer subjects him to a \$100 initial registration fee in lieu of the normal \$5 registration fee.

New Section 213.0535, F.S., establishes the Registration Information Sharing and Exchange (RISE) Program, and is effective October 1, 1992. Under this program, local governments

and state agencies are required to share periodically specified tax and licensing information, relating to taxpayers, registrants, and licensees responsible for sales tax, tourist and convention development taxes, local occupational license taxes, and public lodging and food service and beverage licenses. Provision is made to maintain the confidentiality of this data, and the data may not be used for any purpose other than for enforcing tax or licensing provisions. New Paragraph 213.053(7)(j), F.S., authorizes the Department to share information under this program. This law also directs the Department to develop and implement pilot projects dealing with taxpayer registration in conjunction with the Department of Professional Regulation and the county tax collectors of at least two counties. Based on information provided by the Department of Revenue, the project participants will be authorized to refuse to issue or renew a professional, occupational, or annual local occupational license to any applicant to engage in any activity subject to sales tax if the applicant is not properly registered with the Department of Revenue. These pilot projects are to begin no later than January 1, 1993 and end on December 31, 1995, unless reenacted by the Legislature.

This enactment also increases numerous interest and monetary penalties imposed for failure to timely file returns and pay taxes, for underpayment of taxes and deficient returns, for filing false returns or reports, and for obtaining a resale or exemption certificate by fraud or when not entitled thereto. These penalties are doubled for the following taxes: estate (Sections 198.15 and 198.18, F.S.); intangible (Section 199.282, F.S.); documentary stamp (Section 201.17, F.S.); gross receipts (Section 203.01, F.S.); fuel and fuel use (Sections 206.06, 206.08, 206.09, 206.44, 206.87 and 207.007, F.S.); severance (Sections 211.076 and 211.33, F.S.); sales (Sections 212.04, 212.085 and 212.12, F.S.); corporate income (Sections 220.181, 220.211, 220.801 and 220.803, F.S.); and any tax enumerated in Chapters 201, 206 or 212 or Sections 336.021, 336.025 or 336.026, F.S., (Section 213.29, F.S.). These increased penalties only apply to taxes, returns, and information reports due on or after January 1, 1993, regardless of the date the tax liability or reporting requirement was incurred.

Other provisions of this law authorize the Department to garnish property, except wages, of delinquent taxpayers (Section 213.67, F.S.); to issue warrants upon a final determination of unpaid taxes, interest, or penalties due (Section 213.69, F.S.); and to require a person who is registered to remit sales tax, fuel tax, or any other transaction-based excise tax and who has collected and knowingly or repeatedly failed to remit such taxes in a timely manner to deposit such amount upon receipt into a jointly controlled escrow account (Section 213.70, F.S.). New Section 213.50, F.S., provides that any corporation with an outstanding tax warrant for more than 3 months is subject to revocation of its charter or denial of a request for reinstatement of its charter. An amendment to Subsection 213.21(3), F.S., authorizes the Department to compromise or settle a taxpayer's liability for penalties under any of the chapters specified in Subsection 72.011(1), F.S., in excess

of 25 percent of the tax if it determines that the noncompliance is due to reasonable cause and not to willful negligence, willful neglect, or fraud.

SENATE BILL 26-H (CHAPTER 92-319) also creates the RISE program described above. In addition, this act creates Subsections 213.053(16) and (17), F.S., effective October 1, 1992, authorizing the Department to provide to the person against whom transferee liability is being asserted pursuant to Subsection 212.10(1), F.S., information relating to the basis of the claim, and to disclose to a person entitled to compensation pursuant to Section 213.30, F.S., the amount of any tax, penalty, or interest collected as a result of information furnished by such person.

#### **Financial Matters**

Both SENATE BILL 26-H (CHAPTER 92-319) and COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 68-H (CHAPTER 92-320) amends Paragraph 216.262(1)(a), F.S., to provide that an increase in the number of authorized positions beyond those provided in the appropriations acts may be approved to take advantage of opportunities to reduce operating expenditures or to increase the revenues of local government.

SENATE BILL 26-H (CHAPTER 92-319) amends Sections 717.117 and 717.118, F.S., to provide that holders of abandoned property are required to report such property to the Department of Banking and Finance if it is valued at \$500 or more, rather than \$50 or more, and to prohibit the Department from publishing notice to locate the owner of property valued at less than \$500.

#### **LP Gas Agricultural Sales Tax Exemption**

SENATE BILL 112-H (CHAPTER 92-302) revises Paragraph 212.08(5)(e), F.S., to delete the requirement that the sales tax exemption for propane, butane and other liquified petroleum gases used in agriculture, benefit the taxpayer only through the refund of previously paid taxes.

### **HEALTH AND REHABILITATIVE SERVICES**

#### **Medicaid Clinic Services**

HOUSE BILL 423-H (CHAPTER 92-311) adds Subsection 409.908(19), F.S., to permit public health clinic services to be reimbursed at a rate per visit based on total reasonable costs of the clinic as determined by the Department of Health and Rehabilitative Services pursuant to federal regulations. The state health officer must certify that cost-accounting systems have been modified and are in place in a county prior to implementation of cost-based reimbursement to permit accurate and timely reporting of the Medicaid-related costs as required by federal standards. The Department is charged with developing methodology for determining the cost effectiveness of this type of reimbursement and is to make recommendations prior to the 1995 Regular Session. Unless provided for in general appropriations or general law, this program is to be repealed June 30, 1995.

The Department is authorized to transfer up to \$2,564,300 from the Contribution to County Public Health Units appropriation and to realign the associated Medicaid Services category to establish a Public Health Unit Clinic Services reimbursement category. Two full-time positions and \$3,899,092 in additional trust authority is appropriated to the Department to apply to expected federal matching funds.

#### Medicaid Disproportionate Share Program

Section 409.9115, F.S., is created by SENATE BILL 246-H (CHAPTER 92-322) to provide a system for making mental health disproportionate share payments to hospitals that qualify for such payments under Section 409.911, F.S., the Disproportionate Share Program. The Department of Health and Rehabilitative Services is to design and implement the system which is to conform with federal requirements and distribute Medicaid funds in quarterly payments in each fiscal year for which money is appropriated. Counties are specifically exempted from the application of Section 409.915, F.S., concerning county payments to Medicaid for this special reimbursement program.

A formula is provided for the use of the Department to calculate the total amount earned by a participating hospital. Participation requirements are:

- 1) participation in the Florida Title XIX program;
- 2) agree to serve all individuals in need of inpatient psychiatric services referred by the Department without regard to the patient's ability to pay;
- 3) be a certified provider of Title XVIII services or meet requirements for certification; and
- 4) receive all inpatient clients pursuant to the Baker Act, Chapter 394, F.S.

Legislative appropriations will determine the expenditure of funds generated by the program or, if such authorization is absent, the Department is to prepare a plan and submit a request for spending authority.

An exception to the regular hospital disproportionate share program formula for determining hospitals' earning is provided. In the event the general revenue appropriation for the program, net of intergovernmental transfers, is more than zero, in spite of the provisions of Section 409.911, F.S., the Department is authorized to develop a new formula for fiscal year 1992-1993, designed to the same return for those hospitals with more than 45,000 Medicaid days for fiscal years ending in 1989 as would the formula in the referenced section in this paragraph. The Department is authorized to distribute additional funds equally among other disproportionate share hospitals.

#### Hospital Licensure

HOUSE BILL 367-H (CHAPTER 92-289) revises and readopts Chapter 395, Parts I and II, F.S., regulating hospitals and ambulatory surgical centers in Florida. This chapter was scheduled for repeal on October 1, 1992, pursuant to the Regulatory Sunset Act. The law divides Part I into four parts: Hospital and other Licensed Facilities, Trauma, Rural Hospitals

and Public Medical Assistance Trust Fund. Part II, Medical Education and Tertiary Care, is reenacted, with no changes, as Part V. The measure includes several statutory revisions contained in the Health Care Reform Act (HCRA), Chapter 92-33, Laws of Florida. These substantive revisions focus on the responsibilities of the new Agency for Health Care Administration, which was created by the reform act, and those of the Department of Health and Rehabilitative Services. Several technical changes are also included to assure continuation of departmental or agency responsibility.

The substantive revisions included in this enactment are reflected in the following two areas: inspections of licensed health care facilities and access to emergency care.

Several substantive and technical revisions have been made regarding licensure and inspection of health care facilities. Specifically, the measure provides that effective July 1, 1992, the Agency for Health Care Administration will be responsible for all regulatory oversight of licensed and accredited health care facilities (Sections 395.001-395.004, F.S.). In addition, the legislation: (1) directs the agency to compare and coordinate state inspection standards with the standards of accrediting organizations and to develop criteria for accepting surveys submitted in lieu of licensure inspections (Subsection 395.0161(2), F.S.); (2) provides for the review of a facility's internal risk management program as part of the facility's licensure inspection process (Subsection 395.0197(10), F.S.); (3) expands the conditions of licensure to include protection for the rights of mentally ill patients (Subsection 395.003(5), F.S.); (4) provides increased consumer access to billing information (Sections 395.301-395.3025, F.S.); and (5) specifically provides for public inspection of all survey and inspection reports (Section 395.0162, F.S.).

The provisions of this enactment are intended to provide equitable access to medical records for patients and others. In addition, this measure provides a more uniform approach to patient record charges and establishes copying fees of medical records which are consistent with the fees administered by the clerk of the circuit court. A patient whose records are copied or searched for the purpose of continuing to receive medical care is not required to pay the copying fee (Section 395.3025, F.S.).

