# 2000 SESSION SUMMARY

## Major Legislation Passed


*Compiled and Edited by*
*Office of the Senate Secretary*

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# Senate Committee on Agriculture and Consumer Services

## AGRICULTURE

### SB 150 — Dog and Cat Fur Sales

by Senators Sebesta, Forman, Latvala, Saunders, and Geller

This bill creates ss. 828.123 and 828.1231, F.S., prohibiting the sale of garments or other items made from dog or cat fur, or the killing of a dog or cat for its pelt. The bill was filed following an investigation by the Humane Society of the United States (HSUS) which indicated that dog and cat fur was being sold in the United States as trim on coats, hats, gloves, decorative accessories, and toys.

The bill provides that:

- Any person who kills any dog or cat for the purpose of selling or giving away the pelt of such animal commits a felony of the third degree, and is subject to a term of imprisonment of up to five years, or a fine of not more than $10,000, or both.

- Any person who possesses, imports into this state, sells, buys, gives away, or accepts the pelt of any dog or cat for the purpose of selling or giving away the pelt commits a misdemeanor of the first degree, and is subject to a term of imprisonment of up to one year, or a fine of $5,000, or both.

- Any person who possesses, imports into this state, sells, buys, gives away, or accepts any dog or cat for the purpose of killing or having the animal killed to sell or give away the pelt of the animal commits a felony of the third degree, and is subject to a term of imprisonment of up to five years, or a fine of not more than $10,000, or both.

- Any individual who knowingly engages in the business of a dealer or buyer of pelts or furs of any dog or cat, or who knowingly ships, transports or receives for transport any dog or cat pelts or furs within the state, commits a felony of the third degree.

- Any person who knowingly sells, or offers for sale, a dog or cat pelt or garment made in whole or in part from dog or cat fur commits a misdemeanor of the first degree, and a subsequent violation of this provision constitutes a third degree felony.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 116-0.*

## CS/CS/CS/SB 806 — Aquaculture

by Fiscal Resource Committee; Natural Resources Committee; Agriculture and Consumer Services Committee; and Senator Laurent

This bill allows the Department of Agriculture and Consumer Services (department) to expand its duties and responsibilities for administering the aquaculture program by transferring the regulation and licensing of aquaculture from various chapters throughout the statutes to ch. 597, F.S. It:

- Authorizes the department to perform certain duties and functions relating to aquaculture lease applications on behalf of the Board of Trustees for the Internal Improvement Trust Fund when so delegated by the Board of Trustees. Clarifies that the Board of Trustees would retain the authority to take final agency action in establishing any areas for leasing, new leases, expanding existing lease areas, or changing the type of lease activity in existing leases on sovereignty submerged lands.

- Provides that prior to the granting of any lease by the Board of Trustees, the Fish and Wildlife Conservation Commission (commission) shall comment when the application relates to bottom land in salt or fresh water. Requires the comments to be based on an assessment of the probable effect of the proposed lease on conservation of fish or wildlife or other programs under the constitutional or statutory authority of the commission.

- Requires first-time applicants of an Apalachicola Bay oyster harvesting license to attend an educational seminar which covers topics such as oyster biology, sanitary care of oysters, conservation of the Apalachicola Bay, small business management, and water safety.

- Revises the regulation of noncultured shellfish harvesting. Authorizes the commission to adopt rules relating to noncultured shellfish harvesting seasons in Apalachicola Bay.

- Directs the commission to protect the environment and natural resources from improper transport, deployment, and operation of a dredge or scrape. Provides penalties for violations.

- Reallocates the distribution of fees for alligator egg collection permits and alligator hide validation tags to ensure that a portion of those fees are deposited into the

General Inspection Trust Fund to provide marketing and education services for alligator products produced in the state.

- Requires the department to make available state lands and the water column for the purpose of producing aquaculture products when the aquaculture activity is compatible with state resource management goals, environmental protection, and propriety interest and when such state lands and waters are determined to be suitable for aquaculture development by the Board of Trustees of the Internal Improvement Trust Fund. Also, the department is to be responsible for all saltwater aquaculture activities located on sovereignty submerged land or in the water column above such land and adjacent facilities directly related to the aquaculture activity.

- Provides that the department is to act as a clearinghouse for aquaculture applications, and to act as a liaison between the Fish and Wildlife Conservation Commission, the Division of State Lands, the Department of Environmental Protection district offices, other divisions within the DEP, and the water management districts. Except as specifically provided, the department shall be responsible for regulating marine aquaculture producers.

- Prohibits the transfer of leases without the written approval of the department. Requires the department to keep proper indexes so that all original leases and all subsequent changes and transfers can be easily and accurately ascertained.

- Authorizes the department, if it deems it to be in the best interest of the state, to include natural reefs or beds in a lease. Authorizes the department to fix a reasonable value on the natural area, to be paid by the applicant for lease of such submerged land. Natural reefs may not be included in any shellfish or aquaculture lease granted in Franklin County. Requires the department to settle all disputes as to boundaries between lessees.

- Allows the boards of county commissions to appropriate and expend funds for the purpose of planting and transplanting shellfish to enhance the oyster and clam industries of the state.

- Requires the department to cooperate with the United States Fish and Wildlife Service. Authorizes the department to accept donations, grants, and matching funds from the federal government to carry out its oyster resource and development responsibilities.

- Provides penalties for the violation of marine fishery rules and statutes, notably for theft from a trap. Provides penalties for buying saltwater products from unlicensed persons and for selling saltwater products by unlicensed persons.

- Provides for a $125 fee for a stone crab endorsement and establishes a system of fees and authorizes equitable rent for the Stone Crab Effort Management Plan created by rule of the Fish and Wildlife Conservation Commission.

- Limits the number of permits issued by the commission for commercial trawling or dead shrimp production in the St. John's River in any one year to those active in the base year, 1976, and renewed annually since 1976 and clarifies that all permits for dead shrimp production issued pursuant to s. 370.153, F.S., are inheritable or transferable to an immediate family member and annually renewable by the holder. Clarifies that noncommercial trawling in the St. Johns River may only be authorized by rule of the commission.

- Appropriates the sum of $97,049 from the commercial saltwater license fee revenues in the Marine Resources Conservation Trust Fund to the commission for FY 2000-2001, for four career service positions that are authorized for the commission to implement the stone crab trap limitation program.

- Appropriates the sum of $254,408 from the commercial saltwater license fee revenues in the Marine Resources Conservation Trust Fund to the commission for program operation, plus the sum of $130,000 to cover the cost of stone crab trap tags in FY 2000-2001, in order to implement the stone crab trap limitation program in FY 2001-2002.

- Provides that a community development district may pay for investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination unless the covered costs benefit any person who is a landowner within the district and who caused or contributed to the contamination.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House 111-1*

### CS/CS/SB 1114 — Agriculture

by Fiscal Policy Committee; Agriculture and Consumer Services Committee; and Senator Thomas

This bill revises various provisions of law which come under the jurisdiction of the Department of Agriculture and Consumer Services (department) to aid the department in its mission to safeguard the public and support Florida's agricultural economy. It:

- Addresses the state's ongoing citrus canker eradication efforts by strengthening the department's existing regulatory authority for eradication and expands its authority to

develop a statewide program of decontamination to prevent and limit the spread of the disease.

- Authorizes the department to develop by rule, a statewide program of decontamination to prevent and limit the spread of citrus canker disease which addresses the application of decontamination procedures and practices. Authorizes the department to develop compliance and other agreements to aid in carrying out these duties. Requires owners and/or operators of nonproduction vehicles and equipment to follow department guidelines for citrus canker decontamination effective June 15, 2000. Requires the department to publish the guidelines no later than May 15, 2000.

- Requires county sheriffs, upon request of the department, to provide assistance in obtaining access to private property for the purpose of enforcing citrus canker eradication efforts.

- Provides that agricultural lands which are taken out of production by any state or federal eradication or quarantine program shall continue to be classified for assessment purposes as agricultural lands.

- Allows individuals with three years experience in pest control for the United States Department of Defense to have met the requirements for obtaining a pest control operator's certificate from the state's Department of Agriculture & Consumer Services.

- Authorizes the department to review and evaluate registered pesticides if new information is made available indicating some danger to the public or the environment. Such review shall be conducted upon the request of the Secretary of the Department of Health or the Secretary of the Department of Environmental Protection. Such review may result in modification, revocation, cancellation or suspension of a pesticide registration.

- Prohibits the Department of Environmental Protection to institute proceedings against any property owner or leaseholder to recover any costs or damages associated with pesticide contamination of soil or water if the pesticide contamination is the result of pesticides used in accordance with state and federal law, applicable registered labels, and rules on property classified as agricultural land. Additionally, the Department of Environmental Protection may not institute proceedings if the property owner or leaseholder maintains records of such pesticide applications and the records are provided to the department upon request.

- Transfers the authority to bring a civil action for violations of the Motor Fuel Marketing Practices Act from the Department of Legal Affairs to the Department of

Agriculture and Consumer Services. Appropriates $100,000 from the General Revenue Fund and two full-time positions to the department to implement the provisions of ch. 526, part I, F.S.

- Amends the definition of "agriculturally depressed area" to include crop losses or economic depression resulting from a natural disaster or socioeconomic conditions or events which negatively impact a crop.

- Creates an Agricultural Economic Development Disaster Loan Program for agricultural producers who have experienced crop losses from a natural disaster or a socioeconomic condition or event. Specifies uses of loan funds. Funds may be issued as direct loans, or as loan guarantees for up to 90 percent of the total loan, in amounts not less than $30,000 nor more than $250,000. Specifies crops eligible for the emergency loan program. Provides criteria for loan application. Provides for security requirements and loan repayment.

- Requires the department to establish an equestrian educational sports program with one or more accredited 4-year state universities in order to give student riders the opportunity to learn, compete, and succeed at the collegiate level while at the same time promoting the state's multi billion dollar equine industry.

- Revises the membership appointment and terms of the Florida Agriculture Center and Horse Park Authority.

- Revises timing requirements for department inspection and permitting of amusement rides. Removes exemptions from inspection requirements for certain temporary rides at public events.

- Limits local government regulations with respect to the Right to Farm Act where such activity is regulated through implemented best-management practices or interim measures developed by the Department of Environmental Protection, the Department of Agriculture and Consumer Services, or water management districts. Authorizes a local government to adopt regulations when an activity which takes place within a wellfield protection area is regulated through implemented best-management practices or interim measures which do not specifically address wellfield protection.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 115-0*

## DEPARTMENT OF BANKING AND FINANCE

### CS/HB 57 — Unlawful Sales of Securities

by Financial Services Committee, Rep. Green and others (SB 300 by Senator Sebesta)

This bill (Chapter 2000-123, L.O.F.) narrows the scope of violations by a securities dealer that would allow for purchasers to rescind the purchase. The bill limits the scope of violations to a violation of s. 517.12 (1), (4), (5), (9), (11), (13), (16), or (18), F.S. The bill provides that a sale made in violation of the provisions of s. 517.12(11), F.S., relating to the failure to renew a branch office registration or the failure of a securities dealer, investment advisor, associated person or branch office to file a change of address amendment pursuant to s. 517.12(13), F.S., would not be subject to recission by the purchaser.

Currently, any violation of s. 517.12, F.S., allows a purchaser to rescind the transaction. This includes a sale by a dealer or associated person who is not registered with the Department of Banking and Finance, but it also includes sale by a securities dealer who has failed to timely renew his or her registration and certain other violations of ministerial sections.

These provisions became law upon approval by the Governor on April 24, 2000.
*Vote: Senate 39-0; House 116-0*

### SB 156 — Funeral and Cemetery Services

by Senator Klein

This bill revises provisions relating to the regulation of cemeteries and the sale of preneed funeral and burial contracts, by the Department of Banking and Finance and the Board of Funeral and Cemetery Services, pursuant to ch. 497, F.S.

The bill increases the annual renewal fees for cemetery licenses and for certificates of authority for persons selling preneed funeral and burial contracts, for those entities exceeding certain sales thresholds. However, the bill also eliminates examination fees for both such entities, other than for travel and per diem expenses incurred by the department for examinations outside the state. The increased annual revenue from licensure renewal fees, estimated to be $212,050, is offset by the decreased revenue of ($212,044) from

elimination of examination fees, resulting in a negligible impact on the Department of Banking and Finance Regulatory Trust Fund.

The bill also: (1) defines the term "religious institution" and substitutes that term for "church" and "synagogue" to provide consistent word usage in sections that provide exemptions from regulation; (2) allows the department or the board to adopt rules allowing for the electronic submission of documents or fees, and to accept a certification of compliance with the chapter, rather than submission of actual documents; (3) sets the application fee at $500 for an initial certificate of authority for selling preneed funeral contracts which currently may not exceed $500; and (4) increases from $5 to $10, the maximum per contract fee that may be set by the board that certificateholders must pay into the Regulatory Trust Fund, currently set at $4.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House 110-0*

### CS/HB 439 — Public Records-Certified Capital Companies

by Governmental Operations Committee and Rep. Crow (CS/SB 1872 by Banking & Insurance Committee and Senator Sullivan)

Certified capital companies (CAPCOs) are statutorily authorized entities under s. 288.99, F.S., which are designed to provide venture capital for investment in new and expanding Florida businesses. The main function of a CAPCO requires the writing of investment contracts and complex structuring of investments with private sector businesses whose financial and tax records are generally not open to the public for competitive reasons. Additionally, the personal financial records of the principals of such companies are also generally protected under the private sector corporate veil.

This bill amends s. 288.99, F.S., to provide an exemption from public records requirements under s. 119.07, F.S., and s. 24(a), Art. I of the State Constitution, for any information relating to an investigation or review of a CAPCO by the Department of Banking and Finance, including consumer complaints, until the investigation or review is complete or ceases to be active. However, certain information remains confidential and exempt even after the investigation is complete or ceases to be active under specified circumstances. The provisions of the bill allow the department to provide this confidential information to law enforcement or administrative agencies in connection with their official duties. It exempts personal information relating to departmental investigatory personnel and their families under certain conditions. It also exempts the social security numbers of customers, complainants, and other persons involved in a CAPCO.

The bill provides broad authority for confidentiality of information provided to the department which is only given to the department on a confidential basis. It further

provides, with certain exceptions, that confidential information offered in evidence at any administrative, civil or criminal proceeding may remain confidential if the presiding officer makes such determination. The bill additionally grants a privilege against civil liability to persons in regard to information or evidence furnished to the department, unless such persons act in bad faith.

The bill provides that it is subject to the Open Government Sunset Review Act and shall stand repealed on October 2, 2005, unless reviewed and saved from repeal through reenactment by the Legislature. Finally, the bill provides a public necessity statement outlining the reasons for the exemptions and confidentiality.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 115-0*

### HB 1139 — Consumer Finance

by Rep. Littlefield (CS/SB 2028 by Banking & Insurance Committee and Senator Grant)

This bill (Chapter 2000-127, L.O.F.) authorizes a consumer finance lender licensed under ch. 516, F.S., to charge a maximum fee of $10 for a consumer loan payment in default for not less than 10 days, if the charge is agreed upon, in writing, between the parties before imposing the charge.

The bill also transfers the disclosure requirement relating to the number and the amount of each payment and date of first payment from the separate itemized document to the written contract to conform to federal disclosure requirements.

The Department of Banking and Finance licenses and regulates consumer finance (ch. 516, F.S.) and retail installment sales (ch. 520, F.S.), which includes motor vehicle sales finance and installment sales finance. A late charge, or delinquent fee, is authorized for the late payment on a retail installment loan made under the provisions of ch. 520, F.S. Under current law, ch. 516, F.S., does not expressly provide for an assessment of a late charge for an account that is delinquent.

These provisions were approved by the Governor and take effect July 1, 2000.
*Vote: Senate 39-0; House 115-1*

# DEPARTMENT OF INSURANCE/TREASURY

## HB 1115 — Bail Bond Premiums

by Rep. Bense (CS/SB 1560 by Banking & Insurance Committee and Senator Horne)

This bill (Chapter 2000-126, L.O.F.) revises Florida's reporting requirements for bail bond insurers by requiring such insurers to report bail bond premiums on their financial statements net of premiums retained by bail bond agents. However, the direct written premiums for bail bonds cannot be less than 6.5 percent of the total consideration received by the agent for bail bonds written by the agent. As a result of the passage of this bill, Florida bail bond insurers will be able to write more bail bond insurance, similar to the limits imposed on insurers domiciled in other states.

Presently, Florida law requires insurers to submit financial statements with the Department of Insurance to aid the department in monitoring the solvency of insurers. The manner in which financial information is compiled and reported is determined by the state in which the insurer is domiciled. Therefore, foreign insurers writing business in Florida compile financial reports in accordance with the law of their home state.

Under current Florida law, insurers writing bail bond insurance are required to report to the department the gross amount of premiums written, including the premium retained by the bail bond agent, which can be as much as 90 percent of the premium collected on bail bonds. This is a reflection of the amount of risk retained and work performed by the bail bond agent in the transaction of bail bond business. Insurers writing bail bonds are not liable to pay the amount of a bail bond unless the defendant does not appear for judicial proceedings and the bail bond agent is unable to pay the bail amount.

Florida domestic bail bond insurers have been at a competitive disadvantage compared to some other states. Currently, a Florida insurer may report higher premiums than other insurers writing the same business. Florida insurers report premiums on a gross basis while foreign insurers in some other states are permitted to report premiums minus commissions retained by the bail bond agent. Domestic bail bond insurers, whether doing business in Florida or in other states, would exceed state premium-to-surplus ratio limits sooner than insurers from several other states. Therefore, Florida bail bond insurers presently are not able to write as much bail bond business as similarly situated insurers domiciled in other states.

This bill also specifies that the reporting or payment of insurance premium taxes under ss. 624.509, 624.5091, and 624.5092, F.S., and the insurance premium tax and related excise taxes would continue to be calculated using gross bail bond premiums. The bill requires domestic insurers writing premiums for bail bonds to disclose additional premium information, specifically, the amount of bail bond premiums included on the

surety line of the annual statement, in the notes to the financial statement of the insurer's annual statement filed with the department.

If approved by the Governor, these provisions take effect October 1, 2000, and apply to premiums written for calendar year 2000 and thereafter.
*Vote: Senate 39-0; House 116-0*

### CS/SB 1956 — Viatical Settlements

by Banking & Insurance Committee and Senators Lee and Geller

In 1996, the Florida Legislature created the Viatical Settlement Act (ss. 626.991-626.993, F.S.) to establish the framework for regulating the viatical industry by the Department of Insurance. Under current law, a viatical settlement contract is a written agreement under which the owner of a life insurance policy who has a terminal illness ("viator") sells the policy to another person in exchange for a bargained-for payment, which is generally less than the expected death benefit under the policy. The amount paid to the policy owner depends on the person's life expectancy and market forces. The person who buys the policy from the original policy owner takes over premium payments, and, upon the death of the original policy owner, collects the death benefit under the policy.

Presently, there is no statutory authorization for the department to regulate what are termed "life settlement" agreements. These agreements involve the sale of life insurance policies for other insureds, usually senior citizens who no longer have a need for life insurance and who do not meet the definition of a viator under present law because they do not have a life threatening illness.

In February 2000, the Fifteenth Statewide Grand Jury released its report on the viatical industry. In its report, the Grand Jury identified various fraudulent activities occurring in the industry and made recommendations for legislative changes, many of which are included in this bill.

This bill amends numerous provisions of the Viatical Settlement Act to provide for the following:

- Expands viatical settlement regulation by the Department of Insurance to cover "life settlements" in that it provides for the sale of policies that insure individuals who do not have a catastrophic or life threatening illness or condition;
- Increases criminal penalties for specified unlawful acts which are based on the value of the life insurance policy;
- Provides timely written disclosures to viatical settlement purchasers (investors) by viatical settlement providers;

- Allows a viatical settlement purchaser to void a viatical settlement purchase agreement at anytime within 3 days after receipt of disclosures;
- Clarifies the regulation of viatical settlement agreements and contracts involving Florida residents and residents of other states;
- Allows for a 2-year contestability period for viaticated policies which provides that a viatical settlement contract would be void and unenforceable if it is entered into within the 2-year period from the date the policy was issued and provides for certain exceptions;
- Provides that during the 2-year contestability period, if a viatical settlement provider transfers ownership or changes the beneficiary of the insurance policy, the provider must notify the insured of such transfer or change within 20 days after the transfer in ownership of change in beneficiary. Alternatively, if the owner of the policy is not the insured, the provider shall notify the insured that the policy is the subject of a viatical settlement contract within 20 days after the transfer of rights under the contract. Further, the bill requires providers to notify insurance companies within 20 days of any agreement to viaticate the policy or 20 days after the viator transfers the policy, that a life insurance policy has or will become a viaticated policy;
- Requires licensees to maintain books and contracts at a specified location and requires such information to be made available to the department;
- Mandates that certain viatical transaction forms be submitted to the department for approval;
- Requires viatical settlement providers and brokers to file viatical anti-fraud plans with the Fraud Division within the department by December 1, 2000;
- Authorizes department regulation over viatical settlement transactions relating to administrative remedies, unauthorized insurers, and criminal investigations; and
- Provides a grace period for unlicensed viatical settlement providers or brokers to become licensed.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House 113-0*

## CS/SB 2130 — Public Deposits

by Banking & Insurance Committee and Senator Rossin

The Treasurer is responsible for keeping all state funds and securities and investing excess funds in qualified public depositories. The Treasurer is also responsible for establishing qualifications in order to designate banks and savings and loan associations as qualified public depositories, pursuant to ch. 280, F.S. A qualified public depository is required to collateralize a specified portion of the public monies on deposit so that the designated portion of the public deposits is immediately available should the need arise. Effective October 1, 1998, legislation was enacted, relating to the Uniform Commercial Code, which affected the Treasurer's security interest in pledged collateral held.

The Department of Banking and Finance is responsible for regulating state banks or associations with trust departments and trust companies under the provisions of ch. 660, F.S. However, every trust company and every state or national bank or state or federal association having trust powers is required to provide the Treasurer with a security deposit or pledge of security.

The bill changes provisions relating to the qualified public depository program and security deposits by trust companies and banks and associations with trust powers as follows:

- Revises the qualified public deposit program to add specific language to the collateral agreements used in the program in order for the Treasurer to have a priority perfected security interest in the collateral pledged, in accordance with changes enacted in the Uniform Commercial Code. In addition, the bill identifies triggering events which allow the Treasurer to assert that a default has occurred under the collateral agreement and to direct the custodian to deposit or transfer the collateral.

- Provides two additional requirements designed to better protect the public deposit program. Each qualified public depository is required to have a minimum of $100,000 collateral. Also, 20 percent additional collateral is required if the qualified public depository, due to hardship reasons, cannot price their portfolio on the last day of the month. This provision allows the Treasury to have adequate collateral pledged without the qualified public depository having to incur the expense of an additional pricing.

- Eliminates Federal Home Loan Bank time deposits and negotiable certificates of deposit as acceptable collateral types. The Federal Home Loan Bank time deposits are eliminated because the Treasurer is unable to perfect the security interest. Negotiable certificates of deposit are eliminated because it is unused collateral type and causes confusion with the nonnegotiable certificates of deposit that are not eligible as collateral.

- Excludes Federal Reserve banks from the standard collateral agreement, due to unacceptable provisions (including liability for the state and the waiver of sovereign rights) and establishes the possibility of entering into a separate agreement, with the approval of the Treasurer, that may require terms that are not consistent with qualified public depository program.

- Requires a trust company, bank, or association to provide the Treasurer with the following written information: (1) the full legal name of the entity; (2) the employer identification number; (3) the principal place of business; and (4) the amount of capital stock and amount of required collateral.

- Limits the security deposit or pledge for each trust company, bank or association having trust powers to $500,000. Currently, if an entity with trust powers has its principal place of business in Florida the security requirement may not exceed $500,000. Generally, an entity that does not have its principal place of business in Florida must provide a security deposit or pledge in the amount of 25 percent of the issued and outstanding capital stock.

- Authorizes each trust company, bank, or association as pledgor, with the approval of the Treasurer to deposit eligible collateral with a custodian. The custodian must not be affiliated or related to the trust company, bank, or association.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House 117-0*

## HEALTH INSURANCE/HEALTH MAINTENANCE ORGANIZATIONS

### CS/CS/CS/SB 414 — State Group Health Insurance Program and Prescription Drug Program

by Fiscal Policy Committee; Governmental Oversight & Productivity Committee; Banking & Insurance Committee; and Senators Mitchell, Clary, Rossin, McKay, and Latvala

This bill provides that it is the Legislature's intent to expand the eligibility of state group health insurance and state employees' prescription drug coverage program to include small municipalities, small counties, and district school boards of small counties. A small county is defined to mean a county with a population of 100,000 or less and a small municipality is defined to mean a municipality with a population of 12,500 or less. Any costs or savings associated with the expansion of the state group health insurance program or the state employees' prescription drug coverage program would be passed on to the local government participants.

The Department of Management Services is required to contract with a third party to conduct an actuarial study to evaluate the costs of allowing such local governments to participate in the state group health insurance program and the prescription drug coverage program. The study will identify the costs based on the impact to the state, state officers and employees, and local government participants. The department is required to submit a report to the President of the Senate, Speaker of the House of Representatives, and the Governor by December 1, 2000. For purposes of conducting the study, a minimum

enrollment of 3 years and a minimum of 12 months notice prior to withdrawing from the program must be considered for the eligibility of local governments to enroll.

The Department of Management Services is also required to request from the Internal Revenue Service, by October 1, 2000, a written determination letter and a favorable private letter ruling stating that the State Group Self-Insurance Program is a facially qualified plan. The department is required to notify the President of the Senate and the Speaker of the House of Representatives within 30 days of receipt of a favorable or unfavorable ruling letter from the Internal Revenue Service.

The bill also revises the provisions relating to the state group health insurance dental program, to provide that any solicitation or contract made after July 1, 2001, must include a comprehensive indemnity dental plan option which offers enrollees an unrestricted choice of dentists.

If approved by the Governor, these provisions take effect upon becoming law, except that section 1 will take effect July 1, 2001.
*Vote: Senate 37-0; House 119-0*

### SB 828 — Insurance/Medicare Supplement Policy

by Senator Grant

This bill redefines the term, "Medicare supplement policy," for purposes of the Florida Medicare Supplement Reform Act, (ss. 627.671 - 627.675, F.S.) to exclude from regulation under part VIII of ch. 627, F.S., a policy or plan of one or more labor organizations, or trustees of a fund established by labor organizations for employees or former employees, or members or former members. Policies issued in Florida are still subject to other provisions of the Insurance Code. Such policies or plans issued outside of Florida which cover Florida residents are exempt from any regulation by the Florida Department of Insurance. The bill changes the Florida definition of "Medicare supplement policy" to more closely follow the federal definition contained in 42 U.S.C. 1395ss, subpart (g)(1) and the National Association of Insurance Commissioners (NAIC) model law and regulations, except that federal law and the NAIC also exclude policies issued by employer groups from the definition of Medicare supplement policy.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House 111-0*

## CS/SB 1300 — Employee Health Care Access Act

by Banking & Insurance Committee and Senator Holzendorf

The current Employee Health Care Access Act in s. 627.6699, F.S., requires insurers in the small group market to guarantee the issue of coverage to any small employer with 1 to 50 employees, including sole proprietors and self-employed individuals, regardless of their health condition. Rates for such policies must be established on a "modified community rating" basis, which prohibits consideration of health status or claims experience, and allows only age, gender, geographic location, tobacco usage, and family composition (size) to be used as rating factors.

This bill makes the following changes:

1. Eliminates the prohibition that rates not be based on the health status or claims experience of any individual or group and allows limited use of such factors. Small group carriers are allowed to adjust a small employer's rate by plus or minus 15 percent, based on health status, claims experience, or duration of coverage. The renewal premium may be adjusted up to 10 percent annually (up to the total 15 percent limit) of the carrier's approved rate, based on these additional factors.

2. Deletes the guaranteed-issue requirements for employers with one employee, sole proprietors, and self-employed individuals and, instead, provides for an annual open enrollment period for such persons, during the month of August. Coverage would begin on October 1, unless the insurer and the policyholder agree to a different date. Any one-person small employer getting coverage must not be formed primarily for the purposes of buying health insurance and if an individual hires his or her spouse and dependent children as employees, the entire family unit would be considered a one-person group, unless both spouses are working full-time. (Although this bill provides for the 1-month open enrollment to begin in August 2000, another bill, CS/CS/HB 591, delays the implementation of this provision until August 2001, and continues to provide for guaranteed-issue of one life groups until such time.)

3. Allows small group carriers to provide a credit to reflect the administrative and acquisition expense savings resulting from the size of the group. This is expected to result in about a 3 to 5 percent credit for larger groups (for example, 25 to 50 employees), and be transferred as an overall cost increase to the smaller groups.

4. Prohibits small group carriers from using "composite rating" for employers with fewer than 10 employees, which would prohibit a premium statement to an employer that averages the rates for all employees and, instead, would require the

carrier to list the rate applicable to each employee based on that employee's age and gender. (But, the total premium remains unchanged.)

5. Specifies certain family-size categories that small group carriers may use.

6. Clarifies the applicability of additional rate filing procedures and standards for insurers and HMOs, respectively.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House 112-5*

### CS/CS/CS/SB 1508 and CS/SB's 706 & 2234 — Managed Care Organizations

by Fiscal Policy Committee; Health, Aging & Long-Term Care Committee; Banking & Insurance Committee; and Senators Brown-Waite, Laurent, and Saunders

The 1999 Florida Legislature authorized the Director of the Agency for Health Care Administration (AHCA or "the agency") to establish the Advisory Group on the Submission and Payment of Health Claims to prepare recommendations on prompt payment of health claims and related issues. The Advisory Group issued its report and recommendations on February 1, 2000. The bill makes the following changes, based on these recommendations and subsequent discussions among the bill sponsors and affected parties:

1. The bill requires health maintenance organizations (HMOs) to pay a claim for treatment if a provider follows the HMO's authorization procedures and receives authorization for a covered service for an eligible subscriber, unless the provider submitted information to the HMO with the intent to misinform the HMO. The bill also requires HMOs to pay a hospital-service claim or referral-service claim for treatment of an eligible subscriber which was authorized by a provider empowered by contract with the HMO to authorize or direct the patient's utilization of health care services and that was also authorized in accordance with the HMO's current and communicated procedures, unless the physician provided information to the HMO with the willful intention to misinform the HMO.

2. The Statewide Provider and Managed Care Organization Claim Dispute Resolution Program is created. The agency must contract with an independent third-party claims dispute resolution organization to recommend to the agency an appropriate resolution of disputes between a managed care organization and providers with regard to claim disputes in violation of the prompt payment statute, s. 641.3155, F.S., subject to a final agency.

The bill prohibits the claims dispute resolution organization from hearing any claim that is subject to a binding claims dispute resolution process provided by contract entered into prior to October 1, 2000, between the provider and the managed care organization. Contracts entered into or renewed on or after October 1, 2000, may require exhaustion of an internal dispute-resolution process as a prerequisite to the submission of a claim by a provider or HMO to the resolution organization. Other exclusions include claims related to interest payments, claims that do not meet the jurisdictional thresholds established by AHCA rule, disputes based on any action that is pending in state or federal court, and claims related to Medicare and Medicaid. A provider or HMO would not be permitted to file a claim dispute with the resolution organization more than 12 months after a final determination has been made on a claim by an HMO.

The agency would be required to adopt rules to establish a process for the consideration by the resolution organization of claims disputes, which must include the issuance of a written recommendation to AHCA, supported by findings of fact, within 60 days after receipt of the claims dispute submission. Within 30 days after receipt of the recommendation of the resolution organization, AHCA must issue a final order. The bill does not specify the allowable scope of the recommendations by the review organization, other than to recommend "an appropriate resolution of the dispute." The bill also does not specify what actions or penalties may be ordered by AHCA against either the managed care entity or the provider.

The entity that does not prevail in the agency's order must pay a review cost to the review organization as determined by agency rule which must include an apportionment of the fee in those cases where both parties may prevail in part.

3. HMOs are required to provide treatment authorization 24 hours a day, 7 days a week. Requests for treatment authorization may not be held pending by the HMO unless the requesting provider contractually agrees to take a pending or tracking number.

4. The bill clarifies the "balance billing" provisions, transferring related provisions from s. 641.315, F.S., to newly created s. 641.3154, F.S., and: (1) prohibiting a provider from collecting or attempting to collect from a subscriber any money for services authorized by an HMO when the provider in good faith knows or should know that the HMO is liable for payment of fees for services, (subject to the presumption in the paragraph, below); (2) prohibiting a provider from billing the subscriber during the pendency of any claim for payment and during any legal or dispute resolution process; (3) prohibiting a provider from reporting a subscriber to a credit agency for unpaid claims due from an HMO; (4) specifying that these

prohibitions apply to both contracted and noncontracted providers rendering covered services; and (5) requiring HMOs and the Department of Insurance to refer violations by physicians and facilities to the appropriate regulatory agency for final disciplinary action.

A presumption is created that a provider does not know and should not know that an organization is liable, *unless* one of the following three conditions exists: (1) the provider is informed by the HMO that it accepts liability; (2) a court determines that the HMO is liable; or (3) the Department of Insurance or AHCA makes a final determination that the HMO is required to pay for such services subsequent to a recommendation made by the Statewide Provider and Subscriber Assistance Panel.

5. The requirements of s. 641.3155, F.S., related to payment of provider claims by HMOs (often referred to as the "prompt pay" requirements) are applied to claims made by either contracted *or noncontracted* providers. The requirement for an HMO to pay claims within 35 days of receipt, would be limited to a "clean claim" or any portion of a clean claim filed by a provider. "Clean claim" is defined by reference to specific claim forms, which definition is repealed when a definition is adopted by rule by the Department of Insurance, which must be consistent with federal standards required by the federal Health Care Financing Administration.

   The bill clarifies that the current 10 percent annual simple interest penalty on a claim against an HMO begins to accrue on the 36th day after the clean claim has been received, and requires that the interest be payable with the payment of the claim. With regard to the current law requirement that an HMO pay or deny a claim within 120 days after receiving the claim, the bill provides that an HMO's failure to meet this deadline imposes an uncontestable obligation on the HMO to pay the claim.

   The bill amends s. 641.3155(5), F.S., to require an HMO to file a claim against a provider for an overpayment and prohibits the HMO from reducing payment to the provider, unless the provider agrees to the reduction or fails to respond to the HMO's claim within specified time frames. The time frames and requirements in subsection (5) that apply to HMO claims against providers, mirror the time frames and requirements that apply to provider claims against HMOs provided in subsections (2)-(4).

   Both provider claims and HMO claims for overpayment are deemed to be *received* when receipt is verified electronically, if the claim is electronically transmitted, or, if the claim is mailed to the address disclosed by the HMO, on the date indicated on the return receipt. An HMO and a provider may agree to other

methods of transmission and receipt of claims. Providers and HMOs are required to wait 45 days after receipt of a claim, by the other party, before submitting a duplicate claim. Providers who bill electronically are entitled to electronic acknowledgment of receipts of claims within 72 hours.

An HMO is prohibited from retroactively denying a claim due to subscriber ineligibility more than 1 year after the date of payment of the clean claim.

6. The bill prohibits as an unfair claim settlement practice, an HMO committing or performing with such frequency as to indicate a general business practice, systematic downcoding with the intent to deny reimbursement otherwise due.

7. The bill authorizes AHCA to impose fines against hospitals and other regulated facilities for a violation of the "balance billing" prohibitions of s. 641.3154, F.S., or a violation of s. 641.3155(5), F.S., related to payment of claims for overpayment made by an HMO, if sufficient claims do not exist to enable the take-back of an overpayment. Maximum fines are the same maximum fines that AHCA may impose against HMOs for violation of any provision of part III of ch. 641, F.S.

8. In addition to any other provision of law, systematic upcoding by a provider, with the intent to obtain reimbursement otherwise not due from an insurer is punishable by fines in the same amounts as the fines that may be imposed against an HMO for a violation of ch. 641, F.S.

9. The bill amends the current criminal fraud statute which currently makes it a second degree misdemeanor for a person to fraudulently obtain goods or services from a hospital, to also cover the fraudulent obtaining of goods or services from any "provider," as defined in the HMO laws in s. 641.19(15), F.S.

10. The amount of $38,928 is appropriated from the Health Care Trust Fund and one position to the Agency for Health Care Administration for the purposes of carrying out the provisions of the act during the FY 2000-2001.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 39-0; House 115-0*

## CS/SB 2086 — Small Employer Health Alliances

by Banking & Insurance Committee and Senator King

This bill repeals the laws that establish the Community Health Purchasing Alliances (CHPAs) in ss. 408.70-408.706, F.S. In 1993, the Florida Legislature established CHPAs as state-chartered, nonprofit private organizations, intended to pool purchasers of health care together in organizations that broker health plans. The number of persons insured through CHPAs has steadily decreased from about 94,000 at the end of 1998 to about 35,000 in February 2000. Only seven insurance carriers are currently actively participating in CHPAs, as compared to 25 carriers that participated in 1998.

This bill authorizes a health insurer to issue a group policy to a small employer health alliance organized as a not-for-profit corporation under chapter 617, F.S. This would include former CHPAs that continue to operate as a not-for-profit corporation, or any other alliance so organized. The alliance may be formed for purposes of obtaining insurance. Currently, s. 627.654, F.S., authorizes a group policy to be issued to an association or labor union, which has a constitution and bylaws, has at least 25 members, and which has been organized and maintained in good faith for a period of 1 year for purposes *other* than that of obtaining insurance.

The group policy issued to the alliance may insure a small employer, as defined in s. 627.6699, F.S., which is an employer with 1 to 50 employees, including sole proprietors and self-employed individuals. The policy may cover the employer's eligible employees and the spouses and dependents of such employees.

This bill amends s. 627.6699, F.S., to: (1) allow rates for a policy issued to an alliance or association to reflect a premium credit for expense savings attributable to administrative activities being performed by the group association; (2) allow an insurer to modify the rate one time prior to 12 months after the initial issue date for a small employer who enrolls under a previously issued group policy that has a common anniversary date for all employers; and (3) delete the provision that allows carriers that participate in CHPAs to apply a different community rate to business written in that program.

An insurer issuing a group health insurance policy to an alliance or other group association must allow any of its licensed and appointed agents to sell that policy and to pay the agent the insurer's usual and customary commission paid to any agent selling the policy.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 40-0; House 118-0*

## CS/HB 2339 — Comprehensive Health Care (Patient Protection Act of 2000)

by General Appropriations Committee, Rep. Feeney and others (CS/CS/CS/SB 2154, CS/SB 1900, and SB 282 by Fiscal Policy Committee; Health, Aging & Long-Term Care Committee; Banking & Insurance Committee; and Senators Latvala, Brown-Waite, Silver, Geller, Kurth, Dawson, Klein, and Cowin)

This bill is designated the Patient Protection Act of 2000 (in Section 1) and contains the following provisions:

***Certificate of Need (Sections 2-15 and 59)***

The bill amends the Certificate of Need (CON) statutes by identifying additional types of projects subject to *expedited* rather than *competitive* CON review. These projects include conversion of mental health services beds or hospital-based distinct part skilled nursing unit beds to acute care beds, conversion between or among the categories of mental health services beds, and conversion of acute care beds to mental health services beds.

Additionally, certain projects that are currently subject to expedited review are made subject to the minimal level of review under CON regulation, that is, *exemption* review. These include combination within one nursing home of the beds authorized by two or more CONs within the same planning subdistrict; division into two or more nursing homes in the same planning subdistrict of the beds authorized by a CON. The bill, also, creates some new exemption-level review projects:

1. Addition of hospital beds in a number not to exceed 10 beds or 10 percent of the licensed capacity of the service being expanded, except beds for specialty burn units, neonatal intensive care units, or comprehensive rehabilitation, and provided there was a prior 12-month occupancy of at least 80 percent in that service or at least 96 percent for hospital-based distinct part skilled nursing units.

2. Addition of temporary acute care hospital beds, as authorized by AHCA's administrative rules that are consistent with the hospital licensure law, in a number not exceeding 10 beds or 10 percent of the licensed bed capacity, whichever is greater, in a hospital that has experienced high seasonal occupancy within the prior 12-month period or in a hospital that must respond to emergency circumstances.

3. Addition of nursing home beds in a number not exceeding 10 beds or 10 percent of the licensed capacity of beds at the nursing home, whichever is greater, provided that the facility has been designated a Gold Seal nursing home, pursuant

to s. 400.235, F.S., and there was a prior 12-month occupancy of at least 96 percent.

4. Establishment of a specialty hospital offering a range of medical service restricted to a defined age or gender group of the population or a restricted range of services appropriate to the diagnosis, care, and treatment of patients with specific categories of medical illnesses or disorders, through the transfer of beds and services from an existing hospital in the same county. (However, see section 69 of CS/HB 591, passed by the Legislature after this bill, which provides that notwithstanding any provision to the contrary contained in CS/HB 2339, the establishment of a specialty hospital offering a range of medical services restricted to a defined age or gender group of the population or a restricted range of services appropriate to the diagnosis, care, and treatment of patients with specific categories of medical illnesses or disorders, through the transfer of beds and services from an existing hospital in the same county, is not exempt from the provisions of s. 408.036(1), F.S.)

CON oversight is eliminated by this bill for provision of respite care, expenditure for outpatient services, Medicare certified home health agencies, acquisitions, and cost overruns. The bill also provides a significant reduction and clarification of the review criteria used to evaluate applications for a CON and removes other obsolete provisions.

The bill creates a CON workgroup consisting of 30 members appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives, to include representatives from health care provider organizations, health care facilities, individual health care practitioners, local health councils, consumer organizations, and persons with health care market expertise as a private-sector consultant. The workgroup is to study issues pertaining to the CON program, including the impact of trends in health care delivery and financing. The workgroup is to submit an interim report by December 31, 2001, and a final report by December 31, 2002. The workgroup is abolished on July 1, 2003.

***Public Medical Assistance Trust Fund (Sections 16-17 and 20-22)***

The bill reduces from 1.5 percent to 1.0 percent the assessment on the portion of hospitals' net operating revenues generated by outpatient services, and for the assessment on ambulatory surgical centers, clinical laboratories, and diagnostic imaging centers. In order to prevent the loss of federal matching funds, the bill requires the Legislature to appropriate in each fiscal year from either the General Revenue Fund or the Agency for Health Care Administration Tobacco Settlement Fund sufficient funds to replace the revenue lost from reducing these assessments. This bill appropriates $28.3 million from the General Revenue Fund to the Agency for Health Care Administration to implement

the provisions relating to the Public Medical Assistance Trust Fund; provided however, that no portion of the appropriation shall become effective if a duplicative appropriation in another bill becomes law.

***Medicaid and MedAccess (Sections 18-19 and 47-59)***

The bill addresses a number of different Medicaid topics and related budget issues, including increasing the annual adult hospital outpatient services cap from $1,000 to $1,500; providing for a children's hospital disproportionate share program; authorizing the Department of Children and Family Services to transfer funds to the Agency for Health Care Administration (AHCA) to cover state match requirements exceeding the amount specified in the General Appropriations Act for targeted case management services; providing greater authority to AHCA to deny a Medicaid provider agreement and to set surety bond requirements for Medicaid providers; directing AHCA to submit a Medicaid waiver request for a pilot project specific to adult ventilator dependent patients; authorizing developmental research schools to participate in the Medicaid certified school match program; designating the Department of Children and Family Services as the agency responsible for Medicaid eligibility determinations for Supplemental Security Income recipients, including rulemaking authority; providing for the ongoing adjustment in optional state supplementation based on the federal benefits rate, rather than re-authorizing such adjustments in each year's General Appropriations Act; and providing that funds that are appropriated to the Department of Elderly Affairs for the Assisted Living for the Elderly Medicaid waiver and are not expended shall be transferred to AHCA to fund Medicaid-reimbursed nursing home care.

The bill repeals s. 409.912(4)(b), F.S., relating to AHCA's ability to contract for prepaid health care services with entities that provide only Medicaid services on a prepaid basis, and which are exempt from ch. 641, part I, F.S.

The bill increases the annual reimbursement limit from $1,000 to $1,500 on hospital outpatient services for persons receiving health care services through the MedAccess Program.

