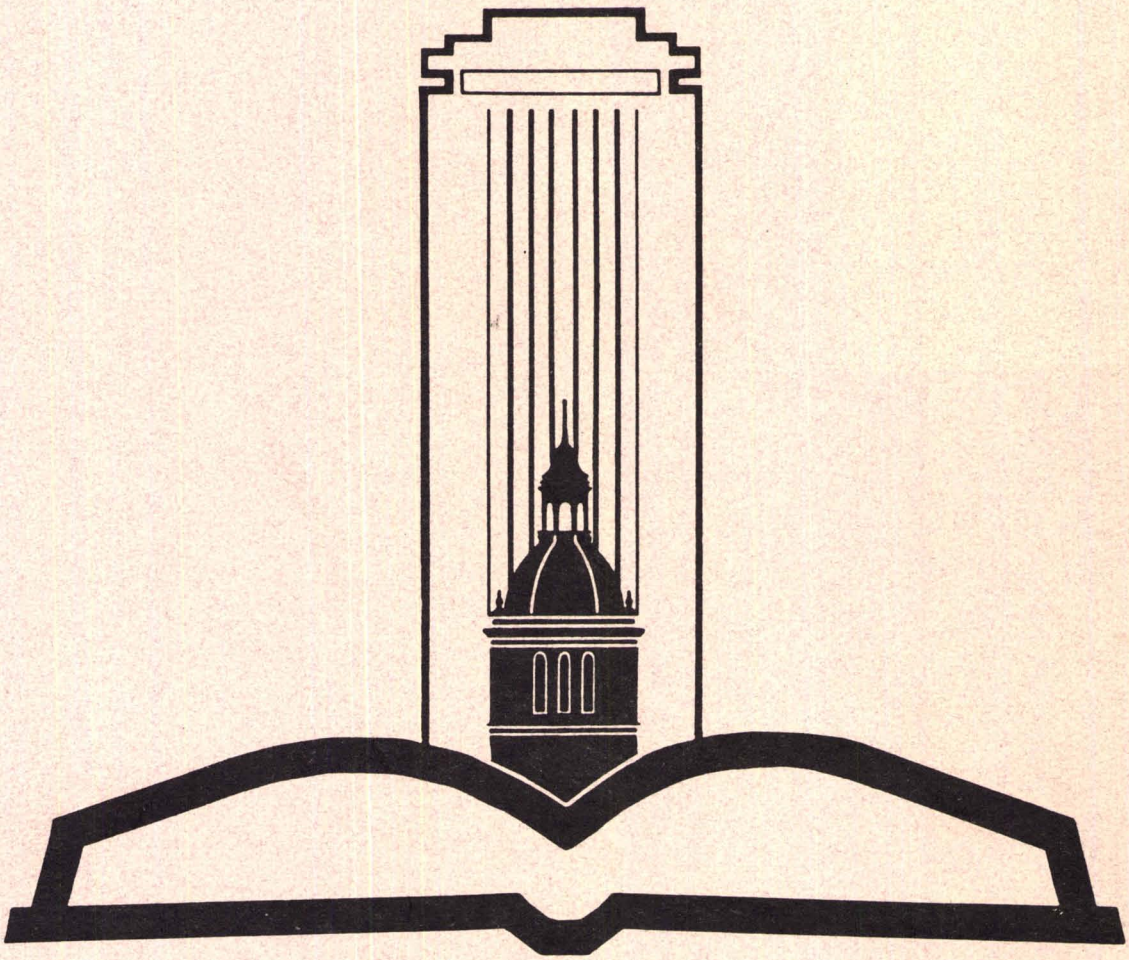

Florida Legislature

1993 Summary of General Legislation

INCLUDING

Special Session A – December 9 - 11, 1992

Regular Session – February 2 - April 4, 1993

Special Session B – May 24 - 28, 1993

August 1993

FOREWORD

This SUMMARY OF GENERAL LEGISLATION covers, within broad subject areas, the general laws enacted during the 1993 Regular Session of February 2 to April 4, 1993, and Special Sessions A and B held December 9-11, 1992, and May 24-28, 1993, respectively.

Among the significant enactments of these sessions are: (a) legislation addressing the impact of Hurricane Andrew (August 24, 1992) on the state; (b) revision of the Florida Motor Vehicle Repair Act; (c) reworking of the laws regulating financial institutions; (d) separation of the statutes governing business and nonprofit corporations; (e) merger of the Department of Environmental Regulation and the Department of Natural Resources into the Department of Environmental Protection and amendment of attendant laws; (f) revision of Florida's comprehensive solid waste laws; (g) substantial amendments to laws concerning sentencing guidelines, parole and control release of inmates and the funding of 8,500 new beds in the prison system; (h) significant revision of juvenile justice laws; (i) implementation of recommendations of the Florida Commission on Education Reform and Accountability; and (j) enactment of a comprehensive plan for state and local governments and law enforcement agencies to respond to emergencies and disasters.

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

This office also wishes to thank the following JLMC Divisions for their assistance in the preparation of the SUMMARY: Legislative Systems and Data Processing, Legislative Information and Statutory Revision.

B. Gene Baker

B. Gene Baker, Director
Division of Legislative Library Services
Joint Legislative Management Committee

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1992-94 FLORIDA LEGISLATURE - SPECIAL SESSION A*

The Legislature was called into a 3-day special session by the Governor for the period beginning at 10 a.m., Wednesday, December 9, 1992, and ending at 5 p.m. on Friday, December 11, 1992, to:

1) address the enactment of new law, the amendment of existing law and the funding of such changes in response to the impact of Hurricane Andrew (August 24, 1992) on the state;
2) enact new law regulating pari-mutuel wagering because prior law had been repealed effective July 1, 1992, and, contrary to expectations, nothing had been enacted to replace them; and
3) revise the anhydrous citrus acid content of Florida fruit thereby permitting the Citrus Commission flexibility in the market of fruit when abnormal conditions affect the citrus industry of the state.

Hurricane Andrew and Insurance Industry

COMMITTEE SUBSTITUTE FOR HOUSE BILL 33-A (CHAPTER 92-345) addresses several insurance problems caused by Hurricane Andrew: (1) the need to provide additional funding for the Florida Insurance Guaranty Association (FIGA) to pay claims of policyholders whose insurers become insolvent; (2) the need to temporarily activate the Florida Property and Casualty Joint Underwriting Association (FPCJUA) to provide coverage for unrepaired residences covered by insolvent insurers; and (3) the need to assure continued availability of residential insurance.

The act provides statutory validation for the adoption of emergency rule 4ER 92-15 by the Department of Insurance, effective October 15, 1992, which temporarily activates the FPCJUA for the first time since its creation in 1986 to meet the commercial liability insurance availability crisis at that time. The Department acted in the latest instance pursuant to Subsection 627.351(5), F.S., to provide residential property coverage for properties that had not yet been repaired or that had coverage cancelled by court order as a result of an insolvency. Actual implementation of the rule has covered only property meeting both criteria. Application of these provisions is retroactive to August 24, 1992, the date on which the hurricane occurred.

The FPCJUA may not issue policies for more than 6 months and may renew only if it determines repairs could not be completed due to circumstances beyond the control of the insured.

The FPCJUA may assume coverage in effect at the time of the liquidation of the prior insurer for up to 30 days with the concurrence of the insured. Issued policies must be on standard forms which satisfy the needs of the insured and the legal requirements for mortgaged residential property. Limits may be increased only when needed to secure the financing of real property. The FPCJUA board of governors may determine reasonable limitations and exclusions in a policy and there is provision for use of loss cost factors higher than those of the Insurance Services Office in the determination of policy rates.

The FPCJUA, its board and its member insurers are granted immunity from liability for duties performed pursuant to the provisions of this law, but not for action for breach of any contract related to insurance or for any willful tort.

Section 166.111, F.S., is revised to authorize the issuance of municipal bonds to meet the funding needs of the Florida Insurance Guaranty Association (FIGA) arising out of Hurricane Andrew. Municipal bonds may be issued by municipalities substantially affected by Hurricane Andrew for the purpose of funding assistance programs for payment by FIGA of claims against insurers determined to be insolvent by FIGA as a result of the impact of the hurricane. Insolvencies occurring after March 31, 1993, are not covered and the aggregate principal amount of the bonds may not exceed $500 million.

Section 631.57, F.S., relating to the power and duties of FIGA, is revised to pledge special FIGA assessments to the issuer of bonds under Subsection 116.111(2), F.S., and to require FIGA to administer covered claims and present them for payment in accordance with the terms of the bonds.

Provision is made for special assessments against insurers to fund the bonds. In order to facilitate the assumption of liabilities of insolvent insurers, FIGA may extend the 30-day limit on liability for claims after determination of insolvency by an additional 60 days and to waive the $100 deductible presently applied to all FIGA claims if the FIGA board determines such actions would facilitate bulk assumption of obligations.

*Prepared by the Legislative Library

This act also amends the provision limiting the amount FIGA may pay on any property claim to provide a separate limit for condominium association policies, by raising the amount from $300,000 to an amount equal to $100,000 multiplied by the number of units. This special limit is repealed with the sine die adjournment of the 1993 Regular Session of the Legislature.

The bonds are to be issued by a municipality, rather than FIGA, to insure tax exempt status and are to be secured by FIGA special assessments. The funds, credit, property and taxing power of a municipality may not be pledged.

Minority firms, as defined by Section 288.703, F.S., must be included in not less than 20 percent of the contracts held by those firms which provide services in the issuance of bonds.

An amendment to Subsection 631.55(2), F.S., moves excess workers' compensation insurance from the "all other" account to the workers' compensation account thereby limiting the assessment liability of excess workers' compensation insurers to the assessments for the workers' compensation account.

Subsection 627.351(6), F.S., is added to create the Residential Property and Casualty Joint Underwriting Association (RPCJUA) to offer property and casualty insurance coverage for applicants who are unable to obtain coverage in the admitted voluntary market. Membership in this Association is mandatory for all insurers writing such insurance in the state.

This legislation provides for the creation and composition of an 11-member board of governors for the Association.

Policies issued under the plan are subject to the approval of the Department of Insurance and are required to offer such coverage as is generally available in the voluntary market, except that loss or damage to a structure must be adjusted on the basis of costs of repair or replacement up to a stated amount, rather than actual cash value; however, mobile home policies must conform to the Valued Policy Law, Section 627.702, F.S. Liability protection must not exceed $100,000 per claim and $300,000 per occurrence and deductibles may not be less than $500 per occurrence, but may be a higher amount selected by the insured.

Association policies do not include "law or ordinance" coverage which addresses loss or damage from the enforcement of law or ordinance relating to the construction, use, repair or razing of any property.

Provision is made for a Risk Underwriting Committee within the Association which has the authority to determine the insurability of any risk which has not been placed with an admitted insurer through the Market Assistance Plan (MAP) through the application of established objective criteria.

Premium rates are set under the Committee's plan of operation on the average loss costs of the five residential insurers in the state with the highest premium volume, plus appropriate catastrophe loading and expense factors. A 25-percent increment is included in the premium to cover the presumption that the best risks will remain in the voluntary market.

The Department is to deactivate the Association when the Department determines the conditions which triggered its activation no longer exist. The Association may be reactivated: (1) when the MAP receives 100 or more applications for residential coverage within 3 months, or 200 or more applications within 1 year, unless the MAP can provide quotations from the admitted market at filed rates for at least 90 percent of the applicants; or (2) if the Department determines that a gubernatorial-declared state of emergency significantly affects the availability of property insurance.

The board of governors of the Association is to assess member insurers in proportion to their market share for start-up or interim costs and to levy annual assessments thereafter. If necessary, the board may take legal action to collect the assessments.

Under the provisions of this legislation, the Department, the Association and its board members are given the same immunity from liability for performance of statutory duties as that accorded the FPCJUA (see above). This enactment is not to be construed to bar the issuance of residential property insurance under Sections 626.913 through 626.937, F.S., the Surplus Lines Law.

The FPCJUA is declared not to be a state entity and exemption from intangible, corporate income or insurance premium taxes is provided.

Effective April 10, 1993, the restrictions on eligibility for coverage by the Windstorm Insurance Risk Apportionment Plan created in Subsection 627.351(2), F.S., are removed to permit coverage of residential structures unable to obtain windstorm coverage in the voluntary market.

Subsection 631.60(1), F.S., relating to the subrogation rights of FIGA is amended to provide the same rights for FIGA when the insured recovers through bond proceeds as when the insured recovers directly from FIGA.

This act bars the repeal of statutory language

authorizing the issuance of municipal bonds to finance FIGA (Subsection 116.111(2), F.S.) and the law relating to FIGA assessments (Section 631.57, F.S.) until the bonds have been paid off or other arrangements have made to retire them.

The Department of Insurance is directed to report to the Legislature not later than February 12, 1993, on the availability of residential property and casualty insurance, and how to best address the control of exposure and increase available capital.

FIGA is directed to pay all processed claims generated by Hurricane Andrew by December 25, 1992, if funds are available and payments are feasible, and to report the number and amount of claims paid to the Legislature by January 1, 1993.

Minority participation requirements applicable to the issuance of municipal bonds for FIGA do not apply to interim financing that is in anticipation of refinancing by the municipal bond issue.

Hurricane Andrew and Sales Tax

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 8-A (CHAPTER 92-350) provides that all sales tax receipts through June 30, 1995, attributable to the impact of Hurricane Andrew and accruing to the General Revenue Fund are transferred to the newly created Hurricane Andrew Recovery and Rebuilding Trust Fund. Paragraph 215.22(1)(q), F.S., is added to stipulate that this new fund is not subject to the General Revenue service charge established by Subsection 215.20(1), F.S. [It is estimated that such transfers will total $198.5 million in fiscal year 1992-1993 and $290.4 million in fiscal 1993-1 994.]

The Governor is authorized to transfer funds through the budget amendment process from the Trust Fund to Dade, Broward, Collier, Monroe and Palm Beach counties, the municipalities located therein and state agencies and entities of the judicial branch affected by the hurricane. Funding for public school enrollment adjustments as a result of Hurricane Andrew are held harmless. Criteria for authorizing the transfer of funds are provided in the act.

Entities receiving funds are subject to audit and repayment of improper expenditures. On June 30, 1995, all unobligated moneys are transferred to the Working Capital Fund.

Unemployment Compensation Contributions

SENATE BILL 14-A (CHAPTER 92-352) adds Subparagraph 433.131(3)(a)4., F.S., to provide that when an individual is separated from an employer as a direct result of a natural disaster as defined in the Disaster Relief Act of 1974, a.k.a. Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288, 88 Stat. 1433 (1974)) and the Disaster Relief and Emergency Assistance Amendments of 1988 (P.L. 100-707, 102 Stat. 4689 (1988)), no benefits subsequently paid to the individual on the basis of wages paid to such individual shall be charged to an employer's account. This act applies to job separations occurring after August 23, 1992.

Unconscionable Pricing Practices

COMMITTEE SUBSTITUTE FOR HOUSE BILL 5-A (CHAPTER 92-353) addresses unconscionable pricing practices during a declared state of emergency. To that end, Section 501.160, F.S., is created to define "commodity" in the context of a state of emergency as meaning any goods, services, materials, merchandise, supplies, equipment, resources or other articles of commerce, including food, water, ice, chemicals, petroleum products and lumber of which the consumption or use is necessitated by the emergency.

Under the law, unconscionable pricing is said to exist if:

1) the charged amount is grossly disparate with the average price at which the commodity, or dwelling unit or self-storage facility was rented, leased or sold or offered for rental, lease or sale during the 30 days immediately preceding the emergency and such disparity is not attributable to additional costs incurred in the rental or sale of the commodity or rental or lease of any dwelling unit or self-storage facility or is not attributable to national or international market trends; or
2) the price grossly exceeds the average price at which the same or similar commodity was readily attainable in the trade area during the immediately preceding 30 days and the increase cannot be attributed to national or international market trends.

During a state of emergency declared by the Governor, unconscionable pricing is a violation of Section 501.204, F.S., which makes unfair method of competition and unfair trade practice and acts unlawful. Exceptions to these provisions are price increases approved by appropriate government agencies, and sales by growers, producers or processors of raw or processed food products, other than direct retail sales to consumers in an area of declared emergency. The legislation does not preempt the authority of local government to restrict unconscionable pricing during a declared

state of emergency. However, any such ordinance must use the evidentiary standards and defenses in Section 501.160, F.S.

Section 501.164, F.S., is created to permit the court to impose a civil penalty or not more than $1,000 per violation and an aggregate total of not more than $25,000 for any 24-hour period against any person for violation of Section 501.160, F.S. This penalty is in addition to remedies of the Florida Deceptive and Unfair Trade Practices Act, Section 501.201, F.S.

Burglary and Trespass/Redefinition of Terms

The terms "structure," "dwelling," and "conveyance," as used in Chapter 810, F.S., which relates to burglary and trespass, are given a broader meaning during a state of emergency declared by gubernatorial executive order or proclamation pursuant to the State Emergency Management Act, Chapter 252, F.S., by SENATE BILL 12-A (CHAPTER 92-351). In such instances, the legal definition includes such portions or remnants of structures or dwellings as exist at the original site, regardless of the absence of a wall or roof. Conveyance is defined under these circumstances as "a motor vehicle, ship, vessel, railroad car, trailer, aircraft or sleeping car or such portions thereof as exist." The amended definitions apply only within the area covered by the Governor's declaration of emergency.

Revision of Pari-mutuel Laws

As part of the pari-mutuel legislative package enacted as Chapter 91-197, Laws of Florida, the majority of such laws were scheduled for automatic repeal on July 1, 1992. No proposed revisions were enacted prior to the Sundown repeal and the Circuit Court of the Second Judicial Circuit upheld the repeal following judicial review. An effective repeal date of August 25, 1992, was set.

Consequently HOUSE BILL 37-A (CHAPTER 92-348) merges the statutory provisions relating to jai alai in Chapter 551, F.S., into Chapter 550, F.S., which previously concerned only dogracing and horseracing.

The law repeals Subsection 20.16(4), F.S., thereby specifically abolishing the Pari-mutuel Commission which had been abolished by operation of the repeal provisions.

Section 550.002, F.S., is created to consolidate and expand definitions in the pari-mutuel statutes.

Sections 550.0115 and 550.01215, F.S., are enacted to require a permitholder to apply annually for a license which would specify the days the permitholder may operate during a racing season. The operating schedule of the permitholder must be submitted to the Division of Pari-mutuel Wagering of the Department of Business Regulation as a prerequisite to the issuance of an operating license.

The powers and duties of the Division pursuant to statutes and administrative rules are described in Section 550.0251, F.S.

Section 550.0351, F.S., provides for the holding of charity days by permitholders.

Section 550.054, F.S., requires an initial application for a permit to contain additional information from an applicant than was mandated by prior law. The requirements for license transfer are specified.

The issuance of occupational, totalizer and nonwagering licenses are clarified in Sections 550.105, 550.495 and 550.505, F.S., respectively.

Pari-mutuel taxes are to be remitted twice a week pursuant to Subsection 550.0951(5), F.S., rather than monthly as previously required. There is no "effective tax rate on handle" or tax exemption levels as existed in law prior to the repeal.

Section 550.155, F.S., as worded in the act imposes no limit on the "takeout" which the permitholder may remove from the wagering pool before making distribution to the contributors (bettors) in contrast with prior law.

Under the provisions of 550.2614, F.S., thoroughbred permitholders are required to deduct 1 percent from their purses to be given to the association representing the majority of thoroughbred owners and trainers to be used to further the goals of the association.

Current prohibitions against bookmaking and fixing of races are reenacted as Sections 550.3615 and 550.235, F.S., respectively.

Provisions relating to drugs and medications are revised through the enactment of Section 550.2415, F.S. The Division is required to implement a split sample testing procedure. If there is the possibility of a drug violation, the owner or trainer of the animal could require the sample to be split with one of the samples being tested at an independent laboratory. With certain exceptions, the law prohibits the use of medications within 24 hours of a race. Oral administration of synthetic corticosteriods is barred. By rule, the Division is to establish acceptable levels of medication. The Division may conduct post mortem examinations of animals under certain circumstances. Greyhounds may be euthanized only by lethal injection.

A number of technical amendments are made to conform the law with the current statutes.

This enactment also provides that the first $250,000 credited to the Pari-mutuel Wagering

Trust Fund each year be used to establish and implement dog, horse and jai alai research and development programs in the State University System.

Maturity Standards for Oranges Revised

HOUSE BILL 17-A (CHAPTER 92-347) amends Subsections (1) and (2) of Section 601.111, F.S., to permit the Department of Citrus to lower by up to 10 percent the existing minimum maturity requirement for the content of anhydrous citric acid in oranges in instances of emergencies which create abnormal conditions in the citrus industry of the state.

Solid Waste Disposal Areas/Building Permits

COMMITTEE SUBSTITUTE FOR SENATE BILL 20-A (CHAPTER 92-346) amends Subsection 404.707(4), F.S., to authorize rather than require the preparation of an advisory report by a water management district of the impact of a Class I or II solid waste disposal area on water resources. This report may be initiated in response to a copy of an application for a construction permit for such disposal areas which must be supplied to the district by the Department of Environmental Regulation within 7 days after filing of the application. Failure of the Department or district to satisfy these provisions cannot be the basis for denial, revocation or remand of any permit or order issued by the Department. This act operates retroactively to July 1, 1982.

AGRICULTURE AND CONSUMER SERVICES*

Dangerous Dogs

COMMITTEE SUBSTITUTE FOR HOUSE BILL 103 (CHAPTER 93-13) amends Sections 767.04 and 767.12, F.S., regarding dog bites to allow respectively, for certain defenses and for appeals from a decision that a dog is "dangerous."

The act also creates the Florida Animal Enterprise Protection Act to protect animal research and display activities from disruption. Definitions, criminal penalties and injunctive relief is provided. These provisions take effect October 1, 1993.

Chemical Standards

COMMITTEE SUBSTITUTE FOR HOUSE BILL 569 (CHAPTER 93-142) addresses various issues under the Division of Standards of the Department of Agriculture and Consumer Services. Statutory antifreeze regulations are relaxed somewhat to encourage marketing of recycled antifreeze by amendment of Section 501.916, F.S., and repeal of Subsection 501.918(6), F.S. By creation of Section 531.415, F.S., the Division's Weights and Measures Laboratory in Tallahassee is provided with a fee schedule for voluntary tests provided for private industry, including scale calibration and testing of other weight measuring devices. The Division of Liquefied Petroleum Gas is transferred from the Department of Insurance to the Department of Agriculture and Consumer Services. This transfer is to take effect March 1, 1994. All other provisions of the act are effective July 1, 1993.

Motor Vehicle Repair Shop Regulation

COMMITTEE SUBSTITUTE FOR HOUSE BILL 955 (CHAPTER 93-219) addresses the number one consumer problem in Florida by establishing a statewide annual registration program for motor vehicle repair shops through the creation of Section 559.904, F.S. These businesses are required to register by October 1, 1993, with the Department of Agriculture and Consumer Services, before engaging in motor vehicle repair activities. Special circumstances are addressed for minor repair businesses, motor vehicle dealers, motor vehicle repair businesses that are subject to local regulation and individuals with no established place of business. Violations of the law created in Section 559.920, F.S., include: (1) nonregistration; (2) representing that a vehicle is unsafe when it is not; (3) making unauthorized or unnecessary repairs; and (4) other such false or misleading activities or claims. The Department of Agriculture and Consumer Services, the Department of Highway Safety and Motor Vehicles and the state attorneys share enforcement authority through revised Section 559.921, F.S., for the regulation. Unless otherwise specified the provisions of the act take effect July 1, 1993.

Liquefied Petroleum Gas

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1029 (CHAPTER 93-248) consolidates definitions (Section 527.01, F.S.) and licensing requirements (Section 527.02, F.S.) for several different types of liquefied petroleum (LP), gas installers and operators. Technical changes were made to conform to the consolidation of licensing requirements. The Department of Agriculture and Consumer Services (Department) is given certain authority with regard to licensure, examination and issuance of qualifier cards. Additions are made to the statute (Section 527.065, F.S.) regarding response and notification requirements for licensees. The Department is also given authority regarding administrative proceedings against licensees in certain situations pursuant to new Subsection 527.13(2), F.S. Department examination results are made confidential (Paragraph 527.02(2)(c), F.S.). The law lowers the fee for category III LP gas cylinder exchange operators to $100 per location, with an annual renewal fee of $65 for each of the first 30 locations (Paragraph 527.02(1)(b), F.S.). The Department is authorized to charge $10 for duplicate qualifier cards (Subsection 527.02(4), F.S.). The Division of Liquified Petroleum Gas transfers from the Department of Insurance to the Department of Agriculture and Consumer Services March 1, 1994. Other provisions of this act take effect June 30, 1993.

Citrus Canker Compensation Program

HOUSE BILL 1977 (CHAPTER 93-52) revises Section 602.025, F.S., to provide for the completion of the citrus canker compensation program. It ensures that all claims will be finally and fully paid, and that the entire program will be audited for

*Prepared by House Agriculture and Consumer Services Committee

adherence to the legislatively declared intent and payment formula. Subsection 602.055(6), F.S., is added to provide a June 30, 1993, deadline for the filing of a release by any claimant. The law authorizes the carrying forward of relevant appropriated funds to June 30, 1994, and for the collection of appropriate unpaid excise taxes. Adjustments to payments are authorized if legislative intent has not been satisfied.

Packaged Ice Plants

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1439 (CHAPTER 93-106) revises Paragraph 500.509(3)(b), F.S., relating to the information required on packaged ice labels. It permits the Department of Agriculture and Consumer Services to issue a single permit for both food and packaged ice through amendment to Paragraph 500.509(4)(a), F.S. The Department must establish rules for specific procedures for operating standards pursuant to revised Subsection 500.509(6), F.S. This enactment deletes the requirement that packaged ice plants conduct weekly product analyses. The Department will determine the schedules by rule. Under Paragraph 500.509(7)(c), F.S., persons violating a rule cannot be charged with criminal penalties, but may face administrative penalties. These provisions take effect October 1, 1993.

Sellers of Travel Regulation

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1499 (CHAPTER 93-107) deals with some problems in the sale of vacation certificates by sellers of travel by revision of Subsection 559.927(4), F.S. The measure requires certain disclosures and a written contract for the sale of vacation certificates and specifies conditions for consumer cancellation and refunds through amendment to Subsections 559.927(7) and (8), F.S. It establishes administrative remedies and strengthens civil penalties available to the courts in cases of violation by adding Subsection 559.927(13), F.S. It revises the exemption in Paragraph 559.927(12)(h), F.S., for travel agencies that have been affiliated with the Airline Reporting Corporation and broadens the enforcement authority of the Department of Agriculture and Consumer Services in Subsection 559.927(9), F.S. This law takes effect October 1, 1993.

SECONDARY LEGISLATION

Frozen Desserts

COMMITTEE SUBSTITUTE FOR SENATE BILL 216 (CHAPTER 93-67) continues the regulation of frozen desserts under Chapter 503, F.S., until July 1, 1994. To enable the Department of Agriculture and Consumer Services to establish a fee schedule related to the cost of the program, producers and wholesalers will be required by a reworded Section 503.041, F.S., to report the amount of product being produced or sold in Florida. The efficacy of this regulatory program will be explored along with the rest of the dairy-inspection program.

Milk-Fat Testers

COMMITTEE SUBSTITUTE FOR SENATE BILL 218 (CHAPTER 93-68) continues the milk-fat testers certification program in Chapter 502, F.S., but requires the industry to pay the costs of the program through a $125 milk-fat tester permit fee as provided in Subsection 502.171(2), F.S. The legislation also requires the Department of Agriculture and Consumer Services to submit a plan to the Legislature by October 1, 1993, for streamlining and upgrading the entire dairy-regulation program.

Seeds and Seedlings

COMMITTEE SUBSTITUTE FOR SENATE BILL 578 (CHAPTER 93-29) adds seedlings, seed plants and vegetative propagating materials to the certification and labeling program in Chapter 578, F.S. [This addition will generate $75,000 in fees.] All fees collected must be used solely for the seed-inspection program as provided in revised Section 578.22, F.S. The act deletes obsolete notice requirements regarding proposed rules to certified seed growers, registered seed dealers and trade organizations found in Section 575.05 and Paragraph 578.11(2)(a), F.S. Notice requirements will conform to the provisions of Chapter 120. The law creates a Seed Technical Council in Section 578.30, F.S., that will have certain budget review powers. It will act as the advisory body to the Commissioner of Agriculture and the Department of Agriculture and Consumer Services on issues involving seed, seedlings, vegetative propagating materials and seed plants. In addition, the Council is required to review, study and make recommendations on any seed matter. The Council will be composed of 11 members, all appointed by the Commissioner of Agriculture. Council members receive no compensation, but will receive per diem and travel.

Business Opportunity Regulation

COMMITTEE SUBSTITUTE FOR HOUSE BILL 933 (CHAPTER 93-244) modifies the fee structure

in Subsections 559.802(1) and 559.805(4), F.S., for the regulation of the sale or lease of business opportunities to make the program self-sustaining. It amends Section 559.803, F.S., to provide additional consumer protection by increasing to 3 working days the timeframe a prospective buyer must be given to review documentation concerning the business opportunity and by requiring an index page which references all the disclosures required by law. The enactment closes a loophole in the definition of "business opportunity" in Subparagraph 559.801(1)(a)4., F.S., with regard to locator services. It also creates Section 559.802, F.S., to establish a limited filing procedure for franchises and exempts them from the rest of the business opportunity law.

Agriculture Industries

COMMITTEE SUBSTITUTE FOR SENATE BILL 1658 (CHAPTER 93-169) is primarily a cleanup law for the Department of Agriculture and Consumers Services. The major substantive portion of the act (Sections 88 through 92) restricts the liability of horse owners and producers of equine-recreational activities for injuries caused by the inherent risks of riding or being around horses. Owners and others would remain liable for injuries resulting from their negligent actions.

Feed Regulation

COMMITTEE SUBSTITUTE FOR SENATE BILL 1818 (CHAPTER 93-90) continues, in modified form, the feed-inspection program. Under Section 580.061, F.S., as amended, all feed producers in the state will pay an inspection fee:

1) commercial feed producers will pay 25 cents per ton, and will have their feed sampled for nutrient guarantees and drugs and adulterants; and
2) cooperatives and the poultry industry will pay 5 cents per ton; and will have their feed sampled only for drugs and adulterants.

The Department of Agriculture and Consumer Services is required to file a program with the Legislature by October 1, 1993, for streamlining and upgrading this program.

Dance Studio and Health Studio

HOUSE BILL 2155 (CHAPTER 93-116) deals with health studios and ballroom dance studios. The act revises Section 501.015, F.S., to increase fees for health studios to make the regulatory program self-sustaining and clarifies language regarding changes in corporate ownership. It also modifies the bonding requirements for ballroom dance studios found in Subsection 501.143(5), F.S., making it easier for smaller established enterprises to be able to register with the Department of Agriculture and Consumer Services. It adds some consumer protection by amending Subsection 501.143(6), F.S., making certain techniques unlawful when used to mislead or coerce the purchaser of dance studio lessons or services and by authorizing the Department to impose fines up to $5,000 per violation (Paragraph 501.143(7)(b), F.S.). The provisions of the act relating to health studios take effect July 1, 1993; those relating to dance studios, October 1, 1993, except for bonding provisions which take effect upon becoming a law.

Unfair and Deceptive Trade Practices Act

COMMITTEE SUBSTITUTE FOR SENATE BILL 1066 (CHAPTER 93-38) relates to the Florida Unfair and Deceptive Trade Practices Act (Sections 501.201-501.213, F.S., or Part II of Chapter 501, F.S.), or "Little FTC Act." The measure makes the law a pure Little FTC Act, consistent with similar laws in most other states and with the federal law. It clarifies some provisions that have caused confusion in the courts and codifies existing practice and case law relating to standards of deception or unfairness established by the Federal Trade Commission. The law increases from $10,000 to $15,000 the penalty for violations involving senior citizens or handicapped persons through revision of Subsection 501.2077(2), F.S.

MINOR LEGISLATION

Telemarketing Regulation

COMMITTEE SUBSTITUTE FOR HOUSE BILL 679 (CHAPTER 93-235) revises the Florida Telemarketing Act (Sections 501.601-501.626, F.S., or Part IV of Chapter 501, F.S.). The act revises the exemptions for magazines and periodicals (Subsection 501.604(6), F.S.) and for companies that provide telemarketing services for other exempt persons (Subsection 501.604(26), F.S.). It adds exemptions for licensed real estate and pest control personnel (Subsections 501.604(26) and (29), F.S., respectively). It requires certain exempt telemarketers to file an affidavit of exemption with the Department of Agriculture and Consumer Services, display this affidavit at their place of business, and show a license or affidavit as a condition of receiving or renewing a local occupational license (Section 501.608, F.S.). The law takes effect October 1, 1993.

Commercial Weight Loss Bill of Rights

HOUSE BILL 1375 (CHAPTER 93-274) confronts the issue of rapid weight-loss programs, an issue that affects the public health and financial welfare, by creating the "Florida Commercial Weight-Loss Practices Act" (Sections 501.057-501.581, F.S.). It requires persons who assist others in losing weight to disclose the cost of the weight-loss program, the approximate duration of the program, the qualifications of the staff involved in the program and a copy of the Consumer Weight-loss Bill of Rights (Section 501.0573, F.S.). This law takes effect October 1, 1993.

Public Fairs and State Fair Authority

SENATE BILL 1640 (CHAPTER 93-168) reenacts Chapter 616, F.S., relating to public fairs and the Florida State Fair Authority. The significant changes made are:

1) minimum liability insurance requirements for fair associations are established at $300,000 (Paragraph 616.15(1)(f), F.S.);
2) fair associations are clearly authorized to utilize facilities year-round for various other uses (Section 616.08, F.S.);
3) the definition of public fairs is expanded to include purposes other than those related to livestock or agriculture (Subsection 616.001(11), F.S.);
4) the Department is authorized to grant a waiver of the minimum number of required fair exhibits, based upon a showing of good cause (Subsection 616.17(3), F.S.);
5) approved games are deleted from the statutes, and the Department is granted authority to approve appropriate games by rule (Subsection 616.241(10), F.S.);
6) clarifies that the Department must be notified about amusement ride accidents (Subparagraph 616.242(4)(e)4.); and
7) approved ride inspectors are expanded with appropriate training (Paragraph 616.242(5)(b), F.S.).

The Department of Agriculture and Consumer Services administers the regulation of public fairs and expositions which includes the Florida State Fair Authority. The Authority membership is increased from 29 to 34 by revision of Paragraph 616.252(1)(a), F.S. This expansion allows for the required representation from each congressional district and also adds one Hillsborough County Commissioner to the Authority as a voting member. In addition, the Authority is required under added Subsection 616.255(5), F.S., to develop a master plan to remedy infrastructure problems on and surrounding the fairgrounds. This act takes effect October 1, 1993.

Water-treatment Devices/Ads

SENATE BILL 408 (CHAPTER 93-43) deletes the requirement in Section 817.558, F.S., that advertisements or solicitations for water-treatment devices contain a statement as to the essential nature of operational, maintenance and replacement requirements for the performance of the product as advertised.

Solicitation of Funds by Charities

COMMITTEE SUBSTITUTE FOR SENATE BILL 1982 (CHAPTER 93-174) revises the definition of "contribution" (Subsection 496.404(5), F.S.) for purposes of the Solicitation of Contributions Act, Chapter 496, F.S., to exclude funds obtained as an allocation from a United Way organization that is duly registered with the Division of Consumer Services of the Department of Agriculture and Consumer Services.

The procedure in Subsection 496.405(7), F.S., for processing registration statements and supporting data submitted by organizations or sponsors is revised to require the Division to examine each application within 10 days of receipt of the application and notify the applicant of errors or omissions and request additional information required by law. Approval or notice of exemption from registration must be supplied to the applicant within 10 days of receipt of the original application or of the request for additional information or correction of errors or omissions. Failure to act results in automatic approval.

Livestock Market Regulations Saved

HOUSE BILL 265 (CHAPTER 93-5) saves Sections 534.47-534.53, F.S., which regulate livestock markets from a Sunset repeal date of October 1, 1993, and continues them in full force and effect.

Leaf Tobacco Sale Regulations Saved

HOUSE BILL 267 (CHAPTER 93-6) continues Sections 574.01-574.14, F.S., relating to the sale of leaf tobacco, in full force and effect thereby saving them from a Sunset repeal date of October 1, 1993.

Arabian Horse Industry Regulations

SENATE BILL 222 (CHAPTER 93-7) revises Section 570.382, F.S., to require the Department of Agriculture and Consumer Services to establish an

Arabian stallion award program in addition to the Arabian horse breeders' award program already in existence and conforms the statutory language in the section to reflect this new program. The Department is authorized to charge stallion owners a reasonable fee, not to exceed $100, to fund the award. This act also extends the terms of the 7-member Arabian Horse Council from 2 to 4 years. These provisions are to become effective on October 1, 1993.

Sale, Show or Exhibition Horses/Drugs

COMMITTEE SUBSTITUTE FOR SENATE BILL 224 (CHAPTER 93-28) amends Section 535.11, F.S., relating to the administration of drugs to horses at horse sales, shows or exhibitions. For purposes of the section, the meaning of "forbidden substance" is expanded to include analgesics, steroidal or nonsteroidal anti-inflammatory drugs or drug metabolite which might affect the performance of a horse. The term also includes any substance which might be used to mask the presence of such substances. Therapeutic measures which comply with the provisions of the section may be used for the improvement and protection of a horse's health. The act also provides for the return of a horse found to have been given forbidden substances following the animal's sale.

Aquaculture Policy Act

SENATE BILL 326 (CHAPTER 93-152) makes a number of technical corrections to Chapter 597, F.S., the Florida Aquaculture Act and saves the chapter from Sundown repeal on October 1, 1993, continuing the provisions in full force and effect. The neuter-gender term "chair" is substituted for "chairman" at appropriate places in Sections 597.003, 597.005 and 597.006, F.S.

The responsibilities of the Aquaculture Review Council (Subsection 597.005(3), F.S.) are revised to: (1) require a quarterly review and discussion of problems that serve as barriers to the growth and development of aquaculture; and (2) when such problems cannot be solved by cooperation or negotiation provide an issue analysis to the Aquaculture Interagency Coordinating Council and to the chairs of the legislative appropriations committees (current law names the Agriculture Committees as the contacts for the Legislature).

In a revision of Subsection 597.006(1), F.S., the Department of Health and Rehabilitative Services is deleted from the list of agencies represented on the Coordinating Council and each water management district is authorized a representative on this Council. Previously, the districts elected one representative for all.

The purpose and responsibilities of the Coordinating Council are amended in Subsection 597.006(4), F.S., to review and discuss aquaculture issues developed by the Review Council and to formulate responses offering solutions and policy alternatives. The provisions of this act takes effect October 1, 1993.

APPROPRIATIONS*

The Budget

Three budget bills were developed in the 1993 Regular Session.

The CONFERENCE COMMITTEE REPORT ON SENATE BILL 1800 (CHAPTER 93-184) provides appropriations for Florida for the 1994-1995 fiscal year. In total, the act authorizes the expenditure of $35.5 billion, including $13.3 billion in General Revenue. Instructions for implementation of these appropriations is provided by SENATE BILL 1802 (CHAPTER 93-185). A summary of the General Appropriations Act, titled "Florida's Fiscal Analysis in brief," is available from the House Committee on Appropriations which alternates annually with the Senate Appropriations Committee in the production of this document. That summary describes with narrative and charts the appropriations act and all other fiscal legislation enacted during the 1993 Regular Session and Special Session B. Selected pages from this publication follow this page.

The CONFERENCE COMMITTEE REPORT ON SENATE BILL 1804 (CHAPTER 93-186) provides appropriations from the Hurricane Andrew Recovery and Rebuilding Trust Fund. The enactment authorizes $49.3 million in expenditures for fiscal year 1992-1993 and $359.5 million for fiscal year 1993-1994 for the areas of South Florida impacted by Hurricane Andrew. In addition, the enactment maintains a $42.2 million reserve which may be used for unanticipated or nonreimbursable costs associated with the Hurricane and to provide a loan for matching federal aid associated with the storm of March 12 and 13, 1993.

HOUSE BILL 1805 (CHAPTER 93-189) provides for supplemental appropriations and budget adjustments for fiscal year 1992-1993 primarily to continue the optional Medicaid programs scheduled to terminate on April 1, 1993.

Trust Funds

COMMITTEE SUBSTITUTE FOR SENATE BILL 1084 (CHAPTER 93-159) addresses Article III Section 19 (f) of the Constitution of the State of Florida, relating to trust funds. It deletes provisions related to the executive and judicial branches' authority to establish trust funds. The act transfers cash balances from abolished trust funds to General Revenue, unless otherwise provided by the Legislature. The measure provides that trust funds will be identified by the existing coding system in the State Automated Management Accounting System (SAMAS). It requires a three-fifths majority vote of each house and a separate bill to create a new trust fund. It limits the life span of all current and new trust funds to 4 years. This law also provides a timetable for the Legislature to review one-third of the state's trust funds during the next three legislative sessions.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1090 (CHAPTER 93-120) abolishes 81 trust funds and fund accounts. Some funds are consolidated, some are rolled into General Revenue and some are inactive funds that are simply being removed from the state's accounting system. Most funds will be abolished on July 1, 1994, but a few specified funds were abolished on July 1, 1993.

This enactment resulted from Section 16 of Chapter 92-142, Laws of Florida, which required that all trust funds except those specifically exempted therein be reviewed during the 1993 Regular Session. Pursuant to that requirement, the House Appropriations Committee produced a list of all existing trust funds and sent it, through the Governor's office, to all state agencies and branches for recommendations concerning abolishing or maintaining each trust fund. The Committee then reviewed trust funds at the subcommittee level to determine which funds should be abolished. The funds listed in this legislation are the result.

*Prepared by House Appropriations Committee

SUMMARY OF 1993–94
TOTAL EFFECTIVE APPROPRIATIONS
(Millions of Dollars)

	General Revenue Fund	Lottery Trust Fund	PECO Trust Fund	Hurricane Andrew Trust Fund	Other Trust Funds	Total Funds
I. SB 1800 – GENERAL APPROPRIATIONS ACT						
A. Operations	13,115.4	850.4			16,584.1	30,549.9
B. Fixed Capital Outlay	118.5	8.4	1,241.5		3,315.4	4,683.8
C. Less Vetoed Items (See page)	(9.0)	0.0	(3.9)		(59.8)	(72.7)
D. Less Failed Contingencies (See page)	0.0	0.0	0.0		(0.3)	(0.3)
Total SB 1800 – General Appropriations Act	13,224.9	858.8	1,237.6		19,839.4	35,160.7
II. SB 1804 – HURRICANE ANDREW RELIEF ACT						
A. Operations				113.7		113.7
B. Fixed Capital Outlay				245.8		245.8
Total SB 1804 – Hurricane Andrew Relief Act				359.5		359.5
III. REGULAR SESSION SPECIAL APPROPRIATIONS ACTS AND CLAIMS BILLS	16.5				44.2	60.7
IV. CS/SB 8B – SUPPLEMENTAL APPROPRIATIONS ACT						
A. Operations	(90.8)				(142.7)	(233.5)
B. Fixed Capital Outlay	118.1				0.0	118.1
Total CS/SB 8B – Supplemental Appropriations Act	27.3				(142.7)	(115.4)
V. SPECIAL SESSION SPECIAL APPROPRIATIONS ACTS AND CLAIMS BILLS			2.1			2.1
VI. STATUTORILY AUTHORIZED NON–OPERATING DISBURSEMENTS	3.0					3.0
TOTAL EFFECTIVE APPROPRIATIONS	13,271.7	858.8	1,239.7	359.5	19,740.9	35,470.6

Senate Bill 1800
General Appropriations Act for Fiscal Year 1993–94
Vetoed Appropriations

Item Number	Item	Amount	Fund
37A	International Market Ornamental Horticulture	250,000	GR
54	Citrus Canker Eradication	858,227	TF
422	U of F Satellite Dental Clinic at Miami–Dade Community College	718,082	GR
481	Waste Tire Collection and Processing Matching Project	2,000,000	TF
521C	Negative Appropriation – Technical Correction of Error	(252,499)	TF
732	FHP Uniform and Shoe Maintenance Allowance Increase	435,825	GR
1889	Corrections Mental Health Facility – Bond Financed	3,100,000	TF
1894	Replacement of Avon Park Correctional Institution – Bond Financed	4,900,000	TF
1895	Corrections Facilities Providing Additional Capacity – Bond Financed	47,548,310	TF
2022A	Debt Service for Correctional Facilities	6,400,000	GR
1940	PECO – Palm Beach CC – Data Processing Building and Equipment	2,200,000	PECO TF
1941	PECO – FSU – Business Technology Center	1,652,650	PECO TF
2010A	Public Broadcasting Station Equipment	1,200,000	GR
2018A	Port and Soil Mitigation Projects	1,660,390	TF
	TOTAL ALL FUNDS	**72,670,985**	

General Revenue Fund	9,003,907
PECO Trust Fund	3,852,650
Other Trust Funds	59,814,428

GENERAL REVENUE AND WORKING CAPITAL FUNDS
for Regular Session of Spring 1993 and Special Session "B"
FINANCIAL OUTLOOK STATEMENT
FY 1992-93 and 1993-94
(MILLIONS OF DOLLARS)

DATE : 09-Jul-93
TIME : 09:00 AM

	GENERAL REVENUE FUND	WORKING CAPITAL FUND	TOTAL ALL FUNDS	RECURRING FUNDS	NON-RECURRING FUNDS
FUNDS AVAILABLE 1992-93					
Balance forward from 91-92	122.7	61.9	184.6	0.0	184.6
Estimated revenues	12,004.1	0.0	12,004.1	12,056.6	(52.5)
Hurricane Andrew/revenue impact	233.5	0.0	233.5	0.0	233.5
Transfer to Hurricane Andrew TF (SB 8A)	(228.8)	0.0	(228.8)	0.0	(228.8)
Measures affecting revenues (B)	(1.6)	0.0	(1.6)	(6.6)	5.0
Midyear reversions	22.2	0.0	22.2	0.0	22.2
Cancellation of warrants	2.0	0.0	2.0	0.0	2.0
FCO reversions	2.0	0.0	2.0	0.0	2.0
Working Capital Fund interest	0.0	6.6	6.6	0.0	6.6
Trust fund transfers	11.8	3.0	14.8	0.0	14.8
Transfer to Working Capital Fund	(99.4)	99.4	0.0	0.0	0.0
Transfer from Working Capital Fund	19.5	(19.5)	0.0	0.0	0.0
Beacon Council loan repayment (C)	0.0	6.0	6.0	0.0	6.0
Baby formula price fixing settlement	10.5	0.0	10.5	0.0	10.5
Total 92-93 funds available	12,098.5	157.4	12,255.9	12,050.0	205.9
EFFECTIVE APPROPRIATIONS 1992-93					
Operations	6,779.4	0.0	6,779.4	6,735.0	44.4
Aid to local government	5,073.8	0.0	5,073.8	5,073.5	0.3
Fixed Capital Outlay	8.4	0.0	8.4	0.0	8.4
Nonoperating disbursements	3.0	0.0	3.0	0.0	3.0
Dept. of Military Affairs-Hurricane Andrew	1.0	0.0	1.0	0.0	1.0
Beacon Council Loan (C)	0.0	10.0	10.0	0.0	10.0
Supplemental Appropriations HB 1805	(31.8)	0.0	(31.8)	(31.8)	0.0
Supplemental Appropriations SB 8B	(29.7)	0.0	(29.7)	(29.7)	0.0
Special appropriations (HB 279)	0.4	0.0	0.4	0.0	0.4
Total 92-93 effective appropriations	11,804.5	10.0	11,814.5	11,747.0	67.5
AVAILABLE RESERVES	294.0	147.4	441.4	303.0	138.4
FUNDS AVAILABLE 1993-94					
Balance forward from 92-93	294.0	147.4	441.4	0.0	441.4
Estimated revenues	13,016.1	0.0	13,016.1	13,000.4	15.7
Hurricane Andrew/revenue impact	319.5	0.0	319.5	0.0	319.5
Transfer to Hurricane Andrew TF (SB 8A)	(311.8)	0.0	(311.8)	0.0	(311.8)
Transfer to Working Capital Fund	(117.1)	117.1	0.0	0.0	0.0
Transfer from trust (SB 1802, s. 39)	2.0	0.0	2.0	0.0	2.0
Measure affecting revenues (D)	(6.1)	0.0	(6.1)	20.1	(26.2)
Midyear reversions	9.0	0.0	9.0	0.0	9.0
Unused appropriations	61.1	0.0	61.1	0.0	61.1
Cancellation of warrants	2.0	0.0	2.0	0.0	2.0
FCO reversions	2.0	0.0	2.0	0.0	2.0
Working Capital Fund interest	0.0	10.8	10.8	0.0	10.8
Federal reimbursement-Dept Military Affairs	1.0	0.0	1.0	0.0	1.0
Beacon Council loan repayment (C)	0.0	1.0	1.0	0.0	1.0
Total 93-94 funds available	13,271.7	276.3	13,548.0	13,020.5	527.5
EFFECTIVE APPROPRIATIONS 1993-94					
Operations	7,615.0	0.0	7,615.0	7,500.1	114.9
Aid to local government	5,499.0	0.0	5,499.0	5,466.5	32.5
Fixed Capital Outlay	79.7	0.0	79.7	0.0	79.7
Fixed Capital Outlay/ALG	31.2	0.0	31.2	0.0	31.2
Special appropriations acts (E)	16.5	0.0	16.5	14.5	2.0
Supplemental Appropriations SB 8B	27.3	0.0	27.3	(90.8)	118.1
Nonoperating disbursements	3.0	0.0	3.0	0.0	3.0
Total 93-94 effective appropriations	13,271.7	0.0	13,271.7	12,890.3	381.4
AVAILABLE RESERVES	0.0	276.3	276.3	130.2	146.1

FOOTNOTES

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

(B) The following tax law changes were passed ($ millions)-

		TOTAL	Recurring	Nonrecurring
H 1991	Parimutuel regulation/jai alai	0.0	-1.7	1.7
H 1993	Parimutuel regulation/harness racing	(0.3)	(0.7)	0.4
H 2297	Parimutuel regulation/thoroughbred racing	(1.3)	(4.2)	2.9
	Total	(1.6)	(6.6)	5.0

(C) This $10 million in loans to the Beacon Council is associated with Hurricane Andrew. At least $7 million is expected to be repaid.

(D) The following tax law changes were passed ($ millions)-

		TOTAL	Recurring	Nonrecurring
S 152	Mobile home & RV park fees	0.1	0.1	0.0
S 516	DBR auditors	0.2	3.7	-3.5
S 884	Firearms/background check fees	0.1	0.1	0.0
S 1086	Tax administration	(4.5)	0.0	(4.5)
S 1800	Tax administration	3.5	23.3	(19.8)
S 2008	Timeshare filing fees	0.1	0.1	0.0
S 1858	Emergency management	0.9	0.9	0.0
H 557	Sales tax exemptions	(0.4)	(2.2)	1.8
H 955	Motor Vehicle Repair Act	0.1	0.1	0.0
H 1751	Wasterwater treatment	0.2	0.3	(0.1)
H 1991	Parimutuel regulation/jai alai	(1.7)	(1.7)	0.0
H 1993	Parimutuel regulation/harness racing	(0.7)	(0.7)	0.0
H 2297	Parimutuel regulation/thoroughbred racing	(4.2)	(4.2)	0.0
H 2071	Clinical lab fees	0.0	0.2	(0.2)
H 2203	Nursing homes/FDLE background check	0.1	0.1	0.0
S 10B	Motor vehicle license plate replacement fees	0.1	0.0	0.1
	Total	(6.1)	20.1	(26.2)

(E) The following special appropriations were passed-

		TOTAL	Recurring	Nonrecurring
S 676	Relief/Swindell	372,741		372,741
S1288	Sudden Infant Death Syndrome	125,000	125,000	
S1914	Health Care	15,925,773	14,324,928	1,600,845
H 683	African American Affairs Commission	18,000	18,000	
H2203	Nursing Home Sunset	21,608	21,608	
	Total	16,463,122	14,489,536	1,973,586

General Appropriations Act for 1993–94
Items Contingent Upon Other Legislation

Specific Appropriation	Positions	Amount	Fund	Contingency	Status
17,18,19,20,21	22.5	1,104,150	TF	SB 1260 or similar legislation becoming law	CS/HB 569 became law without Gov's signature CH 93–142
123AB, 123AD	–37	(651,860)	TF	Legislation repealing surcharge for alcoholic beverages	Failed to become law
164A		4,300,000	GR	HB 2311 or similar legislation becoming law	CS/SB 2382 approved by Gov CH 93–187
164B		520,000	GR	HB 2263 or similar legislation becoming law	CS/SB 2382 approved by Gov CH 93–187
164C		4,867,618	GR	HB 1947 or similar legislation becoming law	CS/SB 2382 approved by Gov CH 93–187
174,178		1,500,000	TF	Legislation authorizing transfer of Corp TF to FL International Trade and Promo TF	SB 1802 approved by Gov CH 93–185
394A		200,000	GR	HB 1283 or similar legislation becoming law	CS/HB 1283 approved by Gov CH 93–122
676F		300,000	GR	HB 1927 or similar legislation becoming law	HB 1927 approved by Gov CH 93–200
680A		6,000,000	GR	HB 587 or similar legislation becoming law	CS/SB 1706 approved by Gov CH 93–136
		7,980,539	TF		
1120,1122,1123,1125	6	259,934	TF	HB 1235 or similar legislation becoming law	CS/HB 1235 became law without Gov's signature CH 93–252
1195		50,000	TF	CS/HB 1973 or similar legislation becoming law	Failed to become law
1291,1293,1294,1296	2	154,222	TF	HB 1361 or similar legislation becoming law	Failed to become law
1462A		225,000	GR	SB 42 or similar legislation becoming law	CS/CS/SB 42 became law without Gov's signature CH 93–193
1466		197,155	GR	Passage of legislation authorizing new judgeships	CS/SB 1092 approved by Gov CH 93–63
1471 through 1483	56	2,482,456	GR	Passage of legislation authorizing new judgeships	CS/SB 1092 approved by Gov CH 93–63
1791A		1,500,000	TF	Legislation authorizing transfer of Corp TF to FL International Trade and Promo TF	SB 1802 approved by Gov CH 93–185
1889,1894, 1895,1896A	(Vetoed)	58,415,631	TF	HB 1999 or similar legislation becoming law	SB 1802 approved by Gov CH 93–185
2022A (Vetoed)		6,400,000	GR	HB 1999 or similar legislation becoming law	SB 1802 approved by Gov CH 93–185

General Appropriations Act for 1993–94
Items Contingent on Action Other Than Legislation

Specific Appropriation	Positions	Amount	Fund	Contingency
4		400,000	GR	Adoption of a Spending Plan
355		72,117	GR	Deposit of all support funds into the State Treasury
		312,000	TF	
449	6	328804	TF	Sufficient Title I funds are available for administrative purposes
479		1,889,202	TF	Release of State from damage liability
609		41157197	GR	Requires 8% local match
		113,367,287	TF	
617		768,306	GR	Requires 25% local match
629,633A,634		42,795,539	GR	Funds for Developmental Training Programs require 12.5% local match
		21,526,008	TF	
633A		2,175,000	GR	Approval from Federal government of additional
		2,634,819	TF	waiver slots
688V,688Z,688AB,688AX		194,652,554	TF	Sufficient amounts of state match being provided by counties
688AH		10,000,000	GR	Adoption of the Ten Point Plan
		12,163,121	TF	
691A	198	5,337,565	TF	Earning sufficient CSE incentive funds to meet state match requirements
830,831,832,833	17.5	844,153	GR	Action by the Florida Supreme Court
830,831,832,833		160,416	TF	Filing motions seeking compensation and reimbursement
1349E		1,888,000	TF	Adoption of a Spending Plan
1548	54	706,925	TF	Demonated need based on toll facility opening dates
1558,1559,1560		938,000	TF	Demonated need based on federal approved schedule for metric conversion
1794		9,700,000	TF	Contracts have been signed pursuant to s. 339.08(3), F.S.
1879		12,057,765	TF	Passage of 1994–95 appropriations for statewide implementation of radio system
1954A		1,320,374	GR	Donation of suitable property by the City of Opa–Locka
2015		3,250,000	GR	A competitive award process developed and used
Section 8		10,000,000	WCF	Location of a federal Defense Finance and Accounting Center in Escambia County
Section 9		11,000,000	WCF	Medicaid disproportionate share not being increased

REGULAR SESSION - 1993

SPECIAL APPROPRIATIONS ACTS FOR FY 1993-94 BUDGET YEAR

Bill No.	Short Title	FUND	Positions	Nonrecurring	Recurring	Total
S 516	DBR auditors	DBR Alcoholic Beverage & Tobacco TF	59 pos.		3,325,000	3,325,000
S 676	Relief/Mr. & Mrs. Darriel Swindell	GR/Dept. of Corrections		372,741		372,741
S 1244	Sudden Infant Death Syndrome	GR			125,000	125,000
S 1552	Construction industry regulation	Professional Regulation TF	4 pos.		236,189	236,189
S 1804	Hurricane Andrew Relief Act	Hurricane Andrew Recovery & Rebuilding TF		359,468,565		359,468,565
S 1858	Emergency Preparedness	Emergency Management Preparedness & Asst. TF	9 pos.		12,700,000	12,700,000
S 1914	Health Care - sec. 61	GR/HRS	1 pos.		2,050,000	2,050,000
S 1914	Health Care - sec. 60	GR/AHCA	107 pos.	1,600,845	12,274,928	13,875,773
S 1914	Health Care - sec. 60	various TF			6,528,361	6,528,361
S 2008	Vacation Plan & Time-Sharing Act - sec. 13	DBR Florida Land Sales TF	11 pos.		492,554	492,554
S 2382	Economic Development - sec. 61	Florida International Trade & Promotion TF			1,000,000	1,000,000
H 281	Relief/Fla. National Guard Members	Military Affairs		30,125		30,125
H 401	Relief/Steven Tomesko	DOT		289,350		289,350
H 403	Relief/Denise Parmentier	DOT		350,000		350,000
H 461	Waste Management & Regulation - sec. 62	DER Operating TF	8 pos.		590,000	590,000
H 461	Waste Management & Regulation - sec. 20	Solid Waste Management TF/DER	15 pos.	200,000		200,000
H 461	Waste Management & Regulation - sec. 55	Solid Waste Management TF/DER		200,000		200,000
H 461	Waste Management & Regulation - sec. 56	Solid Waste Management TF/DER		100,000		100,000
H 461	Waste Management & Regulation - sec. 58	Solid Waste Management TF/DMS		300,000		300,000
H 461	Waste Management & Regulation - sec. 59	Solid Waste Management TF/DOC		300,000		300,000
H 461	Waste Management & Regulation - sec. 68	Solid Waste Management TF/HRS			880,000	880,000
H 461	Waste Management & Regulation - sec. 70	Solid Waste Management TF/DER	15 pos.		750,000	750,000
H 461	Waste Management & Regulation - sec. 71	Solid Waste Management TF/DOR	105 pos.		2,557,553	2,557,553
H 461	Waste Management & Regulation - sec. 73	Solid Waste Management TF/DER		600,000	700,000	1,300,000
H 461	Waste Management & Regulation - sec. 74	Solid Waste Management TF/DER		500,000		500,000
H 683	African-American Affairs Commission	GR/EOG			18,000	18,000
H 955	Florida Motor Vehicle Repair Act	DACS General Inspection TF	18 pos.		987,698	987,698
H 1423	Collection Agencies sec. 3, 14	DBR Regulatory TF	3 pos.		74,000	74,000
H 1499	Sellers of Travel - sec. 4	DACS General Inspection TF	2 pos.		65,911	65,911
H 1751	DNR & DER/Merging - sec. 62	Cross Florida Barge Canal TF	10 pos.		1,200,000	1,200,000
H 1751	DNR & DER/Merging - sec. 63	Cross Florida Barge Canal TF			900,000	900,000
H 1751	DNR & DER/Merging - sec. 64	Cross Florida Barge Canal TF			900,000	900,000
H 1751	DNR & DER/Merging - sec. 65	Cross Florida Barge Canal TF		50,000		50,000
H 1751	DNR & DER/Merging - sec. 86	Pollution Recovery TF	54 pos.		3,200,000	3,200,000
H 1927	Juvenile Justice	HRS	2 pos.	0		0
H 1977	Citrus Canker Eradication Program	Citrus Canker Eradification TF		2,600,000		2,600,000
H 1987	Home Health Services/Sunset	AHCA Health Care TF	3 pos.		106,524	106,524
H 2013	Environmental Permitting - sec. 3	Economic Development TF	5 pos.		272,000	272,000
H 2071	Health Care/Sunset - sec. 24	AHCA Health Care TF	21 pos.		927,918	927,918
H 2197	Adult Congregate Living/Sunset	AHCA Health Care TF	4.5 pos.		155,520	155,520
H 2203	Nursing Homes/Sunset/Sundown - sec. 45	HRS Administrative TF			21,605	21,605
H 2203	Nursing Homes/Sunset/Sundown - sec. 45	GR/HRS			21,608	21,608
H 2203	Nursing Homes/Sunset/Sundown - sec. 46	FDLE Operating TF	2 pos.		54,492	54,492
H 2203	Nursing Homes/Sunset/Sundown - sec. 47	AHCA Health Care TF	3 pos.		106,524	106,524
		TOTAL		366,961,626	53,221,385	420,183,011
		General Revenue		1,973,586	14,489,536	16,463,122
		Trust Funds		364,988,040	38,731,849	403,719,889