Among its primary components regarding emergency access to care, the law contains a number of changes. Several new or revised definitions (Section 395.002, F.S.) are included in this proposal in order to conform with federal law and also to provide subject clarity. They include the following: (1) "emergency medical condition" is amended to include factors relating to a woman in labor; (2) "medically necessary transfer" is defined as a transfer necessitated because the patient is in need of a service for which the facility lacks service capability or is at service capacity; and (3) "service capability" and "at service capacity" are clarified to distinguish between the services offered by the facility (service capability) and the temporary inability of a facility to provide such services (at service capacity).

In addition, hospitals are required to provide 24-hour service capability, effective on or about January 31, 1993. This

means that if a licensed facility offers certain services, the services must be provided on an emergency care basis as well. The reform act provides that hospitals may choose to comply with this requirement either through the inhouse capability of the facility or through a local agreement with another facility (Section 395.1041, F.S.).

The revisions to the emergency access section of Chapter 395, F.S., are extensive. To that end, the Legislature recognized that changes in the health care delivery system will take some time to equalize and that some hospitals may be unable to provide service capability at all times. In order to accommodate reasonable concerns, the Department is directed to develop rules implementing an exemption procedure by November 1, 1992. Hospitals are exempt from providing emergency services during the time the Department reviews the request for exemption. Further, the Department has 45 days from the date of receipt of the request to approve or deny the request.

A new section (Section 395.103, F.S.) is created in this act related to emergency medical communication. The new section provides that each licensed hospital with an emergency department must maintain two-way radio communication capability with all ground-based service vehicles.

Another substantive change included in this reform act is related to the Medicaid disproportionate share program for hospitals (Section 409.911, F.S.). This legislation amends the disproportionate share percentages found in the formula for distributing funds to participating hospitals. The effect of this change will be to provide greater compensation to those hospitals that provide the highest proportion of services to charity care and Medicaid recipients. In modifying the percentages, the overall cap that limits how much a hospital can receive under the disproportionate share program has been removed.

The Sunset review of Chapter 395, F.S., revealed several areas which require more extensive study. As a result, the act provides for the development of Ad Hoc work groups (Section 395.304, F.S.) to review and report back to the Legislature the following topics: (1) alternative uses for hospital facilities; (2) mobile health units and specialized services; and (3) mergers and consolidations among hospitals or other health care providers.

[The primary goal of a state licensure and inspection program is to provide a mechanism for the state to maintain its oversight responsibilities and provide safeguards to ensure that licensure standards are objective and focused on patient outcomes and quality of care. These goals are consistent with the Auditor General's recommendations contained in their January 8, 1992, Performance Audit of the Hospital Licensure Program. The statutory revisions contained in this act should help to achieve these goals.]

#### **Adult Foster Homes**

SENATE BILL 74-H (CHAPTER 92-304) redesignates agencies that administer specified health and human services.

Chapter 92-33, Laws of Florida, which passed during the Regular 1992 Legislative Session, transferred the recruitment and regulatory authority for adult foster homes from the De-

partment of Health and Rehabilitative Services (DHRS) to the newly created Agency for Health Care Administration. [There are similar foster care programs within DHRS which are under the purview of the program offices, including: mental health; developmental services; and children, youth and families; among others.

[The transfer of the recruitment function to the Agency for Health Care Administration, effective July 1, 1992, could significantly hamper DHRS' ability to recruit prospective adult foster homes willing to house state supported clients. As part of the community-based alternative to nursing home care for disabled adults and the elderly, adult foster homes provide supportive services in a home-like environment, unlike the health and nursing facilities (such as adult congregate living facilities). Adult foster homes are currently regulated and licensed by the Aging and Adult Services Office unlike other programs being transferred to the agency which are all licensed and regulated by the DHRS Office of Licensure and Certification.]

The law provides that DHRS will retain programmatic and regulatory responsibilities for adult foster homes. The measure cancels the transfer of the adult foster home program from DHRS to the Agency for Health Care Administration.

Chapter 92-33, Laws of Florida, also transferred several programs from DHRS to the new Agency, including adult congregate living facilities, adult day care centers, developmental services intermediate care facilities, and mental health crisis stabilization units and residential treatment centers, to the Agency for Health Care Administration. [There were concerns raised that transferring these residential programs to the Agency would also change the social support emphasis of the programs to a more medical orientation.]

Additionally, Chapter 92-33, Laws of Florida, negated provisions specified in Chapter 92-58, Laws of Florida, the DHRS Reorganization Act of 1992, relating to the transfer of clinical lab personnel and in Chapter 92-179, Laws of Florida, relating to licensed midwifery through provisions that regulation of those personnel will transfer directly from DHRS to the new Agency.

The enactment transfers the rulemaking authority for adult congregate living facilities, adult day care centers, developmental services intermediate care facilities, and mental health crisis stabilization units and residential treatment centers back to DHRS. However, the regulation of the programs will remain in the Agency for Health Care Administration. [The transfer of rulemaking responsibility back to DHRS will allow the Department to develop policies for those programs in conjunction with related residential care programs under the auspices of DHRS.]

In addition, the act includes technical corrections cancelling the transfer of clinical lab personnel from DHRS to the Agency and retains provisions set forth in Chapter 92-58 (DHRS Reorganization Act of 1992), regarding the scheduled transfer of such personnel to the Department of Professional Regulation. Furthermore, the act includes similar technical corrections to sections relating to licensed midwifery, retaining provisions specified in Chapter 92-179, Laws of Florida.

**INSURANCE**

SENATE BILL 170-H (CHAPTER 92-318) revises and reenacts the provisions of the Florida Insurance Code scheduled for Sunset repeal on October 1, 1992, which includes most sections in Chapter 627, Insurance Rates and Contracts, and Part V of Chapter 626, Title Insurance Agents. The most important changes in the act are as follows with sections of the act in parentheses:

General Requirements For All Insurers

**Disclosure of Reasons for Refusing Coverage**

Section 627.4091, F.S., as created, requires an insurer to disclose the specific reasons why an application for insurance is denied or why an existing policy is cancelled or non-renewed. (Section 31)

**Insurance Consumer Advocate**

Section 627.0613, F.S., as created, requires the Department to appoint an Insurance Consumer Advocate and specifies the powers and responsibilities of this position. (Section 18)

**Prohibited Termination of Coverage for Acts of God**

Subsection 627.4133(4), F.S., as added, prohibits insurers from cancelling or nonrenewing a property insurance policy for claims that are the result of an act of God unless the insured failed to take reasonably necessary actions to prevent recurrence of damage. (Section 35)

**Annual Rate Filing**

Section 627.0645, F.S., as amended, eliminates the requirement that the chief executive officer of an insurer sign a rate filing or a certification that no rate change is needed when prepared by a nonactuary. Instead, an employee of the insurer responsible for rate filings must sign such reports. (Section 21)

**Medical Tests for AIDS**

Section 627.429, F.S., as revised applies the laws regarding medical tests for AIDS to all types of insurance policies. The present law applies these laws only to life and health insurance policies. (Section 110)

**Political Contributions**

The act creates Section 627.0623, F.S., to limit political contributions to the Treasurer and candidates for Treasurer. Entities regulated under the Insurance Code, their affiliated parties and their politically active committees (PACs) are prohibited from making or soliciting a contribution in excess of \$100, for any election, for the Treasurer or candidates for Treasurer. The law also limits solicitation of political contributions by the Treasurer, candidates for Treasurer and employees of the Department of Insurance. (Section 20)

Health Insurance

**Revisions to the Employee Health Care Access Act**

Section 627.6699, F.S., as amended, limits a small employer carrier's claims exposure in the reinsurance program; deletes the requirement that the standard policy provide coverage for a specified percentage of covered costs; revises and clarifies the membership of the board of the reinsurance program; revises the effective date of the requirement related to portability of coverage; changes the date for the Department's calculation of carriers small group market share; and makes technical corrections. (Section 71)

**Conversion policies**

Section 627.6675, F.S., as revised, requires conversion policies to include an option for major medical benefits up to the lesser of \$500,000 or the policy limit of the group policy; provides that benefits need not be equal to those in the group policy if comprehensive benefits are offered which are subject to Department approval; and removes retroactivity language that had been added in Regular Session. (Section 116)

**Coverage for Massage Therapists**

Sections 627.6407 and 627.6619, as created, require health insurance policies that provide coverage for massage to also cover the services of a licensed massage therapist, if prescribed by a physician as medically necessary and if the prescription specifies the number of treatments. (Sections 57 and 67)

**Coverage for Services Incident to a Mastectomy**

Revised Sections 627.6417 and 627.6612, F.S., clarify that a policy which covers a mastectomy must offer coverage for both reconstructive surgery and an initial prosthetic device, rather than an offer of coverage for only one of these services. (Sections 58 and 66)

**Coverage for Mental and Nervous Disorders**

Amended Section 627.688, F.S., requires that coverage for mental and nervous disorders, if elected by a group policyholder, provide out-patient benefits (limited to \$1,000 annually) to licensed mental health counselors, marriage and family therapists, and clinical social workers. (Section 70)

**Replacement of Group Policies; Liability of New Insurer**

Section 627.666, F.S., revises the requirements regarding liability of the succeeding insurer upon replacement of a group health insurance policy, in order to more specifically require a "no loss, no gain" effect on coverage, including a requirement that the new insurer give the insured credit for any annual out-of-pocket limitation that the insured has met prior to the change in coverage. (Section 68)

**Coordination of Benefits**

Section 627.4235, F.S., as revised, specifies the order of benefits under the coordination of benefits statute, when an individual is covered under a policy and is covered by Medicare or is provided coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). (Section 41)

**Coverage for Persons with Fibrocystic Conditions**

Section 627.6419, F.S., as created, prohibits health insurers and health maintenance organizations (HMOs) from denying coverage, nonrenewing, or canceling an accident or health insurance policy solely because the insured has been diagnosed as having a fibrocystic condition, except if a breast biopsy demonstrates an increased disposition to develop breast cancer. (Section 59)