The bill provides authority for the Agency for Health Care Administration to contract with an entity in Pasco or Pinellas County that provides in-home physician services to Medicaid recipients with degenerative neurological diseases, in order to test the cost-effectiveness of enhanced home-based medical care. The reimbursement for such services must be at a rate not less than comparable Medicare rates. The agency is authorized to apply for any federal waivers necessary to implement the program. The program will be repealed on July 1, 2002.

***Hospitalists (Sections 23-25)***

The bill amends ss. 641.31, 641.315, and 641.3155, F.S., to address the use of "hospitalists" by health maintenance organizations (HMOs):

- Provides that an HMO contract may not prohibit or restrict a subscriber from receiving in-patient services in a contracted hospital from a contracted primary care or admitting physician.

- Prohibits a contract between an HMO and a contracted primary care or admitting physician from containing any provision prohibiting such physician from providing inpatient services in a contracted hospital to a subscriber.

- Requires an HMO to pay a contracted primary care or admitting physician, pursuant to such physician's contract, for providing inpatient services in a contracted hospital to a subscriber.

In order for these provisions to apply, inpatient services must be determined by the HMO to be medically necessary and covered services under the organization's contract with the contract holder. These provisions apply to provider contracts entered into or renewed on or after July 1, 2000.

***Adverse Determinations by Health Maintenance Organizations (Section 26)***

The bill requires health maintenance organizations (HMOs) to ensure that only a medical or osteopathic physician licensed in Florida or who has an active, unencumbered license in another state with similar licensing requirements, may render an adverse determination regarding services provided by a Florida-licensed physician.

The HMO must submit to the treating provider and the subscriber written notification regarding the HMO's adverse determination within 2 working days after the subscriber or provider is notified of the adverse determination. The written notification must: (1) identify the physician making the adverse determination, (2) include the utilization review criteria or benefits provisions on which the adverse determination is based, (3) be signed by either the physician who renders the adverse determination or by an authorized representative of the HMO, and (4) include information about the appeal process for challenging adverse determinations.

***Reducing Racial and Ethnic Health Disparities (Sections 27-32)***

The bill creates s. 381.7351, F.S., creating the "Reducing Racial and Ethnic Health Disparities: Closing the Gap Act," consisting of newly created ss. 381.7351-381.7356, F.S. The bill provides legislative findings and intent that recognizes that certain racial and ethnic populations in Florida continue to have significantly poor health outcomes, and acknowledges that local governments and communities are best equipped to identify the health education, health promotion, and disease prevention needs of the racial and ethnic populations in those communities, and to mobilize the community to address these disparities and evaluate the effectiveness of the outcomes. The bill provides for administration of a grant program (program) by the Department of Health and authorizes the appointment of an ad hoc advisory committee. The bill provides criteria and procedures for awarding grants to local individuals, entities, and organizations to address the disparities in racial and ethnic health outcomes. It requires local matching funds, allows for in-kind contributions based on county population, and provides for dissemination of 1-year grant awards beginning no later than January 1, 2001, subject to specific appropriation and annual applications for grant renewal.

***Florida Commission on Excellence in Health Care (Sections 33 and 61)***

This bill creates the Florida Commission on Excellence in Health Care based on the proposal by the Department of Health and the Agency for Health Care Administration to facilitate the development of a comprehensive statewide strategy for improving health care delivery systems through meaningful reporting standards, data collection and review, and quality measurement. The Commission will also study whether the current practitioner and facility regulatory systems are effective in promoting patient safety. A report to the Legislature is due no later than February 1, 2001.

The Commission will be jointly chaired by the Secretary of the Department of Health and the Executive Director of the Agency for Health Care Administration. Membership on the Commission includes representatives from all facets of health care, including the regulatory boards and agencies, health care practitioner trade associations, health facility trade organizations, managed care organizations, risk management organizations, health care lawyer organizations, professional liability insurance industry, consumer advocacy organizations, and the Legislature. The Commission will be staffed by employees of the Department of Health and the Agency for Health Care Administration. The Commission is terminated June 1, 2001.

The bill appropriates $91,000 in nonrecurring general revenue from the General Revenue Fund to the Department of Health to cover the costs of the Commission relating to travel, consultants, and reproduction and dissemination of documents; provided that no duplicate appropriation becomes law.

***Small Employer Health Alliance (Sections 34-43, 46, and 60)***

The bill repeals the laws that establish the Community Health Purchasing Alliances (CHPAs) in ss. 408.70-408.706, F.S. In 1993, the Florida Legislature established CHPAs as state-chartered, nonprofit private organizations, intended to pool purchasers of health care together in organizations that broker health plans. The number of persons insured through CHPAs has steadily decreased from about 94,000 at the end of 1998 to about 35,000 in February 2000. Only seven insurance carriers are currently actively participating in CHPAs, as compared to 25 carriers that participated in 1998.

The bill authorizes a health insurer to issue a group policy to a small employer health alliance organized as a not-for-profit corporation under ch. 617, F.S. This would include former CHPAs that continue to operate as a not-for-profit corporation, or any other alliance so organized. The alliance may be formed for purposes of obtaining insurance. Currently, s. 627.654, F.S., authorizes a group policy to be issued to an association or labor union, which has a constitution and bylaws, has at least 25 members, and which has been organized and maintained in good faith for a period of 1 year for purposes *other* than that of obtaining insurance.

The group policy issued to the alliance may insure a small employer, as defined in s. 627.6699, F.S., which is an employer with 1 to 50 employees, including sole proprietors and self-employed individuals. The policy may cover the employer's eligible employees and the spouses and dependents of such employees.

The bill amends s. 627.6699, F.S., to: (1) allow rates for a policy issued to an alliance or association to reflect a premium credit for expense savings attributable to administrative activities being performed by the group association; (2) allow an insurer to modify the rate one time prior to 12 months after the initial issue date for a small employer who enrolls under a previously issued group policy that has a common anniversary date for all employers; (3) delete the provision that allows carriers that participate in CHPAs to apply a different community rate to business written in that program; and (4) requires a carrier issuing a group health insurance policy to an alliance or other group association to allow any of its licensed and appointed agents to sell that policy and to pay the agent the insurer's usual and customary commission paid to any agent selling the policy.

Conforming changes are made to s. 240.2995, F.S., relating to university health services support organizations, s. 240.2996, F.S., providing for confidentiality of information held by university health services support organizations, s. 240.512, F.S., establishing the H. Lee Moffitt Cancer Center and Research Institute, s. 381.0406, F.S., providing for rural health networks, s. 395.3035, F.S., relating to confidentiality of certain hospital records and meetings, and s. 627.4301, F.S., relating to genetic information for insurance purposes, to delete cross-references to sections that are repealed by section 60 of the bill.

The bill amends s. 408.7056, F.S., relating to the Statewide Provider and Subscriber Assistance Program, to move the definitions of the terms "agency," "department," "grievance procedure," and "health care provider" from s. 408.701, F.S., which is repealed. Additionally, ss. 240.2996, 240.512, and 395.3035, F.S., providing for exemptions from the public records laws, are amended to add a definition of *managed care*, which is the same definition that is in s. 408.701, F.S., which is repealed.

***HMO Subscriber Protections and Consumer Assistance Notice (Sections 44- 45)***

The bill creates s. 641.185, F.S., to provide standards to be followed by the Department of Insurance and the Agency for Health Care Administration in exercising their powers and duties, in exercising administrative discretion, in administrative interpretations of the law, in enforcing its provisions, and in adopting rules relating to health maintenance organizations. For this purpose, the bill summarizes various statutory requirements that apply to HMOs related to ensuring that subscribers are rendered quality care from a broad panel of providers, including referrals and emergency care; assurance that the HMO has been independently accredited by a national review organization and is financially secure; that a subscriber should receive continuity of health care after the provider is no longer with the HMO; that a subscriber should receive information regarding reimbursement to providers; that a subscriber should have the flexibility to transfer to another HMO regardless of health status; and various other subscriber protections afforded by current statutes. The bill specifies that this section does not create a cause of action against a health maintenance organization by a patient or health care provider.

The bill creates s. 641.511(11), F.S., to require health care providers who contract with health maintenance organizations to post a consumer notice in the reception area of the provider which provides the addresses and telephone numbers of the Agency for Health Care Administration, the Statewide Provider and Subscriber Assistance Program, and the Department of Insurance. The bill requires the provider to include in the notice that the addresses and telephone numbers of the grievance department of the organization will be provided upon request. Rulemaking authority is granted to the Agency for Health Care Administration to implement this section.

***Employee Health Care Access Act (Small Group Rating and Guarantee-Issue) (Section 46)***

The current Employee Health Care Access Act in s. 627.6699, F.S., requires insurers in the small group market to guarantee the issue of coverage to any small employer with 1 to 50 employees, including sole proprietors and self-employed individuals, regardless of their health condition. Rates for such policies must be established on a "modified community rating" basis, which prohibits consideration of health status or claims

experience, and allows only age, gender, geographic location, tobacco usage, and family composition (size) to be used as rating factors.

The bill makes the following changes:

- Eliminates the prohibition that rates not be based on the health status or claims experience of any individual or group and allows limited use of such factors. Small group carriers would be allowed to adjust a small employer's rate by plus or minus 15 percent, based on health status, claims experience, or duration of coverage. The renewal premium could be adjusted up to 10 percent annually (up to the total 15 percent limit) of the carrier's approved rate, based on these additional factors.

- Deletes the guaranteed-issue requirements for employers with one employee, sole proprietors, and self-employed individuals and, instead, provides for an annual open enrollment period for such persons, during the month of August. Coverage would begin on October 1, unless the insurer and the policyholder agree to a different date. Any one-person small employer getting coverage must not be formed primarily for the purposes of buying health insurance and if an individual hires his or her spouse and dependent children as employees, the entire family unit would be considered a one-person group, unless both spouses are working full-time. (See, CS/HB 591, passed by the Legislature subsequent to this bill, which continues guarantee-issue for one-life groups through July 2001 and begins the 30-day annual open enrollment in August 2001.)

- Allows small group carriers to provide a credit to reflect the administrative and acquisition expense savings resulting from the size of the group. This is expected to result in about a 3 to 5 percent credit for larger groups (for example, 25 to 50 employees), and be transferred as an overall cost increase to the smaller groups.

- Prohibits small group carriers from using "composite rating" for employers with fewer than 10 employees, which would prohibit a premium statement to an employer that averages the rates for all employees and, instead, would require the carrier to list the rate applicable to each employee based on that employee's age and gender. (But, the total premium remains unchanged.)

- Specifies certain family-size categories that a small group carriers may use.

- Clarifies the applicability of additional rate filing procedure and standards for insurers and HMOs, respectively.

(See additional changes to s. 627.6699, F.S., related to the Small Employer Health Alliance, above.)

***Mandated Benefits Study (Section 62)***

The bill appropriates $200,000 from the Insurance Commissioner's Regulatory Trust Fund to the Office of Legislative Services for the purpose of implementing the legislative intent expressed in s. 624.215(1) for a systematic review of current mandated health coverages. The review would consist of an assessment of the impact of current mandated coverages using the guidelines provided in s. 624.215(2), F.S. The assessment shall also establish the aggregate cost of mandated health coverages. (See, CS/HB 591, passed by the Legislature subsequent to this bill, which specifies that notwithstanding any other provision of law, the $200,000 appropriation is for a review of proposed, rather than current, mandated benefits, and which specifies that the term "mandated coverage" does not include health care providers.)

***Appropriation to AHCA (Section 63)***

The bill provides that the General Appropriations Act for FY 2000-2001 shall be reduced by 4 full-time equivalent positions and $260,719 from the Health Care Trust Fund in the Agency for Health Care Administration for purposes of implementing the provisions of this act; provided however, that the reductions shall not be effective if duplicate or similar reductions also become law.

If approved by the Governor, these provisions take effect July 1, 2000, except as otherwise provided.
*Vote: Senate 23-15; House 108-8*

## INSURANCE AGENTS/ADJUSTERS

### CS/SB 106 — Insurance Policy Sales and Delivery Procedures

by Banking & Insurance Committee and Senator Mitchell

This bill amends several sections of the Insurance Code which relate to the resident agent and countersignature provisions (s. 624.426, F.S.), the use of a credit card under the unfair competition and deceptive acts law (s. 626.9541, F.S.), and the provisions relating to motor vehicle insurance contracts (s. 627.7295, F.S.).

***Resident Agent and Countersignature Law***

The bill provides an exception to the current requirement that any policy of property, casualty, or surety insurance covering a subject of insurance located or to be performed in Florida, must be countersigned by a licensed agent who is a Florida resident. Under the exception, insurance policies could be issued by insurers whose agents represent, as to

property, casualty, and surety insurance, only one company or group of companies under common ownership and for which a Florida resident agent is the agent of record and the application has been lawfully submitted to the insurer. Therefore, this exception to the countersignature law would not apply to policies sold by insurers that use independent agents who sell policies for various companies.

***Unfair Methods of Competition and Unfair or Deceptive Acts***

The bill revises the criteria under which property and casualty insurance may be sold through the use of a credit card. Under the unfair competition and deceptive acts law, there is a general prohibition against any person soliciting any insurance, accepting any applications for insurance, or receiving any premiums for insurance relative to a subject of insurance resident, located, or to be performed in Florida through a credit card facility or organization, for the purpose of insuring credit card holders. However, the current law also has certain exceptions. One exception is that this prohibition does not apply as to health insurance or to credit life, credit disability, or credit property insurance. Another exception is that such insurance may be sold through a credit facility if: (a) the insurance is noncancelable by any person other than the named insured, the policyholder, or the insurer; (b) any refund or unearned premium is made directly to the credit card holder; and (c) the credit card transaction is authorized by the signature of the credit card holder or other person authorized to sign on the credit card account.

This bill provides that the condition specified in (c), above, does not apply to property and casualty insurance so long as the transaction is authorized by the insured. This would allow for verbal authorization (over the telephone, for example) rather than written authorization as currently required.

***Motor Vehicle Insurance Contracts***

The bill provides an exception to the requirement of making a down payment equal to at least 2 months' premium for motor vehicle insurance. The exception would apply if an insured or family member has previously purchased and has in effect a policy of private passenger motor vehicle insurance, and purchases either additional coverage or adds coverage for an additional vehicle, with such coverage written by the same insurer or a member of the same insurer group.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 40-0; House 115-3*

## CS/HB 785 — Insurance Commission Sharing

by Insurance Committee and Rep. Sublette (CS/SB 314 by Banking & Insurance Committee and Senator Rossin)

This bill amends s. 320.771, F.S., which would prohibit a recreational vehicle dealer or broker who is not a licensed insurance agent from sharing insurance commissions on recreational vehicle insurance by forming a foreign corporation, partnership, or entity which is controlled by a person who is not licensed as an insurance agent. The effect of this bill would create a prohibition against nonresident agents sharing commissions with Florida recreational vehicle dealers or brokers by forming a foreign corporation, partnership, or entity which is controlled by a person not licensed as an insurance agent. The provisions of the bill would be enforced by the Department of Insurance.

Under current law, insurance agents are prohibited from sharing commissions "with any corporation unless such corporation is an insurance agency" (s. 626.753, F.S.).

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 39-0; House 103-0*

## SB 2150 — Insurance Agents-Continuing Education

by Senator Holzendorf

This bill amends s. 626.2815, F.S., and provides that licensed insurance agents who earn continuing education (CE) requirements by completing an independent study program that is presented through interactive, on-line technology would not be required to take a monitored examination. Specifically, subject to the approval by the Department of Insurance, if the on-line independent study course has "sufficient internal testing" to judge the comprehension of the student, the exam would not be required to be monitored. Under this provision, licensed agents would have the opportunity to complete education requirements at a time convenient to them, without having to arrange time to sit for a monitored examination.

Under current law, most licensed insurance agents are required to complete 28 hours of continuing education (CE) courses every 2 years as a requirement for retaining their state license. Continuing education courses are subject to approval by the Department of Insurance and may be completed either through classroom instruction or independent study. Any CE course that is completed through an independent study program must conclude with a monitored examination.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House 117-0*

# INSURANCE/GENERAL

## CS/HB 215 — Stock and Mutual Insurance Companies

by Insurance Committee and Rep. Tullis (CS/SB 182 by Banking & Insurance Committee and Senator Diaz-Balart)

This bill prescribes the factors that directors of a domestic insurance company and a domestic mutual insurance holding company may consider in carrying out their duties. It also authorizes a mutual insurance holding company to merge or consolidate with a foreign mutual insurance company and with other entities. Each of these provisions is described in more detail, below.

The bill amends s. 628.231, F.S., relating to directors of a domestic insurance company, to prescribe the factors that the directors may consider in carrying out their duties. Some of the standards that are listed are substantially the same as the standards that currently apply to the directors of a for-profit Florida corporation, as specified in s. 607.0830(3), F.S. These standards allow the directors to consider such factors as they consider to be relevant, including the long-term prospects and interests of the corporation and its shareholders and the social, economic, legal, or other effects of any action on the employees, suppliers, or policyholders of the corporation or its subsidiaries, the communities and society in which the corporation or its subsidiaries operate, and the economy of the state and nation. The bill makes these standards applicable to the directors of domestic nonprofit mutual insurers, as well as domestic (for profit) stock insurers. The bill also amends s. 628.723, F.S., to prescribe that these same factors may be considered by the directors of a mutual insurance holding company in carrying out their duties.

The bill *adds* standards for directors of a domestic insurer and for directors of a domestic mutual insurance holding company that are *not* standards that currently apply to Florida corporations in s. 627.080, F.S. These added standards allow the directors to also consider the short-term and long-term interests of the insurer, including benefits that may accrue to the insurer from its long-term plans, and the possibility that these interests may be best served by the continued independence of the insurer; the resources, intent, and conduct, past, stated, and potential, of any person seeking to acquire control of the insurer; and any other relevant factors. Since these standards do not apply to Florida corporations generally, they would be uniquely applied to the directors of Florida domestic insurance companies, both stock and mutual, and to directors of a Florida domestic mutual insurance holding company.

The broad nature of the factors may enable the directors to reject an offer by an outside party to acquire the insurer. The directors would be less likely to be liable to stockholders (or policyholders, in the case of a mutual insurer), by rejecting an offer that may be in the best interests of the stockholders (or policyholders), based on other factors that the law would allow the directors to consider.

In 1997, Florida law authorized a new form of domestic insurance corporate organization known as a "mutual insurance holding company." The creation of this corporate form provided an alternative method for a domestic mutual (policyholder-owned) insurance company to convert into a stock (stockholder-owned) insurance company. (ss. 628.701-628.733, F.S.)

At this time, one former mutual insurance company has converted into a mutual insurance holding company, the FCCI Mutual Insurance Holding Company, which has a stock insurance company subsidiary, the FCCI Insurance Company (and an intermediate holding company between these two companies). This domestic insurer is the state's leading writer of workers' compensation insurance.

Converting into a stock insurer significantly enhances an insurer's ability to raise capital, issue debt, and engage in mergers and acquisitions. Prior to 1997, the law allowed a domestic mutual insurance company to convert into a stock insurance company, which remains an option under current law. (s. 628.441, F.S.) This requires approval by the Department of Insurance and requires that the policyholders receive a distribution of cash or stock upon the conversion of the mutual insurer into a stock insurer. A mutual insurance company may alternatively convert into a mutual insurance holding company with a stock insurance company subsidiary, subject to the approval of the department. The policyholders of the former domestic mutual insurance company are not entitled to any distribution of cash or stock upon the conversion, but they become owner-members of the mutual holding company and are insured by the subsidiary stock insurer (and are entitled to a distribution of cash or stock upon liquidation of the holding company).

The bill amends s. 628.715, F.S., relating to mergers and acquisitions involving mutual insurance holding companies. The bill would allow a *mutual insurance holding company* to merge or consolidate with, or acquire the assets of, a *foreign mutual insurance company* which redomesticates to Florida pursuant to s. 628.520, F.S. The members of the foreign mutual insurance company would be authorized to approve in a contemporaneous vote both the redomestication plan and the agreement for merger and reorganization.

The current law allows a mutual insurance holding company to "acquire the assets" of a foreign or domestic mutual insurance company. But, acquiring the assets of a mutual insurer is legally different than a merger or consolidation. Acquiring the assets involves a

purchase or buy-out of another insurer, while a merger or consolidation involves shared ownership and restructuring of the ownership interest of the two entities, which in the case of two mutual insurers are the ownership interests of the policyholders.

The bill also allows a mutual insurance holding company to merge or consolidate with, or acquire the assets of, a domestic or foreign reciprocal insurance company, a group self-insurance fund, or any other similar entity.

The bill authorizes the Department of Insurance to retain outside consultants to evaluate each merger, for which the domestic mutual insurance holding company would be required to pay reasonable costs. The department must approve the merger unless it finds that the merger would be inequitable to the policyholders of any domestic insurance company involved in the merger or to the members of any domestic mutual holding company involved in the merger, or if the merger would substantially reduce the security of and service to be rendered to policyholders of a domestic insurance company.

The bill creates s. 628.730, F.S., to also allow a mutual insurance holding company to merge into its intermediate holding company, subject to approval by the department. The surviving intermediate holding company must assume all of the assets and liabilities of the mutual insurance holding company. All of the stock of the intermediate holding company owned by the mutual insurance holding company must be distributed to existing persons who were members of the mutual insurance holding company at any time within the 3-year period preceding the date of the merger. The mutual insurance holding company may, immediately prior to the merger, sell or cause the intermediate holding company to sell to the public up to 25 percent of the voting stock of the intermediate holding company.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 38-0; House 117-0*

### CS/HB 311 — Industrial Insured Captive Insurers

by Insurance Committee and Rep. Waters (CS/SB 930 by Banking & Insurance Committee and Senator Grant)

This bill (Chapter 2000-124, L.O.F.) lowers the thresholds required to qualify as an industrial insured of an industrial insured captive insurer that is licensed in the state prior to December 31, 1999, or a subsidiary formed by that industrial insured captive insurer after December 31, 1999. For such industrial insureds, the required gross assets would be lowered from $50 million to $10 million; the required number of employees for the industrial insured would be lowered from 100 to 25 full-time employees; and the amount of premiums required to be paid by the industrial insured would be lowered from $200,000 to $100,000 aggregate annual premiums paid for all insurance risks. The

industrial insureds of industrial insured captive insurers that are licensed after December 31, 1999, would be required to meet the higher thresholds that are set forth in current law.

Regardless of the date of licensure, an industrial insured captive insurer would be required to maintain unimpaired capital and surplus of at least $20 million.

"Industrial insured captive insurers" are captive insurers which have as their members or stockholders only those industrial insureds which they insure. An "industrial insured" is an insured which has gross assets in excess of $50 million, procures insurance through a full-time employee of the insured who acts as insurance manager, has at least 100 full-time employees, and pays annual insurance premiums of at least $200,000 for each line of insurance or at least $75,000 for any line of coverage in excess of $25 million.

These provisions became law upon approval by the Governor on April 24, 2000.
*Vote: Senate 39-0; House* 115-0

### CS/HB 313 — Payment of Insurance Claims

by Insurance Committee; Rep. Waters and others (SB 892 by Senator King)

This bill (Chapter 2000-113, L.O.F.) amends s. 627.4035, F.S., permitting insurance companies to pay claims through the use of a debit card account or other electronic transfer when the recipient or the recipient's representative approves such a payment in writing. Any fees charged to the recipient for payment by debit card or other form of electronic transfer would be required to be disclosed in writing to the recipient or the recipient's representative at the time of written authorization.

Under present law, insurers are required to pay all claims in cash and electronic transfers and debit card transactions are not expressly included in the class of items considered "cash" within s. 627.4035(3), F.S.

Under this bill, consumers could benefit from the added convenience of receiving claim payments in electronic form. Furthermore, by utilizing the debit card or other electronic transfer system, insurance companies should realize cost savings in the claims payment process through a reduction in the amount of paper that must be used as well as from a reduced incidence of check fraud.

These provisions became law upon approval by the Governor on April 11, 2000.
*Vote: Senate 36-0; House 117-0*

## CS/SB 1226 — Insurance

by Banking & Insurance Committee and Senator Holzendorf

This bill restricts current provisions that require insurers to guarantee the issuance of an individual health insurance policy. In 1997, to comply with the federal Health Insurance Portability and Accountability Act, Florida enacted several provisions, including s. 627.6487, F.S., which guarantees the availability of individual health insurance coverage to individuals with 18 months of certain prior creditable coverage, the most recent of which was group coverage. In 1998, this provision was expanded to include persons whose most recent coverage was under an individual policy, under certain circumstances. The bill specifies that the most recent prior creditable coverage under an individual plan must have been provided in Florida to qualify as creditable coverage for purposes of guaranteed availability of s. 627.6487, F.S.

The bill provides the following changes to the Insurance Code relating to life insurance:

- Modifying the method of calculating the deficiency reserve for renewable term life insurance policies;
- Updating the buyer's guide required to be used by insurers soliciting life insurance business; and
- Authorizing the Department of Insurance to adopt by rule the model rules for the valuation of life insurance policies adopted by the National Association of Insurance Commissioners in March 1999.

In addition, the maximum service charge a general lines agent, insurer, or subsidiary of an insurer may charge to finance insurance premiums on policies is revised to authorize a service charge not exceeding $12 per year for any balance greater than $220. Currently, an agent is authorized to charge $1 per installment for a maximum of $12 per year. If the total premium financing charge or rate of interest exceeds this amount per year, the agent, insurer, or subsidiary of the insurer would be subject to the provisions of part XV, ch. 627, F.S., which authorizes the Department of Insurance to impose penalties for excessive premium finance charges.

The bill authorizes the Division of Risk Management within the Department of Insurance to directly purchase annuities through a structured settlement consulting firm for the purpose of entering into structured settlements and exempts the purchase from the competitive sealed bidding process and proposal requirements.

The bill also creates the Commission for Health Care for the Employee Leasing Industry. The purpose of the commission is to study the availability and affordability of health care and the delivery methods for providing health care. The commission is required to submit a report to the Legislature and the Governor by January 1, 2001. The commission will be

comprised of 2 members of the Senate appointed by the Senate President; 2 members of the House of Representatives appointed by the Speaker of the House of Representatives; 3 members of the employee leasing company industry appointed by the President of the Senate, 3 members of the employee leasing company industry appointed by the Speaker of the House of Representatives; the Treasurer or his designee; and the Secretary of the Department of Business and Professional Regulation or his designee. Staff support will be provided by the Senate Banking and Insurance Committee and the House Insurance Committee.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 38-0; House 117-0*

## CS/SB 2304 — Reinsurance Credit

by Banking & Insurance Committee and Senator Holzendorf

This bill amends s. 215.555, F.S., relating to the Florida Hurricane Catastrophe Fund and s. 624.610, F.S., relating to credit for reinsurance.

The following changes are made to the Florida Hurricane Catastrophe Fund ("Fund"): (1) The bill corrects an error in the changes that were enacted in 1999 to the method for determining each insurer's recovery from the Fund. The 1999 changes to the law were intended to limit each insurer's maximum recovery, in any 1 year, to its proportionate share of Fund premiums for that year, multiplied by the Fund's claims-paying capacity. However, the language actually provided that this limitation applied if the Fund determines that it will not be able to raise sufficient funds to pay all insurers in full. The bill specifies that this limitation on each insurer's recovery applies in all cases, even if sufficient funds are available to pay all insurers in full. (2) The bill also clarifies that the Fund may provide coverage to insurers assuming liabilities for policies in the Florida Windstorm Underwriting Association or the Florida Residential Property and Casualty Joint Underwriting Association. This clarifies that such coverage is not contrary to the current law's provision that excludes from the definition of "covered policy" any "reinsurance agreement."

The bill amends s. 624.610, F.S., relating to the types of reinsurance that are approved and reinsurers "accredited" in order for an insurer to obtain credit as an asset or a deduction from liability on its accounting and financial statements. These changes bring the Florida statute into closer conformity with the current National Association of Insurance Commissioners Model Act on Credit for Reinsurance. The changes create uniform trust fund language for the three classes of trusts authorized and make consistent the regulatory authority with regard to these trusts. The changes also generally reinforce state action to compel security from alien reinsurers and to enforce state requirements that the claims against insolvent alien insurers be valued and paid in accordance with state

law. It also conforms state law governing Lloyd's of London reinsurance trust funds to the actual operation of the New York trusts as restructured by agreement between the New York Insurance Department and Lloyds in 1995.

If approved by the Governor, these provisions take effect June 1, 2000.
*Vote: Senate 39-0; House 117-0*

## WORKERS' COMPENSATION

### SB 2084 — Rulemaking Authority of the Division of Workers' Compensation
by Senator King

This bill revises the Division of Workers' Compensation's (of the Department of Labor and Employment Security) rulemaking authority relating to the financial requirements for self-insured employers and the authority to suspend or revoke authorization for self-insured employers for good cause. The division is authorized to specify by rule the amount of the qualifying security deposit required prior to authorizing an employer to self-insure and the amount of net worth required for an employer to qualify for authorization to self-insure. The bill also authorizes the division to suspend or revoke any authorization to a self-insurer for good cause, as defined by rule by the division.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 37-0; House 117-0*

### CS/SB 2532 — Workers' Compensation
by Banking & Insurance Committee and Senator Thomas

For purposes of determining the assessment base for the Workers' Compensation Administration Trust Fund (which primarily funds the Division of Workers' Compensation) and the Special Disability Trust Fund (which reimburses carriers for second injuries), the bill clarifies legislative intent for the terms, "net premiums," and "net premiums collected" by stating that the terms have meant and continue to mean premiums arising from workers' compensation policies issued by an insurer in Florida as the primary insurance carrier without a deduction for ceded reinsurance premiums transferred to another carrier for reinsurance purchased or any premium expense attributable to purchasing reinsurance.

The division is required to notify carriers and self-insurers of the Workers' Compensation Administrative Trust Fund assessment rate by July 1 of each year. The calculation for the assessment base is determined based upon the anticipated expenses of the Division of

Workers' Compensation for the next calendar year, instead of the prior fiscal year, effective January 1, 2001. The assessment rate is effective January 1 of the next calendar year and will be included in the workers' compensation rate filings approved by the Department of Insurance which become effective on or after January 1 of the next calendar year.

The bill lowers the maximum assessment rate for the Workers' Compensation Administration Trust Fund from 4 percent to 2.75 percent, effective January 1, 2001. However, during the interim period of July 1, 2000, through December 31, 2000, such assessments cannot exceed 4 percent. For the purpose of calculating the assessment levied after July 1, 2001, carriers are required to use the full premium policy reported prior to the application of deductible discounts or credits. If a carrier excluded ceded reinsurance premiums from its assessments prior to January 1, 2000, the division cannot recover any past underpayments of assessments related to ceded reinsurance premiums prior to January 1, 2001, against such carriers. The division may permit a carrier to remit any underpayment of assessments for assessments levied after January 1, 2001.

For purposes of determining the assessment base for the Special Disability Trust Fund and calculating the assessment due, ceded reinsurance premiums are required to be included. In the event a carrier excluded ceded reinsurance premiums from their Special Disability Trust Fund assessments on or before January 1, 2000, the carrier is not required to pay assessments until the Division of Workers' Compensation notifies the carriers of the impact of including ceded insurance premium on the assessment. The division is not authorized to recover any past underpayments of assessments levied against any carrier that on or before January 1, 2000, excluded ceded reinsurance premiums in the assessments prior to the point in time that the division advises the carrier of the appropriate assessment that should have been paid.

The bill creates a Task Force on Workers' Compensation Administration for the purpose of evaluating the method in which the workers' compensation system is funded and administered. The Task Force is comprised of 3 members appointed by the Governor (including one member serving as the chair), 2 members appointed by the President of Senate, and 2 members appointed by the Speaker of the House of Representatives. A sum of $250,000 is appropriated from the Workers' Compensation Administration Trust Fund to the Executive Office of the Governor to conduct a financial and operational analysis of the Division of Workers' Compensation that is required to be submitted to the Task Force. The Task Force is required to submit their recommendations to the Governor, President of the Senate, and the Speaker of the House of Representatives by January 15, 2001.

The bill also provides that any insurance carrier claiming a deduction for the Workers' Compensation Administration Trust Fund assessment against the amount of any other tax levied by the state upon the premiums, assessments, or policies is not required to pay any

additional retaliatory tax levied pursuant to s. 624.5091, F.S., as a result of claiming such a deduction. Because deductions under this provision are available to carriers, s. 624.5091, F.S., will not limit such deductions in any manner.

The Florida Workers' Compensation Joint Underwriting Association, Inc., (FWCJUA) is the insurer of last resort, or residual market for workers' compensation coverage in Florida. The FWCJUA provides coverage to applicants who are unable to obtain coverage through the voluntary market. Many smaller employers and employers that have experienced a high incident of workplace injuries obtain insurance through the FWCJUA. The bill provides that, if the plan's gross written premiums reported to the Division of Workers' Compensation are less than $30 million, the division is required to transfer to the plan, subject to appropriation by the Legislature, an amount not to exceed the plan's fixed administrative expenses for the preceding year. Fixed administrative expenses are defined to mean the expenses of the plan, not to exceed $750,000, which are directly related to the plan's administration but which do not vary in direct relationship to the amount of premium written by the plan and which do not include loss adjustment premiums. The bill also authorizes the FWCJUA to use policyholder surplus attributable to any year to fund a deficit in the plan.

The bill also provides that, as one of the conditions to become self-insured, an employer is required to provide proof to the Division of Workers' Compensation of the entity's ability to pay compensation individually and on behalf of its subsidiary and affiliated companies with employees in this state. According to the division's application for self-insured employers, currently an employer is required to identify the businesses that will be self-insured. Any wholly-owned subsidiaries may be included and majority-owned businesses may be included if an indemnity agreement is executed. The term, affiliate, does not appear to be used or defined in the application instructions, rules, or ch. 440, F.S.

If approved by the Governor, these provisions take effect July 1, 2000, except as otherwise expressly provided in the act.
*Vote: Senate 35-0; House 109-0*

# Senate Committee on Budget

### HB 2145 — General Appropriations

by General Appropriations Committee (FRC), Rep. Pruitt and others (SB 2200 by Budget Committee)

This bill is the General Appropriations Act which provides moneys for the annual period beginning July 1, 2000, and ending June 30, 2001, to pay salaries, expenses, capital outlay - buildings, and other improvements, and for other specified purposes of the various agencies of State government.

Total Funds Appropriated: $50.9 Billion

## EDUCATION

***Public Schools***

- Provides $867.8 million (7.8 percent) increase in FEFP total potential funds; a $280.20 (5.9 percent) increase in total potential funds per unweighted student.

- Provides $60 million for teacher recruitment/retention, $12.25 million for Teacher Bonuses for Outstanding Teachers in “D”, “F” and alternative schools, and $3.4 million for matching grants for “F” schools.

- Provides $50 million for impact fee replacement for school districts.

- Provides $30 million increase for School Recognition awards to high performing schools and a total of $38.3 million for assistance to low performing schools.

***Community Colleges***

Provides an overall increase in the Community College Program Fund of $22.8 million, including transfers.

- Provides an additional $8.3 million in performance-based incentive funding.

- Provides $5.5 million in savings to colleges as a result of the change in the Florida Retirement System contribution rate.

- Provides a 5% tuition increase which should generate an additional $11 million dollars.

***Workforce Development***

- Provides an increase of $15.1 million in new funding which will be distributed using the performance measures from the workforce development formula.

***State University System***

- Provides $55 million for an additional 4,150 undergraduate and 1,000 graduate full-time-equivalent students and $8 million for increasing access to baccalaureate degrees on branch campuses and centers.

- Provides $9.6 million to begin the implementation of a new medical school at Florida State University, $20.2 million for operating costs and equipment for expanding the basic sciences at FSU, and $1 million to develop an implementation plan for a new Chiropractic School at FSU.

- Provides $5 million to begin the implementation of two new law schools ($2.5 million for FAMU and $2.5 million for FIU).

- Provides $46 million for Challenge Grant Matching funds for endowed professorships, scholarships and improvements for academic programs; and provides $20 million for Facilities Challenge Grants Matching.

- Provides $10 million for graduate medical education to be split equally between the University of Florida and University of South Florida Medical Schools.

- Provides for a 5% across-the-board tuition increase; generates $18.7 million for priorities established by the university president.

***Private Colleges and Universities***

- Provides $24.6 million for the Florida Resident Access Grant to increase the number of students from 23,256 to 25,176 (1,920 full-time-equivalent student increase) and to increase the amount of the award from $2,074 per student to $2,813 per student ($739 increase per student).

***Student Financial Aid***

- Provides $13.1 million additional funding for the Florida Bright Futures Scholarship.

- Provides an increase of $19.4 million from Lottery funds for the Public Student Assistance Grant program.

## HEALTH AND HUMAN SERVICES

- Major investments were made by the 2000 Legislature to improve the health and social well-being of Floridians. The health and social services delivery system and the infrastructure that supports that system were improved, and the State's ability to correct the pressing problems in hospital reimbursement, child protection, welfare reform and developmental services programs was dramatically enhanced. Funding was increased by $1.4 billion over the FY 1999-2000 General Appropriations Act including an increase of $337.3 million in General Revenue, a decrease of $51.7 million in Tobacco Settlement Trust Funds, and an increase of $1.1 billion in other trust funds, which includes significant increases in new federal funds.

- Funding increases for the Health and Human Services departments include:

  Children and Families increased by $222.5 million which includes $119.1 million for child protection, $71.4 million for day care, $20.1 million for substance abuse, and $38.2 million for mental health services.

  Health increased by $143.5 million including $10.0 million for responding to racial disparities, $10.7 million for AIDS, $45.6 million for health infrastructure and $67.2 million for the transfer of the Office of Disability Determinations.

  Agency for Health Care Administration increased by $989.1 million including $768 million to cover Medicaid workload, $254.3 million for hospital rate increases, $23.0 million for physician rate increases, and $96.1 million for KidCare insurance services.

  Elder Affairs increased by $20.9 million which provides for additional community based services for at-risk elders.

  Veterans'Affairs increased by $14.8 million including $11.6 million for two new nursing homes.

## GENERAL GOVERNMENT

- $380.9 million for recreation and conservation land acquisition (including authorizing the first series of Florida Forever Bonds).
- $144.2 million for water projects reviewed by the Florida Water Advisory Panel ($107.6 in surface water projects and $39.6 in wastewater projects).
- $174.5 million in wastewater and drinking water facility construction grants and loans.
- $105.0 million for the Everglades Restoration Project.
- $30.3 million for Beach Management Projects.
- $40.6 million in local outdoor recreation projects.
- $60.7 million for management and development of state outdoor recreational facilities.
- $10.0 million for Technology Solutions for Customer-Centered Services in the Department of Business and Professional Regulation.
- $139.5 million of state and federal funds for citrus canker eradication.

## TRANSPORTATION AND ECONOMIC DEVELOPMENT

- Provides $153.4 million to make Florida an attractive and competitive place to do business and stimulate economic growth. Funding includes:

| | |
|---|---|
| Economic Development Transportation Projects "Road Fund" | $25 million |
| Qualified Target Industry QTI Tax Refund Program | $19 million |
| Quick Response Training | $6 million |
| Florida Manufacturing Technology Center | $3.5 million |
| High Impact Performance Incentive | $6.3 million |
| Quick Action Closing Fund | $2.6 million |

Rural Infrastructure Fund . . . . . $4 million
Defense Infrastructure Fund . . . . . $4 million
Tourism Commission . . . . . $21.6 million
Spaceport Florida . . . . . $13.8 million
includes:
Space Experiment Research & Processing Lab (SERPL) - $10 million
Next Generation Launch Systems - $1 million

- Provides $63.8 million for the "Fast Track" Program which is dedicated to catalyzing or accelerating transportation projects which will substantially impact Florida's economic competitiveness by funding statewide or major regional needs.

- Provides $13.5 million for the retrofitting of structures to meet the current deficit of hurricane shelters statewide, with an additional $4.5 million to be made available by local government in matching funds.

- Provides $18.3 million for the Cultural Facilities Grant Program and $17.1 million for the Historic Preservation Grant Program. These programs provide grants for renovation, preservation, and construction of cultural facilities and historic properties, major archaeological excavations and major history museum exhibition efforts.

- Provides a total of $44.3 million for funding libraries. This includes a $38.6 million increase in operational aid to public libraries of which $5.2 is federal aid; $1.2 million for Library Cooperatives; and $4.5 million for library construction grants.

## PUBLIC SAFETY AND JUDICIARY

- Responding to Florida's juvenile crime problem, the budget adds more than $70 million dollars to establish 1,285 additional commitment beds to reduce waiting lists and provide for increased lengths of stay by juvenile offenders. An additional $22 million, representing a 72% increase in current funding levels, is also provided to enhance substance abuse and mental health treatment services provided in juvenile justice commitment facilities to enhance rehabilitation efforts and reduce recidivism.

- Several notable enhancements to Florida's Judicial System are also contained in the budget. Additional funding includes:

  $6.3 million for 146 additional positions and operational expenses for State Attorneys;

$3.4 million for 76 additional positions and operational expenses for Public Defenders;

$34.9 million and 97 new positions are provided to the Courts for trial court workload, drug court coordinators, family court case managers, model dependency court pilot projects, court house construction and implementation of Article V.

- To ensure that Florida's inmates continue to serve at least 85 percent of their sentences, the budget provides $13.4 million and 539 new positions needed to bring an additional 2,059 prison beds on-line.

- Funding is also provided to substantially improve the salaries and benefits paid to Florida's sworn law enforcement officers, corrections probation officers, corrections medical staff, and juvenile justice detention custody workers.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House* 120-0

# Senate Committee on Children and Families

## DOMESTIC VIOLENCE

### SB 320 — Interference with Custody

by Senator Rossin

This bill amends s. 787.03, F.S., to set forth certain requirements that a spouse who takes a child due to domestic violence must meet in order to gain the exemption to the interference with custody crime. The act requires that a spouse who takes a child in order to seek shelter from domestic violence must report the taking of the child to police or the state attorney within a specified period of time, including his address and telephone number and any subsequent change to the address and telephone number, and must commence custody proceedings. The bill adds as a defense to the crime of interference with custody that the defendant was the victim of an act of domestic violence or had reasonable cause to believe that action was necessary for protection against an act of domestic violence. A separate bill (SB 318) provides an exemption from public disclosure for the information provided by a spouse to the state attorney or sheriff in order to gain the exemption to the interference with custody crime.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 37-0; House 114-0*

### CS/HB 1039 — Domestic Violence

by Family Law & Children Committee, Rep. Pruitt and others (CS/SB 1124 by Children & Families Committee and Senator Myers)

***Domestic Violence Fatality Review Teams***

This bill creates s. 741.316, F.S., to establish domestic violence fatality review teams and provide for the parameters of their operation. The purpose of the domestic violence fatality review teams is to review fatal and near fatal incidents of domestic violence, related domestic violence matters, and suicides to learn how to prevent domestic violence with intervention that is early and with improvements to the systems' response to domestic violence. The bill directs each domestic violence fatality review team to collect data regarding the incidents of domestic violence and charges the Department of Law Enforcement with preparing an annual report. Members of the review team, witnesses, incident reporters, and investigators are provided with immunity from liability unless they act outside the scope of the domestic violence fatality review team. The bill assigns the

domestic violence fatality review teams to the Department of Children and Family Services for administrative purposes. A separate bill (CS/HB 1037) authorizes the domestic violence fatality review teams to retain the confidentiality and exemption from public disclosure of any information obtained that is otherwise provided confidential or exempt by law. Proceedings and meetings of the domestic violence fatality review teams in which the identity of the victim or the children of the victim are discussed are provided exemption from being open to the public.

***Certified Domestic Violence Centers Capital Improvement Grant Program***

This bill also establishes the certified domestic violence center capital improvement grant program. Certified domestic violence centers may apply to the Department of Children and Family Services for a capital improvement grant to construct, acquire, repair, improve, or upgrade systems, facilities, or equipment. The minimum requirements for information that must be included in the grant application are stipulated. An assessment of the domestic violence centers' capital improvement needs will be conducted each year and will provide the ranking of needs of the domestic violence centers requesting funds for capital improvements. The capital improvement grant program was the subject of SB 2226. An appropriation of $2 million was allocated for the first year of capital improvement grants in the General Appropriations Act (HB 2145).

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House 120-0*

## CHILDREN

### HB 679 — Foster Care Services

by Rep. Turnbull and others (CS/CS/SB 1098 by Fiscal Policy Committee; Children & Families Committee; and Senator Kurth)

HB 679 amends s. 409.145, F.S., by authorizing the department to continue providing foster care and related services to persons 18 to 23 years of age (rather than 21 years of age) who are enrolled full-time in a postsecondary educational institution granting a degree, a certificate, or an applied technology diploma.