REGULAR SESSION - 1993

SPECIAL APPROPRIATIONS ACTS FOR FY 1992-93 BUDGET YEAR

Bill No.	Short Title	FUND	Positions	Nonrecurring	Recurring	Total
S 1804	Hurricane Andrew Relief Act	Hurricane Andrew Recovery & Rebuilding TF	5 pos.	49,343,903		49,343,903
H 279	Relief/Diane Stampler	GR/HRS		350,228		350,228
H 1805	Supplemental Appropriations Act	GR/various			(31,820,773)	(31,820,773)
H 1805	Supplemental Appropriations Act	various			(44,287,762)	(44,287,762)
H 1977	Citrus Canker Eradication Program	Citrus Canker Eradification TF		1,600,000		1,600,000
			TOTAL	51,294,131	(76,108,535)	(24,814,404)
			General Revenue	350,228	(31,820,773)	(31,470,545)
			Trust Funds	50,943,903	(44,287,762)	6,656,141

LEGISLATION AFFECTING REVENUES FOR 1993 LEGISLATIVE REGULAR SESSION & SPECIAL SESSIONS THRU "B"
GENERAL REVENUE FUND
($ MILLIONS)

	FY 1990-91 Actual	FY 1991-92 Actual	FY 1992-93 Forecast	FY 1993-94 Current Forecast	FY 1993-94 Regular Session Legis.	FY 1993-94 "B" Session Legis.	FY 1993-94 Revised Forecast	FY 1994-95 Current Forecast	FY 1994-95 Regular Session Legis.	FY 1994-95 "B" Session Legis.	FY 1994-95 Revised Forecast
Sales tax/GR	7,108.7	7,627.9	8,675.5	9,545.2	3.7	0.0	9,548.9	10,004.9	28.2	0.0	10,033.1
Beverage tax & licenses	527.7	516.9	529.7	541.0	(6.7)	0.0	534.3	551.9	(3.5)	0.0	548.4
Corporate income tax	701.6	801.3	803.4	880.3	3.5	0.0	883.8	962.6	11.5	0.0	974.1
Documentary stamp tax	305.8	359.1	364.6	401.2	(10.0)	0.0	391.2	426.0	(25.0)	0.0	401.0
Tobacco taxes	135.1	129.7	132.0	133.2	0.0	0.0	133.2	134.4	0.0	0.0	134.4
Insurance premium tax	199.2	213.1	235.1	249.9	0.9	0.0	250.8	256.9	0.9	0.0	257.8
Parimutuels tax	66.6	58.4	70.2	69.5	(6.6)	0.0	62.9	70.5	(6.4)	0.0	64.1
Intangibles tax	290.0	324.5	480.2	513.9	0.8	0.0	514.7	527.8	3.4	0.0	531.2
Estate tax	301.0	291.4	301.0	310.0	0.0	0.0	310.0	322.2	0.0	0.0	322.2
Interest earnings	106.6	89.4	86.5	83.0	0.0	0.0	83.0	92.1	0.0	0.0	92.1
Public safety fees	40.7	60.5	55.1	57.1	0.0	0.0	57.1	58.1	0.0	0.0	58.1
Medical-hospital fees	108.0	102.9	111.8	129.1	0.0	0.0	129.1	151.1	0.0	0.0	151.1
Motor vehicle impact fees	0.0	87.7	67.6	79.5	0.0	0.0	79.5	113.6	0.0	0.0	113.6
Auto title & lien fees	21.5	19.7	20.8	21.3	0.0	0.0	21.3	21.9	0.0	0.0	21.9
Severance tax	35.3	36.2	29.6	29.2	0.0	0.0	29.2	29.3	0.0	0.0	29.3
Corporation Filing Fees	0.0	0.0	87.5	92.1	0.0	0.0	92.1	94.2	0.0	0.0	94.2
Service charges	204.4	262.0	286.6	300.5	7.6	0.1	308.2	313.5	8.1	0.0	321.6
Other taxes & fees	121.2	124.5	97.3	99.3	0.6	0.0	99.9	101.7	1.6	0.0	103.3
Total Revenue	10,273.4	11,105.2	12,434.5	13,535.3	(6.2)	0.1	13,529.2	14,232.7	18.8	0.0	14,251.5
Less:Refunds	150.2	206.6	198.5	199.7	0.0	0.0	199.7	211.7	0.0	0.0	211.7
Net General Revenue	10,123.2	10,898.6	12,236.0	13,335.6	(6.2)	0.1	13,329.5	14,021.0	18.8	0.0	14,039.8
Distribution to Hurricane Andrew Trust Fund	0.0	0.0	228.8	311.8	0.0	0.0	311.8	89.8	0.0	0.0	89.8
Total General Revenue	10,123.2	10,898.6	12,007.2	13,023.8	(6.2)	0.1	13,017.7	13,931.2	18.8	0.0	13,950.0

TABLE 2B
Tax Law Changes Affecting General Revenue, 1993 Legislation

			1993-94			1994-95		
			Cash	Recurring	Nonrecur.	Cash	Recurring	Nonrecur.
Sales Tax								
S 1086	Promotional materials retroactive refunds		-4.3	--	-4.3	--	--	--
S 1800	DOR auditors		7.8	23.4	-15.6	22.0	23.4	-1.4
S 1800	Private auditors		0.6	7.2	-6.6	6.4	7.2	-0.8
H 557	Exemption for natural gas used on farms		-0.2	-0.2	--	-0.2	-0.2	--
H 557	Distribution to Golf Hall of Fame		--	-2.0	2.0	0.0	-2.0	2.0
H 557	Retroactive exemption of certain associations		-0.2	--	-0.2	--	--	--
		TOTAL	3.7	28.4	-24.7	28.2	28.4	-0.2
Beverage Tax								
S 516	DBR auditors	TOTAL	-6.7	-3.5	-3.2	-3.5	-3.5	--
Corporate Income Tax								
S 1800	DOR auditors		3.2	9.5	-6.3	8.9	9.5	-0.6
S 1800	Private auditors		0.3	2.9	-2.6	2.6	2.9	-0.3
		TOTAL	3.5	12.4	-8.9	11.5	12.4	-0.9
Documentary Stamp Tax								
S 1800	P2000 bonds	TOTAL	-10.0	-25.0	15.0	-25.0	-25.0	--
Insurance Premium Tax								
S 1858	Surcharge for Emergency Management	TOTAL	0.9	0.9	--	0.9	0.9	--
Parimutuel taxes								
H 1991	Jai-alai regulation		-1.7	-1.7	--	-1.7	-1.7	--
H 1993	Harness racing regulation		-0.7	-0.7	--	-0.7	-0.7	--
H 2997	Thoroughbred racing regulation		-4.2	-4.2	--	-4.0	-4.0	--
		TOTAL	-6.6	-6.6	0.0	-6.4	-6.4	0.0
Intangibles tax								
S 1086	Penalty for late filing		-0.2	--	-0.2	--	--	--
S 1800	DOR auditors		0.9	2.8	-1.9	2.6	2.8	-0.2
S 1800	Private auditors		0.1	0.9	-0.8	0.8	0.9	-0.1
		TOTAL	0.8	3.7	-2.9	3.4	3.7	-0.3

TABLE 2B
Tax Law Changes Affecting General Revenue, 1993 Legislation

			1993-94			1994-95		
			Cash	Recurring	Nonrecur.	Cash	Recurring	Nonrecur.
Service Charges								
S	152	Mobile Home & RV Park fees	0.1	0.1	--	0.1	0.1	--
S	516	DBR auditors/ABT trust fund	6.9	7.2	-0.3	7.2	7.2	--
S	884	Firearm background check fee	0.1	0.1	--	0.1	0.1	--
S	1800	IFTA/fuel use decals	--	-0.1	0.1	--	--	--
S	2008	Timeshare filing fees	0.1	0.1	--	0.1	0.1	--
H	995	Motor Vehicle Repair Act/fees	0.1	0.1	--	0.1	0.1	--
H	1751	Wastewater treatment fees	0.2	0.3	-0.1	0.3	0.3	--
H	2071	Clinical Labs/fees	--	0.2	-0.2	0.2	0.2	--
H	2203	Nursing homes/FDLE backgroung check	0.1	0.1	--	--	--	--
S	10B	Motor vehicle license plate renewal fee	0.1	--	0.1	--	--	--
		TOTAL	7.7	8.1	-0.4	8.1	8.1	0.0
Other Taxes & Fees								
S	1800	DOR auditors	0.5	1.3	-0.8	1.2	1.3	-0.1
S	1800	Private auditors	0.1	0.4	-0.3	0.4	0.4	--
		TOTAL	0.6	1.7	-1.1	1.6	1.7	-0.1
TOTAL ALL GENERAL REVENUE TAX LAW CHANGES			-6.1	20.1	-26.2	18.8	20.3	-1.5

PUBLIC EDUCATION CAPITAL OUTLAY (PECO)
FY 1993-94
Conference Committee Report on SB 1800 w/Vetoes and HB 19B

	Total Appro
PUBLIC SCHOOLS SUMMARY	
Formula Dist rem/ren, maint., repairs & improv.	122,590,020
Public School Construction	248,127,924
Developmental Research Schools (2 mill equivalent)	1,007,644
Science & Technology Educ Labs	25,000,000
Fire Safety/Health & Safety Corrections	26,558,450
Capital Planning – Flexible Schedules	1,500,000
Retrofit for Technology	30,000,000
Full Service Schools	16,000,000
Full Utilization	2,000,000
Technology Ed. Lab Equipment (e)	10,800,000
TOTAL PUBLIC SCHOOLS	**483,584,038**
SPECIAL FACILITY CONSTRUCTION ACCOUNT	
Columbia County Elementary School (p,c,e)	7,346,748
TOTAL SPECIAL FACILITY CONSTRUCTION ACC'T	**7,346,748**
COMMUNITY EDUCATION FACILITIES	
Dade School Board/Dade County Environmental Education Center (c,e)	1,665,000
Orange School Board/Orlando Science Center (p,c)	1,600,000
Hillsborough Community College/Hillsborough County English Creek Nature Center (e)	150,000
Leon School Board/Tallahassee Science Center (c,e)	1,845,000
Seminole School Board/City of Altamonte Springs Theraputic Aquatic Center (c,e)	532,475
Broward School Board/Ft. Lauderdale New World Aquarium & Environmental Ed Center (p,c)	451,520
TOTAL COMMUNITY EDUCATION FACILITIES	**6,243,995**
JOINT-USE FACILITIES	
Brevard Community College/UCF Library (c,e)	2,845,375
Broward Community College/FAU Library (c,e)	1,375,000
Monroe School District/FL Keys Community College Joint -Use Classroom Facility (p,c)	71,250
TOTAL JOINT-USE FACILITIES	**4,291,625**
SCHOOL FOR DEAF & BLIND	
Campus Safety related projects	326,400
Capital Asset Management projects	2,682,976
Master Plan Update	9,820
TOTAL SCHOOL FOR DEAF & BLIND	**3,019,196**

PUBLIC EDUCATION CAPITAL OUTLAY (PECO)
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		Total Appro
	PUBLIC BROADCASTING	
	WSRE-TV Pensacola (e)	1,683,700
	WJCT-TV Jacksonville (c)	2,138,875
	WSFP-TV/FM Ft. Myers (p)	337,000
	TOTAL PUBLIC BROADCASTING	**4,159,575**
	DIVISION OF BLIND SERVICES	
	Daytona Beach - Fla Regional Library/Rehab Cntr and Tampa District Office - Library Stack Buildings and Renovations	750,000
	TOTAL DIVISION OF BLIND SERVICES	**750,000**
	VOCATIONAL EDUCATIONAL FACILITIES	
	Lake School Board- Vocational Safety Complex (Phase III) (p,c,e)	2,100,000
	Santa Rosa School Board-Locklin Vo-Tech Center Addition (p,c,e)	791,769
	TOTAL VOCATIONAL ED FACILITIES	**2,891,769**
	COMMUNITY COLLEGES	
SYS	Formula Dist rem/ren, maint., repairs & improv.	12,101,067
SYS	Fire Safety/Health & Safety Corrections	2,654,424
BREV	Astronaut Hall Instructional Dome - Cocoa compl (e)	1,500,000
BREV	Gen ren/rem, Gym,Stu Cen, & Bookstore - Cocoa	1,776,000
BREV	JT/UCF Library - Cocoa partial (c)	4,268,063
BREV	Adjacent land acquisition - Palm Bay (spc)	2,200,000
BROW	Health Sciences Bldg North partial (c)	6,037,348
BROW	Gen ren/rem HVAC,parking,lights,drain,fence,comm sys	2,713,920
BROW	Rem/ren Technical Bldg 13 - Central	1,693,494
BROW	JT/FAU Library - Central complete (ce)	2,062,500
CFLA	Site/School acq & rem-Ocala partial (ce)	507,200
CFLA	Library addition complete (e)	204,293
CFLA	Land Acquisition - Citrus County Center (spc)	800,000
CHIP	Ren/rem communications systems, access road	490,996
CHIP	Adjacent Land Acquisition - Main (spc)	160,000
DAYT	Clsrms/Lab/Off& Multipur Bldg-F/PC complete (e)	291,750
DAYT	Laboratory Bldg 2 - S Vol complete (e)	483,664
DAYT	Clrm/Lab/Office Bldg-W Vol partial (c)	3,170,114
DAYT	Gen ren/rem, comm sys,towers,lights,fire&elec sys,asbtos	608,500
DAYT	Rem/ren Hillcst,Highlds,#3 & 14 Bldgs, - DB partial	766,470
DAYT	Rem/ren Instructional Bldg 1 - South partial	153,058
EDIS	Ren/rem HVAC sys - Ft Myers	900,489
EDIS	Rem/ren Bldgs 1,2,3 - Main	472,978
EDIS	Charlotte Center Bldgs partial (c)	11,891,319
FJAX	Visual Arts Center - South complete (e)	3,594,485
FJAX	Fire Training/Burn Bldg-S complete (ce)	1,080,000
FJAX	Ren/rem Bldg Q Bldg SC & K Bldg NC	1,152,000
FJAX	Rem/ren Bldgs A & D - North	904,788

PUBLIC EDUCATION CAPITAL OUTLAY (PECO)
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		Total Appro
FKEY	Gen Ren/rem LRC,TW Fine Arts&LRC roofs,spalling walls,dock	530,000
FKEY	JT/Monroe Co Schs – Tavernier partial (p)	106,875
GULF	Ren HVAC cen plant,PE Bldg	1,008,000
GULF	Rem/ren Counseling Ctr, Maint Bldg	735,606
GULF	Adjacent land acquisition (spc)	72,000
HILL	Clrm/Voc Labs Bldgs–Brandon complete (ce)	3,683,924
HILL	DP Lab, Stu Svc & Lib Fac–PC complete (e)	378,286
HILL	Aud/Exhib/Stu Svcs Fac–DM partial (c)	7,246,601
HILL	Ren/rem cent HVAC,energy mgt,roofs,ext panels,parking	1,334,245
HILL	Rem/ren Visual Arts Bldg – YC	573,171
INDR	Gen ren/rem roofs,HVAC,secur/com sys–collegewide	973,728
LCTY	Medical Technology Bldg complete (e)	367,500
LCTY	Ren/rem underground pipes–HVAC sys	655,200
LSUM	Gen ren/rem cen co–gen plt/chiller sys	1,152,000
LSUM	Rem/ren sanitation facilities – campuswide	220,000
MANA	Life Fitness/PE Fac – Venice partial (p,c)	2,494,466
MANA	Rem/ren Campuswide – South	322,917
MIAM	Wolfson Ctr Ph III partial (ce)	3,000,000
MIAM	Homestead Campus Ph IIA partial (c)	4,000,000
MIAM	Fine Art/Hum Ctr,Garage & CUP–S partial (c)	11,643,000
MIAM	Gen ren/rem – collegewide	4,933,411
MIAM	Rem/ren clrms/lab/sup–Med Ctr partial	2,576,103
MIAM	Rem/ren clrms/labs/support fac–N partial	2,998,400
MIAM	Rem/ren clrms/labs/sup fac–Wolf partial	2,832,000
MIAM	Rem/ren clsrms,offs,labs,lib,other–South partial	1,547,552
MIAM	Clsrms/Aud/Stu Svcs/Garage–Med C partial (p)	2,531,000
NFLA	Gen ren/rem,site imp,roofing,handicap access	447,043
OKAL	Instructional Arts Ctr,clsrms,amphithr partial (ce)	986,924
OKAL	Gen ren/rem,site imp,elevs,roofs,road – collegewide	1,150,720
OKAL	Approved Spec Purpose Cen Acquis–Crestview partial	1,900,000
PALM	Outdoor & Phys Ed fac–South complete (e)	250,000
PALM	Gen Classrooms Bldg 2–Eissey complete (e)	628,205
PALM	Gen ren,roofs,safety&hazardous mat removal collegewide	1,171,200
PALM	Rem/ren BR Stu Center & Admin Bldg – Eissey	587,000
PALM	Adjacent Land Acquisition – Eissey (spec)	1,500,000
PALM	Data Processing Bldg Addition – Central (p,c,e)	600,000
PASC	Allied Health Inst Fac partial (c)	6,974,415
PASC	Student Services Center – West partial (c)	2,473,349
PASC	Ren/rem comm sys, parking & tennis cts	618,000
PASC	Rem/ren Bldgs A & B Bldgs – West	823,274
PENS	Life Fitness,Health & PE Fac–Milt complete (e)	290,744
PENS	Gen ren/rem 10 Bldgs,roofs – collegewide	1,039,680
PENS	Adjacent land acquisition – Milton/Main partial (spc)	1,985,000
PENS	Community Instruction Ctr – Milton (p)	426,656
POLK	Ren/rem Bldg 3,HVAC,intrs elec sys – WH partial	1,095,313
STJR	St. Augustine Center partial (pc)	200,000
ST.P	Crim Just Ed Trng Cen Ph II/rem–Allstate complete (ce)	510,000
ST.P	LRC,P E,IMTS,Stu Ser,AV,Clsrms,off&rem–TS comp (e)	629,000

PUBLIC EDUCATION CAPITAL OUTLAY (PECO)
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Conference Committee Report on SB 1800 w/Vetoes and HB 19B

		Total Appro
ST.P	Gen ren/rem int & exts 7 Bldgs,Gym – collegewide	1,802,248
ST.P	Seminole Campus Ph I partial (spc)	645,000
SANF	Classroom Bldg N complete (e)	294,955
SANF	Law Enforcement Lab partial (c)	2,015,000
SANF	Student Services Center partial (c)	4,776,060
SANF	Ren/rem communications systems	1,152,000
SEMI	Admin Bldg Addition & Ren complete (e)	1,594,100
SEMI	Ren site imp access & perimeter road	516,608
SEMI	Land Acquisition – East Center Site (sp)	1,000,000
SFLA	Comp Sci & DP labs, offices complete (e)	515,137
SFLA	Horticulture lab, offices complete (e)	273,951
SFLA	Ren parking,landscaping,drainage,energy mgt	904,320
SFLA	Rem/ren Voc Ed & Auto Mechanics Bldgs	875,515
TALL	Library/Av Bldg & rem partial (c)	3,000,000
TALL	Ren/rem,CEP & s/l san fac LCS cons't,utls infrastructure	1,918,982
TALL	Adjacent land acquisition con't partial (spc)	1,500,000
VALE	Osceola Campus Phase I, Bldg I partial (pc)	489,626
VALE	Student Services Center W partial (c)	7,664,122
VALE	Gen ren/rem,site improvements,roofs,roads–collegewide	1,266,377
VALE	Rem/ren clsrms,offs,labs,lib,other–East	2,093,313
VALE	Adjacent land acquisition – East complete (spc)	1,150,000
	TOTAL COMMUNITY COLLEGE PROJECTS	**184,288,742**
	STATE UNIVERSITY SYSTEM	
SUS	Annual Remodeling, ren, maint, repairs & improv.	19,731,712
SUS	Fire Safety/Health & Safety Corrections	4,787,126
SUS	Fire/Safety Corr & Capital Renewal (p,c)	7,688,527
SUS	Master Planning (p)	678,306
SUS	ADA Corrections (p,c)	2,000,000
SUS	New SW University	9,000,000
FAMU	Science Research Facility – Phase I (c,e)	1,300,000
FAMU	Utilities Imp/Central Chilled Water Plant (p,c)	3,500,000
FAMU	Plant Operations Building (e)	371,818
FAMU	Foster/Tanner Complex Remodel & Expansion (c)	3,217,043
FAMU	Addition to School of Business (e)	325,000
FAMU	General Classroom Building – Phase I (p)	795,693
FAMU	Gaither Gym Renovation (p,c,e)	1,825,000
FAU	Boca Raton Infrastructure/Water (p,c)	2,500,000
FAU	Physical Sciences Building (e)	2,000,000
FAU	FAU/Broward CC – Davie Joint–Use Library (c,e)	2,062,500
FAU	General Classroom South Remodeling (c)	5,970,531
FAU	North Palm Beach Campus Expansion (p)	1,316,453
FIU	Education Building (e)	483,934
FIU	Conference Center (e)	600,000
FIU	Library Addition/Renov/Code Corrections (p,c,e)	16,600,000
FSU	Campus Stormwater Improvements (c)	3,500,000
FSU	Utilities Improvements (p,c)	2,000,000
FSU	University Center – Film Program (e)	791,200

PUBLIC EDUCATION CAPITAL OUTLAY (PECO)
FY 1993-94
Conference Committee Report on SB 1800 w/Vetoes and HB 19B

		Total Appro
FSU	Strozier Library Renovation (c)	7,487,700
FSU	Bryan Hall Renovation (c)	4,070,000
FSU	Sandels Building Renovation (p)	300,000
FSU	Magnetic Labratory (e)	4,000,000
FSU	Regional Stormwater Project	624,000
UCF	CEBA III Engineering Research Ctr - Phase A (e)	1,000,000
UCF	Computer Center Expansion (e)	627,000
UCF	Gemini Boulevard Extension (p,c)	1,800,000
UCF	UCF/Brevard CC-Cocoa Joint-Use Library (c)	4,268,063
UCF	Utilities Improvements (p)	500,000
UCF	Human Factors Aviation Laboratory (p)	257,000
UCF	Land Acquisition	3,300,000
UF	Utilities Improvements (p,c)	5,000,000
UF	Veterinary Medicine Academic Wing - Phase I (e)	1,600,000
UF	Veterinary Med. Equine (e)	964,000
UF	Florida Gym Conversion to Classrooms (c)	8,800,000
UF	Physics Building (p)	1,290,000
UNF	Health and Life Sciences (e)	750,000
UNF	Campus Support Facilities & Utilities (p,c)	1,900,000
UNF	Business Building Addition (p)	287,000
UNF	Remodeling/Renovation in Bldgs 1,2,3,9,11 (p,c)	500,000
UNF	Police Station Bldg (p,c,e)	750,000
USF	Tampa Utilities Improvements (p,c)	4,586,000
USF	Science Center Renovation (e)	938,602
USF	St Pete-Infras/New Lib & Remodel Old Lib (c,e)	3,900,000
USF	Health Sciences Research Building (c)	8,493,510
USF	New Education Building (p)	839,890
UWF	Library Addition (e)	540,800
UWF	Bailey Center Complex Renovate/Remodel (c,e)	1,772,818
UWF	Campus-Wide HVAC Replacement/Upgrade (p,c)	2,438,135
UWF	Campus Support Facilities (c)	5,372,029
UWF	Science Building Remodeling & Expansion (p)	562,683
	TOTAL STATE UNIVERSITY PROJECTS	**172,564,073**

TOTAL NEW PECO FUNDS W/O DEBT SVCS	**869,139,761**

GENERAL REVENUE AND WORKING CAPITAL FUNDS
CONSENSUS REVENUE ESTIMATING CONFERENCE
RETROSPECT
FY 1990-91 and 1991-92
(MILLIONS OF DOLLARS)

DATE : 31-Aug-92
TIME : 10:00 AM

	GENERAL REVENUE FUND	WORKING CAPITAL FUND	TOTAL ALL FUNDS	RECURRING FUNDS	NON-RECURRING FUNDS
FUNDS AVAILABLE 1990-91					
Balance forward from 89-90	91.9	163.3	255.2	0.0	255.2
Adjustment to balance forward	3.2	(0.1)	3.1	0.0	3.1
Revenue collections	10,123.2	0.0	10,123.2	10,151.6	(28.4)
Transfer from Working Capital Fund	172.0	(172.0)	0.0	0.0	0.0
Transfer from State Infrastructure Fund	20.0	0.0	20.0	0.0	20.0
Midyear reversions	11.8	0.0	11.8	0.0	11.8
Cancellation of warrants	1.9	0.0	1.9	0.0	1.9
Repayment of loan (DOT)	21.5	0.0	21.5	0.0	21.5
Transfers from trust funds (HB 2303)	39.5	0.0	39.5	0.0	39.5
Transfers from trust funds (HB 21C)	29.0	0.0	29.0	0.0	29.0
Transfer of trust fund interest earnings (HB 23C)	49.2	0.0	49.2	0.0	49.2
Working Capital Fund interest earnings	0.0	12.8	12.8	0.0	12.8
Transfer of DNR unused debt service	4.5	0.0	4.5	0.0	4.5
Balance from SIF closeout	21.4	0.0	21.4	0.0	21.4
Total 90-91 funds available	10,589.1	4.0	10,593.1	10,151.6	441.5
EXPENDITURES FOR 1990-91					
Operations	5,647.5	0.0	5,647.5	5,586.4	61.1
Aid to local government	4,766.4	0.0	4,766.4	4,764.2	2.2
Fixed capital outlay	30.2	1.0	31.2	0.0	31.2
Nonoperating disbursements	2.8	0.0	2.8	2.8	0.0
Total 90-91 expenditures	10,446.9	1.0	10,447.9	10,353.4	94.5
UNENCUMBERED RESERVES	142.2	3.0	145.2	(201.8)	347.0
FUNDS AVAILABLE 1991-92					
Balance forward from 90-91	142.2	3.0	145.2	0.0	145.2
Adjustment to balance forward	(4.8)	0.0	(4.8)	0.0	(4.8)
Revenue collections	10,898.6	0.0	10,898.6	10,927.0	(28.4)
Transfer to Working Capital Fund	(17.0)	17.0	0.0	0.0	0.0
Broward County tax roll refund	9.8	0.0	9.8	0.0	9.8
Midyear reversions	12.0	0.0	12.0	0.0	12.0
Cancellation of warrants	1.4	0.0	1.4	0.0	1.4
Repayment of loans	109.5	15.0	124.5	0.0	124.5
Transfers from trust funds	12.1	18.6	30.7	0.0	30.7
Fixed Capital Outlay reversions	5.4	0.0	5.4	0.0	5.4
Working Capital Fund interest earnings	0.0	8.3	8.3	0.0	8.3
Total 91-92 funds available	11,169.2	61.9	11,231.1	10,927.0	304.1
EXPENDITURES FOR 1991-92					
Operations	6,131.5	0.0	6,131.5	6,070.4	61.1
Aid to local government	4,835.3	0.0	4,835.3	4,833.1	2.2
Fixed capital outlay	69.2	0.0	69.2	0.0	69.2
Fixed capital outlay/Aid to local government	8.1	0.0	8.1	0.0	8.1
Nonoperating disbursements	2.4	0.0	2.4	2.4	0.0
Total 91-92 expenditures	11,046.5	0.0	11,046.5	10,905.9	140.6
UNENCUMBERED RESERVES	122.7	61.9	184.6	21.1	163.5

EDUCATIONAL ENHANCEMENT (LOTTERY) TRUST FUND
for Regular Session of Spring 1993
FINANCIAL OUTLOOK STATEMENT
FY 1992-93 and 1993-94
($ MILLIONS)

DATE: 22-Jun-93
TIME: 11:00 AM

	TOTAL	RECURRING	NON-RECURRING
FUNDS AVAILABLE 1992-93			
Balance forward from 1991-92	48.2	0.0	48.2
Revenues from ticket sales	799.1	799.1	0.0
Retained earnings from DOL	6.7	0.0	6.7
Transfer from Administrative Trust Fund	19.3	0.0	19.3
Interest earnings	2.2	2.2	0.0
Total 92-93 funds available	875.5	801.3	74.2
EFFECTIVE APPROPRIATIONS 1992-93			
Operations	207.3	198.2	9.1
Aid to Local Government	627.1	576.0	51.1
Total 92-93 effective appropriations	834.4	774.2	60.2
AVAILABLE RESERVES	41.1	27.1	14.0
FUNDS AVAILABLE 1993-94			
Balance forward from 1992-93	41.1	0.0	41.1
Revenues from ticket sales	800.9	800.9	0.0
Transfer from Lottery TF	14.6	0.0	14.6
Interest earnings	2.2	2.2	0.0
Total 93-94 funds available	858.8	803.1	55.7
EFFECTIVE APPROPRIATIONS 1993-94			
Operations	204.1	202.6	1.5
Aid to Local Government	646.3	600.5	45.8
Fixed Capital Outlay	8.4	0.0	8.4
Total 93-94 effective appropriations	858.8	803.1	55.7
AVAILABLE RESERVES	0.0	0.0	0.0

PRINCIPAL STATE SCHOOL TRUST FUND
for Regular Session of Spring 1993
FINANCIAL OUTLOOK STATEMENT
FY 1992-93 and 1993-94
($ MILLIONS)

DATE: 22-Jun-93
TIME: 11:00 AM

	TOTAL	RECURRING	NON-RECURRING
FUNDS AVAILABLE 1992-93			
Cash & short term investments balance forward	0.1	0.0	0.1
Maturing long term investments	0.7	0.0	0.7
Abandoned property receipts	31.2	31.2	0.0
Parimutuel escheated tickets	2.5	2.5	0.0
Other non-operating receipts	1.0	1.0	0.0
Interest earnings	0.2	0.2	0.0
Refunds	(0.4)	(0.4)	0.0
Total 92-93 funds available	35.3	34.5	0.8
EFFECTIVE APPROPRIATIONS 1992-93			
Operations	35.5	35.5	0.0
Item #516 SB 288H	5.0	5.0	0.0
Total 92-93 effective appropriations	40.5	40.5	0.0
AVAILABLE RESERVES	(5.2)	(6.0)	0.8
FUNDS AVAILABLE 1993-94			
Cash & short term investments balance forward	0.0	0.0	0.0
Maturing long term investments	0.0	0.0	0.0
Abandoned property receipts	32.3	32.3	0.0
Measures affecting revenue	(0.5)	(0.5)	0.0
Parimutuel escheated tickets	2.2	2.2	0.0
Other non-operating receipts	1.0	1.0	0.0
Interest earnings	0.1	0.1	0.0
Refunds	(0.4)	(0.4)	0.0
Total 93-94 funds available	34.7	34.7	0.0
EFFECTIVE APPROPRIATIONS 1993-94			
Operations	36.7	36.7	0.0
Total 93-94 effective appropriations	36.7	36.7	0.0
AVAILABLE RESERVES	(2.0)	(2.0)	0.0

NOTE: The trust fund currently has long term investments with a face value of $3.8 million. The market value of these assets is estimated at $3.3 million. The value of the long term assets is not included in the above estimates of funds available.

BUSINESS REGULATION*

Florida Uniform Land Sales Practices Law

COMMITTEE SUBSTITUTE FOR HOUSE BILL 411 (CHAPTER 93-190) expands the Department of Business Regulation's jurisdiction by negating any statutory exemption to the Florida Uniform Land Sales Practices Law (Chapter 498, F.S.), if an unlawful act or practice is committed by any person claiming an exemption to the act. The act would clarify certain provisions to ensure the conveyance of fee simple title (Paragraph 498.025(2)(e), F.S.). The law imposes additional requirements relating to the contents of contracts to further protect purchasers of real property (Paragraphs 498.025(2)(g) and 498.025(3)(a), F.S., and Section 498.028, F.S.).

The legislation amends Paragraph 498.025(3)(e), F.S., to provide that streets or roads within a subdivision must be built according to the appropriate governing body's specifications. The measure adds Subsection 498.025(6), F.S., to provide that the burden of establishing the right to any exemption shall be upon the person claiming the benefit or the exemption. The enactment revises Subparagraph 498.027(1)(c)11., F.S., to provide for the completion of certain improvements within the subdivision. The act provides an effective date of October 1, 1993.

Public Service Commission

COMMITTEE SUBSTITUTE FOR HOUSE BILLS 505 AND 959 (CHAPTER 93-201) amends Subsection 350.0605(3), F.S., to prohibit former commissioners from accepting or holding a position of employment with a utility regulated by the Florida Public Service Commission for a period of 2 years following termination of their service on the Commission.

Alcoholic Beverages

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 516 (CHAPTER 93-134) revises Section 561.33, F.S., to prescribe fees for changes of name ($35) or location ($10) by the holder of an alcoholic beverage license and modifies Section 561.025, F.S., to provide that fees be deposited into the Alcoholic Beverage and Tobacco Trust Fund. The act also amends Section 561.19, F.S., to extend, from 45 to 180 days, the period within which an applicant for a beverage license that is awarded pursuant to a drawing must submit certain documentation on his application. Procedures in Subsection 561.20(6), F.S., for awarding licenses in a previously dry county are revised in the law, and the requirement in Section 561.23, F.S., that a license be issued in triplicate is deleted.

The legislation also revises the formula in Section 561.501, F.S., for assessing penalties for failure to pay the surcharge on alcoholic beverages, establishes criteria for determining taxpayer liability and revises the contents of a ballot in Section 567.06, F.S., used to determine whether a county will permit the sale of alcoholic beverages.

In addition, Section 10 of the measure requires the Department of Business Regulation to perform a study on the alcoholic beverage surcharge and report to the Governor, President of the Senate and Speaker of the House of Representatives by November 1, 1993.

Authority of the Public Service Commission

COMMITTEE SUBSTITUTE FOR SENATE BILLS 582 and 584 (CHAPTER 93-35) amends the chapters which relate to the regulation of utilities. The act creates Sections 364.016 and 368.1085 and adds Subsection 366.05(11), F.S., to provide for utility companies to pay Public Service Commission (Commission) travel costs when auditors travel out-of-state to examine records that the utility chooses to keep out-of-state. It also creates Sections 364.015 and 368.1115, F.S., and adds Subsection 366.05(10), F.S., to allow the Commission to seek injunctive relief from circuit courts when customers are threatened with irreparable harm.

The enactment amends Paragraphs 364.055(5)(b) and 366.071(5)(b), F.S., to allow interim telecommunication and electric and gas rates, respectively, to be revised without a rate case proceeding to more closely track market rates. Subsection 366.06(5), F.S., is modified to permit small gas companies to seek rate relief pursuant to proposed agency action procedures. Electric utilities may ask the Commission to recover certain environmental compliance costs under new Section 366.8255, F.S.

The law revises Section 386.021, F.S., to clarify that the Commission does not regulate compressed natural gas used in motor vehicles, makes certain

*Prepared by Senate Commerce Committee

penalties consistent with federal law by amending Section 368.061, F.S., and allows water and waste water utilities to ask the Commission to use projected data for interim rates.

Underground Facilities

COMMITTEE SUBSTITUTE FOR HOUSE BILL 795 (CHAPTER 93-240) creates the "Underground Facility Damage Prevention and Safety Act" to establish a statewide one-call notification system whereby persons throughout Florida will give notice of their intent to excavate by calling a single toll-free number. Notice of these calls will be transmitted to the owners of underground facilities, affording them the opportunity to identify their facilities before excavation commences.

Elevators

COMMITTEE SUBSTITUTE FOR SENATE BILL 920 (CHAPTER 93-16) amends Paragraph 399.02(5)(c), F.S., to establish that the names of companies supplied to the Division of Hotels and Restaurants of the Department of Business Regulation confirming the existence of a service maintenance contract are exempt from the public records law pursuant to Subparagraph 119.14(4)(b)3., F.S. Elevator accessibility requirements for the physically handicapped in Section 399.035, F.S., are also updated and altered to conform Florida law to the Americans With Disabilities Act (Pub. L. 101-336, 104 Stat. 327(1990)). A provision in the law amends Paragraph 399.07(1)(a), F.S., to eliminate the requirement that state elevator inspectors witness an elevator company supervisor's signature certifying that he supervised the construction or installation of the elevator. The Division is also authorized pursuant to revised Paragraph 399.07(2)(a), F.S., to issue a temporary operation permit to a contractor acting as a general agent of an elevator company. Finally, a provision in the law (Subsection 399.105(4), F.S., as amended) extends the time elevator companies have to comply with Division orders from 30 to 60 days.

The law also increases several elevator fees. The fee for an initial application for a certification of competency is increased from $50 to $100 by revision of Subsection 399.045(3), F.S. The cost of a construction permit is increased to $450 (Paragraph 399.05(1)(b), F.S.), and a $50 fee for a late certificate of operation application is established.

Yacht and Ship Brokers and Salesmen

SENATE BILL 1062 (CHAPTER 93-55) revises the Yacht and Ship Broker Act (Chapter 326, F.S.) by adding Subsection 326.003(3), F.S., to provide for enforcement of the Act by the Division of Florida Land Sales, Condominiums and Mobile Homes of the Department of Business Regulation against any person who operates as a broker or salesman without a license in violation of the Act. The law also adds Paragraph 326.004(6)(f), F.S., to authorize the Division to deny a license to any person who has operated as a broker or salesman without a license.

Bingo

COMMITTEE SUBSTITUTE FOR SENATE BILL 1128 (CHAPTER 93-160) reenacts the current bingo law by providing for the repeal of Section 6 of Chapter 92-280, Laws of Florida, which provided for a repeal date of July 1, 1993, for the bingo statutes.

Emergency Telephone Number Fees

SENATE BILL 1906 (CHAPTER 93-171) amends Subparagraph 365.171(13)(a)1., F.S., to exempt pay telephone companies from paying any "911" surcharges.

Taxation on Jai Alai Games

HOUSE BILL 1991 (CHAPTER 93-287) creates Section 500.09511, F.S., to establish a new tax structure for jai alai games. Tax is paid on live handle, in excess of $30,000, if the average handle per performance during the preceding fiscal year was $50,000 or less, at a rate of 7.1 percent until the total amount paid in taxes during 1991-1992 is received; once the 1991-1992 level is reached, the tax rate decreases to a rate of 3.3 percent. If a permitholder does not pay state taxes for 2 consecutive years, the pari-mutuel permit becomes void and escheats to the state. The state is authorized to reissue the permit to another qualified applicant. The law also permits certain jai alai permitholders to conduct intertrack wagering at a rate of 3.3 percent.

Taxation on Harness Horse Live Races

HOUSE Bill 1993 (CHAPTER 93-288) creates Section 550.09512, F.S., to establish the tax structure for harness horseracing. The law imposes a tax equal to 1 percent of the handle per live performance. If a permitholder fails to pay state taxes in 2 consecutive years for failure to operate a full schedule of live races, the permit escheats to the state and the state is authorized to reissue the permit to a qualified applicant.

Taxation on Thoroughbred Horse Races

HOUSE BILL 2297 (CHAPTER 93-123) creates Section 550.09515, F.S., to establish a new tax structure for thoroughbred horseracing which imposes varying tax rates based upon the dates that a thoroughbred permitholder operates. If a permitholder incurs no tax liability in any two consecutive seasons for failure to operate a full schedule of live races, the permit escheats to the state and the state may reissue the permit to a qualified applicant.

The law also reestablishes the Breeders' Cup Meet and amends Section 550.2415, F.S., which requires the Division of Pari-mutual Wagering of the Department of Business Regulation to adopt rules allowing the use of certain medications on racing animals.

COMMERCE*

Unemployment Compensation

COMMITTEE SUBSTITUTE FOR SENATE BILL 390 (CHAPTER 93-153) amends Chapter 443, F.S., relating to unemployment compensation. The act amends Section 443.036, F.S., to provide that the term "employment" does not include certain alien agricultural work by "H2A" workers until the time specified by law. Additionally, "employment" is modified regarding delivery service performed under specified conditions. This measure adds Subsection 443.101(10), F.S., to provide the conditions under which a former employee of a temporary help firm will be disqualified for unemployment benefits.

Secondhand Dealers

COMMITTEE SUBSTITUTE FOR HOUSE BILL 453 (CHAPTER 93-97) adds a new subsection to Section 538.06, F.S., to require secondhand dealers to maintain physical possession of all secondhand goods throughout a transaction. A secondhand dealer is prohibited from accepting title or any other form of security in lieu of physical possession. A secondhand dealer who violates this provision commits a misdemeanor of the first degree. The definition of secondhand goods in Paragraph 538.03(1)(g), F.S., is amended to include motor vehicles. The law clarifies exemption provisions in Subsection 538.03(2), F.S. Jurisdiction is provided to criminal judges by the addition of Subsection 538.02(4), F.S., to determine ownership of secondhand goods. Revised Subsection 538.06(3), F.S., permits the holding period for secondhand goods to be extended beyond the current 60-day maximum if a court determines upon probable cause that the property is stolen and further holding is necessary for the purpose of trial or to safeguard the goods.

Uniform Commercial Code

SENATE BILL 710 (CHAPTER 93-77) repeals Chapter 676, F.S. This chapter contains the provisions of Article 6 of the Uniform Commercial Code relating to bulk transfers.

Financial Institutions Emergency Management

SENATE BILL 720 (CHAPTER 93-47) creates Section 252.52, F.S., to authorize the Comptroller, as the head of the Department of Banking and Finance, to temporarily suspend or modify the financial institutions codes during a state of emergency in order to expedite the recovery of communities affected by the emergency and to encourage financial institutions to meet the financial needs of the communities. The law provides that upon a declaration of a state of emergency by the Governor, the Comptroller may issue a general or specific order which modifies or suspends the financial institutions codes. An order issued by the Comptroller must be published in the first available issue of the Florida Administrative Law Weekly together with a statement describing how the modification or suspension will facilitate recovery from the emergency while maintaining the safety and soundness of the affected financial institutions. An order issued by the Comptroller is effective upon issuance and continues in effect until the expiration of 120 days. The Comptroller may extend an order for one additional 120-day-period if the emergency conditions which gave rise to the initial order still exist. Any order may be terminated at any time by either the Comptroller or by the Legislature by concurrent resolution.

Fire and Going-Out-Of-Business Sales

SENATE BILL 980 (CHAPTER 93-82) revises Section 559.21, F.S., to provide that the tax collector, rather than the sheriff, is authorized to permit fire and going-out-of-business sales. The length of time permitted for the sale is extended from 30 to 60 days. Further, the permit required to conduct the sale is nonrenewable, and the tax collector is prohibited from issuing a permit until any delinquent taxes on goods to be sold have been paid.

Under revised Section 559.22, F.S., the permit registration number is required to be specified in all sale advertisements, and Subsection 559.24(1), F.S., requires the application, stock list and permit to be forwarded to the tax collector, who may then compare the merchandise with the stock list.

Any person publishing an advertisement violating the provisions regarding fire-and-other-goods sales or going-out-of-business sales, is guilty of a second-degree misdemeanor pursuant to new Subsection 559.26(2), F.S. The act takes effect on October 1, 1993.

*Prepared by Senate Commerce Committee

Debt Collection Agencies

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1423 (CHAPTER 93-275) creates the "Florida Commercial Collection Practices Act" Part V of Chapter 559, F.S., Sections 559.541-559.548, F.S., and the "Florida Consumer Collection Practices Act," Sections 559.55-559.785, F.S. These Acts provide for the registration of commercial and consumer collection agencies. The state agency responsible for registering these agencies is the Department of Banking and Finance (Department).

The "Commercial Collection Practices Act" requires persons who are conducting business as a commercial collection agency to register with the Department, remit a $500 registration fee, provide certain information to the Department and obtain a $50,000 surety bond. Persons who violate the law are subject to criminal sanctions.

The "Florida Consumer Collection Practices Act" requires all persons conducting business as a consumer collection agency to register with the Department by January 1, 1994. In addition, these persons must remit a $200 registration fee and provide certain information to the Department. The law prohibits certain collection practices. The provisions of the legislation are in addition to the provisions of the federal Fair Debt Collection Practices Act (15 U.S.C., Section 1692 et seq. (1988)). Persons who violate the act are subject to penalties.

The Division of Consumer Services (Division) within the Department of Agriculture and Consumer Services is to serve as a registry for receiving and maintaining records of inquiries, correspondence and complaints from consumers concerning any person who engages in debt collection practices. The Division is required to classify complaints into certain categories for reporting purposes. The law imposes certain administrative duties on the Department of Banking and Finance with regard to resolving consumer complaints. The law takes effect October 1, 1993.

Limited Liability Companies

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1703 (CHAPTER 93-110) revises Chapters 608 "Limited Liability Companies," and 621, "Professional Service Corporations," F.S., to allow professionals the option of operating as a "professional limited liability company." Under amended Section 621.07, F.S., when organized as a professional limited liability company, member professionals are able to limit their "personal" liability to only those negligent or wrongful acts committed by that member or someone under that member's direct supervision and control. The personal liability of the other member professionals is no greater than that of shareholder employees of a corporation under Chapter 607, F.S., or member employees of a limited liability company organized under Chapter 608, F.S.

The law provides requirements for the organization of (new Section 621.051, F.S.), and rendition of services through (amended Section 621.06, F.S.), a professional limited liability company. Additionally, Chapter 473, F.S., the practicing act for public accountancy, is amended (specifically Sections 473.309, 473.3101 and 473.321, F.S.) to allow the practice of public accountancy through a professional limited liability company. This act takes effect October 1, 1993.

Disposition of Unclaimed Property

HOUSE BILL 1817 (CHAPTER 93-280) lowers the reporting and publication thresholds for abandoned property from $500 to $50. The act revises Subsection 717.132(3), F.S., to increase the administrative fine for violations of Chapter 717, F.S., from $1,000 to $2,000 per violation. Section 3 of the law requires the Department of Banking and Finance (Department) to implement a 6-month amnesty program for the reporting and remitting of abandoned property to the Department. A person is not eligible for amnesty under the program if the Department has knowledge of the obligation of that person to report or remit the unclaimed property to the Department. The legislation extinguishes a cause of action against persons who have an outstanding duty to report or remit property to the Department if that duty arose prior to October 1, 1988, and that person is a participant in the amnesty program. The effective date of the act is October 1, 1993.

Florida Financial Institutions

HOUSE BILL 1819 (CHAPTER 93-111) provides technical, clarifying and substantive changes to the financial institutions codes (Chapters 657-658 and 660-665, F.S.). The major provisions are as follows:

1. The definition of "imminently insolvent" in Paragraph 655.005(1)(k), F.S., is amended to increase the capital requirement from 1.0 percent of total assets to 2 percent.
2. The Department of Banking and Finance is authorized to disapprove pursuant to amended Paragraph 655.0385(1)(b), F.S., the appointment of a new director or executive officer of a financial institution that has undergone a conversion from a national to a state-chartered financial

institution within the preceding 2 years.

3. National credit unions that apply to convert to a state-chartered credit union are subject to a $500 nonrefundable filing fee (Subsection 657.066(4), F.S.).
4. The disclosure threshold regarding the acquisition or divestiture of assets is increased from 10 percent of capital to 20 percent (Subparagraph 655.948(2)(a)2., F.S.).
5. Certain assets are excluded from disclosure requirements.
6. A financial institution is required to disclose the purchase or sale of a wholly or majority owned subsidiary or servicecorporation (Subparagraph 655.948 (2)(a) 8., F.S.).
7. State chartered credit unions are authorized to deposit their reserves into any corporate credit union (Paragraph 657.043(4)(c), F.S.).
8. Banks and trust companies are prohibited from issuing stock at less than par value (Subsection 658.34(2), F.S.).
9. The daily liquidity requirement for nontransaction accounts of state banks is reduced from 15 percent to 8 percent (Subsection 658.68(1), F.S.).
10. Associations are subject to the statutory provisions relating to automatic teller machines and the Florida Business Corporation Act (Subsections 665.013(12) and (33), F.S.).

Corporations

HOUSE BILL 1825 (CHAPTER 93-281) revises Chapters 607 (Corporations) and 617 (Corporations not-for-profit), F.S., to streamline filing requirements, correct internal inconsistencies and add clarifying terminology. The act removes the "bridge" between Chapters 607 and 617, F.S. (Section 607.0301, F.S.), resulting in two independent chapters of corporate law: one for business corporations, and one for not-for-profit corporations.

Under new Section 607.0732, F.S., shareholders in closed corporations with 100 or fewer shareholders are allowed to adopt agreements among themselves with regard to the governance of the corporation, even if the agreement pertains to a matter traditionally delegated to the board of directors. Further, Section 607.10025 is added to permit a corporation to divide or combine its outstanding shares without obtaining the approval of its shareholders, unless otherwise provided in the corporation's articles of incorporation.

Shareholder agreements are no longer prohibited from restricting the board of directors in their corporate management (Paragraph 607.0732(1)(a), F.S.). Voting and quorum requirements for conflict of interest transactions are altered in Subsections 607.0725(5) and (6), F.S. Also, the board of directors may change the par value of shares without shareholder action, unless the articles of incorporation provide otherwise (Subsection 607.1002(7), F.S.).

A corporation with more than 35 shareholders may divide (forward split) or combine (reverse split) its outstanding shares without obtaining the approval of shareholders, unless otherwise provided in the articles of incorporation. However, this is prohibited if the division or combination weakens minority shareholder holdings (Subsection 607.10025(2), F.S.).

With respect to mergers, the law deletes Paragraph 607.1103(7)(c), F.S., the requirement of approval by shareholders of a surviving corporation when the number of shares of the surviving corporation after the merger would exceed by 20 percent the number outstanding immediately before the merger. The legislation does require in Paragraph 607.1104(1)(a), F.S., approval by shareholders of a parent corporation that merges into its subsidiary if the articles of incorporation differ.

Certain provisions regarding fictitious names and provisions relating to registered agents have been revised (Sections 607.1506 and 607.1507, F.S., respectively).

Many changes are made to Chapter 617, F.S., to make it consistent with Chapter 607, F.S., and to allow Chapter 617 to operate completely independent of Chapter 607.

Several minor changes are made to Chapter 620, F.S., governing limited partnerships, to provide conformance with Chapter 607, F.S. Paragraph 620.108(1)(c), F.S., is amended to require that a corporate general partner be incorporated or qualified in this state, and also maintain an active status.

Limited Liability Companies

HOUSE BILL 1943 (CHAPTER 93-284) revises Chapter 608, F.S., which governs Florida's limited liability companies. Sections from both the Florida General Corporations Act (Chapter 607, F.S.) and the Florida Revised Uniform Limited Partnership Act (Chapter 620, F.S.) are combined in Chapter 608, F.S., to bring the law of Florida limited liability companies more closely into accord with

that of other Florida business associations. The responsibilities and powers of the Department of State as they relate to limited liability companies are strengthened and clarified.

The maximum lifespan of a limited liability company is expanded from 30 years to perpetuity in Paragraph 608.407(1)(b), F.S. Additionally, organizational specifications are modified in Section 608.407, F.S., and filing requirements are streamlined through the creation of Section 608.4081, F.S. Further, members' and managers' duties, rights and liabilities are revised in Sections 608.4211 through 608.4363, F.S.

Dissolution requirements and procedures are outlined in Sections 608.441 through 608.4494, F.S. In addition, filing fees for limited liability companies are provided in Section 608.452, F.S., and privileges and duties of foreign limited liability companies are outlined in Sections 608.501 through 608.514, F.S.

Section 621.051, F.S., is created and Sections 621.01-621.14 of Chapter 621, F.S., which governs professional associations, are amended to allow professionals the option of conducting business as a professional limited liability company.

CONSERVATION AND NATURAL RESOURCES*

Environmental Management

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 1751 (CHAPTER 93-213) includes a number of significant changes in Florida's environmental management system. There was tremendous interest in the 1993 Legislative Session in producing meaningful changes in environmental permitting processes to streamline decisionmaking for such activities. This legislation provides, among other things, for the merger of the Department of Natural Resources (DNR) and the Department of Environmental Regulation (DER) and, consolidation of certain permitting responsibilities with water management districts, and enables DER to receive delegation for a major federal permitting program known as the National Pollutant Discharge Elimination System.

Merger of Departments--The Department of Environmental Regulation (DER) and the Department of Natural Resources (DNR) are merged into a single entity, the Department of Environmental Protection (DEP). The DEP will be headed by a secretary appointed by the Governor with concurrence of the Cabinet and confirmed by the Senate. All existing authorities of the DER and DNR are transferred to the DEP; however, pursuant to revised Section 253.002, F.S., the Board of Trustees of the Internal Improvement Trust Fund will retain its existing authority over state lands. The Governor and Cabinet will retain their authorities as the Siting Board pursuant to Part II of Chapter 403, F.S., as the reviewer of stricter than federal standards of the Environmental Regulation Commission (ERC) and for siting hazardous waste facilities.

To ensure consistency in agency decisions, an appeals process is created which permits the Governor and Cabinet, sitting as the Land and Water Adjudicatory Commission, to review any order or rule of the DEP which would have been an order or rule of the DNR prior to the merger. The ERC is transferred to the DEP and the Marine Fisheries Commission (MFC) is transferred to the Board of Trustees. The DEP will be treated as a single budget entity and the DEP's expenditures in fiscal year 1994-1995 are limited to 95 percent of the total expended by the two merged departments in fiscal year 1992-1993. The secretary of the DEP must make recommendations to the Governor and the 1994 Legislature for additional program modifications to increase efficiency and identify and eliminate duplication in permitting, as well as to address the efficacy of transferring the MFC to the Game and Fresh Water Fish Commission.

Cross Florida Greenways State Recreation and Conservation Area--A linear greenway state park is created on lands acquired for the defunct Cross Florida Barge Canal. Legislative intent is provided that the management plan developed by the University Planning Team of the University of Florida encompasses a broad range of management options providing guidance for management decisions. The greenway will be managed initially by the Office of Greenways Management in the Office of the Executive Director of the Department of Natural Resources. The boundaries of the greenway are established, and authority for future modification and management is provided, as well as a process for identifying and disposing of surplus lands to provide funds to repay the counties of the former Cross Florida Canal Navigation District.

Appropriate recreational uses of the area are identified, and the use of former canal lands for a horsepark/agricultural facility is authorized. Prior to decisions being made as to the disposition of the water control structures at Inglis Lock and Rodman Reservoir, specified studies must be completed by the DNR and recommendations made to the Governor and Cabinet, by July 1, 1994, for the Inglis structures and by January 1, 1995, regarding Rodman Reservoir. The act recognizes the need for transportation and utility crossings of the greenway, specifically for Marion County needs and for a planned extension of the Florida Turnpike.

The Board of Trustees of the Internal Improvement Trust Fund may consider the generation of hydroelectric power on the greenway if all necessary permits are obtained in compliance with new Paragraph 253.7829(1)(c), F.S. Provisions are added in Paragraph 253.7829(1)(d), F.S., directing the Game and Fresh Water Fish Commission to develop a program to control the troops of rhesus monkeys in the area of Silver Springs. The Canal Authority of the State of Florida is transferred by a type three transfer to the DNR July 1, 1993, and appropriations are provided to fund management of the greenway, operation and maintenance costs for water control structures

*Prepared by Senate Natural Resources and Conservation Committee

and to conduct required studies. (However, there are conflicting provisions in the bill that specify that the Canal Authority is transferred to the Department of Environmental Protection by a type five transfer, presumably upon the bill becoming a law.)

Streamlined Permitting--The permitting of projects with impacts on wetlands under the Henderson Wetlands Protection Act is consolidated in Chapter 373, F.S., including all permitting for activities involving dredging and filling, management and storage of surface waters (including stormwater control) and the alteration of mangroves. A single permit called an "environmental resource permit" will be required for such activities in surface waters or wetlands, as delineated in Subsection 373.421(1), F.S., as amended. Activities to be permitted by either the DER or the DNR (but not both) are identified and the ERC is directed to develop a unified, statewide method for delineating wetlands; however, the policy must be ratified by the Legislature before it can become effective. The DER and water management districts (WMDs) are authorized by the addition of Subsection 373.046(4), F.S., to enter into agreements delineating the responsibilities of each under Part IV of Chapter 373, F.S., to avoid duplicative efforts. The procedures for review by the Land and Water Adjudicatory Commission of orders issued by the DER, a WMD or a local government delegated permitting authority are revised in Subsection 373.114(1), F.S., to apply only to those persons who participated in the permitting process and to issues or permits of statewide or regional significance.

The DER and WMDs are directed by the creation of Section 373.4135, F.S., to participate in and encourage the establishment of regional mitigation areas and mitigation banks, and must adopt rules governing the use of mitigation banks by July 1, 1994. The act amends Section 373.414, F.S., to provide permitting criteria for activities in surface waters and wetlands. Legislative intent is provided for the use of certain wetlands as a means of stormwater management and to receive and treat domestic wastewater that has been treated to secondary standards, as well as to protect lagoons and estuaries from damage created by inappropriate seawalls. The legislation addresses wetlands reclamation and mitigation activities related to mining, and directs the DER and WMDs to adopt rules designed to achieve a statewide, coordinated and consistent approach for permitting activities in wetlands. The law creates Section 373.430, F.S., to establish civil and criminal penalties for polluters or those failing to acquire necessary permits, and new Section 373.441, F.S., requires the DER and WMDs to adopt rules to include local governments in the new permitting process.

Procedures are provided in added Section 403.905, F.S., to address situations in which fill has been deposited on state-owned lands. Legislative intent is provided in new Section 403.9311, F.S. that the DER's mangrove protection rule be the only authority for regulating the alteration of mangroves in the state and that administration and enforcement of the rule should be delegated to local governments when appropriate. The measure revises Section 403.933, F.S., to include criteria to be encompassed in the mangrove rule.

The act adds Subsection 373.016(4), F.S., to establish legislative policy that WMDs, to the extent consistent with effective management practices, must approximate their fiscal and budget policies and procedures to those of the state, and requires in amended Paragraph 373.079(4)(a), F.S., Senate confirmation of WMD executive directors. Under revised Paragraph 373.079(4)(b), F.S., the governing boards of WMDs must employ a chief internal auditor who must be qualified and conduct audits in the manner provided in Section 20.055, F.S. Also, each WMD must submit a 5-year capital improvement plan to the Governor, the DER and the Legislature prior to the adoption of the district's final budget and to comply with revised Subsection 373.536(5), F.S., provide other annual fiscal information to the Governor and Legislature for their review and comment.

Finally, the Partners for a Better Florida Advisory Council and the DER are directed to review and analyze the potential role of market-based incentives and disincentives in the streamlined permitting program and report recommendations to the Legislature by January 1, 1994.