**Coverage of Adopted Children Applied to MEWAs**

Amended Section 627.651, F.S., requires multiple-employer welfare arrangements (MEWAs) to provide the same coverage for adopted children as is presently required for health insurance policies. (Section 61)

**Employee Group Coverage for Directors**

As revised, Section 627.653, F.S., allows directors of a corporate employer and former employees to be covered under an employee group health insurance policy. (Section 63)

**Extension of Benefits for Dental Surgery**

Section 627.667, F.S., as amended, specifies the conditions under which an insurer must provide an extension of benefits for surgical dental benefits upon discontinuance of the policy. (Section 69)

**Coverage for Bone Marrow Transplants**

As created, Section 627.4236, F.S., prohibits insurers from excluding coverage for bone marrow transplant procedures under a policy exclusion for experimental procedures, if the procedure is determined to be accepted under rules adopted by the Department of Health and Rehabilitative Services. (Section 42)

**Release of Claims Information**

Section 627.6647, F.S., as created, requires insurers to provide group policyholders with the previous 3 years claims experience upon request. (Section 112)

**Debtor Group Insurance**

Revised Section 627.655, F.S., allows mortgage insurance policies to be issued in Florida as a form of debtor group health (disability) insurance. (Section 64)

Auto Insurance

**Preinsurance Auto Inspection**

Current law requires insurers to inspect vehicles when a new insurance policy is issued. Pursuant to revised Section 627.744, F.S., the act allows insurers to charge an applicant up to \$5 for the cost of the inspection. It also adds exemptions for: (1) a policyholder who has been insured for 2 years, even when changing insurers, if the agent verifies the previous coverage; (2) commercially rated policies covering five or more vehicles; (3) where no authorized inspection facility exists either in the city or town in which the auto is garaged or within 10 miles away from the city or town; or (4) when an agent transfers a book of business or a policy. (Section 85)

**Uninsured Motorists Coverage**

Amended Section 627.727, F.S., revises uninsured motorists (UM) coverage requirements by: (1) providing coverage for persons injured as a passenger in their own vehicle while being driven by a nonrelative; (2) limiting the amount of UM coverage that must be offered by an insurer when an umbrella liability policy is issued, to \$1 million or the amount of the liability coverage, whichever is less; (3) providing additional procedures that a UM insurer must follow if their insured agrees to settle a claim with the at-fault driver and his liability insurer; and (4) changes the measure of damages in a bad faith action against a UM insurer to provide (retroactively to October 1, 1982) that a claimant is entitled to the total damages, including amounts in excess of policy limits, whether the damage was caused by the insurer or the tortfeasor. (Sections 79-80)

**Calculation of Auto Insurance Refunds**

Section 627.7283, F.S., is revised, specifying the method for calculating refunds of premiums when an auto insurance policy is cancelled, requiring 100 percent of the unearned premium to be refunded on a pro rata basis if the insurer cancels, and requiring 90 percent of the unearned premium to be refunded on a pro rata basis if the insured cancels. (Section 82)

**Notice of Rental Car Coverage**

Section 627.4143, F.S., as revised, requires proof-of-purchase insurance cards and the outline of coverage to describe the extent of coverage provided for physical damage to a rental car. (Section 39)

**PIP Benefits**

Section 627.736, F.S., is amended with regard to the mandatory coverage for personal injury protection (PIP) benefits, the law: (1) requires a report from a physician licensed under the same chapter as the treating physician before a PIP insurer may withdraw payment; and (2) allows PIP insurers to provide an option to policyholders at the time of purchase to select a policy that provides enhanced PIP benefits if medical services are obtained from a list of preferred providers. (Section 84)

Title Insurance

**Licensure of Title Agents**

Revised Sections 626.022, 626.031, 626.241, 626.2815, 626.334, 626.611, 626.841, 626.8411, 626.8412, 626.8414, 626.8417, 626.8418 and 626.8419, F.S., requires individual title insurance agents to be licensed (current law provides for licensing of agencies rather than individual agents). (Sections 5-17)

**Division of Title Insurance Risk Premiums**

Amended Section 627.782, F.S., requires title insurers to maintain at least 30 percent of the risk premium of policies sold by agents. This requirement, which is currently in a Department rule, effectively caps the commission that may be paid to a title agent at 70 percent of risk premium. (Section 95)

Life Insurance

**Industrial Life Insurance**

Revised 627.522, F.S., requires industrial life insurance policies to separately price each optional benefit and to set forth such prices in a clear, conspicuous manner. Such policies would be prohibited from excluding payment for death of the insured due to the act of another. (Section 45)

**Group Life Insurance**

Amended Sections 627.551, 627.552, 627.554, 627.555-627.5565 and 627.572, F.S., as revised, makes the following changes regarding group life insurance: (1) allows or clarifies that all group policies may cover dependents (except debtor groups); (2) allows former employees to be covered under an employee group; (3) allows individual proprietors or partners to be covered under an employee group regardless of how much time is devoted to the conduct of the business; (4) under trustee groups, allows coverage for former employees, directors of a corporate employer, employees of subsidiary businesses, and eliminates the 75 percent participation requirement for contributory plans; and (5) requires that for credit union group life policies, the credit union must pay the entire premium. (Sections 46-52)

**Interest on Death Claims**

Amended Section 627.4615, F.S., revises the amount of interest that must be paid by life insurers on death claims from 11 percent to the rate of the Moody's Corporate Bond Index-Monthly Average on the day the claim was received. (Section 43)

Miscellaneous

**Credit Insurance Consolidation**

Revised Section 627.677, F.S., and new Sections 627.6841-627.6845, F.S., creates requirements applicable when a financial institution transfers a block of credit insur-

ance from one insurer to another. In general, the requirements are the same as apply to consolidations of mortgage insurance under Part XXI of Chapter 627. (Sections 72-77)

**Medical Malpractice Self-Insurance Funds**

Section 627.357, F.S., as amended, prohibits the formation of any new medical malpractice self-insurance fund after October 1, 1992, due to the fact that similar entities may be formed as an assessable mutual insurer as created in 1991. (Section 27)

**Joint Underwriting Associations**

Revised Section 627.311, F.S., makes the following changes to the laws providing for joint underwriting associations: (1) deletes the requirement that self-insurers participate in the workers' compensation joint underwriting associations (JUA); and (2) requires the auto JUA to provide a list of insured upon request of a member or insurer. (Section 25)

**Financial Institutions Placing Coverage**

The Department of Insurance and the Department of Banking and Finance are required to jointly study and report on the practices of financial institutions securing insurance coverage to protect security interests. (Section 108)

**Repealed Sections**

The following statutory sections are repealed (Section 113):

1. Section 627.0627 requires medical malpractice rate filings to include an estimate of the impact of Chapter 88-1, Laws of Florida, which no longer needs to be specified.
2. Section 627.0635 requires auto insurance rate filings to include an estimate of the implementation of mandatory seat belt laws, which no longer needs to be specified.
3. Section 627.356 providing authorization for professional liability self-insurance funds is repealed. There are currently no such funds licensed. Any similar type fund would have to be formed under the assessable mutual laws enacted in 1991.
4. Section 627.4149 requires that medical malpractice rates be based on the number of surgical procedures performed annually and the number and severity of indemnities resulting from a claim for malpractice. [This section has not been utilized as the basis for medical malpractice rates due to the impracticality in its application.]
5. Section 627.6176 requires individual health insurance policies to offer an 80 percent coinsurance policy, repealed to allow greater flexibility.
6. Section 627.6573 requires group health insurance policies to offer an 80 percent coinsurance policy, repealed to allow greater flexibility.
7. Section 627.781 provides a definition of "title insurance risk premium," the substance of which is moved to Subsections 627.7711(1) and (2), and to Subsection 627.782(1).

Unless otherwise provided in the act, it is to take effect October 1, 1992.

### Insurance Fees

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 141-H (CHAPTER 92-324) increases various regulatory fees (primarily for license applications and renewals) authorized by provisions of Chapters 527.624 and 648, F.S., to be paid by insurers, agents and other licensees to the Department of Insurance, in order to address a revenue shortfall in the Insurance Commissioner's Regulatory Trust Fund.

[The act increases revenues to the Trust Fund by \$6.2 million for fiscal year 1992-1993 and \$6.8 million for fiscal year 1993-1994. The law also increases revenues by \$1.2 million to the Fire College Trust Fund by imposing a surcharge of 0.1 percent of gross direct premiums written on all commercial fire, allied lines and multiperil policies.]

[Most of the increased revenue to the Insurance Commissioner's Trust Fund is generated from increasing: (1) the agent biennial license renewal fee to \$60; (2) the insurer annual license tax from \$200 to \$1,000; (3) the annual financial statement fee for insurers from \$60 to \$250; and (4) adding a \$250 fee for quarterly financial statements. The Fire College Trust Fund is funded by a 0.1 percent surcharge on certain commercial policies paid by the insured.]

[It is estimated that the increased fees will also reduce the retaliatory tax liability of foreign insurers by \$5.4 million in fiscal year 1992-1993 and \$5.7 million in fiscal year 1993-1994. The distribution of these taxes are adjusted to minimize the impact on the General Revenue Fund. The General Revenue Fund is held harmless in fiscal year 1992-1993, but may be reduced by \$0.2 million in fiscal year 1993-1994.]

The measure amends Subsection 626.989(7), F.S., to remove a prohibition on special risk membership in the Florida Retirement System for the Division of Fraud investigators. [The Department estimates that the reclassification of fraud division investigators will have an annual recurring fiscal impact of \$235,197 and a first-year nonrecurring impact of another \$7,000.]