Foster care services will continue only for the period of time that the person is continuously enrolled full-time in this post-secondary educational institution program.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House* 110-0

### CS/CS/HB 855 — Child Welfare

by Law Enforcement & Crime Prevention Committee; Family Law & Children Committee; Rep. Murman and others (CS/SB 1910 by Criminal Justice Committee and Senators Laurent and Cowin)

This bill made revisions to the operation of a number of components of the child protection system including the child protection teams, law enforcement's involvement in the child protection system, foster care, and child abuse protection. The specific provisions of the bill include the following:

***Child Protection Teams***

- Adding the child protection teams to those individuals identified who may have access to the name of the person reporting the child abuse, abandonment, or neglect.

- Providing in statute for the full scope of the child protection team assessment instead of solely the medical evaluation.

- Modifying the cases of maltreatment that must be referred to a child protection team for an assessment.

- Broadening who can conduct a review of a child referred to the child protection team to determine if a face-to-face medical evaluation is needed.

- Expanding the circumstances under which a face-to-face child protection team medical evaluation can be determined not necessary.

- Requiring that photographs of sexual abuse trauma be excluded from the Department of Children and Family Services' investigative file and included in the child protection team record.

***Law Enforcement***

- Requiring that the Department of Children and Family Services determine if a known or suspected case of child abuse, abandonment, or neglect involves criminal conduct and needs to be forwarded for a criminal investigation to law enforcement.

- Making permissive the requirement that law enforcement take photographs of the child's living environment and broadening the scope of photographs to those that document the abuse or neglect.

***Foster Care***

- Allowing the Department of Children and Family Services to provide assistance to individuals who leave foster care when they reach 18 years of age but request assistance prior to the age of 21 years.

- Requiring that each Department of Children and Family Services' district or lead agency develop a plan for potential foster parents and emergency shelter parents' completion of the training in as convenient a manner as possible.

- Requiring the Department of Children and Family Services to provide each foster home with a telephone number that can be used by the foster parent during normal working hours when immediate assistance is needed and the caseworker is not available.

***Child Abuse Protection***

- Clarifying that the voice recordings of the central abuse hotline calls can be released to law enforcement, the state attorneys, and employees of the department for the purposes of investigating and prosecuting criminal charges or administrative penalties associated with making a false report of child abuse or neglect.

- Modifying the mandatory reporting of child abuse to not require officers and employees of the judicial branch, in their official capacity, to provide notice of suspected child abuse when the child is currently being investigated by the department, there is an existing dependency case, or the matter has been previously reported to the department.

- Stipulating that judges are not subject to criminal prosecution for failing to report child abuse when the information was received in the course of official duties.

- Modifying the classifying of a case as high risk to make cases involving parents or legal custodians of a young age, the use of illegal drugs, or domestic violence factors for the department to consider in determining whether a case is high risk instead of automatic high risk cases for which a petition for dependency is required to be filed.

- Expanding the time frame in which the department has to complete its child protective investigation from 30 days to 60 days.

- Changing the time frame provided for the state attorney to report on their determination of whether or not prosecution of a case is justified from 15 days from the completion of the investigation to 15 days after the case is reported to the state attorney.

- Requiring that the quality assurance programs in both the Department of Children and Family Services and the Department of Health include a review of the children's records for whom no findings of abuse were found to determine if these findings were appropriate.

- Requiring that the summary of the child protective investigation provided to the community based agency with which the child is placed at the time the case is transferred also be provided at the conclusion of the investigation.

- Removing the title "Kayla McKean Child Protection Act" from ch. 1999-168, L.O.F.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 117-0*

## MENTAL HEALTH/SUBSTANCE ABUSE

### CS/SB 358 — Long Term Care
by Children & Families Committee

This bill includes provisions relating to mental health and substance abuse services, mental health services for children and adolescents, the Long-term Care Ombudsman Program, and the protection of vulnerable adults. CS/SB 682 passed, relating to mental health services for children and adolescents, which has identical provisions as those contained in CS/SB 358. (See summary of CS/SB 682 for those provisions.)

***Mental Health and Substance Abuse Services***

The bill creates statutory definitions for persons experiencing an acute mental or emotional crisis or an acute substance abuse crisis and includes revisions to the law governing the comprehensive substance abuse and mental health services systems. Persons who are in one of the department's target groups approved by the Legislature pursuant to s. 216.0166, F.S., are eligible to receive publicly funded substance abuse and mental health services.

The department is directed to adopt rules to implement clinical eligibility and fee collection requirements for publicly funded substance abuse and mental health services that would include a sliding-fee scale for persons who have a net family income at or above 150 percent of the Federal Poverty Income Guidelines.

The Commission on Mental Health and Substance Abuse is directed to study and make recommendations to the Legislature no later than December 1, 2000, regarding who should receive publicly funded mental health and substance abuse services. The Department of Children and Family Services is directed to revise its target groups pursuant to s. 216.0166, F.S., to include older adults who are 1) are in crisis, 2) are at risk of being placed in a more restrictive environment because of their mental illness or substance abuse, 3) have a severe and persistent mental illness, or 4) are in need of substance abuse treatment.

State and district planning provisions for substance abuse and mental health services are revised in the bill. Every three years, beginning in 2001, the department and the Agency for Health Care Administration must prepare a state master plan for the delivery and financing of a system of publicly funded community based substance abuse and mental health throughout the state. The master plan must include statewide policies and planning parameters that will be used by the districts in the preparation of the district substance abuse and mental health plans. The initial master plan must include an assessment of the clinical practice guidelines and standards for community-based mental health and substance abuse services delivered by agencies under contract with the department and must specify additional clinical practice standards and guidelines for new or existing services or programs.

The district health and human services boards are directed to assume the role vacated by the planning councils in 1994 of preparing an integrated district substance abuse and mental health plan to reflect the needs and program priorities established by the department and the needs of the district established under ss. 394.674 and 394.675, F.S.

All plans must include input from community based persons, organizations, and agencies interested in treatment services, local government entities that contribute to publicly funded treatment programs, and consumers and their family members of publicly funded services.

The bill revises the definitions of the substance abuse and mental health services systems. Mental health services include treatment such as psychiatric medications and supportive psychotherapies, rehabilitative services intended to reduce or eliminate the disability associated with mental illness, support services to assist persons to live successfully in environments of their choice, and case management to assist in obtaining the formal and informal resources needed to successfully cope with the consequences of their illness.

Services also include preventive interventions and activities to reduce the risk for or delay the onset of mental disorders.

Substance abuse services include prevention such as information dissemination and education regarding consequences of substance abuse, assessments to identify strengths and required level of care, intervention including short term counseling, rehabilitation which ranges from residential to case management, and ancillary services such as self help and support groups.

The bill strengthens the integration of district substance abuse and mental health services with other local systems such as juvenile justice, child protection, and health care. District plans must include provisions such as client access to the most recently developed psychiatric medications and the integration of treatment programs for persons with co-occurring disorders.

The bill directs the Department of Children and Family Services to submit a report to the Legislature by November 1 of each year describing the status of compliance by contract substance abuse and mental health providers with the performance outcome standards established by the Legislature.

***Protection of Vulnerable Adults***

The bill revises the system for conducting pre-employment background screening of paid caregivers of elderly and disabled persons. It implements a structured previous-employer reference check, continues criminal background checks, and removes the requirement for screening applicants through the central abuse registry and tracking system.

The central abuse registry and tracking system is redesignated as the "abuse hotline." The requirements that the Department of Children and Family Services classify reports it investigates, notify persons named in investigative reports, and maintain records are removed. The Department of Children and Family Services' interactions with and responsibility for perpetrators of abuse, neglect, and exploitation are significantly reduced. The terms "elderly person" and "disabled person" are redefined as "vulnerable adult."

***Long-term Care Ombudsman Program***

The Office of the State Long-term Care Ombudsman is directed to prepare and submit annual budget requests. The bill re-designates the Long-Term Care Ombudsman Councils operating in the various Department of Elderly Affairs Planning and Service Areas of the state as *local* rather than *district* councils.

The bill revises the procedure for appointments to be made to the State Long-term Care Ombudsman Council and provides that the decision of the Ombudsman is final when determining whether a member's three consecutive unexcused absences were without cause for purposes of determining if a vacancy exists. The bill limits membership on the State Council to two three-year terms.

The bill provides for an appropriation from General Revenue of $40,000 for training of newly appointed state and local ombudsmen and an appropriation of $40,000 for materials regarding public education and awareness training. The bill removes the requirement that the Department of Children and Family Services provide space and in-kind support to the Ombudsman program.

The Ombudsman is to enter into a cooperative agreement with the Medicaid Fraud Division of the Attorney General's Office. The bill provides additional detail about administrative support (office space, assistance with personnel, accosting, information systems); provides that the Department of Elderly Affairs is to meet the costs of providing administrative support to the Ombudsman from appropriated funds; specifies that the Department of Elderly Affairs should capture these costs when preparing its legislative budget request; and specifies the percentage of federal program funds which can be diverted to run the department.

If approved by the Governor, these provisions take effect September 1, 2000.
*Vote: Senate 38-0; House* 115-0

### CS/SB 682 — Mental Health Services for Children and Adolescents

by Children & Families Committee and Senator Forman

This bill requires that children in the legal custody of the department may be placed by the department in a residential treatment center licensed under s. 394.875, F.S., or in a hospital licensed under ch. 395, F.S., under the provisions of s. 394.463, F.S., s. 394.467, F.S., or s. 39.407(5), F.S.

Section 39.407, F.S., is amended to require that when the Department of Children and Family Services (department) believes that a child in its legal custody is emotionally disturbed and may need residential treatment, an examination and suitability assessment must be conducted by a qualified evaluator (psychologist or psychiatrist ) to substantiate that residential mental health treatment is clinically appropriate for treating the child's emotional disturbance and that available less restrictive treatment modalities that would offer comparable benefits have been considered and are unavailable. All children placed in a residential treatment program under s. 39.407, F.S., must have a guardian ad litem appointed.

The bill requires that the residential treatment program report monthly to the department on the child's progress towards achieving the treatment goals and if the child could be treated in a less restrictive program. The department submits this report to the court as well as a discharge plan for the child. The bill requires a court hearing no later than 3 months after the child is placed in residential treatment that includes a clinical review by a qualified evaluator addressing the need for continued residential treatment. The court reviews the case every 90 days thereafter. The court may order that the child be placed in a less restrictive setting at any time it is determined that residential treatment is not meeting the child's needs.

The bill specifies that nothing in this act excuses or relieves the department of any other obligations to abused, neglected, or abandoned children who are in its custody.

The bill amends s. 394.4785, F.S., (Baker Act) to prohibit the admission of a child or an adolescent to state mental health facilities that are state-owned or state-operated which provides consistency with s. 394.495, F.S., (Comprehensive Child and Adolescent Mental Health Services Act). A child or adolescent may be admitted to a residential treatment center or a crisis stabilization unit licensed under ch. 394, F.S., or a hospital licensed under ch. 395, F.S., as a voluntary patient or may be admitted to these facilities as an involuntary placement upon order of the court pursuant to s. 394.467, F.S. The bill specifies that these facilities must provide the least restrictive treatment appropriate to the child's or adolescent's needs and must adhere to the guiding principles, system of care, and service planning provisions contained in ch. 394, part III, F.S., known as the "Comprehensive Child and Adolescent Mental Health Services Act."

The bill creates the authority under s. 394.875, F.S., to license a residential treatment center for children and adolescents that is under contract with the Department of Children and Family Services to provide mental health treatment to children and adolescents with emotional disturbances, and provides that it is unlawful for an entity to hold itself out to be or to act as such a facility without a license. The department, in consultation with the Agency for Health Care Administration, is directed to adopt rules specifying standards for admission; length of stay; program and staffing; discharge and discharge planning; treatment planning; seclusion, restraints, and time out; rights of patients under s. 394.459, F.S.; use of psychotropic medications; and operational requirements.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 39-0; House* 119-0

# ORGANIZATIONAL AND MISCELLANEOUS ISSUES

## CS/CS/SB 340 — Human Rights Advocacy Committee

by Governmental Oversight & Productivity Committee; Children & Families Committee; and Senator Forman

This bill amends ss. 402.165-402.167, F.S., to redefine the scope of authority for the Statewide Human Rights Advocacy Committee and the district human rights advocacy committees, and to change the name of the committees to the Florida Statewide Advocacy Council and Florida local advocacy councils. The individuals for whom the Florida Statewide Advocacy Council and Florida local advocacy councils' investigative and monitoring service and authority would apply are designated based on the client groups of identified sections and their applicable chapters in Florida Statute, and will encompass any service received by such individual, regardless of its state agency location. A new s. 402.164, F.S., is created which establishes legislative intent and definitions. The geographic areas for which each Florida local advocacy council has responsibility is changed to service areas that are designated by the Florida Statewide Advocacy Council and are consistent with judicial boundaries. A number of modifications are made to the membership, terms, officers, and appointment process for both the Florida Statewide Advocacy Council and the Florida local advocacy councils.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House 117-0*

## HB 2125 — Department of Children and Family Services

by Children & Families Committee, Rep. Murman and others (SB 2566 by Senators Diaz-Balart and Cowin)

This bill includes provisions relating to the organizational structure of the Department of Children and Family Services, community-based care services, foster care services and dependent children, family care councils in the Developmental Services program, mental health and substance abuse services, and provisions that relate generally to children.

The bill includes certain provisions from SB 2566 (organizational structure of the Department of Children and Family Services) and CS/CS/SB 1144 (legal representation of dependent children), SB 2500 (sexually violent predators), CS/CS/SB 1098 (foster care), and CS/SB 2282 (Dependent Children Protection).

***Department of Children and Family Services***

Section 20.19, F.S., is amended to revise the organizational structure of the Department of Children and Family Services (department) as follows:

- Retains the current district and subdistrict structure of the department except in one prototype region.

- Repeals the district health and human services boards and the statewide health and human services board and directs the department to establish a community alliance in each county comprised of stakeholders, community leaders, client representatives, and funders of human services to provide a focal point for community participation and governance of community-based services. The alliance is responsible for advising the department on issues such as resource use, needs assessment, community priorities for service delivery, and community outcome goals.

- Establishes a prototype region comprised of the sixth, twelfth, and thirteenth judicial circuits (Pasco, Pinellas, Manatee, Sarasota, DeSoto, and Hillsborough counties) within which the department may consolidate the management and administrative structure or functions.

- Authorizes the department to contract for children's services with a lead agency in each county within the prototype region that will be responsible for directing and coordinating the programs and services currently administered by the department; the lead agency may provide core services only after the department finds that the lead agency is the only appropriate organization within the service district capable of providing those services within the department's quality assurance and performance standards.

- Requires that the department evaluate the efficiency and effectiveness of the operation of the prototype region and upon a determination that there has been a demonstrated improvement in management and oversight of services or cost savings, the Secretary may consolidate the administration of additional geographic areas of the state but must stay within the geographic service districts as specified in s. 20.19(5), F.S.

- Establishes a program office for each of the following programs that is under the direction of a program director appointed by the Secretary: adult services, child care services, developmental disabilities, economic self sufficiency, family safety, mental health, refugee services, and substance abuse.

- Provides for the Secretary of the Department of Children and Family Services to develop case projections each year in the area of child abuse and neglect and to

request a specific appropriation for funds and child protection positions for meeting certain Child Welfare League Standards.

Section 402.73, F.S., is created incorporating all of the department's contracting and performance standards provisions that were previously included in s. 20.19, F.S. The contracting standards were amended to provide that a security interest in property be granted by a contractor or political subdivision when state funds are used to purchase or make improvements to real property, lasting at least 5 years from the date of purchase or the completion of the improvements.

This bill authorizes the department to study the feasibility of establishing a certification or licensure program for non-clinical master level and bachelor level social work for the protection of consumers of social work services. The study must be conducted in consultation with the Florida schools of social work and the department must report back to the Speaker of the House of Representatives and the President of the Senate as to the feasibility and desirability of establishing such a program.

***Community-Based Care Services***

Section 39.3065, F.S., is revised to add the Broward County sheriff to the county sheriffs who will be responsible for child protective investigations by the end of FY 1999-2000, and permits the department to enter into grant agreements with sheriffs of other counties, beginning in FY 2000-2001, to perform child protective investigations. Sheriffs' staff are required to meet outcome measures approved by the Legislature and complete the training that is required of protective investigators employed by the department. The department may make advance payments to the sheriffs for child protective investigations.

Section 402.731, F.S., was created to extend the department's authority to develop certification programs for employees and agents to all providers (not just the family safety and preservation providers) to ensure that only qualified persons provide client services. The department may implement employment programs and strategies to attract and retain competent staff in the transition to privatized community-based care that includes lump-sum bonuses, salary incentives, relocation allowances, severance pay, out placement services, and time-limited exempt positions with salaries and benefits comparable to career service employees.

Section 409.1671, F.S., is amended to allow the department to contract with more than one lead agency within a single county when it would result in more effective delivery of foster care and related services and to authorize the department to establish a risk pool to reduce service provider financial risk from unanticipated growth in caseloads.

Section 409.16751, F.S. is created establishing a receivership procedure for lead community-based providers.

***Foster Care/Dependent Children***

Section 318.21, F.S., is amended by transferring funds for the funded foster care citizen review panels to the state courts system rather than the department for administrative costs, training costs, and costs associated with the implementation and maintenance of the foster care review panels in a constitutional charter county as provided for in s. 39.702, F.S.

Section 409.145, F.S., authorizes the department to continue providing foster care and related services to persons 18 to 23 years of age (rather than 21 years of age) who are enrolled full-time in a postsecondary educational institution granting a degree, a certificate, or an applied technology diploma. Foster care services will continue only for the period of time that the person is continuously enrolled in a degree-granting program.

The bill directs the Office of the State Courts Administrator to establish a 3-year pilot Attorney Ad Litem Program in the Ninth Judicial Circuit by October 1, 2000, to represent the rights of children who continue in out-of-home care after the shelter hearing and whom the court believes need legal representation. The child's wishes are represented as long as they are consistent with the safety and well being of the child. The court must appoint a guardian ad litem for all children who are appointed an attorney ad litem. The Office of the State Courts Administrator must evaluate the impact of the pilot programs and submit a final report to the Legislature on October 1, 2003, that includes recommendations on the feasibility of a statewide program. An appropriation of $1,860,583 is provided.

The bill reorganizes ch. 39, F.S., to reflect the sequential order in which the child protection process would usually proceed and creates two new parts: Dispositions, Postdisposition Change in Custody; and Permanency. The directives of the federal Adoption and Safe Families Act of 1997 which reflect a focus on the protection of the children rather than family reunification and preservation are further incorporated. A number of technical, clarification and consistency amendments are made to ch. 39, F.S. Some of the substantial changes include the following: providing that the court is to recognize the permanency of a child's placement with a relative and under these circumstances, not requiring that adoption be determined not in the best interest of the child; providing the court with the discretion to appoint a guardian ad litem for the parent instead of requiring such appointments; and adding abandonment as defined in ch. 39.01(1), F.S., as grounds for termination of parental rights.

The bill provides for incentive grants, subject to specific appropriations, that encourage children service councils or juvenile welfare boards to provide support to local child welfare programs. These councils or boards may request funding or continued funding to the Department of Children and Family Services to support programs funded by the council or board for local child welfare services. The department must establish a grant application procedure and award grants no later than October 1 of each year and the council or board awarded a grant must submit performance and output information to the department.

***Developmental Services***

Section 393.502, F.S., is amended relating to the family care councils. Appointments to the district councils are made by the Governor upon the recommendation of the council members. The number of members changes from 9 persons to at least 10 and no more than 15 persons. Council members are appointed for a 3-year term; members whom the Governor does not act upon will serve for two terms. The councils may apply for, receive, and accept grants, gifts, donations, bequests, and other payments from any public or private entity or person.

***Mental Health/Substance Abuse Services***

Section 397.321, F.S., is amended to allow the department to establish in District 9, in cooperation with the Palm Beach County Board of County Commissioners, a pilot project to serve in a managed care arrangement non-Medicaid eligible persons who qualify to receive substance abuse or mental health services from the department. The department cannot incur additional administrative costs and the results of the pilot must be reported to the district administrator and the Secretary 18 months after the initiation of the pilot.

The bill amends s. 216.136, F.S., to require the Criminal Justice Estimating Conference to project future bed needs and other critical program needs under the Jimmy Ryce Act, for the purpose of determining necessary appropriations. Section 775.089(1)(c), F.S., is amended which relates to restitution resulting from a defendant's criminal episode to include the victim of an offense committed by an offender who, at any time following the offense, is alleged to be a sexually violent predator and for whom involuntary civil commitment is sought under ch. 394, part V, F.S. The time for the multidisciplinary team to file its report and recommendation to the state attorney is extended from 45 days to 90 days after notice of the impending release of the person to whom the Jimmy Ryce Act may apply. The department is directed to adopt rules regarding continuing education of the members of the multidisciplinary assessment teams and to implement a long-term study to determine the efficacy of the Jimmy Ryce Act.

The bill directs the Correctional Privatization Commission in consultation with the department, to develop and issue a request for proposal for the financing, design, construction, acquisition, ownership, leasing, and operation of a secure facility of at least 400 beds to house and rehabilitate sexual predators committed under the Jimmy Ryce Act of 1998. The Secretary of the department retains final approval of the request for proposal, the successful bidder, and the contract. This statutory provision will constitute specific legislative authorization for the department to enter into a contract with a provider for the financing, design, construction, acquisition, ownership, leasing, and operation of a secure facility to house and rehabilitate sexual predators to be constructed upon the grounds of the DeSoto Correctional Facility in DeSoto County. The selected contractor is authorized to enter into a lease arrangement or other private financing or to sponsor the issuance of tax exempt bonds, certificates of participation, or other public or private means to finance the facility. Upon completion of the sexual predator secure treatment facility in DeSoto county, the Martin Sexually Violent Predator Treatment and Retaining Program must be phased out within 1 year.

***Provisions Relating Generally to Children***

Section 409.176, F.S., is amended to authorize the facility administrator of a registered residential child-caring agency and family foster home to consent to routine and emergency medical care on behalf of the parent, legal guardian, or person having legal custody of the child.

The bill amends s. 784.085, F.S., by providing that except for the affected child, any person who knowingly causes or attempts to cause a child to come into contact with blood, seminal fluid, or urine or feces by throwing, tossing, projecting, or expelling such material is guilty of a felony of the third degree.

The bill amends s. 683.23, F.S., specifying that the second Monday in September of each year is designated as “Florida Missing Children’s Day” in remembrance of Florida’s past and present missing children and in recognition of Florida’s continued efforts to protect the safety of children through prevention, education, and community involvement.

If approved by the Governor, the attorney ad litem pilot program takes effect October 1, 2000, and the remaining provisions take effect July 1, 2000.
*Vote: Senate 33-5; House* 119-0

# Senate Committee on Commerce and Economic Opportunities

## COMMERCE AND ECONOMIC/COMMUNITY DEVELOPMENT

### CS/CS/CS/SB 406 — Economic Development

by Fiscal Policy Committee; Commerce & Economic Opportunities Committee; Comprehensive Planning, Local & Military Affairs Committee; and Senators Hargrett, Latvala, Holzendorf, Childers, Laurent, and Meek

***Community Development Initiatives***

The bill creates the Community and Faith-based Organizations Initiative (initiative) within the Institute on Urban Policy and Commerce at Florida Agricultural and Mechanical University (institute) for the purpose of promoting community development in low-income communities through partnerships with community and faith-based organizations. The initiative is to include: professional skill development; internships; an annual conference to promote "best practices" regarding the creation, operation, and sustainability of community and faith-based organizations; and the development of course materials related to community development. In addition, the initiative includes a grant program to provide financial assistance to community and faith-based organizations for partnerships with universities and the operation of programs to build strong communities and future community development leaders.

The bill authorizes the Division of Library and Information Services (division) of the Department of State to provide funding for e-rate eligible public libraries, located in distressed areas of the state, to provide technology access and training to community and faith-based organizations as part of a new Community and Library Technology Access Partnership (partnership). In addition, the partnership is to provide a method of assessment to measure the progress that e-rate eligible public libraries are making in training individuals to succeed in the information economy.

The bill establishes a Community High-Technology Investment Partnership (CHIP) program to assist distressed urban communities in securing computers for access by youth between the ages of 5 years and 18 years who reside in these communities. Under this program, neighborhood facilities, including units of local government, not-for-profit faith-based organizations, not-for-profit civic associations or homeowners' associations, and other not-for-profit organizations, may apply to the institute for grants to purchase computers that will be available for use by eligible youths who reside in the immediate

vicinity of the neighborhood facility. The division must enter into a performance-based contract with the institute for the administration of the program.

The Inner City Redevelopment Assistance Grants Program is created by the bill to be administered by the Office of Tourism, Trade, and Economic Development (OTTED) within the Executive Office of the Governor. The office must develop criteria for awarding the grants with preference being given to urban high-crime areas as identified by the Florida Department of Law Enforcement and opportunities for immediate job creation for residents in the targeted areas. Furthermore, the bill creates the Inner City Redevelopment Review Panel within OTTED to review proposals under this grant program.

The bill provides a sales tax exemption for building materials used in the construction of single-family homes in certain economically distressed areas, and for building materials used in the conversion of an existing manufacturing or industrial building to housing or mixed-use units in brownfields, and certain economically distressed areas. The mixed-use units must include artists' studios, art and entertainment services, or other compatible uses; at least 20 percent of the square footage must be set-aside for low-income and moderate income housing. The bill further directs the Department of Community Affairs to recommend new economic incentives or revisions to existing incentives to promote the reuse of vacant industrial and manufacturing facilities for affordable housing and mixed-use development. The report must include any recommendations relating to the Brownfields Redevelopment Act, for revising liability protection or economic incentives to promote reuse of such facilities.

***International Trade***

The bill provides for the creation of the Florida-Caribbean Basin Trade Initiative by the Seaport Employment Training Grant Program (STEP) to assist small- and medium-sized businesses to become involved in international trade activities in the Caribbean Basin. The initiative must focus assistance to businesses in urban communities, and must offer these businesses export readiness, assistance and referral services, internships, seminars, workshops, conferences, e-commerce, mentoring, and matchmaking services. The initiative must coordinate with, and not duplicate, services offered by Enterprise Florida, Inc. STEP is required to administer the initiative pursuant to a performance-based contract with the Office of Tourism, Trade, and Economic Development.

***Space Industry Development***

The bill revises the membership of the Florida Space Research Institute (institute) board, to add a representative from the Space Business Roundtable and to add one representative from a community college and one representative from a public or private university. The

bill requires the members of the board to annually select one of the members to serve as chair, who shall be responsible for convening and leading meetings of the board. The bill also expands the responsibilities of the institute's lead university, and expands the responsibilities of the institute, to include, among other duties, forming research partnerships with the National Aeronautics and Space Administration.

The bill creates the Space Industry Workforce Initiative (initiative) to support programs designed to address the workforce development needs of the space industry in the state by directing the Workforce Development Board of Enterprise Florida, Inc., to coordinate development of the initiative in partnership with the institute and the institute's consortium of public and private universities, community colleges, and other training providers approved by the board. The purpose of the initiative is to use or revise existing programs and to develop innovative new programs to address the workforce needs of the space industry.

***Economic Development Initiatives***

The bill creates the Toolkit for Economic Development (TED) program for the purpose of enabling economically distressed communities to access easily, and use effectively, federal and state tools to improve conditions in the communities and thereby help needy families in the communities avoid public assistance, retain employment, and become self-sufficient. The toolkit comprises six initiatives, or "tools," to meet the program's stated purpose: Liaisons, Coordinating Partners, Fee Waivers and Matching Fund Options, Inventory, Start-Up Initiatives, and Communities of Critical Economic Opportunity.

**Liaisons**
Twenty-two entities are required to designate high-level individuals to serve as liaisons for the TED program. The liaison serves as the primary contact for the entity for the TED program to: assist and expedite proposal review, resolve problems, promote flexible assistance, and identify opportunities for support within the entity.

**Coordinating Partners**
The liaisons from the WAGES State Board of Directors, the Office of Urban Opportunity, the Department of Community Affairs, Enterprise Florida, Inc., and the Workforce Development Board must serve as coordinating partners for the TED program, acting as an executive committee for the liaisons.

**Matching Fund Options**
An agency or organization may waive any state-required matching-funds at the request of the coordinating partners. In addition, any in-kind matches may be allowed and applied as matching-funds at the request of the coordinating partners. The

coordinating partners must unanimously endorse each request to an agency or organization.

**Inventory**
The coordinating partners must develop an inventory of recommended federal and state tax credits, incentives, inducements, programs, opportunities, demonstrations or pilot programs, grants, and other resources available through the agencies and organizations which could assist Front Porch Florida or economically distressed communities. The inventory must be organized into seven categories including: leadership, safety, clean up, business, schools, partners, and redevelopment.

**Start-Up Initiative**
To get the communities started using the inventory created in the bill, the coordinating partners must identify 15 communities (seven of which must be from the state's seven largest counties, three of which must be from rural counties, and five of which must be from other counties) and solicit applications from these communities and Front Porch Florida communities for nine Start-Up Initiative awards. These communities must pledge local resources and plan to use the inventory's programs to make their community rapidly become more economically self-sufficient. The coordinating partners must provide assistance with inventory programs and back-up funding to effectuate the nine communities' proposals.

**Communities of Critical Economic Opportunity**
The coordinating partners may recommend to the Governor that up to three "communities of critical economic opportunity" be created. Such communities must be economically distressed, presenting a unique economic development opportunity that will create more than 1,000 jobs over five years. If designated as such, the areas shall be priority assignments for the liaisons and coordinating partners.

The bill provides $25 million from non-recurring Temporary Assistance to Needy Families (TANF) funds to the TANF administrative entity at the Department of Management Services to implement the TED program. All TANF expenditures must be in accordance with the requirements and limitations of Title IV of the Social Security Act, as amended, or any other applicable federal requirement or limitation in law. The TED program is repealed on June 30, 2002.

This bill provides for measurement of the performance of the TED program, by requiring the Office of Program Policy Analysis and Government Accountability to develop measures and criteria by October 1, 2001, to evaluate the effectiveness of the TED program, including the Liaisons, Coordinating Partners, Waivers and Matching Options, Inventory, Start-Up Initiative, and Communities of Critical Economic Opportunity.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House* 120-0

## CS/CS/SB 2578 — Neighborhood Revitalization

by Commerce & Economic Opportunities Committee; Fiscal Resource Committee; and Senator Hargrett

***Community Development***

The bill provides a sales tax exemption for building materials used in the construction of single-family homes in certain economically distressed areas, and for building materials used in the conversion of an existing manufacturing or industrial building to housing or mixed-use units in brownfields and certain economically distressed areas. The mixed-use units must include artists' studios, art and entertainment services, or other compatible uses; at least 20 percent of the square footage must be set-aside for low-income and moderate income housing. The bill further directs the Department of Community Affairs to recommend new economic incentives or revisions to existing incentives to promote the reuse of vacant industrial and manufacturing facilities for affordable housing and mixed-use development. The report must include any recommendations relating to the Brownfields Redevelopment Act, for revising liability protection or economic incentives to promote reuse of such facilities.

***Private Activity Bonds & Affordable Housing***

The bill makes a number of changes to private activity bond provisions and affordable housing programs. Specifically, the bill:

- Effective January 1, 2001, lengthens the time period during which bonds must have been issued and written notice of the issuance must have been provided to the director of the Division of Bond Finance from 90 to 155 calendar days after the date the confirmation was issued or December 29, whichever occurs first. Changes the deadline whereby agencies must notify the Division of Bond Finance if they have failed to issue bonds pursuant to the written confirmation from 95 days to 160 days. Clarifies that, upon issuance of bonds, the agency issuing the bonds must notify the division by telephone on the day of the issuance and send a written report to arrive no later than the next business day.
- Effective January 1, 2001, extends the time period for utilization of the state private activity pool and the Florida First Business Pool for priority projects from April 1 to June 1.
- Effective January 1, 2001, conforms the time periods for obtaining a written confirmation for the state allocation pool to the new June 1 date and provides that

the notice of intent to issue must be filed with the division no later than May 1, instead of the March 1 date of current law.

- Effective January 1, 2001, amends s. 159.809, F.S., relating to the recapture of unused amounts. The amendments include: requiring that on June 1 of each year, any portion of each allocation for which the division has not issued a written confirmation shall be added to the Florida First Business Allocation Pool; on July 1 of each year, any portion of each allocation made to the Florida Housing Finance Agency for use in connection with the issuance of housing bonds for which the division has not issued a written confirmation or has not received an issuance report shall be added to the Florida First Business allocation pool; and on October 1 of each year, any portion of the allocation made to the Florida First Business allocation pool which is eligible for carryforward, but which has not been certified, shall be returned to the Florida First Business allocation pool.
- Effective January 1, 2001, amends s. 159.81, F.S., to provide authorization for certain carryforward requests.
- Effective upon the act becoming effective, and operating retroactively to January 1, 2000, revises the current low-income housing property exemption to provide that property used to provide affordable housing serving eligible persons as defined by s. 159.603(7), F.S., and persons having eligible incomes as defined by s. 420.0004, F.S., shall be exempt from ad valorem taxation.
- Provides specific rule making authority to the Florida Housing Finance Corporation which matches the existing rule and practice of the corporation in permitting the reservation of future allocation or funding to provide a remedy for an applicant which appeals the status of its application, in order to avoid the cessation of all funding in the event of litigation. Grants specific authority for the designation by the board of the Florida Housing Finance Corporation of private activity allocations between single and multifamily housing.
- Changes the Predevelopment Loan Program to allow the corporation to forgive certain loans and convert the loans to grants where the sponsor of the loan is unable to obtain construction or permanent financing for the development. However, the corporation may not forgive any portion of the loan that is secured by a mortgage to the extent the loan could be repaid from the sale of the mortgaged property. In addition, sponsors of farmworker housing receive first priority under the program. Provides that the rate of interest of the loans can be set between 0 and 3 percent per year.
- Changes the date the Affordable Housing Study Commission submits its annual report from December 31 to July 15 of each year, beginning with the 2001 annual report. The commission must submit the report to the executive director of the corporation in addition to the secretary of the Department of Community Affairs.
- Provides for the calculation of annual gross income under the State Housing Initiatives Partnership (SHIP) Program by annualizing verified sources of income instead of projecting the prevailing rate of income. Also modifies the definition of

"sales price" under the SHIP program in the case of rehabilitations to take into account new living space created by such rehabilitation. Sales price is defined as the value of the real property, as determined by an appraisal dated within 12 months of the date construction is to begin or the assessed value of the real property as determined by the county property appraiser, plus the cost of the improvements.

- To the extent that the Florida Housing Finance Corporation provides the same monitoring and determination, allows entities implementing a local housing assistance plan assisting rental developments to rely on another governmental entity to annually monitor and determine tenant eligibility. Also modifies the existing purchase price limits under the SHIP program to permit an alternate determination from the Treasury's safe harbor amounts, based on actual statistical sales during the most recent 12-month period.
- Amends the Florida Fair Housing Act to prohibit discrimination in land use decisions or in the permitting of development based on the source of financing of a development or proposed development, in addition to race, color, national origin, sex, disability, familial status, or religion.
- Establishes a State Farmworker Housing Pilot Loan Program. Under the program, the Florida Housing Finance Corporation must make farmworker housing loans to a sponsor. In order to be eligible, a sponsor must agree to set aside at least 80 percent of the units for eligible farmworkers and 100 percent of the units must be set aside for households whose family income does not exceed 50 percent of the adjusted local median income in areas that are not metropolitan statistical areas, or 40 percent of adjusted local median income in metropolitan statistical areas. Rents must be limited to no more than 30 percent of the maximum household income. In addition, the sponsor must use federal funds provided under section 514 or section 516 of Title V of the Federal Housing Act of 1949.

If approved by the Governor, these provisions take effect July 1, 2000, except as otherwise provided.
*Vote: Senate 39-0; House* 119-0

### CS/CS/SB 1334 — Electronic Commerce

by Governmental Oversight & Productivity Committee; Commerce & Economic Opportunities Committee; and Senator Klein

This bill creates a discretionary statutory framework substantially equivalent to the proposed Uniform Electronic Transaction Act of 1999 (UETA) by the National Commission on Uniform State Laws for the validation and effect of records and signatures in specific types of electronically conducted transactions. Specifically, the bill:

- Sets forth requirements for the validation and effect of electronic records and electronic signatures and provides for agreement variation in order to facilitate but not require the use of electronic means in conducting transactions;

- Specifies conduct and certain circumstances that constitute, and those transactions that do not constitute, an electronic transaction subject to the act. The act will not apply to affect the writing and signature requirements in transactions governed by: laws relating to wills, codicils, or testamentary trusts; the Uniform Commercial Code except for ss. 671.107, F.S. (relating to waiver or renunciation of claim or right after an alleged breach) and 671.206, F.S. (relating to statutes of fraud requiring written contract for sale of personal property over $5,000), ch. 672, F.S. (relating to sales), and ch. 680, F.S. (relating to leases); the Uniform Computer Information Transactions Act; and rules relating to judicial procedure;

- Specifies notarization and acknowledgment requirements;

- Requires first-time notary public applicants to satisfy specific course requirements; and

- Authorizes state governmental entities to implement electronic filing systems for creating, converting, and retaining electronic records.

The bill also requires each county recorder to provide and make available on a publicly accessible website an index of publicly recorded records by January 1, 2002, and a hyperlink access point for obtaining images or copies of those records via the website by January 1, 2006.

In this bill, the State Technology Office succeeds to the authority conferred on the Department of Management Services (DMS) in information technology matters. The head of the office, still made a part of DMS, is the gubernatorially appointed Chief Information Officer. The office is to coordinate the purchase, lease, and use of all state agency information technology. Additional rule-making or policy development authority is conferred on the office in the areas of integrated electronic systems and its attendant fiscal accountability, technology training, and the development of best practices guidelines and an annual report on behalf of the Executive Office of the Governor. In addition, the office is to study and make a recommendation on the feasibility of on-line voting in the state. Additionally, the bill repeals the State Technology Council and re-establishes the Task Force on Privacy and Technology to be staffed by the State Technology Office.

This bill permits state agencies to accept bids and proposals by electronic means for the procurement of personal property and services. Invitations to bid and requests for proposals may also be published by electronic means. The State Technology Office is

required under this bill to develop a program for on-line procurement of commodities and contractual services.

This bill requires Enterprise Florida, Inc., to create a marketing campaign to help attract, retain, and grow information technology businesses in Florida, and requires the Department of Labor and Employment Security to ensure the development and maintenance of a website that informs the public about the information technology industry in Florida. The bill expresses the intent of the Legislature to actively support the development of a NAP in Florida. Furthermore, the bill provides for a five-year sales tax exemption, in the form of a refund, for equipment purchased by a communications service provider that is necessary for use in the deployment of broadband technologies in the state as part of the direct participation by the provider in an Internet traffic exchange point. The sum of $700,000 in non-recurring General Revenue is appropriated to the Department of Revenue for FY 2000-20001 for the tax refunds.

The bill provides that members of the Public Service Commission Nominating Council who are appointed by the President of the Senate or Speaker of the House of Representatives serve at the pleasure of the respective appointing official. A council member may not be reappointed, except for a member of the House of Representatives or the Senate who may be appointed to two 2-year terms or a person who is appointed to fill the remaining portion of an unexpired term.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House* 116-0

### CS/HB's 1153 & 845 — Smoking Areas/Restaurants

by Business Regulation & Consumer Affairs Committee, Rep. Constantine and others (SB 1302 by Senators Webster, Grant, and Diaz de la Portilla)

This bill amends the Florida Clean Indoor Air Act, requiring that, effective October 1, 2000, no more than 50 percent of the seats existing in any restaurant's dining room, at any time, may be located in an area designated as a smoking area. Effective October 1, 2001, no more than 35 percent of such seats may be located in a designated smoking area. This bill also changes the definition of public place to include all restaurants.

If approved by the Governor, these provisions take effect October 1, 2000, and October 1, 2001.
*Vote: Senate 37-1; House 95-20*

# EDUCATIONAL DEVELOPMENT/BLIND SERVICES

## CS/SB 924 — Visually Impaired or Blind Children

by Children & Families Committee and Senator Webster

The bill creates the Blind Babies Program within the Division of Blind Services (division) of the Department of Labor and Employment Security. The Blind Babies Program would provide early-intervention education, through community-based provider organizations, to children ages birth through 5 years who are blind or visually impaired, and to their parents, families, and care givers. The bill stipulates that the program is not an entitlement. A formula for eligibility based upon financial means is to be developed, and the division is permitted to set a co-payment fee for families who have sufficient financial means to pay for education received under the program.

The division is directed to establish outcomes for the program, as well as criteria for identifying and contracting with the community-based provider organizations. Community-based provider organizations are required to develop performance measures and report their progress. The bill requires the Office of Program Policy Analysis and Government Accountability to review and report on the program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2002.

The sum of $1 million dollars ($470,000 in this bill and $530,000 in the General Appropriations Act) is appropriated from the General Revenue Fund during FY 2000-2001 to fund the Blind Babies Program.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House 120-0*

# Senate Committee on Comprehensive Planning, Local and Military Affairs

### SB 86 — Residential Swimming Pools

by Senators Sullivan and Klein

The bill creates chapter 515 of the Florida Statutes.

The bill creates the "Preston de Ibern/McKenzie Merriam Residential Swimming Pool Safety Act", requiring all new residential swimming pools to be equipped with at least one of four pool safety features; a pool barrier; an exit alarm on doors with pool access; an approved safety cover; or self-closing or self-latching doors providing access to the pool.

In order to pass a building inspection and receive a certificate of completion from the local building official, the pool must comply with the safety requirements of the bill. The bill creates a second degree misdemeanor for violating the terms of the bill.

The Department of Health is required to develop or adopt a nationally recognized drowning prevention education program and develop or adopt and make available to the public a drowning prevention pamphlet.

Certain public pools, "kiddie pools", drainage and agricultural ponds and canals are exempt from the law.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 39-0; House 109-8*

### HB 219 — Florida Building Code

by Rep. Constantine and others (CS/CS/SB's 4 and 380 by Banking and Insurance Committee; Comprehensive Planning, Local and Military Affairs Committee; and Senators Clary, Diaz-Balart, Campbell, Lee, McKay, Casas and Sullivan)

The bill recognizes the Florida Building Code adopted, by rule, by the Florida Building Commission, delays the effective date of the code to July 1, 2001, and implements the following provisions recommended by the Florida Building Commission:

- with limited exceptions, delegates to local governments the enforcement of state agency construction regulations, which are now to be included in the Florida Building Code;
- transfers the threshold inspector certification program to the Board of Architecture and the Board of Professional Engineers and revises provisions of the threshold inspector statute;
- revises the Manufactured Buildings statute to expand requirements for certification of manufacturers, authorizes recertification of buildings, and clarifies the authority of the department to delegate plans review as well as inspections; and
- clarifies the commission's authority to interpret and amend the Florida Building Code and hear appeals of local interpretations.

The bill directs the commission to adopt the wind protection requirements of the American Society of Civil Engineers, Standard 7, 1998 edition, as modified by the commission on 2/15/2000. However, land one mile from the coast from the eastern border of Franklin County to the Florida-Alabama line is not subject to these requirements. The bill also limits the application of the "exposure category C" classification for new buildings, thereby lowering construction standards for buildings situated in areas with few natural or manmade wind barriers.

The bill directs the commission to recommend a statewide product approval system to the Legislature by February, 2001.

The bill directs the Department of Community Affairs to undertake a demonstration project to show costs associated with implementation of the new Florida Building Code.

The bill requires rate filings for residential property to include "actuarially reasonable" discounts, credits, or other rate differentials, or appropriate reductions in deductibles, for properties on which fixtures or construction techniques demonstrated to reduce the amount of loss in a windstorm have been installed or implemented. These rate filings must be made by 6/1/02.

The bill creates a new section of law to provide an alternative procedure for construction and installation of factory-built school buildings, with regulation and certification through the Department of Community Affairs.