National Pollutant Discharge Elimination System--Currently, Part I of Chapter 403, F.S., provides for a permitting, compliance and enforcement program for all wastewater facilities in the state, regardless of the method of effluent disposal. Under the federal National Pollutant Discharge Elimination System (NPDES), the U.S. Environmental Protection Agency (EPA) also administers a program for permitting, compliance and enforcement for wastewater facilities.

The NPDES program is authorized by Paragraph 402(a)(1) of the federal Clean Water Act (33 U.S.C. Section 1342(1988). This Act also provides that the authority to issue NPDES permits may be delegated by the EPA to states which meet certain technical, administrative and legal requirements

which are described in Title 40, C.F.R., Part 123 (1992).

[In 1991, the Legislature directed the DER to conduct a study to determine the full cost of accepting delegation of the NPDES permitting program from the EPA, including savings from elimination of duplicative permitting. This act reflects many of the recommendations that were contained in the DER's report regarding the delegation of the NPDES program.]

By amending Subsection 403.201(2), F.S., the law eliminates existing conflicts between state and federal laws with regard to wastewater discharges. It also authorizes through revision of Paragraph 403.087(5)(a), F.S., an annual fee structure to make the program self-sufficient, authorizes 54 positions in DER to implement the program and by amendment to Section 403.0885, F.S., clarifies the relationship between state NPDES permits and existing related licenses.

Marine Resources--The MFC is continued and set for repeal October 1, 1994, with legislative review prior to that date, and the Commission is directed to, with the assistance of the newly merged environmental agency, study the potential impacts of the "Save our Sealife" initiative.

Solid Waste Management

COMMITTEE SUBSTITUTE FOR HOUSE BILL 461 (CHAPTER 93-207) is a lengthy act which represents the culmination of efforts over the past two sessions to update and refine Florida's comprehensive solid waste laws, first enacted in 1988. Some of the more significant features in this legislation include the following:

1. A Recycling Markets Advisory Committee is created in the Department of Commerce. The Committee consists of 12 members, 10 of whom shall be appointed by the Governor, and a member of the Senate and a member of the House of Representatives. By October 1, 1993, the Committee must develop a plan to set goals and provide direction for developing new markets and expanding and enhancing existing markets for recovered materials. Beginning in 1994, the Committee must submit a report to the Governor and the Legislature by November 1 of each year. (Section 288.1185, F.S.)
2. Biomedical waste generators who generate less than 25 pounds of such waste in each 30-day period are exempt from having to obtain a permit from the DHRS. (Section 381.0098, F.S.)
3. There are additional procurement and purchasing requirements for state agencies regarding the purchase of products with recycled content. Each state agency must review and revise its procurement procedures and specifications for the purchase of products to eliminate any procedures and specifications that explicitly discriminate against products and materials with recycled content. The Division of Purchasing must establish procurement goals for state agencies in procuring products with recycled content and postconsumer content. The Division must propose minimum content levels for certain products no later than November 1, 1994. The purchase of recycled content paper with postconsumer recovered materials must be phased in over a 4-year period, as specified in the act, beginning in 1995. Each state agency must report annually to the Division its total expenditures on, and use of, products with recycled content and the percentage of its budget that represents purchases of similar products made from virgin material. The Division must design a uniform reporting mechanism and prepare annual summaries of statewide purchases delineating those with recycled content to be submitted to the Governor and the Legislature. (Section 287.045, F.S.)
4. The law provides that any person who handles, purchases, receives, recovers, sells or is an end user of recovered materials must certify annually to the DER. The DER may charge a fee of up to $50 for each registration, which shall be deposited into the Solid Waste Management Trust Fund. The legislation also provides that a local government may not enact flow control ordinances to regulate the collection of recovered materials at commercial establishments. However, recovered materials dealers must provide a copy of the DER registration to the local government prior to engaging in business within the jurisdiction of the local government. The local government may also establish an additional registration process and may establish a process in which the local government may revoke the authority of a recovered materials dealer to do business within the local government under certain conditions. The local

government may enter into an exclusive franchise or to otherwise provide for the exclusive collection, transportation and processing or recovered materials at single-family or multifamily residential properties. (Section 403.7046, F.S.)

5. Significant new provisions relating to the Advance Disposal Fee (ADF) and a statewide litter program are included. The measure seeks to encourage the demand for recycled materials and encourage the use of recycled content by allowing an exemption from the ADF for containers that are made from a container material type that has met the sustained recycling rate goal; containers which are among a category of containers that will meet or exceed specified recycled material content rates for the next year; packaging which is removed from the waste stream and recycled into other products; and paper and plastic-coated paper products which meet or exceed certain recycled material content rates. Beginning October 1, 1993, an ADF of 1-cent-per-container will be imposed on each container sold. Beginning January 1, 1995, the ADF increases to 2-cents-per-container. The ADF is to be collected by distributors from dealers. Each distributor paying an ADF must separately identify the amount of any ADF on the invoice submitted by the distributor to a dealer to which the container is sold or distributed. No distributor who sells containers can directly or indirectly absorb all or any part of the fee to relieve the purchaser of the payment of the fee. The dealer must provide notice to a consumer that an ADF has been imposed on such containers. The proceeds from the ADF, estimated to be around $22 million, would be deposited into the Solid Waste Management Trust Fund. The enactment specifies the allocation of the proceeds from the ADF to a variety of programs, including supplemental recycling grants, Surface Water Improvement Management (SWIM) Program, Sewage Treatment Revolving Loans and Small Community Sewer Construction Assistance. (Section 403.7197, F.S.)
6. Significant new provisions are enacted relating to requirements for permitting waste-to-energy facilities and commercial hazardous waste incinerators. An applicant must provide reasonable assurance that the construction of a new waste-to-energy facility or the expansion of an existing facility will comply with several new criteria. As a result of growing concerns about Florida permitting excess hazardous waste incineration capacity, provisions were enacted to require DER to conduct a needs study by November 1, 1994, to establish the current and future need for hazardous waste incineration in the state. No commercial hazardous waste incinerator shall be permitted or certified in this state without a certification of need, issued by the Governor and Cabinet, sitting as the Statewide Multipurpose Hazardous Waste Facility Siting Board. Additional permitting requirements are established for such facilities. (Section 56 of the act and new Section 403.7895, F.S.)
7. By January 1, 1995, the DER must establish a program to challenge businesses to assist in the development of markets by procuring products with recycled content at a rate exceeding that of the State of Florida. (Subsection 403.7197(11), F.S.)
8. The Florida Packaging Council is created within the DER consisting of 24 members. The Council must annually, beginning on December 1, 1993, issue a summary to the Governor and the Legislature containing reports on the aluminum, steel or other metals, paper, glass, plastic and plastic-coated paper packaging materials. The reports must contain certain specified information such as a comparison of the recovery rate in this state to the national recovery rate, and an explanation of any variance. By December 31, 1996, the Council must also recommend programs and guidelines to reduce the amount of packaging materials going to final disposal in this state, using 1988 as the baseline. The Council must also recommend a program and guidelines for the purchase and transfer of credits for meeting the recycled material content goals established by law. (Section 34 of the act)
9. A comprehensive litter and marine debris control and prevention program is created. (Section 35 of the act.)
10. There are several provisions relating to small quantity hazardous waste generators and used oil. (Sections 403.7225, 403.7234, 403.7265, 403.75, 403.7531,

403.754, 40375.45 and 403.769, F.S.)

11. There are several provisions to assist smaller counties in meeting their waste reduction and recycling responsibilities. (Sections 403.7226, 403.7236 and 403.7238, F.S.)
12. There are provisions relating to the sale and disposal of certain batteries. (Section 403.7192, F.S.)
13. A portion of the Solid Waste Management Trust Fund will be used to fund projects relating to market development for recycled materials. (Section 403.709, F.S.)
14. Counties of less than 50,000 population will be eligible for annual solid waste grants of $50,000. (Paragraph 403.7095(7)(a), F.S.)
15. A registration fee for phosphogypsum stacks is provided to help DER manage these sites better. (Section 62 of the act.)
16. There are provisions which prohibit the use of certain toxic metals in packaging. Those metals include lead, mercury, cadmium and hexavalent chromium. (Section 403.7191, F.S.)

Mangroves Alteration and Trimming

COMMITTEE SUBSTITUTE FOR SENATE BILL 568 (CHAPTER 93-34) creates Section 403.9311, F.S., to provide that it is the Legislature's intent that the Department of Environmental Regulation (DER) mangrove protection rule is the sole rule by which the state regulates the alteration of mangroves on privately and publicly owned lands. Further, the Legislature intends that the administration and enforcement of the DER's rule be delegated to local governments, including cities, towns and villages, provided that the local government's regulations are consistent with the DER's rule and the local governmental resources are adequate for administration and enforcement.

Section 403.931, F.S., is amended to provide for exemptions from the permit requirements for certain activities relating to mangroves. Certain mangrove alteration activities may be carried out pursuant to a general permit.

Within an aquatic preserve, an individual site specific permit is required to alter mangroves which were planted or which were previously altered according to an established pattern of regular maintenance and without a DER authorization. No mitigation is required for the alteration of planted mangroves in an aquatic preserve.

Sections 253.77 and 258.42, F.S., are amended to allow a riparian owner to selectively trim or alter mangroves on adjacent publicly owned submerged lands provided that the selective trimming or alteration is in compliance with the requirements of Sections 403.93-403.938, F.S., which regulate the alteration of mangroves.

Wetlands Permits for Electric Power Lines

SENATE BILL 1122 (CHAPTER 93-24) amends Section 403.814, F.S., to provide that the construction and maintenance of electric transmission or distribution lines in wetlands by electric utilities shall be authorized by a general permit provided certain conditions are met.

Maintenance of existing electric lines and clearing of vegetation in wetlands conducted without the placement of structures in wetlands or other dredge and fill activities does not require an individual or general construction permit. The term "wetlands" means the landward extent of waters of the state regulated under Sections 403.91-403.929, F.S., and isolated and nonisolated wetlands regulated under Chapter 373, Part IV, F.S. The provisions of this act apply to the permitting requirements of the Department of Environmental Regulation (DER), any water management district and any local government implementing Chapter 403, Part VIII, or Chapter 373, Part IV, F.S.

The DER and the water management districts may provide by rule for general permits with special criteria including acreage thresholds authorizing the construction of transmission and distribution lines in forested wetlands located within 550 feet of the shoreline of a named waterbody designated as an Outstanding Florida Water. If a portion of a project qualifies for the general permit under this provision, and a portion of a project qualifies under other provisions of the law, then a single general permit may be issued pursuant to both provisions.

Air Pollution Control

HOUSE BILL 2115 (CHAPTER 93-94) amends several sections of Chapter 403, F.S., relating to the air operation permit program for major stationary air pollution sources. [These changes are considered necessary under the federal Clean Air Act in order for Florida to obtain delegation of the Title V Program of the Clean Air Act.] The act also corrects some deficiencies that the U.S. Environmental Protection Agency (EPA) has identified in Florida's new source review and prevention of significant deterioration air construction permit program procedures in connection with the Florida Power Plant Siting Act. [The EPA has recently rescinded its approval of the

state's prevention of significant deterioration air construction program for sources licensed under the Power Plant Siting Act. This enactment will enable Florida to regain delegation of that program.]

The major provisions of the law include:

1. Clarifying that the DER may process the permit applications received during the first year in a manner consistent with federal law. (Subsection 403.0872(2), F.S.)
2. Providing that the administrator of the EPA can intervene in administrative and judicial proceedings concerning such permits. (Subsection 403.0872(17), F.S.)
3. Specifying the parties who are authorized to petition for a writ of mandamus to compel the DER to act on such permits. (Paragraph 403.0876(2)(c), F.S.)
4. Providing that certain information specified under the federal Clean Air Act is not exempt from the Florida public records law. (Subsection 403.111(l), F.S.)
5. Providing that conditions in major source air operation permits for electric power plants control over conditions of site certification. (Subsection 403.511(6), F.S.)
6. Changing the definition of "regulated air pollutant" to include nitrogen oxides. (Subsection 403.031(19), F.S.)
7. Providing for a minimum annual air operation fee of $250. (Subparagraph 403.0872(11)(a)9., F.S.)
8. Addressing certain EPA concerns regarding the state's new source review and prevention of significant deterioration (PSD) permit programs. This is to allow Florida to regain delegation of the PSD program. (Subsection 403.509(3), F.S.)
9. Clarifying that the actions of DER on a federally required new source review and PSD permit must differ from actions taken by the Siting Board in issuing a site certification if the federally approved state program requires such a different action. (Subsection 403.509(3), F.S.)
10. Raising the fee caps the DER may charge applicants for certifications, modifications of certifications and supplemental certification applications of power plants or transmission lines. Providing that the Division of Administrative Hearings will receive a portion of such fees. (Subsection 403.518(1), F.S.)
11. Providing for an application fee in addition to a per-corridor-mile fee for those entities seeking certification of transmission lines. (Subsection 403.5365(1), F.S.)

Nongame Wildlife Council

SENATE BILL 44 (CHAPTER 93-64) saves the Nongame Wildlife Advisory Council from Sundown repeal, and it revives and readopts Section 372.992, F.S. The act adds two members to the Council, one who would represent business interests from a private consulting firm who has expertise in nongame biology, and one representing a statewide organization of landowner interests. The law takes effect October 1, 1993.

Panther Technical Council/Sundown

SENATE BILL 46 (CHAPTER 93-14) saves the Florida Panther Technical Advisory Council from Sundown repeal, as it revives and readopts Section 372.673, F.S.

Animal and Fish Life

COMMITTEE SUBSTITUTE FOR HOUSE BILL 77 (CHAPTER 93-223) grants the Department of Agriculture and Consumer Services exclusive jurisdiction over all aspects of ostrich, emu and rhea farming (Subsection 585.002(3), F.S.)., while the Game and Freshwater Fish Commission would retain jurisdiction over ostriches, emus and rheas that are exhibited in zoos, shows, circuses and carnivals (Subsections 372.921(7) and 372.922(5), F.S.).

The act also defines the terms "resident alien" and "nonresident alien", (Subsections 370.01(22) and (23), F.S., generally for the purpose of saltwater products licenses. The law revises Subsection 370.0605(2), F.S., to delete the increases in recreational saltwater fishing license fees which were scheduled to go into effect on July 1, 1993, for residents of states contiguous to Florida that do not have a reciprocal agreement with Florida. The measure further provides that a saltwater fishing license is not required for any Florida resident who is fishing for mullet in freshwater and has a valid Florida freshwater fishing license or who is fishing for a saltwater species in freshwater from land or from a structure fixed to the land (Paragraphs 370.0605(3)(j) and (k), F.S., respectively).

The enactment also contains provisions relating to spiny lobster. The legislation creates a special recreational crawfish license which will be available to any individual crawfish trap number holder who also possesses a saltwater products license during the 1993-1994 license year. This license will be required in order to harvest crawfish in quantities

in excess of the regular recreational bag limit but not in excess of a special bag limit to be created by the Marine Fisheries Committee (MFC). The act requires the MFC to establish a crawfish management plan to promote conservation of the crawfish resource, and it specifies how fees generated by the new license are to be deposited. The law delays designation of crawfish as a restricted species until August 1, 1994, and it increases from 50,000 to 125,000 the crawfish trap certificates that may be allotted by the Trap Certificate Technical Advisory and Appeals Board to settle disputes arising from implementation of the trap certificate program (Paragraph 370.142(4)(g), F.S.).

Geneva Freshwater Lens Task Force

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1343 (CHAPTER 93-273) creates a task force composed of representatives of industry and relevant state and county entities. The task force is directed to study the issues relating to the Geneva Lens, a sole-source aquifer in Seminole County, and to provide a report with recommendations to the Legislature by December 1, 1993.

Hazardous Waste Landfills/Injection Wells

SENATE BILL 1912 (CHAPTER 93-91) revises Section 403.7222, F.S., to address EPA concerns that Florida's underground injection control program is not as protective as the federal law in that, by executive order of the Governor, hazardous wastes could be injected above or into an underground source of drinking water. Current law generally prohibits the disposal of hazardous waste through an injection well. However, if the Governor, by executive order, declares a hazardous waste management emergency, the Department of Environmental Regulation (DER) may issue a permit for a temporary hazardous waste landfill or the operation of an injection well. Florida administers the Underground Injection Control Program on behalf of the EPA. This act prohibits hazardous waste from being disposed of through an injection well or other subsurface method of disposal, which is defined as a Class IV well in 40 C.F.R. s. 144.6(d) (1992), except those Class I wells permitted for hazardous waste disposal as of January 1, 1992. The DER must annually review the operations of any such Class I well permitted as of January 1, 1992, and prepare a report analyzing any impact on ground water systems. [Currently, there is only one Class I injection well operating under valid EPA and DER permits.]

The legislation specifically prohibits the permitting or construction of Class IV injection wells that inject hazardous or radioactive wastes.

Manatee Protection

SENATE BILL 1006 (CHAPTER 93-83) amends Section 370.12, F.S., to provide that any violation of a manatee restricted area is a violation of the boating laws of the state. The act also provides that anyone who violates a provision of the Florida Manatee Sanctuary Act is guilty of a misdemeanor, punishable as provided in Paragraphs 370.021(2)(a) or (b) F.S., except that violations of a speed limit outside of a "No Entry" or "Motorboat Prohibited" zone constitutes a civil infraction that is punishable as provided in Subsection 327.73(3), F.S. The act amends Section 327.73, F.S., to provide that a violation of speed limits adopted pursuant to Sections 327.46, 327.22, 327.60, or Subsection 370.12(2), F.S., are noncriminal infractions. The provisions of the act take effect October 1, 1993.

Virtually identical provisions were enacted in HOUSE BILL 1259 (CHAPTER 93-254).

Wastewater Re-use

COMMITTEE SUBSTITUTE FOR HOUSE BILL 661 (CHAPTER 93-51) clarifies local government powers in a number of sections in Chapters 125, 153, 159, 180, 189, 190 and 361, F.S., to make certain that there is enabling authority to operate and manage wastewater re-use programs and services. [Arguably, this authority already implicitly exists since there are many wastewater reuse projects operating in many different locations in Florida.]

October 1, 1993, Florida's sewage treatment facilities revolving loan program Section 403.1835, F.S., is amended to give preference to eligible projects that are required by law to eliminate sewage treatment facility discharges into specific bodies of water. Also, the Department of Environmental Regulation is provided authority to undertake an innovative approach to capitalize the state revolving loan fund using surplus funds from local governments who could in turn benefit from a greater amount of federal funds being available in Florida.

Marco Island Airport/TIITF Land

HOUSE BILL 1851 (CHAPTER 93-282) requires the Board of Trustees of the Internal Improvement Trust Fund to convey 66.39 acres of land, comprising the Marco Island Airport, to Collier County by December 31, 1993. In exchange, Collier County must convey a designated 1,920 acres of

land within the Fakahatchee Strand State Preserve to the Trustees by December 31, 1993, and close that part of Jones Scenic Drive lying within the preserve to general public traffic. Should the airport ever cease to be used as an airport, title will revert to the Board.

CORRECTIONS*

Legislative action taken by the 1993 Session of the Florida Legislature in the area of corrections, probation and parole provides a general revision of several of the correctional and parole related statutes. Substantial legislation, including the appropriations act, was introduced and debated, addressing the capacity limitations of the Department of Corrections to provide prison space for all sentenced offenders, sentencing guidelines and the accelerated use of early release programs. The accelerated use of early release programs has caused a significant reduction in the portion of the prison sentence many inmates actually serve. The identification of this problem and the need to strengthen the integrity of the criminal justice system framed almost all of the legislation considered and passed by the 1993 Legislature.

Parole/Control Release Statute Revision

SENATE BILL 170 (CHAPTER 93-2) permanently removes the October 1, 1993, repeal of the Florida Parole Commission (Section 20.32, F.S.) and allows the Commission to be treated as other agencies in the Executive Branch with respect to scheduled repeal. The Commission has been subject to a succession of mandatory repeal statutes since the creation of Sentencing Guidelines in 1983 and the abolition of parole eligibility for noncapital felonies. Although parole was not reestablished for noncapital felonies, the Commission, since 1989, has experienced a considerable increase in workload due to its population management duties when functioning as the Control Release Authority (Section 947.146, F.S.).

COMMITTEE SUBSTITUTE FOR SENATE BILL 382 (CHAPTER 93-61) substantially revises and reorganizes many provisions in law relating to parole, conditional release and control release. The process for selecting and appointing members of the Parole Commission is changed in several ways. This legislation requires that the membership of the Commission include representation from minority persons (Subsection 947.02(1), F.S.) and allows the parole qualifications committee to consider applications 90 days before an anticipated vacancy actually occurs (Subsection 947.02(3), F.S.). The act also requires the qualifications committee to submit to the Governor and Cabinet a list of eligible applicants equal to three times the number of vacant seats. Finally, the enactment removes the authority of the qualifications committee to make recommendations concerning an incumbent commissioner and mandates that any incumbent applicant automatically be considered by the qualifications committee.

Prior to passage of this act, the Parole Commission members elected its chairperson. This measure requires the Governor and Cabinet to select the chairperson (Subsection 947.04(1), F.S.).

A panel of two or more commissioners, rather than a majority of the Commission, is allowed to revoke a conditional release, medical release or control release and return the person to prison (Subsection 947.141(3), F.S.). This enactment also extends the timeframe in which a releasee charged with a violation must receive a hearing (Subsection 947.141(2), F.S.).

The Control Release Authority is allowed to extend or advance release dates based upon certain factors. This legislation expands this Authority to include recently discovered information of a victim's vulnerability, a victim's psychological or physical trauma or court-ordered restitution (Subsection 947.146(7), F.S.).

Misdemeanor Probation Services

COMMITTEE SUBSTITUTE FOR SENATE BILL 382 (CHAPTER 93-61) amends Subsection 948.15(2), F.S., to require approval of the county judge for any misdemeanor probation services contract with a private entity entered into by a county commission for a county with a population of less than 70,000.

Dispositional Alternatives for Drug Offenders

COMMITTEE SUBSTITUTE FOR SENATE BILL 168 (CHAPTER 93-59) provides an alternative to traditional institutional incarceration for certain persons convicted of certain drug-related offenses (Subsections 893.13(6) and (7), F.S.). Persons sentenced for second- and third-degree felonies consisting of: (1) possession of controlled substances; (2) sale, purchase, manufacture, delivery of a certain controlled substance, possession with intent to commit these acts; (3) commission of these offenses within 1,000 feet of schools or within 200 feet of public housing facilities, public parks and postsecondary schools;

*Prepared by Senate Corrections, Probation and Parole Committee

or (4) bringing into the state any controlled substance, are eligible for these alternative court dispositions. The alternative judicial dispositions established in this legislation are discretionary with the court. With a few exceptions, the conditions which a court would be able to impose under this legislation are already authorized under existing law. Expenses associated with sentencing alternatives provided in this law, such as drug treatment, drug testing and commitment to a residential correctional facility, are required to be paid by the offender (Subsections 948.034(1) and (2), F.S.). [The fee and fine requirements in the enactment may restrict the application of these alternatives to offenders who are employed or otherwise able to pay.] These provisions take effect October 1, 1993.

Criminal Restitution

COMMITTEE SUBSTITUTE FOR SENATE BILL 488 (CHAPTER 93-37) makes several changes to the manner in which a defendant is required to make restitution to a victim for loss or damage caused by the defendant's offense. The act provides in Subparagraph 775.089(1)(b)2., F.S., that a restitution order entered as part of a plea agreement would be as definitive and binding as a restitution order imposed by a court after conviction. A statement to that effect is required to be made part of the plea agreement. The plea agreement could contain a restitution order for criminal offenses committed by the defendant in which he did not specifically enter a plea. [Prior to this legislation, there was no provision distinguishing between court imposed restitution orders and restitution which is agreed to as a part of an authorized plea agreement.]

Restitution could be ordered for damage or loss related to the defendant's criminal episode under this law (Subparagraph 775.089(1)(a)2., F.S.). In addition, the provisions of this act allow the court to extend the order for unpaid restitution and continue the restitution order through the duration of the civil judgment enforceability process as provided in Section 55.10, F.S. (Paragraph 775.089(3)(c), F.S.) Thus, an unpaid restitution order would act as a lien against a defendant's real property when the order was properly recorded as a judgment and could continue for 7 years from the recording date, with an additional extension of up to 13 years upon timely recording. Any unpaid balance would accrue interest at the 12 percent annual rate as specified in law (Subsection 775.089(5), F.S.).

This law allows state attorneys to enforce the collection of any unpaid restitution order and prevents a defendant who was ordered to pay restitution from being able to avoid the obligation by filing for bankruptcy (Paragraph 775.089(10)(b), F.S.).

Finally, the legislation directs the Governor's Office of Victims' Rights, along with the Florida Network of Victim Witness Services, to survey all circuit court clerks to determine the amount of money in unclaimed restitution accounts in each county and to make recommendations to the Legislature about disbursement of these funds. The act takes effect October 1, 1993.

COURTS AND CIVIL LAW*

Child Support

COMMITTEE SUBSTITUTE FOR HOUSE BILL 707 (CHAPTER 93-208) provides for changes to the child support guidelines and creates new mechanisms to enforce and to collect support obligations. Modifications to the guidelines are the result of the periodic review required by state and federal law which was the interim project of the committee. The act includes the following provisions:

1) clarification that the guidelines should be applied in all child support proceedings (Section 61.13, F.S.);
2) clarification as to when attorney's fees and costs will be assessed against the Department of Health and Rehabilitative Services (DHRS) (Section 61.16, F.S.);
3) criteria for when the guidelines may provide a basis for finding a substantial change (Section 61.30, F.S.);
4) a methodology for the court to determine support awards for incomes which exceed the guideline table (Subsection 61.30(6), F.S.);
5) a requirement that health insurance costs be apportioned between the parties (Paragraph 61.13(1)(b), F.S.); and
6) a requirement to reduce child care costs by 25 percent (Subsection 61.30(7), F.S.).

In determining whether to deviate from the guideline amounts, the court can consider:

1. Whether the court has ordered the custodial parent to execute a waiver of the Internal Revenue Service (IRS) dependency exemption (Paragraph 61.30(11)(i), F.S.).
2. Whether a person is required to pay more than 55 percent of his gross income in child support (Paragraph 61.30(11)(j), F.S.).
3. Whether certain shared parental arrangements and extended visitation (Paragraph 61.30(11)(g), F.S.).
4. Whether an affidavit of income is required from the parties in all cases (Subsection 61.30(14), F.S.).

Enhancements to available enforcement and collection mechanisms include:

1) a requirement that employers provide authorized process servers access to employees (Paragraph 48.031(1)(b), F.S.);
2) a right to petition the court to suspend driving privileges and vehicle registrations (Section 322.058, F.S.), or to suspend or deny the licenses or certificates issued by the Department of Education (Section 231.097, Subsection 231.28(1) and Paragraph 231.28(4)(a), F.S.); Department of Health and Rehabilitative Services (Section 409.2598); Department of Professional Regulation (Subsection 455.203(9), F.S.), and the Department of Business Regulation (Subsection 559.79(3), F.S.), to delinquent child support obligors;
3) expedited service of income deduction orders on the obligor's employer (Section 61.1301, F.S.);
4) enhanced priority for child support arrearages paid from the estate of a deceased obligor (Paragraph 733.707(1)(f), F.S.); and
5) a mechanism to establish paternity by consenting affidavit of both parties (Section 742.10, F.S.).

This law extends until 1997 the period during which an enhanced fee is collected to fund development costs of the child support enforcement collection computer system and adopts changes in response to the Auditor General's Performance Audit of the Child Support Collection and Distribution System (Section 61.181, F.S.).

Mortgage Foreclosure

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1159 (CHAPTER 93-250) contains the recommendations of the Foreclosure Study Commission which was created by the Legislature during the 1991 Session to study the existing foreclosure process and to make recommendations to the Legislature regarding that process. This act provides:

1) a time in which the clerk must hold a judicial sale (Subsection 45.031(1), F.S.);
2) addresses the equitable right of redemption (Section 45.0315, F.S.);
3) extends the long arm statute to include persons who hold a mortgage or lien on real property (Paragraph 48.193(1)(c), F.S.);
4) provides for changes to service of process

*Prepared by House Judiciary Committee

(Section 48.194, F.S.);

5) clarifies the lis pendens statute (Paragraph 48.23(1)(b), F.S.);
6) requires the social security number of the person against whom the judgment is entered to be on the judgment (Subsections 55.01(2) and 55.505(1), F.S.);
7) provides for assignment of rents from the borrower to the lender when there is a default on the loan (Section 697.07, F.S.);
8) changes the method by which the court handles foreclosure proceedings by providing for an order to show cause (Subsection 702.10(1), F.S.); and
9) permits the court to require the mortgagor of nonresidential property to continue payments or to vacate the property during the pendency of foreclosure proceedings (Subsection 702.10(2), F.S.).

This act takes effect October 1, 1993.

Grandparent Visitation Rights

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1685 (CHAPTER 93-279) creates Sections 751.01-751.05, F.S., to authorize a grandparent to petition the court to award reasonable visitation rights with a minor grandchild when the minor child resides in an intact family and one or both of the parents have prohibited a relationship between the minor child and the grandparent. The act is effective October 1, 1993.

Deduction of Salary or Wages

SENATE BILL 228 (CHAPTER 93-69) raises the cap from $1 to $2 on the fee which an employer may charge an employee to administer income deduction orders for child support, alimony and court-ordered restitution in criminal proceedings and writs of garnishment against wages which have been entered against the employee.

Recording of Death Certificates

COMMITTEE SUBSTITUTE FOR SENATE BILLS 340 AND 358 (CHAPTER 93-42) amends Subsection 28.222(3), F.S., to require clerks of the circuit court to record certified copies of death certificates authorized for issuance by the Department of Health and Rehabilitative Services which exclude the cause of death and certified copies of death certificates issued by other states. The legislation repeals Section 382.025(11), F.S., which prohibits the reproduction of birth, death or fetal death certificates.

Volunteer Immunity

COMMITTEE SUBSTITUTE FOR HOUSE BILL 21 (CHAPTER 93-139) creates the "Florida Volunteer Immunity Act" which provides immunity from civil liability for any act or omission which results in personal injury for persons who perform volunteer services for any nonprofit organization. In order to receive such immunity, however, the volunteer must have acted in good faith and as a reasonably prudent person would have acted under the same or similar circumstances. The act does not protect volunteers' wanton or willful misconduct.

The law also provides that if a volunteer is determined not to be liable, the nonprofit organization for which the volunteer was performing services shall be liable.

Probate and Trust

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1295 (CHAPTER 93-257) creates and revises provisions of law relating to probate and trust. The act provides the following:

1) detailed criteria to be used by a fiduciary when investing and managing investment assets (Section 518.11, F.S.);
2) regulations with respect to the delegation of investment functions (Section 518.112, F.S.);
3) compensation of the attorney for the personal representative in probate matters (Section 733.6171, F.S.);
4) provisions with respect to common trust fund investments (Section 660.43, F.S.);
5) a prudent investor rule with respect to banks, bank associations, trust companies or affiliates (Section 660.431, F.S.);
6) certain circumstances in which a personal representative shall be entitled to seek payment for certain expenses from the trustee of a trust (Subsection 731.201(21), F.S.);
7) compensation of the personal representative (Section 733.617, F.S.);
8) revision of the language with respect to the order of payment of expenses and obligations (Section 733.707, F.S.);
9) a provision in a trust instrument penalizing any interested person for contesting the trust is unenforceable (Section 733.207, F.S.);
10) a trustee's duty to pay expenses and obligations of the settlor's estate (Section 737.3056, F.S.);
11) a trustee's duty to notify creditors (Section 737.3057, F.S.); and,

12) the rules of construction (Sections 737.621-737.627).

The measure also addresses underproductive property and amends the time period used to calculate the market value of a trust (Paragraph 738.12(1)(a), F.S.).

Judicial Certification

SENATE BILL 1092 (CHAPTER 93-63) provides for the creation and funding of 22 judges: 4 additional district court of appeals judges (Section 35.06, F.S.), 11 circuit court judges (Section 26.031, F.S.), and 7 county court judges (Section 34.022, F.S.). Most provisions of the act take effect on January 4, 1994, except for those seating one additional judge of the First DCA on July 1, 1993, and one additional judge in the Second Judicial Circuit on September 1, 1993.

[Currently, there are 421 circuit court judges, 241 county court judges and 57 judges of the district courts of appeal. On January 27, 1993, the Florida Supreme Court certified to the Florida Legislature a need for 22 additional judges with an approximate annual appropriation of $4,657,360.]

Notaries

SENATE BILL 1022 (CHAPTER 93-62) provides technical changes to Chapter 117, F.S., to correct or clarify the 1991 and 1992 changes to the notary public law.

The act requires notaries to sign and date a notarial certificate when notarizing a signature on a document (Subsection 117.05(4), F.S.). [Adding this requirement to the statute should help make notarial certificates more uniform and should also help prevent fraud.]

The law requires notaries to have satisfactory evidence of identification anytime they notarize a signature on a document (Subsection 117.05(5), F.S.). Specifically, the legislation provides an additional identification method which may be used when the person whose signature to be notarized does not possess any of the types of identification specified in the statutes. It permits notaries to accept, as identification, a driver's license or identification card issued by a territory of the United States and identification cards issued by the U.S. Department of Justice and Immigration and Naturalization Service. The types of identification cards issued by the Service include: Resident Alien Registration Cards, Border Crosser Cards, Temporary Resident Cards and Employment Authorization Cards.

The enactment provides a penalty section that states that the failure to comply with the requirements of Paragraph 117.05(6)(a), F.S., is punishable by a civil penalty of $5,000.

Nonresidential Tenancies

COMMITTEE SUBSTITUTE FOR SENATE BILL 322 (CHAPTER 93-70) contains the recommendations of the Civil Law Committee of the State Conference of County Judges. The act adopts many of the rights and remedies which parallel those available to residential landlords and tenants. The law creates Section 83.232, F.S., which requires payments of rent into the court registry during eviction actions, codifies a right to withhold rent when the leased premises have become wholly untenantable and provides a right of setoff for the landlord's failure to repair (Section 83.201, F.S.). It also provides for a statutory eviction action based on the tenant's breach of the lease (Subsection 83.20(3), F.S.), requires a 20-day notice period and the pleading of money damages to receive a money judgment (Section 83.231, F.S.) and provides that a landlord waives the right to eviction for nonpayment upon acceptance of the full amount of rent owed (Section 83.202, F.S.). These provisions take effect October 1, 1993.

Time-Share and Multisite Vacation Plans

COMMITTEE SUBSTITUTE FOR SENATE BILL 2008 (CHAPTER 93-58) amends Subsection 721.03(6), F.S., to create an exemption from regulation for the sale of time-share plans outside the jurisdictional limits of the United States. The act recognizes "incidental benefits" (Section 721.075, F.S.) as a specially regulated class of accommodations, amenities, products, services or discounts which are not a part of the time-share plan but which are offered to purchasers as an additional inducement to purchase the time-share plan. The law provides certain management requirements in order to facilitate better recordkeeping and easier regulatory access to records (Section 721.13, F.S.) and an increase in developer filing fees to offset the increase in the cost of regulation (Section 721.27, F.S.).

The legislation provides regulation of multisite vacation clubs; requires vacation club developers to make disclosures about the club to purchasers, including specific details about the rules and regulations concerning use of resort accommodations, and about the ability of the club to expand to include additional resort locations or to substitute new resort locations for existing locations (Section 721.55, F.S.); and provides for special management rules for vacation clubs (Section 721.56, F.S.).

Adoption by Close Relatives

HOUSE BILL 501 (CHAPTER 93-192) amends the adoption statutes (Subsection 63.172(2), F.S.) to preserve a child's right of inheritance through a deceased parent and any grandparental rights provided for by Chapter 752, F.S., when the child is adopted by a close relative after one or both of the parents die. Presently, these rights are preserved only when the close relative adoption occurs following the death of both parents.

Child Custody

COMMITTEE SUBSTITUTE FOR HOUSE BILL 699 (CHAPTER 93-236) adds Subsection 61.13(7), F.S., which authorizes the court to recognize grandparents as having the same standing as parents for purposes of ordering custody in dissolution proceedings in cases where the child actually resides with a grandparent in a stable relationship. The effect of the enactment is to give the court a third option in ordering custody which represents the best interests of the minor child as a result of a dissolution proceeding.

Self-Storage Facility Act

COMMITTEE SUBSTITUTE FOR HOUSE BILL 749 (CHAPTER 93-238) adds a definition of "self-contained storage unit" (Subsection 83.803(2), F.S.) to Chapter 83, Part III, F.S. A "self-contained storage unit" is any unit not less than 600 cubic feet in size, such as a trailer, box or other storage container, which is leased primarily for storage space whether the unit is located at a facility owned or operated by the owner or a site designated by the tenant. The law revises Section 83.805, F.S., to create a lien in favor of the owner of such a storage facility on all property stored within the unit in order to secure payment of rent or expenses incurred by the owner in enforcing the lien.

Guardians Ad Litem

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1573 (CHAPTER 93-203) revises Section 61.402, F.S., and Subsection 415.503(8), F.S., to authorize the Guardian Ad Litem Program to use private funds which it collects to conduct a security background check of all applicants for certification as guardians ad litem. The background check applies to guardians ad litem described in Chapters 61 and 415, F.S., appointed to represent the best interests of a minor child. The background check is performed by the Guardian Ad Litem Program Office and includes, at a minimum, clearance through the child abuse registry and checks of: (1) employment history; (2) references; (3) local, state and federal criminal records; and (4) fingerprint records of the Federal Bureau of Investigation. The background check applies only to applicants who are certified after the effective date of the act (July 1, 1993) and excludes attorneys who are members in good standing of The Florida Bar or licensed professionals who have undergone a comparable background check as a condition of licensure within the last 5 years. Information collected pursuant to the investigation is confidential and exempt from the public records law.

Legal Services

SENATE BILL 1204 (CHAPTER 93-161) incorporates many of the recommendations of the Legal Services Assessment Report of the Office of the Attorney General, January 1993. The act amends Section 287.059, F.S., to provide for:

1) an expanded definition of the term "agency";
2) criteria to assess the need and use of outside counsel;
3) alternate billing methodology;
4) the adoption of a standard fee schedule for private attorney services;
5) the promulgation of guidelines to evaluate the need for outside legal services;
6) uniform addendums to contracts for use by agencies procuring outside legal counsel defining what is expected of the agency and counsel; and
7) for competitively bid contracts for services with court reporters.

The law also creates Section 16.58, F.S., to provides for the Florida Legal Resource Center, a centrally located facility to be used to consolidate the state's legal resources and to assess, provide and supplement legal services of the various state agencies.

Court Ordered Mediation and Arbitration

SENATE BILL 1204 (CHAPTER 93-161) relates to court ordered mediation and arbitration. The legislation exempts the mediator grievance procedures from the broad confidentiality language contained in Subsection 44.102(3), F.S. It allows parties to file grievances against mediators, and mediators would be able to defend themselves without risk of one party asserting their privilege. The measure also provides for protection of the parties by requiring the deletion of otherwise confidential information from the record prior to its release to the public. The act also prohibits the use of confidential information in any subsequent legal

proceeding.

Relating to the clerks of the district courts of appeal, the law amends Section 35.22, F.S., to authorize the clerks to assess the participating parties a teleconferencing fee.

The legislation amends Section 683.19, F.S., to provide chief circuit judges authorization to designate Good Friday as a legal holiday for the courts within the circuit.

Gender References in Florida Statutes

SENATE BILL 2020 (CHAPTER 93-199) implements one of the recommendations of the Florida Supreme Court Gender Bias Study Commission. The act authorizes the Division of Statutory Revision of the Joint Legislative Management Committee to prepare guidelines for the removal from the Florida Statutes of gender-specific references. The law provides that the Division shall prepare a reviser's bill accomplishing the gender-neutral changes by January 1, 1997.

Guardianship Accounting Procedures

COMMITTEE SUBSTITUTE FOR HOUSE BILL 885 (CHAPTER 93-102) creates Section 744.3679, F.S., to provide for simplified accounting procedures in cases where a single guardianship exists under Section 69.031, F.S., and the only transactions in the account consist of interest accrual, deposits pursuant to settlement or financial institution service charges. These simplified procedures are in lieu of the accounting and auditing procedures under Section 744.3678 and Paragraph 744.368(1)(f), F.S.; however, any interested party may seek judicial review as provided in Section 744.3685, F.S. The act also provides that the Guardianship Oversight Board shall not meet more than five times per year, shall submit its final report not later than June 30, 1994, and shall expire June 30, 1994.

Temporary Child Custody

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1185 (CHAPTER 93-104) creates an action for temporary custody of minor children living with extended family members (Section 751.01, F.S.). The act provides the requirements of the petition for temporary custody (Section 751.03, F.S.), the notice requirements (Section 751.04, F.S.), and the procedure for the termination of the temporary custody (Subsection 751.05(7), F.S.). Section 49.011, F.S., is amended to provide service of process in temporary custody proceedings. The act takes effect October 1, 1993.

Residential Landlord Tenant Act

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1269 (CHAPTER 93-255) amends Subsection 83.46(3), F.S., to provide for the duration of a tenancy for a tenant that receives housing in lieu of wages; clarifies which statute governs the handling and return of security deposits and advance rents (Paragraph 83.49(3)(d), F.S.); provides that a landlord shall not require a tenant to vacate a dwelling unit for more than 4 days for the extermination of pests (Subparagraph 83.51(2)(a)1., F.S.); and provides that a landlord must give a tenant at least 12 hours notice of intent to enter the premises for repairs and shall be made by the landlord between the hours of 7:30 a.m. and 8 p.m.(Subsection 83.53(2), F.S.). A tenant with a flotation bedding system must carry flotation insurance (Section 83.535, F.S.). The law revises the notice requirements for rent withholding (Section 83.60, F.S.) and provides landlords with injunctive relief for a tenant's intentional destruction of property (Section 83.681, F.S.).

Family Law

SENATE BILL 428 (CHAPTER 93-188) provides that evidence of residency may be corroborated in a dissolution of marriage proceeding by affidavit, Florida driver's license, Florida voter's registration card or testimony (Subsection 61.052(2), F.S.). The court shall begin the distribution of marital assets with the premise that the assets shall be divided equally unless there is justification for an unequal distribution (Subsection 61.075(1), F.S.). The measure also provides that the intentional dissipation of marital assets after the filing of the petition or within 2 years before filing may be justification for the unequal distribution of marital assets (Paragraph 61.075(1)(i), F.S.). Both spousal and child abuse shall be considered by the court when determining parental responsibility for a minor child (Subparagraph 61.13(2)(b)2., F.S.). Jurisdiction for modification of child custody shall be in the circuit court in the county in which either parent or the child resides or in the circuit court where the original award was made (Paragraph 61.13(2)(c), F.S.). The measure clarifies that an income deduction order may be used to collect both child support and alimony (Section 61.1301, F.S.). It also provides that in dissolution proceedings and paternity proceedings, an application for attorney's fees shall not require corroborating expert testimony (Subsection 61.16(1) and Section 742.045, F.S.).

Aircraft Liens

SENATE BILL 482 (CHAPTER 93-73) creates Section 329.41, F.S., to provide that a person who has furnished fuel to an aircraft has a lien on the aircraft for the unpaid fuel charges. The act amends Section 329.51, F.S., to provide the procedure for enforcing a lien on the aircraft.

Assignment of Rents

COMMITTEE SUBSTITUTE FOR SENATE BILL 1572 (CHAPTER 93-88) contains the recommendations of the Foreclosure Study Commission (1991). The act revises Section 697.07, F.S., to provide that a mortgage or separate instrument may permit the assignment of rents for a repayment of a debt. The assignment creates a lien on the assigned rents and the lien is enforceable upon default and written demand. A mortgagee is entitled to receive the rents without a court proceeding but if the mortgagor refuses to turn the rents over then the mortgagee must bring an action for foreclosure of the lien on the rents.

The provisions in this legislation are identical to the provisions pertaining to assignment of rents contained in COMMITTEE SUBSTITUTE FOR HOUSE BILL 1159 (CHAPTER 93-250) summarized earlier in this article.

Replevin Jurisdiction and Venue

SENATE BILL 938 (CHAPTER 93-81) amends Section 78.03, F.S., and creates Section 78.032, F.S., to provide separate statutory sections for jurisdiction and venue in replevin actions, i.e., actions to recover personal property alleged to have been taken illegally. As revised, Section 78.03, F.S., requires a replevin action to be brought in a court of competent jurisdiction based on the value of the property sought to be replevied, rather than in a court in the county where the property is which has jurisdiction of the value of the property for which the action is undertaken.

The new language of Section 78.032, F.S., permits an action for replevin to be brought in any county where the property in question is located, where the contract was signed, where the defendant resides or where the cause of action accrued. An action that includes a cause of action for replevin and other causes of action may be brought in any county where venue is proper under Chapter 47, F.S., (Venue) for any of the other causes of action or in any county where venue for the replevin is proper under Section 78.032, F.S.

Deaf and Hearing Impaired Jurors

SENATE BILL 280 (CHAPTER 93-125) addresses the question of deaf or hearing impaired persons serving as jurors by amending Subsection 40.013(5), F.S., to prohibit the excusing of a person from service on a civil trial jury solely because the person is deaf or hearing impaired if the person wishes to serve, unless the presiding judge rules that consideration of the evidence or the progress of the trial would be considerably affected. The new language would not affect the right of a litigant to exercise a peremptory challenge.

Subsection 90.6063(2), F.S., is revised to require the court or presiding officer of a judicial proceeding or grand jury session wherein a deaf person is a juror or grand juror, to appoint a qualified interpreter to interpret the proceedings or deliberations to the deaf person and to interpret the deliberations of the deaf person to the jury or grand jury. The interpreter or other auxiliary aid is to be provided for the duration of the trial or proceeding.

Subsection 905.17(3), F.S., is amended to permit the attendance of an interpreter for the deaf to be present during the deliberations or voting of a grand jury providing the interpreter will swear to refrain from personal interjection and to uphold the secrecy of the proceeding. Section 905.24, F.S., is revised to include the interpreter in the prohibition against disclosing the nature or substance of the deliberations or vote of the grand jury.

As amended in this act, Subsection 913.03(2), F.S., prohibits deafness or hearing impairment from being the sole basis of challenge for cause of a juror in a civil action. The provisions of this act take effect October 1, 1993.

Child Victim/Witness Testimony

COMMITTEE SUBSTITUTE FOR HOUSE BILL 321 (CHAPTER 93-131) concerns the testimony of child victims or witnesses. Section 92.53, F.S., is revised to require the finding that the presence of a defendant in court would cause moderate emotional or mental harm to a child (under 16 years of age) victim or witness giving testimony in open court as prerequisite to a court-ordered videotaping of the testimony, or the taking of the testimony by closed circuit television from outside the courtroom while protecting the defendant's right to assistance of counsel (Section 92.54, F.S.). The sexual or child abuse case limitation for videotaping or closed circuit television is removed.

The Supreme Court is requested by amendment of Section 92.55, F.S., to modify its Rules of Criminal Procedure, Rules of Civil Procedure and Rules of Juvenile Procedure protective orders to address the potential for severe emotional or mental

harm to a child victim or witness required to testify in open court in the presence of a defendant.

Health-Care Surrogates/Autopsies

Subsection 872.04(2), F.S., is amended by SENATE BILL 894 (CHAPTER 93-15) to permit health-care surrogates to provide written authorization for autopsies in place of a spouse, nearest relative or person responsible for burial of the body.

Collateral Sources of Indemnity

COMMITTEE SUBSTITUTE FOR HOUSE BILL 975 (CHAPTER 93-245) speaks to collateral sources of indemnity and amends Subparagraph 768.76(2)(a)1., F.S., to exclude from the definition of "collateral sources" for purposes of any action for damages Title XVIII (Medicare) and Title XIX (Medicaid) of the Social Security Act, and any other public benefit programs prohibited by federal law and expressly excluded by law as collateral sources. Paragraph 768.76(2)(b), F.S., is revised to exclude as collateral sources Medicare benefits or any federal program which provides a federal lien on or right of reimbursement from the plaintiff's recovery as well as benefits from the Workers' Compensation Law.

Subsection 768.76(5), F.S., is added to provide for determination by a court of competent jurisdiction any dispute between a claimant and a provider of collateral sources as to the amount recovered by the claimant from a tortfeasor. In making its determination the court is directed to consider such mitigating circumstances as an offset for any comparative negligence of the claimant, limits in the tortfeasor's liability insurance or any other circumstances deemed appropriate by the court. New Subsection 768.76(9), F.S., permits the court to consider the extent of cooperation extended to the claimant by the provider in determining the right to or amount of the reimbursement asked by the provider.

Subsection 768.76(6), F.S., is created which requires a claimant to notify a provider of collateral services of intent to collect damages from a tortfeasor by certified or registered mail with a copy of the complaint if the claimant has filed suit against the tortfeasor. The notice must contain a statement that the provider waives any right to subrogation or reimbursement unless the provider supplies the claimant or claimant's counsel with a statement asserting payment of claims and right of subrogation or reimbursement within 30 days of the receipt of the notice.

New Subsection 768.76(7), F.S., specifically states that failure of the provider to supply the statement of payment within the 30-day limit constitutes a waiver of the right of subrogation or reimbursement.

The addition of Subsection 768.76(8), F.S., asserts that reimbursement of the provider pursuant to this section satisfies the right of subrogation or reimbursement of the provider and denies that right to the provider for collateral source payments made after the date of the waiver, settlement or judgment.

Subsection 641.31(8), F.S., is revised to permit a health maintenance organization which supplies a subscriber with benefits for injury, disease or illness resulting from the negligent act or omission of a third party to be entitled to reimbursement from the subscriber pursuant to revised Subsection 768.76(4), F.S., which limits the right of reimbursement to the actual amount of collateral sources recovered by a claimant from a tortfeasor.

Section 627.7372, F.S., relating to collateral sources of indemnity, is repealed by this act which takes effect October 1, 1993.

Attachment and Garnishment

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1293 (CHAPTER 93-256) revises Section 77.0305, F.S., to assert that a debtor's status as an employee of the state, its agencies or political subdivisions does not bar a judgment creditor's right to garnish the debtor's wages. For purposes of the section, the state includes the legislative and judicial branches and to carry out the provisions of this section, for itself, its agencies and subdivisions, the state waives sovereign immunity. Garnished wages collected by the state are to be deposited in the Department of Banking and Finance Administrative Trust Fund.

Section 222.11, F.S., is amended to define "earnings," "disposable earnings" and "head of family" for purposes of exempting wages from garnishment. The first $500 in weekly disposable earnings by the head of family are exempt from attachment or garnishment. Weekly disposable earnings in excess of that amount by the head of family may be attached or garnished only if the person has agreed to such in writing and in no event may exceed the amount allowed under the Consumer Credit Protection Act, 15 U.S.C. Section 1673 (1988). The limit imposed by the federal law also applies to the disposable earnings of a person other than the head of family. Exempt earnings credited or deposited in a financial institution are exempt from attachment or garnishment for the first 6 months after receipt if they can be properly identified. Commingling with other funds does not

necessarily prohibit a head of family from identifying earnings.

Section 222.25, F.S., is created to provide that a debtor's interest in a single motor car of not more than $1,000 and a debtor's interest in professionally prescribed health aids for the debtor or a dependent are exempt from attachment or garnishment.

Section 222.29, F.S., is created to deny exemption from attachment, garnishment or legal process as the result of fraudulent transfer or conveyance as provided in Chapter 726, F.S.

Section 222.30, F.S., is created to define "conversion" in the context of fraudulent asset conversion to mean every mode, direct or indirect, absolute or conditional, of changing or disposing of an asset, in such a way that the products or proceeds of the asset become immune or exempt by law from claims of creditors of the debtor and the products or proceeds of the asset remain property of the debtor. The conversion is considered fraudulent whether the creditor's claim to the asset arose before or after the conversion, if the conversion was made with the intent to hinder, delay or defraud the creditor. All reasonable definitions of Chapter 726, F.S., apply to this section.

In action for relief against a fraudulent asset conversion, a creditor may obtain:

1) avoidance of the conversion to the extent necessary to satisfy the claim;
2) attachment or other provisional remedy against the converted asset pursuant to applicable law; or
3) in accordance with applicable principles of equity and rules of civil procedure, an injunction against further conversion of the asset or other property and any other relief the circumstance may require.

If a court orders, a creditor may levy execution against the converted asset or its proceeds if the creditor has obtained a judgment on a claim against a debtor. A cause of action concerning a fraudulent asset conversion is extinguished unless brought within 4 years of the conversion. If a converted asset is transferred to a third party, the provisions of Chapter 726, F.S., apply to the transfer. This act only applies to attachments, garnishments or other legal processes arising on or after October 1, 1993, the effective date of the act.

ECONOMIC DEVELOPMENT AND TOURISM*

Jobs Siting

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2013 (CHAPTER 93-205) creates the Florida Jobs Siting Act (Part IX of Chapter 403, F.S.), effective October 1, 1993. Under Section 403.953, F.S., of the Jobs Siting Act, economic development projects meeting certain criteria pertaining to:

1) the number of permanent jobs created;
2) wage levels paid; and
3) membership in targeted industries and facilities could use a consolidated, streamlined permitting process to obtain a single permit covering, with limited exceptions, all necessary environmental and land-use permits needed to begin construction.

The law provides in Section 403.958, F.S., that an eligible project could receive a permit within 90 days from the date the project's application is deemed sufficient (approximately 280 days from start to finish).

Three governmental entities will be responsible for processing applicants through the process:

1. The Department of Commerce will determine project eligibility, ensure coordination and expeditious review and analyze economic impacts. (Section 403.954, F.S.)
2. The Department of Environmental Regulation will coordinate aspects pertaining to environmental permitting of the state, analyze environmental impacts and monitor certified projects to assure continued compliance. (Section 403.955, F.S.)
3. Affected local governments will analyze all local comprehensive plan and land development regulation implications of the proposed project. (Section 403.9551, F.S.)

The act also provides for expanded public input in the jobs siting permitting process through an initial public meeting 14 days after an application is deemed complete (Section 403.959, F.S.), receipt and compilation of public comments by the Department of Commerce (Section 403.961, F.S.) for inclusion in the final compiled report on the application and access to any certification hearing on the application.

This legislation provides for the repeal of the Florida Industrial Siting Act (Part IV of Chapter 288, F.S., Sections 288.501-288.518, F.S.) on July 1, 1993. Staffing and funding provisions for the Florida Jobs Siting Act take effect on the same date. Except as otherwise noted, this act takes effect July 1, 1993.

Economic Development

COMMITTEE SUBSTITUTE FOR SENATE BILL 2382 (CHAPTER 93-187) contains the Legislature's comprehensive economic development package for 1993. [The measure also contains some housekeeping amendments to the powers and duties of the Florida International Affairs Commission and the Florida Department of Commerce.] The legislation consists of the following elements:

1. **Quick-Response Training**
   (Sections 1 and 2 of the act create Sections 288.046 and 288.047, F.S.) The Quick-Response Training program will be an incentive program administered by the Department of Commerce in conjunction with the Department of Education to help businesses with their short-term training needs. [This program is similar to the program that helped bring BMW (the German luxury car maker) to South Carolina.]

   [Under the Quick-Response Training program, requests for training assistance could come directly from business and industry, from business and industry through school boards or community colleges or through official state economic development efforts. Training would be provided by district school boards, community colleges and state universities. Training could also be provided by nonpublic postsecondary institutions upon specific review terms and with prior approval by the Quick-Response Advisory Committee.]
2. **The Florida Development Finance Corporation Act**
   (Sections 25-45 of the act.) This component creates the Florida Development Finance Corporation Act of

*Prepared by House Tourism and Economic Development Committee

1993. [The Act was recommended by the Department of Commerce and Enterprise Florida, Inc., as a mechanism to assist and attract manufacturing and business enterprise development.] Under this law, the Legislature authorized the creation of two separate entities:

The first entity is a local government entity, to be named the Florida Development Finance Corporation (FDFC), that will have the authority to issue revenue bonds pursuant to interlocal agreements with other local entities. The FDFC bonds can be issued for the purpose of financing or refinancing capital projects only. The Corporation would have the power to enter into an investment agreement with the State Board of Administration and the Florida Department of Transportation to guaranty bonds issued by the FDFC with investment earnings accrued and collected upon the investment of the minimum balance of funds required to be maintained in the State Transportation Trust Fund.

The second entity is a public nonprofit group, to be named the Enterprise Florida Capital Partnership. The purpose of the Partnership is to provide for the creation, growth and development of programs to increase capital availability in this state. The partnership is specifically tasked with assisting in the formulation and coordination of the state's economic development policy regarding capital availability.

3. **Enterprise Florida Innovation Partnership** (Sections 3-11 of the act.) The Enterprise Florida Innovation Partnership would be a public nonprofit corporation to foster growth of high technology and other value-added industries and jobs in this state. The Partnership would be specifically tasked with creating the following programs: (1) a technology applications service to be named the Florida Innovation Alliance; (2) a research investment fund to be named the Florida Technology Research Investment Fund; and (3) technology commercialization programs.
4. **The Florida Export Finance Corporation** (Sections 46-57 of the act create Sections 288.770-288.779, F.S.) The purpose of the Florida Export Finance Corporation will be to address the deficiency in available capital for small- and medium-sized export businesses. The Corporation will primarily guarantee loans, as well as insure and reinsure export receivables. In addition, the Corporation will counsel and nurture its clients in export-related matters. [Projections call for increased export sales exceeding $80 million and 3,000 additional jobs.]
5. **Florida International Affairs Commission** (Sections 64-72 of the act create Sections 288.803-288.8185, F.S.) The Florida International Affairs Commission (FIAC) recommended some housekeeping amendments and some substantive legislative changes based on the Commission's 1992 strategic plan. These changes include bringing the postsecondary linkage institutes under FIAC and creating a new linkage institute, the Florida-Mexico Institute, to be jointly administered by Florida International University and Polk Community College.
6. **Department of Commerce** (Sections 15-22 of the act amend Sections 20.17, 288.0251, 288.03, 288.063, 288.701, and 288.703, F.S., and repeal Sections 239.509, 239.517 and 288.1161, F.S.) These changes provide housekeeping amendments for the Department of Commerce and revise several substantive areas of jurisdiction under the Department.

Small and Minority Businesses

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1273 (CHAPTER 93-290) establishes the Florida Commission on Minority Economic and Business Development to study the state's efforts to certify and utilize minority-owned businesses as vendors. The duties of this Commission will include determining whether the many laws and regulations supporting the Legislature's efforts and intent to allow minority-owned businesses a fair portion of state contracts, in fact, allow vendors meeting the requirements of minority vendors, to receive commensurate state contracts.

The legislation defines the makeup of the Commission (which includes public and private sector members), specifies its purpose and duties and provides for its expiration after completion of the requirements of the legislation. The measure further requires the Commission to produce an interim report and a final report to the Governor, the President of the Senate and the Speaker of the House of Representatives, containing necessary and

appropriate recommendations to improve the effectiveness of state efforts in all areas related to the Act.

The enactment further provides for a Minority Business Enterprise Utilization Pilot Project to be conducted by the State University System, the purpose of which is to measure utilization of minority firms irrespective of status as a state-certified vendor, and to enhance the participation of such businesses and compliance monitoring.

The legislation also requires the Auditor General to conduct a performance review of the Minority Business Enterprise Assistance Bureau in the Division of Purchasing of the Department of Management Services. The Auditor General is to review this office's activities relating to the certification of Minority Business Enterprises and monitoring of agency compliance with pertinent statutes and rules.

Community Development

HOUSE BILL 1969 (CHAPTER 93-286) revises Section 163.387, F.S., to provide a local procedure under which a local government may exempt a special district from paying tax increments into a trust fund created pursuant to the Community Redevelopment Act (Chapter 163, Part III, F.S.). The law requires the local government to hold a public hearing and examine certain criteria before making a decision to grant or deny an exemption. Existing special districts which were previously exempted by general and special laws retain their exemption. However, special districts created after July 1, 1993, will not be exempted except through the procedure contained in this legislation.