### Miscellaneous Insurance Provisions

SENATE BILL 220-H (CHAPTER 92-328) revises provisions relating to mortgage lender licensing, captive insurers, workers' compensation self-insurers, customer representatives, individually rated risks, assessable mutual insurers, the Florida Life and Health Insurance Guaranty Association and mortgage guarantee insurance. The act also provides for regulation of guaranteed interest contracts (GICs).

The changes from current law are:

1. Regulation of guaranteed interest contracts (GICs). Such contracts (GICs) are currently not regulated, although they are mentioned in the Insurance Code. The law does not define GICs, but authorizes life insurers with surplus of over \$100 million to issue GICs. The law exempts GICs from Code provisions applicable to insurance, but subjects them to

broad rulemaking authority of the Department of Insurance. (Section 5)

2. Assessable mutual insurers. The legislation revises provisions created in 1991 (Section 628.6011, F.S.) for conversion to an assessable mutual insurer. The general effect of these changes is to increase the powers of the management company hired to manage the affairs of the assessable mutual. The enactment may also be construed to allow an assessable mutual to insure risks or insureds outside of Florida (currently prohibited) if the policyholder is located in Florida.

3. Florida Life and Health Insurance Guaranty Association (FLAHIGA). The measure revises several provisions relating to FLAHIGA (Sections 631.715, 631.717 and 631.718, F.S.); the most important change is a revision in the method for calculating assessments to carry out FLAHIGA duties with respect to impaired or insurers. (Subsection 631.718, F.S.)

4. Hospital captive insurers. The act adds Subsection 624.402(7), F.S., to exempt certain non-Florida captive insurers providing certain forms of insurance to Florida hospitals from the Insurance Code, except for provisions relating to the premium tax and retaliatory tax.

5. Workers' compensation self-insurance funds. With respect to workers' compensation group self-insurance funds formed under Chapter 440, F.S., Section 4 of the law requires the application for insurance to contain a specified notice describing the liability of a member for assessments, and provides that the applicant's signature on an application for insurance creates a conclusive presumption that there was an informed, knowing acceptance of the assessment liability that results from participation in the fund. With respect to commercial selfinsurance trust funds formed under Chapter 624, F.S., (for which current law requires a notice of assessment liability in the application), the legislation establishes in amending Subsection 624.472(3), F.S., the same conclusive presumption of acceptance of assessment liability as it does for Chapter 440, F.S., selfinsurance funds.

6. Limited customer representatives. Current law provides that a customer representative is an individual appointed by a general lines insurance agent or agency to assist in the transaction of business from the office of the agent or agency. The enactment creates a class of customer representative, in added Subsection 626.072(2), F.S., known as "limited customer representative," whose work is limited to private passenger motor vehicle insurance. The measure also revises Subsection 626.241(5), F.S., to provide that the examination for licensure as a limited customer representative be limited to the kind of business to be transacted under the limited customer representative's license.

7. Mortgage lender licensing. The act adds Subsection 624.402(7), F.S., to include insurers licensed (i.e., holding a certificate of authority) in Florida within the list of persons and entities exempt from the requirement of licensure as a mortgage lender.

8. Individually rated property and casualty risks. The law revises Paragraph 627.062(3)(a), F.S., concerning rate regulation of individually rated property and casualty risks by replacing current filing requirements with a requirement that the in-

surer maintain specified documentation on the risk for at least 5 years after the effective date of the policy; it also specifies the statutory provisions applicable to such rates in Paragraph (b) of this subsection. [This provision is identical to a provision contained in the 1992 insurance Sunset legislation (Chapter 92-318, Laws of Florida).]

9. Mortgage guaranty insurance. The measure amends the current provision in Section 635.061, F.S., which states that the premium cost of mortgage guaranty insurance is not part of the cost of or interest on a mortgage loan by specifying that this provision applies only for the purpose of computing finance charges or determining whether a mortgage loan is usurious, and applies only if the premium for the mortgage guaranty insurance is paid by the mortgagor (i.e., borrower) as a separate charge.

## LAW ENFORCEMENT AND CRIMINAL JUSTICE

### Witness Tampering Definition Expanded

SENATE BILL 44-H (CHAPTER 92-281) adds Paragraph 914.22(1)(f), F.S., to include the act of knowingly using intimidation or physical force, or threatening another person or attempting to do so, or engaging in misleading conduct toward another person, or offering pecuniary benefit or gain to another person, with intent to cause or induce any person to *untruthfully testify in an official investigation or an official proceeding* within the definition of the third-degree felony of witness tampering.

Paragraphs 914.24(1)(a) and (2)(a), 772.102(1)(a) and 895.02(1)(a), F.S., relating to civil actions to restrain harassment of a victim or witness, civil remedies for criminal practices and racketeering offenses, respectively, are reenacted to incorporate the amendment in statutory references to it.

### Additional Court Costs Provisions Repeal Abrogated

Section 2 of Chapter 88-280, Laws of Florida, establishes a repeal date of October 1, 1992, for Section 27.3455, F.S., which relates to additional court costs in misdemeanor, felony or criminal traffic offense cases. SENATE BILL 78-H (CHAPTER 92-295) repeals this repeal date.

### Miscellaneous Fiscal Matters

COMMITTEE SUBSTITUTE FOR HOUSE BILL 57-H (CHAPTER 92-300) amends Subsection 215.322(4), F.S., to permit the use of bank debit cards in addition to credit cards for payments to units of local government as defined in Subsection 218.31(1), F.S., which is any municipality, special district or board of county commissioners or other governing body of a county, however styled, including that of a consolidated or metropolitan government, and, for purposes of Sections 215.322, 218.32 and 218.33, F.S., means any clerk of the circuit court, sheriff, property appraiser, tax collector or supervisor of elections. Credit cards or bank debit card users are to be surcharged an amount sufficient to cover service fees when paying fines, civil penalties, court-ordered payments or court costs in addition to taxes, license fees, tuition or other

statutorily prescribed revenues. The unit of local government is required to verify the validity of any credit or bank debit card and the credit of the card user and the local governmental unit does not incur any liability as a result of the verification process.

Section 27.702, F.S., is revised to require the capital collateral representative to file motions seeking compensation for representation and reimbursement for expenses when representing indigent persons pursuant to 18 U.S.C. Section 3006A in the federal courts and to deposit all payments in the Capital Collateral Trust Fund established by this act for that purpose.

Section 2 of Chapter 88-280, Laws of Florida, established an October 1, 1992, repeal date for Section 27.3455, F.S. That provision is repealed by this act thereby preserving Section 27.3455, F.S., which relates to additional court costs in cases of misdemeanors, felonies or criminal traffic offenses.

Section 27.34, F.S., concerns salaries and other related office costs in state attorneys' offices. Section 27.38, F.S., is amended to permit state attorneys to expend appropriated state funds for items listed in Subsection 27.34(2), F.S., in spite of any provisions to the contrary in that subsection. In a format prescribed by the Comptroller, each state attorney is directed to submit a report no later than October 1 of each fiscal year to the appropriations committees of the Legislature showing the amount of state funds expended during the previous fiscal year ending in June for items enumerated in Subsection 27.34(2), F.S.

Section 27.54, F.S., concerns expenditures for the public defenders' offices. Section 27.60, F.S., is revised to permit the expenditure by the public defender of appropriated state funds for items listed in Subsection 27.54(3), F.S., in spite of any provisions to the contrary in that subsection. Public defenders are directed to satisfy the same report requirements as state attorneys.

Subsection 939.01(10), F.S., is created to require costs collected by the state attorney against persons convicted in criminal cases to be deposited in the state attorney's grants and donations trust fund to be used during the fiscal year in which collected or any subsequent fiscal year for actual expenses incurred in investigating and prosecuting criminal cases, which expenses may include the salaries of permanent employees. Provisions in this law are to control in cases of conflict with other 1992 amendments.

### Juvenile Justice Reform Act Revision

COMMITTEE SUBSTITUTE FOR HOUSE BILL 109-H (CHAPTER 92-287) amends the Juvenile Justice Reform Act of 1990 (Part II of Chapter 39, F.S., Sections 39.0205-39.078, F.S.). Section 30.0582, F.S., is created to provide intensive residential treatment programs for 10-to-13-year-old offenders who commit serious capital, life or felony offenses.

Pursuant to amended Section 39.0585, F.S., each law enforcement agency is encouraged to maintain a file, based on arrests, of certain juvenile offenders and juveniles who are at risk of becoming offenders.

Subparagraph 39.047(1)(a)5., F.S., is added to stipulate that the delinquency case manager shall serve as the primary case manager for the purpose of coordinating the delivery of services from the Department of Health and Rehabilitative Services to the child.

Subparagraph 39.044(2)(d)5., F.S., is added to permit the court to hold in detention any child found to have been in possession of a firearm while committing a serious property crime or felony drug offense. However, if a child is charged with a domestic violence offense, new Section 39.0445, F.S., provides that child may not be placed in detention unless the child meets the detention criteria, but may be placed in a respite home or similar residential facility approved for the placement of juvenile domestic violence offenders.

Added Paragraph 39.022(4)(c), F.S., allows the court to retain jurisdiction over a child ordered to pay restitution to a victim until the order is satisfied even if that should be beyond the age of 18.

Section 39.061, F.S., is amended to provide that an escape from any secure detention facility by a juvenile who is being held pending adjudication or disposition or an escape from any moderate or high-risk commitment facility by any juvenile who is committed to the facility for custody, treatment or rehabilitation is a felony of the third degree.

The Florida Crimes Compensation Act and victim assistance laws are revised to include victims and witnesses in juvenile cases (Sections 960.001 and 960.002, F.S.). Section 960.003, F.S., is amended to require any child who is alleged by a petition for delinquency to have committed a sexual offense to undergo testing for HIV by order of the court when requested by the victim.