If approved by the Governor, these provisions take effect upon becoming a law.
*Vote: Senate 40-0; House 119-0.*

## CS/SB 290 — Ad Valorem Taxation

by Fiscal Resource Committee, Senators Sullivan and Casas

This bill amends s. 196.011, F.S., postponing by one year, a requirement that an applicant for homestead tax exemption must provide his or her social security number as a condition of receiving the exemption. The bill also postpones a provision which requires county property appraisers submit social security numbers from homestead exemption applications to the Department of Revenue, making it apply to the 2001 tax year and thereafter.

This bill creates s. 193.016, F.S., to require the property appraiser to consider the reduced values determined by the value adjustment board in the previous year for tangible personal property, if the property appraiser did not successfully appeal the adjustment. If the property appraiser raises those values for the same tangible personal property, he or she must assert additional basic and underlying facts not properly considered by the board.

This bill amends s. 194.013, F.S., deleting the refund of filing fees which must be paid when a taxpayer successfully appeals an assessment to the value adjustment board.

This bill also amends s. 196.198, F.S., to maintain a property tax exemption for property leased from a governmental agency if the agency continues to use the property, pursuant to a sublease or other contractual agreement with the lessee, exclusively for educational purposes.

If approved by the Governor, these provisions take effect January 1, 2001.
*Vote: Senate 37-0; House 116-0*

## CS/SB 430 — Emergency Management

by Comprehensive Planning, Local and Military Affairs Committee and Senator Carlton

This bill increases the number of hurricane shelter spaces in areas most susceptible to the damaging effects of hurricanes. Ch. 215, 235, 240, and 252, F.S., are amended to:

- prioritize state funds for shelter retrofitting;
- expand the role and responsibilities of the public schools, universities, local governments, the Department of Management Services, and private entities in providing facilities to be used as hurricane shelters;
- require the Department of Community Affairs to adopt a regional, rather than county, approach to sheltering; and
- extend a liability waiver to private property owners that provide, for limited compensation, their property for use as emergency shelters.

These provisions are the substance of CS/SB 198, which included the committee's recommendations for addressing the state's deficit or safe hurricane shelter space.

This bill also provides for the continuation of health care services to persons requiring special needs assistance during an emergency or disaster. Chapters 252, 381, 400, 401, 408, and 455 are amended to:

- require the Department of Health to establish a system to recruit and coordinate, through county health departments, health care practitioners for staffing of special needs shelters, and to compile registries of emergency medical technicians, paramedics and various health care practitioners for disasters and emergencies;
- require home health agencies, nurse registries, and hospices to prepare and maintain a comprehensive emergency management plan;
- require state agencies that contract with providers giving care to disabled persons to include emergency and disaster planning provisions in such contracts; and
- appropriate funds to implement some of these provisions.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 39-0; House 118-0.*

### HB 509 — Local Option Tourist Taxes

by Rep. Ogles (CS/SB 1078 by Fiscal Resource Committee and Senator Carlton)

This bill addresses a variety of local tax issues.

The bill amends s. 120.80(14), F.S., to award reasonable attorneys fees in cases where the court finds that the Department of Revenue improperly rejected or modified a conclusion of law.

This bill amends ss. 125.0104 and 212.0305, F.S., to allow counties that chose to assume responsibility for audit and enforcement of their local option tourist development tax, area of critical state concern tourist impact tax, or convention development tax, to use certified public accountants to perform these tasks. In addition, the bill authorizes the Department of Revenue to share information with certified public accountants for participants in the Registration Information Sharing and Exchange Program (R.I.S.E.).

The bill amends s. 125.0104(6), F.S., to clarify that the Tourist Development Tax can not be repealed until such time that outstanding bonds are satisfied. Subsection (7) is amended to establish an additional condition resulting in the automatic expiration of the county ordinance levying a tourist development tax when such tax proceeds are used to operate or maintain publicly owned facilities.

The bill creates a new section in ch. 192 called the Florida Taxpayer's Bill of Rights, which compiles taxpayers' rights with respect to taxes on real and personal property, as found in the Florida Statutes and rules of the Department of Revenue.

The bill amends s. 197.182, F.S., to require that an ad valorem tax assessment paid by a taxpayer in error because of an error in the tax notice must be refunded by the tax collector or applied to taxes actually due.

The bill amends s. 199.185, F.S. to provide an exemption to the intangibles tax on governmental leaseholds where the lessee is required to furnish space on the leasehold estate for public use by governmental agencies at no charge to the governmental agency.

The bill amends s. 212.055(4), F.S., to rename the Indigent Care Surtax as the Indigent Care and Trauma Center Surtax. In those counties levying the tax, the Clerk of Court is required to annually send $6.5 million to a hospital in the county with a Level I Trauma Center. If the county enacts a hospital lien law in accordance with ch. 1998-499, L.O.F., the clerk must, instead, send $3.5 million to the hospital.

The bill amends s. 212.055(5), F.S., to require Miami-Dade County, as a condition of levying the half-cent County Public Hospital Surtax, to reallocate 25% of the funds which the county must budget for the operation, maintenance, and administration of the county public general hospital (Jackson Memorial Hospital) to a separate governing board, agency, or authority to be used solely for the purpose of funding the plan for indigent health care services. However, in the first year of the plan, a total of $10 million shall be remitted to such governing board and $15 million in the second year of the plan. The bill provides for the creation of the governing board, and for the adoption of a health care plan to distribute the funds and specify the types of services to be provided. This provision expires on October 1, 2005.

The bill creates s. 212.055(7), F.S., to establish a new "Voter-Approved Indigent Care Surtax." Counties with less than 800,000 residents may impose the surtax, with referendum approval. The bill establishes ballot language and requires the county to develop a plan, by ordinance, for providing health care services to qualified residents, as defined in this section. Tax proceeds must be used to fund health care services for indigent and medically poor persons, including, but not limited to, primary care, preventive care, and hospital care. The bill caps local option sales surtaxes to a combined total of 1 percent unless a publicly supported medical school is located in the county, then the combined surtaxes shall be capped at 1.5 percent.

The bill amends s. 213.21(2) & (3), F.S., providing circumstances for when doubt as to liability of a taxpayer for tax and interest exists. A taxpayer who establishes reasonable reliance on the written determination issued by the Department of Revenue to the

taxpayer will be deemed to have shown reasonable cause for noncompliance. The amendments to s. 213.21(2) and (3), F.S., made by the bill shall apply only to notices of intent to conduct an audit issued on or after October 1, 2000.

The bill authorizes the School Board of Sarasota County to levy up to 1.0 additional mill of discretionary school millage for one year only, by referendum, for the purpose of implementing the transition to charter school district status. Such funds generated by the additional millage shall not become part of the calculation of the F.E.F.P. total potential funds in 2000-2001.

If approved by the Governor, these provisions take effect upon becoming law.
*Senate 35-3; House 116-0*

### SB 1220 — Commission on Homeless

by Senators McKay and Holzendorf

The bill creates a 24-member Commission on the Homeless whose purpose is to review the problems of the homeless and propose solutions for reducing homelessness to the Governor, President of the Senate and Speaker of the House by January 1, 2001.

Membership of the Commission includes eight members appointed by the Governor, five members appointed by the President of the Senate and five members appointed by the Speaker of the House of Representatives. The secretaries of the departments of Health, Children and Family Services, Community Affairs and the executive directors of the Department of Veterans' Affairs and the Housing Finance Corporation shall serve as voting members of the commission.

The commission is charged with investigating the causes of homelessness, the services currently provided to the homeless and ways in which current government programs could be better adapted to serve the needs of the homeless. The commission must hold at least four public hearings throughout the state to solicit public input.

The bill appropriates $250,000 to fund the operation and administration of the Commission on the Homeless.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 36-0; House 118-0*

### CS/HB 1439 — Spring Training Franchise Facilities

by Tourism Committee, Rep. Sembler and others (CS/CS/SB 1708 by Fiscal Policy Committee; Comprehensive Planning, Local and Military Affairs Committee; and Senators Latvala, Laurent, Myers, Kurth, Sullivan, and Carlton)

The bill amends ss. 212.20 and 288.1162, F.S., to provide for the distribution of sales tax proceeds to applicants which qualify as a "facility for a retained spring training franchise." An approved applicant can receive $41,667 monthly for 30 years ($15 million). Criteria are specified for the Office of Tourism, Trade and Economic Development for selecting a limited number of facilities for a retained spring training franchise.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate: 40-0; House 113-0*

# Senate Committee on Criminal Justice

## CONTROLLED SUBSTANCES AND DRUG CONTROL

### CS/CS/HB 75 — Nitrous Oxide

by Criminal Justice Appropriations Committee; Health Care Licensing & Regulation Committee; Rep. Ball and others (CS/SB 726 by Criminal Justice Committee and Senator Bronson)

This bill (Chapter 2000-116, L.O.F.) provides that a person who knowingly distributes, sells, purchases, transfers, or possesses more than 16 grams of nitrous oxide for other than a prescribed use commits a third degree felony known as unlawful distribution of nitrous oxide. A number of specific exemptions are listed for legitimate uses of nitrous oxide, such as its use in the treatment of a disease or injury by various, specified practitioners.

In addition to proving by any other means that the nitrous oxide was knowingly possessed, distributed, sold, purchased or transferred for any purpose not specifically prescribed, proof that any person discharged, or aided another in discharging, nitrous oxide to inflate a balloon or any other object suitable for subsequent inhalation creates an inference of that person's knowledge that the nitrous oxide's use was not for a specifically prescribed purpose.

These provisions were approved by the Governor and take effect July 1, 2000.
*Vote: Senate 38-0; House 110-0*

### CS/HB 2085 — Controlled Substances

by Crime & Punishment Committee, Rep. Bilirakis and others (CS/SB 2414 by Fiscal Policy Committee; Criminal Justice Committee; and Senator Brown-Waite)

This bill primarily addresses "designer drugs" and drug offense penalties.

The term "mixture" is defined for purposes of ch. 893, F.S., involving, in part, the scheduling of controlled substances and punishment of offenses involving controlled substances.

Dronabinol (synthetic THC), which is currently a Schedule II controlled substance, is rescheduled as a Schedule III controlled substance.

The substance 1,4 Butanediol, which is converted upon ingestion to the controlled substance gamma-hydrobutyric acid (GHB), is made a Schedule II controlled substance.

Scheduling of hydrocodone in Schedule III is eliminated; scheduling of hydrocodone in Schedule II is retained.

The scheduling reference to methamphetamine is placed in the highest penalty provisions of s. 893.13, F.S., relevant to a number of drug offenses, thereby increasing penalties for drug offenses under this section involving methamphetamines.

Three new drug trafficking offenses are created to address trafficking in 1,4 Butanediol, GHB, and "phenthylamines," such as 3,4-Methylenedioxymethamphetamine (MDMA or "Ecstasy") and substances which function similarly to MDMA and which are being passed off in "rave clubs" as MDMA. These offenses are subject to mandatory minimum terms of imprisonment of 3, 7, or 15 years, and ranked in levels 7, 8, or 9 of the Criminal Punishment Code offense severity ranking chart, depending on the weight of the trafficked substance.

The current capital trafficking offense involving amphetamine, methamphetamine and certain specified mixtures is amended to include manufacturing any of these substances.

Sentencing language relevant to the sentencing of certain drug trafficking offenses is amended to address an appellate court's interpretation that the current sentencing language precludes habitual offender sentencing.

Objects used for unlawfully introducing nitrous oxide into the human body are listed as "drug paraphernalia."

Courts are prohibited from imposing a sentence of probation in lieu of imprisonment on a drug offender with repeat violations involving specified Schedule I controlled substances.

This bill also reenacts provisions of the following sections of the Florida Statutes: 39.01; 316.193; 327.35; 397.451; 414.095; 440.102; 772.12; 782.04; 817.563; 831.31; 856.015; 893.0356; 893.12; 893.1351; 907.041; 921.0024; and 921.142. This bill also reenacts ss. 903.133, 943.0585 and 943.059, F.S., in their entirety.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 38-0; House 117-0*

# CORRECTIONS

### CS/HB 1429 — PRIDE Trust Fund

by Corrections Committee and Rep. Peaden (CS/SB 232 by Criminal Justice Committee and Senator Silver)

This bill creates and provides for the administration of a trust fund. The trust fund will be administered by the Department of Banking and Finance. The moneys in the trust fund will consist of money appropriated by the Legislature and money deposited to the trust fund by PRIDE, Inc. The money will be used for purposes of construction and renovation of current inmate work programs and facilities or to expand or establish PRIDE (Prison Rehabilitative Industries and Diversified Enterprises) programs or PIE (Prison Industry Enhancement) programs. The bill also exempts the trust fund from certain constitutional and statutory requirements.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 117-0*

### CS/CS/SB 2390 — Geriatric Prison

by Fiscal Policy Committee; Criminal Justice Committee; and Senator Thomas

This bill provides for the following:

- a definition of elderly offenders;

- legislative findings and requires the Department of Corrections to establish and operate an exclusively geriatric facility for elderly offenders at the current River Junction Correctional Institution site; and

- an annual review by the Florida Corrections Commission and the Correctional Medical Authority to the Legislature on elderly offenders within the correctional system.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House 117-0*

# COURT PROCEDURES

## CS/HB 205 — Pretrial Detention

by Criminal Justice Appropriations Committee, Rep. Cantens and others (SB 136 by Senator Diaz-Balart)

This bill creates the Trooper Robert Smith Act. This bill amends s. 907.041(4), F.S., to authorize the court to order pretrial detention (deny bail) to a defendant who is charged with DUI manslaughter when it finds:

- a substantial probability that the defendant committed the crime, and
- the defendant poses a threat of harm to the community. (The bill provides a non-exclusive list of conditions that would support this finding.)

The bill allows a judge to deny bail if no condition of release can reasonably protect the community from risk of physical harm and the offender is charged with a dangerous crime as specified by s. 907.041, F.S. Current law requires additional proof of one of the following: a prior conviction of a crime punishable by death or life, *or* prior conviction for a dangerous crime within the past 10 years, *or* that a showing that at the time of the new crime, the defendant was on probation or a similar legal restraint. The bill deletes the requirement of finding one of these additional conditions. The bill creates two additional conditions, which will allow a court to deny bail prior to trial.

The bill eliminates a 90-day cap placed on pretrial detention for defendants who are found to pose a danger to the community.

The bill repeals Rules 3.131 and 3.132 of the Florida Rules of Criminal Procedure relating to pretrial release and pretrial detention to the extent they are inconsistent with the provisions in the bill.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 39-0; House 109-0*

## SB 268 — Insanity Defense in Criminal Prosecutions

by Senator Sebesta

This bill codifies the affirmative defense of insanity by creating s. 775.027, F.S. The bill adopts the M'Naghten Rule by stating that insanity is established when, at the time of the offense:

- The defendant had a mental infirmity, disease or defect, **and**

- Because of this condition, the defendant:

    a. did not know what he or she was doing or its consequences, **or**

    b. although he knew what he or she was doing and its consequences, he did not know it was wrong.

Currently, when the defendant introduces evidence sufficient to present a reasonable doubt of sanity, the presumption of sanity vanishes and the burden then shifts to the state to prove the defendant's sanity beyond a reasonable doubt. The bill provides that the defendant has the burden of proving the defense of insanity by clear and convincing evidence. This mirrors the federal standard contained in the U.S. Code.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 113-1*

### CS/HB 607 — Pretrial Release

by Criminal Justice Appropriations Committee, Rep. Cantens and others (CS/CS/SB 134 by Fiscal Policy Committee; Criminal Justice Committee; and Senators Diaz-Balart and Campbell)

This bill makes various changes to the pretrial detention and release statutes, including:

- Revising the current prohibition against recognizance bonds and certain monetary bonds by making it applicable to any defendant who previously failed to appear, even if it was not a willful and knowing failure to appear and even if the defendant did not breach a bond.

- Revising legislative intent by removing the presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release, *if the person is charged with a dangerous crime*.

- Prohibiting the court at a first appearance hearing from granting nonmonetary pretrial release to any person charged with a “dangerous crime.” Requiring a hearing to determine eligibility for nonmonetary pretrial release within 72 hours of the first appearance of any person changed with a “dangerous crime.”

- Permitting a court, on its own initiative, to revoke pretrial release and order pretrial detention if it finds probable cause to believe that the defendant committed a new

crime while on pretrial release, and the court finds release would risk harm to persons, not assure presence at trial or assure the integrity of the judicial process.

- Providing an extension from thirty-five days to sixty days after the bond forfeiture notice has been sent before the forfeited money is deposited into the government account or the bond is sold.

- Repealing Florida Rules of Criminal Procedure 3.131 and 3.132 to the extent they are inconsistent with the bill.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 118-0*

## CRIMINAL OFFENSES AND PENALTIES

### SB 184 — Concealed Handcuff Keys

by Senator Lee

This bill provides that possession of a concealed handcuff key by a person in custody is a third degree felony ranked in level 4 of the Criminal Punishment Code offense severity ranking chart.

This bill also provides three defenses to the charging of the new offense: the handcuff key is not secreted and is one of several keys on the person's sole key ring; the person, immediately upon being placed in custody, actually and effectively discloses the possession of the handcuff key; or the person is a federal, state or local law enforcement officer, including reserve or auxiliary officer, a licensed security officer, a private investigator, a professional or temporary bail bond agent, a runner, or a limited surety agent who has actually and effectively disclosed the possession of the handcuff key.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House 113-0*

## HB 683 — Lewd or Lascivious Exhibition

by Juvenile Justice Committee, Rep. Merchant and others (CS/SB 1618 by Criminal Justice Committee and Senator Saunders)

This bill amends s. 800.04(7), F.S., which imposes a criminal penalty against a person who commits lewd or lascivious exhibition in the presence of a person who is less than 16 years of age. This bill provides that a person 18 years of age or older who transmits a lewd or lascivious exhibition over a computer on-line service, Internet service, or local bulletin board service when the person knows or should know or has reason to believe that the transmission is viewed on a computer or television monitor by a person in this state who is less than 16 years of age, commits a second degree felony ranked in level 5 of the Criminal Punishment Code offense severity ranking chart. If the violator is less than 18 years of age, the offense is a third degree felony ranked in level 4 of the Code ranking chart.

This bill provides that elements of the new offense include knowledge of the victim's age and knowledge of the victim's location in this state, thereby creating a specific intent offense of lewd or lascivious exhibition, while preserving the general intent offense of lewd or lascivious exhibition.

It is not a defense to the lewd or lascivious exhibition offense that an undercover operative or law enforcement officer was involved in the detection and investigation of the offense so long as the offender has reason to believe that the transmission is viewed by a person in this state who is less than 16 years of age. A person making such transmission can be prosecuted for lewd or lascivious exhibition even if the transmission is actually viewed by an undercover operative or law enforcement officer so long as the person making the transmission has reason to believe that the transmission is viewed by a person less than 16 years of age.

For purposes of incorporating the amendment to s. 800.04, F.S., this bill reenacts provisions of the following sections of the Florida Statutes: 394.912, 775.082, 775.084, 775.15, 775.21, 787.01, 787.02, 787.025, 914.16, 943.0435, 943.0585, 943.059, 944.606, 944.607, 947.1405, 948.01, 948.03, and 948.06. Section 914.16, F.S., is reenacted in its entirety.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate: 40-0; House 113-0*

### CS/SB 840 — Sexual Abuse Cases

by Criminal Justice Committee and Senators Carlton and McKay

This bill provides that a defendant's memorialized confession or admission to a crime involving "sexual abuse" is admissible without having to first establish the existence of the corpus delicti of the crime if the court, in a hearing conducted outside the presence of the jury, finds that the state is unable to show the existence of the elements of the crime and further finds that the confession or admission is trustworthy. This "trustworthiness" test applies to any crime involving "sexual abuse," a term which is defined, rather than the common law corpus delicti rule.

The provisions of this bill specifically apply to: sexual battery; unlawful sexual activity with certain minors; a lewd, lascivious, or indecent assault or act committed upon or in the presence of persons less than 16 years of age; incest; child abuse, aggravated child abuse, or neglect of a child, if the act involves sexual abuse; contributing to the delinquency or dependency of a child, if the act involves sexual abuse; sexual performance by a child; any other crime involving "sexual abuse" of another; or any attempt, conspiracy or solicitation to commit any of these offenses.

For purposes of admissibility under the "trustworthiness" test, the state, at the hearing on the admissibility of the defendant's confession or admission, must prove by a preponderance of the evidence that there is sufficient corroborating evidence tending to establish the trustworthiness of the defendant's statement. Hearsay evidence and all relevant corroborating evidence may be heard by the court at this hearing. The court's ruling must be based on specific findings of fact, on the record.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 35-0; House 117-0*

## FIREARMS

### CS/HB 955 — Weapons and Firearms

by Law Enforcement & Crime Prevention Committee and Rep. Futch (CS/CS/SB 1840 by Fiscal Policy Committee; Criminal Justice Committee; and Senator Lee)

Section 790.065, F.S., which requires a criminal history check prior to the sale of a firearm, is scheduled for repeal on June 1, 2000. This bill extends the repeal date until June 1, 2002.

Florida Statutes do not contain provisions specifically addressing chemical or biological weapons of mass destruction. This bill provides that a person who, without lawful authority, manufactures, possesses, sells, delivers, displays, uses, threatens to use, attempts to use, or conspires to use, or who makes readily accessible to others a weapon of mass destruction, including any biological agent, toxin, vector, or delivery system:

- commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life, and
- if death results, commits a capital felony.

These provisions codify in Florida Statutes provisions similar to those contained in federal law. The bill contains definitions for weapons of mass destruction, biological agent, toxin, vector, or delivery system consistent with federal law.

The bill provides that a person who, without lawful authority, manufactures, possess, sells, delivers, displays, uses, threatens to use, attempts to use or conspires to use, or who makes readily accessible to others a hoax weapon of mass destruction with the intent to deceive or otherwise mislead another person into believing that the hoax weapon of mass destruction will cause terror, bodily harm, or property damage, commits a felony of the second degree. Federal law does not have a similar provision.

If approved by the Governor, the provision extending the repeal date takes effect upon becoming law, all other provisions take effect on July 1, 2000.
*Vote: Senate 40-0; House 119-0*

## JUVENILE JUSTICE

### CS/CS/HB 69 — Habitual Juvenile Offenders

by Criminal Justice Appropriations Committee; Crime & Punishment Committee; Rep. Murman and others (CS/SB 722 by Fiscal Policy Committee and Senator Lee)

This bill (Chapter 2000-119, L.O.F.) requires a prosecutor to direct file an information on a juvenile (transfer to adult court) who is 16 or 17 years of age if the juvenile is currently charged with a *forcible felony* and has three previous felony adjudications or three withheld felony adjudications, each of which occurred at least 45 days apart. An exception is provided if a prosecutor finds that exceptional circumstances exist.

In addition, the bill would require the sentencing court to impose adult sanctions on juveniles transferred to adult court under this newly created criteria or under current mandatory waiver provisions in ch. 985, F.S.

These provisions became law upon approval by the Governor on April 18, 2000.
*Vote: Senate 29-10; House 80-31*

## CS/SB's 1192 and 180 — Juvenile Justice

by Criminal Justice Committee and Senators Webster and Lee

The bill amends several sections relating to juvenile justice. What follows are some of the major provisions that are amended.

**Placement in a Staff-Secure Shelter**-- The bill amends s. 984.225, F.S., to broaden the potential group of adjudicated children in need of services (CINS) youths who are eligible for placement in a staff-secure shelter for up to 90 days. According to the Department of Juvenile Justice (DJJ), these shelters have been underutilized for this purpose.

**Placement in a Physically Secure Program**-- The bill amends s. 984.226, F.S., to expand the pilot program in the Seventh Judicial Circuit to be a statewide program for certain CINS youths.

**Court Jurisdiction in Juvenile Cases**-- The bill amends s. 985.201, F.S., to provide that a court may retain jurisdiction over a youth who has been committed to the DJJ for placement in a juvenile prison or a high-risk or maximum-risk residential program. The court may retain jurisdiction until the youth reaches 22 years of age for the purpose of allowing the youth to participate in a juvenile conditional release (i.e., aftercare) program.

**Reports and Affidavits**-- The bill amends s. 985.207, F.S., which outlines the circumstances under which a child may be taken into custody, to expressly authorize law enforcement officers to take into custody a youth who has failed to appear at a court hearing or who is in violation of postcommitment community control. Under the bill, in those instances where a youth is taken into custody and released pursuant to s. 985.211, F.S., the person taking the youth into custody must make the release report to the juvenile probation officer within 24 hours after the youth's release.

In addition, the arresting law enforcement agency is required to complete and present its investigation to the state attorney's office within eight days of a youth being placed in secure detention.

**Detention**-- The bill authorizes the court to place a youth charged with committing an act of domestic violence in secure detention even when there is no finding that the offense has resulted in physical injury to the victim. The bill also allows the court to use the risk assessment instrument to score both the current offense and the underlying charge for which a youth was placed under the supervision of the DJJ, if while on supervision, the youth is charged with a new offense.

In addition, a youth who is detained on a judicial order for failure to appear may be held in secure detention for up to 72 hours in advance of the youth's next scheduled court hearing, regardless of the scored risk assessment instrument, if the youth has willfully failed to appear (after proper notice) for one adjudicatory hearing or two or more hearings of any nature.

The bill also extends the current 21-day detention time limit for an additional 9 days if the offense charged is a capital felony, life felony, first degree felony, or second degree felony involving violence against a person.

**Punishment for Contempt of Court**-- The bill allows the court to place a delinquent youth in a secure detention facility for a time period not to exceed 5 days for a first contempt finding and not to exceed 15 days for a second or subsequent contempt. A CINS youth found in contempt can be placed in a staff-secure facility for the same time periods.

**Process and Service**-- The bill requires law enforcement agencies to serve process for juvenile proceedings within seven days after arraignment or as soon as possible afterwards.

**Sentencing Alternatives for Juveniles Prosecuted as Adults**-- The bill enumerates several circumstances in which a youth can be found unsuitable for juvenile sanctions, including committing a new violation of law while under juvenile sanctions.

**Juvenile Arrest and Monitor Unit Pilot Program**-- The bill authorizes the creation of a pilot program in Orange County that will continue through September 30, 2003. The Orange County Sheriff's Office is required to monitor selected juvenile offenders on community control in Orange County.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 38-0; House 117-0*

### CS/SB 1196 — Juvenile Justice

by Fiscal Policy Committee and Senator Brown-Waite

The bill allows the Department of Juvenile Justice (DJJ) to reorganize. It eliminates two DJJ senior management positions (Assistant Secretary of Programming and Planning and Deputy Secretary for Operations) and establishes newly formed program areas within the department. These program areas will coincide more closely with the department's major services (prevention and victim services, detention, residential and correctional facilities, probation and community corrections, and administration).

The bill also eliminates the 15 current service districts and five commitment regions and instead, requires the DJJ to administer its programs through a structure that conforms to the boundaries of the 20 judicial circuits. The bill also realigns and renames the 15 district boards as circuit boards.

Other major provisions of this bill include the following: provides a new definition for classification and residential placement of juvenile offenders; provides for more comprehensive screening of any youth for whom a residential commitment disposition is anticipated or recommended; provides statutory authority for the continuation of the Classification and Placement Workgroup to study and make recommendations to the Governor and Legislature concerning the development of a system for classifying and placing juvenile offenders who are committed to residential programs; and creates the position of youth custody officer within the Department of Juvenile Justice (DJJ) to take youths into custody if there is probable cause to believe the youth has violated the conditions of probation, home detention, conditional release, or has failed to appear in court.

In addition, the bill contains provisions relating to the payment of fees for the cost of care for juvenile detention and residential commitment. It requires the DJJ to report to the court on the financial ability of parents and to make a specific recommendation regarding fee payment. It provides that the required cost for detention care is $20 per day with a $2 minimum, and the cost for commitment is based upon the restrictiveness level with a $2 minimum. The fees can be waived or reduced, if the court so orders. The DJJ is also given administrative authority to collect the fees.

The legislation also contains provisions requiring the DJJ to report to the Governor and Legislature on statewide prevention services coordination efforts by January 2001. It codifies juvenile crime prevention strategies such as staying in school, positive after-school activities, avoiding violence, and developing employment skills. It also provides that the payment for prevention grants and contracts with the DJJ is contingent upon the provider submitting demographic and performance information on each invoice.

If approved by the Governor, except as otherwise provided by the bill, these provisions take effect July 1, 2000.
*Vote: Senate 37-0; House 118-1*

## SB 1548 — Prosecution of Juveniles

by Senators Brown-Waite and Cowin

The bill requires a 16- or 17-year-old juvenile who commits or attempts to commit any of the enumerated serious offenses under the "10-20-life" statute while possessing or discharging a firearm or destructive device to be subjected to the minimum mandatory penalties under that statute as follows:

- actual possession of a firearm or destructive device results in a minimum of ten years in prison (except aggravated assault, possession of a firearm by a felon, or burglary of a conveyance results in a three year minimum);

- discharge of a firearm or destructive device results in a minimum of 20 years in prison; and

- discharge of a firearm or destructive device causing death or great bodily harm results in at least 25 years to life in prison.

The bill also requires a prior adjudication or withhold of adjudication for a forcible felony, an offense involving a gun, or a prior offense resulting in residential commitment before the juvenile can be sentenced to 10 years as an adult under the 10-20-life statute for possessing a gun while committing an enumerated offense. If a juvenile does not meet these requirements, the court can sentence the juvenile to juvenile sanctions, but only if the court commits the juvenile to a high-risk or maximum-risk facility. It also gives a prosecutor discretion in determining whether to prosecute the juvenile as an adult under the 10-20-life statute, if exceptional circumstances exist. Under the bill, the Department of Corrections is required to make reasonable efforts to separate these 16- and 17-year-old youths from adult offenders in prison and it allows the department to use existing money to advertise the penalties under the bill.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 31-7; House 96-20*

# LAW ENFORCEMENT

## SB 838 — Convicted Burglar/DNA Testing

by Senator Bronson

This bill removes the requirement that a person who is or has been previously convicted of certain specified offenses, such as sexual battery, still be incarcerated in order to submit a blood specimen for DNA analysis by the Department of Law Enforcement. Blood specimens can be obtained from such person if that person is either still incarcerated or is no longer incarcerated but is within the confines of the legal state boundaries and is on probation, community control, parole, conditional release, control release, or any other court-ordered supervision.

In addition to a blood specimen collection pursuant to a court order, the specimen may be provided by the person in the absence of a court order. If a judgment fails to order the convicted person to submit to the drawing of a blood specimen as prescribed, the state attorney may seek an amended order from the sentencing court for this purpose, or alternatively, the Department of Corrections, state attorney, or any law enforcement agency may seek an order to take the person into custody for such purpose.

Burglary is added to the list of offenses for collection of blood specimens for DNA analysis by the Department of Law Enforcement. Section 810.02, F.S., is reenacted.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 110-0*

## HB 937 — Law Enforcement Officers and Correctional Officers

by Rep. Posey and others (CS/SB 1174 by Criminal Justice Committee and Senator Campbell)

This bill provides that, notwithstanding the rights and privileges provided by ch. 112, part VI, F.S., relating to law enforcement and correctional officers' rights while under investigation, this part does not limit the right of an agency to discipline or pursue criminal charges against an officer.

Law enforcement and correctional officers are authorized to review all statements, regardless of their form, made pertaining to any complaint against the officer made by or on behalf of the complainant and witnesses immediately prior to the beginning of an investigative interview.

All of the provisions of s. 839.25, F.S., relating to the offense of official misconduct, shall apply to failure to comply with ch. 112, part VI, F.S.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House 111-0*

### HB 1481 — Law Enforcement Academies

by Law Enforcement & Crime Prevention Committee and Rep. Futch (SB 2516 by Senator Diaz de la Portilla)

This bill amends s. 943.14, F.S., to require each Criminal Justice Training School that provides basic recruit training, or each Selection Center that provides applicant screening, to conduct a background check on each applicant to include the applicant's fingerprints which will be submitted to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for criminal history checks. Under the bill, candidates for admission to the Training Schools would be denied access if they have been convicted of a crime which would later render them unable to be certified as a law enforcement officer, correctional probation officer, or correctional officer under s. 943.13, F.S.

The bill also amends s. 943.17, F.S., to require the Criminal Justice Training and Standards Commission to assure that entrance to basic recruit training programs is limited to candidates who pass a basic-skills examination and assessment instrument based on a job-task analysis in the specific area of study.

If approved by the Governor, these provisions take effect January 1, 2001.
*Vote: Senate 39-0; House 111-0*

## MONEY LAUNDERING

### SB 1256 — Money Laundering/Seaport Public Records

by Criminal Justice Committee

This bill provides a public record exemption for seaport security plans. In addition, the bill provides photographs, maps, blueprints, drawings, and similar materials which detail critical seaport operating facilities are exempt from public disclosure to the extent the seaport authority reasonably determines such items contain information not generally known which could jeopardize the security of the seaport. The bill expressly excludes from the exemption layout plans and blueprints associated with leasing of seaport property.

The exemptions created by the bill would be repealed, subject to prior legislative review, October 2, 2005.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 38-0; House 115-0*

## CS/CS/CS/SB 1258 — Money Laundering

by Fiscal Policy Committee; Banking & Insurance Committee; and Criminal Justice Committee

This bill addresses the problem of money laundering, particularly the proceeds of the illicit drug trade, and impacts on the areas of law enforcement and prosecution, transportation and distribution, and financial institutions and businesses.

A uniform sentencing scheme is provided by the adoption in various sections of graduated penalties based upon the amount involved in the money laundering violation. These felony violations are ranked in levels 7, 8, or 9, of the Criminal Punishment Code offense severity ranking chart.

The term "structuring" is defined and a new offense involving structuring of financial transactions is created.

The terms "transaction" and "financial transaction" are amended to include using safe deposit boxes and the transferring of a title to any real property or vehicle, vessel, or aircraft.

Law enforcement entities may petition for a temporary injunction to prohibit a person from alienating or disposing of proceeds from specified illegal activities relating to money laundering. Courts may issue the injunctive order ex parte and without notice of a hearing prior to issuance of the order. Notice must be provided to the person whose funds are temporarily enjoined of the opportunity to contest the order entered and the right to produce evidence specified, legitimate business obligations. A financial institution that receives a seizure warrant for the funds subject to civil forfeiture, a temporary injunction, or other court order, may deduct from the account funds necessary to pay certain electronic transmissions or deposited checks.

The use of rewards to informants who provide information pertaining to money laundering is authorized.

The admissibility of defendant's confession or admission in a case involving a violation of ch. 896, F.S., and ss. 560.123, 560.125 and 655.50, F.S., is determined by the court's application of a "trustworthiness test" rather than the application of the common law corpus delicti rule

For purposes of admissibility under the "trustworthiness" test, the state, at the hearing on the admissibility of the defendant's confession or admission, must prove by a preponderance of the evidence that there is sufficient corroborating evidence tending to establish the trustworthiness of the defendant's statement. Hearsay evidence and all relevant corroborating evidence may be heard by the court at this hearing. The court's ruling must be based on specific findings of fact, on the record.

The "fugitive disentitlement" doctrine is codified to prevent fugitives from justice from challenging money laundering forfeitures.

There is a statutory inference of a person's knowledge of money transmitter reporting and registration requirements if it is proved that the person engaged in the business of money transmitting and for monetary consideration, transported more than $10,000 in currency.

Use of certain defenses in a money laundering prosecution are precluded.

Specified undercover law enforcement activity is authorized in connection with legitimate money laundering investigations.

The Florida Seaport Transportation and Economic Development Council, in consultation with the Office of Drug Control, and in conjunction with the Department of Law Enforcement and local law enforcement agencies having primary authority over the affected seaports, must develop a statewide seaport security plan based upon the Florida Seaport Security Assessment 2000 conducted by the Office of Drug Control. The plan must establish statewide minimum security standards for the prevention of criminal activity, including money laundering in all Florida seaports represented by the Florida Seaport Transportation and Economic Development Council. The plan must also identify the funding needs for the security requirements of the seaports and recommend mechanisms to fund those needs including an analysis of the ability of the seaports to provide funding for necessary improvements. The plan must be submitted to the Legislature for approval.

Each affected seaport must develop a seaport security plan that is particular to the needs of the particular seaport, and that adheres to the statewide seaport security standards. The Department of Law Enforcement must conduct an annual compliance inspection.

A fingerprint-based criminal history check must be made on any applicant for employment or current employee who will be working within the property of or have regular access to the seaport.

An affirmative burden of reasonable inquiry is placed on persons who are involved in suspicious transactions or transportation of monetary instruments.

The definition of "drug paraphernalia" is expanded to include hidden compartments in vehicles used, intended for use, or designed for use in transporting controlled substances and illicit proceeds. It is a third degree felony to use drug paraphernalia for the purpose of transporting a controlled substance or contraband, including illicit proceeds.

There is an appropriation from the State Transportation Trust Fund for FY 2000-2001, for 15 FTE and $1.6 million, to the Department of Transportation, Office of Motor Carrier Compliance, for the purpose of creating a contraband interdiction program. The Department of Transportation must seek additional funds from federal grants and forfeiture proceedings, and may amend its budget.

The regulatory and enforcement role of the Department of Banking and Finance in its administration of the Money Transmitters' Code (ch. 560, F.S.) is strengthened.

This bill clarifies that an "authorized vendor" must be engaged in the business of a money transmitter on behalf of the registrant and have locations in Florida pursuant to a written contract with the registrant.

It is a third degree felony to file a financial statement or relevant supporting document with the Department of Banking and Finance with the intent to deceive and with knowledge that the document is materially false.

This bill deletes the requirement that the Department of Banking and Finance prove knowledge on the part of a Code violator who receives or possesses property with intent to deceive or defraud, fails to make a true entry in books and accounts, or places among the assets of a money transmitter or vendor any notes or obligations that such transmitter does not own or which are fraudulent or otherwise worthless.

This bill expands the number of activities that are violations of the Code and that constitute grounds for the department to issue cease and desist orders, to suspend or revoke registrations, or to take other actions.

A money transmitter is responsible for any act of its authorized vendors if the transmitter should have known that the act was a Code violation.

The Department of Banking and Finance may bring enforcement actions against money transmitter violators without providing advance written notice to such violators, except in limited circumstances.

The Department of Banking and Finance may conduct an examination of the activities and transactions of a money transmitter or vendor without providing advance notice, if

the department suspects that the person has violated the Money Transmitters' Code or the criminal laws of this state, or has engaged in unsound practices.

Persons subject to ch. 560, F.S., who are examined must make available to the Department of Banking and Finance their accounts, documents and records which are in their immediate possession or control; such records not in their immediate possession must be made available to the department within 10 days after notice is served on such persons.

Examinations may be performed by an independent third party approved by the department or by a certified public accountant. Annual financial reports must be audited, except in limited circumstances, by an independent third party or by a certified public accountant. Willful violations of these and other requirements relevant to examinations, reports, and audits are third degree felonies.

A willful violation of a recordkeeping requirement for registered money transmitters, check cashers, and foreign currency exchangers is a third degree felony.

The Department of Banking and Finance may conduct background investigations and require the filing of fingerprints under ch. 560, F.S. The department may also deny a renewal license for the same reasons it can deny an initial license application.

Felony violations of ch. 560, F.S., are added to the list of predicate offenses under the Racketeer Influenced and Corrupt Organization (RICO) Act.

Avoidance of money transmitters' registration requirements is added to the activity that is prohibited in s. 896.101, F.S. (Florida Money Laundering Act).

This bill creates the Financial Crime Analysis Center and Financial Transaction Database within the Department of Law Enforcement. The department, working with the Departments of Banking and Finance and Revenue, must compile information and data from financial reports required by state or federal law to be submitted to the Departments of Banking and Finance and Revenue in order to analyze and reveal patterns, trends and correlations that are indicative of money laundering or other criminal activity. It is the Legislature's intent that the information be made available for use by law enforcement and prosecutors as authorized by state or federal law or regulation.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 114-0*

## SB 1260 — Money Laundering/Federal Law Enforcement Trust Fund

by Criminal Justice Committee

This bill creates a Federal Law Enforcement Trust Fund (FLETF) within the Florida Department of Transportation (FDOT). The bill authorizes FDOT to deposit into the FLETF and the State Transportation Trust Fund, receipts and revenues received as a result of federal criminal, administrative, or civil forfeiture proceedings and revenues received from federal asset-sharing programs. The bill was a specific recommendation from the 1999 Legislative Task Force on Illicit Money Laundering which was a joint legislative task force created to study and recommend ways to enhance Florida's strategy in combating money laundering.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 38-0; House 115-0*

## CS/CS/SB 1262 — Money Laundering/Public Records Exemption/Money Transmitters

by Banking & Insurance Committee and Criminal Justice Committee

This bill revises the confidentiality provisions under ch. 560, F.S., the Money Transmitters' Code. It makes confidential and exempt from the requirements of s. 119.07(1), F.S., and Section 24(a) of Article I of the State Constitution, all information, with certain exceptions, concerning investigations or examinations conducted by the Department of Banking and Finance, information concerning trade secrets, personal financial information, and consumer complaints. It removes certain confidentiality restrictions placed on access to hearings, proceedings, and related documents of the department and revises certain limitations on the disclosure of other information concerning an investigation. The bill also provides a statement of public necessity.

This legislation is one of the recommendations of the Joint Legislative Task Force on Illicit Money Laundering which was established last year by Senate President Jennings and House Speaker Thrasher to address the money laundering problem in Florida.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 38-0; House 114-0*

## SENTENCING ENHANCEMENTS AND MINIMUM MANDATORY TERMS OF IMPRISONMENT

### HB 677 — Consecutive Sentences

by Rep. Johnson (SB 1632 by Senator Cowin)

This bill provides that a sentence for sexual battery or murder must be imposed consecutively to any other sentence for sexual battery or murder which arose out of a separate criminal episode or transaction.

The bill clarifies that the custodian of the jail must forward certain records and information to the Department of Corrections when a prisoner is delivered to prison by jail personnel.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 40-0; House 115-0*

## SEXUAL OFFENDERS

### CS/SB's 1400 & 1224 — Sexual Predators and Sexual Offenders

by Criminal Justice Committee and Senators Bronson, Dyer and Brown-Waite

This bill streamlines current sexual predator and sexual offender registration and notification provisions, clarifies definitions and wording that relate to implementation of the sexual predator and sexual offender registration requirements, expands the type of information required to be provided for purposes of registration and notification, reduces the scope of permissible reasons for petitioning a court for removal of the sexual predator and sexual offender registration requirements, expands provisions relating to civil immunity for reporting and using sexual predator and sexual offender information, and conforms several provisions of the sexual predator and sexual offender registration laws to meet requirements of the federal Jacob Wetterling Act.

This bill clarifies that the scope of the definition of "conviction" for the purpose of registration as a sexual predator or sexual offender includes a conviction in any other jurisdiction. It also clarifies that the definition of "temporary residence" includes any out-of-state address. The definition of "sexual predator" is amended to include any attempted capital, life, or first-degree felony violation of the offenses listed in that definition, and expand the list of qualifying offenses. It is also clarified that the offense of false accusations of sexual battery and s. 794.023, F.S., which is not an offense but rather a

reclassification of offenses based on sexual battery by multiple perpetrators, are not qualifying offenses.

The definition of "sexual offender" is amended to clarify that the listed offense of luring or enticing a child does not apply if the defendant is the victim's parent, and that the offenses of false accusations of sexual battery and failing to appear for or allow administration of medroxyprogestorone acetate (MPA) are not qualifying offenses.

The current three-category or three-tier registration/notification system in s. 775.21, F.S., is replaced with a sexual predator definition, registration procedures, notification procedures, and other provisions of the law uniform for all persons whose offenses qualify them for the sexual predator designation.

A person who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator or a similar designation in another state or jurisdiction, and who was, as a result of this designation, subjected to registration or notification, or both, in that state or jurisdiction, must register as a sexual offender in this state.

A sexual predator or sexual offender must supply his or her address in this state, or out-of-state, or both, if applicable.

The Department of Corrections must notify the Department of Law Enforcement of any sexual predator or sexual offender who escapes or absconds from custody or supervision, or if the sexual predator dies. Further, the custodian of a jail is to notify the Department of Law Enforcement if any sexual predator or sexual offender in the custody of the jail escapes from custody or dies.

A sexual predator or sexual offender must report in person to a driver's licence office within 48 hours after any change in the predator's or offender's name by reason of marriage or legal process.