The measure also amends the powers and obligations of Community Redevelopment Agencies (CRAs). The enactment allows CRAs to extend the duration of a community redevelopment plan for 30 years from the date of adoption of any amendment to the plan. The legislation revises Subsection 163.362(10), F.S., to provide that bonds issued by a CRA during the life of a community redevelopment plan either, mature no later than the end of the 30th fiscal year after the fiscal year in which revenues were first deposited into a redevelopment trust fund, or no later than the 30th fiscal year after the fiscal year in which the plan is subsequently amended. However, all bonds issued by a CRA must mature within 60 years after the initial plan was adopted. The act amends Paragraph 163.370(1)(c), F.S., to further provide that community redevelopment activities undertaken by a CRA may also include installation, construction or reconstruction of public areas of major hotels that are constructed in support of convention centers, including meeting rooms, banquet facilities, parking garages, lobbies and passage ways.

Sections 9, 10 and 11 of the law also remove the exemption for beer or malt beverages from the levy of the municipal resort tax authorized by Chapter 67-930, Laws of Florida.

In conclusion, the measure adds Subsection 163.3181(3), F.S., to provide an alternate administrative procedure for public participation in the decision to undertake publicly financed capital improvement projects by a local government. Local governments which choose this procedure must publish notice at least 14 days prior to a public hearing on the decision to proceed with a proposed capital improvement project. Affected persons may not initiate or intervene in an administrative hearing, objecting to a proposed project as not consistent with the local comprehensive plan, unless the person raised such issue between the date of publication of public notice and the conclusion of the noticed public hearing.

International Affairs

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 497 (CHAPTER 93-218) creates the 1993 Free Cuba Act. The Act prohibits the State Board of Administration from investing in certain businesses having ties with Cuba. State agencies are also prohibited from investing in any financial institution with ties to Cuba. In addition, the law provides that local governments issuing occupational licenses may revoke or refuse to renew a license of an individual or entity doing business with Cuba.

Finally, the measure modifies the definition of discriminatory trade practices to allow for the support of a foreign boycott or embargo imposed by the United States against a foreign nation.

Public Lodging and Public Food Service

COMMITTEE SUBSTITUTE FOR SENATE BILL 520 (CHAPTER 93-53) revises provisions in Chapter 509, F.S., by which the Division of Hotels and Restaurants (Division) of the Department of Business Regulation (Department) regulates public lodging and public food service establishments. Definitions and references in Section 509.013, F.S., relating to public lodging establishments are revised to clarify the distinction between establishments which rent to transient and nontransient guests. Exemptions to the definition of regulated public food service establishments are clarified for certain public health establishment eating places, vending

machines and theme parks. The law updates and clarifies certain references in Chapter 509 and clarifies the application of certain advertising and licensing requirements for resort condominiums and apartments (Subsection 509.201(4), F.S.). The enactment also revises certain duties of the Department of Health and Rehabilitative Services relating to the food service establishments it regulates (Subsection 381.0011(8) and Section 381.0072, F.S.).

The act's revision of certain powers and duties reflects the Division's additional regulatory responsibility for the inspection of all restaurants. These revisions include:

1) extending the length of a temporary food service event and authorizing the Division to exercise certain regulatory authority over participants in such events (Subsection 509.032(3), F.S.);
2) authorizing the Division to issue stop-sale orders for unwholesome foods (Subsection 509.032(4), F.S.), and to close establishments that are a threat to public health, safety or welfare (Section 509.035, F.S.);
3) establishing epidemiology investigation fees (Subsection 509.251(4), F.S.), providing for a minimum of two inspections every year of each licensee (Paragraph 509.032(2)(a), F.S.), and establishing an inspection frequency system and corresponding fee schedule based on the results of each licensee's previous year's inspection record (Subsection 509.251(2), F.S.);
4) authorizing the Division to charge additional fees for facility plan reviews (Paragraph 509.032(2)(e), F.S.), initial or ownership change licensing (Paragraph 509.251(1)(a), F.S.), and delinquent accounts (Paragraph 509.251(1)(b), F.S.); and
5) authorizing the Division to treat each day or portion thereof of a violation as a separate offense (Subsection 509.261(2), F.S.), and providing for posting service notices (Section 509.091, F.S.).

[The legislation should result in a positive fiscal impact of $900,000 to the Hotel and Restaurant Trust Fund, $70,000 to the General Revenue Fund and $100,000 for the District Health & Rehabilitative Services Trust Fund.]

Motion Picture, Television, Video, Recording

SENATE BILL 230 (CHAPTER 93-60) repeals the Motion Picture, Television and Recording Industry Advisory Council within the Department of Commerce (Department) and revises requirements for the direct support organization (DSO) created in Subsection 20.17(4), F.S., to assist the Department in the promotion and development of the motion picture, television, video, recording and related entertainment industries. The law increases the number of members on the board of directors of the DSO to 15, stipulates terms for those members and provides membership eligibility considerations. The DSO is prohibited from locating its offices on the premises of any studio lot property or space of any entity related to an industry to be promoted by the DSO.

The enactment provides for a 17-member nominating council to make initial board of directors membership nominations to the Governor. Membership on the council is restricted to 1 member each from 17 named entertainment industry associations. The measure further provides for a minimum number of nominations to be submitted by each member of the council and provides restrictions for how many appointments the Governor may make from each council member's list of nominees.

This act requires the board of directors to appoint an executive director to administer the duties of the DSO. Eligibility requirements are provided and the position is exempted from the Career Service System.

In addition, the law technically revises exemption language related to donors and prospective donors to the DSO and requires that any state funds received by the DSO be appropriated to the Department as a line item in the General Appropriations Act, directing that the funds may be used to contract with a DSO.

Historic Preservation

COMMITTEE SUBSTITUTE FOR SENATE BILL 1074 (CHAPTER 93-31) amends Section 266.0037, F.S., to alter the composition, membership qualifications and terms of office of the architectural review board of the City of Key West. Under the act, members of this board will be appointed by the governing body of that city in accordance with the provisions of a city ordinance, with the exception of one member. That member would be required to also be a member of the Historic Florida Keys Preservation Board of Trustees.

A reference to the Key West Zoning Board is revised by this legislation to reflect the new name of that entity, the Key West Board of Adjustment.

This reference relates to the body to which the City of Key West's architectural review board may make historic district zoning variance recommendations.

The law also revises Section 266.0057, F.S., concerning the criteria for membership on the architectural review board of Hillsborough County to include consideration of professional members of horticultural or arboreal disciplines. The powers of the architectural review board are amended to authorize the board to grant or deny variances from certain ordinances of the governing bodies applicable to historical districts, landmarks and landmark sites. In addition, the enactment revises the composition of membership on the Ybor City Barrio Latino Commission (Section 266.00572, F.S.), which serves as the architectural review board for Ybor City Historic District. The effective date of this act is October 1, 1993.

HOUSE BILL 1895 (CHAPTER 93-114) enhances the penalty provisions in Chapter 267, F.S., relating to the protection of archaeological sites from theft or destruction. It revises Section 267.13, F.S., to establish three classifications of activity on certain archaeological sites, and prescribe a level of criminal activity and punishment for certain infractions in each classification. Further, this measure increases the penalty provisions for reproducing or falsely labeling artifacts.

This law also conforms the definition of "unmarked burial ground" provided in Section 872.05, F.S., to the prohibited acts and related penalties for disturbing any burial grounds cited in Section 872.02, F.S., by referencing burial mounds and earthen or shell monuments within the definition. Chapter 872, F.S., provides protection of marked and unmarked human burials, and provides for the disposition of such burials, if they are related to archaeological sites under the auspices of the Division of Historical Resources of the Department of State.

Cultural Resources

COMMITTEE SUBSTITUTE FOR SENATE BILL 718 (CHAPTER 93-46) continues the process of restructuring the method by which cultural institutions receive annual state funding through programs established by the Division of Cultural Affairs of the Department of State. The legislation revises Section 265.2861, F.S., to create the Cultural Institutions Program and renames the State Major Cultural Institution Trust Fund as the Cultural Institutions Trust Fund. Statutory designations of major cultural institutions and state theaters, currently listed for annual funding under the State Major Cultural Institution Trust Fund, are removed. Grant recipients under the program are awarded funding based on 3-year budget cycles and departmental rule criteria. All cultural institutions seeking grants would submit applications under the new program.

Grant criteria based on an institution's ability to demonstrate a sustained commitment to cultural excellence, to make superior cultural contributions with regional or statewide impact and to provide certain matching funds, are authorized by this law. The legislation also stipulates that the awarding of these grants would depend on a peer evaluation process, and grant recipients would have to adhere to certain accounting practices.

EDUCATION, K-12 AND VOCATIONAL*

School Improvement and Accountability

COMMITTEE SUBSTITUTE FOR SENATE BILL 1582 (CHAPTER 93-198) amends Sections 229.591 and 229.592, F.S., thereby implementing the recommendations of the Florida Commission on Education Reform and Accountability regarding the state goals for education and flexibility in meeting graduation requirements. Goal Four of Blueprint 2000 (Paragraph 229.592(3)(d), F.S.) is restated to read, "School boards provide an environment conducive to teaching and learning," in order to be more inclusive of all subject areas. The act amends Paragraph 229.592(6)(c), F.S., to further reduce state regulations by permitting the waiver of statutes setting the length of the school day and the school year and to give schools greater flexibility to award credits on the basis of demonstrated mastery rather than "seat time". Credit awarded beyond that allowed by the Course Code Directory will accrue as elective credit.

This law also revises Subsection 229.592(5), F.S., to put in place "lottery accountability" by requiring the State Board of Education to adopt guidelines for annual school report cards which will include a report of how each school is spending its lottery dollars.

Subsection 228.041(38), F.S., is created to define "year-round school" as 180 or more days of instruction offered over an 11- or 12-month period. Subsection 236.081(1), F.S., is amended to adjust the computation of funds provided through the Florida Education Finance Program (FEFP) for year round-school programs.

Paragraph 230.23(4)(m), F.S., relating to powers and duties of local school boards, is amended to revise provisions relating to exceptional students. Statutory language requiring "mainstreaming" of exceptional students with regular students is strengthened to allow segregation of exceptional students only when these students cannot be educated in regular classrooms with the use of supplementary aids and services.

Paragraphs 232.01(1)(e) and 234.01(1)(f), F.S., are amended to align state with federal definitions by replacing the term "handicapped" with "disabled" and to allow school boards more flexibility in the use of school buses.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1689 (CHAPTER 93-93) amends Paragraph 229.58(1)(a), F.S., to revise the makeup and method of appointing school advisory councils. This act adds the school principal and education support employees to each council and clarifies student representation. Each teacher, education support employee, student and parent member appointed after July 1, 1993, must be elected by his or her peers. Each school will select business and community representatives. The enactment makes it clear that student services personnel and media specialists may be appointed as "teacher" members. Each school board must establish procedures for these appointments, review council membership and appoint additional members to any council that does not adequately represent the ethnic, racial and economic community served by the school.

SENATE BILL 1214 (CHAPTER 93-163) authorizes the Department of Education to provide technical assistance to schools designated Chapter I under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 236 et seq., 241 et seq., 821 et seq., (1988)) in planning and implementing innovative programs. These programs may include the Montessori Method for children in prekindergarten through third grade, which is based on the premise that children learn through interaction with their environment, and the character building program of the Efficacy Institute. [Chapter I is a federal program authorized under Title I of the Elementary and Secondary Education Act that provides funding to school districts to improve instructional programs for educationally disadvantaged children in low-income areas.] This act takes effect September 1, 1993.

Economic and Community Development

COMMITTEE SUBSTITUTE FOR SENATE BILL 2382 (CHAPTER 93-187) creates Section 288.047, F.S., establishing the Florida Quick-Response Training Program administered by the Department of Commerce in conjunction with the Department of Education. The program is intended to provide training for new, expanding or diversifying businesses in Florida. Instruction provided through the program cannot exceed 12 months of full-time enrollment or 18 months of less than full-time enrollment. Instruction provided through the Quick-Response Program cannot duplicate courses currently conducted through the local school

*Prepared by House Education Committee

district, community college or private industry council.

A Quick-Response Advisory Committee is created to provide policy guidance to the Department of Commerce in implementing the Quick-Response Program. Requests for Quick- Response funding may be generated through direct business inquiries, inquiries generated through local educational personnel or through official state economic development efforts. In addition, for each request funded, the Department must develop an agreement with the receiving business and educational institution delineating the respective responsibilities of each party regarding instruction.

[Additional provisions not related to education are included in this act. See ECONOMIC DEVELOPMENT AND TOURISM for details.]

COMMITTEE SUBSTITUTE FOR SENATE BILL 1038 (CHAPTER 93-84) amends Section 216.136, F.S., and creates an Occupational Forecasting Conference to establish a timely state-level information base on occupational supply and demand. Information developed by the conferees will include short- and long-term supply and demand and corresponding wage forecasts. The conference principals will consist of the Commissioner of Education, a representative of the Governor's Office, the Secretary of Commerce, the Secretary of Labor and the Director of the Division of Economic and Demographic Research of the Joint Legislative Management Committee.

In addition, this act includes a calculation of the number of prospective eligible student financial aid recipients in the education estimating conference for state planning and budgeting.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1283 (CHAPTER 93-122) creates the Florida Martin Luther King, Jr., Institute for Nonviolence to serve the citizens and government of the state through education, research and information services to promote nonviolent methods for conflict resolution. Provisions are made for a board of directors and an executive director. This law also provides powers and duties of the Institute.

Students

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1221 (CHAPTER 93-144) reenacts and amends Section 322.0601, F.S., which revokes the driving privileges of anyone under the age of 18 who drops out of school without obtaining a hardship waiver. A waiver may be granted if a personal or family hardship requires that the minor have a driver's license for his or her own, or his or her family's, employment or medical care. It provides:

1) school boards and governing bodies of private schools will no longer hear initial appeals for hardship waivers;
2) that initially it will be the responsibility of principals, principals' designees or designees of the governing body of private schools; and
3) school boards and governing bodies of private schools will only hear appeals from students denied a hardship waiver.

To reduce the paperwork formerly required under this program, the uniform, statewide counseling procedures for drop-out prevention are replaced by intervention programs designed to improve student attendance in accordance with local district policies and procedures. Students who leave school to begin a home education program are required to have had a good attendance record before leaving in order to retain their driving privileges. [This provision is intended to prevent students from retaining their driving privileges by merely stating that they are in a home education program when in fact they are not.]

The Department of Highway Safety and Motor Vehicles is required to report quarterly to each school district the number of licenses actually suspended under this law. Beginning with the 1994-1995 school year, schools are required to include in their school report card such information as the number of warning letters sent to students who are in danger of losing their driving privileges based on nonattendance and the number of students who have lost their driver's license under the law. The effective date of this law is October 1, 1993.

HOUSE BILL 535 (CHAPTER 93-10) amends Section 322.13, F.S., permitting private secondary schools to offer driver's education courses, conduct driver's license examinations and participate in the Florida Department of Education and Department of Highway Safety and Motor Vehicles Driver's Education License Assistance Program. This act also provides immunity from liability for persons employed to conduct such courses or examination in private schools, under the same conditions that are applicable to instructors and examiners in public schools.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 767 (CHAPTER 93-210) amends Section 232.246, F.S., authorizing district school boards to award a maximum of one-half credit in social studies and

one-half elective credit to students who complete a minimum of 75 hours per semester of unpaid community or school volunteer service. Service performed as a result of court action cannot be counted for such credit. The school board of any district in which such credit is granted must establish the guidelines for the award of credit, and school principals must approve specific volunteer activities.

COMMITTEE SUBSTITUTE FOR SENATE 1954 (CHAPTER 93-173) creates Section 233.0561, F.S., to establish, as a state policy, that literacy is important for all citizens, regardless of visual ability. This act requires that Braille instruction be considered as an alternative form of instruction when educational personnel construct individual educational plans for blind and visually impaired students. In addition, the measure requires that publishers of state-adopted textbooks furnish an electronic file of the textbook to the Department of Education so that copies may be reproduced in a Braille format.

This law also includes language that permits asthmatic students to carry an inhaler with them if they have prior written approval by their parents and physician.

Teachers and Other Education Personnel

SENATE BILL 1330 (CHAPTER 93-165) creates Section 231.263, F.S., effective June 30, 1993, establishing a Recovery Network for Educators within the Department of Education. Beginning July 1, 1994, the Recovery Network will assist educators impaired by substance abuse or mental health problems in receiving the treatment necessary to remain viable in their profession. The act provides eligibility requirements, staff, treatment contracts, public record exemptions and funding.

School Boards

COMMITTEE SUBSTITUTE FOR HOUSE BILL 835 (CHAPTER 93-241) amends Sections 200.065, 235.056 and 236.25 F.S. The act permits school boards to use their discretionary capital outlay millage proceeds to rent or lease educational facilities or sites and to bring leased facilities into compliance with fire safety codes. All leased facilities will have to be inspected prior to occupancy.

Beginning July 1, 1994, all newly leased facilities must be brought into compliance with fire safety codes prior to occupancy. Facilities leased for adult, community education, noninstructional or community college programs will be subject to the appropriate state minimum building code rather than the more stringent State Uniform Building Code for Public Educational Facilities. The legislation updates the required public advertisement of proposed ad valorem taxation (i.e., truth in millage (TRIM) notice) to reflect changes made by this measure and legislation enacted in 1992.

HOUSE BILL 1483 (CHAPTER 93-145) authorizes the establishment of regional consortium service organizations by school districts to provide for cooperation between school districts in the delivery of educational programs and services. This act also provides requirements for these regional consortium service organizations, as well as eligibility and application procedures for receipt of incentive grants. These incentive grants of $25,000 per district are authorized for regional consortium service organizations consisting of four or more districts with 20,000 or fewer unweighted full-time equivalent students per district.

EDUCATION, HIGHER*

Prepaid Tuition Benefits Transferability

HOUSE BILL 201 (CHAPTER 93-191) expands the provisions of the Florida Prepaid Postsecondary Education Expense Program (Section 240.551, F.S.), effective July 1, 1993, to allow persons who hold advance payment contracts to transfer the benefits of the policy to the cost of registration and housing at an eligible out-of-state institution. The administration of the Program is transferred to the State Board of Administration.

Access Grants for Community Colleges

Provisions concerning Access Grants for Community College Graduates were passed in HOUSE BILL 201 (CHAPTER 93-191) as Section 240.6055, F.S. The Access Grants Program will provide need-based grants to community college Associate of Arts graduates who attend private institutions in the state. The amount of the grant in combination with other state student aid is limited to 50 percent of the state cost at a public university.

Articulation Accountability/College Readiness

COMMITTEE SUBSTITUTE FOR HOUSE BILL 647 (CHAPTER 93-234) creates Section 240.1162, F.S., which requires the State Board of Education (SBE) to establish an articulation accountability process to evaluate the effectiveness of articulation activities in assisting students to move smoothly from one educational level to another. The state placement testing program for public postsecondary educational institutions (Section 240.117, F.S.) is revised. The State Board of Education is required to implement a new common placement test to measure the readiness of first-time-in-college students to enter college credit courses. Pursuant to amended Section 240.118, F.S., the Commissioner of Education is to provide the college readiness performance data to school districts and high schools must include strategies in their school improvement plans for better preparing students.

Women's Athletics and Activities

COMMITTEE SUBSTITUTE FOR HOUSE BILL 899 (CHAPTER 93-202) amends Section 232.426, F.S., to clarify that school districts must offer to females fast pitch softball and other athletic activities for which community colleges and universities offer scholarships. A Task Force on Gender Equity in Education is established pursuant to revised Section 228.2001, F.S., to define equity in athletics and to recommend to the Commissioner of Education rules for each delivery system to fully comply with federal Title IX of the Education Amendments of 1972 and the Florida Equal Educational Opportunity Act. The Commissioner of Education may withhold General Revenue funds from school districts and community colleges when an institution is found to be in noncompliance. New provisions are added in Section 240.533, F.S., to the state university statutes on Women's Athletics which require the nine universities to adopt gender equity plans, and the Board of Regents may withhold funds for noncompliance. Community colleges may assess an additional 2 percent for the student financial aid fee to support women's athletics under provisions of an amended Section 240.35, F.S.

Florida Education Fund

HOUSE BILL 611 (CHAPTER 93-98) revises Section 240.498, F.S., to change the name of the Florida Endowment Fund for Higher Education to the Florida Education Fund, effective July 1, 1993. [The name change will facilitate the ability of the program to solicit nonendowment donations.]

State University System

COMMITTEE SUBSTITUTE FOR HOUSE BILL 881 (CHAPTER 93-242) addresses a number of State University System (SUS) fiscal and administrative matters. The act revises Section 240.1201, F.S., to expand the categories of students who can be classified as Florida residents for tuition purposes. Finalists in the McKnight Doctoral Fellowship program are to be classified as residents for tuition purposes. In addition, U.S. citizens teaching overseas in Department of Defense Dependent Schools (DODDs) or American International Schools who take courses leading to a Florida teaching certificate are classified as residents for tuition purposes. The legislation revises the master planning process in Section 240.209, F.S., to clarify the scope of the SUS Master Plan, reduce duplication of administrative effort and remove references to individual university plans. The measure revises provisions relating to the

*Prepared by House Higher Education Committee

Employee Recognition Program and the Incentive Efficiency Program (Sections 240.2111 and 240.2112, F.S., respectively) to provide more incentives for employees, with a particular emphasis on cost-saving efforts. University presidents are directed by revised Subsection 240.227(9), F.S., to establish fees for continuing education activities, pursuant to rules and guidelines adopted by the Board of Regents. Language in Subsection 240.235(8), F.S., relating to tuition and fee waivers for certain members of the Florida National Guard is clarified. The act also improves the process of establishing university reserves by revising Section 240.272, F.S., to provide for the transfer of carry-forward funds to the SUS on September 1 of each year rather than January 1 of the following year.

H. Lee Moffitt Cancer Center

COMMITTEE SUBSTITUTE FOR SENATE BILL 1600 (CHAPTER 93-167) revises Section 240.512, F.S., to permit a multicorporate structure for the H. Lee Moffitt Cancer Center and Research Institute, Inc., in lieu of the current direct support organization structure. The proposed structure will utilize a parent corporation as the primary planning entity with various not-for-profit corporate subsidiaries under the supervision of the parent corporation. Creation of subsidiaries would be subject to the Board of Regents approval.

State University System Campus Master Plan

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2315 (CHAPTER 93-206) contains provisions relating to campus master planning. Under new Section 240.155, F.S., the Board of Regents (BOR) is required to adopt campus master plans for each of the universities. The law provides for the preparation of campus master plans and campus development agreements, including procedures to resolve disputes at numerous points in the process. Campus master plans must be adopted within 24 months of the effective date of the enactment. The campus development agreement must determine any deficiencies in public services or facilities which the proposed campus development will create or to which it will contribute and identify the BOR's fair share of the costs of improvements to eliminate these deficiencies. A development authorized by a campus development agreement may not be built until funds to cover the BOR's fair share are appropriated by the Legislature. The measure further provides that the General Revenue service charge from the local option motor fuel tax will be used to fund off-site improvements required to meet concurrency standards.

Private Postsecondary Vocational Education

SENATE BILL 1710 (CHAPTER 93-170) amends various sections of Chapter 246, F.S., to improve safeguards provided for students attending private postsecondary vocational schools which close. The act also establishes continuing education requirements for school administrators.

EMPLOYEES, BARGAINING & BENEFITS*

Public Pension or Retirement Benefits

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 42 (CHAPTER 93-193) which relates to public pension or retirement benefits, amends various sections of the Florida Statutes with regards to retirement matters. More specifically, the act:

1. Increases the Retiree Health Insurance Subsidy contribution rate from 0.48 percent to 0.56 percent effective January 1, 1994, in order to maintain the long-term solvency of the Retiree Health Insurance Subsidy Trust Fund. (Amends Section 112.363, F.S.)
2. Revises the Florida Retirement System (FRS) contribution rates to comply with the findings of the 1991 FRS valuation. (Amends Sections 121.052, 121.055, 121.071 and 121.40, F.S.).
3. Provides that surviving spouses who have remarried (subsequent to the line-of-duty-death of their spouse) and thereby had their monthly death benefit terminated shall have their monthly death benefit reinstated. (Amends Section 121.091, F.S.).
4. Transfers the Bureau of Police and Fire Pensions from the Department of Insurance to the Division of Retirement of the Department of Management Services. Makes the Division of Retirement responsible for the oversight, and monitoring for actuarial soundness, of the municipal firefighters' and police officers' pension or retirement plans under Chapters 175 and 185, F.S. The Department of Insurance would retain responsibility for receiving, holding and disbursing at the Division of Retirement's direction, the premium tax moneys collected under those chapters. (Amends Section 20.13, F.S., and substantially amends Chapters 175 and 185, F.S.)
5. Authorizes special fire control districts not in the Florida Retirement System to establish their own local retirement plans for their employees in the same manner as is now permitted for municipalities having a Municipal Firefighters' Pension Trust Fund pursuant to Chapter 175, F.S. Special fire control districts which elect to establish a pension fund pursuant to Chapter 175, F.S., would also be permitted to share in the distribution of the insurance premium tax as a partial funding source for their pension fund. (Substantially amends Chapter 175, F.S.)

COMMITTEE SUBSTITUTE FOR SENATE BILL 828 (CHAPTER 93-157) relating to the Florida Retirement System (FRS), amends Section 121.052, F.S., to provide that a justice or judge, who has attained age 70, and who is thereby constitutionally prevented from completing the remainder of his term of office, may receive retirement credit for all or a part of the uncompleted portion of his term by paying into the FRS Trust Fund all required contributions, plus interest; provided however, that such additional retirement credit may be purchased only after the date the service would have occurred.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1959 (CHAPTER 93-285) which relates to the Florida Retirement System (FRS), amends various sections of Chapter 121, F.S., as follows: It clarifies the definition of "compensation" by eliminating an archaic reference to "fees set by statute" and by removing ambiguous language relating to "Internal Revenue Service W-2 forms or any similar forms." Further, the act provides a definition for "effective date of retirement" and specifies which beneficiaries are eligible to receive continuing benefits upon the death of a member who has submitted a retirement application, but who has not yet begun receiving retirement benefits. (Amends Section 121.021, F.S.)

In addition, the law requires providers of group annuity contracts under the Senior Management Service Optional Annuity Program and the State University System Optional Annuity Program to furnish each participant in such programs with an individual certificate of participation. (Amends Sections 121.055 and 121.35, F.S.)

With reference to the Special Risk Class of the FRS, the legislation amends Subparagraph 121.021(29)(c)2., F.S., by striking the requirement that the Special Risk member's 25 years of service be continuous, i.e., a Special Risk member could

*Prepared by Senate Personnel, Retirement and Collective Bargaining Committee

retire after 25 aggregate years of service, regardless of age.

The enactment amends Section 121.055, F.S., to expand the Senior Management Service Class (SMSC) of the Florida Retirement System (FRS) to allow for coverage of additional local government positions and also to provide coverage for certain positions in the Judicial Branch. Local agency employers covered by the measure are: boards of county commissioners, clerks of the circuit courts, sheriffs, property appraisers, tax collectors, elective supervisors of elections, community college boards of trustees, district school boards and the governing body of any city or special district participating in the FRS.

Local Government Positions--Beginning January 1, 1994, local government employers with employees in the FRS would be permitted to designate positions for inclusion in the SMSC, within specified limits. At least one position could be designated for each agency reporting to the Division of Retirement. The number would be based on the size of the workforce. Agencies with 200 or more regularly established positions could designate additional senior managers, as long as the number designated did not exceed 0.5 percent of the workforce (1 senior manager for 200 FRS employees).

Community College Positions--Beginning January 1, 1994, community college boards of trustees would be permitted to designate additional community college positions for inclusion in the SMSC, within specified limits. At least one position could be designated for each of the 28 community colleges reporting to the Division of Retirement (in addition to the Community College President, now currently included in the SMSC by statute). The number would be based on the size of the college workforce. Colleges with 200 or more regularly established positions could designate additional senior managers, as long as the number designated did not exceed 0.5 percent of the workforce (1 senior manager for 200 FRS employees).

Judicial Branch Positions--The following judicial positions would be included by law in the SMSC, effective January 1, 1994: State Courts Administrator; Deputy State Courts Administrators; Clerk of the Supreme Court; Marshal of the Supreme Court; Justice Data Center Director; Executive Director of the Justice Administration Commission; Capital Collateral Representative; Clerks of the District Courts of Appeals; Marshals of the District Courts of Appeals; and the Trial Court Administrator in each judicial circuit.

Public Defender and State Attorney Positions--Effective January 1, 1994, each of the 20 judicial circuits would be permitted to designate additional positions in their offices for inclusion in the SMSC, within specified limits. The number would be based on the size of the workforce. At least one position could be designated for each office reporting to the Division of Retirement. Public defenders or state attorneys with 200 or more regularly established positions could have additional senior managers, provided the number designated did not exceed 0.5 percent of the workforce (1 for 200 FRS employees).

Other Requirements--The act establishes other restrictions. To provide for open government and accountability, where participation is optional, the enactment requires the designating employer to publish notice before selecting a position for inclusion in the SMSC. Guidelines are provided as to the type of position appropriate for inclusion in the class: (1) the position must be a managerial or policymaking position; (2) the position must be nonelective, at-will, and not subject to continuing contract; and (3) the designee must either head an organizational unit or make or recommend personnel, budget, expenditure or policy decisions.

Special Provisions--As now provided by law for other local government senior managers, local agency senior managers (including community college senior managers) could choose to withdraw from the FRS entirely and participate instead in a lifetime monthly annuity program (if offered by the employing agency); judicial branch senior managers could also choose to withdraw from the FRS and participate instead in the Senior Management Service Optional Annuity Program now established by legislation for state senior managers.

Like other members of the SMSC, new senior managers would be able to obtain added retirement credit for service within the purview of the class retroactive to February 1, 1987 (the date the SMSC was created).

Once a position was included in the SMSC, it could not be removed from the class unless the duties of that position were to change substantially and, therefore, the position no longer met the standards for inclusion in the class.

Finally, the act revises the contribution rates applicable to the Senior Management Service Class and the Regular Class in order to fund the expansion of the Senior Management Service Class in an actuarially sound manner.

Law Enforcement Officers/Bill of Rights

COMMITTEE SUBSTITUTE FOR HOUSE BILL 89 (CHAPTER 93-19) relating to law enforcement

officers, amends Sections 112.531 through 112.534, F.S., to give deputy sheriffs the same statutory rights and privileges under the Police Officers' Bill of Rights as is currently provided to other law enforcement officers in the event of an agency investigation of such officer. Sheriffs and deputies, however, would be exempt from the subsection which authorizes the establishment of a complaint review board. Further, the measure provides that the act shall not be construed so as to restrict a sheriff's ability to discipline or discharge a deputy sheriff, nor shall the act be construed to grant collective bargaining rights to deputy sheriffs or to provide them with a property right or continued expectancy in their appointment as a deputy sheriff.

Public Employees/Death Benefits

COMMITTEE SUBSTITUTE FOR SENATE BILL 124 (CHAPTER 93-149) relating to public employee benefits, amends Paragraph 110.123(4)(e), Sections 112.19, 121.191 and 112.193, and Paragraph 121.091(7)(c), F.S., as follows:

Paragraph 110.123(4)(e), F.S., is amended to clarify that payment of the health insurance premiums for a deceased law enforcement officer's spouse and children also applies to correctional probation officers. Further, because payment of health insurance premiums was negotiated as a benefit in the Law Enforcement Collective Bargaining Agreement only for families of full-time officers who are killed, the legislation contains clarification which restricts this benefit to "full-time" officers.

Section 112.19, F.S., is amended to clarify that probation officers are included in the death benefits provided by this section of the statutes. Section 112.19, F.S., is further amended to extend the death benefits to "part-time" and "auxiliary" law enforcement, correctional and probation officers.

Paragraph 112.19(2)(f), F.S., provides a payment of $1,000 toward the funeral and burial expenses of state law enforcement, correctional or probation officers who are killed under specified circumstances. The law clarifies that the funeral/burial benefit applies to officers who are full-time employees as this benefit was included in the Collective Bargaining Agreement for full-time officers only.

Section 112.191, F.S., is revised to to provide that volunteer firefighters shall be entitled to the same death benefits that full-time firefighters are entitled to receive.

Section 112.193, F.S., is amended to extend the commemorative service awards to correctional probation officers and to part-time and auxiliary law enforcement, correctional and probation officers. Additionally, an employer may present commemorative service awards including the officer's uniform, badge and service handgun upon the officer's retirement, death or resignation to hold an elected public office.

Section 121.091, F.S., is modified to provide that surviving spouses of Florida Retirement System members who have remarried (subsequent to the line-of-duty death of their spouse) and thereby had their monthly death benefit terminated shall have their monthly death benefit reinstated effective July 1, 1993. [This will provide equity with respect to the treatment of surviving spouses pursuant to a 1992 Regular Session amendment which provided this benefit to surviving spouses on a prospective basis only.] Identical language appears in COMMITTEE SUBSTITUTE FOR SENATE BILL 42 (CHAPTER 93-193) summarized at the beginning of this article.

Law Enforcement Officers/Awards

COMMITTEE SUBSTITUTE FOR SENATE BILL 138 (CHAPTER (93-1) authorizes any state agency, county or municipality which employs or appoints law enforcement officers, to establish a program to award a medal of valor to any officer whose actions are extraordinary and expose the officer to peril beyond the call of duty. The medal of valor could include a medal to be worn by the officer on the dress uniform and a commendation bar to be worn by the officer on the uniform worn during normal duty. A medal of valor could be presented posthumously to an officer's closest living relative. An agency may not expend more than $250 for a medal of valor.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1536 (CHAPTER 93-32) amends Section 112.193, F.S., to provide that a law enforcement or correctional officer who resigns as an officer to hold an elected public office may be granted the same commemorative awards which are presented to

officers who retire. Such awards include the officer's uniform, badge, service handgun and identification card.

In addition to the awards permitted under current law, upon the death of a law enforcement officer or correctional officer, the employer may present the officer's badge to the spouse or other beneficiary.

If the officer is killed while in the performance of duty, the officer's service handgun may also be presented, if requested, to the spouse or other beneficiary if a handgun was issued as a part of the officer's equipment. If the handgun worn by the officer is not available, the employer may, at its own discretion, present a similar handgun.

The effective date of the act is May 1, 1993, however, the provisions also apply to officers whose death occurred prior to that date.

Firefighters, Paramedics and Police Health

HOUSE BILL 1775 (CHAPTER 93-11) repeals Section 112.185, F.S., which created the Florida Firefighters, Paramedics and Police Officers Health Project in accordance with this law's statutorily scheduled repeal date of October 1, 1993.

Whistle-blower's Act of 1986

COMMITTEE SUBSTITUTE FOR SENATE BILL 1958 (CHAPTER 93-57) generally provides revisions with respect to the responsibilities under the "Whistle-blower's Act of 1986" as they relate to the Chief Inspector General in the Office of the Governor and to the inspectors general and the chief auditors in the state agencies.

Section 112.3187, F.S., is expanded to include "gross neglect of duty" in place of the term "neglect of duty" in current law. The act defines more explicitly to whom whistle-blower information could be disclosed; specifically noting, in addition to the Chief Inspector General, the employee designated as agency inspector general under the provisions of Subsection 112.3189(1), F.S., or the chief internal auditors under the provisions of Section 20.055, F.S. The measure also clarifies that disclosures concerning any political subdivision of the state must be made to a chief executive officer as defined in Subsection 447.203(9), F.S., or other appropriate "local" official.

Revisions are made to Section 112.3188, F.S., which provides for the confidentiality of whistle-blower's information when received by the Chief Inspector General, internal auditors and inspectors general. The major additions to this section of the law result from transferring existing statutory language from Subsections 112.3189(10) and (11), F.S., to Section 112.3188, F.S. The transferred language relates to confidentiality of the identity of the individual who makes the whistle-blower disclosure and of the information disclosed. This confidentiality is amended to allow that the individual's identity and the whistle-blower information may be disclosed if the Chief Inspector General or the agency inspector general determines that such disclosure is necessary to prevent a substantial and specific danger to the public's health, safety or welfare or to prevent the imminent commission of a crime.

Section 112.3189, F.S., is substantially revised; however, the provisions or general intent of the current law are retained except for the following noted changes.

Several factors may be considered when determining if the disclosed whistle-blower information warrants the conducting of an investigation, including whether a substantial likelihood exists that a violation of a law, rule or regulation occurred or there was gross mismanagement, neglect of duty, malfeasance, misfeasance, nonfeasance, gross waste of public funds or a substantial and specific danger to public health and safety.

In addition, under the provisions of this legislation, the Chief Inspector General or the agency inspector general would be required to consider additional factors in determining whether or not an investigation is necessary:

1) the gravity of the disclosed information compared to the time and expense of an investigation;
2) the potential for an investigation to yield recommendations that will make state government more efficient and effective;
3) the benefit to state government to have a final report on the disclosed information;
4) whether the alleged whistle-blower information primarily concerns personnel practices that may be investigated under Chapter 110, F.S.;
5) whether another agency may be conducting an investigation and whether any investigation under this section could be duplicative; and,
6) the time that has elapsed between the alleged event and the disclosure of the information.

If the Chief Inspector General decides that an investigation should be conducted, he shall either: (1) promptly transmit to the appropriate agency head the information with respect to which the determination to conduct an investigation was

made, in which case the agency head must conduct the investigation and submit to the Chief Inspector General a final written report as to the agency's findings, conclusions and recommendations; or (2) the Chief Inspector General may conduct the investigation with respect to the information and any related matters and within 60 days submit to the complainant a final written report.

If upon receipt of the final written report, it is determined that certain required information has not been provided, the reason for said absence shall be determined and noted as an addendum to the report by the Chief Inspector General.

If the Chief Inspector General does not receive the report of the agency head within the prescribed time frame, he may either conduct the investigation himself or request that another agency inspector general conduct the investigation.

Any timeframes established in the law for the disclosure and investigative processes may be extended in writing by the Chief Inspector General, for good cause shown.

Section 112.31895, F.S., provides the mechanism by which an employee or former employee of, or job applicant for employment with a state agency as defined in Section 216.011, F.S., may file a complaint alleging that an employer has participated in a prohibited personnel action. Currently, such a complaint may be made by using the whistle-blower's hotline; however, the law would eliminate this reporting mechanism and require that the complaint be filed in writing with the Chief Inspector General, the Department of Legal Affairs or the Office of the Public Counsel.

ETHICS AND ELECTIONS*

One major ethics bill became law. This legislation makes substantive changes to the legislative and executive branch lobbyist laws.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1668 (CHAPTER 93-121) revises Subsections 11.045(1) and 112.3215(1), F.S., to define a lobbyist as a person who is employed and receives payment or who acts for economic consideration to lobby or who is employed for governmental affairs to lobby on behalf of a person or governmental entity. Amended Paragraph 11.045(3)(a) and Subsection 112.3215(5) F.S., to require any lobbyist who lobbies the legislature or an executive branch agency, respectively, to file quarterly reports disclosing all lobbying expenditures made by the lobbyist and the represented principal and the source of funds for such expenditures. The quarterly report, which is due on January 15, must include a cumulative total for the previous calendar year for all reportable categories. These reports must identify whether an expenditure was made directly by the lobbyist, directly by the principal, initiated or expended by the lobbyist and paid for by the principal or initiated or expended by the principal and paid for by the lobbyist.

If no lobbying expenditures are made in a given quarter, a report need not be filed. However, the January 15 report must contain a certification by the registrant that there were no expenditures during any period for which a report was not filed.

Expenditures must be reported by category, including food and beverages, entertainment, research, communication, media advertising, publications, travel and lodging. Expenditures do not include a lobbyist's or principal's salary, office expenses and personal expenses for lodging, meals and travel.

When a principal is represented by two or more lobbyists, the principal will designate one of them who will file a consolidated expenditure report which will include the lobbying expenditures of the principal and of all of the lobbyists who lobby on behalf of that principal.

Any lobbyist or principal who knowingly fails to disclose required information or who knowingly provides false information on any report commits a noncriminal infraction, punishable by a fine of up to $5,000.

All lobbyists and principals are required by new Paragraphs 11.045(2)(c) and 112.3215(5)(e), F.S., to maintain for 4 years all materials necessary to substantiate their lobbying expenditures.

The receipt and payment of contingency fees are prohibited under new Sections 11.047 and 112.3217, F.S., which address the legislative and executive branches of government, respectively. Violation of the contingency fee prohibition constitutes a first-degree misdemeanor, requires the forfeiture of any such fee and subjects the violator to a fine of up to $5,000. The contingency fee prohibition does not apply to claims bills nor to contracts which provide for contingency fees from lobbying completed prior to December 31, 1993.

Executive branch departments, state universities, community colleges and water management districts are prohibited from using public funds to retain a legislative or executive branch lobbyist by new Subsection 11.062(2), F.S. However, such entities may utilize their full-time employees as lobbyists before the legislative or executive branch. Any specified entity which violates this prohibition may be prohibited from lobbying the legislative or executive branch for up to 2 years. A lobbyist who accepts public funds in violation of this prohibition may be prohibited from registering to lobby the legislative or executive branch for up to 2 years.

Except as otherwise provided, the act takes effect October 1, 1993.

*Prepared by Senate Executive Business, Ethics and Elections Committee

FINANCE AND TAXATION*

A large proportion of the legislation adopted during the 1993 Regular Session in the area of taxation addressed administrative matters. With respect to ad valorem taxation, amendments affecting notices and forms, assessment roll requirements, homestead eligibility and leaseholds of government-owned property were adopted. Generally, the authority of the Department of Revenue to contract with independent auditors and debt collection agencies was revised, and the method of calculating administrative costs for various taxes was clarified.

The application of the sales tax and sales tax exemptions was modified in several areas. The method of calculating the tax on milk, fruit and vegetables juices sold in vending machines was modified. Conditions under which law enforcement officers in uniform are exempt from the tax on detective and burglar protection services were specified. The exemption for promotional materials exported outside the state was made to apply retroactively, and natural gas was included in the exemption for gas used for agricultural purposes. New sales tax provisions include a monthly distribution of sales tax revenues to a qualified professional golf hall of fame facility and a retroactive-only exemption for certain magazines or newsletters published by nonprofit associations.

Provisions relating to various local option taxes were revised. Counties were authorized to impose an additional gas tax of up to 5 cents for transportation expenditures necessitated by an adopted comprehensive plan, and the referendum requirement for levy of the ninth-cent gas tax was made optional. Discretionary sales surtaxes were extended to the sale of services, and conditions for imposition of the local government infrastructure surtax were revised. Provisions which authorize Dade County to impose an additional food and beverage tax were revised, and an additional tax was authorized, with proceeds to be used for the homeless and for spouse abuse facilities.

In other areas, provisions relating to local occupational license taxes were substantially revised. Also, the method of distribution of documentary stamp tax revenues was revised, as was the distribution of revenue-sharing funds to Dade County.

Sales Tax

Provisions relating to various sales tax exemptions are included in SENATE BILL 1086 (CHAPTER 93-86). An amendment to Paragraph 212.05(1)(k), F.S., provides that any law enforcement officer in uniform, in an area where he has arrest jurisdiction, who is performing approved duties as determined by his agency and who is subject to the direct and immediate command of his agency, is not performing detective, burglar protection or other protective services, and thus not subject to the tax on such services. New Paragraph 212.06(11)(d), F.S., provides that the exemption for promotional materials exported outside the state applies retroactively to July 1, 1987. Also, new Subparagraph 212.031(1)(a)11., F.S., continues the tax exemption for a lease of, or rental of, or license in, real property occupied pursuant to an instrument calling for payments, where the transaction is the subject of a Technical Assistance Advisement issued by the Department of Revenue which declared that the lease payments are exempt.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 729 (CHAPTER 93-222) amends Subsection 212.0515(2), F.S., to provide that the tax on milk and fruit and vegetable juices sold in vending machines shall be calculated using the divisor specified for food items instead of beverage items, thus lowering the tax thereon. This act also revises provisions which specify requirements for the administration and collection of discretionary sales surtaxes provided in Section 212.054, F.S., effective January 1, 1994. It provides for application of such surtaxes to the sale of services, and specifies that the exemption for sales amounts above $5,000 does not apply to the sale of services. The conditions under which a transaction is deemed to occur in a county imposing the surtax are revised, and provisions are included which specify when a newly adopted or revised surtax applies to dealers located outside the county. This law also provides for distribution of the proceeds of such surtaxes collected by a dealer located in a county that does not impose a surtax, and specifies consequences if a county does not provide timely information to the Department of Revenue.

Conditions for imposition of the local

*Prepared by House Bill Drafting

government infrastructure surtax specified in Subsection 212.055(2), F.S., are also revised. The 15-year limitation on such tax is removed, except that the time limitation on such taxes presently being levied remains in effect; those taxes may be extended with referendum approval. The prohibition against holding a referendum on the levy of such tax after November 30, 1992, is removed. The authorized uses of tax proceeds are extended to include fire department, emergency medical service, sheriff and police vehicles or any other vehicles and such equipment necessary to outfit the vehicles for official use or equipment that has a life expectancy of at least 5 years, and the prior use of tax proceeds by any county or municipality for such purposes is ratified.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 557 (CHAPTER 93-233) contains several provisions relating to sales tax. An amendment to Paragraph 212.20(6)(g), F.S., authorizes a monthly distribution of $166,667 from sales tax revenues, for up to 300 months, to one professional golf hall of fame facility that has been certified by the Department of Commerce. New Section 288.1168, F.S., specifies the requirements the facility must meet to qualify for this certification. These requirements include:

1) the applicant must be recognized by the PGA Tour, Inc.;
2) the applicant must demonstrate that attendance will exceed 300,000 annually and that sales taxes from the facility will exceed $2 million annually;
3) the applicant must be a unit of local government or the facility must be constructed on government-owned property; and
4) the applicant must agree to provide a specified annual amount in advertising of the facility, Florida and Florida tourism.

After certification, the applicant has 5 years to open the facility, and distributions begin 30 days after the facility opens. The Department of Commerce must recertify the facility every 10 years, and if certain requirements are not met, the annual advertising requirement is increased.

This act also amends Paragraph 212.08(5)(e), F.S., to include natural gas within the exemption for gas used for agricultural purposes.

A retroactive sales or use exemption for the period July 1, 1987-July 1, 1993, is provided for any nonprofit association which published a magazine or newsletter directed at its members for which the only charge to members was the imputed charge paid as membership dues and for which sales tax was not collected.

The portion of Section 125.0104, F.S., which authorizes Dade County to impose an additional tax on the sale of food, beverages or alcoholic beverages in specified establishments is transferred to Chapter 212, F.S., as new Section 212.0306, F.S., and revised. In addition to the presently authorized 2-percent tax on such sales in hotels and motels, a tax of 1 percent is authorized on sales in establishments licensed to sell alcoholic beverages on the premises, except hotels and motels. Sales in establishments that had gross annual revenues of $400,000 or less in the previous year, and sales in veterans', fraternal and other chartered clubs, are exempt from the 1-percent tax. For the first year, revenue from the 1-percent tax must be used to assist persons who have become or are about to become homeless. Thereafter, at least 15 percent of the revenue must be used for the construction and operation of a spouse abuse emergency treatment and shelter facility, with the remainder to be used for the homeless. This section is repealed on October 1, 2008.

In the area of sales tax administration, this act creates Subsection 212.14(7), F.S., which authorizes the Department of Revenue to issue subpoenas or subpoenas duces tecum compelling the attendance and testimony of witnesses and the production of books, records, written materials and electronically recorded information for the purpose of collecting and enforcing sales taxes and penalties and includes extensive provisions regulating issuance of such subpoenas. The penalties for failure to remit sales tax revenues with intent to unlawfully deprive the state of its moneys specified under Subsection 212.15(2), F.S., are revised, with the addition of a first-degree felony penalty when the amount of revenue is $100,000 or more. Finally, new Subsection 212.183(7), F.S., authorizes self-accrual of sales tax for certain commercial rentals where the purchaser rents from a number of independent property owners.

Ad Valorem Taxation

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1543 (CHAPTER 93-132) addresses a variety of issues relating to ad valorem tax administration. Several of these provisions relate to various notices and forms. An amendment to Subsection 193.011(2), F.S., requires the appropriate governmental body or agency or the Governor to notify the property appraiser in writing of any executive order, ordinance or other regulation it adopts imposing any limitation on the use of

property that should be considered in determining just valuation. Subsection 200.065(3), F.S., which specifies the form for advertisements required during the millage determination process, is amended to allow inclusion in such advertisements of a map or geographical description of an area affected by a tax rate increase and the proposed use of revenues if the area represents only a portion of the entire jurisdiction, and to allow notices to be published in a geographically limited insert of a newspaper published at least twice a week. An amendment to Subsection 200.069(11), F.S., provides that when the notice of proposed property taxes contains a separate line entry for each independent special taxing district, the form may be printed only on one side, if the executive director of the Department of Revenue grants written permission.

Section 195.022, F.S., is amended to provide that county officers may continue to use approved forms that differ from the forms prescribed by the Department until the law which specifies the form is amended or repealed or until the officer receives written disapproval from the executive director. The wording of the notice to taxpayers of the right to defer payment of taxes and non-ad valorem assessments is revised in an amendment to Subsection 197.254(1), F.S. An amendment to Section 196.151, F.S., removes the requirement that the property appraiser file a notice of disapproval of an application for homestead exemption with the value adjustment board, with such filing constituting an automatic appeal. Also, Subsection 197.343(3), F.S., is amended to allow the notice of delinquent taxes on subsurface rights to be sent by first class rather than certified mail.

Other provisions of this act deal with assessment roll regulations. An amendment to Paragraph 193.114(2)(a), F.S., requires inclusion of a market area code beginning January 1, 1996; if a property appraiser uses a neighborhood code, beginning in 1994 he must provide that code to the Department. New Paragraph 193.1142(2)(b), F.S., allows the executive director to issue an administrative order specifying remedial steps if a roll is disapproved due to material mistakes of fact relating to physical characteristics of property; in such case interim roll procedures are not invoked. For 1993 and 1994 rolls such action may be taken without roll disapproval. New Section 195.0995, F.S., requires property appraisers to document the reason for disqualifying any sales transaction; if the Department finds that more than 10 percent of such decisions do not fall within applicable criteria, it shall issue a review notice requiring the property appraiser to explain or remedy the problem before roll approval.

Amendments to Section 195.096, F.S., revise the Department's roll review procedures. The Department is authorized to review procedures used by the counties to appraise property, and is directed to rely primarily on assessment-to-sales-ratio studies in conducting assessment ratio studies in those classifications of property for which there are adequate market sales. Requirements for the publication of the results of roll review are revised with respect to those classes of real property which must be treated independently.

In the area of homestead exemption, this legislation includes amendments to Sections 196.012 and 196.031, F.S., which require that title to real property be recorded in the official county records for homestead exemption eligibility, and which broaden the definition of "cooperative corporation" to include mobile home parks, thus allowing tenant-stockholders occupying mobile homes to qualify for homestead exemption.

In other areas, an amendment to Subsection 193.075(1), F.S., specifies that unoccupied mobile homes that are permanently affixed to the land shall not be taxed as real property if they are held for display by a licensed mobile home dealer or manufacturer and are not located on land used for mobile home occupancy. Subsection 197.502(1), F.S., is amended to allow tax collectors a $15 tax deed application fee. Also, Section 193.074, F.S., is amended to allow employees of property appraisers, clerks of the circuit court, the Department of Revenue, tax collectors and the Auditor General and persons acting under their supervision, to review confidential property tax returns. The act takes effect October 1, 1993.

HOUSE BILL 1511 (CHAPTER 93-108) amends Subsection 197.432(9), F.S., to require that the lessee pay the ad valorem taxes levied on a leasehold of certain property owned by a governmental unit when no rental payments are due under the agreement that created the leasehold or when payments required under the original leasehold agreement have been waived or prohibited by law before January 1, 1993. This provision applies retroactively to January 1, 1993.

An amendment to Subsection 196.031(1), F.S., by COMMITTEE SUBSTITUTE FOR SENATE BILL 104 (CHAPTER 93-65), effective January 1, 1994, provides that when only one owner of property held by the entireties or jointly with right of survivorship resides on the property, that owner is allowed the

full homestead exemption.

Finally, COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 557 (CHAPTER 93-233) amends Subsection 196.012(6), F.S., and provides, with respect to leased government-owned real property which is designated as an aviation area and which is used for the administration, operation, business offices and related activities in connection with the conduct of an aircraft full-service fixed-base operation which provides goods and services to the general aviation public, that, for purposes of ad valorem tax exemption, the lessee's activities shall be deemed to serve a governmental or public purpose, and any buildings or improvements which will revert to the governmental unit upon expiration of the lease shall be deemed "owned" by the governmental unit and not the lessee.

Fuel Taxes

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2315 (CHAPTER 93-206), which contains numerous provisions adopted in response to recommendations of the Environmental Land Management Study Committee and is discussed in the LOCAL GOVERNMENT article, includes provisions relating to local option fuel taxes. Section 336.025, F.S., is amended, effective May 1, 1993, to allow any county to impose an additional tax of up to 5-cents-per-gallon on motor fuel, by ordinance adopted by a majority plus one vote or by referendum. Proceeds of the tax are to be distributed among the county and the eligible municipalities therein according to an interlocal agreement, or, if no such agreement is adopted, according to their transportation expenditures for the prior 5 years, and the proceeds are to be used only for transportation expenditures needed to meet the requirements of the capital improvements element of an adopted comprehensive plan. The definition of "transportation expenditure" applicable to the use of the proceeds of this additional tax, and of the tax of up to 6 cents presently authorized by this section, is expanded to include expenditures for structures used primarily for the storage and maintenance of roadway and right-of-way equipment. Also, special procedures for imposition of the additional tax for calendar year 1993 are provided. Unless otherwise provided in the act, its provisions take effect July 1, 1993.

Both this act and SENATE BILL 2414 (CHAPTER 93-176) require that the General Revenue service charge deducted from revenues raised by the additional 5-cent tax be deposited in a State University System Concurrency Trust Fund and used to fund State University System offsite improvements required to meet concurrency standards adopted under Part II of Chapter 163, F.S.

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2315 (CHAPTER 93-206) also amends Section 336.021, F.S., to allow counties to impose the ninth-cent gas tax authorized by that section either by extraordinary vote of the county governing body or subject to referendum; presently, referendum approval is required.

SENATE BILL 352 (CHAPTER 93-71) amends Subsection 206.47(7), F.S., effective July 1, 1993, to allow counties to use surplus constitutional gas tax funds for maintenance, in addition to acquisition and construction, of roads. This act also amends Section 206.61, F.S., which limits the authority of municipalities to levy taxes on motor fuel, to remove an exception from that limitation for municipalities that were levying such a tax pursuant to special law when that section was adopted; this amendment takes effect October 1, 1993.

Excise Tax on Documents

SENATE BILL 498 (CHAPTER 93-74) revises the administration of documentary stamp tax revenues as specified under Section 201.15, F.S. It provides that distributions of revenue to the Land Acquisition Trust Fund will be made earlier in the fiscal year, while General Revenue distributions will occur later, by redirecting General Revenue money into the trust fund until an amount equal to 70 percent of total estimated fiscal year distributions from Subsection 201.15(2), F.S., has been deposited in the trust fund. Then, trust fund distributions are deposited in the General Revenue Fund until the earlier redistribution has been repaid. Also, this legislation authorizes the Department of Revenue to deduct collection and enforcement costs proportionately from all trust funds which receive distributions under this section (except General Revenue and Preservation 2000 funds), rather than just the Land Acquisition Trust Fund and the Water Management Lands Trust Fund.

An amendment to Paragraph 201.17(2)(c), F.S., contained in COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 557 (CHAPTER 93-233) revises the method of

calculating interest on unpaid documentary stamp taxes.

Corporate Income Tax

Both SENATE BILL 1930 (CHAPTER 93-172) and COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 557 (CHAPTER 93-233) amend Section 220.03, F.S., to update the definition of "Internal Revenue Code" under the Florida Income Tax Code (Code), effective retroactively to January 1, 1993. The latter act also directs the Department of Revenue, in conjunction with the Revenue Estimating Conference, to study the potential impact of limiting the deductibility of salaries, benefits and compensation for purposes of determining adjusted federal income under the Code, and to study the impact of limiting employee compensation and eliminating compensation and benefits of officers and directors for purposes of calculating the payroll factor under the Code, and to report to the Legislature by December 1993. This enactment also corrects a reference in Subparagraph 220.13(1)(a)2., F.S.

Intangible Personal Property Tax

SENATE BILL 1086 (CHAPTER 93-86) amends Subsection 199.052(10), F.S., to provide that failure to timely file a consolidated intangible tax return shall not prejudice the taxpayer's right to file a consolidated return, if such failure is limited to 1 year and the taxpayer's intent to file a consolidated return is evidenced by his having filed a consolidated return for the prior 3 years. This provision applies retroactively to January 1, 1986.

Local Occupational License Taxes

Provisions which authorize counties and municipalities to impose local occupational license taxes are substantially revised by SENATE BILL 364 (CHAPTER 93-180). New Section 205.0535, F.S., authorizes any county or municipality to reclassify businesses and establish new rate structures by October 1, 1995. These changes may be adopted by ordinance after consideration of the recommendations of an equity study commission appointed for that purpose. Percentage limits on increases in such taxes under the reclassification are specified, as are limitations on the amount of revenue that may be generated by the new rate structure. Thereafter, every other year, the tax rates may be increased by up to 5 percent by ordinance adopted by a majority plus one vote. New Section 205.0536, F.S., permits counties establishing a new rate structure to retain the tax revenue collected from businesses in the unincorporated areas, while continuing to share with the municipalities revenues collected within incorporated areas according to a ratio based on their respective populations. Beginning October 1, 1995, new Section 205.0315, F.S., authorizes any county or municipality that has not adopted occupational license taxes to do so; the rate structure and classifications must be reasonable and based upon those adopted by local governments that have implemented Section 205.0535, F.S., and that are adjacent to the county or municipality, or, if there are no such adjacent local governments or their rate structures and classifications are found to be unreasonable, on those of such local governments that have a comparable population.

Special provisions for the administration of occupational licenses for, and the application of license taxes to, vending and amusement machines are established by new Section 205.0537, F.S. New Section 205.045, F.S., authorizes counties and municipalities to enter into agreements to issue each other's occupational licenses and collect the taxes thereon. Other administrative revisions are contained in amendments to Sections 205.032, 205.033, 205.042, 205.043 and 205.053, F.S. The required public notice period is reduced from 15 to 14 days; it is specified that all licenses expire on September 30; a month is added to the period during which licenses are sold; license transfer fees are increased; and an additional civil penalty is provided for failing to obtain an occupational license and pay the tax. Further, authority is granted for the use of county occupational license tax revenue for a comprehensive economic development strategy, and a January 1, 1995, expiration date is imposed on the authority of Monroe and Collier counties to impose an additional occupational license tax for that purpose.

General Tax Administration

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 557 (CHAPTER 93-233) also contains several provisions relating to general tax administration. Section 213.28, F.S., which authorizes the Department of Revenue to contract with certified public accountants to audit taxpayer accounts, is revised to specify that this authority is subject to legislative appropriation, and that it applies to all taxes administered by the Department. Provisions relating to approval of such contracts, compensation and selection of accounting firms are also included. Section 213.27, F.S., which authorizes the Department to contract with debt collection agencies, is revised, effective June 30,

1993. It is specified that this authority may be used to collect taxes for which a bill or notice has been generated, and that taxpayers must be notified by regular, rather than certified, mail. In addition, the Department is authorized to contract with any individual or business for the purpose of identifying intangible personal property tax liability. Also, Section 213.10, F.S., is amended to authorize the Department to use separate clearing trust funds to account for the collection and distribution of tax moneys.

Other Taxes and Fees

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 557 (CHAPTER 93-233) also includes administrative provisions relating to several specific taxes and fees. With respect to estate taxes, an amendment to Subsection 731.111(2), F.S., revises provisions relating to the time period within which the Department of Revenue is allowed to file a claim against the estate of a decedent. With respect to the gross receipts tax on utility services, an amendment to Subsection 203.01(7), F.S., removes the liability and penalty for persons who fail to collect the tax.