Section 39.0215, F.S., is created to permit county and municipal governments to fund and operate juvenile delinquency detention centers, rehabilitative treatment programs and facilities, and boot camps.

## LOCAL GOVERNMENT

### Independent Special Districts

HOUSE BILL 473-H (CHAPTER 92-314) amends Subsection 189.403(3), F.S., to redefine the term "independent special district," for purposes of Chapter 189, F.S., the general statutory provisions for special districts, as a district which includes more than one county unless the district lies within the boundaries of a single municipality.

### Affordable Housing

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 94-H (CHAPTER 92-317) amends Chapter 201, F.S., to provide for increases in the documentary stamp tax to fund affordable housing programs and to provide for the debt service on the third issue of Preservation 2000 bonds. The act creates new programs under Chapter 420, F.S., to provide housing and revises provisions relating to existing housing programs. The housing program provisions and appropriations contained in the law are described below and the tax provisions under **FINANCE AND TAXATION**.

### *New Housing Provisions:*

The Florida Affordable Housing Guarantee Program is created to provide partial guarantees of mortgage loans for affordable housing in order to increase private-sector lending to help low-income families. The loan guarantee fund would be capitalized through an issue of up to \$75 million in taxable bonds by the Florida Housing Finance Agency. The bonds would be repaid from interest earned, fees charged for guarantees, and, if needed, a portion of documentary stamp tax revenues. A feasibility study is required prior to implementation of the guarantee fund.

The Low-income Emergency Home Repair Program is created under the administration of the Department of Community Affairs (DCA) to assist persons with incomes below 125 percent of the federal poverty level. Priority would be given to persons over age 60 and to physically disabled persons. Allowable repairs would include materials and labor to repair structural deficiencies, repair or replacement of space or water heating systems, handicapped accessibility improvements, plumbing and electrical repairs, and other necessary repairs. Funds would be distributed to counties on the basis of poverty population. Although funds were not appropriated for this program, funds available under the State House Initiatives Partnership (SHIP) program can be used for the same purpose.

The Florida Housing Finance Agency (FHFA) is authorized to administer the \$15.8 million available at the state level through the federal HOME program. (An additional \$43 million is available directly to Florida participating jurisdictions.) Loans for moderate and substantial rehabilitation, new construction, site improvement and rental assistance are to be made through a competitive selection process, however, during the initial year of the program, the secretary of Community Affairs may select up to seven demonstration areas for pilot programs.

Provisions relating to existing programs clarify the complementary roles of the FHFA and DCA, with the FHFA specializing in financing affordable housing and the Department focusing on assistance to local governments. The FHFA assumes full administration of the State Apartment Incentive Loan Program and the Predevelopment Loan Program. The Department's role as a "catalyst" for local housing development is expanded.

The State Apartment Incentive Loan Program is improved by targeting funds according to need.

The Homeownership Assistance Program is expanded to include construction loans to nonprofit groups.

### *New Appropriation Provision:*

Appropriations from the 10-cent increase in the documentary stamp tax on deeds from the Local Government Housing Trust Fund allotted \$18.75 million as follows: State Apartment Incentive Loan (SAIL) Program \$11.5 million; Homeownership Assistance Program (HAP), \$2 million; Housing Predevelopment Trust Fund, \$750,000; Elderly Homeowner Rehabilitation Program, \$750,000; Federal HOME Partnership Program, \$2 million; Debt Service Reserve Account for Loan Guarantee Program, \$1.2 million; Affordable Housing Development Train-

ing, \$250,000; Technical Support for State Housing Initiatives Program, \$250,000; and Affordable Housing Study Commission, \$50,000.

From the 3-cent increase in the documentary stamp tax on notes, stocks, and bonds: Preservation 2000 bond issue in Fiscal Year 1992-1993, \$11 million.

## MOTOR VEHICLES AND TRANSPORTATION

### Traffic Regulations Covering Certain Pedestrians

Subsection 316.1301(2), F.S., is amended by SENATE BILL 114H (CHAPTER 92-296) to provide for the levying of an additional fine of \$250 for a motorist who injures the person or damages the property of a pedestrian using a guide dog or white walking stick when such a pedestrian is crossing a public street or highway. Forty percent of this amount is to be deposited in the Grants and Donation Trust Fund of the Division of Blind Services of the Department of Education and the balance distributed as provided by Section 318.21, F.S., which relates to the disposition of civil penalties for traffic infractions by county courts.

Section 316.1303, F.S., is modified to establish an additional fine of \$250 for a motorist who injures the person or damages the property of a mobility-impaired pedestrian (one who uses a walker, crutch, orthopedic cane or wheelchair) while the pedestrian is crossing a public street or highway. Sixty percent of the fine is to be deposited in the endowment fund of the Florida Endowment Foundation for Vocational Rehabilitation and the rest dispensed as provided by Section 318.21, F.S.

Subsection 316.261, F.S., is revised to add four-wheeled motorized golf carts operated by municipal or county law enforcement officers on official business to the list of vehicles which are not required to have brakes on all wheels. The act is effective October 1, 1992.

### Vehicle Emissions Inspection

COMMITTEE SUBSTITUTE FOR SENATE BILL 248-H (CHAPTER 92-323) rennumbers and revises Subsection 325.202(7), F.S., to provide that motor vehicle inspection certificates can be issued by reinspection facilities. The act defines the term "reinspection facility" in new Subsection 325.202(12), F.S., to mean any motor vehicle repair shop which has been licensed by the Department of Highway Safety and Motor Vehicles under the provisions of the Clean Outdoor Air Law. The law defines the term "dealer certificate" in new Subsection 325.202(3), F.S., to mean an inspection certificate issued to a motor vehicle dealer, motor vehicle broker, or mobile home dealer, indicating that a motor vehicle has passed an emissions inspection, which grants the dealer or broker 12 months in which to sell at retail the identified motor vehicle owned by the dealer or broker.

The measure revises Paragraph 325.203(4)(a), F.S., to delete the exemption from the inspection requirements of the Clean Outdoor Air Law for motor vehicles which have a new weight greater than 5,000 pounds and instead exempts any vehicle which has a registered vehicle weight greater than 10,000 pounds. Paragraph 325.203(4)(m), F.S., is added to ex-

empt recreational vehicles from emission inspection requirements.

The enactment amends Subsection 325.203(5), F.S., to maintain that, unless exempt, each motor vehicle which is owned or leased by the federal government or a local government and which is primarily kept in a program area is subject to inspection. Prior law covered only state vehicles. The subsection is further amended to require each federal, state or local government agency which owns or leases motor vehicles that are subject to inspection to submit to the Department, prior to February 1 of each year, a list which indicates that each such vehicle has passed inspection or received a waiver or exemption.

Revised Subsection 325.203(6), F.S., authorizes the registration of motor vehicles subject to inspection which have received an exemption from such inspection.

Amended Subsection 325.203(8), F.S., prohibits a motor vehicle dealer, motor vehicle broker, mobile home dealer or person located in program area from selling at retail any motor vehicle which is subject to inspection and which is to be registered in program area unless the vehicle has received a valid inspection certificate within 90 days prior to its sale or valid dealer certificate within 12 months prior to sale.

Amended Subsection 325.209(1), F.S., excludes vehicles offered for retail sale from eligibility for a waiver under the Clean Outdoor Air Law. The Department, in determining eligibility for a waiver for a person who performs his own vehicle repairs, is directed to consider only the cost for parts.

Revised Subsection 325.211(2), F.S., deletes the requirement that repairs and adjustments made to a vehicle in order to bring it into compliance with emissions standards must be made within 30 days of the original inspection.

Under amended Subsection 325.212(6), F.S., the Department is required to evaluate the quality of all repairs and reinspections performed by licensed reinspection facilities. Revised Subsection 325.212(9), F.S., mandates that a licensed reinspection facility is not required to reinspect any motor vehicle the facility has not repaired.

Amended Subsection 325.213(2), F.S., stipulates that fees for self-inspector applicants are nonrefundable.

Revised Subsection 325.213(3), F.S., deletes the requirement that applicants for licensure as self-inspectors must undergo a national criminal background check and provides that the cost of processing an application for licensure as a self-inspector must be borne by the applicant and is in addition to the fee for licensure.

Amended Subsection 325.213(9), F.S., authorizes the Department to levy and collect a civil fine, not to exceed \$1,000 for each violation, against a reinspection facility if it finds that the licensee has failed to comply with any provision of the Clean Outdoor Air Law or any administrative rule promulgated pursuant to the law by the Department or the Department of Environmental Regulation.

Revised Subsection 325.214(2), F.S., requires that an additional fee of \$1 be assessed on the issuance of each dealer certificate and that the proceeds from the fee be deposited into the Motor Vehicle Inspection Trust Fund.

Amended penalty language provides that:

- 1) any person who presents for inspection a motor vehicle with a license plate not assigned to that motor vehicle with the intent of obtaining a passing inspection certificate is guilty of a third-degree felony (new Subsection 325.216(2), F.S.);
- 2) any person who prepares, provides, offers or tenders any document required by law or rule for any waiver or exemption under the chapter which has been falsified or altered with the intent of obtaining a waiver or exemption is guilty of a first-degree misdemeanor (new Subsection 325.216(3), F.S.);
- 3) a motor vehicle owner who provides an incorrect vehicle weight at the time of registration with the intent of avoiding the inspection requirements of the chapter is guilty of a first-degree misdemeanor (new Subsection 325.216(4), F.S.);
- 4) any contractor, self-inspector, reinspection facility, employee or agent thereof, any state employee or agent thereof who accepts money or other valuable consideration in exchange for improperly issuing an inspection certificate is guilty of a third-degree felony (new Subsection 325.216(5), F.S.); and,
- 5) any person who offers or gives money or other valuable consideration to a contractor, a self-inspector, a reinspection facility, a state employee or agent thereof, in exchange for improperly issuing an inspection certificate is guilty of a third-degree felony (new Subsection 325.216(6), F.S.).