A sexual predator or sexual offender must notify the sheriff of the county of current residence or the Department of Law Enforcement if that predator intends to establish residence in another state or jurisdiction, or intends to establish such residence and later decides to remain in this state. It is specified that the predator or offender must report in person.

Relief granted under provisions involving a petition for the removal of the sexual predator or sexual offender registration requirements must comply with the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to the removal of

the designation as a sexual predator which the federal law or standards require as a condition for receipt of federal funds by the state.

A current exemption from the sexual predator or sexual offender registration requirements based on the restoration of the predator's or offender's civil rights is deleted.

A sexual offender who was 18 years of age or under at the time the offense qualifying for sexual offender designation was committed and for which adjudication was withheld, who has had 10 years elapse since having been placed on probation for that offense, and who has not been arrested for any felony or misdemeanor offense since release, may petition for removal of the sexual offender designation.

The Department of Law Enforcement must implement a system for verifying the addresses of sexual predators and sexual offenders that conforms with the provisions of the federal Jacob Wetterling Act, as amended, and any other federal standards applicable to such verification which the federal law or standards require as a condition for receipt of federal funds by the state. Further, the department must verify the addresses of sexual predators and sexual offenders not under the care, custody, control, or supervision of the Department of Corrections.

Immunity from civil liability for compliance with and release of information under the sexual predator and sexual offender registration and notification sections is extended to the Department of Law Enforcement, the Department of Corrections, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, any law enforcement agency in this state, the personnel of those agencies, or currently exempt officials, employees, agencies, individuals or entities acting at the request or upon the direction of any law enforcement agency.

Immunity is also extended to elected or appointed officials, public employees, and school administrators, and an employee and agency acting at the request or upon the direction of any law enforcement agency. The immunity applies to good-faith compliance with or release of information, and those covered by the immunity provision are presumed to have acted in good faith in compiling, recording, reporting, or releasing the information. This presumption is not overcome if a technical or clerical error is made by the Department of Law Enforcement, the Department of Highway Safety and Motor Vehicles, the Department of Corrections, the personnel of those departments, or any individual or entity acting at the request or upon direction of those departments in compiling or providing information, or if information is incomplete or incorrect due to the predator's or offender's failure to report or falsely reporting current residency.

The penalty provision of s. 775.21, F.S., is amended to reflect changes to this section.

A new section is created to provide legislative findings that sexual offenders pose a high risk to the public, a paramount governmental interest is involved, there is a reduced expectation of privacy in light of the public interest involved, and the designation as a sexual offender is a status resulting from conviction of certain crimes and not a punishment.

A sexual offender must report in person to the Department of Law Enforcement or the sheriff's office where the offender resides within 48 hours after being released from the custody, control, or supervision of Department of Corrections or from the custody of a private correctional facility.

Provisions requiring that information be provided regarding the current temporary residence of sexual predators and sexual offenders is clarified to include any temporary residence out-of-state.

Within 48 hours of reporting to the Department of Law Enforcement or the local sheriff where the sexual offender resides, the offender must report to a drivers license office to secure a driver's licence or state identification card and provide specified information. This requirement is met if the offender secured the card and provided the information while under state supervision.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 115-0*

## VICTIM ASSISTANCE AND COMPENSATION

### CS/SB 1266 — Victims of Self-Inflicted Crimes

by Criminal Justice Committee and Senator McKay

The committee substitute creates the Task Force on Victims of Self-Inflicted Crimes within the Executive Office of the Governor. This task force is charged with studying the problems associated with victims of self-inflicted crimes and proposing solutions for reducing the repetitious behavior causing these actions by providing programs to specifically remedy this behavior.

The committee substitute requires the task force to investigate the following: causes leading to these crimes; current availability and methods of treatment; current state and local policies relative to victims of self-inflicted crimes; number of these victims; and recommendations to improve services for this population. The task force is required to conduct at least four public hearings around the state to receive input from the public and

experts on problems of victims of self-inflicted crimes. By January 1, 2001, the task force will issue its written report, containing recommendations for addressing the problems of victims of self-inflicted crimes, to the Governor, President of the Senate, and Speaker of the House. The life of the task force will end no later than January 15, 2001.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 38-0; House 113-0*

# Senate Committee on Education

## SCHOOL SAFETY

### CS/CS/CS/SB's 852, 2, & 46 — School Safety and Security

by Fiscal Policy Committee; Criminal Justice Committee; Education Committee; and Senators Dyer and Carlton

The bill implements the following recommendations of the 1999 Florida Senate School Safety Task Force:

- Increasing the scope of the current best financial management practices reviews administered or conducted by the Office of Program Policy Analysis and Government Accountability (OPPAGA) to include safety and security.
- Establishing a statewide entity (the Partnership for School Safety and Security) to perform specific responsibilities:
  - create an electronic clearinghouse of safety and security information;
  - evaluate school safety and security programs and strategies and make recommendations to the Legislature and the clearinghouse;
  - train and offer technical assistance to school district staff and others;
  - assess the extent to which best practices are currently being used; and
  - foster linkages with law enforcement personnel and crisis management teams.
- Directing the Department of Education to perform the following activities:
  - develop an individualized school level safety and environment assessment instrument;
  - expand existing performance standards for the state education goal for safety; and
  - establish a mechanism to further improve the reliability and accuracy of school safety data.
- Requiring the use of a standardized reporting form and a plan to verify the accuracy of reported incidents.
- Removing school discipline data as a factor for grading a school's performance level.
- Establishing pilot programs for student support services personnel.[1]
- Mandating access by law enforcement personnel and others to each school's floor plans and other relevant documents.

[1] The bill creates, from funds provided in the 2000-2001 General Appropriations Act, pilot programs in 3 school districts (Lake, Miami-Dade, and Sarasota) to assess the use of and to assist student support services personnel in public schools.

In addition, the bill makes the following changes:

***Attendance***

- Removes attendance as a factor for grading a school's performance level.
- Clarifies the existing prohibition related to the use of attendance records in exemptions from academic performance requirements.
- Modifies provisions for enforcing attendance of students who are exhibiting a pattern of nonattendance and who are enrolling in a home education program.
- Allows a law enforcement officer to take custody of expelled or suspended students who are not in the presence of a parent or guardian, upon reasonable grounds.
- Requires a law enforcement officer to deliver suspended or expelled students who are without assignment to an alternative school to a parent or guardian, a location determined by a parent or guardian, or a truancy interdiction site.
- Modifies truancy court provisions.

School districts are given earlier access to truancy court as a child study team intervention strategy. For the Learnfare program, school districts will report a student to the Department of Children and Families based on standard truancy criteria. The bill also changes the time frame for parental meetings with school officials.

***Zero tolerance***

- Requires one year expulsion for bringing weapons or firearms to school and school functions and for making bomb threats or false reports.
- Provides for assignment to a disciplinary program or second chance school during expulsion.
- Provides for superintendent discretion in considering expulsion.
- Requires compliance with procedures in State Board of Education rule when disciplining students with disabilities.
- References state law (ch. 790, F.S.) rather than federal law when referring to firearms or weapons.

***Discipline***

- Amends the definition of suspension.
- Revises the notice requirements in the code of student conduct to conform to changes to zero tolerance provisions.

### *Teachers*

- Provides additional authority to remove students from the classroom, as well as additional liability protections.
- Requires district school boards to address the availability of support services professionals to help teachers identify students with potential problems.

### *School Structure*

- Encourages district school boards to adopt policies for certain schools to subdivide into schools-within-a-school.
- Imposes size requirements (beginning July 1, 2003) on all new schools constructed, with an exception for new facilities under architectural review contract on July 1, 2003.
- Allows certain schools which operate as schools-within-schools to be considered as "small schools."

### *School Transportation*

The bill requires each school district and the state or local governmental entity having jurisdiction to:

- Develop a school safety transportation plan for submission to the Department of Education by December 31, 2000.
- Develop a priority list of hazardous walking conditions projects that have not been corrected.

The school district must use the priority list to monitor school transportation safety. For the hazardous walking conditions determined under s. 234.021, F.S., the plan must include specific information. Other information required for the plan may be used to provide incentive funds for specific school districts in the 2000-2001 legislative session. Districts may provide transportation to additional students who are subject to hazardous walking conditions. The composition of the team reviewing potential hazardous walking conditions includes a representative of the county sheriff and the local safety council. As well, the bill changes the procedures for those who review these conditions.

### *Emergency Planning*

- Requires districts to plan for actual emergencies, to include certain responses for emergencies, and to verify that drills were conducted.
- Requires district school boards to establish model emergency management and preparedness procedures for specific life threatening emergency situations.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 113-0*

## SCHOOL PERSONNEL

### CS/CS/HB's 63 & 77 and 891, 995, 2009 and 2135 — Teacher Quality

by Education/K-12 Committee; Education Innovation Committee; Rep. Lynn and others (CS/CS/SB 2432 by Education Committee; Fiscal Policy Committee; and Senator Cowin)

This bill revises requirements for educator certification to:

- Require alternative options for certification to be developed by the Department of Education rather than by school districts. The change will be made in 2002.
- Require new certification examinations by July 1, 2002. The examinations must be rigorous and aligned with the Sunshine State Standards.
- Amend the cap for certification examination fees. The fee is not to exceed the actual cost of developing and administering the examination, and the cap is raised from $60 to $100.
- Simplify the conditions for issuing temporary certificates.
- Lengthen by 1 year the validity of a temporary certificate and limit its renewal to one 2 year period, available only in extenuating circumstances.
- Require teachers who have statements of eligibility status but no certificate to provide any requested documentation related to criminal history records within 90 days.
- Provide full reciprocity for out-of-state educators who hold a standard certificate and who have 2 years teaching experience, or who hold a standard certificate and a National Board for Professional Teaching Standards Certificate.
- Require districts rather than the state to identify the minimal qualifications for career specialists.

The bill amends other school personnel statutes to:

- Add to the authority of the Department of Education to oversee the professional development of administrators.
- Transfer to the department the duties of the obsolete Florida Council on Educational Management and the duties of the Office of Teacher Recruitment and Retention Services.
- Require the school district to consider prior professional experience in the field of education when establishing teacher salaries.
- Require each school district to create a reserve fund to pay the 5 percent salary supplement required to be paid for performance beginning in 2002.
- Delay the required performance supplement until the full implementation of an annual assessment of learning gains, or until July 1, 2002, whichever comes later.

- Authorize a deferred prosecution agreement for educators with certain types of impairment who enroll in a recovery network.
- Add to the membership of the Education Practices Commission.
- Require revocation of certificates for repeat offenders.
- Authorize eligibility for the Critical Teacher Shortage Loan Forgiveness Program to teachers at publicly funded schools, rather than just public schools under the control of a school district. This provision will allow teachers to earn credit for loan repayment by teaching in a critical shortage area at an alternative school operated by the Department of Juvenile Justice under contract with a school district.
- Provide recruitment and retention bonuses for teachers with demonstrated mastery at schools graded "D" and "F" and alternative schools for violent or disruptive youths. The bonuses must be based on a plan to allow teachers to be recruited from other schools. "Mastery" is demonstrated by student achievement data and the principal's evaluation. The Commissioner of Education is required to adopt rules to determine the measures that define "teaching mastery." The bonus will be between $1,000 and $3,500 as provided in the General Appropriations Act. In 2000-2001, Specific Appropriation 100B provides $12.25 million for this purpose.
- Enact numerous technical changes, including changing the name of the Division of Human Resource Development to the Division of Professional Educators, clarifying requirements of teacher preparation programs, deleting obsolete provisions, inserting words to assure that the terms "district school board" and "community college board of trustees" are used consistently, and correcting cross-references.

The bill makes changes in authorized fees related to educator certification and eliminates the cap on the fee subsidy available to teachers who are pursuing national certification under the Excellent Teaching Program. It authorizes eligibility for the program for teachers at the Florida School for the Deaf and the Blind, and it authorizes nationally certified teachers to earn the mentoring bonus for work conducted outside the school district.

The bill authorizes a Mentor Teacher School Program for up to 400 schools. Each will receive a grant of $50,000 to design and implement a multi-level career path from education paraprofessional to mentor teacher. A mentor teacher is to receive double the salary of an average classroom teacher.

The bill also amends the Florida Teachers Lead Program to provide direct stipends to teachers for the purchase of classroom supplies. The effect will be to cut down on paperwork.

In addition, the bill contains provisions identical or similar to the following bills introduced in the Senate and heard by the Education Committee:

- SB 1176, by Senator Kirkpatrick, which requires principals to have more influence over which teachers are assigned to their schools.
- CS/SB 2030, by Senator Horne, to provide bonuses for teachers of Advanced Placement courses when their students are successful and pass the test with a score of 3 or higher. Unlike CS/SB 2030, however, the version in the bill has been adapted for AP teachers in low-performing schools. A minimum bonus of $500 is provided to teachers at schools graded "D" or "F," if any student scores a 3 or higher. The maximum bonus any teacher may earn is $2,000.
- SB 748, by Education Committee, to provide forgivable loans of $6500 to academically talented rising juniors who pursue a bachelor's degree and teach in Florida's public schools. The loans are forgiven if the teacher teaches for 3 years in a school graded average or better, or for 2 years in a school graded "D" or "F." The provisions are omitted that, in SB 748, created an institute to recruit the fellows and provided an intensive in-service program for 3 years after their graduation.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 37-0; House 118-0*

## SCHOOL READINESS

### CS/SB 2088 — School Readiness

by Fiscal Policy Committee and Senator Cowin

This bill makes technical changes to implement the School Readiness Program (s. 411.01, F.S.) On the Florida Partnership for School Readiness, the chairperson of the WAGES Program State Board of Directors is replaced by the chairperson of the Board of Directors of Workforce Florida, Inc. Agency heads and the Lieutenant Governor are authorized to appoint a designee to serve as a voting member of the Partnership in their place.

On school readiness coalitions, a Department of Children and Family Services District Administrator may appoint a designee who is authorized to make decisions on behalf of the department, and a district superintendent of schools may appoint a designee who is authorized to make decisions on behalf of the district. Appointed members of coalitions are limited to a maximum of two terms. Vacancies in appointed positions must be advertised. Coalition members are exemption from sovereign immunity under s. 768.28, F. S.

In s. 411.01, F.S., the term *reimbursement rate* is replaced with the term *payment*, to cover both child care providers who are reimbursed, and prekindergarten programs which receive payment at intervals during the school year. The bill repeals s. 402.3015(6)(a),

F.S., an obsolete requirement that, at least once every three years, each district of the Department of Children and Family Services must select community child care coordinating agencies through a competitive bid. Instead, coalitions must use competitive procurement practices under s. 287.057, F.S.

The bill amends s. 230.2305, F.S., to require prekindergarten early intervention funds to be allocated to school readiness coalitions rather than school districts. For FY 2000-2001, the Department of Education can distribute prekindergarten program funds to school districts if the local school district is authorized by the local school readiness coalition to be the provider.

The bill authorizes the Governor, at the request of the Partnership and under the notice and review procedures of s. 216.177, F.S., to transfer funds from the Departments of Children and Family Services and Education to the Partnership. Coalitions with fully approved plans will have flexibility with up to 5% of their funds. No state funds will support the State Coordinating Council for School Readiness Services after June 30, 2000.

Child Care and Pre-K positions are to be co-located not later than July 1, 2000, and prior to that date, the Secretary of Children and Family Services and the Commissioner of Education must sign an interagency agreement for the co-location. The positions will not be transferred, but the school readiness employees of the two departments will work with the Partnership staff.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 115-0*

### SB 2250 — Public Records

by Senator Cowin

This bill creates a public records exemption for individual children's records in school readiness programs. The bill amends s. 228.093, F.S., to give school readiness coalitions and the Florida Partnership for School Readiness access to student records in order to carry out their assigned duties under s. 411.01, F.S. An amendment to s. 402.3015, F.S., provides an exemption from public records requirements for personally identifiable records of children in subsidized child care programs.

The bill creates s. 411.011, F.S., to provide an exemption from public records requirements for records of children in school readiness programs. The records include assessment data, health data, records of teacher observations, and identifying data including the child's social security number. A parent or guardian has the right to review and inspect his or her child's school readiness record. The bill grants access to school

readiness records to federal auditors, the Auditor General, individuals conducting research, a court of competent jurisdiction, accrediting organizations, appropriate parties in an emergency, and parties to an interagency agreement. The records must remain confidential in the hands of those agencies or individuals.

The bill provides a statement of public necessity for the exemption. The exemption is necessary to ensure the privacy of individual children in school readiness programs.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 40-0; House 115-0*

## CHARTER SCHOOLS

### HB 2087 — Charter Schools

by Education Innovation Committee and Rep. Melvin (CS/SB 1574 by Education Committee)

This bill clarifies terminology and time periods for charter school applications, school board decisions, and reporting requirements. The date by which a charter application must be submitted is changed from November 15 to October 1. A school board must approve or deny a charter within 60 days, unless the applicant and the board agree to postpone the vote to a specific date. A school board or other sponsor must report to the DOE within 15 days after receiving an application the proposed location and projected FTE of the charter school and must report within 10 days of approval or denial of a charter.

Several miscellaneous policy changes address specific aspects of charter school operation. All members of the governing board of a charter school must be fingerprinted, not just those who serve at the time the charter is approved. Children of the members of the governing board of a charter school will have enrollment priority, as is now afforded the children of the employees of the charter school. A charter school may initiate changes in the charter during the term of the charter, provided the sponsor and charter school agree. The losing party in an action between a charter school and a district must pay attorney's fees and costs. A charter technical career center sponsored by a school district will continue to be governed by the school district in the event that there is a change in governance of public technical career centers.

The bill accommodates 15-year funding of charter school facilities in two ways: (1) The period of time during which a charter school must demonstrate exemplary academic programming and fiscal management before applying for a fifteen-year charter is reduced

from three years to two. (2) An amendment to s. 228.0561, F.S., provides charter school capital outlay funding at an annual rate of 1/15 of a student station, rather than 1/30.

Charter school capital outlay funds will be distributed after the second and third enrollment surveys, thus allowing newly opened charter schools to be counted. The bill amends s. 196.29, F.S., to include charter schools in the list of entities that may receive a pro rata exemption from ad valorem taxes. The bill also creates s. 196.1983, F.S., to exempt from ad valorem taxes any portion of a facility used for a charter school. In the event that a charter school is dissolved or terminated, reversion of the property to the school board is subject to complete satisfaction of any lawful liens or encumbrances. After January 1, 2001, charter school facilities must comply with the Florida Building Code and the Florida Fire Prevention Code, as will all other public schools in Florida.

Several provisions support the conversion of public schools to charter status. The bill prohibits unlawful reprisals against district school board employees who initiate a charter school conversion. Unlawful reprisals include dismissal, reduction in pay, or disciplinary or corrective action. The Department of Education must investigate each complaint and, if reasonable grounds exist, present a fact-finding report to the district school superintendent and provide for a hearing by an impartial panel. Conversion charter schools are excluded from the cap that is established for districts. A school board may ask the State Board of Education to increase the limit on the number of charter schools authorized for that district. The bill creates a pilot program to award grants to 10 conversion charter schools. However, no funds were appropriated for the pilot program this year.

A developmental research school (DRS) that converts to charter status will serve the research school population or any student residing in the school district in which the school is located. A developmental research charter school will be able to charge a student activity fee. The school will not have to provide alternative arrangements for teachers who chose no to teach in the developmental research charter school, unless alternative arrangements are authorized by the employment policies of the state university that grants the charter. A developmental research charter school must be affiliated with the state university that issued its charter, but will not have to be affiliated with the university that is geographically closest to it. A developmental research charter school may receive funds for capital outlay as a developmental research school and a charter school only to the extent that the funds received would equal one-fifteenth of the cost per student station. A developmental research charter school is eligible for a 15-year charter.

Charter schools will be reviewed by the Legislature in 2005.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 27-10; House 97-19.*

## PUBLIC SCHOOLS

### SB 92 — High School Extracurricular Activities
by Senator Sullivan

Chapter 2000-121, L.O.F., amends ss. 232.245 and 232.61, F.S., to address three issues related to high school activities, especially extracurricular athletics: student grades, student attempts to select programs, and recruitment of student athletes by certain schools. Public schools are mandated to allow home schooled students to participate, but only in the school to which the student would have been assigned. A school district may refuse to allow participation by students who attend nonpublic schools. Although a cumulative GPA of 2.0 is still required for participation in the junior or senior year, a younger student may participate with a lower grade point average if he or she agrees under a contract to attend summer school as part of a regimen to raise grades. In determining eligibility, schools will be authorized to consider where or with whom a student lives and which school the student attended in the previous year.

These provisions became law upon approval by the Governor on April 20, 2000.
*Vote: Senate 37-0; House 116-0*

### CS/SB 850 — Instructional Materials
by Education Committee and Senator Cowin

The bill creates new requirements for instructional materials in the following subject areas for kindergarten through grade 12: mathematics, language arts, science, social studies, reading, and literature. The bill requires school districts to make purchases in core courses of specific subject areas within a specified time period, with some exceptions. The bill changes the term of adoption from 8 to 6 years, changes the effective dates for authorized purchase orders, and provides a safeguard for keeping the cost of materials in line with district allocations.

The bill revises the current provisions for the disposal of instructional materials and requires certain funds to be deposited into the district school fund as an addition to the district's appropriation for instructional materials. The bill repeals s. 233.38, F.S., relating to the exchange of textbooks. The bill revises the current requirements for school superintendents to requisition instructional materials. The bill requires district school board policy to include collecting funds from parents for lost, damaged, or destroyed

materials, as well as the superintendent's responsibility for keeping adequate records for funds collected from the sale, exchange, loss, or damage of instructional materials.

The bill requires the renegotiation of certain contracts. The bill also revises the current requirements for publishers and manufacturers to retain a sufficient inventory of instructional materials in a depository to receive and fill orders. The bill requires reports to the Legislature from the Department of Education related to contracts for the core subject areas. The bill defines the term "adequate instructional materials" in s. 230.23, F.S. The Commissioner of Education has additional responsibilities for pilot programs, the selection and adoption of instructional materials, and contracts. The bill eliminates the district pre-adoption process, while requiring balanced geographical representation on the existing state instructional materials committee.

The bill removes the provision in s. 233.17, F.S., that requires contracts placing instructional materials on adoption for 4 or more years to have an adjusted price increase. The bill authorizes the Commissioner of Education to take corrective actions related to errors and inaccuracies in instructional materials. The bill requires instructional materials and administrative and instructional technology to be included in best financial management practice reviews. The bill allows school districts to use certain funds to purchase electronic book readers when authorized to do so in the General Appropriations Act. Also, the bill requires a pilot program for customizing materials.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 36-0; House: 113-0.*

### SB 990 — High School Grading Policy

by Senator Cowin

This bill will require academic achievement grades to be separated from grades for other matters such as academic improvement or conduct. Attendance may not be used in whole or in part to exempt a student from an academic requirement. The bill removes from law a scale of equivalent percentage grades with letter grades and grade points ("A"=94-100; "B"=85-93; "C"=77-84; "D"=70-76; "F"=0-69). Instead, the bill states that grades expressed as a percentage depend upon the difficulty of the material tested and should not be arbitrarily assigned a letter grade equivalent. A grade scale is suggested only if letter grades are not supplied by a teacher: As in other states, "A" = 90-100 percent, "B" = 80-89 percent, etc.

The bill retains the authorization that school districts may assign weights to grades and that the weights must be the same for honors courses, dual enrollment courses, and Advanced Placement courses. It requires only one grade point average to be included on student report cards -- the one calculated according to the school district's weighting

scheme, which may differ from the method required by the Bright Futures Scholarship program.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 112-3.*

### CS/HB 701 — Education Appropriations

by Governmental Operations Committee; Education Appropriations Committee; Rep. Sorensen and others (SB 1204 by Senators Horne and Cowin; CS/SB 1390 by Education Committee and Senators Mitchell, Horne, and Dyer)

The bill creates a 15-member Task Force on Public School Funding to examine funding under the Florida Education Finance Program (FEFP) and make recommendations to the Governor and the Legislature by February 1, 2002. The task force will consist of 15 business and community leaders appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The task force must hold its first organizational meeting by September 1, 2000. The issues to be examined by the task force include funding based on student performance, the relationship of state and local funding, funding equity, technology acquisition and support, funding to support parental choice, and the result of studies by nationally recognized experts in school funding. The recommendations of the task force must include proposed legislation. The statute that creates the task force will be repealed on June 30, 2003. Section 236.081, F.S., governing the FEFP, will be repealed effective June 30, 2004, subject to prior review by the Task Force on Public School Funding.

The bill revises the method of funding exceptional student education. An amendment to s. 236.025, F.S., reduces the number of weighted cost factors for exceptional student education from five factors to two and adds a guaranteed allocation for exceptional student education programs not funded by the cost factors. To reduce paperwork, a student's matrix of services must be reviewed once every three years instead of once per year.

The bill provides an adjustment in the calculation of the required local effort for school districts where there is litigation contesting a property appraisal. In computing the required local effort, the Department of Education will exclude from the district's total nonexempt assessment roll the assessed value of the property in contest and will add the amount of the good faith payment to the district's required local effort.

The bill expands the exceptional student education pilot program in Sarasota County to a statewide program. Parents of students with disabilities who are dissatisfied with their children's progress may apply for a scholarship that can be used in a public or private school of the parent's choice. To be eligible to participate in this program, the student

must have failed to meet specified levels of performance identified in the individual education plan, or must have perform below grade level on state or local assessments and the parents must believe that the student's is not progressing adequately toward the goals for the individual education plan. Participation is limited to 5 percent of students with disabilities in the district during the first year, 10 percent in the second year, 20 percent in the third year. There will be no caps on participation in subsequent years.

The bill creates the equity in School-Level Funding Act to require schools to receive minimum percentages of the funds allocated to the district for that school in the FEFP. Beginning in 2000-2001, school boards must allocate to each school at least 50 percent of the funds generated by that school under the FEFP plus discretionary lottery funds and local discretionary millage. In 2001-2002, the percentage that each school must receive increases to 65 percent; in 2002-2003, to 80 percent; and in 2003-2004 to 90 percent. Funds that are unused at the end of the fiscal year will not revert to the district but will stay with the school. The funds appropriated for supplemental academic instruction under s. 236.08104, F.S., will not be included in the school level allocation. Recommendations of the Governor's Equity in Educational Opportunity Task Force must be reviewed to identify potential categorical funds to include in the school level allocation.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 35-0; House 71-46.*

### CS/HB 2063 — Florida On-Line High School

by Education Innovation Committee, Rep. Melvin and others (CS/CS/SB 2260 by Commerce and Economic Opportunities Committee; Education Committee; and Senator Webster)

The bill establishes the Florida On-Line High School for the purposes of developing and delivering on-line and distance learning education.

The Florida On-Line High School will be governed by a seven member board of trustees appointed by the Governor to 4-year staggered terms. The membership must include the current chairman of the Florida High School Advisory Board and a representative of the school fiscal agent, the Orange County School Board. The Governor will appoint the initial chairman of the board of directors. The board is to be a body corporate and shall have the authority to adopt rules necessary for the governance and operation of the On-Line High School.

The trustees have the following powers and duties:

- Contract with distance learning providers; and acquire, use and dispose of copyrights, patents, trademarks, and other rights and interests. Any revenue realized from these items must be used to support the school's research and development activities.

- Prepare an annual budget and submit it to the Commissioner of Education who shall include the On-Line High School as a grant-in-aid appropriation in the Department of Education's budget request to the State Board of Education, the Governor, and the Legislature.
- Employ and compensate staff. Provision may also be made to enter into agreements to exchange staff with school districts, other public agencies, and private business and industry.
- Establish student enrollment policies and procedures, including priorities for student admission. The board must annually submit an enrollment forecast to the Department of Education.
- Maintain student, personnel, and financial records.

By January 1, 2001, the board of trustees of the On-Line High School must submit a report to the Governor, the Legislature, and the Education Reorganization Transition Task Force that includes the following information:
- The operation and accomplishments of the school.
- The marketing and operational plan.
- End of the year assets and liabilities.
- A copy of the annual financial and compliance audit prepared by an independent auditor.
- Recommendations regarding the unit cost of providing services to students.
- Recommendations on accountability procedures to assess the school's effectiveness.

The Auditor General may conduct an audit of the Florida On-Line High School, and the Department of Education may adopt rules to implement the school's reporting requirements.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 119-0*

### SB 1870 — Education-Rule Authorizing Bill
by Senator Cowin

The bill requires the State Board of Education to adopt rules to:
- designate classifications of students as residents or nonresidents for tuition purposes; and
- administer law for educational planning, management information systems, and the education of children of deceased or disabled veterans.

The bill allows the State Board of Education to adopt rules to: establish course requirements for basic education programs for grades 6 through 12 and adult secondary education programs; and establish programs and courses for high school graduation

credit. School boards must adopt a policy, in accordance with State Board of Education rule, that allows a parent or guardian to request and be granted permission for the absence of a student from school for religious instruction or religious holidays.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 117-0*

## POSTSECONDARY EDUCATION

### CS/SB 68 — FIU and FAMU Law Schools

by Fiscal Policy Committee and Senator Diaz-Balart

The act authorizes the establishment of colleges of law for Florida International University and Florida Agricultural and Mechanical University. The college of law to be operated under the auspices of Florida A & M University is to be located in the I-4 corridor area. The Board of Regents is directed to begin planning the new colleges at both institutions, and the regents and the State Board of Education may accept grants, donations, gifts, and other money for that purpose.

The new colleges are to be operated in compliance with standards approved by nationally recognized associations for accredited colleges of law. The colleges are dedicated to providing opportunities for minorities to attain grater representation within the legal profession; however the admissions processes will not include applicant preferences based on race, national origin, or sex. Students will be eligible to receive financial aid and other support from the Florida Education Fund without a college having obtained accreditation by the American Bar Association. Classes at the colleges are to begin by the fall semester of 2003.

The act contains a provision specifying that if a new college of law is denied an application for approval three times by a recognized accrediting body, or fails to gain provisional approval within five years after the first graduating class, the Board of Regents must make a recommendation to the Governor and the Legislature regarding the continued operation of the college. In the event of cessation of operations, the bill provides for the reversion of unexpended funds and the transfer of buildings constructed with state capital outlay funds to the Board of Regents.

The act is to be implemented as provided in the General Appropriations Act.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 40-0; House 120-0*

### HB 2329 — Health Care

by Health Care Services Committee, Rep. Peaden and others (CS/SB 2456, by Education Committee and Senator Sullivan)

Sections 27-30 of HB 2329 are the substance of CS/SB 2456. These sections enact the recommendations of the Committee on Graduate Medical Education and amend issues related to Medicaid hospital reimbursements. Those sections of the bill:

- Transfer funding for the Community Hospital Education Act to the Agency for Health Care Administration, in an attempt to generate federal matching funds under Medicaid.
- Create a Program for Graduate Medical Education Innovations to achieve workforce policy objectives, such as more physicians in under-served areas, more geriatricians, and more ethnic diversity among physicians.
- Define the term "teaching hospital" and specify priorities for the Community Hospital Education Program.
- Create in statute a committee established in last year's General Appropriations Act for graduate medical education in Florida.
- Increase from $1,000 to $1,500 the annual Medicaid hospital inpatient and outpatient services cap for adults.
- Revise Medicaid limitations for hospital inpatient services to provide exceptions for raising reimbursement caps, recognition of the costs associated with graduate medical education, and other methodologies provided in the General Appropriations Act; authorize AHCA to receive funds from certain entities for the reimbursements; and exempt counties from them.
- Delete obsolete provisions.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 117-0.*

# JUVENILE JUSTICE

## CS/CS/CS/SB 2464 — Juvenile Justice Education Programs

by Fiscal Policy Committee; Criminal Justice Committee; Education Committee; and Senator Horne

Many of the provisions in the bill are based on recommendations of the Juvenile Justice Accountability Board's Education Task Force.

The bill makes the following changes related to operations:

- requires access for instructional personnel at juvenile justice facilities of a specified size to the system's database for certain student records;
- provide legislative intent for youth in the juvenile justice system and additional responsibilities for juvenile justice education program coordinators;
- specifies that educational services must be provided at times of the day most appropriate for the juvenile justice program and school programming in specified juvenile programs must be made available by the local school district during the juvenile justice school year;
- addresses uniformity for FTE counts;
- provides an exemption for 30 days from the immunization requirements for a child who enters a juvenile justice program; and
- allows full-time teachers working in juvenile justice schools to participate in the critical teacher shortage reimbursement program.

Also, the bill codifies the current practice of requiring that GED administrative fees be the responsibility of school districts. Providers, by contract, may be responsible for these fees.

The bill makes the following changes related to planning:

- requires a cooperative agreement and plan for juvenile justice education service enhancement; and
- requires the Department of Juvenile Justice and the Department of Education to consult with the statewide Workforce Development Youth Council in jointly developing a multi-agency plan for vocational education, specifies the contents of the plan, requires the alignment of policies with the plan, and requires an implementation report.

The bill makes the following changes related to mandatory education:

- requires mandatory participation in educational programs for students of compulsory school attendance age who are on aftercare or postcommitment community control status;
- requires students of noncompulsory school attendance age who have not received a high school diploma or its equivalent to participate in the educational program; and

- specifies the youth required to participate in certain education (e.g., workforce development or other vocational or technical education or attend a community college or a university) while in the program, subject to available funding.
- requires local school districts to provide educational services to specified youths being detained in jail.

For the facilities requirements, the bill:
- changes the notification requirements for the Department of Juvenile Justice for the award of construction or operations contracts for commitment or detention facilities within a school district;

The bill provides an appropriation of $200,000 in nonrecurring funds from General Revenue to the Department of Education for two studies to:
- determine the precise funding level needed to provide specialized education programs to youth in juvenile justice education programs; and
- review and analyze existing education facilities in the Department of Juvenile Justice.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House 119-0*

## EDUCATION REORGANIZATION

For education reorganization, refer to the summary by the Committee on Governmental Oversight and Productivity.

# Senate Committee on Ethics and Elections

## ETHICS

### CS/CS/HB 181 — Ethics/Financial Disclosure

by Governmental Operations Committee; Rules and Calendar Committee; Rep. Arnall and others (CS/CS/SB 368 by Ethics & Elections Committee; Fiscal Policy Committee; and Senators Saunders, Rossin, Hargrett, Sebesta, and Kirkpatrick)

This bill contains improvements to Florida's Code of Ethics for Public Officers and Employees, particularly in the area of financial disclosure, and amends related sections of law. It embodies some of the recommendations of the Governor's Public Corruption Task Force. Specific provisions of the bill include:

- Requiring a former officer or employee to file a *final* financial disclosure statement for the portion of the last year during which the person is in government service, within 60 days of his or her departure date.

- Setting up an automatic fine system for persons failing to timely file their annual financial disclosure, with fines of $25/day for each day late up to a maximum automatic fine of $1,500.

- Reducing the number of persons required to file limited disclosure by defining the specific type of board whose members must file. This should reduce the number of minor board members required to file.

- Changing the laws governing the valuation of gifts to establish a 90-day period during which a reporting individual may reimburse a donor for all or a part of a gift's value.

- Extending the provisions of the gifts law to cover successful, former candidates who are not otherwise reporting individuals during the period immediately following the election but prior to officially assuming the responsibilities of the office.

- Moving administration of financial, gifts, and honoraria disclosure from the Department of State to the Ethics Commission.

- Clarifying the reporting of joint assets and joint and several liabilities.

If approved by the Governor, these provisions take effect January 1, 2001.
*Vote: Senate 39-0; House 116-0*

## ELECTIONS

### CS/HB 917 — Elections

by Election Reform Committee, Rep. Stafford and others (CS/SB 270 by Ethics & Elections Committee and Senator Sebesta)

This bill amends various provisions of the Election Code to provide more flexibility for the supervisors of elections. If provided by the supervisor, the bill allows an alternative method for voting an absentee ballot in the office of the supervisor of elections. Instead of inserting the absentee ballot into an absentee ballot envelope, those voters voting in the supervisor's office will deposit the voted ballot into a device for collecting or tabulating ballots. This procedure is similar to the procedure used at the polling place on election day. The bill allows the supervisor of elections to determine the number of election workers needed at each polling place and allows the supervisors more flexibility in the training of these election workers.

The bill also makes several changes to the municipal recall provisions of the Election Code. The changes will allow anyone to witness a signature, rather than a circulator who is associated with the recall effort. This provision will allow municipal recall petitions to be circulated through the mail rather than in person. The bill also removes the discretion of the city clerk to determine that the recall petition is facially valid.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House 117-0*

### HB 1013 — Voter Registration

by Election Reform Committee (CS/SB 334 by Ethics & Elections Committee and Senator Saunders)

This bill addresses some administrative problems encountered by Florida's supervisors of elections in implementing the Voter Fraud Act, ch. 1998-129, L.O.F., in the area of voter registration. Specifically, the bill deletes a requirement that voter registration cards be mailed to the voter's legal residence address and instead allows them to be mailed to the voter's mailing address. It also removes a requirement that certain registered voters registering to vote by mail must cast an in-person ballot if they are voting in the county for the first time.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House 116-0*

### CS/CS/SB 890 — Direct-Support Organizations

by Ethics & Elections Committee; Education Committee; and Senator Kurth

This bill prohibits the direct support organization ("DSO") of a state university, community college, or the statewide community college system from contributing to a political committee or committee of continuous existence, unless the governing board, by majority roll call vote, deems the contribution to be "directly related to the educational mission" of the respective educational institution supported by the DSO.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House 115-0*

### HB 295 — Resign to Run

by Rep. Brummer (SB 1502 by Senator Casas)

This bill eliminates the requirement that a subordinate officer, deputy sheriff, or police officer must take an unpaid leave of absence if he or she is seeking a public office and is not required to resign upon qualifying as required by the resign-to-run law. Under the provisions of this bill, the resign-to-run law will not apply to a subordinate officer, deputy sheriff or police officer unless such officer is running against his or her boss and that boss has qualified for reelection.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 108-1*

# Senate Committee on Fiscal Policy

### HB 253 — Lawton Chiles Endowment Fund

by Rep. Fasano and others (SB 356 by Senators King, Saunders, and Diaz-Balart)

This bill amends s. 215.5601, F.S., related to the Lawton Chiles Endowment Fund, to expand legislative intent to provide a perpetual source of funding for health and human services initiatives for children and elders and for biomedical research programs. Funds are to be appropriated as follows:

- For FY 2000-2001, funds are to be distributed based on legislative appropriations.

- For FY 2001-2002 and beyond, funds are to be distributed as follows:

(1) Fifty percent are to be deposited into a separate account in the Department of Children and Family Services Tobacco Settlement Trust Fund. Endowment earnings are to be appropriated from a category called Lawton Chiles Endowment Fund Program and distributed pursuant to limitations in the General Appropriations Act.

(2) Thirty-three and one-half percent are to be deposited into the Biomedical Research Trust Fund in the Department of Health. Endowment earnings are to be appropriated from a category called Florida Biomedical Research Program and spent in accordance with s. 215.5602, F.S.; and

(3) The remaining funds are to be deposited into the Department of Elderly Affairs Tobacco Settlement Trust Fund. Endowment earnings are to be appropriated from a category called Lawton Chiles Endowment Fund Program and distributed pursuant to limitations in the General Appropriations Act.

No later than October 1 of each year, the Secretary of Health, the Secretary of Children and Family Services, and the Director of Health Care Administration are to develop a list of the top five funding priorities for children's services and the Secretary of Health, the Secretary of Elderly Affairs and the Director of Health Care Administration are to develop a list of the top five funding priorities for elder services. The list for children's services and elder services must be submitted to the advisory councils no later than November 15 of each year.

The bill establishes two 13 member advisory councils: the Department of Children and Family Services Lawton Chiles Endowment Fund Advisory Council for Children; and the Department of Elderly Affairs Lawton Chiles Endowment Fund Advisory Council for Elders. The councils purpose is to evaluate and rank programs submitted by the agencies and advise the legislature of its ranking before February 1 of each year. Responsibilities of the council include developing criteria and guiding principles, evaluating the value of programs, providing recommendations on the funding levels to be allocated, participating in program evaluations, and soliciting appropriate input from various organizations.

The bill amends s. 215. 5602, F.S., related to the Florida Biomedical Research Program, to provide that the program, within the Department of Health, is to be funded by the proceeds of the Lawton Chiles Endowment Fund. The bill appropriates $2 million in nonrecurring funds from the Department of Health Tobacco Settlement Trust Fund to the Department of Health for this program.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House* 98-0

## CS/SB 2050 — Workforce Innovation Act of 2000

by Fiscal Policy Committee and Senators King, Holzendorf, Diaz-Balart, Sullivan, Myers, Klein, Burt, Kirkpatrick, Hargrett, Sebesta, and Silver

***Summary of Workforce Innovation Act of 2000***

This bill implements the findings and recommendations of the Senate Select Committee on Workforce Innovation. The workforce system issues identified by the select committee include the following:

Disconnect between the workforce system and the state's economic development strategy.
The state’s workforce development system is not adequately supporting the economic development strategy of the state by producing potential employees who are prepared to meet the current and future needs of Florida employers. Members of the Florida Chamber of Commerce rank workforce needs as their first priority for legislative action during the 2000 Session and accord workforce issues the same importance as they gave litigation reform during the 1999 Session.

Insufficient number of potential employees with technical or professional skills to meet the needs of Florida employers.
Florida’s economy reflects the national shift from production-based to knowledge-based work. This shift requires an increase in the number of better-educated, higher-skilled employees. Advanced information and high-tech jobs are the fastest growing occupations

in 21 of Florida's 24 workforce development regions.[2] More than 25,000 new high-tech jobs have been created in Florida since 1990, yet our 8th grade students ranked 31st in the nation in science and math test scores and the number of high-tech graduates of our public universities decreased by five percent during the same period.[3]

Insufficient number of potential employees with adequate literacy skills, work ethic, and good work habits to meet the needs of Florida employers.
Almost 25 percent of Floridians are without a high school diploma, and, of those, nearly 40 percent have less than a 9th grade education. Approximately 1.5 million Floridians speak little or no English.[4] The results of a State Adult Literacy Survey conducted by the Educational Testing Service in August 1994 concluded that no more than half of respondents from Florida could perform tasks above literacy level 2 (out of 5 levels).

Problems of welfare transition clients and other "working poor" Floridians related to wages and benefits, transportation, child care, and other employment support services.
Florida's welfare reform initiative called "WAGES" (Work and Gain Economic Self-sufficiency) has reduced the public assistance caseload by 75 percent since October 1996. As of January 2000, fewer than 33,000 families that contain an able-bodied adult are receiving cash assistance.[5] More than 60 percent of the adults who have left public assistance are working, but only 40 percent are working full time. Average earnings of these former welfare recipients is less than $10,000 per year. They have now joined millions of other Floridians who are living at the economic margin and share their need for better jobs with higher wages and health insurance, subsidized child care, transportation assistance, and family support services.

Employers need for continual enhancement of employee skills.
To remain competitive, employers must respond to advancements in technology and changes in the marketplace by modernizing equipment, reengineering production methods, and retooling business practices. These changes frequently require their employees to enhance their current job skills or acquire new ones. Both employers and employees need incumbent worker training that is tailored to meet their needs and available at convenient hours and reasonable cost.

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[2] Florida Department of Labor and Employment Security, Bureau of Labor Market and Performance Information, *Florida Industry and Occupational Employment Projections, 1996-2006.*

[3] Jo Moskowitz, American Electronics Association presentation to Select Committee, January 11, 2000.

[4] 1990 United States Census.

[5] FLASH Report for March 2000, Florida Department of Children and Family Services.

Small business workforce needs.
Less than 12 percent of all jobs in Florida are in businesses with fewer than 10 employees, but these businesses comprise 82 percent of all employers in Florida.[6] Most small business owners have limited resources to devote to human resource issues including recruitment and employee training. The workforce system should be prepared to respond to the particular needs of small businesses because these businesses have traditionally provided entry-level job opportunities for first-time wage earners. Also, new small businesses in Florida are being created by entrepreneurs in response to developments in advanced technology. These small businesses can grow quickly in response to the global marketplace and become a source for high wage/high skill jobs.

Strategic, effective, and innovative use of workforce system resources.
Florida spends more than $4.2 billion on programs related to workforce development, of which $3.6 billion (87 percent) is spent within the education system. Yet, the state spends more than $30 million annually on remediation,[7] and Florida employers consistently cite the lack of qualified employees as a barrier to business growth. As stated by a representative of the Florida Chamber of Commerce: “Florida’s efforts to attract new businesses and retain current businesses will be severely disadvantaged without a more successful workforce education system.”