An amendment to Paragraph 624.5092(2)(b), F.S., clarifies provisions relating to payment of estimated insurance premium taxes. This act also amends Sections 403.718, 403.7185 and 403.7195, F.S., to specify that the amount deducted for administration of the waste tire, lead-acid battery and waste newsprint disposal fees shall be "reasonably attributable" rather than "solely and directly attributed" to the fee.

Revenue Sharing

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 557 (CHAPTER 93-233) amends Paragraph 218.21(6)(b), F.S., to provide that, beginning in fiscal year 1994-1995, the guaranteed increase of 7 percent annually in funds received by Dade County from the Revenue Sharing Trust Fund for Municipalities is reduced to an increase equal to the percentage increase in that trust fund in the preceding fiscal year.

HEALTH CARE*

Health Care and Insurance Reform Act

COMMITTEE SUBSTITUTE FOR SENATE BILLS 1914, 2006, 1784 AND 406 (CHAPTER 93-129) is an omnibus health care package that addresses a wide range of health care issues. The centerpiece of the act is the establishment of a system of managed competition in Florida.

HEALTH PURCHASING ALLIANCES

The legislation creates Section 408.702, F.S., which establishes within the state 11 community health purchasing alliances for the purpose of developing a program of managed competition in Florida. There is one alliance in each health planning district. Alliances are nonprofit, private corporations. Initial alliance board of directors members are appointed by the Governor (9), President of the Senate (4) and Speaker of the House (4). The boards expire on January 1, 1995. No board member may have any connection with a health care provider or insurer (Section 408.705, F.S.).

The role of an alliance is to serve as a broker or facilitator between purchasers of health care and providers of health care and to aid members in purchasing health insurance (Subsection 408.701(9), F.S.). Small employers who reside within the boundaries of an alliance are eligible to participate as a purchaser. The state is authorized to participate for the purpose of purchasing health care for state employees, their dependents, Medicaid recipients and persons who join MedAccess or a Medicaid buy-in program (Section 408.7042, F.S.). Providers may participate by joining a health maintenance organization (HMO) or an insurer to become an accountable health partnership (Subsection 408.706(1), F.S.). An accountable health partnership may offer health benefit plans through an indemnity product, a managed-care system with a gatekeeper, a preferred provider organization, an exclusive provider organization, a point-of-service product or any other arrangement that provides for managed care (Paragraph 408.702(6)(o), F.S.).

Statutory standards for certification by the agency to become an accountable health partnership are included in the law (Subsection 408.706(2), F.S.).

INSURANCE REFORMS

The act revises both the Small Group Rating Law (Section 627.4106, F.S.) and the Employee Health Care Access Act (Section 627.6699, F.S.) to require insurers and HMOs that issue policies to small employers to:

1) issue all health benefit plans on a "guarantee issue" basis to small employers (employers with 1 to 50 eligible employees), employees and dependents without regard to health status; however, additional or increased benefits may be added to the "standard" and "basic" health benefit plans by rider and such riders may be medically underwritten (Paragraph 627.6699(5)(c), F.S.); and
2) apply a modified "community rating" standard to small employer policies. Rate adjustments are allowed for age, gender, family composition, tobacco usage and geographic location. Rates may *not* be based on health status, medical condition or any other factors (Subparagraph 627.6699(6)(b)(c), F.S.).

A committee is established to review and propose modifications to the "basic" and "standard" benefit plans that were established in the 1992 Session (Paragraph 627.6699(12)(a), F.S.).

HEALTH CARE ADMINISTRATION

The Agency for Health Care Administration remains in its current location within the Department of Professional Regulation, and the act delays the transfer of the Division of Medical Quality Assurance and its health-related boards from the Department of Professional Regulation to the agency until July 1, 1994 (Repeals Section 32 of Chapter 92-33 and Section 2 of Chapter 92-292, Laws of Florida).

The Medicaid Program Office is transferred from the Department of Health and Rehabilitative Services (DHRS) to the Agency for Health Care Administration effective July 1, 1993 (Section 58 of the act). In addition, three employees from the Division of State Employees Insurance Program are transferred from the Department of Management Services to the Agency, effective July 1, 1993 (Section 59 of the legislation). These and 10 new employees will be responsible for selecting an

*Prepared by House Health Care Committee

administrator of the state employees health insurance program and for overseeing the performance of the administrator and the provider networks (Section 60 of the measure).

RURAL HEALTH INITIATIVES

The act amends the Medical Education Reimbursement and Loan Repayment Program to delete the 3-year cap on participation and to provide penalties for noncompliance with program requirements (Paragraph 240.4067(2)(a), F.S.). The law also amends the Nursing Student Loan Forgiveness Program (Section 240.4075, F.S.) to include birth centers as eligible employers. The Florida Health Services Corps Program (Section 381.0302, F.S.) is amended to provide loan repayment and relocation expense reimbursement and is funded with a $2 million appropriation (Section 61 of the enactment).

The Rural Health Network Program is created to promote the coordinated delivery of quality health care services in rural areas (Section 381.0406, F.S.). The law appropriates $300,000 for a planning and development grant program to establish networks (Section 60 of the act). The Office of Rural Health in the DHRS is appropriated $50,000 and the Agency for Health Care Administration is appropriated $100,000 to provide technical assistance to the networks (Sections 61 and 60 of the legislation, respectively). The legislation provides for state approval and oversight of rural health network cooperative agreements (Section 395.606, F.S.) and provides a certificate-of-need preference for members of certified rural health networks (Subsection 408.043(4), F.S.).

The Agency for Health Care Administration is authorized to establish separate licensing standards for statutory rural hospitals (Subsection 395.1055(2), F.S.) and to create a Health Care Personnel Licensing and Training Workgroup to examine health care personnel licensing and training issues related to statutory rural hospitals and shortages of health care professionals (Section 35 of the law). The measure provides a certificate-of-need exemption for skilled nursing facility services for statutory rural hospitals (up to 50 percent of licensed beds, including swing beds) and provides for Medicaid Reimbursement for Nursing Facility Services provided by statutory rural hospitals (Paragraph 408.036(3)(i), F.S.). A Disproportionate Share Program/Financial Assistance Program is established to provide financial assistance for Statutory Rural Hospitals (Section 409.9116, F.S.). This program is funded with an appropriation of $5 million (Section 60 of the enactment).

PRACTICE PARAMETERS

The act differs from present statutory provisions by expressly requiring practice parameters to focus on cost effectiveness as well as the quality of medical care. It accomplishes this by basing the practice parameters on hospital patient outcomes data as well as nationally developed practice guidelines. The Agency for Health Care Administration (Agency) will establish a workgroup to develop standards and methods for the collection and analysis of hospital patient outcomes data (Subsection 408.02(2), F.S.). Each acute care hospital will collect outcomes data and forward that information to the Agency, based on the standards developed by the Agency (Subsection 408.02(3), F.S.). The Agency will then summarize that data and make that data available to the public and to each hospital (Subsection 408.02(4), F.S.).

The Agency (and professional medical organizations) will develop state practice parameters based on the data received from the hospitals and nationally developed practice guidelines and make that information available to the public and all hospitals and medical professionals throughout the state (Subsection 408.02(7), F.S.). The Agency (and professional medical associations) are to focus on developing practice parameters for those medical procedures that involve the greatest utilization of resources as well as diagnostic imaging centers, radiology therapy units, clinical laboratories, physical therapy services and comprehensive rehabilitation centers (Subsections 408.02(5) and (6), F.S.).

Practice parameters are to be reviewed and updated at least every 3 years (Subsection 408.02(8), F.S.). The Agency is to include a progress report on the development of practice parameters in the final Florida Health Care Plan to the Legislature (Subsection 408.02(10), F.S.). As in present statute, an affirmative defense of practicing in conformity with practice parameters developed by the Agency will be granted to those physicians who participate in a demonstration project designed to evaluate the effect of practice parameters on the costs of defensive medicine and professional liability insurance (Paragraph 408.02(9)(e), F.S.). The Agency is to make recommendations to the Legislature on the desirability of granting this liability defense to include all physicians who practice in compliance with the parameters (Subsection 408.02(10), F.S.).

MEDACCESS AND MEDICAID

The act provides for the creation of MedAccess (Section 408.902, F.S.), a state health insurance program, that is open to all persons in the state with incomes below 250 percent of the federal poverty level who have had no private health insurance for the last year (Subsections 408.903(1) and (2), F.S.). Premiums are paid either by the individual or by the individual and the employer (Section 408.907, F.S.). There are no state or federal subsidies. Providers are compensated at the Medicaid reimbursement rates (Subsection 408.906(2), F.S.). The benefits are limited in scope and emphasize primary care and prevention over tertiary care (Section 408.904, F.S.).

The purpose of creating MedAccess is to start improving access as soon as possible without waiting for federal waivers and state and federal funding. The Agency is directed to prepare a report on the costs of start-up and implementing the MedAccess program (Section 40 of the legislation).

The MedAccess program is intended to dovetail with a Medicaid buy-in program. To accomplish this, the Agency is directed to seek federal authorization to establish a Medicaid buy-in program for low-income persons with incomes up to 250 percent of the federal poverty level (Paragraph 409.914(2)(b), F.S.). This would uncouple Medicaid coverage and the existing categorical requirements and tie Medicaid eligibility to income. The Agency shall not implement the program without federal authorization and state and federal funding.

There are a number of Medicaid reforms included in the law. The Agency for Health Care Administration is directed to adopt a new fee schedule for physician services based upon a resource-based, relative-value scale (RBRVS) (Paragraph 409.908(12)(b), F.S.). The new fee schedule will shift the emphasis toward primary-care services and away from specialty services. Further, RBRVS will provide financial incentives for primary care physicians to participate in the Medicaid program. Copayments have been raised for Medicaid recipients receiving hospital outpatient and physician services from $1 to $2 (Subsection 409.9081(1), F.S.). Children, pregnant women and institutionalized persons are exempted from the copayment requirement (Subsection 409.9081(3), F.S.). [A budget savings of $1.3 million in state funds is expected as a result of increasing the existing copayments.]

A new primary-care disproportionate share program is created (Section 409.9117, F.S.). Any hospital that wants to receive disproportionate share funding under this program must agree to provide primary-care services free of charge to all persons with incomes under 100 percent of poverty level and on a sliding scale basis to all persons between 100 and 200 percent of poverty level; ensure availability to primary- and specialty-care physicians for Medicaid recipients (Paragraph 409.9117(2)(b), F.S.); cooperate with the county to develop a low-cost, outpatient, prepaid plan for the county's indigent residents; and provide inpatient services to uninsured persons (Paragraph 409.9117(2)(f), F.S.).

The Agency for Health Care Administration is directed to expand MediPass, Medicaid's primary-care, case-management program, to five additional districts by December 31, 1994, and to the rest of the state by December 31, 1996, pending receipt of a positive evaluation report by the end of 1994 (Paragraph 409.9122(1)(a), F.S.).

FRAUD AND ABUSE STUDY

The act requires the Agency for Health Care Administration to create a workgroup to systematically examine the nature and extent of state health care fraud and abuse. The workgroup shall be composed of representatives from the Department of Legal Affairs, the Department of Health and Rehabilitative Services, the Office of the Auditor General, the Department of Insurance, the Department of Law Enforcement, the U.S. Department of Justice and the private insurance sector (Section 57 of the measure).

The workgroup is to prepare a report which identifies the forms of fraud and abuse and examines reimbursement procedures which invite fraud and abuse; assesses current law and regulation and makes recommendations to strengthen law and regulation; identifies key agencies involved in the detection of fraud and abuse and addresses how they can best coordinate their efforts; considers ways of facilitating sharing insurance company information on providers; and evaluates rewarding persons who report health care fraud. Except as otherwise provided in the act, its provisions take effect October 1, 1993.

Hospice Regulation Sunset

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 162 (CHAPTER 93-179) is the result of the mandatory sunset review of hospice regulation required by the Regulatory Sunset Act (Section 11.61, F.S.). In general, this act significantly reorganizes the present statutes regulating hospice to remove outdated provisions and to incorporate present federal and state

regulatory requirements.

In particular, the law completes the transference of the oversight function of hospice from DHRS to the Agency for Health Care Administration (Agency) (Section 400.605, F.S.). The Agency is required to consult with DHRS and the Department of Elder Affairs when adopting rules regulating hospices (Subsection 400.605(4), F.S.). The legislation adds an intent section (Section 400.6005, F.S.) and creates new sections specifically addressing contractual services (Section 400.6085, F.S.), patient care (Section 400.6095, F.S.) and hospice staffing and personnel (Section 400.6105, F.S.). The measure also broadens the regulatory authority of the Agency by requiring the establishment of standards for hospice care in inpatient and residential units (Paragraph 400.605(4)(f), F.S.), by permitting the Agency to seek injunctive relief (Subsection 400.607(5), F.S.) and by increasing the administrative fine cap to $5,000 (Subsection 400.607(1), F.S.). In conformity with Medicare requirements, the act restricts inpatient care to 20 percent of all patient hospice days per hospice (Subsection 400.609(4), F.S.). Each hospice is required to adopt an annual plan, budget, disaster preparedness plan and quality assurance program (Subsections 400.610(1) and (2), F.S.). The enactment also distinguishes between hospice home care (Subsection 400.609(2), F.S.) and hospice care provided in other residential locations, such as Adult Congregate Living Facilities (ACLFs), nursing homes and hospice residential units (Subsection 400.609(3), F.S.). Finally, the law removes criminal penalties for providing hospice services without a license (Section 400.614, F.S., repeal). The act is to take effect October 1, 1993.

Home Health Care Service

HOUSE BILL 1987 (CHAPTER 93-214) is the result of the mandatory sunset review of Chapter 400, F.S., required by the Regulatory Sunset Act (Section 11.61, F.S.). This act reorganizes the present statute to remove obsolete provisions and to provide consistency with present federal and state regulatory requirements.

In particular, the legislation completes the transference of the oversight function of home-health agencies from the Department of Health and Rehabilitative Services (DHRS) to the Agency for Health Care Administration (Agency). Definitions are provided for "certified nursing assistant," "companions or sitters" and "homemakers" (Subsections 400.462(1), (2) and (7), F.S., respectively). The law broadens the regulatory authority of the Agency to promulgate rules relating to license application and renewal (Subsection 400.471(4), F.S.), patient records (Subsection 400.471(7), F.S.) and standards for contractual arrangements for home-health agencies (Subsection 400.471(10), F.S.). The enactment requires home-health agency license applicants to provide information which includes the services that will be provided, the number and discipline of staff to be employed, proof of financial ability to operate (Paragraphs 400.471(2)(a),(b) and (c), F.S., respectively) and proof of liability insurance (Subsection 400.471(4), F.S.). Home-health agencies will be required to assess patient's needs within 48 hours of assuming service (Subsection 400.487(1), F.S.), make clear that the patient has a right to be informed and participate in care (Subsection 400.487(2), F.S.), directly provide at least one home-health service (Subsection 400.487(4), F.S.), re-evaluate the patient at least every 62 rather than 90 days (Subsection 400.487(2), F.S.) and supervise and coordinate patient services (Subsection 400.471(5), F.S.). Nurse registries are permitted to refer certified nursing assistants to private residences provided the patient is under a physician's care and a nurse makes monthly visits to the patient's home to assess the patient's condition (Subsection 400.506(9), F.S.). The assessments must be filed with the nurse registry. Home-health agencies, nurse registries and companion/sitter services will be permitted to screen personnel directly rather than going through the Agency (Section 400.512, F.S.). The measure removes criminal penalties for operating a home-health agency (Paragraph 400.464(5)(b), F.S.) or nurse registry (Subsection 400.506(7), F.S.) without a license or a companion/sitter service (Subsection 400.509(11), F.S.) without being registered.

The act clarifies that a physician may not refer patients to a home-health agency if more than 50 percent of the value of the investment interests are held by investors who are in a position to make referrals to the home-health agency (Subsection 400.518(1), F.S.). The law provides for administrative fines and disciplinary actions for violations. Hospitals or ambulatory surgical centers that have financial interests in a home-health agency are prohibited from requiring any staff physician to refer patients to the home-health agency (Subsection 400.518(2), F.S.), and administrative fines are provided for violations. Effective July 1, 1995, the legislation removes certificate-of-need requirements (Subsection 408.032(10), F.S., repeal) from home-health agencies. Except as otherwise provided in the act, its provisions take effect October 1, 1993.

Multiphasic Health Testing Centers

COMMITTEE SUBSTITUTE FOR SENATE BILL 160 (CHAPTER 93-40) rewrites and reenacts the statute authorizing the licensing and operation of multiphasic health testing centers in Florida. Among its key features the act:

1) exempts a county medical society from multiphasic licensure requirements (Subsection 483.285(9), F.S.);
2) clarifies the medical director's responsibilities regarding ordering and interpreting test results (Section 483.308, F.S.);
3) establishes a timeframe for releasing test results (Subsection 483.314(2), F.S.);
4) restricts the kind of tests for which specimens may be collected (Subsection 483.314(3), F.S.); and
5) allows certain simple tests to be performed by trained personnel (Subsection 483.314(1), F.S.).

The law also makes a distinction in the areas of interpreting and releasing test results between multiphasic health testing centers that are open to the public and those centers that perform tests only for employees based upon contracts with employers (Subsections 483.288(4) and (5), F.S., respectively). The effective date of this act is October 1, 1993.

Clinical Laboratory Regulation Sunset

HOUSE BILL 2071 (CHAPTER 93-178) rewrites and reenacts the clinical laboratory licensure law. The act also repeals current law relating to the prohibition against mark up on physician charges (Section 455.238, F.S.).

Among its primary components, the law provides that personnel, staffing, proficiency testing and construction standards for clinical laboratories operated by specified practitioners shall be based upon federal law (Subsection 483.035(1), F.S.). The legislation also provides that all laboratories performing less complex tests are exempt from licensure (Subsection 483.031(2), F.S.). Several revisions regarding the licensure and inspection process are included. Licensure and inspection will change from an annual undertaking to a biennial one (Section 483.051, F.S.). In lieu of its own periodic inspections for licensure, the Agency for Health Care Administration will be required to accept survey inspection performed by accrediting organizations (Subsection 483.061(4), F.S.). Moreover, licensure fees will be based on the volume and category of tests performed rather than a flat fee (Section 483.172, F.S.). The measure provides authority for training in lieu of education for lab technicians and authority and guidelines for point-of-care testing (Subsections 483.811(3) and (4), F.S.). Out-of-state laboratories that examine specimens sent from Florida are required to be licensed in Florida (Section 483.091, F.S.). Also, administrative fines are increased from a maximum of $500 to $1,000 for any violation of the clinical laboratory law (Paragraph 483.221(1)(a), F.S.). This act takes effect October 1, 1993.

Minority Health Improvement Act

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1017 (CHAPTER 93-247) creates a Commission on Minority Health at Florida Agricultural and Mechanical University to address the health status of Florida's minorities. The Commission will be composed of members from both the public and private sectors and will address a number of issues relating to the health status of minority groups in Florida. The Commission will present a final report to the Governor and the Legislature in December 1994, with short- and long-term recommendations for improving the health status of minorities and their access to health care. The Commission will expire July 1, 1995. The act also adds Subsection 394.875(11), F.S., to allow existing residential substance abuse facilities which provide drug abuse and alcohol abuse services under Chapters 396 and 397, F.S., to law enforcement personnel and their families to become concurrently licensed as community-based residential treatment facilities under Chapter 394, F.S., in order to provide short-term treatment of nonacute mental health problems to law enforcement personnel and their families.

Assisted Reproductive Technology

COMMITTEE SUBSTITUTE FOR HOUSE BILL 703 (CHAPTER 93-237) seeks to avoid potential legal conflicts by making clear the legal rights and responsibilities of persons involved in various assisted reproductive technology procedures. The act amends Section 742.11, F.S., and creates Sections 742.13-742.17, F.S., to establish procedures for regulating gestational surrogacy, which is an arrangement whereby a woman agrees to carry a child to which she is genetically unrelated and to relinquish the child at birth to a commissioning couple. The law also defines the parental rights and obligations of donors. In addition, the legislation addresses the disposition of the commissioning couple's unfertilized eggs, sperm and pre-embryos in various circumstances.

Sudden Infant Death Syndrome (SIDS)

COMMITTEE SUBSTITUTE FOR SENATE BILL 1244 (CHAPTER 93-182) establishes a statewide program to address Sudden Infant Death Syndrome (SIDS) and appropriates $125,000 to fund the program. The act provides for:

1) a definition of SIDS;
2) training requirements for specified professions who are likely to be first-responders to a request for assistance which is made immediately after the sudden, unexpected death of an infant;
3) a requirement for medical examiners to perform autopsies on infants under age 1, who are suspected to have died of SIDS;
4) the development and implementation of a standard protocol for investigating SIDS deaths;
5) home visits to provide educational and support services to parents or guardians after a SIDS related death;
6) the creation of a SIDS Advisory Council; and
7) duties of the State Health Office regarding the state's SIDS program.

Breast Cancer/Cancer Control Council

SENATE BILL 2084 (CHAPTER 93-175) adds a representative of the Agency for Health Care Administration and a representative of the University of Florida Shands Cancer Center to the membership of the Florida Cancer Control and Research Advisory Council (Subsection 240.5121(4), F.S.). The act also creates a Breast Cancer Task Force within the H. Lee Moffitt Cancer Center and Research Institute to provide specific recommendations to the Governor and Legislature on how to reduce the number of deaths due to this disease. Members of the Task Force will serve without compensation, and the Moffitt Center will provide support to the Task Force within existing resources. An interim report is due to the Governor and Legislature on January 15, 1994, to be followed by a final report due on January 15, 1995.

Disposition of Dead Bodies

COMMITTEE SUBSTITUTE FOR HOUSE BILL 53 (CHAPTER 93-3) amends Section 245.16, F.S., to authorize the shipment out-of-state of dead human bodies or body parts for lawful examination, investigation or autopsy. There is a provision in the act to clarify that the lawful examination, investigation or autopsy must be conducted pursuant to Section 406.11, F.S., which authorizes the medical examiner to investigate human deaths.

Joint Ventures

COMMITTEE SUBSTITUTE FOR HOUSE BILL 139 (CHAPTER 93-226) repeals Section 11 (Section 407.60, F.S.) of Chapter 92-178, Laws of Florida, the "Patient Self Referral Act of 1992." The language repealed authorizes the Health Care Cost Containment Board to establish a fee schedule for all radiation therapy providers when treating patients who are not eligible for Medicare or Medicaid.

A second provision of this act revises the divestiture period for health care providers who had an ownership interest in a designated health care service prior to May 1, 1992. Current law allows these health care providers, until October 1, 1995, to divest of their ownership interest. This law moves that divesture period forward 1 year to October 1, 1994.

Medical Review Committees

SENATE BILL 888 (CHAPTER 93-158) amends Paragraph 766.101(1)(a), F.S., to expand the definition of medical review committee to include review committees of not-for-profit corporations organized under Chapter 617, F.S., which are formed and operated for the practice of medicine. Under current law, medical review committees are authorized to evaluate the quality, appropriateness and cost of health care services rendered by health care providers. Committee members are immune from liability, subject to certain conditions, in order to encourage open and candid participation in committee activities.

SENATE BILL 680 (CHAPTER 93-155) amends Subsections 766.101(1) and (8), F.S., to expand the definition of medical review committees to include committees of optometric service plan corporations and to grant immunity to optometrists for participation in committee activities. Optometric service plan corporations are formed for the purpose of providing optometric services and are regulated by the Department of Insurance. Medical review committees are formed to evaluate the quality, appropriateness and cost of health care services.

Septic Tank Regulation

COMMITTEE SUBSTITUTE FOR SENATE BILL 158 (CHAPTER 93-151) reenacts and amends provisions of Sections 381.0065 and 381.0066, F.S., relating to the permitting of onsite sewage disposal systems (septic tanks) by the Department of Health and Rehabilitative Services (DHRS). The act changes the terminology for the system being

regulated from "onsite sewage disposal system" to "onsite sewage treatment and disposal system." It provides legislative intent, definitions specific to onsite sewage treatment and disposal systems and specific powers and duties of DHRS (Subsections 381.0065(1), (2) and (3), F.S., respectively).

The law modifies provisions relating to permits, installation and conditions to:

1) require a lot platted on or after January 1, 1972, to meet all applicable requirements when application is made for an onsite sewage treatment and disposal system construction permit, but a lot which cannot meet requirements must meet the "grandfathered" surface water setback requirements and drain field requirements in place at the time the lot was approved by appropriate permitting agencies (Paragraph 381.0065(4)(f), F.S.);
2) rename the Advisory Review Variance Board as the Variance Review and Advisory Committee (Subparagraph 381.0065(4)(g)2., F.S.);
3) revise provisions relating to experimental onsite sewage disposal systems, so that such systems are referred to as "innovative systems," providing review and evaluative authority, requiring the issuance of a performance bond, and authorizing DHRS to approve such technology for general use when satisfied that such technology functions properly (Paragraph 381.0065(4)(i), F.S.);
4) revise provisions relating to the Florida Keys, to once again direct DHRS to adopt a special rule for the Keys, focusing on treatment and disposal systems which are adequate to meet the advanced waste treatment concentrations (Paragraph 381.0065(4)(j), F.S.);
5) provide for a Research and Advisory Committee to advise DHRS on research related topics and activities (Paragraph 381.0065(4)(l), F.S.); and
6) provide DHRS with enhanced enforcement mechanisms, right of entry and citation authority (Subsection 381.0065(5), F.S.).

The enactment creates Section 381.00655, F.S., to indicate that existing onsite sewage treatment and disposal systems are required to connect to an available central sewerage system. [This is a restatement of a current provision of the statutes which the measure deletes from Section 381.0065, F.S.] Exceptions to this connection requirement are provided for financial reasons and when there is no public health justification for the connection.

The legislation revises provisions relating to fees, to clarify the authority of DHRS to charge fees for certain aspects of the program and to modify fee amounts (Section 381.0066, F.S.).

The law establishes within DHRS a five-member technical advisory panel to assist with rulemaking and provides an October 1, 1996, repeal date for research-related provisions of the act subject to prior legislative review. The enactment takes effect October 1, 1993.

Safe Drinking Water Act Enforcement

SENATE BILL 1508 (CHAPTER 93-50) amends Chapters 381 and 403, F.S., to exempt certain limited use commercial public water systems from the permitting and fee requirements contained in Section 381.0062, F.S. The act also amends Subsection 403.860(4), F.S., to add (Department of Environmental Regulation) DER-approved county health units to the list of entities authorized to institute civil actions for injunctive relief to prevent violations of any order, rule or regulation issued under the Safe Drinking Water Act (Part VI of Chapter 403, F.S., Sections 403.850-403.864, F.S.). Finally, the law revises Subsection 403.862(7), F.S., to mandate that fees and penalties received from water suppliers for violations of the Safe Drinking Water Act be deposited in the Public Health Unit Trust Funds.

Medical Transportation Services

HOUSE BILL 1779 (CHAPTER 93-12) reenacts three sections of Part III of Chapter 401, F.S., relating to emergency medical transportation services which were not clearly reenacted by the general revision and reenactment of this Part, Chapter 92-78, Laws of Florida.

Section 401.291, F.S., relates to the authorization for use, authorization reports and use of automatic external defibrillators. Section 401.425, F.S., relates to emergency medical review committees, the limitation on liability of same, the confidentiality of committee records and proceedings and the removal of the requirement that health care providers post bond before bringing action.

Section 401.445, F.S., relates to the emergency examination and treatment of incapacitated persons correcting terminology, providing intent and a retroactive effect.

Migrant Farmworker Housing

COMMITTEE SUBSTITUTE FOR SENATE BILL 166 (CHAPTER 93-133) reenacts Sections 381.008-

381.0088 of Chapter 381, F.S., which gives the Department of Health and Rehabilitative Services (Department) regulatory responsibility over the permitting and inspection process of migrant labor camps. In addition to reenacting the sections of this chapter, the act:

1) provides fines and other penalties for the unlawful establishment or operation of a migrant labor camp or residential migrant housing and provides for seizure and forfeiture of buildings, personal property and land used in violation of Section 381.0081 (Subsections 381.0081(4) and (5), F.S.);
2) clarifies the distinction between "migrant labor camp" (Subsection 381.008(5), F.S.) and "residential migrant housing" (Subsection 381.008(8), F.S.);
3) clarifies that regulation and permitting of such facilities is a Department function (Subsections 381.0081(1) and (2), F.S.);
4) allows the Department to grant variances from the rules regarding housing standards (Subsections 381.0086(2) and (3), F.S.);
5) empowers a resident, in addition to an owner or person in charge of migrant farmworker housing, to authorize DHRS inspectors to have access to premises (Section 381.0088, F.S.);
6) provides a right of access for "invited guests" and "other authorized visitors" and provides a complaint process (Section 381.00897, F.S.);
7) makes it unlawful for a housing owner, operator or employer to discriminate against anyone who files a good faith complaint concerning housing conditions (Section 381.00895, F.S.);
8) provides a nondiscrimination provision relating to facilities used to house farmworkers (Section 381.00896, F.S.);
9) adds definitions for the terms: personal hygiene facilities, lighting and sewage and garbage disposal (Subsections 381.008(9) through (12), F.S., respectively);
10) waives annual fee requirement for the next annual permit period for permit holders having no violations or deficiencies (Subsection 381.0084(4), F.S.) and removes fee ranges (Subsection 381.0084(1), F.S.);
11) removes language relating to burden of proof in local government zoning requirements; and
12) authorizes a satisfactory federal inspection of a public housing authority to be substituted for the pre-permitting inspection required by the Department (Section 381.0083, F.S.).

The law also creates a Task Force on Farmworker Housing Compliance comprised of various state agencies to identify and stop illegal operation of nonpermitted migrant housing. This act takes effect October 1, 1993.

Mobile Home and RV Parks

COMMITTEE SUBSTITUTE FOR SENATE BILL 152 (CHAPTER 93-150) reenacts Chapter 513, F.S. This chapter gives the Department of Health and Rehabilitative Services regulatory responsibility over the health and sanitary conditions of all mobile home and recreational vehicle parks. In addition to reenacting the chapter, the act:

1) reduces the number of sites required to subject mobile home and recreational vehicle parks to the regulation of the chapter from six to five (Section 513.014, F.S.);
2) requires that all permitting relating to sanitary standards for mobile home and recreational vehicle parks be done by the state (Section 513.051, F.S.);
3) provides definitions for lodging parks and recreational camps (Subsections 513.01(2) and (8), respectively);
4) provides a new fee schedule designed to make the regulatory program self-supporting (Subsection 513.045(1), F.S.);
5) provides an alternative means of enforcement by citation and fines (Section 513.065, F.S.);
6) clarifies permit application and transfer requirements (Subsections 513.02(4) and (5), F.S.);
7) clarifies requirements related to posting of rules (Section 513.117, F.S.), unclaimed property (Section 513.115, F.S.), operators' rights and remedies (Section 513.151, F.S.); and
8) provides for annual fees to be set by the Division of Florida Land Sales, Condominiums and Mobile Homes (Division) of the Department of Business Regulation not to exceed a specified amount (Section 723.007, F.S.).

Additionally, the law eliminates the Mobile Home and Recreational Vehicle Park Trust Fund and provides for deposit of fees into the County Public Health Unit Trust Fund (Subsection 513.045(3), F.S.). The legislation provides specified

affirmative action which may be taken by the Division (Paragraphs 723.006(5)(b) and (c), F.S.).

HEALTH AND REHABILITATIVE SERVICES*

Substance Abuse/Court Assessment

COMMITTEE SUBSTITUTE FOR SENATE BILL 176 (CHAPTER 93-194) amends Section 893.13, F.S., to authorize trial courts to impose additional assessments, up to the maximum authorized criminal fine, for particular criminal offenses involving the abuse of alcohol:

1) DUI, Section 316.193, F.S.;
2) disorderly intoxication, Section 856.011, F.S.;
3) a minor possessing or consuming alcohol at an open house party, Section 856.015, F.S.;
4) violation of enforcement provisions of the Beverage Law, Chapter 562, F.S.;
5) violation of local option electoral laws, Chapter 567, F.S.; and
6) sale or possession of intoxicating liquors in "dry" counties, Chapter 568, F.S.

Assessments collected from defendants will be deposited in trust funds for the purpose of providing funding for grants to alcohol abuse prevention, treatment or education programs as provided in Section 893.16, F.S. The act is to take effect October 1, 1993.

Substance Abuse Laws/Reordering

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 137 (CHAPTER 93-39) repeals all sections under Chapter 396, F.S., regarding alcoholism prevention and treatment, and current Chapter 397, F.S., regarding drug abuse prevention and treatment to create a single chapter, Chapter 397, F.S., combining issues related to the treatment and prevention of alcohol and other drug abuse. The act provides a more streamlined statutory framework for the regulation of service providers and the provision of services. Existing statutory language is substantially reworded to merge concepts, modify provisions and reorganize content in response to changing trends and initiatives at the state and federal levels regarding substance abuse. The measure has numerous sections:

1) general provisions;
2) regulation of service providers;
3) client rights;
4) voluntary admissions;
5) involuntary admissions;
6) local ordinance admission;
7) offender referrals;
8) inmate substance abuse programs;
9) services coordination; and
10) juvenile emergency procedures.

The legislation clarifies and standardizes licensure procedures and consolidates all exemptions under the licensure section. It extends current specified rights of minors to adult clients, clarifies and updates involuntary admission procedures and consolidates all such procedures under one section of the enactment, which takes effect on October 1, 1993.

Developmental Disabilities

COMMITTEE SUBSTITUTE FOR HOUSE BILL 659 (CHAPTER 93-143) emphasizes the importance of the family and community as resources for persons with developmental disabilities. To implement this focus, the current law is amended to expand the services which would be available to families through the "family care" program and through the "community services" program. The act adds Subsections 393.068(2) and 393.066(5), F.S., to provide that the Department of Health and Rehabilitative Services (DHRS) will prioritize increased appropriations for family and community-based support services to persons with developmental disabilities.

Section 4 of the law also creates "Family Care Councils" within each DHRS services district to advise the local health and human services boards on the family and community service issues and needs of persons with developmental disabilities. The Councils will plan, monitor and evaluate the effectiveness of the implementation of these family and community services.

Section 7 of the enactment further provides that the Department is to create a family support planning process for the delivery of needed services to specifically targeted children. The legislation calls for the coordination between families, DHRS, school boards and other local agencies in the development and implementation of these plans. This act is effective on October 1, 1993.

COMMITTEE SUBSTITUTE FOR SENATE BILL 430 (CHAPTER 93-72) amends Section 402.33, F.S., to require the Department of Health and Rehabilitative Services (DHRS) to stop collecting fees for services from persons with developmental disabilities whose earned income falls below the

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federal Health and Human Services Poverty Guidelines. [This change will give these developmentally disabled individuals incentives to maintain their jobs and keep working.]

Adult Care Homes

COMMITTEE SUBSTITUTE FOR HOUSE BILL 761 (CHAPTER 93-209) changes the name of the program for homes governed under Part VI of Chapter 400, F.S., from "Adult Foster Homes" to "Adult Family Care Homes (AFCHs)." It revises Section 400.618, F.S., to permit the maximum licensed capacity of these homes to increase from three to five residents and allows these homes to be for-profit and be able to advertise to solicit residents. The act amends Section 400.619, F.S., to establish an annual licensure fee of $100 to cover the costs of training and education programs for persons operating AFCHs and requires operators to complete the training and education program within the timeframes specified by DHRS, subject to a revocation of the license for failing to complete the training. The law provides (Section 400.628, F.S.) a bill of rights for residents of AFCHs and provides a right of civil action to enforce such rights in Section 400.629, F.S. It creates Section 400.625, F.S., to specify that the AFCH and the residents or the resident's representative must have a written residency agreement and provides the terms of the contract. This law takes effect on January 1, 1994.

Autism and Related Disabilities

COMMITTEE SUBSTITUTE FOR SENATE BILL 540 (CHAPTER 93-54) creates four regional autism centers to provide nonresidential resource and training services to persons who have autism, a pervasive developmental disorder, a dual sensory impairment or who have a sensory impairment in combination with another handicapping condition. Centers will be established at Florida State University, University of Florida, Florida Mental Health Institute at the University of South Florida and the Mailman Clinic of the University of Miami. The staffs of the centers will provide technical assistance and consultation services to parents and clients, professional training to persons working in the field and education and awareness programs for the public-at-large.

Long-Term Care Ombudsman

HOUSE BILL 2065 (CHAPTER 93-177) creates Section 400.0063, F.S., to create the Office of Long-Term Care Ombudsman to identify, investigate and resolve complaints made by, or on behalf of, facility residents and to represent the interests of the residents before governmental agencies and courts. A State Long-Term Care Ombudsman Council is created (Section 400.0067, F.S.) to assist the Ombudsman; to serve as the appellate body to receive complaints from the district ombudsman councils; to coordinate state, local and volunteer organizations in order to improve the care received by long-term residents; and to provide policy, regulatory and legislative recommendations to solve identifiable problems.

The state council is to be composed of a number of members equal to the number of district councils and three members appointed by the Governor. A district council appointee must have served on the district council for at least 1 year before appointment to the state council and be selected by the district council on which the appointee sits. All members are appointed to serve terms of 3 years.

The act readopts complaint resolution procedures found in current law in renumbered Section 400.0075, F.S., and allows the state and district ombudsman councils to seek legal, administrative or other remedies in the event other methods of dispute resolution prove inadequate to protect the health, safety or welfare of the facility resident. The law creates Section 400.0081, F.S., to provide that the Office of Long-Term Care Ombudsman, the State Long-Term Care Ombudsman Council, the District Long-Term Care Ombudsman Council, or any of their representatives, must have unrestricted access to the residents of long-term care facilities. Further, the section grants the Ombudsman access to the resident's medical and social records.

Prescribed Pediatric Extended Care

SENATE BILL 154 (CHAPTER 93-66) reenacts Chapter 391, Part II, F.S., relating to Prescribed Pediatric Extended Care (PPEC) Centers, which is scheduled for repeal on October 1, 1993. [Prescribed Pediatric Extended Care Centers provide nonresidential health care services to children who are medically or technologically dependent. The services must be prescribed by a physician. The children are placed in PPEC centers because their medical condition requires continuous therapeutic interventions in a medically managed day-care setting. The centers provide a less restrictive alternative to hospitalization of the child and reduce the cost of care for these children. There are eight PPEC centers licensed centers in Florida: Jacksonville, Ft. Lauderdale, Orlando, Tampa, Melbourne and three in Miami.] The act clarifies the nonresidential nature of PPEC centers by

revision of Subsection 391.202(1), F.S., and raises the maximum fee authorized by Subsection 391.205(3), F.S., to allow the Agency for Health Care Administration to cover the actual costs of meeting its regulatory obligations to inspect and license facilities. This law takes effect October 1, 1993.

Alzheimer's Disease

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1403 (CHAPTER 93-105) relates to facilities licensed under Chapter 400, F.S., including nursing homes, adult congregate living facilities, home health agencies, adult day care centers, hospices and adult foster homes. It creates Sections 400.175, 400.4177, 400.4785, 400.5571, 400.6045 and 400.625, F.S., to require facilities which claim to provide special care for persons who have Alzheimer's disease or related disorders to disclose in their advertisements or in a separate document those services that make the care especially appropriate to, or suitable for, such persons. The law also requires that copies of these advertisements or documents be given to persons requesting information about programs and services for patients with Alzheimer's disease or related disorders offered by the facility and that a copy of all the advertisements or documents must be maintained in the facility records. In addition, the Agency for Health Care Administration or the Department of Health and Rehabilitative Services must examine such records as part of the license renewal process of those facilities for which they have licensing jurisdiction.

Adult Day Care Centers

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2069 (CHAPTER 93-215) reenacts, readopts and amends Chapter 400, Part IV, F.S., the Adult Day Care Center Act. It amends the legislative purpose and definition of adult day care (ADC) centers in Section 400.55, F.S., to specify that they provide a therapeutic program of social and health activities to adults with functional impairments in a noninstitutional setting as is practicable.

The enactment also amends Section 400.553, F.S., relating to facilities exempted from provisions of this part and requires the Agency for Health Care Administration (Agency) to monitor ADC centers located in Adult Congregate Living Facilities (ACLFs), nursing homes or hospitals, in conjunction with the regular licensure survey. It requires by amendment to Section 400.555, F.S., the initial application for a license include an annual operating plan and proof of a 3-month reserve operating fund. The act adds to the list of violations in Section 400.556, F.S., for which the Agency can take action: (1) a confirmed report of adult abuse, neglect or exploitation; (2) child abuse or neglect; or (3) multiple or repeated violations of this part. The legislation also revises Section 400.562, F.S., to require the applicant to identify the population to be served considering participant needs and the kinds of services available.

The measure provides for biennial licensure (Subsection 400.557(1), F.S.). Subsection 400.557(3), F.S., adds that the Agency may issue a conditional license to an applicant for license renewal or change of ownership. The law revises Section 400.559, F.S., to alter the timeframes for notification of the Agency relating to discontinuance of operation or change of ownership. Subsection 400.562(4), F.S., also allows the Agency to conduct an abbreviated biennial inspection. The Act requires the Department of Health and Rehabilitative Services (DHRS) to promulgate rules to implement the provisions of this part, in consultation with the Agency and the Department of Elderly Affairs (Subsection 400.562(1), F.S.).

Adult Congregate Living Facilities

COMMITTEE SUBSTITUTE FOR HOUSE BILL 2197 (CHAPTER 93-216) reenacts, readopts and amends Chapter 400, Part II, F.S., the Adult Congregate Living Facilities Act. It adds a legislative finding relating to licensure (Subsection 400.401(3), F.S.) and adds definitions (Section 400.402, F.S.). The law also makes unlicensed facilities subject to the same penalties as licensed facilities. It strengthens requirements for an extended congregate care license (Paragraph 400.407(3)(b), F.S.), strengthens enforcement provisions relating to referrals to unlicensed facilities (Section 400.408, F.S.), amends the regulation regarding transfer of ownership (Section 400.412, F.S.) and adds additional causes of action against a licensee to include a confirmed report of child abuse or neglect (Paragraph 400.414(2)(e), F.S.). The act requires the Division of Administrative Hearings of the Department of Administration to hear within 120 days any cases where a facility resident's health, safety and welfare are threatened. It further requires that a facility be subject to an immediate moratorium on admissions when a license is denied, revoked or suspended (Section 400.415, F.S.).

The legislation amends the timeframe for notifying the Agency for Health Care Administration (Agency) of a change in administrators from 30 to

45 days (Section 400.4176, F.S.). It requires the facility to notify residents of its policy on advance rent or security (Paragraph 400.424(2)(b), F.S.). The act provides authority for certified nurse assistants to perform additional duties (Paragraph 400.4255(1)(a), F.S.). Facility personnel are prohibited from acting as a resident's payee (Subsection 400.427(2), F.S.). The enactment amends the residents' "bill of rights" (Section 400.428, F.S.). It adds conditions which warrant full biennial inspections (Subsection 400.441(4), F.S.) and requires corrective action within 48 hours in cases where deficiencies in medication have been noted (Subsection 400.442(2), F.S.). It requires interagency coordination with local firesafety authority to identify alternative living arrangements for tenants or clients who are victims of neglect (Paragraph 509.032(2)(a), F.S.). Finally, the law deletes the requirement that the Department of Health and Rehabilitative Services review and approve advertising (Subsection 400.447(4), F.S.). The law takes effects October 1, 1993.

Nursing Homes

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2203 (CHAPTER 93-217) reenacts, readopts and amends Chapter 400, Part I, F.S., (with the exception of provisions relating to the long-term care ombudsman councils, addressed in HOUSE BILL 2065 (CHAPTER 93-177) summarized above). It reorganizes the regulatory requirements pertaining to transitional living facilities and homes for special services from Part I of Chapter 400, F.S., and creates Part VIII of Chapter 400, F.S.

The legislation amends the nursing home residents' rights section by providing several additional rights and revising existing rights to better conform state law to federal law requirements relating to privacy, access by other entities to nursing home residents (Paragraph 400.022(1)(c), F.S.), and handling of residents' personal funds (Paragraph 400.022(1)(h) F.S.). It adds a right to a hearing to challenge a nursing home's decision to either discharge or transfer a resident (Paragraph 400.022(1)(v), F.S.). The measure amends the law relating to civil enforcement of nursing home residents' rights, as provided under Part I of Chapter 400, F.S., by adding guidelines pertaining to the award of attorneys' fees and providing the standards for the award of punitive damages under Section 400.023, F.S. The act creates Section 400.0255, F.S., to provide requirements for the hearing for a resident to challenge a nursing home's decision to discharge or transfer the resident. The law provides rulemaking authority for the Agency for Health Care Administration (Agency), in consultation with the Department of Health and Rehabilitative Services (DHRS) and the Department of Elderly Affairs (Subsection 400.23(2), F.S.).

The legislation deletes required preferential consideration for certain statements of intent in applications for a certificate-of-need, and adds authority for the regulatory agency to conduct abbreviated licensure surveys for licensees maintaining a superior rating who must meet certain specified criteria (Subsection 400.071(8), F.S.). The enactment revises requirements pertaining to the liability for overpayments or underpayments by the Medicaid program in relation to the change in ownership of a nursing home facility (Subsection 400.179(5), F.S.).

The measure authorizes the State Long-Term Care Ombudsman Council to have access to hospital nursing facility distinct parts (Subsection 400.19(1), F.S.). The act revises requirements relating to the certification of nursing assistants to conform state law to federal law requirements regarding recertification (Subsection 400.211(4), F.S.), specifies the circumstances under which non-Florida certified nursing assistants may work in the state (Paragraph 400.211(1)(c), F.S.), and provides for background screening of certified nursing assistants, as provided under Part III of Chapter 400, F.S. (Subsection 400.211(5), F.S.).

The law authorizes the Agency, in collaboration with Children's Medical Services of DHRS, to adopt administrative rules providing for standards of care for children residing in nursing homes and to establish a separate certificate-of-need methodology for nursing homes specializing in providing services for children (Subsection 400.23(4), F.S.). It creates a 15-member Nursing Home Facility Advisory Committee (Subsection 400.23(6), F.S.), revises the nursing home rating system and changes the survey cycle from annual to at least once every 15 months to determine the degree of compliance with the established rules adopted (Subsection 400.23(8), F.S.). It authorizes nursing homes to provide respite and adult day care services without having to obtain additional licenses for these services (Subsection 400.141(4), F.S.). Except for those provisions relating to civil enforcement of patients' rights (Section 400.023, F.S.), and illegal alterations of patient's records (Section 400.023(1), F.S.), both effective July 1, 1993, all other provisions take effect October 1, 1993.

Welfare Reform

COMMITTEE SUBSTITUTE FOR SENATE BILLS 1708 AND 1884, (CHAPTER 93-136) establishes the "Family Transition Act." The Family Transition Program (FTP) is a national trend-setting program that provides short-term intensive services designed to move a person from welfare dependency to employment and self-sufficiency. The approach this legislation takes to move individuals from welfare to work is to emphasize work incentives, job training, support services and child care through the development of an employability plan. The plan delineates the responsibilities of the welfare recipient and the obligations of the Department of Health and Rehabilitative Services (DHRS) to assist the participant in achieving employment and self-sufficiency. Among the work incentives provided in the act are provisions that allow a participant to earn more money while on assistance, allow a participant to accumulate greater assets and allow two-parent households to remain together and receive assistance longer. In addition, child care and Medicaid are provided to assist participants through the crucial transition period between dependency and employment. Time limitations on benefits are established. Aid to Families with Dependent Children (AFDC) benefits under FTP are for a 24-month duration in any 60-month period, except for recipients who have received AFDC for 36 months of the past 60 months and meet other conditions, in which case AFDC benefits are for a 36-month duration in any 72-month period. The enactment requires each DHRS district health and human services board to select in each project a 7-member review panel to review the sufficiency of DHRS response and the progress of the participant. Sanctions are provided when the participant fails to participate in required program activities or the participant's children fail to attend school. It protects children whose parents are sanctioned by allowing guardian-payees to be appointed so children can receive benefits while adults suffer sanctions. A program component to FTP is created that allows DHRS to provide incentive payments of up to 70 percent of 1 year of AFDC benefits to employers that employ hard-to-place participants. The law provides for evaluation of the demonstration pilots and delineates the factors that the evaluation must address and the components of the evaluation design. The results of the evaluation are to be used to determine how best to expand the FTP to other sites in the state. The Family Transition Program will require federal waivers to implement many of the provisions of the legislation. Finally, the act requires statewide that all AFDC applicants' children be immunized within 12 months after eligibility has been determined. Failure to provide proof of immunization could result in sanctions.

Child Abuse and Neglect

COMMITTEE SUBSTITUTE FOR HOUSE BILL 593 (CHAPTER 93-25) establishes the family services response system. [Notwithstanding the recent modifications made to statutory provisions relating to protective investigations, there was still public misunderstanding or dissatisfaction with the adversarial nature of child abuse and neglect investigations and the negative consequences of being classified as the perpetrator of a confirmed report of abuse or neglect. Legislation passed in the 1992 Session that required the Department of Health and Rehabilitative Services (DHRS) to develop a strategic plan to establish clear and consistent direction for policy and programs for the child protection system, including goals, objectives and strategies. In the development of the plan, DHRS was required to include the viewpoints of a broad spectrum of groups and individuals. Hundreds of community representatives participated in the development of the strategic plan. The recommendations contained in the strategic plan were addressed in this enactment.] The law allows the DHRS the option to respond to reports of abuse and neglect without the need for a protective investigation, classification of report or other requirements as provided for in Sections 415.502-415.514, F.S., (Section 415.5021, F.S.). Instead, DHRS can respond to reports of child abuse and neglect by using the family services response system (Section 415.5023, F.S.). The family services response system is a nonadversarial response to child abuse and neglect reports that uses a process of assessing risk to a child and family and, when appropriate, providing services voluntarily accepted by the family to remove the risk to the child. It allows a local DHRS district the flexibility to design the family services response system to meet local community needs (Section 415.5025, F.S.). The family services response system will still have as its primary focus the safety of the child. [This legislation should reduce the adversarial nature of protective investigations by limiting confirmed classification of reports, and the negative consequences associated with this classification of reports, to situations where the child is in danger and services cannot reduce the risk to the child.] In addition, the act allows a county sheriff's office or local police department to conduct certain components of protective investigations (Subsection

415.5025(3), F.S.). The measure also removes public schools from the purview of DHRS protective investigations through revision of Subsection 415.505(1), F.S.

The substantive provisions of Chapter 415, F.S., are divided into six parts representing logical groupings. The parts include:

Part I Adult Protective Services
Part II Prevention of Abuse and Neglect of Children
Part III Family Services Response System
Part IV Protective Services for Abused and Neglected Children
Part V Family Builders Program
Part VI Domestic Violence Centers

The act takes effect October 1, 1993.

Child Care

HOUSE BILL 2057 (CHAPTER 93-115) reenacts statutory provisions regulating child care facilities and family day care homes (Chapter 401, F.S.), and preserves the improvements that were made to child care regulations in 1991. In addition, the regulatory provisions relating to the care of dependent children (Sections 409.145 and 409.165, F.S.) were also reenacted. The act takes effect October 1, 1993.

INSURANCE*

Mortgage Guarantee Insurance

COMMITTEE SUBSTITUTE FOR SENATE BILL 196 (CHAPTER 93-21) reenacts the provisions of Chapter 635, F.S., relating to mortgage guaranty insurance, which are scheduled to repeal on October 1, 1993, pursuant to the Sunset Review Act. In addition, the law (1) clarifies the definition of mortgage guarantee insurance contained in Subsection 635.011(1), F.S.; (2) incorporates by reference certain provisions of the Florida Insurance Code (Section 627.409, F.S.); (3) revises Paragraph 635.051(1)(a), F.S., to provide that mortgage guaranty insurance agents are not subject to continuing education; and (4) amends Subsection 635.041(3), F.S., to clarify that payment from the contingency reserve is subject to approval by the regulating agency in the insurer's state of domicile. The act takes effect October 1, 1993.

Service Warranty Associations

COMMITTEE SUBSTITUTE FOR SENATE BILL 198 (CHAPTER 93-195) revises the definition of "motor vehicle" for purposes of Part I of Chapter 634, F.S., relating to Motor Vehicle Service Companies to include a self-propelled device operated solely or primarily upon roadways to transport people, or property, or the component part of a self-propelled device. Unearned premium is defined as that portion of the gross written premium that has not been earned on a straight pro rata basis. Unearned premium reserve is defined as unencumbered assets equal to 50 percent of the unearned premium. Unearned gross written premium is defined as that portion of the gross written premium which has not been amortized or earned on a pro rata basis.

In revising Subsection 634.031(1), F.S., the act provides that no person is to transact, administer or market the motor vehicle service agreement business or hold itself out as doing such for himself or itself in this state or from this state unless licensed by the Department of Insurance (Department).

The law amends Section 654.053, F.S., to allow the Department to levy upon any of the assets of a motor vehicle service agreement company found to be insolvent or found to be bankrupt by any court to pay any unpaid obligation to the State of Florida.

The legislation provides in revised Subsection 634.111(2), F.S., that companies suspended by the Department are required to file quarterly reports in addition to the presently required annual report.

The measure provides in amending Paragraph 634.121(5)(a), F.S., the company with the discretion to charge an administrative fee for cancellation of service agreements that do not exceed 5 percent of the gross premium paid by the agreement holder. Additionally, pursuant to revised Paragraph 634.121(5)(b), F.S., the insurer is authorized to cancel a service agreement that has been in effect for more than 60 days where the odometer has been tampered with or disabled and the agreement holder has failed to repair the odometer.

The enactment amends Section 634.137, F.S., to provide for a specific schedule of filing financial reports and a provision for imposing a fine against service agreement companies that neglect to file the annual statement in the form and within the time provided. The fine is established at up to $100 for each day the neglect continues. The authority of the company to do business in Florida shall cease while the default continues.

The act adds Subsection 634.181(12), F.S., to provide a new ground for compulsory refusal, suspension, or revocation of license or appointment of salesmen. This change would add the action of failing to refund an unearned pro rata commission to either the agreement holder or the service agreement company if the service agreement company is making full unearned pro rata refunds to the agreement holder as grounds for disciplinary action.

The legislation provides in revising Paragraph 634.306(2)(b), F.S., that the application for licensure will require the name and residence address of each shareholder who owns or controls 10 percent or more shares of the applicant.

The measure redefines service warranty in Subsection 634.401(14), F.S., to exclude maintenance service contracts written for 1 year which do not contain provisions for indemnification, motor vehicle service agreements, transactions under Section 624.125, F.S., and home warranties.

The law adds Subsection 634.406(6), F.S., to allow premiums to exceed the ratio to net assets limitations if the service warranty association meets certain prerequisites. The act provides an effective

*Prepared by Senate Commerce Committee

date of October 1, 1993.

Continuing Care Contracts

COMMITTEE SUBSTITUTE FOR SENATE BILLS 200 AND 300 (CHAPTER 93-22) revises and readopts Chapter 651, F.S., relating to Continuing Care Contracts, pursuant to the Regulatory Sunset Act (Section 11.61, F.S.) and revises and readopts Section 651.121, F.S., relating to the Continuing Care Advisory Council to the Department of Insurance (Department) pursuant to the Sundown Act (Section 11.611, F.S.).

Specifically, this law:

1. Allows the Department to exempt the purchase of an existing building, for the purpose of providing continuing care, from the requirement of having a certificate of authority (Subsection 651.021(1), F.S.).
2. Requires facilities to obtain written Department approval prior to marketing expansion of certain facilities (Paragraph 651.021(2)(a), F.S.).
3. Requires, as part of the application for certificate of authority, that continuing care contracts disclose health care delivery arrangements affecting residents (Subsection 651.023(6), F.S.).
4. Requires each facility to file annually, with the annual report, the computation of its minimum liquid reserve (Paragraph 651.026(2)(e), F.S.). This replaces the required filing of computations of annual long-term debt service and projected annual revenue and expense summary used in determining minimum liquid reserves.
5. Requires provisions of Chapter 651, F.S., be waived only pursuant to rules, and only if the Department determines such waivers to be consistent with security protections intended by Chapter 651, F.S., (Section 651.028, F.S.).
6. Amends minimum liquid reserve requirements to require that reserves equal 30 percent of annual operating expenses (Subsection 651.035(2), F.S.). Facilities that have discontinued marketing continuing care contracts are allowed to reduce their debt service reserves if the Department determines that the reduction is consistent with the security protections intended by this chapter (Paragraph 651.035(4)(b), F.S.).
7. Amends the provisions relating to refunds from providers to residents (Paragraph 651.055(1)(g), F.S.).
8. Requires that in quarterly meetings with residents, continuing care providers must explain, prior to implementation, any proposed increase in monthly maintenance fees that exceed the consumer price index (Subsection 651.085(4), F.S.).
9. Requires disclosure to residents, prior to entry into a continuing care contract, of the amount and location of reserve funds, and the priorities thereto in the event of bankruptcy, foreclosure, etc. (Paragraph 651.091(4)(g), F.S.).
10. Amends the provisions relating to the Department and trustee in delinquency proceedings.
11. Requires the Department to adopt rules establishing procedures for nonbinding mediation and binding arbitration of disputes between residents and providers (Section 651.123, F.S.).

Confidentiality of Insurance Information

SENATE BILL 910 (CHAPTER 93-78) is the Open Government Sunset Review of Chapter 624, F.S., pertaining to various records and proceedings involving the Department of Insurance (Department).

This law narrows the scope of confidential protection afforded the various records and proceedings discussed within this chapter, and increases the number of allowable sites of the Healthy Kids Corporation (Paragraph 624.91(3)(a), F.S.).

Specifically, this law:

1. Narrows the scope of protection for emergency cease and desist orders issued by the Department (Subsection 624.310(3), F.S.). Confidentiality ceases when the order either becomes permanent, or 1 year after the temporary order expires.
2. Narrows confidentiality of meetings between the Department and an insurer supervisor to *only during the period of supervision* (Section 624.86, F.S.).
3. Narrows the confidential protection granted to investigation reports to "only while investigation is active," and defines "active." Provides also that portions of the report remain confidential under certain conditions even after examination ceases to be active (Paragraph 624.319(3)(a), F.S.).
4. Increases the number of sites allowed for Florida Healthy Kids Corporation (Subsection 624.91(3), F.S.).
5. Narrows the scope of confidentiality to only

the "identifying information," including medical records and family financial information, contained within the records of the Florida Healthy Kids Corporation (Subsection 624.91(7), F.S.).

6. Provides that information not be released without the written consent of the participant, or the parent or guardian of the participant (Subsection 624.91(7), F.S.).

Continuing Care Contracts Information

COMMITTEE SUBSTITUTE FOR SENATE BILL 912 (CHAPTER 93-79) is the Open Government Sunset Review of Chapter 651, F.S., relating to continuing care contracts. The open government exemptions provided for in this chapter are revived and amended to narrow the scope of confidential protection granted to investigatory records maintained by the Department of Insurance.

Records necessary to complete an "active" investigation are confidential until the investigation ceases to be "active," as defined within this section (Section 651.134, F.S.).

Reports of financial examinations are no longer required to be made publicly available at the continuing care facilities (Subsection 651.105(3), F.S.).

Insurance Records Confidentiality

COMMITTEE SUBSTITUTE FOR SENATE BILL 916 (CHAPTER 93-80) is the Open Government Sunset Review of Chapter 626, F.S., relating to insurance field representatives and operations. The law reenacts, clarifies and narrows the exemption language relating to the following records:

1) reasons for terminating the appointments of agents, solicitors, customer representatives and others (Subsection 626.511(3), F.S.);
2) reasons for terminating the appointments of title insurance agents (Subsection 626.8433(3), F.S.);
3) character and credit reports of agents, solicitors, customer representatives and others (Subsection 626.521(5), F.S.);
4) character and credit reports of title insurance agents (Subsection 626.842(3), F.S.);
5) records used in suspension and revocation proceedings (Subsection 626.631(2), F.S.);
6) trade secret information contained in the books and records of third party insurance administrators (Subsection 626.884(2), F.S.);
7) trade secret information contained in the books and records of surplus lines agents (Subsection 626.921(3), F.S.);
8) trade secret information contained in filing submitted by surplus lines agents (Subsection 626.921(3), F.S.); and
9) investigation records of the Division of Insurance Fraud, Department of Insurance (Subsection 626.989(5), F.S.).