**PROFESSIONAL REGULATION**

**Public Accountancy Regulation**

SENATE BILL 226-H (CHAPTER 92-292) creates Paragraph 20.30(2)(g), F.S., to establish the office of the Division of Certified Public Accounting within the Division of Real Estate of the Department of Professional Regulation and provide for the appointment of the director of the Division by the secretary of the Department subject to approval by a majority of the Board of Accountancy. The new division offices are to be located in Gainesville.

The Board of Accountancy is transferred within the Department from the Division of Professions to the Division of Certified Public Accounting by new Subsection 20.30(7), F.S.

For purposes of Chapter 473, F.S., regulating Public Accountancy, Division is defined in Subsection 473.302(3), F.S., to mean Division of Certified Public Accounting.

Section 473.3035, F.S., is created to enumerate the services the Division is to offer and to authorize the Board of Accountancy, by majority vote, to delegate duties to the appropriate division within the Department or to rescind such delegation of duties. Funding of the Division of Certified Public Accounting is to be by fees and assessments of the Board as governed by Sections 215.37 and 455.219, F.S.

Section 473.304, F.S., is revised to authorize the Board to retain independent legal counsel for advice on specific issues and to bar counsel employed or used by the Board from simul-

taneously prosecuting a matter and advising the Board on the matter. The act is to take effect October 1, 1992. An effective date of July 1, 1993, is provided for the incorporation of additional 1992 amendments to Section 20.30, F.S.

**STATE GOVERNMENT**

**Multicounty Libraries**

COMMITTEE SUBSTITUTE FOR SENATE BILL 154-H (CHAPTER 92-305) replaces the concept of regional libraries with that of multicounty libraries through revision of Section 257.171, F.S.

Section 257.172, F.S., is completely revised to establish the criteria for the awarding of multicounty library grants to be used for the support and extension of library services in participating counties. A scheduled formula is provided for determining the amount of the grants to be given such libraries. Additional base grants of \$250,000 are available for multicounty libraries with three or more participating counties and an adjustment formula is provided for these grants. The maximum grants allowable provision of Section 257.21, F.S., is inapplicable to this section.

Section 257.18, F.S., is totally revised to provide new eligibility requirements for equalization grants, new computation formulas for determining the equalization factor and the grant amount. The Division of Library and Information Services of the Department of State is to calculate the grants based on library service expenditures certified by appropriate county officials and property assessments and taxable value of property in each county as certified by the appropriate state agency to the Division.

Section 257.195, F.S., is created to establish that in the event of revenue shortfall in any fiscal year, the total state appropriation for library grants is to be reduced, when necessary, by the same rate as the operating funds of the Division or at the discretion of the Secretary of State. The act is not to take effect before July 1, 1992, but amendments to Sections 257.172 and 257.18, F.S., are contingent upon certain 1992-1993 appropriations.

**Governmental Efficiency Act of 1992**

Part I of HOUSE BILL 371-H (CHAPTER 92-316) requires the Comptroller to establish and operate a 24-hour-a-day, statewide toll-free hotline to receive information or suggestions from citizens on ways to improve the operation of state government. It directs the Comptroller to advertise the hotline, and requires information and suggestions to be logged and evaluated for cost savings and work reduction. The act establishes immunity from liability for use of information or suggestions and prohibits retaliation by state employees against anyone providing information or making suggestion.

Part II temporarily suspends a number of activities by state agencies in order to reduce paperwork, reporting, monitoring and other requirements. These activities are suspended for the 1992-1993 fiscal year. Requirements that are suspended fall in the areas of social services, environmental programs and natural resources, governmental operations, highway

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safety and motor vehicles and education. Requirements that are suspended are deemed not essential to the efficient operation of state government for the fiscal year.

Part III revises the "Whistle-blower Act of 1986" (Section 112.3187, F.S.) to provide additional protection disclosures (gross mismanagement and nonfeasance) of violations of a law, rule, or regulation. It creates Section 112.3189, F.S., to provide for a "hot line" in the Chief Inspector General's Office. It provides detailed investigative procedures. New Section 112.31895, F.S., directs the Department of Legal Affairs to

conduct informal fact finding relative to alleged prohibited personnel action. It provides that the Office of Public Counsel will investigate prohibited personnel actions which have occurred relative to the reporting of a protected disclosure. It directs the Public Counsel to seek corrective action on behalf of persons whose rights under this act have been violated, and provides specific protection for employees, former employees, or applicants for employment who have reported violations of the act. It provides relief and remedy through PERC or the appropriate court.

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud. The text notes that without reliable records, it would be difficult to verify the accuracy of financial statements and to identify any irregularities.

2. The second part of the document outlines the specific requirements for record-keeping. It states that all transactions must be recorded in a clear and concise manner, using standardized formats and codes. The text also mentions that records should be maintained for a minimum of five years, unless otherwise specified by applicable laws or regulations. Additionally, it highlights the need for regular audits and reviews to ensure the accuracy and completeness of the records.

3. The third part of the document discusses the role of technology in record-keeping. It notes that the use of computerized systems can significantly improve the efficiency and accuracy of record-keeping. However, it also warns that the use of technology must be implemented carefully to ensure that data is secure and protected from unauthorized access. The text suggests that organizations should invest in robust security measures and regularly update their systems to protect against potential threats.

4. The fourth part of the document addresses the issue of data retention and disposal. It states that organizations should have a clear policy regarding how long records should be kept and how they should be disposed of when they are no longer needed. The text emphasizes that records should be disposed of in a secure and confidential manner to prevent the unauthorized release of sensitive information. It also mentions that organizations should regularly review their retention policies to ensure they are up-to-date and compliant with current regulations.

5. The final part of the document provides a summary of the key points discussed. It reiterates the importance of accurate record-keeping and the need for organizations to implement strong controls and procedures to ensure the integrity of their financial data. The text concludes by stating that proper record-keeping is not only a legal requirement but also a best practice for any organization that values transparency and accountability.

**CONVERSION TABLE:  
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Water vending machine program; transferred from HRS to Agriculture and Consumer Services Department, CS/CS/H721(92-180)

## VESSELS See: BOATS AND BOATING

## VETERANS

Bingo See: BINGO

## Disabled Veterans

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License Plates See: MOTOR VEHICLES

Nursing homes, S348(92-80)

Persian Gulf War veteran, inclusion in definition "veteran", S348(92-80)

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Impaired practitioners treatment programs, CS/H2249(92-149)

Licensure, CS/H2249(92-149)

Veterinary legend drug, CS/CS/S84(92-69)

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## Crime Victims' Services Office

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Crimes compensation, funding; additional \$30 fee for certain offenses, CS/S1152(92-107)

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DNA analysis, confidential; exemption, CS/S980(92-101)

Familial relationship or sharing residence with offender, award eligibility, CS/S1152(92-107)

Hearing officer re crimes compensation; designated by Attorney

General in lieu of Administrative Hearings Division, CS/S1152(92-107)

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Juvenile proceedings; rights of victims, S1060(92-66), CS/H109-H(92-287)

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- Sea snakes, importation by zoological parks and aquariums, CS/H1299(92-60)

STATISTICS REPORT

SENATE BILLS	FILED	PASSED SENATE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	2	1	1
RESOLUTIONS(ONE CHAMBER)	58	48	0
GENERAL BILLS	1078	282	138
LOCAL BILLS	59	47	25
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	53	4	2
MEMORIALS	13	3	2
WITHDRAWN	5	0	0
TOTALS	1268	385	168*

HOUSE BILLS	FILED	PASSED HOUSE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	5	1	1
RESOLUTIONS(ONE CHAMBER)	105	86	0
GENERAL BILLS	1001	228	106
LOCAL BILLS	87	31	25
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	47	3	1
MEMORIALS	16	6	3
WITHDRAWN	31	0	0
TOTALS	1292	355	136*

SENATE AND HOUSE BILLS	FILED	PASSED FIRST CHAMBER	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	7	2	2
RESOLUTIONS(ONE CHAMBER)	163	134	0
GENERAL BILLS	2079	510	244
LOCAL BILLS	146	78	50
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	100	7	3
MEMORIALS	29	9	5
WITHDRAWN	36	0	0
TOTALS	2560	740	304*

\*ONE CHAMBER RESOLUTIONS NOT INCLUDED

**FLORIDA LEGISLATURE—REGULAR SESSION—1992**  
**STATISTICS REPORT**

	SENATE BILLS	HOUSE BILLS	TOTAL
FILED, NOT INTRODUCED	1	7	8
BILLS TO CONFERENCE COMMITTEES	1	2	3
BILLS AMENDED	202	170	372
COMMITTEE SUBSTITUTES (CS)	334	367	701
CS/CS	45	35	80
CS/CS/CS	7	1	8
CS/CS/CS/CS	1	0	1
FAVORABLE SENATE COMMITTEE REPORT	308	33	341
FAVOR/AMENDMENT(S) SENATE COM REPT	159	1	160
FAVORABLE HOUSE COMMITTEE REPORT	14	183	197
FAVOR/AMENDMENT(S) HOUSE COM REPT	10	95	105
APPROVED BY GOVERNOR	102	81	183
BECAME LAW WITHOUT SIGNATURE	50	41	91
VETOED BY GOVERNOR	11	9	20
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.)	5	5	10
RESOLUTIONS ADOPTED	48	86	134
FAILED TO PASS SENATE	3	0	3
FAILED TO PASS HOUSE	0	2	2
LAI D ON TABLE	99	124	223
UNFAVORABLE SENATE COMMITTEE REPT	18	0	18
UNFAVORABLE HOUSE COMMITTEE REPORT	0	10	10
WITHDRAWN	5	31	36
WITHDRAWN/FURTHER CONSIDERATION	59	33	92
DIED IN SENATE COMMITTEES	558	110	668
DIED IN HOUSE COMMITTEES	51	518	569
DIED IN CONFERENCE COMMITTEES	1	0	1
DIED ON SENATE CALENDAR	142	11	153
DIED ON HOUSE CALENDAR	30	212	242
DIED IN SENATE MESSAGES	6	11	17
DIED IN HOUSE MESSAGES	80	1	81