Multiple and overlapping administrative structures.
At least seven entities of Florida government receive funding associated with the workforce system. The current fragmentation of workforce responsibilities at the state level makes it virtually impossible to maintain accountability for improving performance outcomes and resource management. At the local level, the multiple organizational structure and lines of accountability create daunting challenges for front-line service workers and managers.

The Workforce Innovation Act of 2000 addresses these workforce system issues by making changes in workforce system administration and organization, by creating innovative workforce program initiatives, and by addressing the employment and service needs of low-income families. The impact of the bill is summarized as follows:

[6] Bureau of Labor Market and Performance Information, Florida Department of Labor and Employment Security, January 2000.

[7] Florida State Board of Community Colleges, January 2000.

***Workforce System Administration and Organization***

- Consolidates administration of workforce programs into a single point of policy accountability for workforce programs at the state level, Workforce Florida, Inc., that will replace the state's Workforce Development Board and the state board for the Work and Gain Economic Self-Sufficiency (WAGES) program. Regional workforce boards and local WAGES coalitions are also consolidated.

- Creates the Agency for Workforce Innovation as a fully independent administrative entity under the Department of Management Services to deliver workforce, WAGES, and unemployment compensation services.

- Realigns workforce functions by transferring workforce and unemployment compensation functions and staff from the Department of Labor and Employment Security to the Agency for Workforce Innovation.

- Separates workforce functions associated with the welfare transition program (WAGES) from the temporary cash assistance program. Responsibility for WAGES workforce services, including employment-related diversion services, employment, support services, and transition services, is transferred to the Agency for Workforce Innovation. The Department of Children and Family Services retains responsibility for cash assistance and diversion services for domestic violence, child welfare, mental health, and substance abuse.

- Integrates and simplifies workforce system funding by combining funding streams for core workforce functions through the Agency for Workforce Innovation.

- Transfers the Displaced Homemaker Program from the Department of Education to the Agency for Workforce Innovation.

- Transfers apprenticeship programs from the Department of Labor and Employment Security to the Department of Education.

- Transfers the Untried Worker Program to Workforce Florida, Inc.

- Changes the name of the Occupational Forecasting Conference to the Workforce Estimating Conference. Changes the estimating conference principal (voting) participants, and identifies other non-voting participants.

- Modifies the Quick Response Training Program by placing it under the purview of Workforce Florida, Inc., and including brownfields as priority funding areas.

- Requires development and implementation of a transition plan for transfer of staff and functions to Workforce Florida, Inc., and the Agency for Workforce Innovation.

***Innovative Workforce Initiatives***

- Improves the connection between the workforce system and the business community by funding innovative local economic development initiatives for needy families, developing marketing materials for employment opportunities in Florida, creating an initiative to address unique needs of small businesses, including information about local business needs in occupational forecasting, and revising the Quick Response Training Program to improve responsiveness to needs of the state's economy.

- Improves workforce system service delivery by enhancing integration and effectiveness of the one-stop delivery system, creating a workforce training institute to improve effectiveness of workforce system staff, and using staffing agencies, when appropriate, to extend workforce system services to specific target populations.

- Improves the connection between Florida's education system and the state's economic development strategy by creating the Careers for Florida's Future Incentive Grant Program to encourage secondary and postsecondary students to choose careers that are linked to Florida economic future, implementing a Better Jobs/Better Wages strategy to facilitate career advancement for incumbent workers, creating a matching grant program to increase use of Florida's allocation of federal welfare-to-work funds for low-income workers, reviewing apprenticeship programs to expand access, ensuring parity between AS and AAS degrees for purposes of licensure, and authorizing a "response fund" for state and local workforce education and training providers to encourage responsiveness to local business workforce needs.

- Provides information essential to the success of Florida's workforce system by implementing an integrated management information system to support one-stop service delivery, establishing an Internet-based system to match employers with job seekers and provide timely labor market information, and implementing debit card or smart card technology for workforce system services.

***Service Initiatives for Low-Income Families***

- Strengthens Florida's working poor families by creating a new TANF-funded diversion group for needy families that authorizes provision of all TANF employment-related support services to families whose income does not exceed 200 percent of the federal poverty level.

- Extends relocation assistance to needy families.

- Expands the number of TANF-funded individual training accounts (ITAs).

- Creates a $1,000 cash assistance "severance benefit" to assist welfare transition families in bridging the gap between the last welfare check and the first pay check.

- Requires cash assistance recipients who do not have high school diplomas to pursue a GED as part of their work requirement, and allows adult basic education and GED class and study time to count toward meeting TANF work activity requirements.

- Exempts up to 20 percent of the average monthly cash assistance caseload from time limits based on hardship or disability.

- Provides incentives for employers to offer health insurance for their employees who participate in the welfare transition program.

- Increases from one year to two years the availability of transitional transportation benefits for welfare transition program participants.

- Amends cash assistance eligibility requirements for qualified non-citizens to reflect changes in federal law and policy.

- Provides that income earned from employment with the decennial census will be disregarded in determining eligibility or continued eligibility for cash assistance or services that require a determination of financial need.

If approved by the Governor, these provisions take effect July 1, 2000, except as otherwise provided.
*Vote: Senate 37-0; House* 89-29

### HB 2147 — Appropriations Implementing

by General Appropriations Committee and Rep. Pruitt (CS/SB 2202 by Fiscal Policy Committee)

This bill provides additional and more detailed instructions to agencies of government for which funds have been appropriated so that those agencies will be better able to carry out and to implement the intentions of the legislature which have been manifested in the General Appropriations Act.

This bill amends the following sections of the Florida Statutes: 20.19, 39.3065, 110.1235, 110.1239, 212.20, 216.177, 216.181, 216.262, 236.025, 236.081, 237.34, 240.384, 252.373, 257.17, 259.032, 287.161, 316.1951, 318.21, 319.14, 320.02, 320.58, 373.59,

394.908, 403.7095, 409.905, 409.915, 409.9115, 409.9116, 409.9119, 409.9122, 925.037, 938.01, and 943.25.

**Section 1**. Legislative intent.

**Section 2**. Provides authority for transfer of funds if workforce development programs are transferred from school districts to community colleges or vice versa during the fiscal year.

**Section 3**. Ratifies the past expenditures of state funds appropriated in FY 1986-1987 through FY 1992-1993 as being consistent with legislative intent; ratifies that matching fund requirements were met by the San Carlos Institute; waives the repayment of interest funds by the San Carlos Institute; and directs all state agencies to release funds appropriated in FY 1993-1994 and FY 1998-1999 through FY 2000-2001 to the San Carlos Institute.

**Section 4**. Requires that an audit of the criminal justice training programs at St. Johns River Community College and Tallahassee Community College be conducted and that all funds identified in the audit for a specific program must be shifted to the base appropriation of the respective community college prior to the release of funds in Specific Appropriation 135.

**Sections 5-10**. Contains the agreement of the Education Appropriations Conference Committee on funding for exceptional student education in public schools; eliminates the ESE Matrix paper-work burden on classroom teachers and provides "guaranteed funding" for exceptional students in levels 251 through 253; students in levels 254 and 255 will be funded on a weighted FTE formula; increases the minimum expenditures level for exceptional students from 80% to 90%.

**Section 11-12**. Technical amendment requiring that information filed in litigation affecting ad valorem assessments for school purposes shall be provided to the Department of Education and the affected school district.

**Section 13**. Continues the current mental health disproportionate share formula.

**Section 14**. Requires the Agency for Health Care Administration to use the 1992-1993 disproportionate share formula, 1994 audited financial data, and the Medicaid per diem rate as of January 1, 1999, for those hospitals that qualify for the hospital disproportionate share program.

**Section 15**. Continues the current formula for rural hospital disproportionate share payments.

**Section 16**. Requires the Agency for Health Care Administration to develop and implement a system under which disproportionate share payments are made to those hospitals that are licensed by the state as a children's hospital and were licensed on January 1, 2000 as a children's hospital.

**Section 17**. Authorizes the Department of Children and Family Services and the Department of Health to advance money to contract providers.

**Section 18**. Requires the Agency for Health Care Administration to include health maintenance organization recipients in the county billing for inpatient hospital stays.

**Section 19**. Allows the Departments of Children and Family Services, Education, Management Services, Health and the Agency for Health Care Administration to transfer positions and general revenue funds as necessary to comply with any provision of the 2000-2001 General Appropriations Act or Workforce Innovation Act which requires or specifically authorizes the transfer of positions and general revenue funds between these agencies.

**Section 20**. Requires the Broward County Sheriff to conduct the same child protective investigations according to the same standards as those performed by the Sheriffs of Pasco, Manatee, and Pinellas County.

**Section 21**. Amends s. 394.908, F.S., to administer funds to the Department of Children and Family Services, which are to be used to increase the adult mental health equity funding in districts 4, 7, and 11.

**Section 22**. Amends s. 409.905, F.S., to allow for an adjustment in the hospital inpatient per diem rate to reflect a case mix after 7/1/2000 to cause a Medicaid increase greater than 25% and the caseload increased by more than 20% resulting from a closure of a hospital after 7/1/95 and cost increased by more than 25%.

**Section 23**. Amends s. 20.19, F.S., to allow the Department of Children and Families to organize programs, districts, and functions to improve services and accountability. The department must consult with the Executive Office of the Governor regarding these actions and submit a report to the Governor, President of the Senate, and Speaker of the House.

**Section 24**. Allows DCF to process budget amendments within existing 10 percent authority with 3-day notice instead of 14-day notice.

**Section 25**. Census employment disregarded for eligibility for WAGES, Medicaid, food stamps.

**Section 26**. Exempts counties from contributing toward increased cost of hospital inpatient services due to elimination of Medicaid ceilings on certain types of hospitals.

**Section 27**. AHCA will not adjust a premium paid to an HMO or prepaid health care plan due to elimination of Medicaid ceilings on certain types of hospitals.

**Section 28**. Allows DCF to contract with existing providers of treatment and detention services until a 600-bed facility in Desoto County is completed; allows the CPC to develop and issue a request for proposal for constructing and operating a 600-bed sexually violent predator program in Desoto County.

**Section 29**. Allows for mandatory assignment to managed care plans for Medicaid patients.

**Section 30**. Allows the Department of Law Enforcement to transfer up to 0.5% of certain appropriations to provide meritorious performance bonuses for employees, subject to approval.

**Section 31**. Amends s. 216.181, F.S., to allow the Florida Department of Law Enforcement to transfer up to 20 positions and up to 10 percent of the initial approved salary rate between budget entities without prior approval. The department must provide notice to the Governor and legislative fiscal committee chairs of all transfers.

**Section 32**. Authorizes the Correctional Privatization Commission to make expenditures to defray costs incurred by a municipality or county for privatized facilities under the authority of the Correctional Privatization Commission or the Department of Juvenile Justice.

**Section 33**. Authorizes the Department of Legal Affairs to transfer up to $1,054,632 between trust funds.

**Section 34**. Allows the public defender of any judicial circuit in the state to reimburse any employee who purchased additional retirement credit in the Florida Retirement System Elected Officers' Class for the time spent as an employee of the public defender.

**Section 35**. Directs the Department of Juvenile Justice to establish a plan to ensure that the use of funds is in accordance with lawfully established priorities and conditions before Specific Appropriation 1144A is allocated or released for use by the department.

**Section 36**. Moves foster care citizen review panels program from Department of Children and Families to the State Court System; $300,000 to courts instead of DCF.

**Section 37**. Moves conflict counsel funding from Justice Administrative Commission to the State Court System.

**Section 38**. Allows the Department of Corrections to request positions in excess and additional funds if inmate population exceeds projections.

**Section 39-40**. Transfer of Community Affairs grants to Florida Department of Law Enforcement.

**Section 41-43**. Department of Highway Safety and Motor Vehicles Law Enforcement program transfer to Florida Department of Law Enforcement.

**Section 44-51**. Implements a reduction of 10 positions and about $350,000 from the Motor Vehicle Law Enforcement Program in the Department of Highway Safety and Motor Vehicles; eliminates some functions, such as the Notice of Violation process, which enables staff to be reduced.

**Section 52**. Allows the transfer of salary rate to implement transfer of personnel to the new turnpike headquarters in Orange County; requires report to Executive Office of the Governor and Legislature.

**Section 53**. Allows municipalities with a population over 200,000 to receive state annual operating grants under the Library Grants-in-Aid program.

**Section 54**. Directs up to $4 million of the unencumbered balance of the Emergency Management, Preparedness, and Assistance Trust Fund to be used to improve, and increase the number of, disaster shelters within the state and improve local disaster preparedness.

**Section 55**. Amends s. 287.161(4), F.S., to require the Department of Management Services to operate the executive aircraft pool on a full cost recovery basis, less available funds.

**Section 56**. Transfers $13 million for surface water improvement and management projects and $6.5 million for the aquatic weed control program from the Solid Waste Management Trust Fund.

**Section 57**. Provides for solid waste and recycling grants; directs the Department of Environmental Protection to cooperate with affected organizations to develop a process and define specific criteria for evaluating proposals and selecting projects for funding.

**Section 58**. Directs the Secretary of Environmental Protection, at the request of a water management district, to release moneys allocated to the districts for legislatively authorized land acquisition and water restoration initiatives.

**Section 59**. The Division of Para-Mutual Wagering of the Department of Business and Professional Regulation shall transfer title to all tangible personal property that is owned by the department and is currently in use by the College of Veterinary Medicine at the University of Florida in Gainesville, Florida to the College. This section is repealed on July 1, 2001.

**Section 60**. Authorizes the Department of Agriculture and Consumer Services to use moneys in the General Inspection Trust Fund to defray the expenses of the department in the discharge of any and all of its administrative and regulatory powers and duties as prescribed by law.

**Section 61**. Continues provision allowing the Conservation and Recreation Lands Trust Fund to be appropriated for grants to qualified local governmental entities through the Florida Recreation Development Assistance Program (FRDAP).

**Section 62-63**. Removing repeal dates for state group health insurance funding and increases pharmacy co-payments for PPO participants.

**Section 64**. Allows the account code conversions in state computer systems related to agency reorganizations not reflected in the General Appropriations Act to be implemented by October 1, 2000, due to the revisions to the budget restructure included in the General Appropriations Act.

**Section 65**. Specifies that no section shall take effect if the appropriations and proviso to which it relates are vetoed.

**Section 66**. Provides for an act passed during the 2000 Regular Session of the Legislature containing a provision substantially the same as a provision in this act to take precedence.

**Section 67**. Performance-Based Program Budget Measures and Standards for Education Agencies.

**Section 68**. Performance-Based Program Budget Measures and Standards for Human Service Agencies.

**Section 69**. Performance-Based Program Budget Measures and Standards for Public Safety and Judiciary Agencies.

**Section 70**. Performance-Based Program Budget Measures and Standards for Natural Resources, Environment, Growth Management, and Transportation.

**Section 71**. Performance-Based Program Budget Measures and Standards for General Government Agencies.

**Section 72**. Provides a severability clause.

**Section 73**. Provides an effective date.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House* 120-0

### HB 2377 — State Budgetary Process

by General Appropriations Committee; Rep. Pruitt and others (CS/SB 1466 by Fiscal Policy Committee)

This bill amends ch. 216, F.S., that governs planning and budgeting requirements and processes for the state. This chapter was created in 1969 (ch. 1969-106, L.O.F.) concurrent with a major reorganization of Florida government, and has undergone modifications in nearly all of the intervening years. This bill was the product of a joint interim project of the Senate Fiscal Group, House Fiscal Responsibility Council, and Executive Office of the Governor and was intended to reorganize the chapter, integrate performance budgeting language into legislative budget requirements, include program planning requirements in the budgeting chapter, transfer budget implementation management responsibility to the Legislature, and delete obsolete language.

**Section 1**. Amends s. 216.011, F.S., Definitions. Clarifies that annual salary rate excludes benefits; changes "budget entity" to "service"; changes "legislative" budget requests to "agency" budget requests; changes "program component" to "program"; provides list of appropriation categories; updates the definition of state agency to include recent changes in other statutes; changes "Grants and Aids to Local Governments and Nonprofit Organizations" to "Grants and Aids to Local Governments and Nonstate Entities"; deletes several definitions that will be moved to the specific statutory sections wherein the terms are used; deletes definitions of terms that are not used anywhere within ch. 216, F.S.

**Section 2**. Creates s. 216.013, F.S., Long Range Program Plan. Creates new subsection that defines "long-range program plan" and provides requirements for agency plans.

**Section 3**. Amends s. 216.015 (2) & (4), F.S., Capital Facilities Planning and Budgeting Process. Deletes obsolete language; clarifies that role of EOG includes monitoring and evaluation of capital facilities planning.

**Section 4**. Amends s. 216.0152(3), F.S., Inventory of State-Owned State Occupied Facilities. Changes due date for facilities inventory from Sept. 1 to Sept. 15.

**Section 5**. Amends s. 216.0158 (2), (4) & (5), F.S., Assessment of Facility Needs. Deletes obsolete language relating to the submission of long term capital facility plans pursuant to budget instructions.

**Section 6**. Amends s. 216.016(2)(a), F.S., Evaluation of Plans; Determination of Financing Method. Clarifies that a financing plan for state infrastructure needs to be included in Governor's recommended budget.

**Section 7**. Amends s. 216.023, F.S., Legislative Budget Request to be Furnished by Agencies. Changes due date for agency requests from Sept. 1 to Sept. 15; specifies content of request; eliminates requirement for a preliminary budget; requires revisions to performance standards based on appropriated amounts; requires the Executive Office of the Governor to maintain the official record of performance standards and adjustments; deletes requirement for agencies to provide point-by-point response to funding recommendations submitted by the Director of the Office of Program Policy Analysis and Government Accountability.

**Section 8**. Amends s. 216.031, F.S., Target Budget Request. Deletes detailed specifications that appear in budget instructions; changes date by which target budgets may be submitted if such budget is required.

**Section 9**. Amends s. 216.044, F.S., Budget Evaluation by the Department of Management Services. Requires agencies to consult with DMS while developing capital outlay budget requests for projects to be managed by DMS.

**Section 10**. Amends s. 216.0446, F.S., Review of Information Resources Management Needs. Conforms language to reflect creation of the Legislative Budget Commission.

**Section 11**. Amends s. 216.052, F.S., Legislative Budget Requests; Appropriations Grants. Defines "legislative budget requests" to "Community Budget Requests;" provides process and criteria for such requests.

**Section 12**. Amends s. 216.081(1), F.S., Data on Legislative and Judicial Branch Expenses. Changes date for submission of legislative and judicial branch expense data from Sept. 1 to "sufficient time to be included in the Governor's recommended budget."

**Section 13**. Amends s. 216.131, F.S., Public Hearings on Legislative Budgets. Allows public hearings on agency budget requests to be conducted electronically.

**Section 14**. Amends s. 216.133, F.S., Definitions. Eliminates transportation estimating conference from definition of "Consensus Estimating Conference;" defines "consensus." Eliminates definition of "State planning and budgeting system" which is defined and prescribed in ch. 186, F.S.

**Section 15**. Amends s. 216.134, F.S., Consensus Estimating Conferences; General Provisions. Clarifies that consensus is required for all official estimates.

**Section 16**. Amends s. 216.136, F.S., Consensus Estimating Conferences; Duties and Principals. Deletes language that prescribes the frequency of economic estimating conference estimates; creates the "Self-Insurance Estimating Conference" and the "Florida Retirement System Actuarial Assumption Conference"; deletes the Transportation Estimating Conference.

**Section 17**. Amends s. 216.141(1), F.S., Budget System Procedures; Planning and Programming by State Agencies. Deletes obsolete language; clarifies that Legislature may contract with EOG for planning and budgeting system and support.

**Section 18**. Amends s. 216.162(1), F.S., Governor's Recommended Budget to be Furnished to Legislature; Copies to Members. Clarifies that Governor's budget recommendations must be provided to the Legislature annually.

**Section 19**. Amends s. 216.163, F.S., Governor's Recommended Budget; Form and Content; Declaration of Collective Bargaining Impasses. Deletes language made obsolete by constitutional revisions that specifies format for Governor's recommended budget; deletes content requirements for Governor's budget made obsolete by the advent of the computerized budgeting system and by the implementation of performance based budgeting; eliminates performance-based program appropriation categories from among the list of management flexibility strategies that may be employed (lump sums with flexibility proviso have been used instead); clarifies that the Governor's recommendations must include agency budget requests and community budget requests in his budget recommendations.

**Section 20**. Amends s. 216.177(1) & (2), F.S., Appropriations Acts, Statement of Intent, Violation, Notice, Review and Objection Procedures. Clarifies delivery date for Letter of Intent for GAA; reduces legislative consultation period for release of funds amendments from 14 to 3 days; eliminates language related to statement of intent; provides that the legislative officers may object to any spending action proposed by an agency, even if it is not the subject of a budget amendment.

**Section 21**. Amends s. 216.178, F.S., General Appropriations Act; Format; Procedure; Cost Statement for New Debt or Obligation. Increases from 48 to 72 hours the length of time a GAA conference report must be available to the public prior to vote; deletes obsolete language.

**Section 22**. Amends s. 216.179, F.S., Reinstatement of Vetoed Appropriations by Administrative Means Prohibited. Clarifies that agencies are precluded from authorizing expenditures for vetoed appropriations; conforms language to reflect creation of the Legislative Budget Commission.

**Section 23**. Amends s. 216.181, F.S., Approved Budgets for Operations and Fixed Capital Outlay. Requires all budget amendments related to large, multi-agency information tech. projects must be reviewed by the Technology Review Work Group; specifies that salary rate is controlled by department or agency; prohibits increases in General Revenue funded salary rate that are not offset by decreases in General Revenue funded salary rate elsewhere within the agency; provides standing authorization for specified types of nonoperating budget, and restricts ability of Governor and Chief Justice to establish non-operating budgets; clarifies the types of nonoperating budget authority that may be established; allows Comptroller, after consultation, to advance funds beyond 3-months; deletes obsolete language; conforms language to reflect creation of the Legislative Budget Commission.

**Section 24**. Creates s. 216.1825, F.S., Zero-Based Budgeting. Directs the Legislative Budget Commission to implement zero-based budget reviews of all state agencies on an 8-year cycle.

**Section 25**. Amends s. 216.183, F.S., Entities Using Performance-Based Program Budgets; Chart of Accounts. Requires consultation with the Legislative Budget Commission on chart of accounts for $PB^2$ budgets.

**Section 26**. Amends s. 216.192(1), F.S., Release of Appropriations; Revision of Budgets. Increases from 20 to 25 the percent of approved operating budget that can be released on July 1; conforms language to reflect creation of the Legislative Budget Commission.

**Section 27**. Amends s. 216.195, F.S., Impoundment of Funds; Restricted. States definition of "impoundment" within the statute section wherein it is used. (Section 1 of this bill deletes the definition from the definitions section.) Conforms language to reflect creation of the Legislative Budget Commission.

**Section 28**. Amends s. 216.212, F.S., Budgets for Federal Funds; Restrictions on Expenditure of Federal Funds. Clarifies EOG role in reviewing agency funding requests

to federal agencies; eliminates redundant provision that FLAIR be compatible with the Federal Aid Tracking System (requirement is provided in s. 216.102, F.S.).

**Section 29**. Amends s. 216.216, F.S., Court Settlement Funds Negotiated by the State. New section created to insure that all funds related to settlements negotiated by or on behalf of the state are subject to appropriation.

**Section 30**. Amends s. 216.221 (2) & (6), F.S., Appropriations as Maximum Appropriations; Adjustment of Budgets to Avoid or Eliminate Deficits. Changes from $300 million to 1.5% of GR appropriation the amount of projected budget shortfall that triggers deficit elimination action.

**Section 31**. Amends s. 216.251(2)(a), F.S., Salary Appropriations; Limitations. Deletes obsolete language.

**Section 32**. Amends s. 216.262(a), (b) & (f), F.S., Authorized Positions. States definition of "perquisites" within the statute section wherein it is used. (Section 1 of this bill deletes the identical definition from the definitions section.) Conforms language to reflect creation of the Legislative Budget Commission.

**Section 33**. Amends s. 216.271(1), F.S., Revolving Funds. States definition of "revolving fund" within the statute section wherein it is used. (Section 1 of this bill deletes the identical definition from the definitions section.)

**Section 34**. Amends s. 216.292, F.S., Appropriations Nontransferable; Exceptions. Increases from $25,000 to $150,000 the amount that agency heads may transfer between appropriation categories within program; deletes language that permits agencies to make 5% transfers between $PB^2$ appropriation categories (which have not been used in implementing $PB^2$); provides authorization for EOG to approve fixed capital outlay projects funded with federal funds within the Dept. of Military Affairs; conforms language to reflect creation of the Legislative Budget Commission.

**Section 35**. Creates s. 216.348, F. S., Fixed Capital Outlay Grants and Aids Appropriations to Certain Nonprofit Entities. Protects state investment in property or improvements made thereto that is funded by state revenue.

**Section 36**. Creates s. 11.45(11), F.S., Audit of Direct-Support Organizations. Authorizes the Auditor General to audit direct-support organizations.

**Section 37**. Creates s. 11.90, F.S., Legislative Budget Commission. Creates the Legislative Budget Commission as a standing joint committee of the Legislature; provides for membership and staffing.

**Section 38**. Amends s. 120.65(2), F.S., Administrative Law Judges. Eliminates 21-day time limitation on action by EOG on DOAH budget amendment requests.

**Section 39**. Amends s. 121.031(3), F.S., Administration of System; Appropriations; Oaths; Actuarial Studies; Public Records. Deletes Florida Retirement System Estimating conference from this section, since it has been moved to s. 216.136, F.S.

**Section 40**. Amends s. 186.002(2), F.S., Findings and Intent. Replaces language associated with "State agency strategic" plans with "Long-range program" plans.

**Section 41**. Amends s. 186.003, F.S., Definitions. Replaces definition of "State agency strategic" plans with "Long-range program" plans; clarifies definition of "state Agency."

**Section 42**. Amends s. 186.021, F.S., State Agency Strategic Plans. Replaces language associated with "State agency strategic" plans with "Long-range program" plans; requires the agency's long-range program plan to provide the context and framework for its budget request; deletes obsolete language.

**Section 43**. Amends s. 186.011, F.S., State Agency Strategic Plans; Preparation, Form and Review. Amends s. 186.022, F.S., to eliminate references and requirements for state agency strategic plans and replace them with requirements for Information resource strategic plans to be submitted by designated boards and commissions.

**Section 44**. Amends s. 186.901(1), F.S., Population Census Determination. Specifies role of Legislative Office of Economic and Demographic Research in providing annual population estimates.

**Section 45**. Amends s. 215.18, F.S., Transfers Between Funds; Limitation. Conforms language to reflect creation of the Legislative Budget Commission.

**Section 46**. Amends s. 215.22(1), F.S., Certain Income and Certain Trust Funds Exempt. Exempts Tobacco Settlement Trust Funds from service charge to general revenue fund.

**Section 47**. Amends s. 215.32(2)(b), F.S., State Funds; Segregation. Conforms language to reflect creation of the Legislative Budget Commission.

**Section 48**. Amends s. 215.3208, F. S., Trust Funds. Provides that the schedule for trust fund review will be included in the legislative budget instructions.

**Section 49**. Amends s. 240.209(3)(f), F. S., Board of Regents; Powers and Duties. Deletes obsolete language.

**Section 50**. Amends s. 240.20941, F.S., Vacant Faculty Positions. Conforms language to reflect creation of the Legislative Budget Commission.

**Section 51**. Amends s. 240.279(1), F.S., Working Capital Trust Funds Established. Conforms language to reflect creation of the Legislative Budget Commission.

**Section 52**. Amends s. 252.37(2), F.S., Financing. Establishes provisions for budget emergency.

**Section 53**. Amends s. 288.7091, F.S., Duties of the Florida Black Business Investment Board. Conforms language to reflect creation of the Legislative Budget Commission.

**Section 54**. Amends s. 320.20(5)(b), F.S., Disposition of License Tax Moneys. Conforms language to reflect creation of the Legislative Budget Commission.

**Section 55**. Amends s. 337.023, F.S., Sale of Building; Acceptance of Replacement Building. Conforms language to reflect creation of the Legislative Budget Commission.

**Section 56**. Amends s. 339.135(2)(a), F.S., Work Program; Legislative Budget Request; Definitions; Preparation, Adopting, Execution and Amendment. Changes reference from "Transportation Estimating Conference" to "estimating conference."

**Section 57**. Amends s. 392.69(3), F.S., Appropriation, Sinking and Maintenance Trust Funds; Additional Powers of the Department. Conforms language to reflect creation of the Legislative Budget Commission.

**Section 58**. Amends s. 216.3491, F.S., Transfer and Renumber as s. 215.97, F.S. Transfers, renumbers, and amends Florida Single Audit Act to ch. 215., F.S.

**Section 59**. Amends s. 216.331, F.S. Transfer and Renumber as s. 215.965, F.S. Moves provisions to more appropriate chapter of statutes.

**Section 60**. Amends s. 216.3505, F.S. Transfer and Renumber as s. 215.966, F.S. Moves provisions to more appropriate chapter of statutes.

**Section 61**. Repeals ss. 27.38, 27.60, 216.001, 216.0154, 216.0162, 216.0166, 216.0172, 216.0235, 216.0315, 216.091, 216.111, 216.281, and 216.286, F.S. Sections 27.38 and 27.60, F.S. are redundant of provisions contained in 216.181, F.S., as amended; s. 216.001, F.S., is obsolete; s. 216.0154, F.S., is obsolete; s. 216.0162, F.S., is obsolete; s. 216.0166, F.S., s. 216.0172, F.S., and s. 216.0235, F.S., are outdated, relating to the phase-in of $PB^2$; s. 216.091, F.S., and s. 216.111, F.S., are redundant of provisions relating to the Comptroller duties in the constitution and in other statutes; s. 216.281,

F.S., defines terms not used in ch. 216; s. 216.286, F.S., is obsolete as it relates to a program repealed by s. 111, Ch. 1996-175, L.O.F.

**Section 62**. Effective July 1, 2000.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 37-0; House* 117-0

## TRUST FUNDS

### *Department of Children and Families*

The following trust funds are recreated within the Department of Children and Families:

| | | |
|---|---|---|
| S 0446 | Administrative Trust Fund | Ch. 2000-4 |
| S 0448 | Alcohol, Drug Abuse & Mental Health Trust Fund | Ch. 2000-5 |
| S 0450 | Child Welfare Training Trust Fund | Ch. 2000-6 |
| S 0452 | Children & Adolescents Substance Abuse Trust Fund | Ch. 2000-7 |
| S 0454 | Child Care & Development Block Grant Trust Fund | Ch. 2000-8 |
| S 0456 | Community Resources Development Trust Fund | Ch. 2000-9 |
| S 0458 | Tobacco Settlement Trust Fund | Ch. 2000-10 |
| S 0460 | Domestic Violence Trust Fund | Ch. 2000-11 |
| S 0462 | Federal Grants Trust Fund | Ch. 2000-12 |
| S 0464 | Grants & Donations Trust Fund | Ch. 2000-13 |
| S 0466 | Operations & Maintenance Trust Fund | Ch. 2000-14 |
| S 0468 | Refugee Assistance Trust Fund | Ch. 2000-15 |
| S 0470 | Social Services Block Grant Trust Fund | Ch. 2000-16 |
| S 0472 | Working Capital Trust Fund | Ch. 2000-17 |

These provisions were approved by the Governor and take effect November 4, 2000.
*Vote: Senate 39-0; House 114-0*

### *Department of Community Affairs*

The following trust funds are recreated within the Department of Community Affairs:

| | | |
|---|---|---|
| S 0474 | Administrative Trust Fund | Ch. 2000-18 |
| S 0476 | Coastal Zone Management Trust Fund | Ch. 2000-19 |
| S 0478 | Florida Small Cities Community Development Block Grant Program Trust Fund | Ch. 2000-20 |
| S 0480 | Community Services Block Grant Trust Fund | Ch. 2000-21 |
| S 0482 | Energy Consumption Trust Fund | Ch. 2000-22 |
| S 0484 | Emergency Management, Preparedness and Assistance Trust Fund | Ch. 2000-23 |
| S 0486 | Florida Communities Trust Fund | Ch. 2000-24 |

| | | |
|---|---|---|
| S 0488 | Local Government Housing Trust Fund | Ch. 2000-25 |
| S 0490 | State Housing Trust Fund | Ch. 2000-26 |
| S 0492 | Governor's Council on Criminal Justice Trust Fund | Ch. 2000-27 |
| S 0494 | Grants & Donations Trust Fund | Ch. 2000-28 |
| S 0496 | Low-Income Home Energy Assistance Block Grant Trust Fund | Ch. 2000-29 |
| S 0498 | Operating Trust Fund | Ch. 2000-30 |
| S 0500 | Federal Emergency Management Programs Support Trust Fund | Ch. 2000-31 |
| S 0502 | U. S. Contributions Trust Fund | Ch. 2000-32 |

These provisions were approved by the Governor and take effect November 4, 2000.
*Vote: Senate 39-0; House 114-0*

***Department of Elder Affairs***

The following trust funds are recreated within the Department of Elder Affairs:

| | | |
|---|---|---|
| S 0504 | Administrative Trust Fund | Ch. 2000-33 |
| S 0506 | Tobacco Settlement Trust Fund | Ch. 2000-34 |
| S 0508 | Federal Grants & Donations Trust Fund | Ch. 2000-35 |
| S 0510 | Grants & Donations Trust Fund | Ch. 2000-36 |
| S 0512 | Operations & Maintenance Trust Fund | Ch. 2000-37 |

These provisions were approved by the Governor and take effect November 4, 2000.
*Vote: Senate 39-0; House 114-0*

***Department of Health***

The following trust funds are recreated within the Department of Health:

| | | |
|---|---|---|
| S 0514 | Administrative Trust Fund | Ch. 2000-38 |
| S 0516 | Tobacco Settlement Trust Fund | Ch. 2000-39 |
| S 0518 | County Health Department Trust Fund | Ch. 2000-40 |
| S 0520 | Donations Trust Fund | Ch. 2000-41 |
| S 0522 | Florida Drug, Device & Cosmetic Trust Fund | Ch. 2000-42 |
| S 0524 | Emergency Medical Services Trust Fund | Ch. 2000-43 |
| S 0526 | Epilepsy Services Trust Fund | Ch. 2000-44 |
| S 0528 | Federal Grants Trust Fund | Ch. 2000-45 |
| S 0530 | Grants & Donations Trust Fund | Ch. 2000-46 |
| S 0532 | Medical Quality Assurance Trust Fund | Ch. 2000-47 |
| S 0534 | Brain & Spinal Cord Injury Rehabilitation Trust Fund | Ch. 2000-48 |
| S 0536 | Maternal & Child Health Block Grant Trust Fund | Ch. 2000-49 |
| S 0538 | Operations & Maintenance Trust Fund | Ch. 2000-50 |
| S 0540 | Planning & Evaluation Trust Fund | Ch. 2000-51 |
| S 0542 | Preventive Health Services Block Grant Trust Fund | Ch. 2000-52 |
| S 0544 | Radiation Protection Trust Fund | Ch. 2000-53 |
| S 0546 | Social Service Block Grant Trust Fund | Ch. 2000-54 |
| S 0548 | United States Trust Fund | Ch. 2000-55 |

These provisions were approved by the Governor and take effect November 4, 2000.
*Vote: Senate 39-0; House 114-0*

***Department of Health Care Administration***

The following trust funds are recreated within the Department of Health Care Administration:

| | | |
|---|---|---|
| S 0550 | Health Care Trust Fund | Ch. 2000-56 |
| S 0552 | Administrative Trust Fund | Ch. 2000-57 |
| S 0554 | Tobacco Settlement Trust Fund | Ch. 2000-58 |
| S 0556 | Grants & Donations Trust Fund | Ch. 2000-59 |
| S 0558 | Medical Care Trust Fund | Ch. 2000-60 |
| S 0560 | Florida Organ & Tissue Donor Education & Procurement Trust Fund | Ch. 2000-61 |
| S 0562 | Resident Protection Trust Fund | Ch. 2000-62 |
| S 0564 | Public Medical Assistance Trust Fund | Ch. 2000-63 |
| S 0566 | Refugee Assistance Trust Fund | Ch. 2000-64 |

These provisions were approved by the Governor and take effect November 4, 2000.
*Vote: Senate 39-0; House 114-0*

***Department of Labor & Employment Security***

The following trust funds are recreated within the Department of Labor & Employment Security:

| | | |
|---|---|---|
| S 0568 | Administrative Trust Fund | Ch. 2000-65 |
| S 0570 | Child Labor Law Trust Fund | Ch. 2000-66 |
| S 0572 | Crew Chief Registration Trust Fund | Ch. 2000-67 |
| S 0574 | Employment Security Administration Trust Fund | Ch. 2000-68 |
| S 0576 | Federal Rehabilitation Trust Fund | Ch. 2000-69 |
| S 0578 | Public Employees Relations Commission Trust Fund | Ch. 2000-70 |
| S 0580 | Revolving Trust Fund | Ch. 2000-71 |
| S 0582 | Self-Insurance Assessment Trust Fund | Ch. 2000-72 |
| S 0584 | Special Employment Security Administration Trust Fund | Ch. 2000-73 |
| S 0586 | Unemployment Compensation Benefit Account Trust Fund | Ch. 2000-74 |
| S 0588 | Unemployment Compensation Clearing Account Trust Fund | Ch. 2000-75 |
| S 0590 | Working Capital Trust Fund | Ch. 2000-76 |
| S 0592 | Workers' Compensation Administration Trust Fund | Ch. 2000-77 |
| S 0594 | Special Disability Trust Fund | Ch. 2000-78 |

These provisions were approved by the Governor and take effect November 4, 2000.
*Vote: Senate 39-0; House 114-0*

***Legislature***

The following trust funds are recreated within the Legislature:

| | | |
|---|---|---|
| S 0596 | Executive Branch Lobby Registration Trust Fund | Ch. 2000-79 |
| S 0598 | Grants & Donations Trust Fund | Ch. 2000-80 |
| S 0600 | Legislative Lobbyist Registration Trust Fund | Ch. 2000-81 |
| S 0602 | Florida School District Review Trust Fund | Ch. 2000-82 |

These provisions were approved by the Governor and take effect November 4, 2000.
*Vote: Senate 39-0; House 114-0*

***Justice Administration***

The following trust fund is recreated within the Justice Administrative Commission:

| | | |
|---|---|---|
| S 0604 | Indigent Criminal Defense Trust Fund | Ch. 2000-83 |

This provision was approved by the Governor and takes effect November 4, 2000.
*Vote: Senate 39-0; House 114-0*

***Public Service Commission***

The following trust fund is recreated within the Public Service Commission:

| | | |
|---|---|---|
| S 0608 | Regulatory Trust Fund | Ch. 2000-84 |

This provision was approved by the Governor and takes effect November 4, 2000.
*Vote: Senate 39-0; House 114-0*

***Department of State***

The following trust funds are recreated within the Department of State:

| | | |
|---|---|---|
| S 0610 | Coconut Grove Playhouse Trust Fund | Ch. 2000-85 |
| S 0612 | Corporations Trust Fund | Ch. 2000-86 |
| S 0614 | Licensing Trust Fund | Ch. 2000-87 |
| S 0616 | Florida Fine Arts Trust Fund | Ch. 2000-88 |
| S 0618 | Grants & Donations Trust Fund | Ch. 2000-89 |
| S 0620 | Ringling Museum Investment Trust Fund | Ch. 2000-90 |
| S 0622 | Library Construction Trust Fund | Ch. 2000-91 |

| | | |
|---|---|---|
| S 0624 | Library Services Trust Fund | Ch. 2000-92 |
| S 0626 | Cultural Institutions Trust Fund | Ch. 2000-93 |
| S 0628 | Elections Operating Trust Fund | Ch. 2000-94 |
| S 0630 | Historic Resources Operating Trust Fund | Ch. 2000-95 |
| S 0632 | Public Access Data Systems Trust Fund | Ch. 2000-96 |
| S 0634 | Publication Revolving Trust Fund | Ch. 2000-97 |
| S 0636 | Records Management Trust Fund | Ch. 2000-98 |

These provisions were approved by the Governor and take effect November 4, 2000.
*Vote: Senate 39-0; House 114-0*

***State Board of Administration***

The following trust funds are recreated within the State Board of Administration:

| | | |
|---|---|---|
| S 0638 | Florida Endowment for Vocational Rehabilitation Trust Fund | Ch. 2000-99 |
| S 0640 | Arbitrage Compliance Trust Fund | Ch. 2000-100 |
| S 0642 | Bond Fee Trust Fund | Ch. 2000-101 |
| S 0644 | Administrative Expense Trust Fund | Ch. 2000-102 |

These provisions were approved by the Governor and take effect November 4, 2000.
*Vote: Senate 39-0; House 114-0*

***State Courts***

The following trust funds are recreated within the State Courts System:

| | |
|---|---|
| S 606 | Public Records Modernization Trust Fund |

If approved by the Governor, these provisions take effect November 4, 2000.
*Vote: Senate 39-0; House 117-0*

***Department of Veterans' Affairs***

The following trust funds are recreated within the Department of Veterans' Affairs:

| | | |
|---|---|---|
| S 0646 | Florida Korean Veterans Memorial Matching Trust Fund | Ch. 2000-103 |
| S 0648 | Tobacco Settlement Trust Fund | Ch. 2000-104 |
| S 0650 | Federal Grants Trust Fund | Ch. 2000-105 |
| S 0652 | Grants & Donations Trust Fund | Ch. 2000-106 |
| S 0654 | Operations & Maintenance Trust Fund | Ch. 2000-107 |
| S 0656 | State Home for Veterans Trust Fund | Ch. 2000-108 |
| S 0658 | Florida World War II Veterans Memorial Matching Trust Fund | Ch. 2000-109 |
| S 0660 | Design & Construction Trust Fund | Ch. 2000-110 |

These provisions were approved by the Governor and take effect November 4, 2000.
*Vote: Senate 39-0; House 114-0*

***Other Trust Fund Bills***

**Senate Bill 662** (Chapter 2000-122, L.O.F.) provides clarification regarding the exemption of certain trust funds administered by the State Board of Administration (SBA) from the automatic termination provisions of Section 19(f), Art. III, State Constitution. The bill also exempts any income or trust fund relating to the Tobacco Settlement, including the Department of Banking and Finance Tobacco Settlement Clearing Trust Fund, from the 7 percent service charge levied under the provisions of s. 215.20(1), F.S.

The bill amends s.11.045(8), F.S., to modify the purpose for which moneys in the Legislative Lobbyist Registration Trust Fund may be used to include expenses incurred by the Legislature in providing services to lobbyists. The bill also reduces the minimum required principal amount balance for the Revenue for the Endowment Fund from $5 million to $1 million beginning FY 2000-2001.

The bill consolidates the State Property Insurance Trust Fund and the Florida Casualty Insurance Risk Management Trust Fund to avoid trust fund deficits; and renames part I of Ch. 284, F.S., from the "Florida Fire Insurance Trust Fund" to "State Property Claims"; and part II of Ch. 284, F.S., from "Florida Casualty Insurance Risk Management Trust Fund" to "State Casualty Claims." The consolidation of these trust funds becomes effective upon becoming law.

These provisions were approved by the Governor and except as otherwise provided, the remaining provisions of this bill become effective July 1, 2000.
*Vote: Senate 38-0; House 115-0*

**Senate Bill 664** (Chapter 2000-117, L.O.F.) terminates the Direct Assistance Trust Fund and the Florida Organ and Tissue Donor Education Trust Fund within the Department of Children and Families; and the Administrative Trust Fund within the Department of Veterans' Affairs.

The bill renames the "Child Care and Development Block Grant Trust Fund" to "Child Care and Development Trust Fund" within the Department of Children and Families.

These provisions were approved by the Governor and take effect July 1, 2000.
*Vote: Senate 38-0; House 115-0*

**Senate Bill 666** (Chapter 2000-118, L.O.F.) terminates: the Hurricane Andrew Disaster Relief Trust Fund and the Hurricane Andrew Recovery and Rebuilding Trust Fund within the Department of Community Affairs; and the Hurricane Andrew Disaster Relief Trust Fund and the Hurricane Andrew Recovery and Rebuilding Trust Fund within the Department of State.