The legislation repeals the provision which exempts the notice relating to the termination of an appointment of agents and others from the public records law (Subsection 626.471(5), F.S.). The law provides for future review of the exemptions in accordance with the Open Government Sunset Review Act. The effective date of the act is June 30, 1993.

Information Confidentiality of HMOs

SENATE BILL 1070 (CHAPTER 93-85) is the Open Government Sunset Review of Chapter 641, F.S., relating to health maintenance organizations (HMOs). The open government exemptions are revived and amended to narrow the scope of confidential protection afforded to records and reports relating to and submitted by HMOs to the Agency for Health Care Administration (Sections 641.515 and 641.55, F.S.). Confidential protection is granted to only the identifying information in those records and reports. However, the entire report of adverse incidents, and not just the identifying information in the report, remains confidential (Subsection 641.55(6), F.S.).

Language preventing acquisition of this information through subpoena is deleted (Subsection 641.515(2), F.S.).

Title Insurers

HOUSE BILL 1247 (CHAPTER 93-253) conforms Subparagraph 624.501(29)(e)1., F.S., which imposes the administrative surcharge, to the nomenclature changes made by Chapter 92-318, Laws of Florida, and to current practice. The act requires a title insurer to pay the surcharge with respect to each title agency appointed by the insurer.

The law further provides in a revision of Paragraph 625.111(2)(a), F.S.) that the adequacy of the title insurer unearned premium reserve existing on December 31, 1992, shall be determined in accordance with the unearned premium reserve requirements existing on July 1, 1992, and said unearned premium reserve shall be released in 12 equal annual installments, beginning with calendar year 1993.

Fire Safety

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1647 (CHAPTER 93-276) adds Subsection 553.895(2), F.S., to provide for the installation of automatic sprinkler systems for certain dwellings constructed after January 1, 1994. The law additionally amends various sections of Chapter 633, F.S., to provide for revised fees, standards and training relating to state fire marshal education, training, apprenticeship, and administration. The legislation provides for the adoption of rules relating to testing procedures for sparklers by amending Section 791.013, F.S.

Legal Expense Insurance

HOUSE BILL 1773 (CHAPTER 93-147) reenacts and readopts Chapter 642, F.S., (legal expense insurance) with modifications. The modifications include adding a definition of the term "gross written premium" (Subsection 642.015(2), F.S.); revising the requirement to submit information about certain individuals (Subsections 642.021(2) and (4), F.S.); providing for a net worth requirement and a fee schedule (Sections 642.0261 and 642.0262, F.S. The act provides an effective date of October 1, 1993.

Fire Marshal Records Confidentiality

HOUSE BILL 1863 (CHAPTER 93-112) provides for the reenactment of the exemptions relating to fire investigation records and applicant records (Sections 633.111, 633.175 and 633.527, F.S.). The exemption contained in Subsection 633.527(1), F.S., is provided in Paragraph 119.07(3)(c), F.S. Conforming language is provided.

Professional Service Plans

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1965 (CHAPTER 93-148) is the Sunset Review of Chapters 637 and 638, F.S., relating to professional service plans and ambulance service contracts. These chapters are allowed to repeal. However, Sections 1-57 of the legislation provides for the licensure of prepaid ambulance associations, optometric service corporations, dental service corporations, pharmaceutical service corporations and all other entities providing limited health services to be consolidated under a regulatory scheme (the "Prepaid Limited Health Service Organization Act of Florida") providing greater regulatory supervision. These entities will be issued certificates of authority as Prepaid Limited Health Services Organizations (Section 6 of the law). Entities currently licensed under Chapters 637 and 638, F.S., are permitted 3 years to comply with this Act.

A Prepaid Limited Health Services Organization is any person, corporation, partnership or entity, which in return for prepayment, provides or arranges for provision of one or more limited health services to subscribers through an exclusive panel of providers (Section 2 of the act). The requirements necessary to obtain and maintain a certificate of authority as a Prepaid Limited Health Service Organization are provided for in the measure (Sections 7-9 of the enactment). Also, requirements regarding organization contracts (Sections 12-28 of the act) and the duties and responsibilities of the Department of Insurance are set forth (Sections 29-49 of the legislation). This law provides an effective date of October 1, 1993, unless other dates are established within the act for selected provisions.

Public Records Concerning Insurance

HOUSE BILL 2041 (CHAPTER 93-289) reenacts, after review, certain open government exemptions contained in Chapter 627, F.S. Insurance claim files being processed by the Joint Underwriting Association (JUA), (Paragraph 627.351(4)(g), F.S.), and certain reports by insurers to the Department of Insurance (Department) remain exempt (Paragraphs 627.4106(8)(c), 627.736(9)(a), 627.9122(2)(e), and 627.9126(3)(a), F.S.). The law also creates exemptions for the medical records of the injured individuals mentioned in the JUA claim files (Paragraph 627.912(2)(e), F.S.).

The law repeals the exemptions for certain noncompliance notices sent by the Department to insurance companies (Subsection 627.371(2), F.S.). It also repeals the exemption for workers' compensation rate filings filed by insurers (Subsection 627.091(2), F.S.). Corresponding references found in other sections have been deleted. The section for records held by insurance exchange companies is also repealed (Subparagraph 629.401(6)(b)13., F.S.).

Regulated Entities Confidentiality

HOUSE BILL 1865 (CHAPTER 93-113) revises the exemptions from public records requirements for Department of Insurance investigatory records of optometric and pharmaceutical service plan corporations, ambulance service contracts and preneed funeral service contracts. The law narrows the exemptions to provide that the records will become public when the investigation is no longer active. The law defines the term "active." (Sections 627.167, 637.326, 638.282 and 639.33, F.S., respectively).

HOUSE BILL 2273 (CHAPTER 93-117) revises the exemptions from public records requirements for records of guaranteeing organizations providing written guarantees to motor vehicle service agreement companies, home warranty association and service warranty association. The law narrows the exemption provided for the Department of Insurance investigatory records of home warranty associations (Section 634.348, F.S.), service warranty associations (Section 634.444, F.S.), and motor vehicle service agreement salesmen licensing (Subsection 634.201(3), F.S.). The measure also addresses the same exemptions for guarantee agreements filings of motor vehicle service agreement companies (Subsection 634.045(5), F.S.), and service warranty associations (Subsection 634.4065(5), F.S.). The investigatory records become public when the investigations are no longer "active" as defined in the act.

Confidential Information/Insurance Companies

HOUSE BILL 2287 (CHAPTER 93-118) revises the exemptions from public records requirements for memoranda supporting actuarial opinions (Paragraph 625.121(3)(a), F.S.), and for information relating to the insolvency or impairment of insurance companies (Subsections 631.398(1); 631.62(2) and (3); 631.723(1) and (3), F.S.), and the exemptions from public records and public meeting requirements for certain records and meetings of the Florida Life and Health Insurance Guaranty Association (Section 631.724, F.S.). The law further provides that these exemptions shall not be repealed October 1, 1993, under the Open Government Sunset Review Act, and provides for future review and repeal under said act. The law also repeals provisions which require the Department of Insurance to furnish certain early warning tests to insurance guaranty associations and provide for confidentiality (Paragraph 631.598(2)(b), F.S.).

Bail Bondsmen Confidential Information

HOUSE BILL 2307 (CHAPTER 93-119) provides for the reenactment of records relating to Chapter 648, F.S., bail bondsmen and runners. These records include materials regarding advisory council records (Subsection 648.26(3) and Section 648.266, F.S.), character and credit report data (Subsections 648.34(3) and 648.37(3), F.S.), and termination reports (Subsection 648.39(1) and Section 648.41, F.S.). The legislation also revises Subsection 648.46(3), F.S., to amend the public records exemption for a complaint and investigation records concerning a bail bondsman or bail bond runner licensee.

Birth-Related Neurological Injury

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1199 (CHAPTER 93-251) changes the statute of limitations for claims under the Neurological Industry Compensation Association (NICA) law (Sections 766.301-766.316, F.S.) from 7 years to 5 years after the birth of the infant alleged to have a covered injury. The act also transfers jurisdiction over NICA claims from judges of compensation claims of the Division of Workers' Compensation of the Department of Labor and Employment Security to hearing officers of the Division of Administrative Hearings of the Department of Management Services and transfers responsibility for appointment of a medical advisory panel from the Division of Workers' Compensation to the Department of Insurance.

LAW ENFORCEMENT AND CRIMINAL JUSTICE*

Venue in Criminal Cases

COMMITTEE SUBSTITUTE FOR HOUSE BILL 111 (CHAPTER 93-225) amends Section 910.03, F.S., to require the court to give priority, when granting a change of venue in criminal prosecutions, to a county resembling the demographic composition of the original county in order to protect the defendant's due process rights.

Antique Firearms

HOUSE BILL 125 (CHAPTER 93-17) deletes from current law any special classification, pursuant to Section 790.001(6), F.S., given to an "antique firearm" when used in the commission of a crime. An antique firearm will be considered a "firearm" and treated as such for the purposes of prosecution, crime degree enhancement, and the 3-year minimum mandatory sentence if used in the commission of any crime.

Fire Dogs/Injuring or Killing

SENATE BILL 150 (CHAPTER 93-20) amends Section 843.19, F.S., to make it a third-degree felony to harm, disable, or kill a "firedog," giving them the same protection as police dogs and police horses. As defined in the act, a fire dog is any dog which is owned, or the service of which is employed, by a fire department or State Fire Marshal for the principal purpose of aiding in the detection of flammable materials or the investigation of fires. The act is effective October 1, 1993.

Interstate Extradition

SENATE BILL 698 (CHAPTER 93-126) repeals Subsection 941.10(3), F.S., which refers to bail by bond for fugitives arrested upon a Governor's warrant.

Section 941.26, F.S., is amended to add a subsection recognizing the validity of "presigned waivers." Fugitives who have previously signed a waiver of formal extradition in another state shall be delivered immediately to an agent of the demanding state without the requirement of a Governor's warrant if the officer holding the fugitive has received a copy of the waiver signed by the person and confirmed by the demanding agency, along with photographs, fingerprints, or other evidence identifying the person as the person who signed the waiver.

Firearms/Criminal History Checks/Fee

COMMITTEE SUBSTITUTE FOR SENATE BILL 884 (CHAPTER 93-197) revises Paragraph 790.065(1)(b), F.S., to increase from $5 to $8 the fee for processing criminal history checks of potential firearm buyers.

The money will be deposited into the Florida Department of Law Enforcement Operating Trust Fund, as currently provided; however, under this legislation it will be segregated from all other funds and used solely for the operation of the Firearm Purchase Program. Any funds exceeding $2.5 million will be used for the purchase of soft body armor for law enforcement officers. The FDLE is required to make an annual financial accounting to the Legislature.

Carjacking and Home-Invasion Robbery

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1085 (CHAPTER 93-212) creates Sections 812.133 and 812.135, F.S., to define respectively, the specific crimes of "carjacking" and "home-invasion robbery" and provide penalties for each.

Carjacking is defined, using the current statutory language for "robbery," as "the taking of a motor vehicle which may be the subject of larceny [theft] from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the motor vehicle, when in the course of the taking there is the use of force, violence, assault, or putting in fear."

If the offender carries a firearm or other deadly weapon in the course of committing the carjacking, it is a first-degree felony, punishable by up to 30 years imprisonment or a term not exceeding life.

If the offender carries no firearm, deadly weapon, or other weapon, then the carjacking is a first-degree felony, punishable by up to 30 years imprisonment.

The act does not address a situation where the offender carries a nondeadly weapon. However, the person may be charged with robbery under current law which provides for a first-degree felony, the same degree and punishment as if a person carries no weapon under this legislation.

A person commits home-invasion robbery when he enters a dwelling with the intent to commit a

*Prepared by Senate Criminal Justice Committee

robbery and does commit a robbery of the occupants.

A person who commits home-invasion robbery while either armed or unarmed is guilty of a first-degree felony, punishable by up to 30 years imprisonment and up to a $10,000 fine.

The measure sets forth additional conforming statutory changes as listed below. The phrases "carjacking" and "home-invasion robbery" are included under the murder section (Section 782.04, F.S.) which provides that a person is guilty of murder if he engaged in the perpetration of, or in the attempt to perpetrate carjacking or home-invasion robbery.

If a killing occurs by a person other than the perpetrator of the carjacking or home-invasion robbery, the perpetrator of the carjacking or robbery is guilty of second-degree murder, which is a first-degree felony, punishable by up to 30 years imprisonment or a term not exceeding life.

The legislation also amends Subsection 16.56(1), F.S., to authorize the Office of the Statewide Prosecutor to investigate and prosecute the offenses of carjacking and home-invasion robbery. Similarly, the law revises Section 905.34, F.S., to extend to the statewide grand jury the jurisdiction to investigate and return indictments for these specific crimes.

The act specifically lists carjacking and home-invasion robbery as "forcible felonies" under Section 776.08, F.S., and adds these two crimes to the list of dangerous crimes in Subsection 907.041(4), F.S.

The juvenile justice chapter (Chapter 39, F.S.) is amended to provide in Paragraph 39.052(2)(a), F.S., that the state attorney may transfer a child, in certain instances, to circuit court for criminal prosecution as an adult if the child has been previously adjudicated delinquent for carjacking or home-invasion robbery.

Criminal Justice Standards

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1235 (CHAPTER 93-252) amends Paragraph 943.11(1)(a), F.S., to increase from 17 to 19 the number of members on the Criminal Justice Standards and Training Commission. The additional two members shall be law enforcement officers who are neither sheriffs nor chiefs of police.

The enactment also amends various sections of the Department of Law Enforcement chapter (Chapter 943, F.S.) relating to the certification and employment of law enforcement officers. In 1992, the Commission was directed to develop and implement a basic recruit officer certification examination no later than July 1, 1993. In creating Section 943.1397, F.S., the act provides the statutory authority for the Commission to proceed with the Legislature's directive. All applicants seeking officer certification will have to complete and pass the examination with the exception of applicants who enroll in a Commission-approved basic recruit training program prior to July 1, 1993. The nonrefundable examination fee is $50.

An applicant who fails the examination will have to wait at least 90 days before retaking the test. An applicant who has failed the examination three times will be required to once again successfully complete the basic recruit training program before making another attempt. Under revised Paragraph 943.131(1)(a), F.S., a temporarily employed person is required to successfully complete the officer certification examination within 180 days of the successful completion of the basic recruit training program.

Pursuant to Subsection 943.131(2), F.S., as amended, an applicant may be exempt from the basic recruit training program if he has successfully completed a comparable basic training program in another state or for the federal government and served as a full-time sworn officer elsewhere for a minimum of 1 year. If an exemption is granted, the individual is then required to complete courses in defensive driving, defensive tactics, firearms and first responder training and also successfully complete the certification examination.

The law also amends Subsection 943.13(4), F.S., to provide that a person is not necessarily ineligible to be an officer if he has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had the record sealed or expunged.

Further, new Section 943.125, F.S., encourages the Florida Sheriffs Association and the Florida Police Chiefs Association to develop, either jointly or separately, an accreditation program which would address such issues as vehicle pursuits, use of force, handling disasters, disciplinary procedures for officers and use of criminal investigative funds. By November 1, 1993, the two associations must report to the Legislature regarding the feasibility of an accreditation program and the status of efforts to develop such a program.

Florida Violent Crime Council

HOUSE BILL 1633 (CHAPTER 93-204) creates Section 943.031, F.S., which establishes a 12-member Florida Violent Crime Council (Council) within the Florida Department of Law Enforcement

(FDLE). The Council will serve in an advisory capacity to FDLE. It will be authorized to advise the FDLE regarding the feasibility of undertaking initiatives, which include, but are not limited to, the following:

1) establishing a program which provides grants to criminal justice agencies that develop and implement programs for curtailing violent crime and investigative programs;
2) creating a criminal justice research and behavioral science center;
3) expanding the use of automated fingerprint identification systems at the state and local levels;
4) identifying methods to prevent violent crime;
5) enhancing criminal justice training programs;
6) developing and promoting crime prevention services and public educational programs; and
7) enhancing information sharing by expansion of community partnerships and community policing programs.

The FDLE is authorized to create regional violent crime investigation coordinating teams under new Subsection 943.04(4), F.S. The teams will be comprised of forensic investigators and law enforcement officers and will respond to violent crimes in a comprehensive manner, utilizing forensic, investigative and technical expertise and equipment. The executive director of the FDLE will be authorized to deploy a team to assist in a violent crime investigation upon the request of a sheriff, police chief, or other law enforcement agency administrator.

A Violent Crime Investigative Emergency Account is established by new Section 943.042, F.S., with funds from the Legislature and other public and private sources. The FDLE will administer the account and disburse funds to local and state criminal justice agencies or prosecuting agencies who seek aid for major investigations of violent crimes, or who seek relief from economic hardships resulting from expensive cases. The FDLE and the Council are required to adopt rules, procedures and criteria for access to and disbursement of these funds.

The FDLE is authorized to develop and implement a statewide violent crime information system (VCIS), which will be capable of transmitting criminal justice information relating to violent crime to and between criminal justice agencies throughout the state by newly added Subsection 943.03(12), F.S. The FDLE will initiate a pilot project in order to demonstrate and test such a system.

The FDLE's Commission on Criminal Justice Standards and Training, in conjunction with the Council, is required by new Subsection 943.17(4), F.S., to establish standards for basic and advanced training for law enforcement officers in the areas of investigation and violent crime prevention.

Section 943.325, F.S., is amended to provide that, in addition to persons convicted of sexual battery or lewd and lascivious behavior, any person convicted in Florida of any offense or attempted offense related to murder will be required to submit two specimens of blood for DNA testing.

Section 943.051, F.S., is amended to require that each juvenile arrested for a felony be fingerprinted. These fingerprints must be submitted to the FDLE to be used for identification purposes only. Law enforcement agencies, pursuant to Paragraph 39.039(1)(a), F.S., shall fingerprint and photograph all children who have been arrested. The agency shall submit to the FDLE the original fingerprint record of a child who is arrested for a violation that would be a felony had it been committed by an adult.

The legislation also amends Subsection 951.26(1), F.S., to authorize county public safety coordinating councils to elect a chairman.

Further, the FDLE is directed to submit a proposal to the Legislature by January 1, 1994, regarding the feasibility of developing a juvenile history data base, along with the cost to establish the proposal.

Juvenile Delinquency and Gang Prevention

COMMITTEE SUBSTITUTE FOR SENATE BILL 536 (CHAPTER 93-196) amends Section 39.025, F.S., to require the Department of Health and Rehabilitative Services (DHRS) to aid the juvenile delinquency and gang prevention councils in their quest for seeking additional outside funding sources by providing fiscal-agency services to the councils. Councils are limited to charging no more than 2 percent of all funds raised to cover administrative costs. Councils are also required to collect data on ethnicity by using social security numbers or other numbers.

The law requires councils to take input from certain specified entities, including schools and agencies that provide treatment services to delinquent juveniles, during the development of the delinquency prevention plan. Furthermore, DHRS and the Florida Department of Law Enforcement are required to assist in developing the plan by

routinely collecting ethnicity data and including it as a part of their information systems.

The councils are now one of the enumerated entities authorized to receive confidential juvenile records under revised Section 39.045, F.S.

The act also revises the definition of "certain juvenile offender" for purposes of a sheriff maintaining identification files, by including membership in a youth and street gang as one of the enumerated criteria in Paragraph 39.0585(1)(c), F.S.

In addition, the act creates Section 39.0475, F.S., to authorize a pretrial substance abuse education and treatment intervention program for juveniles charged with a second- or third-degree felony for possession or purchase of a controlled substance. Eligibility is limited to juveniles who have not previously been adjudicated of a felony and have not previously been admitted to a pretrial program. The juvenile may be admitted into the program for a period of not less than 1 year on motion of either of the parties or the court. If the state attorney objects to a juvenile's entry into a pretrial program on the grounds that the child was involved in the dealing or selling of controlled substances, the court must hold a preadmission hearing. The court must deny admission into the pretrial intervention program if the state establishes by a preponderance of the evidence that the juvenile was involved in the dealing or selling of controlled substances.

The measure provides that at the end of the pretrial intervention program the court must make written findings, based on the recommendation of the state attorney and the program administrator as to whether the juvenile successfully completed the intervention program. The final decision on prosecution or dismissal of the pending charge rests with the court. In addition, the act requires that a public or private entity providing these services must enter into a contract with the appropriate local governmental entity, and the contract must include, at a minimum, the provisions established in Subsection 948.15(2), F.S., for private providers of probation services.

Criminal Offenses

SENATE BILL 820 (CHAPTER 93-156) deletes the provision in Section 787.02, F.S., which requires that the purpose of committing false imprisonment be for a purpose other than one of the four enumerated in the kidnapping statute. Thus, the act clarifies that false imprisonment is a "true" necessarily lesser included offense of kidnapping under both of the following scenarios: if a defendant is charged with kidnapping, the jury will be instructed on the lesser included offense of false imprisonment and can convict of false imprisonment alone; or, if a defendant is charged with only false imprisonment, and the elements that kidnapping and false imprisonment have in common are proven (forcibly, by threat, or secretly confining, abducting, imprisoning, or restraining another without lawful authority and against his will), then the defendant can also be convicted of false imprisonment, regardless of his purpose or intent. (SEE COMMITTEE SUBSTITUTE FOR HOUSE BILL 153 (CHAPTER 93-227) summarized next in this article.)

Furthermore, the act revises and restructures certain provisions in the sexual battery chapter (Chapter 794, F.S.), as well as clarifying definitions in Section 794.011, F.S. The provision related to admissibility of evidence of a victim's mental incapacity or defect is moved from Subsection 794.011(6), F.S., to Subsection 794.022(4), F.S., relating to rules of evidence in sexual battery prosecutions.

In addition, Section 794.041, F.S., is repealed and its provisions relating to sexual activity with a child by, or at the solicitation of, a person in familial or custodial authority, is moved to Subsection 794.011(8), F.S., and revised. "Sexual activity" is replaced with "sexual battery" since these terms are identically defined.

Further, soliciting a child under 18 years of age to engage in any act which constitutes sexual battery, when the perpetrator stands in familial or custodial authority, is punished as a third-degree felony. (Currently, Section 794.041, F.S., only covers a child between 12 and 18 years of age.) The other substantive change that the act makes in placing the provisions of Section 794.041, F.S., in the sexual battery statute is that these "sexual activity" offenders are no longer eligible for basic gain-time under Subsection 794.011(8), F.S.

Finally, the law deletes obsolete references to Subsection 917.012(1), F.S., relating to the repealed mentally disordered sex offender program. The act takes effect October 1, 1993.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 153 (CHAPTER 93-227) amends Section 796.03, F.S., by making it a second-degree felony to procure a person under 18 years of age, rather than 16 years of age, for prostitution.

The act also changes the elements in Section 796.05, F.S., of the third-degree felony offense of "deriving support from the proceeds of prostitution" to provide that it is unlawful for a person to derive any support from what is believed to be the

earnings of another person's prostitution, when such person has a reasonable belief, or knows, that the other person is engaged in prostitution.

The penalty for a second or subsequent conviction of prostitution under Section 796.07, F.S., as well as renting or letting space for the purpose of prostitution, lewdness, or assignation under Section 796.06, F.S., is raised from a second-degree misdemeanor to a first-degree misdemeanor under the act. In addition, the penalty in Subsection 796.08(5), F.S., for a person who commits prostitution or who is convicted of procurring another to commit prostitution in a manner likely to transmit the human immunodeficiency virus, when that person knows he has tested positive for the virus and knows that he can communicate the disease to another person through sexual activity, is raised from a first-degree misdemeanor to a third-degree felony and is called criminal transmission of HIV.

The law also creates Section 775.0877, F.S., which requires persons convicted of certain enumerated offenses involving the transmission of body fluids from one person to another to be tested for HIV and to be notified of the test results by personal service or certified mail under the direction of the Department of Health and Rehabilitative Services (DHRS). These offenses include the following:

1) sexual battery;
2) incest;
3) lewd, lascivious, or indecent assault or act upon a child;
4) assault;
5) aggravated assault;
6) battery;
7) aggravated battery;
8) aggravated child abuse;
9) child abuse;
10) sexual performance by a child;
11) prostitution; and
12) knowingly donating organs or other human tissue infected with HIV.

Furthermore, under this section, an offender who has undergone HIV testing, who has received positive test results and who has committed a second or subsequent enumerated offense involving the transmission of body fluids, is guilty of the third-degree felony offense of criminal transmission of HIV. A person can be convicted and sentenced separately for this violation and the enumerated underlying offense. The measure also authorizes an additional penalty of criminal quarantine community control to be imposed upon these offenders.

Criminal quarantine community control is defined in Section 948.001, F.S., as requiring intensive supervision by officers with restricted caseloads, 24 hours per day electronic monitoring and confinement to a designated residence during designated hours. The Department of Corrections is required to develop and administer the criminal quarantine community control program.

The enactment also amends Section 960.003, F.S., by expanding the category of persons charged with certain sexual offenses who can be tested for HIV upon request of the victim, legal guardian, or parent, to include persons charged with any of the enumerated criminal offenses involving the transmission of body fluids under the act.

The law also deletes the provision in Section 787.02, F.S., which requires that the purpose of committing false imprisonment be for a purpose other than one of the four enumerated in the kidnapping statute. (SEE SENATE BILL 820 (CHAPTER 93-156 summarized above in this article.)

Finally, the legislation provides conforming and clarifying amendments to several statutes relating to prostitution, testing for human immunodeficiency virus, and confidentiality of certain DHRS records. The act takes effect October 1, 1993.

Vehicular Accidents Resulting in Death

HOUSE BILL 127 (CHAPTER 93-140) enhances the penalty for a driver who willfully leaves the scene of an accident when it results in the death of any person, from a third-degree felony to a second-degree felony under Section 316.027, F.S. Leaving the scene of an accident resulting in injury remains a third-degree felony under the act. As a result of this legislation, a prosecutor can convict a driver who willfully leaves the scene of an accident resulting in death of a second-degree felony under Section 316.027, F.S., without first having to prove the driver committed vehicular homicide, which is currently required under Section 782.071, F.S.

Breast Feeding

COMMITTEE SUBSTITUTE FOR HOUSE BILL 231 (CHAPTER 93-4) creates Section 383.015, F.S., to make it clear that breast feeding in public or private, regardless of whether the mother's nipple is covered during feeding, does not violate the current statutes criminalizing unnatural, lewd and lascivious acts (Sections 800.02 and 800.04, F.S.), indecent exposure (Section 800.03, F.S.), and distributing and exhibiting obscene materials (Chapter 847, F.S.). Each of these statutes is

provided with an explicit exclusion for breast feeding, making it clear that under no circumstances will breast feeding be prosecutable under these laws.

Juvenile Offenders

COMMITTEE SUBSTITUTE FOR HOUSE BILL 387 (CHAPTER 93-230) amends the following laws:

1) several sections in Part II, Chapter 39, F.S., relating to juveniles;
2) Section 784.07, F.S., relating to assault and battery on certain specified officers;
3) Section 743.0645, F.S., relating to medical consent;
4) Section 790.115, F.S., relating to weapons on school property;
5) Chapter 960, F.S., relating to victim assistance; and
6) Section 216.136, F.S., relating to consensus estimating conferences.

JUVENILES

The act authorizes agencies that screen, assess, plan and treat juveniles to participate in the information sharing process under Section 39.0585, F.S. [This law encourages the sheriff to gather information and maintain an identification file on "certain juvenile offenders."] The law also removes the restriction on law enforcement sharing pertinent information with schools and permits schools to share relevant records with law enforcement, provided parental consent is given.

The "speedy file rule" is eliminated, such that prosecutors are no longer required under Subsection 39.048(6), F.S., to file a delinquency petition within 45 days of taking a juvenile into custody. (The speedy trial rule is unaffected.) Prosecutors can also have longer than 7 days under revised Paragraph 39.052(2)(a), F.S., to file a motion requesting the court to transfer a juvenile for adult criminal prosecution, as long as the court approves the delay.

A judge or DHRS, in addition to the state attorney, can initiate the judicial determination as to whether serious or habitual delinquency commitment placement is appropriate under Subsection 39.052(5), F.S.

In addition, the legislation eliminates the requirement in Subparagraph 39.052(3)(e)3., F.S., that the court must state in writing the reasons for disregarding the Department's assessment and recommendations for the most appropriate commitment placement for a juvenile who is an adjudicated delinquent. Instead, the measure provides that the court's record will be used in situations when the Department's recommended restrictiveness level is not followed. The enactment also amends Subsection 39.054(4), F.S, to give a judge the opportunity to consider the Department's decision to discharge an adjudicated child from a commitment program without regard to whether the judge specifically retained jurisdiction over the discharge decision in the commitment order. [Thus, a judge will be notified in all cases when DHRS is preparing to release a committed child, regardless of the commitment order.] The act transfers Section 39.016, F.S., relating to removing the disabilities of nonage, to Chapter 743, F.S. The new section (Section 743.015, F.S.) ensures that specific, detailed due process protections are afforded a child before the court can remove the disabilities of nonage under the law.

Subsection 39.047(1), F.S., is amended to require the DHRS intake counselor to screen each child for the presence of medical, psychiatric, psychological, substance abuse, educational or other conditions that could have caused the child to come to the Department's attention. If the case is handled nonjudicially, the counselor must try to refer the child to a program, along with the relevant assessment information. In addition, the case manager is required to inform the court when a child refuses to participate in a necessary comprehensive assessment.

The act also clarifies that the current definition of a halfway house in Subsection 39.01(25), F.S., includes a community-based residential program for 10 (currently 12) or more committed delinquents at a moderate risk restrictiveness level that is operated or contracted by DHRS. [This change makes it clear that several programs DHRS considers to be halfway houses, but which are not designated as such in Section 39.01, F.S., are covered.]

Additionally, under amended Paragraph 39.057(3)(b), F.S., a child who has committed a third-degree felony and has at least two prior felony adjudications (instead of commitments), one of which resulted in a residential commitment as defined in Section 39.01(61), F.S., may be admitted to a juvenile boot camp program.

Moreover, the legislation revises Subsection 39.045(9), F.S., to allow juveniles of any age who have been adjudicated guilty of a capital felony, life felony, first-degree felony, or a second-degree felony involving violence to have their names and addresses released for publication.

Sections 39.002 and 39.074, F.S., are amended to specify that all agencies and departments of the state must cooperate fully to accomplish the siting of facilities for juvenile offenders.

ASSAULT AND BATTERY

The enactment removes a DHRS intake officer from the statute (Subsection 784.07(2), F.S.) which allows enhanced penalties to be applied to a juvenile who assaults or batters an intake officer while performing his duties. Instead, Section 784.075, F.S., is created to make it a third-degree felony to commit battery on an intake counselor or case manager, other secure detention staff, or commitment facility staff. [These persons are defined under the act.] Thus, the law no longer provides an enhanced penalty for an assaulted intake officer, but it expands the category of DHRS workers who are covered as victims under the newly created battery section. [Currently the enhanced penalty for battering an intake officer is a third-degree felony.]

MEDICAL CONSENT

The legislation includes a DHRS case manager, a person primarily responsible for the case management, or an administrator of any state-operated or state-contracted delinquency residential treatment facility among the other DHRS personnel who can consent to medical treatment for any minor committed to the Department's care when the parent or guardian cannot be contacted. (Subsection 743.0645(3), F.S.)

WEAPONS ON SCHOOL PROPERTY

The measure expands current law (Section 790.115, F.S.) to provide that a person who possesses a firearm or weapon, or exhibits a firearm or weapon in the presence of one or more persons in a rude, careless, angry, or threatening manner, not only on school property, but also on a school bus or a school bus stop, is guilty of a third-degree felony.

VICTIM ASSISTANCE

The legislation clarifies that a state attorney or law enforcement agency can release any information as needed to adequately inform a person who has been victimized by a juvenile. (Subsection 960.001(6), F.S.) The law also authorizes the results of an HIV test to be disclosed to the parent or guardian of an alleged sexual offender if he is a juvenile required to be tested under the statute (Paragraph 960.003(3)(a), F.S).

CONSENSUS ESTIMATING CONFERENCE

The act establishes a Juvenile Justice Estimating Conference (Subsection 216.136(9), F.S.) which is required to develop official information about the juvenile justice system. The following entities are the designated principals:

1) Executive Office of the Governor;
2) Division of Economic and Demographic Research of the Joint Legislative Management Committee;
3) DHRS Delinquency Services Program Office;
4) DHRS Alcohol, Drug Abuse and Mental Health Program Office;
5) Florida Department of Law Enforcement; and
6) Senate and House Appropriations Committees staff.

TASK FORCES

The law creates two task forces. One task force is charged with developing a detailed plan for the implementation of legislation providing direct line authority for the Deputy Secretary for Juvenile Justice Programs, county juvenile justice councils and district juvenile justice boards. The other task force is required to study and report on DHRS detention facilities and resources.

DUI/Vehicles and Vessels

HOUSE BILL 541 (CHAPTER 93-124) lowers the blood alcohol level (BAL) which establishes per se that a person is driving under the influence (DUI) or boating under the influence (BUI) from 0.10 percent to 0.08 percent or higher. (Sections 316.193 and 327.35, F.S., respectively.) Therefore, a person can be found guilty automatically of DUI or BUI upon a showing that his BAL is 0.08 percent. [However, without additional proof, a guilty jury verdict is still not necessarily guaranteed.] Likewise, the act lowers the BAL which establishes the prima facie evidence of DUI or BUI from 0.10 percent to 0.08 percent. (Sections 316.1934 and 327.354, F.S.) [This means that a 0.08 percent BAL is sufficient in and of itself to justify denying a defendant's motion for judgment of acquittal, and allows the jury to consider the question of guilt.

[Lowering the BAL from 0.10 percent to 0.08 percent does not only affect the criminal sanctions for DUI and BUI but also impacts upon administrative sanctions as well.] Under the administrative suspension law, officers will be able to automatically suspend the driving privilege at the time of arrest of any person whom the officer has probable cause to believe is driving with an unlawful BAL of 0.08 percent or higher, rather than 0.10 percent or higher. (Sections 322.2615 and 322.64, F.S.)

The measure also makes the BUI law consistent

with the DUI law as it relates to causing serious bodily injury. Thus, a person who operates a vessel while he is under the influence of alcohol or drugs and causes serious bodily injury to another person is guilty of a third-degree felony offense, rather than a first-degree misdemeanor offense. (Section 327.351, F.S.)

In addition, the legislation provides that insubstantial differences between approved methods and actual blood testing procedures, or any insubstantial defects in the testing permit, will not render the DUI blood test results invalid. (Section 316.1933, F.S.)

Finally, the law provides that, in addition to any other penalty imposed under the DUI statute, the court must order the impoundment or immobilization of a vehicle that is driven by, or in the actual physical control of, a person who is convicted of DUI, unless the court finds that the family of the owner has no other public or private means of transportation. (Section 316.193, F.S.) The period of impoundment or immobilization is for 10 days; or, for the second conviction within 3 years, 30 days; or, for the third conviction within 5 years, 90 days and may not be concurrent with probation or imprisonment. If the vehicle is leased or rented, the period of impoundment or immobilization may not extend beyond the expiration of the lease or rental agreement.

Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of the vehicle, if the registered owner is a person other than the person convicted of DUI, and to each person of record claiming a lien against the vehicle. All costs and fees for the impoundment or immobilization must be paid by the owner of the vehicle or, if the vehicle is leased or rented, by the person leasing or renting the vehicle.

The person who owns a vehicle that is impounded or immobilized, or a person having a lien of record against such a vehicle, may, within 10 days after the date that person has knowledge of the location of the vehicle, file a complaint in the county in which the owner resides to determine whether the vehicle was wrongfully taken or withheld from the owner or lienholder. Upon the filing of a complaint, the owner or lienholder may have the vehicle released by posting with the court a bond or other adequate security equal to the amount of the costs and fees for impoundment or immobilization, including towing or storage, to ensure the payment of such costs and fees if the owner or lienholder does not prevail.

When the bond is posted and a court fee is paid, as provided in Section 28.24, F.S., the clerk of the court shall issue a certificate releasing the vehicle. At the time of release, after reasonable inspection, the owner or lienholder must give a receipt to the towing or storage company indicating any loss or damage to the vehicle or to the contents of the vehicle. The act takes effect January 1, 1994.

The Florida Sexual Predators Act

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1665 (CHAPTER 93-277) makes the following legislative findings: (1) that sex offenders are likely to use violence, repeat their offenses, and victimize more people than are reported; and (2) that the high level of threat and the long-term effect of sex offenses justify the design and implementation of a new strategy to reduce the commission of violent and repeat sex offenses. The act implements a "new strategy" for dealing with offenders who are sexual predators by providing a definition of sexual predators; providing legislative intent to fund adequate prison beds for sexual predators; requiring registration of sexual predators; and requiring intensive supervision of sexual predator offenders.

The law also requires the registration of all sexual predators with the Florida Department of Law Enforcement (FDLE), and specifies the information that must be included in the registration. This information must be available to all law enforcement agencies 24 hours a day through an on-line information system. The legislation requires that the FDLE notify the sheriff in the county in which a sexual predator resides, and requires the sheriff to notify the appropriate chief of police.

In addition, an inmate who has been found to be a sexual predator must receive the maximum level of supervision under conditional release and for the full length of time provided in the original court sentence. (Sections 947.1405 and 947.141, F.S.) The act takes effect October 1, 1993.

Crime Victim Assistance/Minors

COMMITTEE SUBSTITUTE FOR HOUSE BILL 81 (CHAPTER 93-9) amends Chapter 960, F.S., the Florida Crimes Compensation Act, to give victims or intervenors who are under the age of 18 an extended period of time to file a claim for compensation. Specifically, Section 960.07, F.S, is revised to provide when a victim or intervenor who was under 18 years of age at the time the crime occurred reaches the age of 18, the victim or intervenor has 1 year within which to file a claim.

The FDLE is authorized to extend this period for an additional year if good cause is shown. The law is effective October 1, 1993.

DUI Programs

COMMITTEE SUBSTITUTE FOR HOUSE BILL 989 (CHAPTER 93-246) creates Section 322.293, F.S., to transfer the supervision and licensing of Driving Under the Influence (DUI) programs from the Supreme Court to the Department of Highway Safety and Motor Vehicles (DHSMV) along with the associated budget and the DUI Programs Coordination Trust Fund. It creates Section 322.292, F.S., to require DHSMV to adopt rules to implement its supervisory authority over DUI programs, including the establishment of uniform standards of operation for DUI programs and the method for setting and approving fees. The act also requires the DHSMV to report to the Supreme Court by December 1, 1994, and by December 31st of each succeeding year through 1996, on the general status of the statewide program.

In addition, the law amends Subsection 316.193(5), F.S., to provide for attendance at a substance abuse course licensed by the DHSMV for any violation of the DUI law. The organization conducting such course may not provide required substance abuse treatment unless a waiver has been granted by the DHSMV. It also requires licensing of all DUI treatment programs by the Department of Health and Rehabilitative Services.

Further, the measure revises Section 322.095, F.S., to authorize driver improvement schools to offer the traffic law and substance abuse education course that must be completed by all first-time applicants for a Florida driver's license, except those applicants who have been previously licensed in another jurisdiction or those who have completed a Department of Education driver's education course. It requires instructors teaching the course to be certified and monitored by the DHSMV. It requires the DHSMV to contract for an independent evaluation of the course and to provide documentation to the Legislature by October 1, 2000, measuring course effectiveness. The act is effective January 1, 1994.

Pretrial Intervention Program

COMMITTEE SUBSTITUTE FOR HOUSE BILL 257 (CHAPTER 93-229) amends Section 948.08, F.S., to create pretrial intervention programs specifically for drug offenders. Persons charged with a second- or third-degree felony for possession or purchase of a controlled substance and who meet other criteria will be eligible for a 1-year substance abuse education and treatment intervention program. Currently, only third-degree felony offenders are eligible for pretrial intervention programs under this statute.

Offenders are admitted into the program on motion of either party or the court. If, however, evidence presented at a preadmission hearing reveals that the offender was either dealing in or selling controlled substances, then the court must deny admission.

Upon an offender's successful completion of the pretrial intervention program, the court will be required to dismiss the charges. The act takes effect October 1, 1993.

Substance Abuse

COMMITTEE SUBSTITUTE FOR HOUSE BILL 561 (CHAPTER 93-92) updates and clarifies the controlled substances schedules in Chapter 893, F.S. These changes include correcting misspellings, deleting obsolete language and adding commonly accepted abbreviations of chemical names and other language to assist persons in using the schedules. Further, mecloqualone, a substance related to "Quaalude," is relocated within Schedule I, which increases penalties for violations involving this substance. Further, additional anabolic steroids are listed in Schedule III to clarify that they are controlled under existing law.

Juvenile Justice System Reform

HOUSE BILL 1927 (CHAPTER 93-200) has three major components. First, it changes the way in which juvenile justice programs and services are organized and managed within the Department of Health and Rehabilitative Services (DHRS). Secondly, it creates local juvenile justice boards in each DHRS service district and gives them a substantial role in planning, budgeting, managing and evaluating juvenile justice programs and services within the district, encourages active cooperation and collaboration between the district juvenile justice boards, including their subsidiary county-based councils, and the law enforcement and education establishments in order to effectively address juvenile justice issues with special emphasis on juvenile crime and out of school suspensions and expulsions. Third, the act creates a Community Juvenile Justice Partnerships Grants Program that is expected to serve as an incentive to the formation of community juvenile justice partnerships in communities throughout the state. The details of each of these major components are provided in the following paragraphs.

The law makes major changes to the

organizational structure of DHRS as it relates to the manner in which juvenile justice programs and services are managed and delivered at both the state and local level. The Delinquency Services Program Office is renamed the Juvenile Justice Program Office, and transferred from the jurisdiction of the Deputy Secretary for Human Services to a newly created Deputy Secretary for Juvenile Justice Programs (Subparagraph 20.19(4)(c)1., F.S.). For the first time, juvenile justice will have the same level of prominence within DHRS as health programs. The Deputy Secretary for Juvenile Justice Programs is given direct line authority over all juvenile justice programs, services and personnel from the top to the bottom of the organization (Subsection 20.19(4), F.S.). Local juvenile justice program managers (Paragraph 20.19(4)(e), F.S.) and superintendents of regional institutions (Paragraph 20.19(4)(b), F.S.) will be appointed by and serve at the pleasure of the Deputy Secretary rather than the District Administrators, as in the past. This change will provide a single point of accountability in the Deputy Secretary for Juvenile Justice Programs for the entire service delivery system.

The shift in responsibility for local juvenile justice programs and services from the district administrator to the district juvenile justice manager is paralleled by a shift in responsibility for juvenile justice programs and services from the local health and human services boards (HHSBs) to the newly created district juvenile justice boards (DJJBs) (Subsection 39.025(6), F.S.). Under the provisions of this enactment, the responsibilities of DJJBs in the juvenile justice area (Paragraph 39.025(6)(d), F.S.) closely resemble the duties of HHSBs with respect to all other health and human services, including assessing the local service needs, development of a district legislative budget request based on those needs, planning for the implementation of the budget and delivery of services and evaluating the impact of services on the Department's clients and on the community as a whole. This legislation places great emphasis on the need for local DJJBs to develop strong working partnerships with school and law enforcement authorities so that the problems of juvenile crime and crime prevention can be confronted in a cooperative and collaborative manner (Subsection 39.025(7), F.S.). The new law is flexible and acknowledges that in some communities these partnerships will work best if constructed on a county basis, while in others a districtwide approach will be more beneficial. In either case, preexisting local partnerships will be able to take on the role and responsibilities of the newly created juvenile justice councils and boards.

The third major component of the legislation is the Community Juvenile Justice Partnerships Grants Program (Subsection 39.025(8), F.S.), which is to be funded from the Motor Vehicle Theft Prevention Trust Fund (Paragraph 860.158(2)(c), F.S.), and is expected to yield approximately $3.5 million for the 1993-1994 fiscal year. The grants program is targeted primarily at reducing crime committed by juveniles during regular school hours. Grant funds will be made available to qualified community juvenile justice partnerships to support proposals designed to create alternatives to out-of-school suspensions and expulsions (Subparagraph 39.025(8)(b)2., F.S.). A community juvenile partnership must involve, at a minimum, representatives of local law enforcement, schools and local DHRS juvenile justice programs, and the partnership must be based upon an interagency agreement that pledges cooperation, collaboration and information sharing among these partners in furtherance of the goals of a comprehensive community juvenile justice plan (Subparagraph 39.025(8)(b)1., F.S.). Applications for Community Juvenile Justice Partnership Grants will be evaluated by an Interagency Task Force to be composed of representatives of the Attorney General, the Commissioner of Education, the Department of Law Enforcement and the Department of Health and Rehabilitative Services (Section 860.1545, F.S.).

Information obtained pursuant to Chapter 39, F.S., by any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile is considered confidential and may be released only to specified persons under revised Subsection 39.045(5), F.S.

Under amended Subsection 39.055(2), F.S., an early delinquency intervention program residential facility may accept two children previously released from the residential portion of the program, but found to need additional residential treatment, above the statutory maximum of ten for which the facility is designed. The time limit for the treatment program is changed from 2 to 6 weeks to 7 days to 6 weeks.

The age ceiling for children whose arrest reports must be forwarded to the local delinquency services program office is raised from 14 to 15 years through amendment to Subsection 39.056(1), F.S. Subsection (2) of this Section is revised to permit a child ll years or younger to be excused from the residential portion of the program at the discretion

of DHRS or upon order of the court.

Subparagraph 228.093(3)(d)12., F.S., is added to permit the release of personally identifiable records or reports of a pupil or student to juvenile justice interagency agreement parties without the consent of the pupil or student or the parents of same.

LOCAL GOVERNMENT*

Disaster and Emergency Preparedness

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 911 (CHAPTER 93-211) provides a comprehensive implementation strategy for state agencies, local governments and law enforcement agencies to plan for and respond to emergencies and disasters occurring in the state.

The act significantly revises Section 252.35, F.S., to alter the emergency management powers and responsibilities of the Division of Emergency Management (DEM) of the Department of Community Affairs (DCA). The law also requires:

1) development of a revised, operations-oriented comprehensive state emergency management plan;
2) the plan to include shelter, evacuation and post-disaster components (the complete plan is required to be submitted to the Governor and Legislature by February 1, 1994);
3) an interim post-disaster response and recovery component to be submitted by June 1, 1993;
4) state agencies with lead emergency management responsibilities to develop operational plans by June 1, 1993; and
5) the DEM to provide for communications, training and intergovernmental coordination for emergency response and recovery.

The law establishes three varying levels of disasters. The Governor may declare an emergency or disaster either minor, major or catastrophic (Subsection 252.36(3), F.S.).

The measure provides that the emergency management plans of local governments be consistent with the state plan and further requires that:

1) the DEM assist political subdivisions in preparing and maintaining emergency management plans (Paragraph 252.35(2)(c), F.S.);
2) if a city prepares an emergency management plan, it must be consistent with and subject to its county's plan (Subsection 252.38(2), F.S.); and
3) a city must coordinate requests for state and federal emergency response assistance with its county (Subsection 252.38(2), F.S.).

The enactment adds Subsection 235.26(10), F.S., to provide that the Department of Education, in consultation with school board and county and state emergency management offices, assess the State Uniform Building Code for Public Educational Facilities Construction to determine what amendments are necessary and the costs of such amendments to the building code, so that school facilities may serve as public shelters for emergency management purposes. In addition, the law also requires:

1) an estimate of costs of proposed revisions due January 1, 1994, to Governor and Legislature;
2) by July 1, 1994, the State Board of Education must amend the State Uniform Building Code to include shelter criteria; and
3) new schools built after July 1, 1994, must be built using new shelter criteria, unless exempted with the concurrence of the local emergency management agency or DCA.

Further, the act creates Subsection 240.295(4), F.S., to require the Board of Regents (BOR) to assess university campus shelter space. The assessment is to identify the extent to which each campus has public shelter space adequate to house students, faculty and employees expected to seek public shelter prior to or during a disaster, or house other persons for which the campus has agreed with the local emergency management agency or other voluntary organization to provide shelter space.

This report is due to the Governor and Legislature by February 1, 1994. At the discretion of the BOR, the report may include a list of proposed renovations to existing buildings to improve shelter capacity, together with an estimate of the costs of such renovations.

Until a campus has sufficient shelter space, any building for which a contract is entered into after July 1, 1994, must be constructed in accordance with public-shelter standards unless exempted with the concurrence of the local emergency management agency or DCA.

The legislation also mandates that DCA must conduct a program to eliminate the deficit of safe public shelter space by 1998, pursuant to new Section 252.385, F.S. Beginning September 1, 1994, and annually thereafter, DCA must provide

*Prepared by House Community Affairs Committee

the Governor and Legislature a list of facilities recommended to be retrofitted using state funds. All appropriate facilities must be retrofitted by 2003.

The Governor must report to the Legislature by June 1, 1993, any actions taken with regard to entering into mutual aid agreements or compacts with other states for assistance during or after emergencies.

The law establishes that the Commissioner of the Florida Department of Law Enforcement (FDLE) is to have command authority over state law enforcement personnel during emergencies by adding Paragraph 23.1231(2)(d), F.S. The Florida Mutual Aid Plan must now include the Florida National Guard in support of the overall law enforcement mission under revised Subsection 23.1231(1), F.S.

The act creates Section 213.055, F.S., to authorize the Governor and Cabinet to refund state and local taxes for fuels donated for official emergency use when the state solicits such donations. The refund authority expires when the state of emergency expires.

The law requires group homes (Section 393.067, F.S.), hospitals (Section 395.1055, F.S.), nursing homes (Section 400.23, F.S.), and adult congregate living facilities (Section 400.441, F.S.) to develop emergency management plans. The plans must include:

1) components that address emergency evacuation transportation;
2) adequate sheltering arrangements;
3) postdisaster activities, including emergency power, food and water;
4) postdisaster transportation;
5) supplies;
6) staffing;
7) emergency equipment;
8) individual identification of residents and transfer of records; and
9) responding to family inquiries.

The plans are to be reviewed by the county emergency management agency, and for certain care facilities, other agencies must be given an opportunity for review of the plans. The plans are to be updated annually.

The Agency for Health Care Administration (Agency) and the Department of Health and Rehabilitative Services (DHRS) must adopt rules to increase the extent to which hospitals, nursing homes and certain group homes are structurally capable of serving as shelters.

The legislation provides that hospitals receive Medicaid reimbursement for housing nursing home patients in hospital beds under certain conditions (Paragraph 409.908(2)(a), F.S.). It also places a reimbursement limit to hospitals for provision of skilled nursing services not to exceed the average county nursing home payment for those services in the county in which the hospital is located. The reimbursement is also limited to the period of time necessary (as determined by DHRS) for placement of the nursing home residents in a hospital.

The act amends Paragraph 465.019(2)(b) and Section 465.0275, F.S., to provide that pharmacies and hospitals may, in an area declared to be in a state of emergency by the Governor, dispense certain prescription medicines under certain conditions.

In addition, local emergency management agencies must maintain a registry of persons with special needs who would need assistance during an evacuation and need sheltering because of physical or mental handicaps under revised Section 252.355, F.S. The registry must be updated annually.

The Department of Health and Rehabilitative Services must provide registration information to all its special needs clients and all incoming clients. The registration program must give disabled persons the option of preauthorizing emergency response personnel to enter their homes during search-and-rescue operations if necessary to assure their safety and welfare following a disaster.

All appropriate agencies and community-based service providers, including home health care providers, must assist emergency management agencies by collecting registration information for people with special needs as part of the program intake process. Clients of state or federal service programs with physical or mental handicaps who need assistance in evacuating, or when occupying shelters, must register as people with special needs.

By May 1 of each year the law provides that, electric utilities must notify residential customers of the registration program. All information is confidential and exempt from the public records law except that the information is available to emergency response agencies.

After June 1, 1994, the legislation requires through creation of Section 327.59, F.S., that marinas may not adopt vessel evacuation policies that protect property rather than life. The Department of Insurance, along with the Department of Natural Resources, the Boating Advisory Council and the Department of Revenue, must evaluate the need for insurance programs and immunity provisions to mitigate the policy of protecting property rather than life. A report suggesting appropriate statutory revisions, if

necessary, must be submitted to the Governor and Legislature by November 15, 1993.

Subsection 374.976(2), F.S., as revised provides that rulemaking may be waived for approved projects of a navigational district in a county recovering from a state of emergency declared under Chapter 252, F.S.

Also, the enactment provides that a professional who provides services for which no compensation is sought or received during a declared emergency is protected from claims for malpractice, as long as the professional acted as an ordinary, reasonably prudent member of the profession would have acted under the same or similar circumstances.

Immunity is provided in amended Paragraph 768.13(2)(a), F.S., from civil liability under the "Good Samaritan Act" to those licensed to practice medicine acting in direct response to emergency situations related to and arising out of a state of emergency that has been declared by the Governor. The same immunity is provided in Subsection 401.265(3), F.S., to medical directors who give oral or written instructions to certified emergency medical services personnel.

Emergency Preparedness Funding

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR SENATE BILL 1858 (CHAPTER 93-128) creates the Emergency Management Preparedness and Assistance Trust Fund in order to provide funds for state and local governments to prepare, manage and assist communities before, during and after emergencies or disasters occurring in the state.

The money is generated from an annual surcharge amounting to $2 per policy on every homeowner's, mobile homeowner's, tenant homeowner's and condominium unit owner's policies. In addition, there is an annual $4 surcharge on commercial fire, commercial multiple peril and business owner's property insurance policies. The surcharge is applicable to policies issued or renewed on or after May 1, 1993. [The surcharge is estimated to raise $12.7 million annually.] The money will be distributed as follows:

60 percent to fund state and local emergency management programs. Of that 60 percent, 20 percent is allocated to DCA and 80 percent to local emergency management agencies and programs. Of that 80 percent, at least 80 percent shall be allocated to counties.

Local emergency management agencies are required to have at least a 40-hour-per-week director if the county is 50,000 or more in population. Smaller population counties (under 50,000) or counties that have interjurisdictional emergency management agreements must have a 20-hour-per-week coordinator that works in that capacity.

The emphasis of local programs will be given to implementing the recommendations of the Governor's Disaster Planning and Response Review Committee.

If DCA's Division of Emergency Management (DEM) determines adequate funds are available, each county will receive funds sufficient to fund a dedicated, full-time emergency preparedness officer.

Twenty percent of the funds are to provide state relief assistance for nonfederally declared disasters (grants and low-interest loans to businesses for uninsured losses resulting from disasters).

Subsection 624.5092(1), F.S., is amended to permit the Department of Insurance to share tax liability information with the Department of Revenue in addition to the exchange of premium tax data already authorized.

Subsection 252.37(1), F.S., is revised to establish legislative intent that funds always be available for preparation to meet emergencies as well as meeting the needs resulting from an emergency.

The remaining 20 percent are to provide for grants and loans to state or regional agencies, local governments and private organizations to implement projects to further emergency management objectives.

GROWTH MANAGEMENT ISSUES

Planning and Growth Management

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2315 (CHAPTER 93-206) implements the recommendations of the third Environmental Land Management Study Committee (ELMS III).

More specifically the act:

Amends Chapter 163, Part II, F.S.

1) to encourage local governments to articulate a "vision" of the future physical appearance and qualities of their community in their local comprehensive plans (Subsection 163.3167(11), F.S.);
2) to provide additional requirements for the housing, intergovernmental and transportation elements of local plans (Section 163.3177, F.S.);
3) to provide deadlines for providing sanitary

sewer, drainage, potable water, solid waste, parks and recreation facilities under concurrency requirements (Paragraphs 163.3180(2)(a) and (b), F.S.);

4) to provide flexibility in concurrency requirements for transportation facilities (Paragraph 163.3180(2)(c), F.S.);
5) to streamline the plan amendment process (Section 163.3189, F.S.); and
6) to provide additional legislative guidelines for the Evaluation and Appraisal Report (EAR) process (Section 163.3191, F.S.).

Amends Chapter 171, F.S.

1) to provide a process for the annexation of enclaves (Section 171.046, F.S.);
2) to delete the requirement that an ordinance of annexation be submitted to a separate vote of the registered electors of the annexing municipality, unless the total area to be annexed during any one calendar year cumulatively exceeds more than 5 percent of the total land area of the municipality, and the population of the area to be annexed cumulatively exceeds 5 percent of the municipal population (Subsection 171.0413(2), F.S.); and
3) to provide that, in cases where a municipality proposes to annex unincorporated territory where there are no registered electors on the date an ordinance of annexation is adopted, no vote of electors of the area proposed to be annexed shall be required; however, owners of more than 50 percent of the land of such an area must consent to the annexation and such consent shall be obtained by the parties proposing the annexation prior to the final adoption of the ordinance (Subsection 171.0413(6), F.S.).

Amends Chapter 186, F.S.

1) to reconstitute regional planning councils (RPCs) (Subsection 186.504(4), F.S.) and provide for their current boundaries to be reviewed by the Executive Office of the Governor (EOG) (Subsection 186.506(4), F.S.);
2) to change the requirement for each RPC to develop a comprehensive regional policy plan to a requirement for a strategic regional policy plan to be adopted by a two-thirds vote of the RPC and prohibit regulatory actions by an RPC (Section 186.507, F.S.); and
3) to provide for the review of the State Comprehensive Plan (SCP) by the EOG, with particular emphasis on the "Growth Management" portion of the SCP (Section 186.007, F.S.).

Amends Section 193.501, F.S.

To allow owners of lands subject to conservation easements to convey development rights of such land to the governing board of any public agency in this state, including a municipality, or to charitable corporations or trusts.

Creates Section 240.155, F.S.

To provide for campus planning and concurrency management, which supersedes the requirements in Part II of Chapter 163, F.S.

Amends Section 336.021, F.S.

To allow any county to levy the ninth-cent gas tax by extraordinary vote of the governing body or by a referendum.

Amends Section 336.025, F.S.

To allow any county to levy an additional 5-cent local option gas tax by a majority plus one vote of the governing body or by referendum.

Amends Section 380.06, F.S.

1) To increase the thresholds for residential, hotel, motel, office and retail development for a development of regional impact (DRI) by 50 percent, if such developments are in urban central business districts and regional activity centers where local comprehensive plans are in compliance with Part II, Chapter 163, F.S.; and
2) to increase the thresholds for multi-use developments for DRIs by 100 percent, if such developments are in urban central business districts and regional activity centers where local comprehensive plans are in compliance with Part II, Chapter 163, F.S., and one land use is residential and amounts to 35 percent of the jurisdiction's applicable residential threshold.

Amends Section 380.0651, F.S.

To allow exemptions from the DRI process for wet or dry storage or mooring of fewer than 150 watercraft on inland freshwater lakes, except for Outstanding Florida Waters, and for wet or dry storage or mooring of fewer than 50 watercraft of 40 feet in length or less, if they do not serve coastal barrier island developments and do not adversely impact manatees or Class II or Outstanding Florida Waters.

Amends Subsection 380.06(7), F.S.

To allow an expedited DRI-impact review

for those proposed developments consistent with the adopted local comprehensive plan.

Amends Subsection 380.06(27), F.S.

To terminate by 1997 (see Subparagraph 163.3177(6)(h)6., F.S., in the act) the DRI review program under certain criteria.

Amends Section 380.07, F.S.

To delete RPCs from the list of entities that have the ability to appeal a DRI development order issued by a local government.

Amends Section 380.31, F.S.

To add the Chair of the Citizens' Advisory Committee for the Florida Coastal Zone Management Program (FCZMP) to the Coastal Resources Interagency Management Committee (IMC). Establishes an executive committee of the IMC composed of the secretaries of the departments of Community Affairs, Environmental Regulation and Commerce; the Executive Director of the Department of Natural Resources; the Director of the Office of Planning and Budgeting of the Executive Office of the Governor; and the Chair of the Citizens' Advisory Committee.