STATISTICS REPORT

SENATE BILLS	FILED	PASSED SENATE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	0	0	0
RESOLUTIONS(ONE CHAMBER)	0	0	0
GENERAL BILLS	27	11	6
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	1	0	0
MEMORIALS	0	0	0
WITHDRAWN	0	0	0
TOTALS	28	11	6*

HOUSE BILLS	FILED	PASSED HOUSE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	0	0	0
RESOLUTIONS(ONE CHAMBER)	1	0	0
GENERAL BILLS	22	11	6
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	2	0	0
MEMORIALS	2	2	2
WITHDRAWN	0	0	0
TOTALS	27	13	8*

SENATE AND HOUSE BILLS	FILED	PASSED FIRST CHAMBER	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	0	0	0
RESOLUTIONS(ONE CHAMBER)	1	0	0
GENERAL BILLS	49	22	12
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	3	0	0
MEMORIALS	2	2	2
WITHDRAWN	0	0	0
TOTALS	55	24	14*

\*ONE CHAMBER RESOLUTIONS NOT INCLUDED

## STATISTICS REPORT

	SENATE BILLS	HOUSE BILLS	TOTAL
FILED, NOT INTRODUCED	1	14	15
BILLS TO CONFERENCE COMMITTEES	2	0	2
BILLS AMENDED	9	8	17
COMMITTEE SUBSTITUTES (CS)	6	4	10
CS/CS	0	1	1
FAVORABLE SENATE COMMITTEE REPORT	8	0	8
FAVOR/AMENDMENT(S) SENATE COM REPT	8	0	8
FAVORABLE HOUSE COMMITTEE REPORT	0	4	4
FAVOR/AMENDMENT(S) HOUSE COM REPT	0	2	2
APPROVED BY GOVERNOR	6	6	12
BECAME LAW WITHOUT SIGNATURE	0	0	0
VETOED BY GOVERNOR	0	0	0
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	2	2
RESOLUTIONS ADOPTED	0	0	0
FAILED TO PASS SENATE	0	0	0
FAILED TO PASS HOUSE	0	0	0
LAI D ON TABLE	5	0	5
UNFAVORABLE SENATE COMMITTEE REPT	0	0	0
UNFAVORABLE HOUSE COMMITTEE REPORT	0	0	0
WITHDRAWN	0	0	0
WITHDRAWN/FURTHER CONSIDERATION	0	0	0
DIED IN SENATE COMMITTEES	5	0	5
DIED ON SENATE CALENDAR	6	0	6
DIED IN SENATE MESSAGES	0	5	5
DIED IN HOUSE MESSAGES	5	0	5

STATISTICS REPORT

SENATE BILLS	FILED	PASSED SENATE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	0	0	0
RESOLUTIONS(ONE CHAMBER)	1	1	0
GENERAL BILLS	18	5	1
LOCAL BILLS	3	3	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	1	0	0
MEMORIALS	0	0	0
WITHDRAWN	0	0	0
TOTALS	23	9	1*

HOUSE BILLS	FILED	PASSED HOUSE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	0	0	0
RESOLUTIONS(ONE CHAMBER)	6	5	0
GENERAL BILLS	44	12	3
LOCAL BILLS	6	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	2	0	0
MEMORIALS	1	0	0
WITHDRAWN	0	0	0
TOTALS	59	17	3*

SENATE AND HOUSE BILLS	FILED	PASSED FIRST CHAMBER	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	0	0	0
RESOLUTIONS(ONE CHAMBER)	7	6	0
GENERAL BILLS	62	17	4
LOCAL BILLS	9	3	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	3	0	0
MEMORIALS	1	0	0
WITHDRAWN	0	0	0
TOTALS	82	26	4*

\*ONE CHAMBER RESOLUTIONS NOT INCLUDED

FLORIDA LEGISLATURE—SPECIAL SESSION E—1992  
STATISTICS REPORT

	SENATE BILLS	HOUSE BILLS	TOTAL
FILED, NOT INTRODUCED	0	37	37
BILLS TO CONFERENCE COMMITTEES	0	0	0
BILLS AMENDED	5	8	13
COMMITTEE SUBSTITUTES (CS)	1	1	2
CS/CS	0	0	0
FAVORABLE SENATE COMMITTEE REPORT	2	0	2
FAVOR/AMENDMENT(S) SENATE COM REPT	6	0	6
FAVORABLE HOUSE COMMITTEE REPORT	0	6	6
FAVOR/AMENDMENT(S) HOUSE COM REPT	0	7	7
APPROVED BY GOVERNOR	1	3	4
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	1	5	6
FAILED TO PASS SENATE	2	0	2
FAILED TO PASS HOUSE	0	0	0
LAI D ON TABLE	3	0	3
UNFAVORABLE SENATE COMMITTEE REPT	0	0	0
UNFAVORABLE HOUSE COMMITTEE REPORT	0	0	0
WITHDRAWN	0	0	0
WITHDRAWN/FURTHER CONSIDERATION	0	0	0
DIED IN SENATE COMMITTEES	7	8	15
DIED IN HOUSE COMMITTEES	0	3	3
DIED ON SENATE CALENDAR	2	0	2
DIED ON HOUSE CALENDAR	0	2	2
DIED IN HOUSE MESSAGES	7	1	8

STATISTICS REPORT

SENATE BILLS	FILED	PASSED SENATE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	0	0	0
RESOLUTIONS(ONE CHAMBER)	2	2	0
GENERAL BILLS	1	1	1
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	0	0	0
MEMORIALS	1	1	1
WITHDRAWN	<u>0</u>	<u>0</u>	<u>0</u>
TOTALS	4	4	2*

HOUSE BILLS	FILED	PASSED HOUSE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	0	0	0
RESOLUTIONS(ONE CHAMBER)	2	0	0
GENERAL BILLS	4	0	0
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	0	0	0
MEMORIALS	0	0	0
WITHDRAWN	<u>0</u>	<u>0</u>	<u>0</u>
TOTALS	6	0	0*

SENATE AND HOUSE BILLS	FILED	PASSED FIRST CHAMBER	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	0	0	0
RESOLUTIONS(ONE CHAMBER)	4	2	0
GENERAL BILLS	5	1	1
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	0	0	0
MEMORIALS	1	1	1
WITHDRAWN	<u>0</u>	<u>0</u>	<u>0</u>
TOTALS	10	4	2*

\*ONE CHAMBER RESOLUTIONS NOT INCLUDED

FLORIDA LEGISLATURE—SPECIAL SESSION F—1992  
STATISTICS REPORT

	SENATE BILLS	HOUSE BILLS	TOTAL
FILED, NOT INTRODUCED	0	5	5
BILLS TO CONFERENCE COMMITTEES	0	0	0
BILLS AMENDED	1	0	1
COMMITTEE SUBSTITUTES (CS)	0	0	0
CS/CS	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
APPROVED BY GOVERNOR	1	0	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.)	1	0	1
RESOLUTIONS ADOPTED	2	0	2
FAILED TO PASS SENATE	0	0	0
FAILED TO PASS HOUSE	0	0	0
LAI D ON TABLE	0	0	0
UNFAVORABLE SENATE COMMITTEE REPT	0	0	0
UNFAVORABLE HOUSE COMMITTEE REPORT	0	0	0
WITHDRAWN	0	0	0
WITHDRAWN/FURTHER CONSIDERATION	0	0	0
DIED ON HOUSE CALENDAR	0	1	1

FLORIDA LEGISLATURE—SPECIAL SESSION G—1992  
STATISTICS REPORT

SENATE BILLS	FILED	PASSED SENATE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	1	1	0
RESOLUTIONS(ONE CHAMBER)	0	0	0
GENERAL BILLS	0	0	0
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	1	1	1
MEMORIALS	0	0	0
WITHDRAWN	<u>0</u>	<u>0</u>	<u>0</u>
TOTALS	2	2	1*

HOUSE BILLS	FILED	PASSED HOUSE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	0	0	0
RESOLUTIONS(ONE CHAMBER)	1	1	0
GENERAL BILLS	0	0	0
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	1	1	0
MEMORIALS	0	0	0
WITHDRAWN	<u>0</u>	<u>0</u>	<u>0</u>
TOTALS	2	2	0*

SENATE AND HOUSE BILLS	FILED	PASSED FIRST CHAMBER	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	1	1	0
RESOLUTIONS(ONE CHAMBER)	1	1	0
GENERAL BILLS	0	0	0
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	2	2	1
MEMORIALS	0	0	0
WITHDRAWN	<u>0</u>	<u>0</u>	<u>0</u>
TOTALS	4	4	1*