The bill clarifies that the Florida Preservation 2000 trust fund is exempt from the termination provision of Section 19(f), Article III, State Constitution.

The bill also provides other technical amendments relating to statute references.

These provisions were approved by the Governor and take effect July 1, 2000.
*Vote: Senate 38-1; House 114-0*

**House Bill 627** (Chapter 2000-120, L.O.F.) creates the Lottery Capital Outlay and Debt Service Trust Fund to receive, maintain, disburse, and account for Legislative appropriations from Lottery revenues for fixed capital outlay and debt service for K-12 education. The Lottery Capital Outlay and Debt Service Trust Fund is administered by the Department of Education.

These provisions became law upon approval by the Governor on April 18, 2000.
*Vote: Senate 39-0; House 114-0*

***Department of Agriculture and Consumer Services***

The following trust fund was created in the Department of Agriculture and Consumer Services to receive and disburse funds related to the Florida Forever Program. Annual bond proceeds are distributed by the Department of Environmental Protection to the Department of Agriculture and Consumer Services:

H 1997 Florida Forever Trust Fund

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 36-0; House* 113-0

***Fish and Wildlife Conservation Commission***

The following trust fund was created in the Fish and Wildlife Conservation Commission to receive and disburse funds related to the Florida Forever Program. Annual bond proceeds are distributed by the Department of Environmental Protection to the Fish and Wildlife Conservation Commission:

H 1999 Florida Forever Trust Fund

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House* 114-0

***Department of Community Affairs***

The following trust fund was created in the Department of Community Affairs to acquire endangered and sensitive land resources in Florida in accordance with the Florida Forever Act established in ch. 1999-247, L.O.F.:

H 2001 Florida Forever Trust Fund

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House* 114-0

***Department of Agriculture and Consumer Services***

The following trust fund was created within the Department of Agriculture and Consumer Services to provide for the management of conservation and recreation lands by the department:

H 2153 Conservation and Recreation Lands Program Trust Fund

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House* 114-0

***Fish and Wildlife Conservation Commission***

The following trust fund was created within the Fish and Wildlife Conservation Commission to provide for the management of conservation and recreation lands:

H 2155 Conservation and Recreation Lands Program Trust Fund

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 37-0; House 108-0*

***Department of Health***

The following trust fund was created within the Department of Health to support research initiatives that address health care problems of Floridians in the areas of cancer, cardiovascular disease, stroke, and pulmonary disease:

H 2375 Biomedical Research Trust Fund

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House 100-0*

# Senate Committee on Fiscal Resource

## MAJOR TAX REDUCTION PACKAGE

### CS/HB 67 & 187 — Intangible Person Property Taxes

by Finance & Taxation Committee, Rep. Fasano and others (CS/SB 60 by Fiscal Resource Committee and Senators Lee, Cowin and Saunders; CS/SB 1650 by Fiscal Resource Committee and Senator Klein)

The bill makes the following changes to current law regarding the intangible personal property tax:

1. The intangible tax rate is lowered from 1.5 mills to 1 mill;

2. To retain the inducement for investing in the Florida's Future Investment funds, the intangible tax rate for investment in the funds is lowered from 1.35 mills to .85 mills when the average daily balance in the funds exceeds $2 billion and from 1.2 mills to .70 mills when the average daily balance exceeds $5 billion; and

3. The value of accounts receivables is exempted from intangible tax.

The bill also revises the treatment of Florida trusts for intangible tax purposes. It relieves Florida trustees of paying intangibles tax on trust assets, and it provides that a Florida resident with a beneficial interest in a trust is responsible for reporting his or her share of the trusts assets and paying intangibles tax on it.

Changes to the intangible tax law will be effective for tax years beginning after December 31, 2000.

The bill repeals the sharing of intangible tax revenues with the counties. The bill provides that an additional 2.25 percent of the available proceeds shall be transferred from sales and use tax collections to the Revenue Sharing Trust Fund for Counties.

The bill gives additional assurances to holders of bonds issued before April 18, 2000, which are secured by the guaranteed entitlement or second guaranteed entitlement for counties, or bonds issued to refund such bonds which mature no later than the bonds that they refunded and which result in a reduction of debt service payable in each fiscal year.

If approved by the Governor, these provisions take effect on July 1, 2000.
*Vote: Senate 39-0; House 112-3*

### HB 161 — Sales Tax Holiday

by Rep. Kilmer and others (SB 64 by Senator Cowin)

This bill establishes the "Florida Residents Tax Relief Act of 2000," providing that no sales and use tax shall be collected on sales of clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of $100 or less during the period from 12:01 a.m., July 29, 2000, through midnight, August 6, 2000.

Clothing is defined to mean any article of wearing apparel, including all footwear, except for skis, swim fins, roller blades, and skates, intended to be worn on or about the human body and does not include watches, watchbands, jewelry, umbrellas, or handkerchiefs.

The exemption does not apply to sales within a theme park or entertainment complex, within a public lodging establishment, or within an airport.

The bill appropriates the Department of Revenue $215,000 for the purpose of administering this act.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 35-0; House 116-1*

### CS/SB 388 — Sales Tax Exemption for 501(c)(3) Organizations

by Fiscal Resource Committee

The bill provides a sales and use tax exemption for sales and leases to organizations holding current exemption from federal income tax pursuant to section 501(c)(3) of the Internal Revenue Code, when such leases or purchases are used in carrying on such organization’s customary nonprofit activities.

If approved by the Governor, these provisions take effect January 1, 2001.
*Vote: Senate 38-0; House 119-0*

## CS/CS/SB 770 & 286 — Alcoholic Beverage Surtax and Pari-mutuel Wagering

by Regulated Industries Committee; Fiscal Resource Committee; and Senators Latvala, Geller, Hargrett, Sullivan, Brown-Waite, Clary, Casas, Saunders, Kirkpatrick and Sebesta)

***Alcoholic Beverage Surtax***

The bill reduces the surcharge on alcoholic beverages consumed-on-the-premises of licensed retailer by one-third. The surcharge would be 3.34 cents on each one ounce of liquor or four ounces of wine, 2 cents on each 12 ounces of cider and 1.34 cents on each 12 ounces of beer. In addition, the bill exempts from the surcharge, alcoholic beverages sold by organizations which have been determined by the Internal Revenue Service to be currently exempt from federal income tax under s. 501(c)(3), (4), (5), (6), (7), (8) or (19) of the Internal Revenue Code of 1986, as amended.

The bill also maintains the current funding from the surcharge to the Children and Adolescents Substance Abuse Trust Fund by increasing from thirteen and six-tenths to twenty-seven and two-tenths, the percentage of the surcharge which is deposited into the Trust Fund.

***Pari-mutuel Wagering***

The bill amends the pari-mutuel tax and regulatory provisions in ch. 550, F.S. It provides specific tax reductions totaling approximately $20 million for the greyhound racing, horse racing, and jai alai industries. It also provides for increased purses and breeders awards.

Among the significant changes are:

1. the tax on handle for live, simulcast, or ITW (inter-track wagering) on greyhound races is reduced from 7.6% to 5.5%;

2. the tax on handle for ITW and ITW simulcast on greyhound races within a market area is reduced from 6% to 3.9%;

3. tax credits for greyhound permit holders may be applied against pari-mutuel taxes or fees and unused credits may be transferred to other greyhound permit holders;

4. the tax on handle for live and simulcast wagering on thoroughbred horse racing is reduced from 2% or 1.25 to 0.5% for performances conducted from January 3 to March 16 or May 23 to January 2, respectively;

5. the tax on handle for ITW on thoroughbred races is reduced from 3.3% to 2%;

6. the tax on handle for ITW is further reduced to 0.5% when the guest and the host track are thoroughbred permit holders;

7. thoroughbred permit holders may receive a tax credit for payments made to the Jockeys Guild equal to 1% of the previous years' taxes;

8. the tax on handle for live and simulcast wagering on harness horse racing is reduced from 1% to 0.5%;

9. the tax on handle for ITW simulcast wagering on harness horse racing is reduced from 2.4% to 1.5%;

10. the maximum tax on handle for live wagering on jai alai is reduced from 4.25% to 1.5%;

11. a jai alai permit holder may relocate within 30 miles of its existing facility.

Under current law, $29,515,500 is paid from the Pari-Mutuel Wagering Trust Fund to the counties. The bill transfers this obligation to the General Revenue Fund.

Hialeah conducted its racing meet at Gulfstream Park this year. Current law provides for a "double-sum" tax on handle if performances are conducted at any South Florida thoroughbred facility in more than one racing period. The bill forgives this tax liability, resulting in a one-time fiscal impact of $2.6 million.

The bill also creates the "Interstate Compact on Licensure of Participants in Pari-Mutuel Wagering," which is designed to establish uniform requirements among states for the licensing of pari-mutuel wagering participants, to provide reciprocity among the states in recognizing permits, and to ensure that all licensed participants meet a uniform standard of honesty and integrity.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 33-4; House 101-16*

### SB 932 — Fees
by Senator Sebesta

This bill repeals subsection (5) of s. 212.18, F.S., to abolish the additional annual registration fee charged for each certificate of registration granted to a dealer who had taxable sales or purchases of $30,000 or more during the previous calendar year. The bill also repeals s. 212.20(6)(d), F.S., which provides for distribution of the additional registration fee into the Solid Waste Management Trust Fund.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 38-0; House 117-0*

## MAJOR TAX POLICY

### HB 1535 — State Tax Reform Task Force
by Rep. Albright and others (SB 1332 by Senator Horne)

The bill creates the State Tax Reform Task Force to examine the state's tax structure and make recommendations to the Governor and the Legislature on how the state's tax structure can be improved to ensure a stable revenue base that is adequate to fund the needs of the state. The Senate Fiscal Resource Committee and the House Finance and Tax Committee will provide administrative staff for the task force. The task force shall consist of the following members: five members to be appointed by the Governor; four members to be appointed by the President of the Senate; four members to be appointed by the Speaker of the House of Representatives; the Chair of the Senate Committee on Fiscal Resource and the Chair of the House Committee on Finance and Taxation at the time this bill becomes law; and the Executive Director of the Department of Revenue or his or her designee.

The task force shall examine the state's tax structure to evaluate whether it is adequate for supporting the continuing needs of the state. The task force shall consider the following in its evaluation: (a) Standard principles of sound tax policy; (b) How other states treat the same or similar tax issues; (c) Whether the base of the tax system is as broad as possible, so that tax rates and burdens are as low as possible; (d) Whether tax exemptions are consistent with state tax policy and the economic impact of each exemption. In addition, the tax force shall provide an analysis of alternative tax sources.

By February 1, 2001, the task force shall submit an interim report and by February 1, 2002, shall submit a final report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Authorization for the task force expires

June 30, 2002. The sum of $100,000 is appropriated from the General Revenue Fund to the Office of Legislative Services for the purpose of paying administrative expenses and funding contracts necessary to carry out the provisions of this act.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 34-0; House 118-0*

### CS/CS/CS/SB 1338 — Telecommunications

by Fiscal Resource Committee; Regulated Industries Committee; and Senator Horne

The bill substantially rewrites Florida's communications tax law. It creates a new ch. 202, F.S., the Communications Services Tax Simplification Law, and provides that communications services are subject to a uniform statewide tax rate and a local tax to be administered by the Department of Revenue.

The state and local communications services tax rates are not set in the bill. The industry and local governments are directed to supply pertinent information to the Department of Revenue for use by the Revenue Estimating Conference for calculating revenue neutral rates to be presented to the Legislature for review and approval during the 2001 Regular Session. Unless action is taken by the Legislature before June 30, 2001, the act is repealed.

The bill provides an appropriation of $201,587 to the Department of Revenue for FY 1999-2000 and $3,583,441 and 32 FTE's for FY 2000-2001 to the department to implement the provisions of the bill.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 37-0; House 108-0*

## MISCELLANEOUS TAX ISSUES

### HB 349 — Sales Tax Exemption/Civic Centers

by Rep. Johnson and others (CS/SB 194 by Fiscal Resource Committee and Senators Horne, Cowin, Geller, Hargrett, King, Grant, Diaz-Balart, and Childers)

The bill provides a tax exemption for property rented, leased, subleased, or licensed to a concessionaire selling event-related products, by a convention hall, auditorium, sports stadium, exhibition hall, publicly-owned recreational facility, theater, arena, civic center, or performing arts center, when the rental, lease, or license payment is based on a percentage of sales or profits, and not a fixed price. The bill also provides language

specifically stating that certain charges to a lessee, or licensee of a facility for other services required, such as ticket takers, event staff, security personnel and other event related personnel, are exempt from the tax on the lease of the property. The exemption is repealed effective July 1, 2003.

Additionally, this bill clarifies that the tax on admissions to certain events is computed on the actual value of the admissions charge and not on the total sale price that sometimes include other charges such as: state or local seat surcharges; separately stated ticket service charges imposed by a facility ticket office; or a ticketing service fee. This bill provides an exemption to the admissions tax for events sponsored by certain government-owned facilities bearing 100 percent of the risk of success or failure for the event. The exemption is repealed effective July 1, 2003.

The bill specifies that the tax imposed by s. 212.031, F.S., on the rental, lease, or license for the use of certain facilities to hold an event and the tax imposed on admissions by s. 212.04, F.S., shall be collected at the time of payment for such rental, lease, or license but shall not be due and payable to the department until the actual date of the event. The exemption is repealed effective July 1, 2003.

Finally, this bill provides that taxes imposed on the transactions exempted by the bill are not due to the Department of Revenue before the actual date of the related event, and, no taxes imposed by chapter 212, F.S., on the transactions exempted under this act, and not actually paid or collected prior to the effective date, shall be due.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 34-1; House 109-8*

### CS/HB 389 — Severance Tax Redistribution

by Finance & Taxation Committee, Rep. Harrington and others (CS/SB 376 by Fiscal Resource Committee and Senators Laurent and Mitchell)

The bill changes the distribution of revenues from the tax on the production of phosphate rock. The distribution is changed as follows: the distribution to the General Revenue Fund is reduced from 72.5% to 55.15%; the Phosphate Research Trust Fund is increased from 10% to 12.5%; the distribution to the counties in which the phosphate rock was produced is increased from 10% to 18%; and the distribution to the Minerals Trust Fund is increased from 7.5% to 14.38%.
The bill also increases the amount of funds credited to the Minerals Trust Fund from severance taxes that remain in the trust fund at the end of the fiscal year from 125 percent to 150 percent. The bill repeals s. 211.3103(9), F.S., which states that if a producer donates property to a county, the proceeds the county receives under s. 211.3103, F.S., shall be reduced by the value of that donation. In addition, the bill amends s. 378.036,

F.S., to add the *construction of trails* to the "outdoor recreational purposes" for which the Nonmandatory Land Reclamation Trust Fund moneys may be used.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 112-0*

### CS/HB 411 — Sales Tax Exemption/Manufactured Asphalt

by Finance & Taxation Committee, Rep. Bradley and others (CS/SB 266 by Fiscal Resource Committee and Senator Sebesta)

This bill increases from 20 percent to 40 percent, the sales and use tax exemption on manufactured asphalt used in any federal, state or local public works project.
The bill also provides a sales tax exemption for railroad roadway materials used in the construction, repair, or maintenance of railways.

The bill also amends s. 212.20(6)(f)c., F.S., compensating the International Game Fish Association World Center for its first year of sales tax distribution totaling $999,996. The Association qualified, but failed to submit paper work authorizing monthly sales tax distributions pursuant to s. 212.20(6)(f)5.c. The bill decreases the maximum months the Association can receive monthly distributions from 180 to 168 to account for the lump sum payment.

If approved by the Governor, these provisions take effect January 1, 2001.
*Vote: Senate 38-0; House 117-0*

### HB 743 — Motion Picture Sales Tax Exemption

by Tourism Committee, Rep. Starks and others (CS/SB 804 by Fiscal Resource Committee and Senators Saunders and Clary)

The bill creates s. 288.1258, F.S., to provide a single application process for qualified entertainment industry production companies to follow when applying for a certificate of exemption relating to entertainment industry sales taxes that are covered under ss. 212.031, 212.06, and 212.08, F.S. The bill also changes the current sales and use tax refund in s. 212.08(5)(f), F.S., relating to certain motion picture or video equipment and sound recording equipment, to a point of sale exemption. The bill also provides for information sharing between the Department of Revenue and the Office of the Film Commissioner.

If approved by the Governor, these provisions take effect January 1, 2001.
*Vote: Senate 36-0; House 112-0*

### HB 775 — Space Flight Business Leases Exemption

by Rep. Goode and others (SB 874 by Senators Bronson, Saunders, Sebesta and Kurth)

This bill provides an exemption from the sales tax on the lease or rental of or license in real property for property used or occupied predominantly for space flight business purposes.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House 115-0*

### HB 879 — Sales Tax on Printed Materials

by Rep. Lynn and others (CS/SB 1382 by Fiscal Resource Committee and Senator Sebesta)

The bill provides that printers who deliver printed materials by the United States Postal Service to persons other than the purchaser have no obligation or responsibility for the payment or collection of any taxes imposed on the materials. However, the bill specifies that printers are obligated to collect taxes due on the printed materials when all, or substantially all, of the materials will be mailed to persons located within Florida. The purchaser of the printed materials remains responsible for any taxes due on the printed material.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 37-0; House 107-7*

### CS/HB 1105 — Sales Tax Exemption for Farm Equipment

by Finance and Taxation Committee, Rep. Putnam and others (CS/SB 1868 by Fiscal Resource Committee and Senators Thomas, Bronson, Childers, Rossin, Saunders, Grant, Sebesta, Brown-Waite, Casas, Diaz-Balart, Cowin, Mitchell and Dawson)

The bill amends s. 212.08(3), F.S., reducing the rate of sales and use tax on qualified farm equipment from 3 percent to 2.5 percent. The bill also extends the partial sales and use tax exemption to equipment used in any stage of agricultural production. An equipment purchaser, renter, or lessee will be required to sign a certificate stating that the farm equipment will be used exclusively on a farm or in a forest for agricultural production. Rental and lease of exempt equipment are added to the transactions qualifying for the exemption. Affiliated groups will be included in the provision that exempts persons from the sales and use tax when such persons secure rock, fill dirt, or similar materials from a location he, she or it owns to be used on property he, she, or it owns.

If approved by the Governor, these provisions take effect January 1, 2001.
*Vote: Senate 39-0; House 116-0*

### HB 1933 — Sales Tax/Nonprofit Water Systems

by Rep. Boyd and others (SB 1396 by Senator Mitchell)

The bill creates a sales tax exemption for sales and leases to not-for-profit corporations which hold a current exemption from federal income tax under s. 501(c)(4) of the Internal Revenue Code, as amended, if the sole or primary function of the corporation is to construct, maintain, or operate a water system in this state. The bill also creates sales tax exemptions for sales and leases to the following: (1) Organizations providing crime prevention, drunk driving prevention, and juvenile delinquency prevention; (2) The Florida Fire and Emergency Services Foundation; and (3) State Theater contract organizations which receive funding pursuant to the Cultural Institutions Program authorized under s. 265.2861, F.S., or which received funding from the Department of State as a state theater contract organization prior to October 1, 1999. The bill also clarifies that the sales tax exemption for state theater contract organizations is on sales and leases to such organizations only.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 37-0; House 119-0*

### CS/SB 1604 — Sales Tax Exemption

by Fiscal Resource Committee and Senators Sullivan, Webster, Saunders, Bronson and Kurth

The bill replaces the term “silicon” with “semiconductor” for the sales tax exemption for machinery and equipment used in silicon technology production. Semiconductor is the modern term for silicon technology. Includes building materials for use in manufacturing or expanding “clean rooms” in the exemption.

In addition, the bill expands the exemption to include machinery and equipment used by defense or space technology facilities to produce defense or space technology products, and machinery and equipment used in defense or space research and development in a defense or space technology research and development facility. This exemption is at 25 percent. The bill also provides definitions of “industrial machinery and equipment” for use in silicon, defense, or space technology production, “machinery and equipment” used predominately in semiconductor wafer, defense, or space research and development activities, and “space technology products”.

The bill amends s. 212.08(7)(mm), F.S., to extend for three years, the expiration of the sales tax exemption for solar energy systems which is scheduled to repeal on July 1, 2002.

The bill amends s. 125.0104(3)(l), F.S., authorizing counties that have elected to levy the 4th tourist development tax for the purpose of paying debt service on bonds issued to finance the construction, reconstruction or renovation of a convention center pursuant to s. 125.0104(3)(1), to use the proceeds from the tax to pay the operation and maintenance costs of the convention center for the life of the bonds.

The bill creates the "Community-based Development Organization Assistance Act" to provide grants to eligible "community-based development organizations" for administrative and operating expenses related to affordable housing and economic development projects. The bill provides for administration and distribution of grants by the Department of Community Affairs.

The bill appropriates $1,000,000 from the General Revenue Fund for the purpose of providing grants to community-based development organizations.

If approved by the Governor, these provisions take effect January 1, 2001.
*Vote: Senate 37-0; House 117-0*

### HB 2179 — School Impact Fees

by Rep. Lacasa (CS/SB 238 by Fiscal Resource Committee and Senator Horne)

The bill specifies that counties are prohibited from levying any impact fee for school purposes in an amount in excess of 37.5% of any school impact fee which that county adopted by county ordinance prior to May 1, 1999. If in any year the Legislature appropriates an amount less than 62.5 percent of the total impact-fee-for-school- purposes revenue that was collected in 1999-2000, a county may increase the county levied portion to make up the difference. The bill also provides that appropriated funds may be used for the same purposes as impact fees levied by the county.

In addition, the bill specifies that funds allocated in the General Appropriation Act for the replacement of school impact fees shall be distributed to county school boards by the Department of Education "on a pro-rata basis based on the amount of school impact fees which were enacted by county ordinance prior to May 1, 1999, and collected during the 1999-2000 fiscal year."

The bill also allows county commissions to amend a prior year's budget within the first 60 days of a fiscal year. Municipalities and school boards already have this authority.

The bill provides that state funds appropriated in lieu of impact fees by a county ordinance which was publicly noticed prior to April 23, 2000 for hearing may be used for the same purposes as impact fees for school purposes levied by a county. Provides for circumstances when such county may increase the county levied portion of the impact fee.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 35-3; House 102-18*

## HB 2433 — Tax Administration, Sales and Use Tax, Intangibles Tax, Ad Valorem Tax, Documentary Stamp Tax, and Revenue Sharing with Municipal Governments

by Finance & Taxation Committee, Rep. Albright and others (CS/SB 1070 by Fiscal Resource Committee and Senator Horne; CS/SB 1536 by Fiscal Resource Committee and Senators Klein, Dyer, and Latvala)

***Tax Administration***

1. amends the statute of limitations for audit so that effective July 1, 2002, the limitations period is three years for all open periods;

2. transfers the responsibility for the collection of civil penalties assessed by the Elections Commission from the Department of Revenue to the Elections Commission;

3. deletes a duplicate filing requirement for certain insurance companies;

4. provides for the sharing of specified information by the Department of Revenue with the Department of Management Services and the Department of Highway Safety and Motor Vehicles;

5. provides optional filing periods for certain entities required to pay gross receipts tax;

6. allows the Department of Revenue to suspend reporting requirements for terminal operators and bulk carriers when identical data becomes available to the Department of Revenue from the Internal Revenue Service;

7. clarifies the exemption from the indexed tax of 20 percent of the manufactured asphalt used for any government public works project;

8. clarifies the manner in which interest is applied to tax deficiencies;

9. provides authority to the Department of Revenue to enter into contracts with public or private vendors to develop and implement a voluntary system for sales and use tax collection and administration;

10. awards attorneys fees in cases where the court finds that the Department of Revenue improperly rejected or modified a conclusion of law;

11. authorizes the Department of Revenue to allow a sales tax dealer to continue to use a filing frequency when the dealer exceed the maximum tax for that frequency, under certain conditions;

12. allows the Department of Revenue to use sampling to determine refunds as well as delinquencies during audits;

13. updates references to the Internal Revenue Code, the annual corporate income tax update; and

14. provides for base year adjustments for municipal police and firefighters pension data, to be used for future calculations only.

***Sales and Use Tax***

1. adds to the sales tax exemption on equipment and machinery for pollution control, specialty chemical or bioaugmentation products;

2. for the purpose of the sales tax exemption for machinery and equipment used in the production of electrical or steam energy, provides an exemption if 15% or less of all electrical or steam energy generated was produced by burning residual fuel

3. adds SIC code 35 to the exemption for repair and labor charges;

4. extends the exemption for agricultural equipment to moveable receptacles for portable containers;

5. clarifies the exemption for mixed residual and non-residual fuels;

6. extends the application of the sales tax exemption for materials and labor used in the repair of industrial machinery and equipment to include machinery and equipment used in the preparation of items for shipping;

7. provides an exemption for people movers; and

8. provides for a retroactive tax exemption for steam or electrical energy used by cigar manufacturers.

***Intangibles Tax***

1. adds savings association holding companies to the list of entities exempt from the intangibles tax; and

2. provides that failure to timely file a consolidated return for intangibles tax shall not prejudice a taxpayer's right to file such a return under certain conditions

***Documentary Stamp Tax***

1. provides a retroactive exemption for renewals of promissory notes for revolving obligations, if the renewal extends the existing agreement for certain term obligations.

***Ad Valorem Tax***

1. provides an ad valorem tax exemption for certain not-for-profit water and wastewater systems; and

2. requires special assessment on mobile home parks and recreational vehicle parks to treat them like hotel and motels.

***Municipal Revenue Sharing***

HB 2433 restructures two state sources of revenue sharing with municipalities: the Municipal Revenue Sharing Program and the Municipal Financial Assistance Trust Fund.

The 38.2 percent of net cigarette tax collections that currently funds these programs is transferred to the General Revenue Fund. In exchange, the state will transfer 1.0715 percent of the prior fiscal year's sales and use tax collections to the Revenue Sharing Trust Fund for Municipalities.

The 1.0715 percentage is set to ensure that in FY 2000-2001, the amount available for the Municipal Revenue Sharing Program will be equal to the amount projected under the existing revenue streams for the Municipal Financial Assistance Trust Fund and the Municipal Revenue Sharing Trust Fund. Similarly, the percentage holds state revenues harmless in FY 2000-2001.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 115-0*

# Senate Committee on Governmental Oversight and Productivity

## STATE EMPLOYMENT/RETIREMENT/PENSION MANAGEMENT

### HB 2393 — Retirement

by General Appropriations Committee, Rep. Pruitt and others (CS/SB 1352 by Governmental Oversight & Productivity Committee)

The bill reforms several aspects of the Florida Retirement System (FRS). It creates a defined contribution (DC) retirement program that FRS members may elect in lieu of the FRS's current defined benefit (DB) program. Under the DC option, an employee may place his or her employer's pension contribution into an array of mutual funds, annuities, and other plans. As a result, the employee's pension will consist of the market return of his or her investment, rather than the fixed benefit guaranteed under the DB plan. The employee is not required to put any of his or her own money into the DC account. If an employee wishes to make a pre-tax retirement contribution, the employee may use other plans offered by his or her employer, such as the Deferred Compensation program offered to state employees. Total tax-sheltered contributions may not exceed established federal tax code limitations.

Participation in the DC program is optional. Any employee, whether current or new, may choose either the traditional defined benefit plan or the new DC option. Vesting under the DC program requires one year of participation. A current FRS employee, who has more than one year of FRS participation at the time he or she switches to the DC program, vests immediately. The DC option may be elected during the following time periods: (a) for state employees, the option window is June through August of 2002; (b) for school district employees, the option window is September through November 2002; and (c) for local government employees, the option window is December 2002, though February 2003. If the DC option is elected, the employee may either leave his or her DB benefit in the DB program, or move its discounted present value to the DC program.

The employer's contribution rates for the DC program are as follows: (a) nine percent for Regular Class; (b) 20 percent for Special Risk; (c) 11.35 percent for Special Risk Administrative; (d) 13.4 percent for elected officers, except that the rate is 18.9 percent for judges and 16.2 percent for elected county officers; and (e) 10.95 percent for Senior Management. In addition to these contribution rates, the employer must also pay for disability coverage under the DC program. The Department of Management Services is directed to complete a study by February 1, 2001 on the effect vesting changes produce on disability and health insurance subsidy benefits.

The bill also modifies the current vesting period for the DB program. Presently, a FRS employee vests at three different intervals: seven years for senior managers; eight years for elected officers; and ten years for all other class members. Effective July 1, 2001, however, all such employees or officers will vest when they have six years of creditable service. In order for former employees with six, but less than 10 years of creditable service to vest, the employee must be reemployed after July 1, 2001, for one year.

The bill also increases the retirement benefit to be received by current Special Risk Class FRS members. Under existing law, the percentage of a Special Risk member's average final compensation which is used to calculate the member's retirement benefit varies from two percent to two and eight-tenths percent for creditable service years between October 1978, and December 1992. Under the bill, however, current members of the Special Risk Class who retire after July 1, 2000, will receive three percent for these creditable service years. The cost of this increased benefit will be funded by a portion of pension assets in excess of 8.75 percent of a stabilized reserve. This latter feature is discussed in greater detail below.

The bill also enhances the retirement class of certain employees effective January 1, 2001, in the following manner: (a) assistant state attorneys, assistant public defenders, statewide prosecutors, and capital collateral regional counsel staff are moved from the Regular Class to the Senior Management Service Class; and (b) community-based correctional officers and certain enumerated correctional medical workers are moved from the Regular Class to the Special Risk Class.

The bill also decreases employer contribution rates, i.e., the amount that employers must contribute to the FRS to keep the fund actuarially sound, by one percentage point for Fiscal Years 2000-2002. The cost for this reduction is funded by the FRS surplus.

The bill requires that actuarial study of the FRS be conducted annually, and adopts a mechanism to stabilize the FRS so that market fluctuations do not cause it to be under funded or require that employer contribution rates be substantially changed each year.

The bill provides for three different competitive procurements of technical and operational expertise prior to initiation of the DC plan. The first of these occurs with the hiring of a third party administrator to act as the administrative interface between the plan participants and their provider companies. That organization will arrange for all record-keeping and non-investment services to effect compliance with state and federal requirements. The second hiring will be that of a third-party educator to inform participants of the choices before them without establishing any preference for plan type or provider company. The last significant hiring will occur with the procurement of one or more investment company providers that will act as the personal financial

intermediaries for the directed contributions of the employee-participants. The provider companies must provide institutional investor class fees, that is, the lowest fees offered to their best customers, have their contracts in plain language in compliance with state insurance laws on readability, and may not charge commissions on account balance transfers from DB plan participants. Provider companies may supplement educational materials subsequent to a participant's enrollment.

A newly created seven-member Public Employee Optional Retirement Program Advisory Committee will provide advice to the existing Investment Advisory Council on selection of a third-party administrator, education providers, and provider companies.

The optional choices created by this bill are in addition to those optional annuity choices now existing for state university and community college faculty and senior managers.

The bill adopts a retirement rate stabilization mechanism equivalent to 8.75 percent of actuarial liabilities, as advanced by the 1999 Legislature and further endorsed by the Trustees of the Florida Retirement System (the Governor, Comptroller, and Treasurer).

If approved by the Governor, these provisions take effect July 1, 2000, except as follows: (a) the DC program is effective for FRS employees at varying times between September and December of 2002; (b) changes to contribution rates payable by the employer are effective at varying times specified in the bill beginning July 1, 2000; (c) the six year vesting enhancement for the DB plan is effective July 1, 2001; (d) changes to the disability benefits provided under the DB plan is effective July 1, 2001; (e) changes to the health insurance subsidies provided under the DB plan is effective July 1, 2001; (f) changes to the health insurance subsidies provided under the DC plan is effective July 1, 2002; and (g) the enhancement in the retirement class for certain state criminal justice system attorneys, and certain correctional officers and medical workers is effective January 1, 2001. The DC plan option is effective in 2002 contingent upon the receipt of a favorable tax letter ruling from the Internal Revenue Service and the establishment of the other education, provider company, and third-party administrator networks.
*Vote: Senate 39-0; House 119-0*

# CABINET REORGANIZATION

## CS/SB 1194 — Secretary of State

by Governmental Oversight & Productivity Committee and Senator Brown-Waite

This bill was enacted in response to Amendment No. 8 to the State Constitution which provides for the future modification of the State Cabinet. Currently, the Cabinet consists of the Attorney General, the Commissioner of Agriculture, the Commissioner of Education, the Comptroller, the Secretary of State, and the Treasurer. On January 7, 2003, the functions of the Comptroller and Treasurer will be merged into a Chief Financial Officer, and the Commissioner of Education and the Secretary of State will no longer be members of the Cabinet.

Under the bill, much of the current structure of the Department of State is retained. While the future Secretary of State will not be elected after January 7, 2003, the future Secretary of State will continue to head the department, though the position will be appointed by the Governor and confirmed by the Senate.

The bill modifies some of the duties currently housed in the Department of State and transfers some programs out of the department. For example, financial disclosure statements will be filed directly with the Commission on Ethics, instead of being filed with the Department of State and then forwarded to the commission. Further, the regulation of game promotions is transferred to the Department of Agriculture and Consumer Services. Responsibility for the John and Mable Ringling Museum of Art is also transferred to the Florida State University.

The department will also take more responsibility under the act for Florida linkage institutes. These institutes assist in the development of stronger economic, cultural, educational, and social ties between Florida and strategic foreign companies.

If approved by the Governor, these provisions take effect July 1, 2000, except as otherwise provided.
*Vote: Senate 39-0; House 114-1*

## HB 2263 — Educational Governance

by Governmental Operations Committee, Rep. Posey and others (CS/SB 1680 by Governmental Oversight & Productivity Committee)

This bill was enacted in response to the adoption of Amendment No. 8 to the State Constitution, which modifies the future composition of the State Cabinet. Effective January 7, 2003, the Commissioner of Education will no longer be a member of the Cabinet. Further, the State Board of Education will no longer consist of the Governor and

Cabinet, but will be composed of seven members who are appointed by the Governor and confirmed by the Senate. The State Board of Education will appoint the future Commissioner of Education.

Under the bill, the State Board of Education will be responsible for all levels of public education in Florida, from kindergarten through university. The bill abolishes the Department of Education, the Board of Regents, the State Board of Community Colleges, and a number of other boards, effective January 7, 2003.

The bill provides for a Commissioner of Education who has the ability to successfully provide education policy and planning direction, program development, performance management, and funding allocation recommendations across the spectrum of kindergarten through graduate school. Further, it provides for a Chancellor of K-12 Education, a Chancellor of State Universities, and a Chancellor of Community Colleges and Career Preparation, each of whom is appointed by the commissioner. An Executive Director of Nonpublic and Nontraditional Education is also established.

In order to accomplish a smooth transition, the bill creates the Education Governance Reorganization Transition Task Force. The task force consists of 5 members appointed by the Governor, 3 by the Senate President and 3 by the Speaker of the House of Representatives. The task force is to make two reports to the Legislature. The reports are to include how best to achieve education system integration by combining appropriate education and functions and policies into or under the new State Board of Education and to recommend which, if any, current education staff functions and resources should be eliminated, transferred, or realigned within the new education organizational structure.

If approved by the Governor, these provisions take effect upon becoming law, except where otherwise provided.
*Vote: Senate 32-7; House 86-33*

## TOBACCO SETTLEMENT PRESERVATION

### CS/HB 1721 — Tobacco Settlement Preservation

by Financial Services Committee and Rep. Lacasa (CS/CS/SB 1998 by Fiscal Resource Committee; Governmental Oversight & Productivity Committee; and Senator Horne)

The bill (Chapter 2000-128, L.O.F.) creates the Tobacco Settlement Financing Corporation as a not-for-profit corporation. The corporation is governed by a board of directors consisting of the Governor, the Treasurer, the Comptroller, the Attorney General, two senators appointed by the Senate President, and two state representatives

appointed by the Speaker of the House of Representatives. The executive director of the State Board of Administration is the chief executive officer of the corporation.

The bill authorizes the corporation to enter into one or more purchase agreements with the Department of Banking and Finance to purchase the state's interest in the tobacco settlement agreement. Sale of this interest is subject to approval by the Legislature. The corporation is authorized to issue bonds payable from and secured by amounts payable to the corporation pursuant to the tobacco settlement agreement, subject to legislative approval.

The bill also provides that in any civil action that is brought as a certified class action, the trial court, upon the posting of a bond or equivalent surety, must stay the execution of any judgment, or portion thereof, entered on account of punitive damages pending completion of any appellate review of the judgment. The required bond or surety must be the lower of: (a) the amount of the punitive-damages judgment, plus twice the statutory rate of interest; or (b) ten percent of the net worth of the defendant as determined by applying generally accepted accounting principles to the defendant's financial status as of December 31 of the year prior to the judgment for punitive damages, though in no case is the amount of the bond or surety to exceed $100 million, regardless of the amount of punitive damages.

The bill also creates the Task Force on Tobacco-Settlement-Revenue Protection. The task force is composed of the Governor, the Comptroller, the Insurance Commissioner, three senators appointed by the Senate President, and three representatives appointed by the Speaker of the House of Representatives. The purpose of the task force is to determine the need for, and to evaluate methods for, protecting the state's tobacco settlement revenue from significant loss. Specific areas of study for the task force are assigned by the bill, including, the degree of risk posed to the amount of tobacco-settlement revenue as a consequence of a decline in domestic tobacco sales and increased sale of foreign or nonsettling manufacturers' products and the options available for protecting benefits. The initial report is due to the Senate President and the Speaker of the House of Representatives by November 1, 2000. An appropriation of $100,000 is provided to support the operation of the trust fund.

The bill also appropriates the nonrecurring sum of $2.5 million for the purchase at fair market value of equipment associated with agricultural production of tobacco from persons or entities that were using such equipment for production of tobacco between April 1 and October 1, 2000, in Florida and who sign a letter of intent to cease tobacco production upon the development and implementation of an alternative crop that would provide the same net revenue and proportional costs as tobacco.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 115-0*

## GOVERNMENTAL EFFICIENCY AND EFFECTIVENESS

### CS/HB 301 — Florida Title Loan Act

by Business Regulations & Consumer Affairs Committee, Rep. Sublette and others (CS/SB's 1834 & 694 by Governmental Oversight & Productivity Committee and Senators Latvala, Meek, Kurth, and Saunders)

The bill creates a comprehensive regulatory act for businesses which engage in title loan transactions. The Department of Banking and Finance (the department) is responsible for enforcing the act.

Pursuant to the act, a person who wishes to engage in title loan transactions must apply to the department for a license. Fees for the initial license are $1,400, and the licensee must also post a $100,000 surety bond, letter of credit, or certificate of deposit. The department must be named as the beneficiary of the $100,000 security in order to enable the department to compensate any consumer who is injured by the lender. The title loan lender license must be renewed biennially by filing a renewal application and paying a $1200 renewal fee. Any title loan made by a person without a license is void, and the unlicensed person cannot collect any moneys from the borrower. Moreover, a person who acts as a title loan lender without a license commits a third degree felony.

The act provides that a title loan agreement must contain certain information including: (a) the make, model, year, vehicle identification number, and license plate number of the titled property; (b) the name, address, date of birth, physical description, and social security number of the borrower; (c) the date of the loan and the maturity date of the loan, which must be 30 days after the agreement is executed; and (d) the total loan interest payable on the maturity date, the total amount of all loan payments, and the interest rate.

The act also limits the charges that may be imposed for title loans to the following simple interest rates per annum: (a) 30 percent for the first $2,000; (b) 24 percent for the amount exceeding $2,000, but not exceeding $3,000; and (c) 18 percent for the amount exceeding $3,000. No other fee may be charged for a title loan, and a title loan lender is expressly prohibited by the act from advertising the loans as "interest free" or "no finance charge."

The act also sets forth the remedies available to a title loan lender in the event the borrower defaults on the loan. A title loan lender may take possession of the titled property 30 days after a payment was due from the borrower. The lender must provide the

borrower with an opportunity to make the titled property available to the lender; however, if the borrower fails to provide the titled property, the property may be repossessed by a licensed repossession agent. After taking possession of the property, the lender may sell it through a licensed motor vehicle dealer. Ten days prior to the sale the lender must provide the borrower with notice of the sale, along with an accounting of all amounts owed by the borrower under the loan. The borrower may redeem the titled property at any time prior to the sale. Within 30 days after the sale, all proceeds in excess of the amount owed must be returned to the borrower.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 39-0; House 115-0*

### HB 2127 — State Procurement

by Business Development & International Trade Committee and Rep. Bradley (SB 2618 by Senator Diaz-Balart)

The bill revises provisions relating to the state contract procurement process and minority business enterprise (MBE) programs. Currently, the Minority Business Advocacy and Assistance Office (MBAAO), which is responsible for overseeing the state's MBE contracting programs, is housed in the Department of Labor and Employment Security. Under the bill, the MBAAO is renamed as the Office of Supplier Diversity (OSD) and transferred to the Department of Management Services where state procurement activities are centralized.

The bill increases penalties. Under the bill, the MBE certification of a contractor, firm or individual will be permanently revoked, and the entity will be barred from doing any business with the state for 36 months if: (a) the certification was obtained by false representation; or (b) the MBAAO determines that the entity has failed to act in good faith in fulfilling the terms of a contract calling for it to use the services or commodities of a certified MBE.

The bill also prohibits discrimination based on race, national origin, gender, religion, or physical disability by state agencies when contracting for commodities and services. Complaints alleging discrimination by an agency may be filed with the OSD. The OSD is required to refer the complaint to the Inspector General of the relevant agency, who must investigate the claim. If it is determined that the agency engaged in discrimination, any state employee(s) who participated shall be referred for disciplinary action.

The bill amends provisions relating to MBE certification and as a result, the current number of certified MBEs in Florida will likely increase. The bill makes the following changes:

- It expands the definition of "small business," which a business must be in order to qualify as a certified MBE. Under the bill, a "small business" may have up to 200 employees, rather than up to 100 employees as in current law, and may have a net worth up to $5 million, rather than up to $3 million as in current law.

- It provides that a business certified as a MBE by a local government must be accepted as a state certified MBE if the local government applies the state's MBE certification criteria in its certification process.

- It provides that a MBE owner must be licensed or have a demonstrated expertise in the trade or profession that the MBE will offer to the state, rather than requiring all MBEs to be licensed as is required by current law.

The bill also creates a discriminatory vendor list. Under the bill, an entity or an affiliate of an entity may be placed on the list after an administrative hearing process if it has been found by a state or federal court to have violated any law prohibiting discrimination on the basis of race, gender, national origin, disability, or religion. If placed on the discriminatory vendor list, the entity or affiliate may not submit a bid, contract, or transact any business with any public entity for a period of three years.

The bill leaves existing statutory MBE spending goals and contracting advantages, such as set asides and price preferences, in place.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 24 -10; House 88-27*

# Senate Committee on Health, Aging and Long-Term Care

## DEPARTMENT OF HEALTH

### CS/CS/SB 352 — Women and Heart Disease Task Force

by Fiscal Policy Committee; Health, Aging & Long-Term Care Committee; and Senator King

This bill creates the Women and Heart Disease Task Force within the Department of Health. The task force is comprised of the Secretary of Health or a designee, the Executive Director of the Agency for Health Care Administration or a designee, and the Insurance Commissioner or a designee, and 28 members who are to be appointed by July 15, 2000, by the Governor, the President of the Senate, and the Speaker of the House of Representatives. The bill requires that at least one representative appointed by each appointing entity must be a member of an ethnic or racial minority and at least one-half of the members appointed by each appointing entity must be women. The task force is to meet as often as necessary to carry out its duties and responsibilities and will exist for a 2-year period that ends July 1, 2002.

The task force is charged with identifying where public awareness, public education, research, and coordination regarding women and heart disease is lacking; collecting research and information on heart disease in women; preparing recommendations to establish research on the reasons women suffer more severe first heart attacks than men and the reasons women die more often from heart attacks; and increasing the public's awareness of the importance of identifying the symptoms of, and treating, heart disease in women. The task force is empowered to obtain information and assistance from any state agency and all state agencies are required to give the task force all relevant information and reasonable assistance on matters related to heart disease.

The task force is required to submit a report to the Governor and the Legislature by January 15, 2002, that contains its recommendations and proposed legislation for reducing the incidence and the number of women's deaths related to heart disease in Florida and other specified information. The task force's recommendations must provide a plan for reducing the number of deaths related to heart disease in Florida, a plan for increasing research and appropriate funding at Florida institutions studying heart disease in women, for the development of practice guidelines for addressing heart disease in women, and a program to monitor the implementation and effectiveness of the task force's recommendations.