Section 76 of the act

Requires the state land planning agency to prepare a report and recommendations on the issues related to the DRI program as addressed by the ELMS III Committee and submit it to the Governor, the President of the Senate and the Speaker of the House by December 1, 1993.

Section 77 of the law

Requires the Governor to appoint a task force to study the legal relationship between water and land planning, and for the task force to prepare a report to submit to the President of the Senate and the Speaker of the House by October 1, 1994.

Section 78 of the measure

Requires the IMC to prepare recommendations on coastal management funding and submit them to the Governor, the President of the Senate and the Speaker of the House by December 1, 1993.

Section 79 of the enactment

Requires the Advisory Council on Intergovernmental Relations (ACIR) to conduct a study on the cost to local governments of the changes to Part II of Chapter 163, F.S., and to submit its findings to the Governor, the President of the Senate, the Speaker of the House and the Chairpersons of the House and Senate Appropriations Committees by December 1, 1993.

SUS Offsite Improvements Funding

SENATE BILL 2414 (CHAPTER 93-176) provides for the service charge on the new 5-cent local option motor fuel tax available to be levied pursuant to COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2315 (CHAPTER 93-206) to be deposited into a new trust fund named the State University System Concurrency Trust Fund. Moneys in this Fund are to be used to fund State University System offsite improvements required to meet concurrency standards adopted pursuant to Part II of Chapter 163, F.S.

State Agency Regulatory Authority

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2315 (CHAPTER 93-206) revises Paragraph 163.3184(6)(c), F.S., to restrict the state land planning agency from requiring a local government to duplicate or exceed an existing federal, state, or regional agency permitting program in its comprehensive plan or land development regulations. The state land planning agency is still authorized, however, to make objections, recommendations and comments and compliance determinations regarding densities and intensities of land use on local comprehensive plans and plan amendments (Paragraph 163.3184(6)(a), F.S.).

Transportation Concurrency

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2315 (CHAPTER 93-206) provides for the following changes to the transportation concurrency requirements of Chapter 163, Part II, F.S.:

1) creates Paragraph 163.3180(5)(b), F.S., to allow local governments to grant exceptions for projects that promote public transportation or for development included within an area designated by a local comprehensive plan for urban infill development, urban redevelopment, or downtown revitalization;
2) creates Paragraph 163.3180(5)(c), F.S., to provide exemptions for developments that pose only special part-time demands on a transportation system, if they are located within urban infill development, urban redevelopment, existing urban service areas, or downtown revitalization areas;
3) creates Subsection 163.3180(6), F.S., to provide exceptions for developments that only produce a de minimis deviation in levels of service on transportation facilities;

4) creates Subsection 163.3180(7), F.S., to allow local governments to adopt transportation concurrency management areas and allows areawide level of service standards for such areas; and
5) creates Subsection 163.3180(8), F.S., to allow 110 percent of the actual transportation impact caused by a previously existing development within an established existing urban service area to be reserved for redevelopment.

Annexation

COMMITTEE SUBSTITUTE FOR HOUSE BILL 891 (CHAPTER 93-243) deletes the requirement in Subsection 171.0413(2), F.S., that an ordinance of annexation be submitted to a separate vote of the registered electors of the annexing municipality, unless the total area to be annexed during any one calendar year cumulatively exceeds more than 5 percent of the total land area of the municipality and the population of the area to be annexed cumulatively exceeds 5 percent of the municipal population. The measure also clarifies that, if there is any majority vote against annexation under these criteria, the ordinance shall not become effective.

The act also adds Subsection 171.0413(6), F.S., to provide that in cases where a municipality proposes to annex unincorporated territory where there are no registered electors on the date an ordinance of annexation is adopted, no vote of electors of the area proposed to be annexed shall be required. However, owners of more than 50 percent of the land of such an area must consent to the annexation and such consent shall be obtained by the parties proposing the annexation prior to the final adoption of the ordinance.

Finally, the law clarifies that, in the event an annexation occurs, the county land use plan and zoning or subdivision regulations shall remain in full force and effect until the municipality adopts a comprehensive plan amendment to include the annexed area. Identical provisions are to be found in COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 2315 (CHAPTER 93-206) summarized above.

Local Government Capital Improvement

HOUSE BILL 1969 (CHAPTER 93-286) adds Subsection 163.3181(3), F.S., to allow a local government undertaking a publicly financed capital improvement project to use an expedited process for public participation that requires a public hearing on the proposed project noticed in a newspaper of widest circulation at least 14 days prior to the date of the hearing. If this process is used, an affected person may not institute or intervene in an administrative hearing objecting to a project as not consistent with the local comprehensive plan, unless the affected person raised the same issues between the date of publication of a required public notice and the conclusion of the public hearing. If an affected person requests an administrative hearing pursuant to Section 120.57, F.S., that person shall file the petition no later than 30 days after the public hearing. Following the initiation of an administrative hearing, the hearing officer is required to establish a schedule for the proceedings within 15 days after receipt of the petition. The state land planning agency is required to issue a final order within 45 days of receipt of a recommended order from the hearing officer.

Sections 163.362 and 163.385, F.S., are changed to authorize by amendment of the community redevelopment plans, the extension of projects and the sale of additional bonds.

Under revised Section 163.370, F.S., public areas of major hotels supporting convention centers are to be considered valid projects within community redevelopment areas.

A county or municipality which levies the convention development tax pursuant to Section 212.0305, F.S., is authorized to implement a convention center booking policy which considers the minimum number of hotel rooms to be utilized or the impact on the amount of convention development tax generated.

The provisions of Chapter 67-930, Laws of Florida, which authorizes certain cities to levy a municipal resort tax are revised to delete a beer or malt beverage exemption to the tax.

The definition of "public body" or "taxing authority" for purposes of the "Community Redevelopment Act of 1969" (Part III of Chapter 163, F.S., Sections 163.330-163.450, F.S.) are amended in Section 163.340, F.S.

Section 163.360, F.S., is revised to require a community redevelopment agency to submit any plan it recommends for approval to every taxing authority levying ad valorem taxes on realty located within the geographic boundaries of the redevelopment area.

Governing bodies are required to give prior notice to the issuance of redevelopment bonds under amended Section 163.346, F.S.

Under revised Section 163.387, F.S., specified public bodies or taxing authorities are exempted from the requirement that taxing authorities contribute funds annually to appropriate

redevelopment trust funds created pursuant to the section.

ACCESSIBILITY ISSUES

Americans With Disabilities Act

COMMITTEE SUBSTITUTE FOR SENATE BILL 1438 (CHAPTER 93-183) addresses a wide array of issues concerning accessibility by disabled persons and will incorporate into Florida law the basic accessibility guidelines of the Americans With Disabilities Act of 1990 (28 C.F.R., Part 36, Subparts A and D (1992) and Title II of Pub. L. No. 101-336, 1990.

It provides in new Section 553.504, F.S., for certain additional requirements to ADAAG relating to:

1) specific door widths in certain dwellings;
2) clearance for landings and ramps;
3) ratios for curb ramps;
4) certain force required for exterior hinged doors;
5) seating requirements in establishments licensed under the Beverage Law;
6) percentages of rooms in transient lodging buildings to be made accessible to and usable by persons with mobility impairments;
7) various measurements regarding the construction and accessibility of restrooms; and
8) specific construction requirements regarding customer checkout aisles.

The legislation also provides in Subsection 553.504(16), F.S., that barriers placed at common or emergency entrances or exits that would prevent a person from using an entrance or exit are to be removed; clarifies building owner responsibility for vertical accessibility (Section 553.509, F.S.); and sets certain requirements for disabled parking spaces that are provided by governmental agencies (Paragraphs 316.1955(3)(d) and (e), F.S.).

Pursuant to new Section 553.506, F.S., the State Board of Building Codes and Standards of the Department of Community Affairs is given rulemaking authority with regard to updates and revisions to ADAAG.

New Subsection 553.507(1), F.S., stipulates that the act shall not apply to any structure, building or facility that exists on, is under construction on, or is under contract for construction as of October 1, 1993, the effective date of the act.

Handicapped Access

HOUSE BILL 579 (CHAPTER 93-18) deletes provisions in Section 413.08, F.S., that allowed airplanes, buses, motor vehicles, trains, streetcars, boats, hotels, motels, amusement parks, resorts and all public places that displayed animals for public display or education, the option to refuse access to persons with disabilities using a guide or service dog.

The measure also makes the statute "gender neutral" by replacing the word "he" with "such person."

LOCAL GOVERNMENT FISCAL ISSUES

Municipal Public Service Tax

COMMITTEE SUBSTITUTE FOR HOUSE BILL 105 (CHAPTER 93-224) revises Section 166.231, F.S., to allow municipalities and charter counties that levy the Municipal Public Service Tax to exempt farming, pasture, grove, forestry operations (including horticulture, floriculture and viticulture), dairy, livestock, poultry, bee and aquaculture industries from paying this tax on the purchase of natural or manufactured gas or fuel oil. It also exempts the Island Water Association, a nonprofit corporation that supplies water to the City of Sanibel, from the tax.

[If every municipality and county levied the tax, the fiscal impact is estimated to be approximately 5- to 10-percent or $850,000-$1.7 million.]

Public Facilities/Competitive Bids

COMMITTEE SUBSTITUTE FOR HOUSE BILL 157 (CHAPTER 93-95) amends Section 380.06, F.S., to provide that the requirements for competitive bidding, or negotiation of construction or design, do not apply to the selection of a contractor or design professional for any part of construction or design of a public facility required as a condition of a development order to mitigate impacts reasonably attributable to a proposed development, unless required by the local government. This act is effective October 1, 1993.

County Budgets

HOUSE BILL 1619 (CHAPTER 93-109) revises Section 129.06, F.S., to give a board of county commissioners, subject to a public hearing, the power to amend its budget, through interfund transfers, to account for unanticipated revenues and increased receipts.

Public Bid Disclosure Act

SENATE BILL 658 (CHAPTER 93-76) creates

Section 218.80, F.S., to the "Public Bid Disclosure Act," to require that local governments disclose each permit or fee for which a contractor is liable before or during construction and that this information must be available either in the bidding documents, other request-for-proposal documents or the contract. The local government must disclose all permits or fees that are required as a result of a change order or modification prior to the time the contractor is required to submit a price for the change order or modification. The information must include either the dollar amount, the percentage method or unit method of all permits and fees as part of the contract between the local government and the contractor. In addition, a request for proposal by a local government in which a final fixed price is not required need not contain a disclosure of all fees or assessments. If such fees or permits are not disclosed in any of these documents, the contractor is not responsible for fees or permits that may arise after the contract is let.

The law also prohibits local governments from halting construction or delaying completion of the contract in order to collect permits or fees not disclosed prior to letting the contract.

School Board Members Compensation

HOUSE BILL 1545 (CHAPTER 93-146) amends Subsection 145.16(2), F.S., to prohibit special laws or general laws of local application pertaining to compensation of district school board members, and repeals any such laws currently in existence. It revises Sections 230.202 and 230.303, F.S., to provide that salaries for district school board members and elected school superintendents for 1993 and each year thereafter shall be set at fiscal year 1991-1992 levels, with annual increases pursuant to Chapter 145, F.S.

HOUSING ISSUES

Affordable Housing Act "Glitch" Bill

COMMITTEE SUBSTITUTE FOR SENATE BILL 1106 (CHAPTER 93-181) revises several "glitch" items in the "William E. Sadowski Affordable Housing Act," Chapter 92-317, Laws of Florida. In addition, there are several revisions in the Housing Predevelopment Loan Program, the State Apartment Incentive Loan Program (SAIL), the Affordable Housing Study Commission and the Florida Housing Finance Agency (FHFA) Board of Directors. The major revisions are as follows:

1. Transfers, renumbers and amends the "Housing Predevelopment and Elderly Homeowner Rehabilitation Assistance Act" (Sections 420.303, 420.305-420.308, 420.31, F.S.)" to the "Predevelopment Loan Program Act" (Sections 420.521-420.529, F.S.) specifying those assisted must be low-income.
2. Provides that all eight members of the FHFA Board of Directors are appointed to 4-year terms (Paragraph 420.504(2)(a), F.S.). Allows the Governor to remove or suspend board members with cause, subject to removal or reinstatement by the Senate, including failure to attend at least three meetings during any 12-month period (Paragraph 420.504(2)(b), F.S.).
3. Increases the Affordable Housing Study Commission from 18 to 21 members by adding three "residents of the state" (Paragraph 420.609(1)(p), F.S.). Allows the Governor to remove or suspend board members with cause, including failure to attend at least three meetings during any 12-month period (Paragraph 420.609(2)(b), F.S.).
4. Provides that the portion of the documentary stamp tax moneys remaining in the Local Government Housing Trust Fund shall be used in a competitive affordable housing production program for all cities, counties and eligible sponsors (Subsection 420.9078(1), F.S.).
5. Repeals the Elderly Homeowner Rehabilitation Program (Sections 420.34 and 420.35, F.S.), transferring moneys remaining in its funding source (the Florida Elderly Housing Trust Fund Section 420.35, F.S.) to the Economic Opportunity Trust Fund that funds the Low-Income Emergency Hope Repair Program (Section 420.36, F.S.). This program is transferred from the Department of Health and Rehabilitative Services to the Department of Community Affairs (DCA) (Section 21 of the act).
6. Expands the definition of "mortgage" under the FHFA Act to include mortgages other than first mortgages (Subsection 420.503(22), F.S.).
7. Provides that the DCA Internal Auditor must determine violations of the State Housing Initiatives Partnership program criteria by a county or eligible municipality (Subsection 420.9075(11), F.S.).

Housing Finance Authorities

HOUSE BILL 1217 (CHAPTER 93-221) authorizes housing finance authorities to:

1) Hire agents or employees, including legal counsel, delegating powers and duties to these personnel as the authority deems appropriate.
2) create or assist in creating not-for-profit corporations engaged in acquiring, constructing, reconstructing, or rehabilitating housing developments (Subparagraph 159.605(2)(b)4., F.S.);
3) acquire real and personal property to equip their facilities and staff (Subsection 159.608(2), F.S.); and
4) make loans to not-for-profit corporations engaged in the specified activities above (Paragraph 159.608(10)(a), F.S.).

Disabled Veterans Parking

SENATE BILL 794 (CHAPTER 93-127) revises Paragraph 320.0848(2)(c), F.S., to provide for a substantial reduction of fee rates for disabled parking permit fees purchased by certain disabled veterans.

These disabled veterans must have been a resident of the state, been honorably discharged and have a service-connected disability rating for compensation of 50 percent or greater, or a service-connected disability rating of 50 percent or greater and be receiving disability retirement pay from the Veteran's Administration and have a physician's statement of qualification for a handicapped parking permit.

The fees for such permits are $1.50 for the initial parking permit, $1 for each additional parking permit, $1.50 for each renewal parking permit and $1 for each additional renewal parking permit. Said fees must be paid to the tax collector of the county in which the fee was generated.

OTHER ISSUES

Plumbing Fixtures

SENATE BILL 682 (CHAPTER 93-45) exempts certain public lodging and food service establishments which do not provide meeting or banquet rooms accommodating more than 150 persons from having a ratio of three women's water closets for every two water closets or urinals provided for men. The establishment must have, however, at least the same number of water closets for women as the combined total of water closets and urinals for men. This law takes effect October 1, 1993.

Developments of Regional Impact

Section 380.0555, F.S., is amended by SENATE BILL 692 (CHAPTER 93-135) to allow the Administration Commission to remove part of the Apalachicola Bay Area as an area of critical state concern.

Subsection 380.0651(4), F.S., a temporary law, is reenacted indefinitely, effective October 1, 1993, to permit the aggregation of two or more developments as a single development for the purpose of reviewing a development of regional impact.

Energy Efficiency

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1045 (CHAPTER 93-249) creates the "Florida Building Energy-Efficiency Rating Act" (Part IX of Chapter 553, F.S., Sections 553.990-553.998, F.S.) which requires the Department of Community Affairs (DCA) to develop an energy rating system for new and existing public, commercial and residential buildings intended to encourage consumer consideration of energy efficiency.

The enactment also creates Section 288.041 and Paragraph 377.703(3)(h), F.S., to require the Department to promote the development and use of solar energy as part of the state's energy policy. The Department of Community Affairs, Department of Transportation, Department of Commerce, Florida Solar Energy Center and the Florida Solar Energy Industries Association are directed to conduct an investigation of efforts that will enhance solar energy research, development and utilization.

The law adds Subsection 553.71(8), F.S., to define "load management control device" for purposes of the "Florida Building Codes Act," Part VII of Chapter 553, F.S., Sections 553.70-553.895, F.S., and amends Subsection 553.79(1), F.S., to exempt such devices from the permits and fees required by the building codes act.

Section 553.901, F.S., is revised to require triennial rather than biennial updating of the "Florida Thermal Efficiency Code," Part VIII of Chapter 553, F.S., Sections 553.900-553.912, F.S., by the DCA after determination of the most cost-effective energy-saving and equipment and techniques available.

Sections 553.903-553.905, F.S., are amended to reflect the applicability of thermal efficiency standards to products covered by the Florida Energy Efficiency Code for Building Construction.

Section 553.9085, F.S., is revised to require energy performance standards for new residential buildings to be supplied to prospective buyers upon request and to require builders to supply a

completed and signed energy performance level display card as an addendum to each sales contract.

Sections 553.909 and 553.963, F.S., are changed to modify certain energy efficiency standards and Section 553.955, F.S., is amended to redefine "energy conservation standard" for purposes of the "Florida Energy Conservation Standards Act," Part IX of Chapter 553, F.S., Sections 553.951-553.975, F.S.

Section 163.04, F.S., is revised to clarify the manner of installation of solar collectors on property covered by deed restrictions, covenants or similar binding agreements.

MOTOR VEHICLES AND TRANSPORTATION*

Commercial Motor Vehicles/Length Exception

COMMITTEE SUBSTITUTE FOR SENATE BILL 438 (CHAPTER 93-33) amends Subsection 316.515(3), F.S., to provide that a straight truck or truck tractor semitrailer combination hauling horticultural trees may carry a load that extends up to 10 feet beyond the rear of the vehicle, provided that the trees are resting on a retaining bar mounted above the truck bed so that the root balls of the trees rest on the floor, toward the front of the truck bed, the tops of the trees extend upward, toward the rear of the truck bed and the portions of the trees overhanging the bed of the truck are covered with protective fabric.

Combat Automobile Theft Program

COMMITTEE SUBSTITUTE FOR SENATE BILL 586 (CHAPTER 93-30) amends Paragraph 316.008(6)(b), F.S., to repeal the requirement that the "combat automobile theft" decal be bright yellow, and instead require the Department of Law Enforcement to approve a uniform decal no later than October 1, 1993, to be used by all counties and municipalities enacting ordinances implementing the "combat automobile theft" program.

Outdoor Advertising

COMMITTEE SUBSTITUTE FOR SENATE BILL 688 (CHAPTER 93-36) revises Paragraph 479.26(2)(a), F.S., to permit the erection of specific information panels on all interchanges on the interstate system where no more than a specified number of eligible businesses in any one of the gas, food, lodging and camping categories are located within an established distance from the interchange, and where spacing requirements allow at least four logo sign structures and all necessary traffic control signs for each direction of travel on the mainline facility. The Department of Transportation is directed to adopt rules for determining the number of eligible businesses necessary to qualify an interchange for logo sign participation, the date of qualification of the interchange, the spacing and distance requirements for qualification of the interchange and any other matters necessary to establish qualification or subsequent disqualification of an interchange.

Transportation

COMMITTEE SUBSTITUTE FOR SENATE BILL 1328 (CHAPTER 93-164) the "Florida Intermodal Surface Transportation Efficiency Act" conforms Florida's transportation planning procedures, at both the state and Metropolitan Planning Organization (M.P.O.) levels, to federal requirements.

The act prohibits the Department of Transportation from budgeting more than 50 percent of the nonfederal share of federal-aid funds programmed by an M.P.O. for use off the State Highway System, except that the Department may provide 100 percent of the nonfederal share of a transit project or a transit-related project that is funded under the federal Congestion Mitigation and Air Quality Attainment Program (Paragraph 339.135(3)(d), F.S.).

Sections 7 and 8 of this law repeals the Department's program objectives, effective January 1, 1995, and requires the Florida Transportation Commission to review the objectives, in light of recent changes to federal law, and recommend changes to the Legislature by December 15, 1993.

As revised in this legislation, Subsection 333.03(3), F.S., prohibits the construction of an educational facility within a specified distance of an airport. However, local governments can override this prohibition if in the public interest. Amended Subsection 333.03(6), F.S., grandfathers in currently existing buildings, expansions thereof, and buildings for which the siting has been approved by July 1, 1993. Subsection 337.276(3), F.S., is amended to repeal the $500 million cap on the total amount of right-of-way bonds that may be issued by the Department. Instead, the total amount of bonds will be limited by the amount of revenue currently pledged for debt service. [This will allow the Department to take advantage of decreased interest rates to issue a higher amount of bonds within current revenues.]

Section 337.1075, F.S., is created to authorize the Department to secure the services of certified planners through the Consultant's Competitive Negotiation Act (Section 287.055, F.S.).

The measure authorizes toll facilities to use Automated Vehicle Identification (AVI) technology. Includes the prepayment of tolls through electronic transfer (Paragraph 316.2952(2)(c), F.S., and the

*Prepared by Senate Transportation Committee

issuance of traffic citations for toll violations based upon photographic evidence (Section 316.1001, F.S.).

New Section 334.187, F.S., is created to authorize the Department to accept letters of credit to guarantee the payment of any obligation due the Department.

Section 339.2815, F.S., is created to authorize the Department and governmental entities doing business with the Department to accept purchase orders for any goods or services valued at $10,000 or less.

Subsection 337.19(2), F.S., is revised to shorten the time period during which suits on Department contracts may be commenced.

Section 339.0805, F.S., is modified to conform the Department's Disadvantaged Business Enterprise Program to recent federal court decisions.

New Section 334.049, F.S., authorizes the Department to obtain patents, copyrights, or trademarks in its own name.

Amended Paragraph 336.025(7)(b), F.S., authorizes local governments to use the proceeds of the local option gas tax to fund the costs of structures used for the storage and maintenance of road equipment.

The act adds Subsection 341.052(8), F.S., to authorize the Department to supplement a local government's public transit block grant upon the request of the applicable M.P.O. or county government.

Revised Paragraph 341.052(3)(c), F.S., authorizes the secretary to waive the required local effort under the block grant program for a county recovering from a state of emergency.

Subsection 341.031(10), F.S., is revised to redefine the term "transit corridor project" for purposes of the "Florida Public Tansit Act," Sections 341.011-341.061, F.S., to authorize the Legislature to continue to fund such projects beyond the previous 4-year limitation.

This law repeals the limitation in Paragraph 341.303(4)(b), F.S., on the state funding the operating costs of commuter rail projects at more than 25 percent of such costs after the 7th year of operation and the prohibition on the state funding any such costs after the 10th year of operation.

Paragraph 341.3025(5)(a), F.S., is modified to authorize commuter rail authorities to hire armed security officers to perform fare enforcement. Subsection (7) of the same statutory section provides that the venue for the prosecution of fare violations is in the county where the commuter rail authority maintains its principal place of business.

By amendment to Paragraph 337.25(5)(a), F.S., this act authorizes the Department to allow the relocation of outdoor advertising signs from departmentally leased property to other Department property.

The requirement of Subsection 337.25(8), F.S., that surplus real property must first be sold in single lots prior to the Department holding a bulk sale is repealed.

New Subsections 255.22(3) and (4), F.S., provide for the reversion of any interest in real property that was conveyed free-of-charge to a local government if the local government fails to use the property for the purposes for which it was conveyed for a period of 10 consecutive years after such conveyance.

The measure creates Section 255.5535, F.S., to provide exemptions from asbestos survey requirements for certain property acquired by a state agency.

Added Subsection 255.557(3), F.S.) authorizes state agencies to develop, with the approval of the appropriate asbestos program administrator, a brief operation and maintenance plan for buildings that are subject to demolition or removal.

New Subsection 338.251(9), F.S., provides that the Department is not required to pay interest on advances to an expressway authority from the Toll Facilities Revolving Trust Fund for projects subsequently assumed by the Department. Any interest accruing on advances used for such projects must be paid to the Department.

Revised Subsections 337.185(7) and (8), F.S., increase the stipend paid to private citizens who serve on the State Arbitration Board and increase the fees charged by the Board.

New Subsection 479.01(3) and amended Subsection 479.07(1), F.S., clarify that the Department has jurisdiction of outdoor advertising signs that are located within 660 feet of the State Highway System within an urbanized area or that are visible from the State Highway System in a nonurbanized area.

Modified Subsection 341.402(8), F.S., authorizes Department rail inspectors to enforce federal regulations relating to the rail transportation of hazardous materials.

Section 54 of this measure authorizes the Department to develop a program for the designation of scenic highways.

Section 334.045, F.S., is revised to require the Florida Transportation Commission to develop measures for evaluating the Department's performance and productivity and to repeal the automatic budget reduction imposed upon the Department for the failure to satisfy such measures.

New Subsection 338.231(2), F.S., authorizes the Department to defer the scheduled toll increase on the Homestead Extension of the Florida Turnpike until July 1, 1995.

Amended Paragraph 339.175(2)(a), F.S., increases the maximum membership on an M.P.O. from 18 to 19 members and revised Paragraph 339.175(2)(b), F.S., provides that a charter county M.P.O. must include a representative of the applicable school board.

This enactment repeals the prohibition in Subsection 341.031(3), F.S., on local governments using public transit block grant funds to pay labor costs.

Section 63 of the law creates a seven-member commission within the Department to study safety issues at rail/highway grade crossings.

Section 64 of the act authorizes the Department to facilitate the research, development and demonstration of high technology transportation projects, including magnetic levitation technology.

Section 65 of this legislation authorizes the Department to assist the Spaceport Florida Authority.

Subsection 341.053(4), F.S., is revised to repeal the requirement that one-third of the total funds allocated under the Intermodal Development Program must be distributed to the Department districts based upon the statutory formula for new construction.

Subsection 341.053(5), F.S., is amended to repeal the prioritization of projects eligible for funding under the program.

Subsection 334.30(1), F.S, is modified to authorize the Department to charge an application fee for the purposes of assessing an application to construct a private toll road.

Revised Subsection 338.2275(3), F.S., authorizes the Department to allocate federal funds to turnpike projects.

By amending Section 339.149, F.S., the act repeals the requirement that the Auditor General annually review the accuracy of the Department's program objectives and accomplishment report.

Motor Vehicle License Plates

COMMITTEE SUBSTITUTE FOR HOUSE BILL 83 (CHAPTER 93-130) creates Section 320.0896, F.S., which establishes the Florida Special Olympics license plate. A person who elects to purchase such plate will bear the cost of a $15 use fee and a $2 processing fee.

The first $14,000 of the proceeds from the license plate use fee will be retained by the Department of Highway Safety and Motor Vehicles to defray the administrative and design costs associated with the plate. Thereafter, the first $5 million collected annually will be forwarded to the Florida Developmental Disabilities Planning Council to be used solely for Special Olympics purposes, as approved by the Council.

License Taxes

COMMITTEE SUBSTITUTE FOR HOUSE BILL 215 (CHAPTER 93-228) amends Paragraph 320.08(1)(d), F.S., to provide that the proceeds of the $2.50 motorcycle safety education fee may only be used to fund a motorcycle driver improvement program implemented pursuant to Section 322.025, F.S., or the Florida Motorcycle Safety Education Program established in Section 322.0255, F.S.

Turnpike Projects/Environmental Feasibility

COMMITTEE SUBSTITUTE FOR HOUSE BILL 831 (CHAPTER 93-100) amends Paragraph 338.223(1)(c), F.S., to require the Department of Transportation to assume responsibility for the design, cost and publication of the public notice soliciting public comment relating to the environmental impact of a proposed turnpike project.

Central Regional Transportation Authority Act

COMMITTEE SUBSTITUTE FOR HOUSE BILL 1141 (CHAPTER 93-103) amends Subsection 343.63(1), F.S., to create the Central Florida Transportation Authority (Authority) in place of the Central Florida Commuter Rail Authority. The act authorizes the Authority to own, operate, maintain and manage a public transportation system in the area of Seminole, Orange and Osceola counties. Revised Paragraph 343.63(2)(b), F.S., alters the membership of the governing board to include a county commissioner from each of the member counties; the mayors of the cities of Altamonte Springs, Orlando and Kissimmee; two representatives, appointed by the Governor, who are residents and qualified electors in the area; and the district secretary of the Department of Transportation. Various terms of office are provided for such members to accommodate staggered terms.

Panther License Plates/Bulk Purchases

SENATE BILL 1760 (CHAPTER 93-137) amends Section 320.08065, F.S., to provide that a person or corporation that purchases 10,000 or more panther license plates must pay an annual use fee of $5 per plate and annual processing fee of $2 per plate, over and above the applicable license tax required under Section 320.08, F.S. The distribution of the

annual use fee is changed to require 45 rather than 50 percent be deposited in the Florida Panther Research and Management Trust Fund in the Game and Fresh Water Fish Commission and that 40 rather than 25 percent be deposited in the Save Our State Environmental Education Trust Fund in the Department of Natural Resources to be used for environmental education including the habitat needs of the Florida panther. The Florida Communities Trust Fund is to receive the balance, but no less than $300,000.

PROFESSIONAL REGULATION*

Medical Practice Risk Management Course

COMMITTEE SUBSTITUTE FOR SENATE BILL 132 (CHAPTER 93-27) amends Subsection 455.2141(5), F.S., to modify the continuing education requirements for medical, osteopathic, chiropractic and podiatric physicians who currently must complete at least 5 hours in risk management to partially satisfy their continuing education requirements as part of licensure renewal. Under the law, risk management training is no longer a mandatory continuing education requirement, although physician practitioners may partially satisfy the requirement by taking up to 5 hours of training in risk management or cost containment if such training is required by board rule.

Health Care Practitioners

COMMITTEE SUBSTITUTE FOR SENATE BILL 232 (CHAPTER 93-41) creates Section 455.2456, F.S., to require the boards regulating certain health care practitioners, including acupuncturists (Chapter 457, F.S.), chiropractic physicians (Chapter 460, F.S.), podiatrists (Chapter 461, F.S.), advanced registered nurse practitioners (Section 464.012, F.S.) and dentists (Chapter 466, F.S.), to adopt administrative rules to require practitioners under their regulatory jurisdiction to maintain medical malpractice insurance or to provide proof of financial responsibility. Subsection 455.2456(1), F.S., authorizes the regulatory boards having jurisdiction over acupuncturists, chiropractic physicians, podiatrists, advanced registered nurse practitioners and dentists to grant exemptions to the medical malpractice insurance or financial responsibility requirements imposed by administrative rule.

Subsection 455.2456(3), F.S., clarifies that financial responsibility requirements currently imposed on medical physicians (Section 458.320, F.S.), and osteopathic physicians (Section 459.0085, F.S.), will continue to apply to these practitioners. The act is effective October 1, 1993.

Pharmacists/Nursing Home Patients

COMMITTEE SUBSTITUTE FOR HOUSE BILL 469 (CHAPTER 93-231) amends Section 465.0125, F.S., to allow a consultant pharmacist to order and evaluate laboratory and clinical tests only for nursing home patients in a facility, as long as the medical director of the nursing home facility authorizes the pharmacist to do so. The act is effective October 1, 1993.

Medicinal Drugs

COMMITTEE SUBSTITUTE FOR SENATE BILL 598 (CHAPTER 93-44) creates Section 465.0255, F.S., to require manufacturers, repackagers or other distributors of any medicinal drug to display the expiration date of each drug in a conspicuous and legible manner on the container and on its packaging. The law's requirements apply only to dispensing practitioners who are pharmacists practicing in community pharmacy settings and practitioners who dispense medications on an outpatient basis. The act requires pharmacists and dispensing practitioners to provide certain information to patients and purchasers on the packaging of dispensed medication or in other written form.

The legislation provides that if Section 11.61, F.S., is not repealed prior to October 1, 1997, Section 465.0255, F.S., is subject to a prospective review and repeal on October 1, 1997, based on the criteria established under the Sunset Act (Section 11.61, F.S.). The act is effective October 1, 1993.

Optometry

COMMITTEE SUBSTITUTE FOR HOUSE BILL 843 (CHAPTER 93-101) requires all optometry licensure applicants who apply on or after July 1, 1993, to meet the qualifications currently imposed on certified optometrists (Section 463.006, F.S.). In addition, the measure eliminates an exemption relating to optometric service plan corporations licensed under Part I of Chapter 637, F.S.

Board of Medicine Advisory Committee

COMMITTEE SUBSTITUTE FOR SENATE BILL 1112 (CHAPTER 93-48) creates Section 458.346, F.S., to provide representation on the Board of Medicine for public sector physicians by creating an advisory committee to the Board composed of three public sector physicians. The enactment also revises the conditions of appointment to the Board of Medicine (Subsection 458.307(2), F.S.) to clarify that the medical faculty member be full-time and the teaching hospital member be in private practice and on the full-time staff of a statutory teaching

*Prepared by Senate Professional Regulation Committee

hospital as defined in Section 408.07, F.S. The act is effective October 1, 1993.

Specialized Construction Contracting

SENATE BILL 448 (CHAPTER 93-154) amends the exemption in Subsection (6) of Section 489.103, F.S., to the regulatory provisions of Part I, Chapter 489, F.S., Sections 489.101-489.134, F.S., relating to construction contracting, for the sale or installation of finished products to provide a specific example (awnings), and to clarify that the exemption does not apply to certain inground spas and swimming pools. These same revisions appear in COMMITTEE SUBSTITUTE FOR SENATE BILL 1552 (CHAPTER 93-166) summarized below.

The act amends Section 489.113, F.S., to provide that an unlicensed person may work under the supervision of a licensed person as long as that unlicensed person is not performing work in one of the subcontractor disciplines and the work can be done by the licensee.

The law amends Section 489.117, F.S., to provide that persons who are not required to be licensed by the Construction Industry Licensing Board (CILB) to perform specialty contracting work may work on single-family homes without a local license as long as they are working under the supervision of a certified residential, building or general contractor.

The legislation amends the definitions for Part I, Chapter 489, F.S., (Section 489.105, F.S.) to expand the job scope for underground utility contractors to provide that these contractors also may engage in excavation. The measure changes the term "underground utility contractor" as used in the Part to "underground utility and excavation contractor." The act revises references from "underground utility contractor" to "underground utility and excavation contractor" (Section 633.521, F.S.) to conform to the changes in Chapter 489, F.S. The law revises Subsection 489.113(3), F.S., to provide that any certified building contractor, certified general contractor, certified residential contractor, or certified underground utility and excavation contractor may perform clearing and grubbing, grading, excavation and other site work for any construction project in this state.

The legislation provides for the certification of underground utility and excavation contractors (new Section 489.1135, F.S.). Each business entity not qualified by a contractor pursuant to Paragraph 489.105(3)(n), F.S., and qualified by the Department of Transportation as of January 1, 1993, in both "grading" and "drainage" classes established in rule pursuant to Section 337.14, F.S., may designate one person for certification as an underground utility and excavation contractor. The designated person must: (1) have at least 5 years of experience in grading and drainage work, with at least 2 years in a supervisory capacity; (2) be at least 18 years of age; and (3) be an employee of, or have an ownership interest in the business entity.

The enactment requires the CILB to certify as an underground utility and excavation contractor, without examination, any applicant meeting the qualifications described above who has completed an application and submitted an application fee of $150 and certification fee of $125 prior to April 1, 1994. The applicant must not:

1) have had a registration or certificate issued by the CILB suspended, revoked, relinquished or deposited in lieu of further disciplinary action;
2) have a disciplinary case pending before the Board or the Department of Transportation; or
3) have been convicted of a crime related to the practice of contracting or the ability to practice contracting.

Persons licensed as an underground utility contractor on the effective date of the law (May 5, 1993) are automatically licensed as an underground utility and excavation contractor.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1552 (CHAPTER 93-166) makes numerous technical and substantive changes to provisions of Part I of Chapter 489, F.S., related to construction contracting, and Part II of Chapter 489, F.S., related to electrical and alarm systems contracting. The act creates Chapter 468, Part XII, F.S., Sections 468.601-468.633, F.S., to provide for the mandatory certification of municipal and county building code administrators, plans examiners and inspection personnel. The measure provides exemptions, creates the Florida Building Code Administrators and Inspectors Board and provides for various types and levels of certificates for building code administrators and inspection personnel (Sections 468.602, 468.605, 468.609, F.S., respectively). The law provides for board authority to waive its examination, qualification, education, or training requirements upon a showing that the requirements of other programs are comparable (Section 468.613, F.S.). The enactment authorizes local jurisdictions to establish joint inspection departments and other arrangements (Section 468.617, F.S.). The act also provides for disciplinary procedures and for penalties (Sections 468.621 and 468.629, F.S.).

The act establishes a Building Code Administrators and Inspectors Fund and the Florida Construction Industries Recovery Fund, funded by a one-half cent per square foot surcharge on every building permit (Sections 489.140 and 468.631, F.S., respectively). Local jurisdictions may retain a percentage (10 percent) of this surcharge and the remaining surcharge must be used to fund the other provisions of the law. The law reduces, from one cent to one-half cent per square foot, the surcharge added to building permits to be deposited into the Radon Trust Fund (Section 404.056, F.S.). The legislation requires continuing education for registered and certified contractors. Licensees are required to show proof of meeting continuing education requirements (Section 489.115, F.S.).

HOUSE BILL 785 (CHAPTER 93-239) amends Part I of Chapter 489, F.S., relating to the regulation of construction contracting by the Construction Industry Licensing Board (CILB) within the Department of Professional Regulation (DPR) and Part II of the chapter relating to the regulation of electrical and alarm system contractors by the Electrical Contractors' Licensing Board (ECLB).

The act amends Paragraphs 489.119(5)(b) and 489.521(7)(b), F.S., to delete the references to specific types of advertising medium and clarify that the registration or certification number of each contractor must be stated in each offer of services, business proposal, or advertisement. The law provides a directive to the Board with appropriate jurisdiction to assess a fine (not less than $100) or issue a citation to contractors who fail to include their registration or certification number in advertisements for publication, broadcast, or printing. The measure also provides that contractors who claim to be licensed in an advertisement and who are not commit a second-degree misdemeanor. The enactment exempts specified items (e.g., business stationery or promotional novelties) from the term "advertisement." The act is effective October 1, 1993.

Construction Lien Notices

HOUSE BILL 689 (CHAPTER 93-99) transfers the responsibility for providing consumer information about the construction lien law, and for producing a statement/brochure on the act, from the Division of Consumer Services in the Department of Agriculture and Consumer Services to the Department of Professional Regulation (Sections 713.06 and 713.135, F.S.). The legislation repeals the repeal dates (July 1, 1992 and July 1, 1993) of Section 13 of Chapter 90-109, Laws of Florida, and Section 9 of Chapter 92-286, Laws of Florida, relating to conditional payment bonds under the mechanics' lien law.

Private Investigative Services

SENATE BILL 1300 (CHAPTER 93-49) amends Chapter 493, F.S., relating to the regulation of private investigation, security and repossession services, which is administered by the Division of Licensing in the Department of State (Department). The act revises Subsection 493.6105(9), F.S., to allow applicants for all manager licenses to begin performing the duties of a manager upon submission of an application. If the Department denies an application, the person's employment must be terminated immediately unless the person only engages in unregulated duties (Section 493.6105, F.S.).

The act amends the basis for denial of a license to prohibit the licensure of persons who:

1) have been diagnosed or adjudicated incompetent in another state;
2) have not had competency restored;
3) have been committed to a mental institution, unless certified by a Florida licensed psychologist or psychiatrist to be no longer mentally disabled;
4) chronically and habitually use alcoholic beverages to a point of impairment;
5) have been committed under the provisions of Chapter 396, F.S.;
6) have been found to be a habitual offender; or
7) have had two or more convictions for driving under the influence within the 3-year period immediately preceding the date the application was filed, unless it can be established that there is no current impairment and a rehabilitation course has been successfully completed.

Related additional grounds for denial of a license are established (Section 493.6106, F.S.).

The law requires the Department to investigate the mental history and current mental and emotional fitness of applicants for a statewide firearms license and provides for the denial of such license to applicants with a history of mental illness or alcohol abuse (Section 493.6108, F.S.).

The legislation clarifies the current grounds for disciplinary action and provides additional grounds for violation for owners, officers, partners or managers of agencies (Section 493.6118, F.S.). The measure provides clarification related to

administrative fines. The enactment clarifies that repossession vehicles are not "wreckers" as defined in the law related to liens and exempts repossession vehicles from regulation under the law related to liens (Sections 493.6404 and 713.78, F.S.).

Governmental Reorganization

HOUSE BILL 1487 (CHAPTER 93-220) abolishes the Department of Business Regulation (DBR) and the Department of Professional Regulation (DPR) and transfers the existing divisions within the agencies to the newly created Department of Business and Professional Regulation (DBPR).

The act creates Section 20.165, F.S., establishing the DBPR and providing that the agency head is a secretary, appointed by the Governor, subject to Senate confirmation. The secretary serves at the pleasure of the Governor. The law transfers existing trust funds within the DBR and DPR to the new department. The legislation establishes the State Athletic Commission and the following divisions within the DBPR:

1) Division of Administration;
2) Division of Alcoholic Beverages and Tobacco;
3) Division of Regulation;
4) Division of Certified Public Accounting;
5) Division of Florida Land Sales, Condominiums and Mobile Homes;
6) Division of Hotels and Restaurants;
7) Division of Medical Quality Assurance;
8) Division of Pari-mutuel Wagering;
9) Division of Professions;
10) Division of Real Estate; and
11) Division of Technology, Testing and Training.

The measure requires a director for each division, responsible to the secretary. The secretary is authorized to appoint a deputy and assistant secretaries. The act retains the current arrangements for the secretary to appoint a division director for the Division of Real Estate and the Division of Certified Public Accounting. The law specifies the locations for these divisions in Orlando and Gainesville, respectively, where they are presently situated.

The act requires the DBPR to submit to the Department of Management Services (DMS) a reorganization plan for DMS review due on or before August 1, 1993. The DMS must submit (on or before September 1, 1993) a plan and recommendations to the Executive Office of the Governor for final approval and agency placement in the DBPR's 1994-1995 Fiscal Year budget request. The enactment requests the preparation of a reviser's bill to conform the statutes to the organizational changes made by the legislation. Finally, the act creates Section 455.17, F.S., to authorize the DBPR to provide (directly or by contract) services and other information to other levels of government and private entities.

STATE GOVERNMENT*

The 1993 Legislature took action to revise laws relating to contracting for the construction and renovation of public buildings, as well as provisions regarding the procurement of information technology resources by state agencies.

Additionally, the Legislature created new exemptions to the Public Records Law (Chapter 119, F.S.) and the Public Meetings Law (Section 286.011, F.S.), and clarified existing exemptions.

The Florida Commission on African-American Affairs was created by the 1993 Legislature. Similarly, laws pertaining to cultural programs in the state were amended.

Public Property and Government Contracting

COMMITTEE SUBSTITUTE FOR HOUSE BILL 407 (CHAPTER 93-141) amends Chapter 255, F.S., which regulates public property and buildings.

[Under Part I of Chapter 713, F.S., subcontractors providing labor, services or materials on private sector construction projects can protect themselves if nonpayment occurs by filing liens against the owner's property. Liens may not be filed against public property.

[Prior to the law, no penalty existed for the misapplication of payments to subcontractors or suppliers on construction projects for public works. In some cases, payments by the public entity owner to the contractor for work or materials furnished by subcontractors or suppliers are not given to those subcontractors and suppliers. As liens may not be filed on public property, subcontractors and suppliers who have not been paid by a contractor who has received payment from the owner may not be able to obtain full value for their work or services.]

This act creates Section 255.071, F.S., which requires a person who receives payment from a public entity for construction or repair of a public work or building to pay in accordance with the contract terms, the undisputed contract obligations for labor, services and materials provided on account of the improvements. Failure to pay any undisputed obligations for labor, services or materials within 30 days after the date the labor, services or materials were furnished and payment became due, or within 30 days after the date payment for such labor, services or materials is received, whichever occurs last, entitles a person providing labor, services or materials to specified procedures and remedies.

A person who has provided labor, services or materials for construction or repairs of a public work or building who has not received payment within the times specified in the enactment is authorized to file a verified complaint alleging:

1) the existence of a contract for labor, services or materials to improve real property;
2) a description of the labor, services or materials provided and a statement that same were provided in accordance with the contract;
3) the contract price;
4) the amount paid;
5) the amount that remains unpaid pursuant to the contract and the amount that is undisputed;
6) that the undisputed amount has remained due and payable pursuant to the contract for more than 30 days after the date the labor or services were accepted or the materials were received; and
7) that the person against whom the complaint was filed has received payment more than 30 days prior to the date the complaint was filed.

After service of the complaint, the measure specifies that the court must conduct an evidentiary hearing on the complaint upon not less than 15 days written notice. The following remedies are available to persons providing labor, services or materials, upon proof of each allegation:

1) an accounting of the use of any payment from the person who received the payment;
2) a temporary injunction against the person who received the payment, subject to the bond requirement specified in the Florida Rules of Civil Procedure;
3) prejudgment attachment against the person who received the payment, in accordance with the requirements of Chapter 76, F.S.; and
4) such other legal or equitable remedies as may be appropriate.

These remedies must be granted without regard to any other remedy at law, regardless of whether or not irreparable damage has occurred or will occur. These remedies will not apply if: (1) there is a bona fide dispute regarding any portion of the

*Prepared by Senate Governmental Operations Committee

contract price; or (2) in the event the plaintiff has committed a material breach of the contract which would relieve the defendant from the obligations under the contract. A prevailing party in any proceeding under this section will be entitled to recover costs, including a reasonable attorney's fee, at trial and on appeal.

The enactment specifies that Section 255.071, F.S., applies to contracts between a subcontractor and a sub-subcontractor or supplier, and any contract between a sub-subcontractor and supplier on any project for the construction or repair of a public building or work. This act takes effect October 1, 1993.

HOUSE BILL 259 (CHAPTER 93-96) amends Chapter 255, F.S., which regulates public property and buildings.

[Paragraph 255.05(1)(a), F.S., requires any person who enters into a contract for the construction or repair of a public building or public work with the state, a county, city, political subdivision or other public authority to obtain a payment and performance bond with a surety insurer authorized to do business in Florida. Prior to commencing work, the contractor must have the payment and performance bond executed, delivered to the public owner and recorded in the public records of the county where the improvement is located.

[Section 255.05, F.S., grants a right of action against the contractor or surety to any claimant for payment on the contractor's surety bond. Subsection 255.05(2), F.S., provides that no cause of action on a payment and performance bond can be instituted against the contractor or surety after 1 year from the performance of the labor or completion of delivery of the materials or supplies. The state is specifically exempted from liability as to any expenses resulting from such a civil action.

[Although the statute refers to the "payment and performance bond" as one bond, the industry often issues two separately designated bonds--a payment bond and a performance bond. The payment bond guarantees that all subcontractors and materialmen will be paid. *Florida Board of Regents v. Fidelity & Deposit Co., 416 So.2d 30 (Fla. 5th DCA 1982); Guin & Hunt, Inc. v. Hughes Supply, Inc., 335 So.2d 842 (Fla. 4th DCA 1976).*

[The statute (Paragraph 255.05(1)(a), F.S.) provides that the persons defined in Section 713.01, F.S., who have provided materials or services as part of the contract, are covered by the payment bond. The performance bond guarantees that the contract to build the building or public work will be fully performed. The statute provides that the performance bond is conditioned on the contractor's timely performance of the work in accordance with his contract. Case law provides that the certificate of substantial completion and the acceptance of a constructed building by the owner shows that there has been "performance of labor," and that the 1-year statute of limitations period begins from the acceptance of the certificate of substantial completion. *District School Board of DeSoto County v. Safeco Inc. Co., 434 So.2d 38 (Fla. 2d DCA 1983).]*

HOUSE BILL 259 (CHAPTER 93-96) amends Subsection 255.05(2), F.S., to provide that the 1-year limitation period during which an action may be brought against a contractor or surety on the bond is applicable only to a payment bond or the payment provisions of a combined payment and performance bond. The amendment removes the requirement of instituting an action within 1 year of project completion with respect to a performance bond or the performance part of a payment and performance bond.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1730 (CHAPTER 93-89) amends Chapter 768, F.S., which establishes Florida's law regarding negligence.

[Article X, Section 13, Fla. Const., provides, "Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating." The state has waived sovereign immunity to a limited extent for tort liability of the state, its agencies or subdivisions. Section 768.28, F.S., provides that sovereign immunity for liability for torts is waived only to the extent specified in the law. The statute provides that actions may be brought against the state, its agencies or subdivisions to recover damages in tort for money damages for injury or loss of property, personal injury or death caused by the negligent or wrongful act or omission of any employee of an agency or subdivision while acting within the scope of his office or employment under circumstances in which the state, state agency or subdivision, if a private person, would be liable under state law. The state's liability is limited to $100,000 for each claim or judgment, and is limited to a maximum of $200,000 for all claims arising from the same incident. The award of judgments in excess of that amount requires an act of the Legislature.

[Governmental agencies often contract with one another for services, use of property, etc. In some instances, the contract will require one contracting

agency to procure liability insurance to cover the other's losses. As well, sometimes the contract will require indemnification of one governmental agency by another.] This enactment creates Subsection (17) within Section 768.28, F.S. It provides that, if the state or an agency or subdivision of the state enters into a contract with another agency or subdivision of the state, the defense of sovereign immunity would not be waived thereby, nor would the limits of its liability increase. The new Subsection also provides that a contract between the state or an agency or subdivision of the state may not require one party to indemnify or insure the other or assume the liability for the other's negligence. A governmental entity may still require a nongovernmental entity to indemnify or insure it.

HOUSE BILL 1679 (CHAPTER 93-278) amends several provisions of law relating to information technology resources and their procurement by state agencies.

[Part I of Chapter 287, F.S., provides general policy and governs the state's procurement of commodities and contractual services for most executive agencies. The enactment is designed to provide guidelines for agency purchasing procedures in a manner which encourages competition. The Division of Purchasing of the Department of Management Services has been assigned the primary responsibility for administering the state's purchasing laws.

[The Division of Purchasing is directed by law to promote efficiency and economy in the purchase of commodities for the state, and to ensure uniformity in agency procurement of contractual services. All agencies are required to purchase commodities and contractual services by sealed competitive bid when the contract price is in excess of $10,000, unless otherwise excepted by law. The Division is authorized to grant exceptions to the requirements for competitive bidding upon application by an agency.]

Sections 5-8 of this act direct the Division of Purchasing of the Department of Management Services to carry out certain pilot projects in selected agencies to grant the pilot agencies greater flexibility in procuring information technology resources. The Division is authorized to implement a 1-year pilot project authorizing several agencies or divisions to purchase microcomputers without utilizing state term contracts for microcomputers. The Division will report to the Joint Committee on Information Technology Resources by December 1, 1994, regarding the pilot project.

The Division of Purchasing is further required, by Section 6 of the enactment, to develop criteria for delegating additional authority to agencies in the purchase of information technology resources. The criteria developed by the Division will be submitted, along with recommendations, to the Joint Committee on Information Technology Resources by December 1, 1993.

The Division of Purchasing is required, by Section 7 of this measure, to negotiate or to delegate to agencies the authority to negotiate at least three acquisitions for information technology resources and to report findings and recommendations to the Joint Committee by September 30, 1994. Further, the Division of Purchasing, in consultation with the Information Resource Commission, is required to develop model contracts, by December 1, 1993, for acquisitions of information technology resources for use by state agencies.

[Chapter 282, F.S., the "Information Resources Management Act," establishes Florida's policy with regard to communications and data processing. Within that Chapter, the Information Resource Commission (IRC) is created to oversee planning by state agencies regarding the procurement and use of computer technology and related systems. The Governor and Cabinet comprise the IRC. The IRC and its related entities were created in 1983.

[Among the entities created by the Information Resources Management Act is the Information Technology Resource Procurement Advisory Council (ITRPAC) within the Department of Management Services. The duties and functions of the ITRPAC are contained in Section 287.073, F.S. The Council was created to review costly agency acquisitions of information technology resources prior to their purchase. The ITRPAC reviews both the proposed method of acquisition, i.e., request for proposal, invitation to bid or single-source purchase to ensure that the method of acquisition and the procurement specifications are appropriate according to the law. In addition, the Council provides assistance to agencies and advises the Governor and Cabinet on matters relating to information technology.

[The ITRPAC, as provided by law, is composed of three members: the director of the Division of Purchasing of the Department of Management Services, the executive administrator of the IRC and the director of the Office of Planning and Budgeting of the Executive Office of the Governor. The director of the Division of Purchasing is designated by law as chairman of the ITRPAC, and is required to provide clerical and staff support to the Council. By law, the ITRPAC must review each agency request to purchase information technology

resources which have a 2-year total cost of $500,000, and which are purchased through a single-source certification request from a vendor. When an agency issues a request for proposals or an invitation to bid, the agency must seek the approval of the ITRPAC prior to purchasing information technology resources with a value in excess of $1 million.

[A final step in the procurement of information technology resources through ITRPAC is the requirement that the secretary of the Department of Management Services approve or disapprove the procurement of all agency information technology resources following their review by the ITRPAC.]

Provisions in the law which create and assign duties to the ITRPAC are amended by Section 1 of the act. A representative of the Comptroller will serve as a nonvoting member of the Council to advise it on matters relating to financing and leasing information technology resources. Under the amendments to Section 287.073, F.S., an agency is required to notify the ITRPAC, within 30 days of issuing procurement documents or bids for the acquisition of information technology resources, as to whether the agency has complied with the ITRPAC recommendation relative to the procurement. The required notification will include a statement of the agency's compliance or an explanation for its noncompliance. The ITRPAC is required to include a summary of each agency's compliance or noncompliance in its annual report to the Governor and Cabinet. The requirement for the secretary of the Department of Management Services to approve or disapprove the procurement of information technology resources following their review by the ITRPAC also is deleted.

[Section 287.063, F.S., requires the Comptroller to preaudit all purchases by executive and judicial agencies which will include deferred payments and interest payments. Presently, the only exception to this preaudit requirement is for purchases which are approved by the Information Technology Resource Procurement Advisory Council.]

Section 287.063, F.S., is amended by Section 2 of the law. The enactment repeals the exception for purchases of information technology resources which have been reviewed by ITRPAC to the requirement that the Comptroller preaudit all purchases by executive and judicial agencies which will include deferred payments and interest payments. Thus, the Comptroller will preaudit any purchase of information technology equipment or services when the initial purchase will include interest or deferred payments, regardless of the ITRPAC review.

[Another part of the information resource planning process is provided by Section 282.313, F.S. A data processing advisory council is created by law for each agency data processing center which derives 20 percent or more of its total annual funding for service fees from agencies other than the host agency of the data center. The information resource manager or a designee of each agency which uses the data center serves on the advisory council. The data center director serves as a nonvoting council member, and is required to provide staff support to the council.

[The duties of the data processing center advisory councils are to review the information technology resource plan developed by the data center and to make recommendations for modifications to the plan. The councils may also review any action taken by its data center to implement the approved plan. Such actions may include acquisitions of information technology resources costing more than $2,500, setting work priorities, adopting operating policies and procedures and accepting new users. To date, only the Administrative Management Information Center (AMIC) of the Department of Management Services derives more than 20 percent of its data center revenues from other agencies. For this reason, only AMIC, among agency data centers, has created a data processing advisory council.]

Provisions relating to data processing advisory councils contained in Section 282.313, F.S., are amended by Section 3 of the legislation. The name of such advisory councils is changed to policy boards. As well, the director of each host data center which has a policy board will serve as a nonvoting ex officio member of the board.

The role of the policy boards is also expanded by this 1993 enactment to require each board to approve changes in policy prior to their implementation by the host data center. Among the specific policies required to be approved by the policy board are changes in the rate structure and algorithm for charges for services by the host data center.

[Section 216.272, F.S., requires state agency data processing centers to charge their users, i.e., other state agencies, a pro rata share of the costs of data center operations each quarter. The law also creates a working capital trust fund as part of each data center for the deposit of user fees.

[As a practical matter, these provisions for user fees require agency data centers to charge user agencies for the full cost of new software applications in the quarter the application is purchased. Several state agencies have reported

that this policy discourages them from seeking new applications and services from agency data centers. This is so because all of the initial costs associated with new services or applications must be paid immediately, rather than amortizing the start-up costs over a period of several years.]

Provisions in the statutory law relating to the working capital trust funds of data processing centers are amended by Section 4 of the enactment. Section 216.272, F.S., is amended to allow state agency data processing centers to create a reserve account within their respective working capital trust funds. The reserve account proceeds, which are subject to legislative appropriation, may be used to pay for future information technology resource acquisitions.

Public Records and Meetings

The 1993 Legislature took action to revise the Public Meetings Law for certain meetings between a public body and its attorneys, and to revise public records exemptions for public hospital records.

COMMITTEE SUBSTITUTE FOR HOUSE BILL 491 (CHAPTER 93-232) amends Section 286.011, F.S., the Open Meetings Law to allow for certain meetings of agencies and their attorneys in closed session.

[Section 286.011, F.S., requires that, when any board, commission, authority or agency of the state, county, municipal corporation or political subdivision conducts a meeting at which official acts are to be taken, the meeting must be open to the public. No resolution, rule or formal action which is taken at a meeting which is in violation of this public meeting requirement is binding. In addition to the requirement that these meetings be open to the public, the Open Meetings Law requires prompt recordation of meeting minutes and provides that these records are open to public inspection. As meetings of these governmental entities must be open to the public, meetings at which the governing body of an entity and its attorney discuss litigation strategy or settlement negotiations have been attended by the public, which includes the opposing party and counsel.

[An exemption from Chapter 119, F.S., the Public Records Law, exists for records which were prepared by an agency attorney or at an agency attorney's express direction, which reflect a mental impression, conclusion, litigation strategy or legal theory of the attorney or agency, and which were prepared exclusively for civil or criminal litigation or adversarial administrative proceedings, or which were prepared in anticipation thereof.]

This act creates Subsection 286.011(8), F.S., which authorizes any board or commission of any state agency, authority or any agency or authority of any county, municipal corporation or political subdivision, and the chief administrative or executive officer of a governmental entity, to meet in private with the entity's attorney to discuss pending litigation to which the entity is presently a party before a court or administrative agency.

The circumstances under which private meetings with an attorney to discuss pending litigation will be authorized by the enactment are:

1) when the entity's attorney advises the entity at a public meeting that he desires advice concerning the litigation;
2) when the subject matter of the meeting is confined to settlement negotiations or strategy sessions related to litigation expenditures;
3) when the entire meeting is recorded by a certified court reporter who records the time the meeting commences and concludes, the names of all persons present and all persons speaking, and the court reporter's notes are fully transcribed and filed with the entity's clerk within a reasonable time following the meeting; and
4) the public entity gives public notice of the time and date of the meeting and the names of attendees, and the session commences at a public meeting.

A transcript of the meeting must be made part of the public record upon conclusion of the litigation.

This measure also clarifies in Paragraph 119.07(3)(n), F.S., that the exemption which previously was authorized for public records prepared by, or at the direction of, an agency attorney and that was prepared for civil, criminal or administrative litigation, is not waived by the release of such public records to another public employee or officer of the same agency or any person consulted by the agency attorney.

COMMITTEE SUBSTITUTE FOR SENATE BILL 1506 (CHAPTER 93-87) amends two sections of Chapter 119, F.S., the Public Records Law.

[In 1991, the Legislature enacted several public records and public meetings exemptions for public hospital boards.] The exemptions are contained in Section 119.16, F.S. Among the types of meetings which are exempt are negotiations of contracts with nongovernmental entities for payment of services provided by the hospital when a hospital's governing board has a reasonable expectation that a competitor of the hospital may also wish to

provide the services. Likewise, documents, offers and contracts associated with the negotiation for the provision of services by the hospital are exempt from the public access provisions of the Public Records Law. Section 119.16, F.S., also provides that exempt negotiations and records must be made available to the public 30 days before the hospital governing board meeting at which a vote to accept, reject or modify such documents, contracts or offers is scheduled.