\*ONE CHAMBER RESOLUTIONS NOT INCLUDED

FLORIDA LEGISLATURE—SPECIAL SESSION G—1992  
STATISTICS REPORT

	SENATE BILLS	HOUSE BILLS	TOTAL
FILED, NOT INTRODUCED	0	0	0
BILLS TO CONFERENCE COMMITTEES	0	0	0
BILLS AMENDED	1	1	2
COMMITTEE SUBSTITUTES (CS)	0	0	0
CS/CS	0	0	0
FAVORABLE SENATE COMMITTEE REPORT	0	0	0
FAVOR/AMENDMENT(S) SENATE COM REPT	1	0	1
FAVORABLE HOUSE COMMITTEE REPORT	0	1	1
FAVOR/AMENDMENT(S) HOUSE COM REPT	0	0	0
APPROVED BY GOVERNOR	0	0	0
BECAME LAW WITHOUT SIGNATURE	0	0	0
VETOED BY GOVERNOR	0	0	0
BECAME LAW, VETO NOTWITHSTANDING	0	0	0
FILED WITH SECRETARY OF STATE (JT. RES., CONC. RES., MEM.)	1	0	1
RESOLUTIONS ADOPTED	0	1	1
FAILED TO PASS SENATE	0	0	0
FAILED TO PASS HOUSE	0	0	0
LAI D ON TABLE	0	0	0
UNFAVORABLE SENATE COMMITTEE REPT	0	0	0
UNFAVORABLE HOUSE COMMITTEE REPORT	0	0	0
WITHDRAWN	0	0	0
WITHDRAWN/FURTHER CONSIDERATION	0	0	0
DIED IN SENATE COMMITTEES	0	1	1
DIED IN HOUSE COMMITTEES	1	0	1

STATISTICS REPORT

SENATE BILLS	FILED	PASSED SENATE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	1	1	0
RESOLUTIONS(ONE CHAMBER)	12	12	0
GENERAL BILLS	127	62	36
LOCAL BILLS	8	6	4
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	7	5	2
MEMORIALS	0	0	0
WITHDRAWN	0	0	0
<b>TOTALS</b>	<b>155</b>	<b>86</b>	<b>42*</b>

HOUSE BILLS	FILED	PASSED HOUSE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	2	1	1
RESOLUTIONS(ONE CHAMBER)	50	44	0
GENERAL BILLS	167	51	27
LOCAL BILLS	10	4	4
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	12	1	0
MEMORIALS	4	1	0
WITHDRAWN	1	0	0
<b>TOTALS</b>	<b>246</b>	<b>102</b>	<b>32*</b>

SENATE AND HOUSE BILLS	FILED	PASSED FIRST CHAMBER	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	3	2	1
RESOLUTIONS(ONE CHAMBER)	62	56	0
GENERAL BILLS	294	113	63
LOCAL BILLS	18	10	8
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	19	6	2
MEMORIALS	4	1	0
WITHDRAWN	1	0	0
<b>TOTALS</b>	<b>401</b>	<b>188</b>	<b>74*</b>

\*ONE CHAMBER RESOLUTIONS NOT INCLUDED

FLORIDA LEGISLATURE—SPECIAL SESSION H—1992  
STATISTICS REPORT

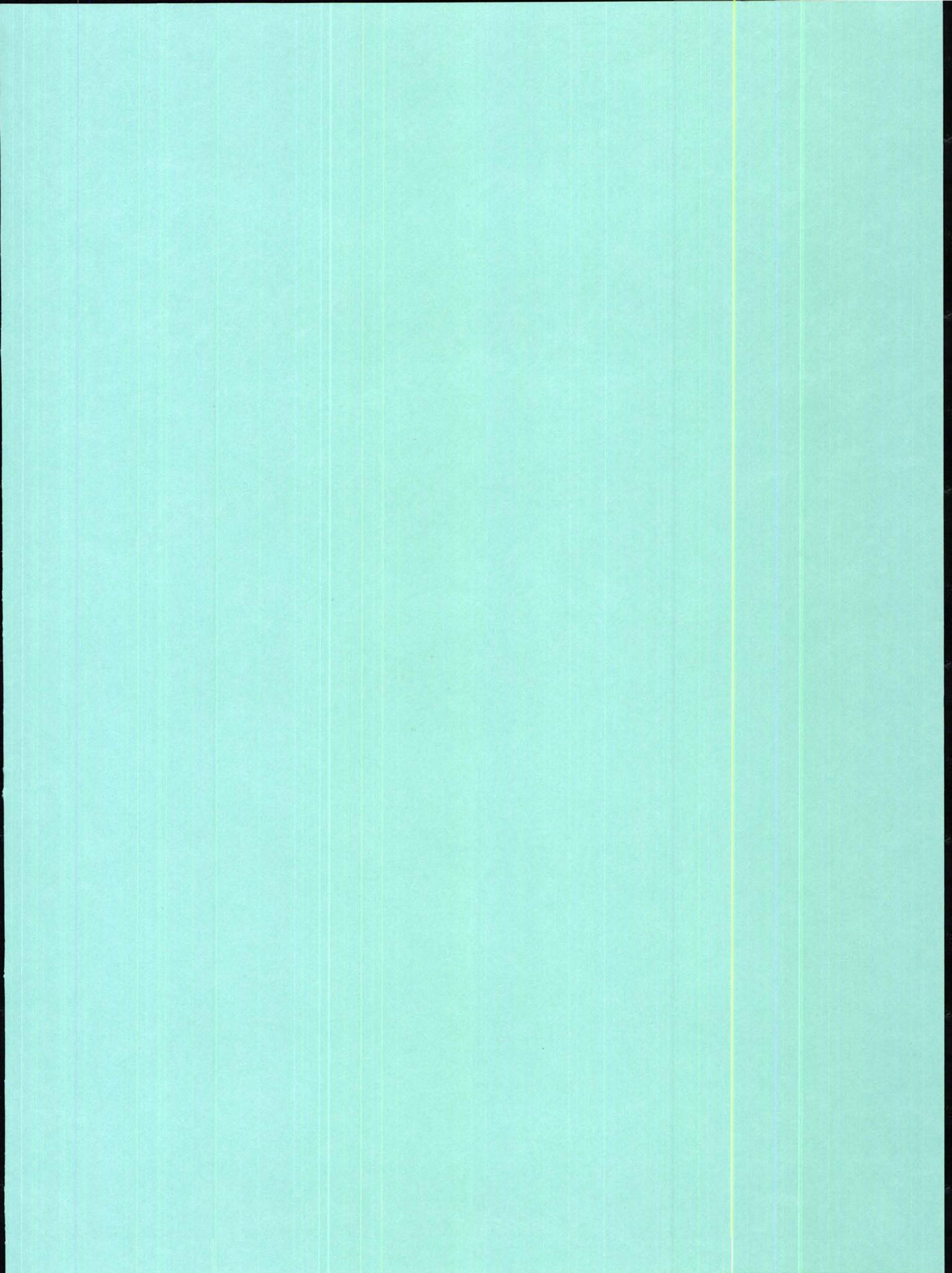
	SENATE BILLS	HOUSE BILLS	TOTAL
FILED, NOT INTRODUCED	1	68	69
BILLS TO CONFERENCE COMMITTEES	0	2	2
BILLS AMENDED	44	38	82
COMMITTEE SUBSTITUTES (CS)	29	20	49
CS/CS	5	2	7
FAVORABLE SENATE COMMITTEE REPORT	33	7	40
FAVOR/AMENDMENT(S) SENATE COM REPT	15	2	17
FAVORABLE HOUSE COMMITTEE REPORT	2	24	26
FAVOR/AMENDMENT(S) HOUSE COM REPT	1	21	22
APPROVED BY GOVERNOR	25	21	46
BECAME LAW WITHOUT SIGNATURE	10	9	19
VETOED BY GOVERNOR	5	1	6
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.)	2	1	3
RESOLUTIONS ADOPTED	12	44	56
FAILED TO PASS SENATE	0	2	2
FAILED TO PASS HOUSE	1	1	2
LAI D ON TABLE	6	12	18
UNFAVORABLE SENATE COMMITTEE REPT	3	2	5
UNFAVORABLE HOUSE COMMITTEE REPORT	0	0	0
WITHDRAWN	0	1	1
WITHDRAWN/FURTHER CONSIDERATION	4	1	5
DIED IN SENATE COMMITTEES	50	12	62
DIED IN HOUSE COMMITTEES	5	48	53
DIED IN CONFERENCE COMMITTEES	0	2	2
DIED ON SENATE CALENDAR	6	2	8
DIED ON HOUSE CALENDAR	0	13	13
DIED IN SENATE MESSAGES	0	3	3
DIED IN HOUSE MESSAGES	26	4	30

## 1992 VETOED GENERAL BILLS

Senate Bills:	Subject	Date
SB 0588	Housing Finance Authorities	4/08/92
SB 0674	Accounting	4/08/92
SB 0720	Invitations to Bid	4/08/92
CS/SB 0904	Procurement of Construction Services	4/08/92
CS/SB 0918	Taxation	4/08/92
SB 0972	Construction/Prompt Payment Law	4/08/92
CS/SB 1164	Teachers/Teaching Out of Field	4/08/92
SB 1644	Public Utility Records	4/08/92
CS/SB 1766	Alcoholic Beverages Licenses	4/08/92
SB 2408	Supplemental Appropriations	2/14/92
SB 2410	Appropriations Implementer	2/19/92
CS/SB 102-H	Retirement Benefits & Subsidies	7/07/92
SB 180-H	Driver History Records	7/02/92
SB 188-H	License Fees/Motorcycles, Mopeds	7/02/92
SB 272-H	Appropriations	6/26/92
SB 278-H	Appropriations (Line Item Veto)	7/01/92
SB 294-H	Mangroves	7/01/92

House Bills:	Subject	Date
CS/CS/HB 0337	Jurors	4/09/92
HB 0827	Sales Tax	4/08/92
HB 1231	Evidence Code/Interpreters	4/08/92
HB 1301	Firefighters' Pension Trust Fund	4/08/92
CS/HB 1753	Discrimination in Employment/Tobacco	4/10/92
CS/HB 1863	Water Quality Assurance Trust Fund	4/08/92
CS/HB 2101	Appropriations	3/16/92
CS/HB 2103	Appropriations Implementing Bill	3/23/92
HB 413-H	State Programs & Expenditures	7/01/92

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