[Hospital governing boards are granted broader public records exemptions for the following types of documents: (1) preferred provider organization contracts; (2) health maintenance organization contracts; (3) documents which reveal a hospital's marketing plans if a public hospital reasonably anticipates that a competitor may offer services provided for in the marketing plans; and (4) documents which contain trade secrets.

[All of the exemptions granted to public hospital governing boards cease if the board votes to lease, sell or transfer any substantial part of the hospital's property or facilities.]

Section 119.16, F.S., is amended by Section 2 of the legislation which clarifies the existing law by specifically stating that documents submitted to a hospital governing board as part of the approval of the hospital budget, including the budget itself, may not be deemed confidential.

The act requires public hospitals to report to their governing boards at least quarterly regarding the number of public records requests which have been made for which access was denied under the provisions of Section 119.16, F.S. The quarterly report is required to contain a description of each record, the date on which the record was deemed confidential, a statement as to whether the public will have future access to the record, and the date of such availability. The report will also describe each document that was listed as confidential in the previous quarterly report to which the public has since been granted access, along with a general description of the record.

The governing boards of public hospitals are required by the law to retain copies of the quarterly reports for 5 years. If a hospital's governing board is comprised of appointed members, the board is also required to send a copy of the quarterly report, within 1 day of the report's submission to the board, to the official or authority responsible for appointing the board members. Public hospital governing boards also are required to maintain similar information relating to any public meetings to which public access was denied under Section 119.16, F.S. The list of closed meetings maintained by the board must include the date of the closed meeting, a general description of the subject of the meeting, the titles of meeting participants, and a description of the format of the meeting. Such lists relating to meetings may be purged 5 years after the date of the closed meeting. In addition, copies of the lists of closed meetings are required to be submitted at least quarterly to the appointing authority for board members.

[Paragraph 119.07(3)(k), F.S., provides an exemption for information which reveals the home addresses, telephone numbers and photographs of active and former law enforcement personnel and personnel of the Department of Health and Rehabilitative Services (DHRS) whose duties include the investigation of abuse, neglect, exploitation, fraud, theft or other criminal activities. The law provides a similar exemption for certified firefighters and for justices of the Supreme Court and judges of the district courts of appeal, circuit courts and county courts. The latter exemption also protects personal information related to the spouses and children of such law enforcement and DHRS personnel, certified firefighters, judges and justices, including home addresses and telephone numbers, places of employment, and names and locations of schools and day care centers.] Under Section 1 of the act, which amends Section 119.07, F.S., an agency which employs a law enforcement officer, designated DHRS employee, certified firefighter, Supreme Court justice or specified judge is required to protect the confidentiality of personal information relating to such personnel. The measure clarifies the law, by specifying that other agencies are required to protect the confidentiality of such personal information only if the individual submits a written request for confidentiality.

State Employees' Charitable Campaign

COMMITTEE SUBSTITUTE FOR SENATE BILL 1680 (CHAPTER 93-56) creates Section 110.181, F.S., relating to the Florida State Employees' Charitable Campaign.

[In December 1980, the Governor and Cabinet established, by resolution, the Florida State Employees' Campaign to offer a single, combined charitable campaign to state employees and officers. The resolution stated that the State of Florida wished to encourage employee "support of voluntary human services through the convenience of payroll deductions." Also, the 1980 resolution created a steering committee composed of the secretary of the then-Department of Administration as chair, and six other state employees appointed by the Governor and Cabinet. The steering

committee was directed to develop and administer procedures and standards for the campaign. The original resolution also designated the United Way organizations throughout the state to conduct and manage the campaign, and to serve as its fiscal agent under the guidance of the steering committee. The 1980 resolution also allowed the participation of federal and state tax-exempt agencies which provide health and social welfare services.]

This act statutorily establishes the annual Florida State Employees' Charitable Campaign. The Department of Management Services is assigned to maintain the annual campaign; the Department of Banking and Finance is authorized to provide support to the campaign through the state's payroll system. The annual fundraising drive is the only authorized charitable fundraising drive which may be operated during work hours within work areas. It is also the only charitable fundraising drive authorized for payroll deductions. State university employees are authorized to participate in the Florida State Employees' Charitable Campaign; however, each university may elect not to participate upon timely notice filed with the Department of Management Services. The legislation requires all donors to designate the recipients of campaign donations.

Charitable organizations which wish to participate in the annual campaign are required to comply with the registration and licensure requirements contained in Chapter 496, F.S., which are administered by the Department of Agriculture and Consumer Services. Charitable organizations may participate in the annual campaign only if they conform with the following requirements: (1) they must serve the public through the support of health and welfare, education, environmental restoration and conservation, civil and human rights or the relief of human suffering and poverty as a principal mission of the organization; (2) they must provide direct, hands-on services to meet human or environmental needs throughout the state all through the year; (3) international organizations must have well-defined programs to meet basic human or environmental needs without duplicating existing programs; and (4) they must provide for an annual audit of financial records by an independent public accountant.

Under the act, an organization is ineligible to participate in the annual campaign if its fundraising and administrative expenses exceed 25 percent under normal circumstances or if it has not been granted tax-exempt status by the Internal Revenue Service. Further, an organization whose activities contain an element which is more than incidentally political in nature is ineligible. In addition, organizations whose activities are religious, professional or fraternal in nature may not participate in the annual campaign. An organization also is prohibited from participating in the campaign if it discriminates against anyone because of race, color, religion, sex, national origin, handicap, age or political affiliation.

The Department of Management Services is required by this measure to select a fiscal agent, by competitive bid, to receive, account for and distribute charitable contributions among the campaign participants. As well, the fiscal agent is required to reimburse the Department of Management Services for the costs incurred as a result of the campaign in an amount not to exceed 1 percent of the campaign proceeds. The agent is entitled to reimbursement for its expenses associated with accounting and distribution of funds. The agent also is required to furnish the Department and participating charitable organizations with a report of the agent's accounting and distribution activities and to provide access to the agent's records upon receipt of reasonable notice. The agent will distribute campaign proceeds to charitable organizations throughout the state and is required to select state employees to serve on local steering committees throughout the state. The Department of Management Services is required to adopt rules governing the campaign, selection of a fiscal agent, the determination of expenses eligible for reimbursement, the distribution of funds undesignated by the contributor, and other rules, as needed.

A nine-member steering committee will be appointed to manage the Florida State Employees' Charitable Campaign. The Governor and Cabinet members will each appoint a member to the steering committee. As well, the secretary of the Department of Management Services will call committee meetings and will appoint two members to the steering committee from among applications submitted by state employees.

Interstate Compacts

HOUSE BILL 1925 (CHAPTER 93-283) amends the Military Code, contained in Chapter 250, F.S., to create the Interstate Compact on Drug Interdiction (ICDI) and the Interstate Compact on Emergency Relief (ICER). The act also amends the statutes to extend--from 17 to 30 days--the time allowed a Florida National Guard member who is employed by the state, county, municipality or any

political subdivision of the state, for leave of absence from the member's duties without loss of pay while engaged in active state duty, field exercises or other training ordered by law.

The enactment creates Sections 250.533-250.539, F.S., the Interstate Compact on Drug Interdiction (ICDI), for the purpose of providing mutual assistance and support with other states in drug interdiction, counterdrug activities and demand reduction. [According to the Department of Military Affairs, the ICDI will formalize and acknowledge statutorily the current practice of the National Guard of entering into such agreements with other states.] Under the ICDI, upon the request of a governor of a party state for assistance, the responding state will have authority to send aid to the requesting state. The governor of a party state, may, within his or her discretion, withhold the National Guard forces from such use and recall any forces previously deployed in a requesting state. The Adjutant General is authorized by law to enter into agreements to provide mutual aid and enforcement for the activities authorized in the compact.

The measure also creates Sections 250.540-250.549, F.S., the Interstate Compact on Emergency Relief (ICER), within Chapter 250, F.S. The purpose of this compact is to provide mutual aid among party states in the utilization of the National Guard to cope with emergencies. "Emergency" is defined to mean an occurrence or condition, temporary in nature, in which police and other public safety officials and locally available national guard forces are, or may reasonably be expected to be, unable to cope with substantial and imminent danger to the public safety. The act provides that members of the National Guard engaged in activities under the ICER will have the same powers, duties, rights, privileges and immunities as members of the National Guard in the requesting state.

Under both compacts authorized in the enactment, National Guard members will be paid the same salary, and will receive the same death benefits, from their state for activities conducted in another state under this compact agreement. The requesting state, however, is required to reimburse the responding state for such payments.

Government Investments and Bonding

COMMITTEE SUBSTITUTE FOR SENATE BILL 1208 (CHAPTER 93-162) relates to the investment authority of the State Board of Administration and the Division of Bond Finance. [The State Board of Administration (SBA) is established by Article XII, Section 9, Fla. Const., and is composed of the Governor, the Comptroller, and the Treasurer. The State Board of Administration is responsible for investing funds with an investment balance of approximately $40 billion. The Board is the fiduciary of those funds. The Florida Retirement System (FRS) Trust Fund is the largest fund managed by the Board with an investment fund balance of approximately $25.5 billion. The Florida Retirement System has approximately 550,000 active members and is one of the largest public pension funds in the nation.

[The SBA investment responsibilities include:

1) managing the assets of the Florida Retirement System Trust Fund;
2) managing the assets of the Local Government Surplus Funds Trust Fund;
3) managing debt service accounts for state bond issues; and
4) managing the assets of other various trust funds.

The trustees of the SBA appoint an executive director, who is delegated certain authority regarding investments. The SBA has a staff of approximately 123 full-time employees, and employs both internal and external managers to invest the funds which it manages.

[Sections 215.44-215.53, F.S., provide the powers, duties and investment policies of the State Board of Administration. Section 217.47, F.S., sets forth a "legal list" of authorized investments, and also sets the percentage of the fund which is authorized for such investments. While the SBA may invest without limitation in certain types of bonds, federal obligations, commercial paper, banker's acceptances and certificates of deposit, limitations are imposed on the percentage of the funds which may be invested in municipal bonds, mortgage pass-through certificates, real estate, commercial paper and equities.

[Article VII, Fla. Const., and statutory law authorize state agencies, counties, school districts, municipalities, special districts and other local governmental entities with taxing authority to issue bonds. The Division of Bond Finance is established as part of the State Bond Act, Sections 215.57-215.83, F.S. The Governor and Cabinet sit as the governing board of the Division, which is authorized, by Chapter 215, F.S., to issue all state bonds pledging the state's full faith and credit, and to issue all revenue bonds on behalf of state agencies and certain units of local government. The powers and duties of the Division are provided by Section 215.62, F.S. Since 1992, the Division of Bond Finance has been housed within the SBA.

[Various provisions of the law authorize the Division of Bond Finance to charge bond issuers certain fees sufficient to cover costs incurred by the Division in overseeing bond issues. According to the executive director of the SBA, the Division of Bond Finance is currently funding all of its activities through fees collected as authorized by law. This means that, for fiscal year 1992-1993, moneys from the General Revenue Fund are not needed to fund the activities of the Division.]

Provisions of law relating to three trust funds created within the Division of Bond Finance are amended by the act. The changes have the effect of allowing the SBA to fund the activities of the Division irrespective of the original source of the funds.

Section 159.811, F.S., is amended by Section 1 of the enactment to delete references to trust fund proceeds resulting from fees for private activity bonds being subject to appropriation in the General Appropriations Act. Provisions relating to the Bond Fee Trust Fund contained in Section 215.65, F.S., also are amended. Under the changes in Section 2 of the law, the Division of Bond Finance is authorized to pay any of its expenses from the trust fund. Limitations on the types of expenses to be paid are deleted by the act. Provisions relating to the Division's Arbitrage Compliance Trust Fund, contained in Section 215.655, F.S., also are amended by Section 3 in a similar fashion.

Provisions relating to the powers and duties of the SBA contained in Section 215.44, F.S., are amended by Section 4 of the measure to authorize the SBA to afford confidentiality to specified records and information relating to specific investment transactions. Most records relating to the real estate investment program of the Board are exempt from the public access provisions of Subsection 119.07(1), F.S. Reports and documents relating to tenants, leases, contracts, rent rolls and records relating to negotiations of the SBA which are in progress are exempt until the executive director of the SBA determines that their release would not be detrimental to the fiduciary responsibilities of the Board. Also, all reports and documents relating to value, offers, counteroffers and negotiations for real property are exempt from public access until closing is complete and all associated funds have been disbursed.

The enactment also provides public records exemptions for documents relating to the other investment programs of the SBA. In many cases, such exempt records become available for public inspection 30 days after the completion of an investment transaction. Discretion is granted to the executive director of the SBA to maintain the confidentiality of records relating to fees paid to service providers until 6 months after negotiations relating to such fees have ended. In the latter case, the executive director is required by the legislation to determine that the prior release of records relating to fees paid to service providers would be detrimental to the financial interests of the Board, or that such release could cause a conflict with the fiduciary duties of the Board.

The investment authority of the SBA provided by Section 215.47, F.S., also is amended by Section 5 of the act. The Board is authorized to invest in interest-bearing obligations of the Asian Development Bank, the European Development Bank, and the Nordic Development Bank in addition to similar investments currently authorized by law. The SBA may invest in obligations of agencies of the United States as provided by the Florida Retirement System Total Fund Investment Plan. The SBA is further authorized to invest in United States dollar-denominated obligations issued by foreign governments, political subdivisions or agencies thereof, and in foreign corporations or foreign commercial entities. The SBA is limited by the measure to a total investment of 25 percent of any single fund in the aforementioned investments.

The current limitation of 60 percent of any single fund to be invested in common stock, preferred stock and interest-bearing obligations of a corporation with an option to convert to common stock, is raised by the enactment to 80 percent. Similarly, the current limitation of 40 percent of a single fund that may be in common stock subject to internal management, is raised to 50 percent. [The latter change allows SBA staff to manage up to one-half of the proceeds of any eligible trust fund that may be invested in stocks.] Up to 80 percent of a single trust fund may be invested in interest-bearing obligations or a commercial entity, as well as a corporation of the United States. The current limitation of 5 percent of any fund for investment in corporate obligations and securities of a foreign corporation is increased to 10 percent.

An additional type of investment is authorized under the provision of Section 215.47, F.S., which allows 5 percent of any fund to be invested as deemed appropriate by the Board. Notional principal contracts are added to the list of allowable investments which must be approved beforehand by the Investment Advisory Council. Lastly, the SBA is required by Section 5 of the enactment to discharge its duties with respect to investment plans solely in the interest of the participants and beneficiaries.

SENATE BILL 580 (CHAPTER 93-75) authorizes the Treasurer to invest certain public funds in additional types of investments. Section 18.10, F.S., is amended by the enactment to authorize investments in: (1) put and call options on investment instruments; (2) negotiable certificates of deposit issued by financial institutions of which their long-term debt is rated in one of the three highest categories by at least two nationally recognized rating services; and (3) up to 3 percent of funds under control of the Treasurer in securities not otherwise described in the section, subject to the approval of the SBA.

Free Cuba Act of 1993

COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL 497 (CHAPTER 93-218) enacts the Free Cuba Act of 1993.

[Congress enacted the federal Cuban Democracy Act of 1992, which sets forth United States policy with respect to Cuba. The law, which was sponsored by U.S. Senator Bob Graham, provides for sanctions against countries assisting Cuba. It also prohibits certain transactions between United States firms and Cuba until Cuba takes certain steps toward democracy and respect for human rights. The legislation expands the sanctions already imposed under the federal Trading With The Enemy Act. The Cuban Embargo has been in effect since 1964.]

The Free Cuba Act of 1993 requires the State Board of Administration to divest any investment and is prohibited from any future investment, in stocks, securities or other obligations of any institution or company domiciled in the United States, or foreign subsidiary of a company domiciled in the United States, doing business in or with Cuba, or with agencies or instrumentalities thereof, in violation of federal law.

The measure prohibits state agencies from investing in any financial institution or company domiciled in the United States, or foreign subsidiary of a company domiciled in the United States, which directly, or through a United States or foreign subsidiary of a company domiciled in the United States, makes any loan, extends credit of any kind or character, advances funds in any manner, or purchases or trades any goods or services with Cuba, the government of Cuba or any company doing business in or with Cuba, in violation of federal law.

The enactment prohibitions also apply to any institution or company domiciled outside of the United States if the President of the United States has applied sanctions against the foreign country in which the institution or company is domiciled pursuant to the federal Cuban Democracy Act of 1992 (Pub. L. 102-484, 106 Stat. 2575-2581).

Section 542.34, F.S., pertaining to discriminatory trade practices, is amended by Section 5 of the enactment to specify that such provisions do not apply to foreign embargoes imposed by the United States against other nations. The legislation specifies that the prohibition of discriminatory trade practices may not be used to restrict or discourage persons or entities chartered by or authorized to do business in Florida from supporting, enforcing, furthering or complying with an embargo against a foreign nation imposed by the government of the United States.

Counties or municipalities are authorized by the law to revoke the occupational license of any entity transacting business with Cuba, or whose parent company is known to be transacting business with Cuba.

The Governor is authorized to waive the requirements of the Free Cuba Act of 1993 under certain circumstances. The provisions may be waived in the event that there is a collapse of the communist regime in Cuba, and when there is an immediate need for aid to Cuba prior to the convening of the Legislature, or for humanitarian reasons as a result of a national disaster on the Island of Cuba.

Investment Advisory Council

SENATE BILL 276 (CHAPTER 93-23) reenacts the Investment Advisory Council, which is created by Section 215.444, F.S., to advise the State Board of Administration (SBA) regarding investment policy, strategy, and procedures of the SBA. The Council is composed of six members, who are required to have financial expertise, and who are appointed by the SBA and confirmed by the Senate. [Subsection 215.475(2), F.S., further requires that any proposed changes to the Florida Retirement System Total Fund Investment Plan be reviewed by the Investment Advisory Council prior to being adopted by the SBA. These sections of the law were scheduled to be repealed on October 1, 1993, subject to the Sundown Act.]

This law reenacts Section 215.444 and Subsection 215.475(2), F.S., which create the Investment Advisory Council of the State Board of Administration and assigns the Council certain duties. The Council thus will continue to review investments made by the staff of the SBA, and to make recommendations regarding investment policy, strategy, and procedures of the SBA. Prior to any changes to the Florida System Total Fund

Investment Plan, proposed changes will continue to be reviewed by the Investment Advisory Council.

Section 215.444, F.S., is amended to provide that its members be appointed to 4-year terms, rather than the current 3-year terms. Further, the enactment is amended to require that the chairman and the vice chairman of the Council be selected by the members from their membership to serve for 1-year terms, which is the Council's current practice. The provisions of this act take effect October 1, 1993.

African-American Affairs Group

HOUSE BILL 683 (CHAPTER 93-138) creates Section 14.27, F.S., relating to the Florida Commission on African-American Affairs.

[African Americans are known to have been among the first settlers of the early European settlements in what is now Florida. Generally, the history of African Americans in Florida is not well documented. In November 1992, Governor Chiles issued Executive Order 92-325 to create the Florida Commission on African-American Affairs in the Executive Office of the Governor. The Commission was assigned to advise the Governor on issues affecting African Americans in the state.]

The 15-member Florida Commission on African-American Affairs is created statutorily within the Executive Office of the Governor. The Governor will appoint professionally, socially and economically diverse African Americans to the Commission; the Governor also will appoint the Commission's chair. In addition, Commission members must represent the different geographic regions of the state, and will serve 4-year terms.

The Florida Commission on African-American Affairs is required to meet at least quarterly. Meetings may be called by the chair, and eight Commission members will constitute a quorum. Commissioners will serve without compensation but are entitled to per diem and reimbursement for travel expenses as provided in Section 112.061, F.S.

The Commission is assigned to develop strategies and plans to address the economic, social, educational, health and welfare needs of Florida's African Americans. The Commission also is required to submit an annual report to the Governor on the status of African Americans in the state, including an assessment of the impact of the following issues: education, economic development, criminal justice, housing and health. The Commission also will identify and recognize the contributions made by African Americans to the community, state and nation.

The Commission will review agency functional plans, legislative budget requests, and master plans and policies of the State Board of Education, other educational boards, panels, local school boards and commissions appointed by the Governor to determine their impact on African Americans. The Commission also is directed to review past and current legislation, various judicial matters, and any other issues which affect African Americans.

The Commission is required to analyze the responsiveness of state government to the needs of African Americans and the appropriateness of the state's response. As well, the Commission is authorized to submit a plan with any recommended changes relating to African Americans in Florida to the Governor, the President of the Senate, and the Speaker of the House of Representatives, as deemed appropriate by the Commission.

Executive branch agencies are required to cooperate with the Commission, and other state agencies are requested to cooperate. The Commission is authorized to apply for and to accept funds, grants, gifts and services from the state, federal government or from any other source to help defray the clerical and administrative costs incurred by the Commission.

The sum of $18,000 is appropriated from the General Revenue Fund to the Executive Office of the Governor for expenses associated with the Commission.

Creek Indian Councils

SENATE BILL 34 (CHAPTER 93-26) amends Section 285.19, F.S., to recreate the Northwest Florida Creek Indian Council as the Creek Indian Council. The law is further amended to specify that the Council is composed of 15 members appointed by the Governor from a list of nominees submitted by the Council. [Statutory law previously did not limit the number of members but provided that at least four members were to be from Escambia County, and each other county whose Creek Indian population desires membership on the Council would have at least two members represent that county.]

The members are required to represent counties as specified in the statutes. Of the 15 members, 10 are required to be Creek Indians and to represent the following counties as specified: (1) three members must reside in Escambia County; (2) one member must reside in Santa Rosa County; (3) one member must reside in Okaloosa County; (4) one member must reside in Bay County; (5) one member must reside in Pasco County; (6) one member must reside in either Walton or Calhoun County; (7) one member must reside in either Gulf,

Washington or Holmes County; and (8) one member must reside in either Leon or Jackson County. The remaining five members are required to reside in the state for the preceding 5 years, but are not required to be Creek Indians.

Section 285.19, F.S., is amended by the act to require the Council to meet at least quarterly and to annually elect its chairman and other officers. A member absent for three consecutive meetings is to be automatically removed from office, and a successor would be appointed by the Governor to serve the remainder of the removed member's term. The enactment specifies that six of the 15 members constitute a quorum of the Council. Section 285.19, F.S., is also revised to make certain particular provisions of current law applicable to counties and municipalities of the state generally, rather than to Escambia, Santa Rosa and Okaloosa counties specifically.

Cultural Affairs

COMMITTEE SUBSTITUTE FOR SENATE BILL 718 (CHAPTER 93-46) revises state programs created by law to provide state funding to cultural institutions through grant awards.

[Pursuant to Chapter 265, F.S., the Division of Cultural Affairs of the Department of State administers several cultural programs on behalf of the state including the State Major Cultural Institutions Program, the State Theater Program and the Vital Local Organizations Program.] The Cultural Institutions Program is created by amendment to Section 265.2681, F.S., to replace the State Major Cultural Institutions Program. [There are indications that the Department plans to incorporate the Vital Local Organizations Program (Subsection 265.286(7), F.S.) in the Cultural Institutions Program. In any case, the local program is repealed on October 1, 1993, pursuant to Section 1 of Chapter 92-77, Laws of Florida.] The enactment further deletes language currently in the statutes designating 21 organizations as state major cultural institutions.

The Department of State is authorized by the legislative amendments to Section 265.2861, F.S., to award grants to supplement the support of cultural institutions which display a sustained commitment to cultural excellence and to recognize organizations for superior cultural contributions that have regional or statewide impact. The Department is directed to adopt rules to provide application procedures and review criteria for grants awarded under the Cultural Institutions Program, including procedures for the peer evaluation of institutions applying for grants under the program.

Section 265.287, F.S., which creates a State Theater Program in the Department of State, is repealed by Section 3 of the law. Provisions pertaining to state theater contract organizations, as contained in Section 265.289, F.S., are revised in Section 4 of the act. A "state theater contract organization" is defined as an organization which, as such, received funding from the Department of State prior to October 1, 1990. This includes the four theaters currently under contract with the Department, which are the Asolo Center for the Performing Arts, Coconut Grove Playhouse, Caldwell Theater Company and the Hippodrome Theater. The state theaters are subject to the provisions of law and rules of the Department which pertain to institutions of the Cultural Institutions Program generally.

In Section 2, the measure also amends Section 265.2865, F.S., to authorize the Secretary of State to approve first class travel accommodations for recipients of the Florida Artists Hall of Fame award and their representatives. The law provides that first class travel accommodations may only be paid by the state for the health and security purposes of award recipients or their representatives.

Official Statutes Adoption

HOUSE BILL 1335 (CHAPTER 93-272) amends Sections 11.2421, 11.2422, 11.2424 and 11.2425, F.S., to prospectively adopt as the official statute law of the state those portions of the 1993 edition of the Florida Statutes which are carried forward unchanged from the 1991 edition. Legislation of this nature must be enacted in each odd year as an essential element of the continuous statutory revision program. The portions of the 1993 edition which are not so carried forward are not so adopted; that is, 1992 enactments incorporated into the 1992 Supplement and 1993 enactments incorporated into the 1993 edition are not adopted, but are prima facie evidence of the law only.

1992-94 FLORIDA LEGISLATURE - SPECIAL SESSION B*

By proclamation of May 13, 1993, Governor Lawton Chiles called the Legislature into special session commencing at 10 a.m., Monday, May 24, 1993, and ending midnight Sunday, June 6, 1993, to enact:

1) legislation authorizing the construction and funding of additional state prison capacity and the funding of cancer control and research programs, public school health education and treatment for victims of child abuse;
2) amendment to statutes providing sentencing guidelines for punishment of crimes;
3) legislation raising sufficient revenues to accomplish the goals of item 1); and
4) other related issues concerning inmate incarceration and the public safety.

An amendatory proclamation of May 25, 1993, extended the call of the special session to include:

1. Legislation to implement and extend up to 90 days emergency [administrative] rule 4ER 93-18 providing a moratorium on the cancellation and nonrenewal of residential property insurance.
2. Legislation to create a gubernatorial study commission to report to the Legislature and Governor by September 15, 1993, on the commercial viability and competitiveness of the personal lines property insurance industry in Florida and the adequacy of statutory regulation of the re-insurance industry.
3. Legislation to make specific critical amendments to regulatory insurance laws to protect the life, health and property of Florida citizens.

Further proclamations issued on May 27, 1993, extended the call to cover the Sunset provisions of law regarding the Florida Development Finance Corporation.

The special session was adjourned *sine die* at 2:18 a.m., Friday, May 28, 1993, after having enacted the measures hereafter summarized.

Legislative Records Exemptions

SENATE BILL 20-B (CHAPTER 93-405) addresses the recently passed constitutional amendment which made records of the Legislature subject to inspection and copying by the public, unless exemptions to that requirement are adopted. The records made exempt by the act are:

1) records that are exempt by statute when in custody of an agency are also exempt when shared with the Legislature;
2) same type of records as in the above except those received directly from the source rather than from an agency;
3) records prepared for or used in executive sessions until 10 years after the session;
4) portions of records of former legislative investigating committees whose records were sealed or confidential as of June 30, 1993, which may reveal the identity of any person who was a witness, a subject of the inquiry, or referred to in testimony;
5) formal complaints about a member, officer or lobbyist until probable cause is found, a determination has been made that there are sufficient grounds for review and no probable cause panel is to be appointed, or the person against whom the complaint is made requests the complaint be made public;
6) legislatively produced drafts, and a legislative request for a draft of a bill, resolution, memorial, or legislative rule, and an amendment thereto, which is only provided to legislative staff or officers and the member or members requesting the draft;
7) requests by members for advisory opinions, unless the member authorizes in writing the release of such information; and
8) portions of correspondence that, if disclosed, would reveal: (1) information otherwise exempt from disclosure by law; (2) an individual's medical condition; (3) the identity or location of an individual if there is a substantial likelihood that releasing such information would jeopardize the health or safety of the individual; (4) or information regarding physical abuse, child abuse, spouse abuse, or abuse of the elderly.

In addition, any record created prior to July 1, 1993, which was not available to the public is exempt from inspection until July 1, 1993. Prior to

*Prepared by Legislative Committees of Appropriate Jurisdictions

that date, the presiding officer of each house shall determine what shall remain exempt from disclosure.

The enactment also provides an exemption to the Public Records Law in Chapter 119, F.S., for records related to investigations by the Governor's Chief Inspector General or agency inspector generals of certain acts or omissions. The records are exempt from inspection only for a certain designated period of time not to exceed 60 days. All records developed or received relating to a Board of Executive Clemency investigation are also exempt from inspection under Chapter 119, F.S.

Sentencing Guidelines

SENATE BILL 26-B (CHAPTER 93-406) revises the guidelines used for sentencing defendants in criminal cases, effective January 1, 1994. The revised sentencing guidelines, like the current guidelines, apply to *felony* offenders only.

Under the revised sentencing guidelines, on an offense severity chart, crimes are grouped into 10 levels with Level 1 containing the least severe crimes and Level 10 containing the most severe ones. Criminal attempts and solicitations are ranked 2 levels below the substantive offense on the offense severity ranking chart. Criminal conspiracy is ranked 1 level below the substantive offense. The act also provides for the ranking of felonies that are specifically not included in the 10 offense levels.

One sentencing guideline worksheet is provided upon which all offenses will be scored. Points are assigned for the following factors:

1) primary offense;
2) additional offenses pending before the court;
3) prior record;
4) victim injury;
5) legal status violations (e.g., escape, violation of a supersedeas bond); and
6) release program violations (e.g., violations of control release or probation). For the most serious offenses, which are located in levels 8, 9 and 10, primary offenses points are elevated to ensure lengthy prison sentences

The worksheet also provides for the scoring of additional points for certain felonies involving firearms and semiautomatic weapons to lengthen prison sentences. Points scored for certain drug trafficking offenses and violent offenses involving law enforcement officers (the Law Enforcement Protection Act) may also be multiplied to lengthen time served in prison.

The revised sentencing guidelines provide for recommended sentences based on the total points accumulated. In the instances in which the total sentence points do not result in a prison sentence (i.e., 40 points or below), a judge has the discretion to increase the sentence points by up to, and including, 15 percent. This provision allows for the incarceration of some offenders, particularly those whose offenses are in Level 6, who otherwise would not go to prison.

In addition, once an offender scores enough points to receive a prison sentence (i.e., 40.1 points or above), a judge may increase or decrease the prison sentence length by up to, and including, 25 percent. The 25 percent upward discretion, however, cannot be used if a judge has already increased the sentence points by up to 15 percent.

A prison sentence varying upward or downward by more than 25 percent is a departure sentence and must be accompanied by written reasons for the departure. The measure lists aggravating and mitigating circumstances upon which a judge may base a departure sentence; however, this list is nonexclusive, and a judge may also rely on circumstances established in case law to justify a departure.

The legislation amends Section 921.001, F.S., relating to the Sentencing Commission, to conform it to the revised sentencing guidelines. Revisions also include providing for minority representation on the Sentencing Commission. Further, language is added to this section providing that any legislative changes after January 1, 1994, affecting criminal penalties must not adversely impact on the prison population unless a sufficient funding source is provided.

The law repeals most minimum mandatory sentences located in the Florida Statutes; sentencing for these offenses is incorporated into the revised sentencing guidelines. The following minimum mandatory sentences are retained outside of guidelines:

1. Section 775.087, F.S.--3- and 8-year minimum mandatories for possession of firearms, semiautomatic firearms, or machine guns during the commission of enumerated felonies.
2. Section 893.13, F.S.--3-year minimum mandatory for sale, manufacture or delivery of certain controlled substances within 1,000 feet of schools (3-year minimum mandatory for purchase and possession with intent to purchase within 1,000 feet of schools is eliminated).

3. 15- and 25-year minimum mandatories for trafficking in controlled substances (3-, 5- and 10-year trafficking sentences are eliminated).

Section 893.13, F.S., addressing nontrafficking controlled substance violations, is substantially rewritten to conform to the revised sentencing guidelines. The offenses of sale, manufacture and delivery are separated from possession and purchase offenses, and located in different subsections of the statute. Criminal penalties, however, remain unchanged, with the exception of purchase and possession offenses committed within 1,000 feet of schools.

An additional element is added to the offense of sale, manufacture and delivery of controlled substances within 1,000 feet of schools. As of January 1, 1994, these offenses must be committed between the hours of 6 a.m. and 12 a.m. in order for the 3-year minimum mandatory penalty to apply.

The act retains the existing habitual offender law, Section 775.084, F.S., outside of sentencing guidelines. Existing law is amended to provide that the offense for which the defendant currently is being sentenced as a habitual felony offender cannot be for drug possession or purchase. In addition, only one of the two prior felony convictions needed for sentencing as a habitual felony offender can be for drug possession or purchase.

The legislation also clarifies the counting of prior felonies for purposes of habitual offender sentencing. Also, state attorneys would be required to adopt uniform criteria for sentencing habitual offenders and to justify departures from this criteria in writing.

Language in the law indicates a legislative intent to appropriate the necessary funding from General Revenue, the Department of Corrections Grants and Donations Trust Fund, or other revenue or funding sources, to construct and operate the required correctional facilities resulting from revisions to the guidelines.

Control Release and Gain-time

SENATE BILL 26-B (CHAPTER 93-406) amends Sections 775.084 and 947.146, F.S., to allow habitual felony offenders in the state prison system to be considered by the Control Release Authority for early release from the effective date of this enactment until June 1, 1995. Habitual felony offenders who are in the prison system on the effective date of this act and who enter the prison system after the effective date of this act but before June 1, 1995, shall be eligible for control release consideration. After June 1, 1995, the habitual felony offenders who are in the prison system shall no longer be eligible for control release consideration and shall no longer receive control release allotments. The control release dates provided to the habitual felony offenders during the period of eligibility shall, however, be retained after June, 1, 1995.

Habitual felony offenders whose primary offense at conviction is for burglary pursuant to Section 810.02, F.S., shall only be placed in the advanceable category for control release when the advanceable category falls below 4,000 inmates.

The law allows for any inmate sentenced under Section 893.13, F.S., for selling, manufacturing or delivering drugs within 1,000 feet of a school or 200 feet of a park who is in the state correctional system on or after the effective date of this act to be eligible for control release consideration.

The measure expands the types of offenders excluded from control release consideration. Persons convicted of DUI manslaughter for offenses committed on or after the effective date of this act and sentenced as a habitual felony offender are excluded from control release consideration. No person convicted of DUI manslaughter and sentenced as an habitual felony offender, regardless of when the offense occurred, shall receive control release credits after the effective date of this law. Control release credits previously awarded to such persons shall be retained.

The legislation mandates the Control Release Authority to specify as a condition of release that certain drug offenders be placed into a specialized probation supervision program under Subsection 948.001(3), F.S.

The enactment repeals Section 944.598, F.S., and establishes a new emergency release process within Chapter 947, F.S. The amended emergency release process is designed to allow the Parole Commission, sitting as the Control Release Authority, to award emergency control release days to a greater cross-section of the inmate population.

All parole ineligible inmates, except inmates convicted of capital felonies, homicide excluded under current Paragraph 947.146(4)(i), F.S., and sex offenses excluded under current Paragraph 947.146(4)(c-f), F.S., are eligible for emergency release.

When a state of emergency ceases to exist, according to this act, all emergency control release dates will be suspended and no inmate shall be eligible for release on any previously established emergency control release dates.

The law raises the limits imposed by statute on the maximum lawful capacity of the state correctional system from 97.5 to 99 percent for Control Release under Section 947.146, F.S.

A new section in Chapter 921, F.S., is created that directs the court to not consider previously awarded gain-time credits when recommitting an offender after a revocation of probation or community control of a split sentence under Section 948.01, F.S.

Section 944.277, F.S., the previously used early release device, provisional release credits, that is activated at 98 percent of lawful capacity, is repealed. Furthermore, inmates who are, on the effective date of the act, in the state correctional system who have release dates based upon previously awarded provisional release credits and administrative gain-time shall have those credits cancelled.

The measure increases, for offenders whose offense levels are Level 7 or below, the amount of incentive gain-time which may be earned from up to 20 days to up to 25 days per month.

When the population of the state correctional system reaches 99 percent of its lawful capacity, the Governor is required to use emergency powers to reduce the capacity by transferring state inmates with active detainers to any federal jurisdiction.

All inmates sentenced to nonminimum mandatory terms for offenses committed on or after January 1, 1994, who would have been sentenced to a minimum mandatory term prior to the new guidelines shall be eligible for control release consideration, except, for persons convicted of possessing a semiautomatic weapon or for a violation of the Law Enforcement Protection Act.

Private Operation of Correctional Facilities

SENATE BILL 26-B (CHAPTER 93-406) creates a 5-member privatization commission with minority representation to implement two 750-bed state prisons by 1995. The Auditor General shall evaluate the cost comparisons between the Department of Corrections and the private proposals. The enactment provides for certain restrictions so that neither the commission members or staff may have prior or future employment relationships with bidders. Finally, the legislation requires the private vendors to carry their own liability insurance and does not extend sovereign immunity protection to the vendors.

Appropriations

Appropriations to fund the provisions of SENATE BILL 26-B (CHAPTER 93-406) are provided by COMMITTEE SUBSTITUTE FOR SENATE BILL 8-B (CHAPTER 93-403). Included is funding for 8,510 new prison beds at a cost of $114 million. Newly funded facilities include additions to current facilities with new dormitories, new work camps or new single cell units.

Funds are provided for four new major institutions at South Dade, Taylor, Washington and Hillsborough. (Permitting and water problems have temporarily postponed construction at Hillsborough, and the fourth institution will be at the Everglades site, as there are available sites elsewhere in south Dade for the facility funded by the Hurricane Andrew Trust Fund.)

Additional funds ($5 million) are provided for planning, site acquisition and associated environmental problems for future institutions.

Due to the need for programs in addition to new facilities, there $3.7 million is provided for drug treatment, $2 million for mandatory literacy programs for youthful offenders, $2 million for post release day treatment and $1.5 for new probation officers.

Criminal Justice Task Force

COMMITTEE SUBSTITUTE FOR SENATE BILL 42-B (CHAPTER 93-404) creates the Task Force for the Review of the Criminal Justice and Corrections Systems within the Office of the Attorney General. Members of the Task Force are appointed by the Governor as follows:

- two retired justices of the Florida Supreme Court,
- two active judges of the District Courts of Appeal,
- two active judges of the circuit courts,
- the Chancellor of the State University System,
- one state attorney,
- one victims' rights advocate,
- one member of the Parole Commission and,
- one public defender.

At least two members of the Task Force must be minority persons.

The Task Force is empowered to conduct relevant studies of the state criminal justice system and those of other jurisdictions; constitutional, common law and statutory provisions; and such other endeavors as it deems of research import in order to develop a 5-year corrections plan which is financially sustainable. Among the specific charges to the Task Force are:

1. The adequacy of management effort and existing law in the siting of correctional facilities.

2. Alternatives to incarceration including both structural and programmatic resources.
3. An examination and evaluation of the parole and probation system to include structural changes to align present services with a different branch of government.
4. An examination and evaluation of drug treatment programs including the opportunity costs of not treating substance abuse problems.
5. The utilization of advanced technology for corrections application.
6. The utilization of facilities by the Department of Corrections and internal classification procedures.
7. The application of private sector management strategies which could displace or modify existing public correctional management practices.
8. Evaluation of theories of criminal behavior and the attainment of measurable objectives of effectiveness.
9. The feasibility of transferring reduced custody work centers to local governments.
10. An examination of current construction methods used in the state correctional system.
11. The utilization of existing bedspace in the state prison system and its method of calculation.
12. The effect of Eighth Amendment litigation on the management of the state corrections agency.
13. Examine and evaluate those factors which tend to generate criminal activity.

The Task Force shall be prepared to recommend changes in the criminal law and to suggest changes to the Legislature and a continuing oversight body such as that patterned after the Florida Transportation Commission. Recommendations shall address methods of dealing with juvenile offenders. The Task Force shall provide an interim report by January 15, 1994, and a final report one year later. The sum of $500,000 is appropriated for operations of the Task Force.

The act also amends Paragraph 119.07(3)(k), F.S., which was amended during the 1993 Regular Session, to clarify the exemption from public records requirements accorded personal information relating to correctional and correctional probation officers.

Subsection 119.011(4) is modified to include the Department of Corrections within the definition of "criminal justice agency" for purposes of Chapter 119, F.S., relating to public records.

Paragraph 316.640(1)(a), F.S., is revised to include Department of Transportation law enforcement officers among those given traffic law enforcement powers by the state.

For-Hire Vehicle License Plates

SENATE BILL 10-B (CHAPTER 93-398) amends Paragraph 320.06 (3)(a), F.S., to provide that a license plate issued for a for-hire motor vehicle (e.g., a rental car) may not contain any characters or designations that identify the vehicle as a for-hire vehicle. Any such license plate that is in use on a rental car must be replaced by July 31, 1993. All other plates may be replaced by the registered owner at any time during the useful life of the license place. The act provides a $2 fee for the issuance of a replacement plate to replace a for-hire plate.

The enactment also prohibits, effective September 1, 1993, the renting of any rental car in Florida which displays any bumper sticker, insignia or other advertising that identifies the vehicle as a rental car. An exception to this prohibition is made for an inventory bar code of a certain specified form and content. The penalty for a violation of this prohibition is $500 per occurrence which is accessed against the rental car agency.

Property

HOUSE BILL 89-B (CHAPTER 93-401) deals with a number of critical property insurance issues, including cancellations and nonrenewals of property insurance coverage resulting from Hurricane Andrew, the need for a study of property insurance and reinsurance, the statewide expansion of the Windstorm Insurance Risk Apportionment Plan, membership of the board of the Residential Property and Casualty Joint Underwriting Association, expiration of provisions relating to sinkhole claims and Florida Insurance Guaranty Association coverage limits for condominium association policies. The act also revises provisions relating to domestic stock insurers' dividends to stockholders.

This legislation:

1. Revises requirements relating to coverage under the Windstorm Insurance Risk Apportionment Plan by restoring the law as it existed on April 9, 1993, and therefore, limiting application to specific geographic areas rather than statewide application (Subsection 627.351(2), F.S.).
2. Modifies the membership of the board of governors of the Residential Property and Casualty Joint Underwriting Association by

increasing consumer representation to 6 members of a 13-member board (Paragraph 627.351(6)(c), F.S.).

3. Creates the Florida Property Insurance Study Commission. The Commission is composed of 13 members who are appointed by the Governor, including the Insurance Commissioner or his designee, the chairman of the Committee on Insurance of the House of Representatives, a member of the Committee on Insurance who is not a member of the same political party as the chairman, the chairman of the Committee on Commerce of the Senate, a member of the Committee on Commerce of the Senate who is not a member of the same political party as the chairman, at least two insurance consumers, a representative of insurers, a representative of insurance agents, a representative of reinsurers, and a representative of mortgage lenders. The Commission must submit a report outlining its recommendations for legislation improving the commercial viability and competitiveness of the personal lines property insurance industry and assuring the adequacy of statutory regulation of the reinsurance industry. The study shall also include whether alternative means are needed for activating or providing coverage to commercial risk in the Florida Property and Casualty Joint Underwriting Association or some other residual market mechanism (Section 2 of the act).
4. Continues the current moratorium on nonrenewals due to sinkhole damage, which will expire on July 1, 1993. Insurers are prohibited from refusing to renew any policy of property insurance on the basis of the insured filing a claim for partial loss caused by sinkhole damage or clay shrinkage. The minimum standards for investigating a claim for sinkhole loss are saved from repeal and amended to provide that if the insurer obtains written certification that the cause of the claim was not sinkhole activity, and if the policyholder has submitted the sinkhole claim without good faith grounds for submitting such claim, the policyholder shall reimburse the insurer for 50 percent of the cost of the analysis, up to $2,500 (Section 627.707, F.S.).
5. Strengthens the Department of Insurance's ability to restrict dividend payments in accordance with the National Association of Insurance Commissioners' Accreditation Standards (Section 628.371, F.S.).
6. Increases the Florida Insurance Guaranty Association's coverage for condominium association policies from $300,000 per policy to $100,000 per unit by reinstating the increased coverage limits that were repealed at sine die of the 1993 Regular Session and requires the same limits for homeowners' association policies (Paragraph 631.57(1)(a), F.S.).
7. Imposes a moratorium on cancellation and nonrenewal of personal lines residential property insurance coverage effective May 19, 1993 through November 14, 1993. The legislation provides an exception to the moratorium if an insurer can affirmatively demonstrate to the Department of Insurance that the proposed cancellation or nonrenewal is necessary for the insurer to avoid an unreasonable risk of insolvency (Section 1 of the act).

Funeral Industry

COMMITTEE SUBSTITUTE FOR SENATE BILLS 14-B, 16-B and 18-B (CHAPTER 93-399) amends provisions of Chapter 470, F.S., relating to the regulation within the Department of Business and Professional Regulation of funeral directors, embalmers, and direct disposition by the Board of Funeral Directors and Embalmers. The act combines provisions of Chapter 497, F.S., regarding cemeteries, and Chapter 639, F.S., relating to prepaid funeral contracts. Regulation is shared between the Department of Business and Professional Regulation and the Department of Banking and Finance.

The Board of Funeral Directors and Embalmers is created within the Department of Business and Professional Regulation consisting of seven members appointed by the Governor and confirmed by the Senate. Five members must be licensed funeral directors, no more than two of whom may be associated with a cemetery company, the remaining two members are consumer members (Section 470.003, F.S.).

The law combines the provisions of Chapters 497 and 639, F.S., with respect to trusting funds for preneed contracts. The legislation renumbers Section 639.11, F.S., as Section 497.417, F.S., and amends same to require 70 percent of the contract amount for services to be trusted, the greater of 30 percent of the purchase price collected or 110

percent of the wholesale cost of merchandise to be trusted, and 100 percent of cash advance items to be trusted.

The enactment provides for a toll-free telephone hotline to receive consumer complaints and provide consumer information (Section 497.031, F.S., renumbered as Section 497.301, F.S., and amended). The legislation also provides for consumer information to be disclosed on the signature page of the preneed contract, including the purchase price, amounts to be trusted, and provisions related to cancellation of the contract (Section 497.046, F.S., renumbered as Section 497.333, F.S., and amended).

The law amends existing funeral director, embalmer, and direct disposition regulation (Chapter 470, F.S.) to revise existing text and creates Section 497.361, F.S., to require that monument operators be registered. In addition, the act renumbers Section 639.108, F.S., as Section 497.413, F.S., and amends same to provide for a consumer protection guaranty fund to which the contract seller must contribute at least $2.50 on each contract sold. Finally, the measure revises cross-references and eliminates unnecessary ones. The act is effective, except as otherwise provided, October 1, 1993.

Economic Development

HOUSE BILL 95-B (CHAPTER 93-402) amends COMMITTEE SUBSTITUTE FOR SENATE BILL 2382 (CHAPTER 93-187), a comprehensive economic development act that was passed during the 1993 Regular Session. The original legislation was recommended by the Department of Commerce and Enterprise Florida, Inc., as a mechanism to assist and attract manufacturing and business enterprise development. Among its provisions, the measure creates a local government entity, the Florida Development Finance Corporation (FDFC), that will have the authority to issue revenue bonds for the purpose of financing or refinancing capital projects. The FDFC will provide loans to small- to medium-sized Florida firms to encourage economic development and to allow improvement in Florida's industrial infrastructure.

The Regular Sesson enactment also contains a provision that repeals the FDFC on December 31, 1998. [Because of this amendment, certain private bond rating services have indicated that they would place a low rating on the bonds to be issued by the Corporation. This low rating would impede the function of the FDFC by discouraging investors interested in purchasing such bonds.] HOUSE BILL 95-B, (CHAPTER 93-402) rescinds the repeal of the FDFC on December 31, 1998, and provides instead for *legislative review* of the Corporation by that date to determine whether the FDFC is attaining its statutory mission.

Homestead Exemption/Spouses of Veterans

HOUSE BILL 3-B (CHAPTER 93-400) amends Section 196.081, F.S., to allow a homestead ad valorem tax exemption to spouses of totally and permanently disabled veterans in the event the spouse holds a life estate in the homestead upon the death of the veteran. The surviving spouse may apply for the exemption after the veteran dies, as long as the veteran was a permanent resident of the state on January 1 of the year of death.

The act also provides that 1993 Regular Session amendments to sections amended by this law shall not be repealed or negated by this measure. However, if the provisions of this act are in direct conflict with such Regular Session amendments, the provisions of this enactment, which takes effect January 1, 1994, are to take precedence.

Juvenile Justice

HOUSE BILL 75-B (CHAPTER 93-408) corrects technical errors and omissions in HOUSE BILL 1927 (CHAPTER 93-200) and COMMITTEE SUBSTITUTE FOR HOUSE BILL 387 (CHAPTER 93-230) and reconciles a conflict between CHAPTER 93-200 and COMMITTEE SUBSTITUTE FOR SENATE BILL 536 (CHAPTER 93-196). CHAPTER 93-408 also corrects a technical error and makes a minor substantive change in certain provisions of CHAPTER 93-230.

Both CHAPTER 93-200 and CHAPTER 93-196 amend, among other things, Section 39.025, F.S., relating to juvenile delinquency and gang prevention councils. CHAPTER 93-196 makes minor technical changes to the section and also adds several new provisions relating to the collection and sharing of data about juveniles and fiscal agency for the councils. On the other hand, CHAPTER 93-200 substantially amends Section 39.025, F.S., by changing the composition, role and responsibilities of the councils; renaming them District Juvenile Justice Boards; changing their geopolitical boundaries from judicial circuits to Department of Health and Rehabilitative Services (DHRS) districts; and creating County Juvenile Justice Councils. Although CHAPTER 93-196 became law before CHAPTER 93-200, CHAPTER 93-196 was the last to pass the Legislature. [This creates some ambiguity as to legislative intent which could impede the prompt and effective implementation of CHAPTER 93-200, especially the

Community Juvenile Justice Partnerships Grants Program which is one of the major components of that session law.]

CHAPTER 93-408 reenacts the provisions of Section 39.025, F.S., as embodied in CHAPTER 93-200, and repeals the conflicting provisions in CHAPTER 93-196 in order to eliminate any doubt about legislative intent.

CHAPTER 93-408 also reenacts all of the subsections of Section 39.042, F.S., as amended by CHAPTER 93-230, in order to correct a technical error in the latter chapter, corrects an omission by authorizing the Attorney General to appoint a representative of law enforcement to the Task Force on the Use of Department of Health and Rehabilitative Services Detention Facilities and Resources, and requires the Task Force report to be submitted by December 1, 1993.

CHAPTER 93-408 also amends Section 944.095, F.S., relating to the siting of correctional facilities, by directing the Department of Health and Rehabilitative Services to study and make recommendations on the need for juvenile correctional facilities.

Palm Beach Community College

An appropriation for fiscal year 1993-1994 of $1.5 million is provided by HOUSE BILL 19-B (CHAPTER 93-407)for the acquisition of adjacent land by Palm Beach Community College as well as an additional $600,000 for the construction of a data processing building addition.

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** General Laws of Local Application
*** Special Acts

1992—93 COMBINED REGULAR AND SPECIAL SESSIONS

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STATISTICS REPORT

SENATE BILLS	FILED	PASSED SENATE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	6	2	1
RESOLUTIONS(ONE CHAMBER)	59	54	0
GENERAL BILLS	1049	260	146
LOCAL BILLS	71	61	46
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	25	3	0
MEMORIALS	6	3	1
WITHDRAWN	2	0	0
TOTALS	1218	383	194*

HOUSE BILLS	FILED	PASSED HOUSE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	6	2	1
RESOLUTIONS(ONE CHAMBER)	137	107	0
GENERAL BILLS	934	330	176
LOCAL BILLS	81	50	45
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	24	2	0
MEMORIALS	8	5	0
WITHDRAWN	33	0	0
TOTALS	1223	496	222*

SENATE AND HOUSE BILLS	FILED	PASSED FIRST CHAMBER	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	12	4	2
RESOLUTIONS(ONE CHAMBER)	196	161	0
GENERAL BILLS	1983	590	322
LOCAL BILLS	152	111	91
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	49	5	0
MEMORIALS	14	8	1
WITHDRAWN	35	0	0
TOTALS	2441	879	416*

*ONE CHAMBER RESOLUTIONS NOT INCLUDED

STATISTICS REPORT

	SENATE BILLS	HOUSE BILLS	TOTAL
FILED, NOT INTRODUCED	1	7	8
BILLS TO CONFERENCE COMMITTEES	3	0	3
BILLS AMENDED	180	234	414
COMMITTEE SUBSTITUTES (CS)	322	322	644
CS/CS	28	19	47
CS/CS/CS	3	0	3
FAVORABLE SENATE COMMITTEE REPORT	262	58	320
FAVOR/AMENDMENT(S) SENATE COM REPT	199	9	208
FAVORABLE HOUSE COMMITTEE REPORT	3	186	189
FAVOR/AMENDMENT(S) HOUSE COM REPT	0	111	111
APPROVED BY GOVERNOR	60	51	111
BECAME LAW WITHOUT SIGNATURE	125	161	286
VETOED BY GOVERNOR	7	9	16
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	54	107	161
FAILED TO PASS SENATE	1	0	1
FAILED TO PASS HOUSE	0	2	2
LAID ON TABLE	160	75	235
UNFAVORABLE SENATE COMMITTEE REPT	19	0	19
UNFAVORABLE HOUSE COMMITTEE REPORT	0	9	9
WITHDRAWN	2	33	35
WITHDRAWN PRIOR TO INTRODUCTION	1	1	2
WITHDRAWN/FURTHER CONSIDERATION	33	57	90
DIED IN SENATE COMMITTEES	484	135	619
DIED IN HOUSE COMMITTEES	43	401	444
DIED ON SENATE CALENDAR	134	4	138
DIED ON HOUSE CALENDAR	15	118	133
DIED IN SENATE MESSAGES	7	21	28
DIED IN HOUSE MESSAGES	70	7	77
DIED, REFERENCE DEFERRED	0	24	24

STATISTICS REPORT

SENATE BILLS	FILED	PASSED SENATE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	0	0	0
RESOLUTIONS(ONE CHAMBER)	6	6	0
GENERAL BILLS	10	7	5
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	0	0	0
MEMORIALS	0	0	0
WITHDRAWN	1	0	0
TOTALS	17	13	5*

HOUSE BILLS	FILED	PASSED HOUSE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	1	1	1
RESOLUTIONS(ONE CHAMBER)	8	8	0
GENERAL BILLS	21	8	4
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	0	0	0
MEMORIALS	0	0	0
WITHDRAWN	0	0	0
TOTALS	30	17	5*

SENATE AND HOUSE BILLS	FILED	PASSED FIRST CHAMBER	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	1	1	1
RESOLUTIONS(ONE CHAMBER)	14	14	0
GENERAL BILLS	31	15	9
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	0	0	0
MEMORIALS	0	0	0
WITHDRAWN	1	0	0
TOTALS	47	30	10*

*ONE CHAMBER RESOLUTIONS NOT INCLUDED

STATISTICS REPORT

	SENATE BILLS	HOUSE BILLS	TOTAL
FILED, NOT INTRODUCED	0	8	8
BILLS TO CONFERENCE COMMITTEES	0	0	0
BILLS AMENDED	2	5	7
COMMITTEE SUBSTITUTES (CS)	3	3	6
CS/CS	1	0	1
FAVORABLE SENATE COMMITTEE REPORT	5	1	6
FAVOR/AMENDMENT(S) SENATE COM REPT	1	1	2
FAVORABLE HOUSE COMMITTEE REPORT	0	7	7
FAVOR/AMENDMENT(S) HOUSE COM REPT	0	4	4
APPROVED BY GOVERNOR	5	4	9
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	1	1
RESOLUTIONS ADOPTED	6	8	14
FAILED TO PASS SENATE	0	0	0
FAILED TO PASS HOUSE	0	0	0
LAID ON TABLE	1	2	3
UNFAVORABLE SENATE COMMITTEE REPT	1	0	1
UNFAVORABLE HOUSE COMMITTEE REPORT	0	0	0
WITHDRAWN	1	0	1
WITHDRAWN/FURTHER CONSIDERATION	0	0	0
FAILED OF INTRODUCTION/2ND HOUSE	0	1	1
DIED IN SENATE COMMITTEES	1	2	3
DIED IN HOUSE COMMITTEES	0	3	3
DIED IN SENATE MESSAGES	0	2	2
DIED IN HOUSE MESSAGES	2	0	2

STATISTICS REPORT

SENATE BILLS	FILED	PASSED SENATE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	1	0	0
RESOLUTIONS(ONE CHAMBER)	0	0	0
GENERAL BILLS	31	9	6
LOCAL BILLS	0	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	0	0	0
MEMORIALS	1	1	1
WITHDRAWN	0	0	0
TOTALS	33	10	7*

HOUSE BILLS	FILED	PASSED HOUSE	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	1	0	0
RESOLUTIONS(ONE CHAMBER)	12	7	0
GENERAL BILLS	37	11	5
LOCAL BILLS	1	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	0	0	0
MEMORIALS	1	0	0
WITHDRAWN	0	0	0
TOTALS	52	18	5*

SENATE AND HOUSE BILLS	FILED	PASSED FIRST CHAMBER	PASSED BOTH CHAMBERS
CONCURRENT RESOLUTIONS	2	0	0
RESOLUTIONS(ONE CHAMBER)	12	7	0
GENERAL BILLS	68	20	11
LOCAL BILLS	1	0	0
GEN BILL/LOC APPLICATION	0	0	0
JOINT RESOLUTIONS	0	0	0
MEMORIALS	2	1	1
WITHDRAWN	0	0	0
TOTALS	85	28	12*

*ONE CHAMBER RESOLUTIONS NOT INCLUDED

STATISTICS REPORT

	SENATE BILLS	HOUSE BILLS	TOTAL
FILED, NOT INTRODUCED	1	18	19
BILLS TO CONFERENCE COMMITTEES	1	1	2
BILLS AMENDED	9	8	17
COMMITTEE SUBSTITUTES (CS)	4	6	10
CS/CS	0	1	1
FAVORABLE SENATE COMMITTEE REPORT	2	1	3
FAVOR/AMENDMENT(S) SENATE COM REPT	7	0	7
FAVORABLE HOUSE COMMITTEE REPORT	0	6	6
FAVOR/AMENDMENT(S) HOUSE COM REPT	0	2	2
APPROVED BY GOVERNOR	5	3	8
BECAME LAW WITHOUT SIGNATURE	1	2	3
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	7	7
FAILED TO PASS SENATE	0	0	0
FAILED TO PASS HOUSE	0	0	0
LAID 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	14	3	17
DIED IN HOUSE COMMITTEES	0	13	13
DIED IN CONFERENCE COMMITTEES	0	1	1
DIED ON SENATE CALENDAR	3	1	4
DIED ON HOUSE CALENDAR	0	3	3
DIED IN SENATE MESSAGES	0	1	1
DIED IN HOUSE MESSAGES	3	0	3

1993 VETOED GENERAL BILLS

Senate Bills	Subject	Date
CS/SB 256	Homestead Exemption/Disabled Veteran	04/15/93
SB 662	Dredge & Fill Permitting	04/30/93
SB 1000	Property Rights Study Commission	06/04/93
CS/SB 1212	Uniform Commercial Code	05/04/93
SB 1654	Public Records	05/04/93
CS/SB 1692	State Planning & Budgeting	05/04/93
SB 1800	Appropriations (Line Items)	05/04/93
SB 1810	Executive Branch of Government	05/04/93

House Bills	Subject	Date
CS/HB 195	Referenda/Ballot Language	04/22/93
CS/HB 463	Media Personnel	05/14/93
CS/HB 907	Credit Agreements	04/24/93
CS/HB 1117	Telephone Companies	05/14/93
CS/HB 1485	Health Insurance	05/14/93
CS/HB 1699	Gender Balance/Board Membership	05/10/93
HB 2007	Legislative and Public Records	05/14/93
HB 2345	Funeral, Cemetery, and Crematory Services	05/14/93