The bill appropriates $100,000 from the General Revenue Fund to the Department of Health for FY 2000-2001 and FY 2001-2002 for a total appropriation of $200,000 during the existence of the task force. Appropriated funds must be used to produce or purchase and to distribute summaries in English, Spanish, and Creole which inform women patients about their risk of heart disease and about treatment alternatives for heart disease. Additionally, the appropriated funds must be used to develop and implement an educational program that includes the distribution of information specific to women and heart disease.

These provisions were approved by the Governor and take effect July 1, 2000.
*Vote: Senate 38-0; House 106-0*

## CS/SB 1412 — Public Swimming and Bathing Places

by Health, Aging & Long-Term Care Committee and Senators Childers and Latvala

The bill pertains to regulation of water quality of public beaches in Florida. The bill adds coastal and intracoastal waters to the statutory definition of public bathing places and permits the Department of Health to adopt and enforce rules to protect the health of persons using beach waters of the state, including establishment of health standards, procedures, and time frames for bacteriological sampling of beach waters. The bill permits the department to issue health advisories if the quality of beach water fails to meet standards established by the department, and specifies that the issuance of health advisories related to beach water sampling is preempted to the state. “Beach waters” are defined in the bill as waters along the coastal and intracoastal beaches, including both salt and brackish water. The bill exempts coastal and intracoastal beaches from construction and operating permit requirements applicable to other public swimming and bathing facilities. The bill authorizes, subject to a legislative appropriation, a nonrecurring sum of $600,000 to the Department of Health to perform a 3 year study to determine the water quality at beaches throughout the state and to determine which indicator organism and the levels of such organism are best suited with respect to bacteriological sampling to determine the safety of beach waters, and to establish a statewide model to help predict when possible water quality problems will occur.

The bill requires the Department of Health to form an interagency technical advisory committee to oversee the performance of the studies in the bill, and to advise it in rulemaking pertaining to coastal and intracoastal public bathing places. The committee consists of equal numbers of staff of the Department of Health and the Department of Environmental Protection having expertise in the subject matter of the studies. Members are to be appointed by the respective secretaries and the committee is to be chaired by a Department of Health representative.

The bill appropriates $745,000 from the Ecosystem Management and Restoration Trust Fund to the Department of Environmental Protection, Division of Water Resource Management, Beach Management Program to be transferred to the Department of Health. In addition, the sum of $745,000 is appropriated from the County Health Department Trust Fund in the Department of Health for a 2-year "Healthy Beaches" study in the coastal waters of Escambia and Santa Rosa counties and the Tampa Bay area of Pinellas county, to determine which indicator organism is best suited to be used with respect to Florida's waters and establish a statewide model to help predict when possible water-quality problems will occur.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House 113-0*

## CS/SB 2034 — Health Care

by Health, Aging & Long-Term Care Committee and Senator Clary

***Department of Health***

This bill amends various provisions relating to the jurisdiction of the Department of Health (DOH or department) to better reflect the department's mission and functions. The bill takes care of a number of "glitches" identified by the department. The bill: consolidates certain planning functions into DOH's agency strategic plan; revises provisions to correct glitches resulting from the transfer of the Brain and Spinal Cord Injury Program and clarify DOH's authority over the program; updates provisions regarding the department's oversight of primary care services; authorizes DOH to adopt rules for primary care programs which provide for a definition of income to be used to determine eligibility or sliding fees; specifies that prevention should be a factor in the research conducted by the Biomedical Research Program; grants authority to establish an immunization registry; gives DOH access to medical and related records for cases of reported diseases of public health significance; authorizes the use of preliminary HIV test results in certain additional specified circumstances and revises the definition of "medical personnel" for HIV testing relating to a significant exposure; exempts persons who give group lectures from school health background screening requirements; revises continuing education requirements and other certification requirements for environmental health professionals; and makes numerous technical and conforming changes in the Florida Statutes.

The bill also authorizes the Department of Health to hold copyrights, trademarks, and service marks and enforce its rights with respect thereto, except the department's authority does not extend to any public records relating to the department's responsibilities for health care practitioners regulated under part II, ch. 455, F.S.

***Community-Based Support Services***

The bill requires the Department of Health, contingent upon a specific appropriation, to study the long-term needs for community-based support and services for individuals who have sustained traumatic brain or spinal cord injuries to prevent inappropriate residential and institutional placement of these individuals, and to promote placement in the most cost effective and least restrictive environment. The department must submit a report which outlines any placement recommendations for these individuals to the Governor and Legislature by December 31, 2000. The department must establish, by rule, a plan to implement long-term community-based supports and services for individuals who have sustained traumatic brain or spinal cord injuries who may be subject to inappropriate residential and institutional placement. The department must create, by rule, procedures to ensure, that in the event the program is unable to directly or indirectly provide such services to all eligible individuals due to lack of funds, those individuals most at risk to suffer the greatest harm from an imminent inappropriate residential or institutional placement are served first. Every applicant of the community-based supports and services program must have been a Florida resident for 1 year before application and be a Florida-resident at the time of application.

***Hepatitis A Awareness Program***

The Department of Health must develop a hepatitis A awareness program which includes information regarding the availability of hepatitis A vaccine. The department is authorized to work with private businesses and associations in developing the hepatitis A awareness program and in disseminating the information.

***Jessie Trice Cancer Prevention Program***

The bill establishes the Jessie Trice Cancer Prevention Program to reduce deaths and illness resulting from lung and other cancers among low income African-American and Hispanic populations by increasing access to screening and diagnosis, education, and treatment programs. The program is administratively housed in the Department of Health and will be operated through contracts with community health centers and local community faith-based education programs in low income communities in Dade and Lee Counties. Implementation of these requirements are contingent upon a specific appropriation for this purpose in the General Appropriations Act.

***Alzheimer's Disease Day***

The bill designates February 6th of each year as Florida Alzheimer's Disease Day.

### *Health Facilities Authority*

The bill authorizes any health facilities authority, despite limitations in current law to the contrary, if it finds that there will be a benefit or a cost savings to a health facility located within its jurisdiction, to issue bonds for such health facility to finance projects for such health facility, or for another not-for-profit corporation under common control with such health facility, located outside the geographical limits of the local agency or outside this state.

### *Clinical Laboratory Services for Kidney Dialysis Patients Study*

The bill extends the time for a study by the Agency for Health Care Administration of clinical laboratory services for kidney dialysis patients and appropriates $230,000 from the Agency for Health Care Administration Tobacco Settlement Trust Fund to the Agency for Health Care Administration to fund a contract with the University of South Florida to conduct a review of the quality and effectiveness of kidney dialysis treatment as well as the utilization and business arrangements related to kidney dialysis centers. A report on the findings must be submitted to the Legislature by February 1, 2001.

### *Florida Commission on Excellence in Health Care*

The bill creates the Florida Commission on Excellence in Health Care and designates the Secretary of Health and the Director of Health Care Administration as co-chairs. The purpose of the commission is to develop a comprehensive statewide strategy for improving health care delivery systems through meaningful reporting standards, data collection and review, and quality measurement. In carrying out its various assigned responsibilities, the commission is required to sponsor public hearings. The bill explicitly prohibits use of information generated through the commission's work to be used for evidentiary purposes in legal or administrative proceedings.

The bill specifies membership and appointments to the 38-member commission which must consist of the Secretary of Health and the Director of Health Care Administration; one representative from each of the following agencies or organizations: the Board of Medicine, the Board of Osteopathic Medicine, the Board of Pharmacy, the Board of Dentistry, the Board of Nursing, the Florida Dental Association, the Florida Medical Association, the Florida Osteopathic Medical Association, the Florida Chiropractic Association, the Florida Chiropractic Society, the Florida Podiatric Medical Association, the Florida Nurses Association, the Florida Organization of Nursing Executives, the Florida Pharmacy Association, the Florida Society of Health System Pharmacists, Inc., the Florida Hospital Association, the Association of Community Hospitals and Health Systems of Florida, Inc., the Florida League of Health Systems, the Florida Health Care Risk Management Advisory Council, Inc., the Florida Statutory Teaching Hospital

Council, the Florida Statutory Rural Hospital Council, Inc., the Florida Association of Homes for the Aging, and the Florida Society for Respiratory Care; two health lawyers, appointed by the Secretary of Health; two representatives of the health insurance industry, appointed by the Director of Health Care Administration; five consumer advocates, including a representative of the Association for Responsible Medicine, two appointed by the Governor, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives; two legislators; and one representative of a Florida medical school.

The commission is required to submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2001; but, is to continue to exist until its termination date of June 1, 2001, for purposes of assisting the Department of Health, the Agency for Health Care Administration, and the regulatory boards in their drafting of proposed legislation and rules to implement the commission's recommendations and for purposes of providing information to the health care industry about its recommendations. An appropriation of $91,000 is made to the Department of Health from the General Revenue Fund to cover costs of travel and related expenses of staff and consumer members and for copying and distributing commission documents.

***Medicaid Drug Spending Controls***

The bill modifies Medicaid requirements relating to cost-effective purchasing of health care in order to implement a spending reduction in the proposed 2000-2001 General Appropriations Act. Because the reductions made within this program are recurring in nature and affect the base upon which future budgets will be built, permanent changes to the law are necessary. The bill requires the Agency for Health Care Administration (AHCA) to implement a Medicaid prescribed drug spending control program. Under the program, adult Medicaid beneficiaries not residing in nursing homes or other institutions will be limited to four brand-name prescription drugs per month per recipient and to no more than a 34-day supply. The agency is authorized to grant exceptions to the brand-name drug restrictions under certain circumstances. Children, institutionalized adults, anti-retroviral agents, and certain medications used to treat mental illnesses are exempt from this restriction. The bill requires the reimbursement level to pharmacies for Medicaid prescribed drugs to be set at the average wholesale price minus 13.25 percent. The bill also requires manufacturers of generic drugs prescribed to Medicaid patients to guarantee the state a rebate of at least 15.1 percent of the total Medicaid payment for their generic products. The bill requires AHCA to establish a process to manage the drug therapies of Medicaid recipients who require a significant number of prescribed medications each month, authorizes AHCA to limit the size of its pharmacy network, and requires AHCA to establish a program that requires Medicaid practitioners prescribing

drugs to use a counterfeit-proof prescription pad for Medicaid prescriptions. The agency may contract for any or all portions of the program.

The bill creates a Medicaid Pharmaceutical and Therapeutics Committee to develop and implement a voluntary Medicaid preferred, prescribed drug designation program. The membership and appointing authorities are specified. Staff support for the committee is to be provided by the Agency for Health Care Administration.

***Real Property Contracts***

The bill requires each state agency to include in its standard contract document a requirement that any state funds provided for the purchase of or improvements to real property are contingent upon the contractor or political subdivision granting to the state a security interest in the property at least to the amount of state funds provided for at least 5 years from the date of purchase or the completion of the improvements or as further required by law.

***Certificate of Need***

The bill provides that, notwithstanding the provisions of CS/HB 2339 which was enacted earlier in the 2000 Regular Session of the Legislature, the establishment of a specialty hospital offering a range of medical services restricted to a defined age or gender group of the population or a restricted range of services appropriate to the diagnosis, care, and treatment of patients with specific categories of medical illnesses or disorders, through the transfer of beds and services from an existing hospital in the same county, is not exempt from the requirements for a certificate of need under s. 408.036(1), F.S.

***Long-Term Care Ombudsman Program***

The bill makes changes to the State Long-Term Care Ombudsman program. The bill requires the State Long-Term Care Ombudsman to prepare an annual budget request, enter into cooperative agreements with the human rights advocacy committees and the office of state government responsible for investigating Medicaid fraud. The bill requires the Department of Elderly Affairs (DOEA) to meet the costs of providing administrative support to the ombudsman from appropriated funds; specifies that DOEA should capture these costs when preparing its Legislative Budget Request; and caps the percentage of federal program funds which can be diverted from the ombudsman program by the department. The bill revises the procedure for appointments to the State Long-Term Care Ombudsman Council and provides that the decision of the ombudsman is final when determining whether a member's three consecutive unexcused absences were without cause for purposes of determining if a vacancy exists. The bill limits membership on the State Council to two three-year terms. The bill provides for an appropriation for training

of newly appointed state and local ombudsmen and an appropriation for materials for public education and awareness training.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 112-0*

### CS/SB 2628 — Department of Health; Rule Authorizing Bill
by Health, Aging & Long-Term Care Committee and Senator Myers

The Department of Health (DOH) reported 203 rules, or portions thereof, to the Joint Administrative Procedures Committee, pursuant to s. 120.536(2)(b), F.S., as exceeding DOH's statutory rulemaking authority. This section requires the Legislature to determine whether specific legislation should be enacted to authorize the rules, or portions thereof, identified by the agency. This bill provides specific statutory authority to authorize the rules reported by DOH.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 119-0*

## AGENCY FOR HEALTH CARE ADMINISTRATION / MEDICAID

### SB 212 — Health Care Assistance for Children
by Committee on Health, Aging and Long-Term Care, Senators Clary and Dawson

This bill modifies the Florida Kidcare program and provisions relating to subsidized child care.

***Kidcare provisions***

The bill requires the Social Services Estimating Conference to develop projections for the Florida Kidcare program; moves coverage for children 0-1 year of age from Medikids to Medicaid; removes the applicability of Medicaid third-party liability requirements to the Medikids program; allows mandatory assignment in the Medikids program; requires collection and analysis of data by the agencies that administer Kidcare program components; authorizes presumptive eligibility for Medicaid-eligible children; accelerates enrollment in other Kidcare program components; clarifies that, in the Children's Medical Services program component, a complete application includes a medical or behavioral health screening; requires that applicants be provided notice of changes in eligibility and that the program components cooperate to ensure continuity of health care coverage; adds a dental benefit to Kidcare; revises Kidcare evaluation requirements; directs the

Department of Children and Family Services to develop a redetermination process which enables a family to easily update changes in circumstances which could affect eligibility; prohibits linking a child's eligibility for Medicaid to eligibility determinations for other programs; and requires the Division of State Group Insurance and the Healthy Kids Corporation to study the feasibility of providing a subsidy, comparable to that of the Healthy Kids Corporation, through the state employee health insurance program for children of state employees who meet the eligibility requirements for the Healthy Kids Program.

***Subsidized child care provisions***

The bill modifies provisions relating to child care and early intervention to add: a requirement that child care agencies assist families in identifying, evaluating and choosing summer recreation and day camp programs; an extension of eligibility for subsidized child care to children whose family income does not exceed 200 percent of the Federal Poverty Level; an authorization for the Department of Children and Family Services to contract and adopt rules for administration of a scholarship program for personnel involved in child care; an increase in the age of children applying to the number of children served in large family child care homes from 12 to 13 years; procedures for level III assessments in the developmental assessment program for subsidized child care; a definition of "child enrichment service providers" and standards for such providers; inclusion of large-family child care homes in licensing standards for child care facilities; and a workgroup, contingent on an appropriation, to develop recommendations for improving health and safety of summer camp programs. The bill also deletes restrictions on the use of child care purchasing pool funds supplanting existing funds.

If approved by the Governor, these provisions take effect July 1, 2000.
*Votes: Senate 39-0; House 118-0*

## CS/CS/SB 940 — Prescription Drugs for Medicare Participants

by Fiscal Policy Committee; Health, Aging & Long-Term Care Committee; and Senators Lee, Brown-Waite, Silver, Clary, Latvala, Saunders, Kurth, and Cowin.

The title of the bill is the "Prescription Affordability Act for Seniors." The bill creates a pharmaceutical expense assistance program for individuals who qualify for limited assistance under Medicaid as a result of being dually eligible for both Medicaid and Medicare and whose limited assistance or Medicare coverage does not include pharmacy benefits. Eligible individuals are Florida residents 65 years of age or older, who have incomes between 90 and 120 percent of the federal poverty level, are not enrolled in a Medicare Health Maintenance Organization that provides a pharmacy benefit, and request to be enrolled in the program. Medications covered under this program are those covered

under the Medicaid program. Monthly benefit payments are limited to $80 per program participant. Participants are required to make a 10 percent coinsurance payment for each prescription purchased through the program.

The program is to be administered by the Agency for Health Care Administration, in consultation with the Department of Elderly Affairs. A single page application is to be developed for the program. The agency is required, by rule, to establish eligibility requirements, limits on participation, benefit limitations, a requirement for generic drug substitution and other program parameters comparable to those of the Medicaid program.

The bill requires an annual report, by January 1 of each year, to the Legislature on the operation and impact of the program. The bill states that the program is not an entitlement. In order for a drug product to be covered under the program, the product's manufacturer must provide a rebate equal to the rebate required by Medicaid and make the drug available to the program for the best price the manufacturer makes the drug available in the Medicaid program. Reimbursements to pharmacies under the program are to be equivalent to reimbursements under the Medicaid program.

The bill requires that, as a condition of participation in the Medicaid program or the pharmaceutical expense assistance program, a pharmacy must agree to charge any Medicare beneficiary who presents a Medicare card when they present a prescription a price no greater than the cost of ingredients equal to the average wholesale price minus 9 percent, and a dispensing fee of $4.50. In lieu of this requirement, and as a condition of participation in the Medicaid program or the pharmaceutical expense assistance program, a pharmacy must agree to provide a private, voluntary prescription discount program to state residents who are Medicare beneficiaries or accept a private voluntary discount prescription program from state residents who are Medicare beneficiaries. This discount must be at least as great as the discounts described above.

The bill appropriates $15 million from the General Revenue Fund to the Agency for Health Care Administration to implement the pharmaceutical expense assistance program effective January 1, 2001. Additionally, $250,000 is appropriated from the General Revenue Fund to the agency to administer the program. Rebates collected under for this program are to be used to help finance the program.

If approved by the Governor, these provisions take effect July 1, 2000
*Vote: Senate 39-0; House 118-0*

## CS/HB 1129 — Medicaid Managed Behavioral Health Care

by Health and Human Services Appropriations Committee; Children & Families Committee; Rep. Murman and others (CS/SB 1046 by Health, Aging & Long-Term Care Committee and Senators Silver and Kirkpatrick)

The bill modifies the Agency for Health Care Administration's (AHCA) procurement of capitated inpatient and outpatient mental health services to: broaden the scope of services covered to include all mental health and substance abuse services available to Medicaid recipients; require that entities under contract posses the clinical systems and operational competence to manage risk and provide comprehensive behavioral health care to Medicaid recipients; require the Secretary of the Department of Children and Families to approve provisions of procurements related to children in the department's care and custody prior to enrolling such children in a prepaid behavioral health plan; require that contracts be competitively procured; require the agency to develop and implement a plan to ensure compliance with s. 394.4574, F.S., concerning care of persons in assisted living facilities holding limited mental health licenses; ensure choice of at least two managed behavioral health care plans; and allow the agency to reimburse substance abuse services on a fee-for-service basis until the agency finds that adequate funds are available for capitated, prepaid arrangements.

The bill requires existing contracts in Hillsborough, Highlands, Hardee, Manatee, and Polk counties to be modified by January 1, 2001, to include substance abuse treatment services. The agency is required to contract by December 31, 2001 with entities providing comprehensive behavioral health care services to Medicaid recipients through prepaid arrangements in Charlotte, Collier, DeSoto, Escambia, Glades, Hendry, Lee, Okaloosa, Pasco, Pinellas, Santa Rosa, Sarasota, and Walton Counties. The bill permits the agency to contract for these services through capitated, prepaid arrangements in Alachua County, and allows the agency to determine if Sarasota County is to be included as a separate catchment area or included in any other agency geographic area.

The bill excludes children residing in a Department of Juvenile Justice residential program which has been approved as a Medicaid behavioral health overlay services provider from inclusion in a behavioral health care prepaid health plan.

In converting to a prepaid system of delivery, the agency, in its procurement document, shall require an entity providing comprehensive behavioral health care services to prevent the displacement of indigent patients by enrollees in the Medicaid behavioral health plan from facilities receiving state funding to provide indigent behavioral health care to facilities licensed under ch. 395 which do not receive state funding, or to reimburse the unsubsidized facility for the cost of behavioral health care provided to the displaced indigent patient.

The bill requires traditional community and inpatient mental health providers to be offered the opportunity to accept or decline a contract to participate in a provider network for prepaid behavioral health care services.

The bill allows the agency to contract for comprehensive behavioral health care services with an entity which provides such services through an administrative services organization agreement.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 114-0*

**HB 2037 — Health Care; Reorganization of the Agency for Health Care Administration** by Reps. Farkas and Bloom (CS/SB 2132 by Health, Aging & Long-Term Care Committee and Senator Lee)

This bill establishes the Public Cord Blood Tissue Bank as a statewide nonprofit collaborative consortium comprised of the University of Florida, the University of South Florida, the University of Miami, and the Mayo Clinic in Jacksonville. The consortium is encouraged to conduct outreach and research for Hispanics, African Americans, Native Americans, and other ethnic and racial minorities. Each consortium member is required to work with community resources such as regional blood banks, hospitals, and other health care providers to develop local and regional coalitions to collect, screen for infectious and genetic diseases, perform tissue typing, cryopreserve, and store umbilical cord blood as a resource to the public. To fund the Public Cord Blood Tissue Bank, consortium participants, the Agency for Health Care Administration, and the Department of Health must seek private or federal funds to initiate program actions for FY 2000-2001.

The Agency for Health Care Administration and the Department of Health are required to encourage health care providers, including, but not limited to, hospitals, birthing facilities, county health departments, physicians, midwives, and nurses, to disseminate information about the Public Cord Blood Tissue Bank. It is clarified, however, that no requirement is being imposed on a health care or services program that is directly affiliated with a bona fide religious denomination that includes as an integral part of its beliefs and practices the tenet that blood transfer is contrary to the moral principles the denomination considers to be an essential part of its beliefs. A collector of umbilical cord blood that is remunerated for the collection is required to give written disclosure about such remuneration to any woman postpartum or parent of a newborn from whom the umbilical cord blood is collected prior to harvesting it. Hospitals and birthing facilities are explicitly authorized to offer a woman admitted to such facilities the opportunity to donate umbilical cord blood to the Public Cord Blood Tissue Bank, but a woman may not be required to make such a donation. The consortium is authorized to charge reasonable rates and fees to recipients of cord blood tissue bank products.

The Agency for Health Care Administration was created in s. 20.42, F.S., in 1992 and placed, for organizational purposes only, under what is now the Department of Business and Professional Regulation. The Director of Health Care Administration, the head of the agency, is not required to answer to the secretary of the department nor was the agency subject to the administrative supervision of the department.

The bill re-creates the Agency for Health Care Administration as a department that will be known by the same name. The head of the new department is the secretary, who is subject to Senate confirmation. The department is designated the chief health policy and planning entity for the state. The internal structure of the department, currently established in statute, is repealed and replaced with explicit delegation of the department's responsibilities, which include: health facility licensure, inspection, and regulatory enforcement; investigation of consumer complaints related to health care facilities and managed care plans; the implementation of the certificate-of-need program; the operation of the State Center for Health Statistics; the administration of the Medicaid program; the administration of the contracts with the Florida Healthy Kids Corporation; the quality-of-care certification of health maintenance organizations and prepaid health clinics; and any other duties prescribed by statute or agreement.

The provision of law that established the Florida Health Care Purchasing Cooperative is repealed effective December 31, 2000, or upon dissolution of the Cooperative, whichever occurs first.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 40-0; House 119-0*

## CS/HB 2329 — Health Care

by Health Care Services Committee, Rep. Peaden and others (CS/SB 2242 by Health, Aging and Long-Term Care Committee and Senator Saunders)

This bill modifies a number of provisions of law relating to the Medicaid program.

### *Medicaid Fraud Control Unit*

The bill provides express exemptions for the Medicaid Fraud Control Unit of the Department of Legal Affairs in several confidential medical records provisions contained in the Florida Statutes. The bill also provides that investigators employed by the Medicaid Fraud Control Unit have the authority to apply for, serve, and execute "...other process" throughout the state pertaining to Medicaid fraud.

***Optional State Supplementation***

The bill increases the optional state supplementation rate by the federal cost-of-living adjustment provided the average state optional supplementation contribution does not increase.

***Medicaid eligibility rule-making authority***

The bill restores rule making authority to the Department of Children and Family Services with respect to Medicaid eligibility determinations and clarifies responsibilities relating to this function.

***Transfer of General Revenue funds between agencies***

The bill authorizes the transfer of specified funds to the Agency for Health Care Administration (AHCA) from the Department of Children and Family Services to provide additional state match for targeted case management services and from the Department of Elderly Affairs unexpended funds for the Assisted Living for the Elderly Medicaid waiver to fund Medicaid-reimbursed nursing home care.

***Medicaid provider enrollment***

The bill broadens the ability of AHCA to designate other agencies to perform onsite inspections of Medicaid providers and to expand the maximum amount of a surety bond the agency may require of a prospective or currently participating provider which is reimbursed on a fee-for-service basis or fee schedule basis which is not cost-based from $50,000 to the total amount billed by the provider during the current or most recent calendar year, whichever is greater. For providers who are new to the program, the agency may base the surety bond on the provider's estimate of its first year billings. In the instance that the provider's actual first year billings exceed these estimates, the agency may require the provider to acquire an additional bond in an amount such that the aggregate amount of the surety bonds equals the amount billed by the provider. A provider's bond shall not exceed $50,000 if a physician or physician group licensed under ch. 458, 459, or 460 has a 50 percent or greater ownership interest in the provider, or if the provider is an assisted living facility licensed under ch. 400, part III.

The bill expands the grounds on which the agency may deny a provider's application to become a Medicaid provider to include if the agency finds that, for any reason, the provider's participation could affect the efficient and effective administration of the program, including the current availability of medical care, taking into consideration geographic location and reasonable travel time.

***Medicaid reimbursement changes***

The bill increases the annual adult hospital outpatient services cap under the Medicaid program from $1,000 to $1,500 per state fiscal year per recipient.

The bill imposes conditions on the inclusion of nursing home liability insurance costs in the calculation of nursing home interim rate adjustments under Medicaid. The agency is required to report on the cost of liability insurance for Florida nursing homes for fiscal years 1999 and 2000 and the extent to which these costs are not being compensated by the Medicaid program. Medicaid-participating nursing homes are required to report to the agency information necessary to compile the report.

The bill provides findings that there has been confusion regarding Medicaid reimbursement for services rendered to dually eligible Medicare beneficiaries, and clarifies that it has always been the intent of the Legislature, before and after 1991, to reimburse physician services at the lesser of physician billings or the Medicaid maximum fee, and that it has never been the intent of the Legislature that Medicaid be required to provide payment in excess of the state Medicaid plan for such services.

The bill requires the agency to develop and implement a disproportionate share program for hospitals licensed as specialty hospitals for children as of January 1, 2000. Counties are exempt from contributing toward the cost of this special reimbursement. The bill establishes a formula for calculating the additional payment for hospitals participating in the program; requires that hospitals must be in full compliance with applicable rules of the agency to receive payments under the section; and specifies that a hospital that is not in compliance for two or more consecutive quarters may not receive its share of the funds, which are redistributed to the remaining participating hospitals that are in compliance.

The bill authorizes AHCA, at its discretion, to renew its contract or contracts for fiscal intermediary services one or more times for such periods as AHCA may decide, provided such renewals not combine to exceed the term of the initial contract.

The bill authorizes university laboratory schools to participate in Medicaid certified school match funding.

The bill directs the agency to seek a federal waiver for a demonstration project for a system of care for ventilator-dependent patients over age 21. The waiver must be submitted by September 1, 2000.

***Long-Term Care Community Diversion Pilot Projects***

The bill modifies the authority of the Department of Elderly Affairs in contracting for long-term care community diversion services by providing a definition of "other qualified provider" as an entity licensed under chapter 400 that demonstrates a long-term care continuum, posts a $500,000 performance bond and meets all the financial and quality assurance requirements for a provider services network as specified in s. 409.912, F.S., and all requirements pursuant to an interagency agreement between AHCA and the Department of Elderly Affairs (DOEA)

The bill authorizes DOEA to contract, on a prepaid basis, with other qualified providers (as defined above) to provide long-term care within community diversion pilot project areas and directs AHCA to evaluate and report quarterly to DOEA the compliance by other qualified providers with all financial and quality assurance requirements of the contract.

***Florida Alzheimer's day***

The bill designates February 6th of each year as Florida Alzheimer's Disease Day.

***Prepaid Health Plans***

The bill repeals s. 409.912(4)(b), F.S., relating to AHCA's ability to contract for prepaid health care services with entities that provide only Medicaid services on a prepaid basis, and which are exempt from part I of ch. 641, F.S.

***Graduate Medical Education Funding***

The bill amends "The Community Hospital Education Act," to: emphasize primary care training as opposed to family practice program training; provide additional detail as to eligibility for funding based on training slots, the timing of the creation of training slots, and accreditation status; provide a means to seek available federal matching funds for graduate medical education purposes; specify primary care specialties; provide for a Program for Graduate Medical Education Innovation, to the extent funded, designed to provide funds on a grant or formula basis to achieve state health care workforce policy objectives; specify that the Board of Regents quarterly certify to AHCA those hospitals eligible for matching funds; and specify the committee on graduate medical education (GME) as part of the Community Hospital Education Act, the purpose of which is to provide an annual report on GME funding.

The bill amends the definition of "teaching hospital," in s. 408.07(44), F.S., to make the definition specific to Florida hospitals and medical schools, specify the accreditation

entity, base resident slots on full-time equivalent positions, and specify that AHCA determine the hospitals that meet the definition.

The bill revises Medicaid limitations for hospital inpatient services to provide exceptions for: raising reimbursement caps, recognition of the costs associated with graduate medical education, and other methodologies provided in the General Appropriations Act. The bill authorizes AHCA to receive funds from certain entities for these reimbursements and provides an exception from county contribution requirements for such reimbursements.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 117-0*

## REGULATION OF HEALTH CARE PRACTIONERS, FACILITIES, SERVICES AND BUSINESSES

### CS/HB 399 — Newborn Hearing Screening

by Health Care Services Committee, Rep. Prieguez and others (CS/SB 1428 by Health, Aging & Long-Term Care Committee and Senator Dawson)

The bill establishes a statewide program of universal hearing impairment screening, identification, and follow-up care for newborns and infants. The bill requires licensed hospitals or other state-licensed birthing facilities to provide for universal hearing screening for all newborns, prior to discharge from the facility. Licensed birth centers are required to refer all newborns, prior to discharge, for hearing screening. In the instance of a home birth, the health care provider in attendance is responsible for referral for the hearing screening. The bill requires the initial screening procedure and any medically necessary follow-up reevaluations leading to diagnosis to be a covered benefit under Medicaid. Health insurance policies and health maintenance organizations are required to compensate providers for "the covered benefit at the contracted rate." The bill requires that non-insured persons who cannot afford the testing must be given a list of newborn hearing screening providers who will provide the testing free of charge.

If approved by the Governor, these provisions take effect July 1, 2000
*Vote: Senate 40-0; House 113-0*

## CS/CS/HB 591 — Health Care

by Governmental Rules & Regulations Committee; Health Care Licensing & Regulation Committee; Rep. Minton and others (CS/SB 420 by Health, Aging & Long-Term Care Committee and Senator Clary)

### *Unlicensed Assisted Living Facilities*

The bill requires each local field office of the Agency for Health Care Administration (AHCA) to establish a local coordinating workgroup which includes representatives of local law enforcement agencies, state attorneys, local fire authorities, the Department of Children and Family Services, the district long-term care ombudsman council, and the district human rights advocacy committee to assist in identifying the operation of unlicensed assisted living facilities (ALFs) and to develop and implement a plan to ensure effective enforcement of state laws relating to unlicensed ALF's to prevent the operation of such facilities. The workgroups are required to report their respective findings, actions, and recommendations semi-annually to the Director of Health Facility Regulation at AHCA.

The bill requires a health care practitioner, when aware of the operation of an unlicensed ALF, to report it to AHCA. The bill provides for sanctioning, by reporting to the health care practitioner's licensing board, for failure to report an unlicensed ALF or ALF that the practitioner knows, or has reasonable cause to suspect, is unlicensed. A hospital or community mental health center may be sanctioned by AHCA for knowingly discharging a patient or client to an ALF that the hospital or community mental health center *knows* to be unlicensed. Additionally, the bill adds paramedics, emergency medical technicians, and employees of the Department of Business and Professional Regulation who conduct inspections of certain public lodging establishments to the list of persons who must report abuse, neglect, or exploitation of disabled adults or elderly persons.

### *Certificate-of-Need Regulation*

This bill amends the certificate-of-need (CON) law by moving certain projects from *comparative* (full) review to *expedited* review. These projects include conversion of mental health services beds or hospital-based distinct part skilled nursing unit beds to acute care beds, conversion between or among the categories of mental health services beds and conversion of acute care beds to mental health services beds.

Additionally, certain projects that are currently subject to expedited review are made subject to the minimal level of review under CON regulation, that is, *exemption* review. These include combination within one nursing home of the beds authorized by two or more CONs within the same planning subdistrict; division into two or more nursing

homes in the same planning subdistrict of the beds authorized by a CON. The bill, also, creates some new exemption-level review projects:

1. Addition of hospital beds in a number not to exceed 10 beds or 10 percent of the licensed capacity of the service being expanded, except beds for specialty burn units, neonatal intensive care units, or comprehensive rehabilitation, and provided there was a prior 12-month occupancy of at least 80 percent in that service or at least 96 percent for hospital-based distinct part skilled nursing units.

2. Addition of temporary acute care hospital beds, as authorized by AHCA's administrative rules that are consistent with the hospital licensure law, in a number not exceeding 10 beds or 10 percent of the licensed bed capacity, whichever is greater, in a hospital that has experienced high seasonal occupancy within the prior 12-month period or in a hospital that must respond to emergency circumstances.

3. Addition of nursing home beds in a number not exceeding 10 beds or 10 percent of the licensed capacity of beds at the nursing home, whichever is greater, provided that the facility has been designated a Gold Seal nursing home, pursuant to s. 400.235, F.S., and there was a prior 12-month occupancy of at least 96 percent.

Certificate-of-need regulation is removed from the following services and projects:

1. Respite care.

2. Expenditures for outpatient services.

3. Medicare-certified home health agencies.

4. Acquisitions.

5. Cost overruns.

Exemption requests are subject to a $250 fee. Certain sheltered beds designated for inpatient hospice care that are operated by continuing care residential communities are excluded from a 5-year limit on the use of such beds in providing hospice services.

The bill creates a CON workgroup consisting of 30 members, including representatives from health care provider organizations, health care facilities, individual health care practitioners, local health councils, consumer organizations, and persons with health care

market expertise as a private-sector consultant. The workgroup is to study issues pertaining to the CON program, including the impact of trends in health care delivery and financing. The workgroup is to submit an interim report by December 31, 2001, and a final report by December 31, 2002. It is abolished effective July 1, 2003.

***Clinical Laboratory Services for Kidney Dialysis Patients Study***

The bill extends the time for a study by the Agency for Health Care Administration of clinical laboratory services for kidney dialysis patients and appropriates $230,000 from the Agency for Health Care Administration Tobacco Settlement Trust Fund to the Agency for Health Care Administration to fund a contract with the University of South Florida to conduct a review of the quality and effectiveness of kidney dialysis treatment as well as the utilization and business arrangements related to kidney dialysis centers. A report on the findings must be submitted to the Legislature by February 1, 2001.

***Department of Health Regulation of Professions***

The bill revises licensing procedures for the Department of Health and authorizes the department to process a licensure application for a person who is not a citizen or resident of this country, and therefore, does not have a social security number at the time of initial licensure application but is otherwise qualified for licensure. The department may issue a temporary license for 30 days so that the applicant may obtain a social security number. The temporary license expires automatically after 30 days unless a social security number is obtained and given to the department in writing. Upon receipt of the social security number, the department must issue a regular license to the applicant. The department may require the submission of supplemental licensure application materials in a non-electronic format and the department is required to make its licensure applications available on the World Wide Web and is authorized to accept electronically submitted applications, beginning July 1, 2001. Duplicate fingerprinting submissions by health care practitioners to other state agencies is eliminated. Licensees may change licensure status at any time.

The bill revises the grounds for which a licensed health professional is subject to discipline to add being unable to practice with reasonable skill and safety to patients by reason of impairment and testing positive for any drug, as defined in s. 112.0455, F.S., on any confirmed preemployment or employer-ordered drug screening when the practitioner does not have a lawful prescription and legitimate medical reason. The board, or department when there is no board, must assess a fine and issue citations for first-time violations of unprofessional conduct as the term is defined for the discipline of nurses, midwives, respiratory care practitioners, and electrologists when no actual harm to the patient occurred. The provisions providing for the Impaired Practitioners Committee are repealed and minor technical changes are made regarding the role of the consultant for treatment programs of impaired practitioners. The appropriate regulatory board, or the

Department of Health when there is no board, may grant an exemption from disqualification from employment or contracting as provided in s. 435.07, F.S.

***Unlicensed Practice of a Health Care Profession***

The bill expands the enforcement efforts against the unlicensed practice of health care professions regulated by the Department of Health or the appropriate board. Legislative intent for, and minor technical revisions are made, relating to funding and enforcement of prohibitions against unlicensed activity. The bill creates criminal offenses for the unlicensed practice of a health care profession and requires a minimum mandatory sentence of imprisonment and a monetary fine. An exemption to the criminal penalties applicable to unlicensed practice of a health care profession is provided for persons selling dietary supplements. This act may not be construed to prohibit anyone from seeking medical information via the Internet.

***Medical Physician Licensure***

The Department of Health is authorized to issue a maximum of 10 temporary medical education certificates, annually, to qualified international medical graduates to practice under the direct supervision of a Florida-licensed physician in conjunction with a course of study at each National Cancer Institute (NCI)-designated cancer center in Florida. Each education and training course offered by an NCI-designated cancer center must be approved and certified to the Board of Medicine by the cancer center. The holder of such a temporary certificate must practice under the supervision of a Florida-licensed physician. Medical faculty certificates may be issued by the Department of Health to Florida State University.

The application fees and all licensure fees are waived for persons applying for a temporary certificate to practice medicine in Florida in an area of critical need if the applicants submit an affidavit from their employing agency or institution stating that they will not receive compensation for any services involving the practice of medicine. The medical practice act and the osteopathic practice act are amended to authorize any person who desires to practice as a resident physician, assistant resident physician, house physician, intern or fellow in fellowship training in a teaching hospital to register without having to train in a program which leads to a subspecialty board certification. The Board of Medicine and the Board of Osteopathic Medicine are given rulemaking authority to implement these registration provisions. The Council on Physician Assistants is allowed to enter an order to refuse to certify or place restrictions on the licensure of physician assistants.

***Laser or Light-based Hair Removal***

All persons who are not a licensed medical physician or licensed osteopathic physician using laser or light-based hair removal or reduction are required to do so pursuant to a protocol under direct supervision of a licensed medical physician or osteopathic physician.

***Ophthalmology***

The bill provides requirements for a primary care physician who contracts with a managed care organization to refer a patient to an ophthalmologist if that physician and the managed care organization determine the examination is medically necessary and is a covered service.

***Clinical Laboratory Personnel***

The bill revises the clinical laboratory personnel licensing requirements to make clinical laboratory directors with a doctoral degree maintain national certification requirements equal to those required by the federal Health Care Financing Administration.

***Alzheimer's Disease Day***

The bill designates February 6th of each year as Florida Alzheimer's Disease Day.

***Acupuncture***

The definition of "acupuncture" is revised to include the use of electroacupuncture, Qi Gong, oriental massage, herbal therapy, dietary guidelines, and other adjunctive therapies, as defined by the Board of Acupuncture by rule. The acupuncture licensure requirements are modified to require applicants to be at least 21 years of age or older, to have good moral character, and to be able to communicate in English by passage of a national written examination in English. Acupuncture licensure renewal fees are reduced from $700 to $500.

***Exceptions to CS/HB 2339***

This bill being the later enacted act of the Legislature, relative to CS/HB 2339, during the 2000 Regular Session of the Legislature shall be considered to control, as to any changes in law, as described below.

Effective upon this bill becoming a law:

1. Any funds appropriated in CS/HB 2339, enacted *prior to this bill during* the 2000 Regular Session of the Legislature, for the purpose of a review of current mandated health coverages shall revert to the fund from which appropriated, and such review may not be conducted.

2. Notwithstanding any provision to the contrary contained in CS/HB 2339, enacted *prior to this bill during* the 2000 Regular Session of the Legislature, the establishment of a specialty hospital offering a range of medical services restricted to a defined age or gender group of the population or a restricted range of services appropriate to the diagnosis, care, and treatment of patients with specific categories of medical illnesses or disorders, through the transfer of beds and services from an existing hospital in the same county, is *not exempt* from the provisions of s. 408.036(1), F.S.

***Employee Health Care Access Act***

The current Employee Health Care Access Act in s. 627.6699, F.S., requires insurers in the small group market to guarantee the issue of coverage to any small employer with 1 to 50 employees, including sole proprietors and self-employed individuals, regardless of their health condition. Rates for such policies must be established on a "modified community rating" basis, which prohibits consideration of health status or claims experience, and allows only age, gender, geographic location, tobacco usage, and family composition (size) to be used as rating factors.

This bill makes the following changes:

1. Eliminates the prohibition that rates not be based on the health status or claims experience of any individual or group and allows limited use of such factors. Small group carriers are allowed to adjust a small employer's rate by plus or minus 15 percent, based on health status, claims experience, or duration of coverage. The renewal premium may be adjusted up to 10 percent annually (up to the total 15 percent limit) of the carrier's approved rate, based on these additional factors.

2. Deletes the guaranteed-issue requirements for employers with one employee, sole proprietors, and self-employed individuals and, instead, provides for an annual open enrollment period for such persons, during the month of August. Coverage would begin on October 1, unless the insurer and the policyholder agree to a different date. Any one-person small employer getting coverage must not be formed primarily for the purposes of buying health insurance and if an individual hires his or her spouse and dependent children as employees, the entire family unit would be considered a one-person group, unless both spouses

are working full-time. (Although this bill delays the implementation of this provision until August 2001, and continues to provide for guaranteed-issued of one life groups until such time, another bill, CS/HB 2339, provides for the 1-month open enrollment to begin in August 2000. Since this bill was enacted after CS/HB 2339, it was the last act of the Legislature relating to this issue and shall be considered to govern which would have the effect of continuing the guaranteed-issued of one life groups until August 2001.)

3. Allows small group carriers to provide a credit to reflect the administrative and acquisition expense savings resulting from the size of the group. This is expected to result in about a 3 to 5 percent credit for larger groups (for example, 25 to 50 employees), and be transferred as an overall cost increase to the smaller groups.

4. Prohibits small group carriers from using "composite rating" for employers with fewer than 10 employees, which would prohibit a premium statement to an employer that averages the rates for all employees and, instead, would require the carrier to list the rate applicable to each employee based on that employee's age and gender. (But, the total premium remains unchanged.)

5. Specifies certain family-size categories that a small group carrier may use.

6. Clarifies the applicability of additional rate filing procedures and standards for insurers and HMOs, respectively.

***Changes to Regulatory Requirements for Health Maintenance Organizations***

The bill revises several provisions relating to the regulation of HMOs. It clarifies that certain provisions of the Insurance Code apply to HMOs; provides that the Department of Insurance may terminate an HMO contract if the contract is with an entity that is not licensed under state law, if such license is required, or is not in good standing with the applicable regulatory agency; authorizes HMOs to pay contracted examiners directly; provides for application of federal solvency requirements to provider-sponsored organizations; makes it a third-degree felony for an officer or director of an HMO to accept new or renewal subscriber contracts if the HMO is insolvent or impaired; and applies insurance holding company provisions to HMOs.

***Appropriation for a Systematic Review of Proposed Mandated Health Coverages***

The bill appropriates $200,000 from the Insurance Commissioner's Regulatory Trust Fund to the Office of Legislative Services to implement the legislative intent to conduct a systematic review of proposed mandated health coverages or mandatorily offered health

coverages, as provided in s. 624.215(1), F.S. The review will be used by the Legislature in determining whether mandating a particular coverage is in the public interest based on legislative recognition, as expressed in s. 624.215(1), F.S., that many such benefits provide beneficial social and health consequences which may be in the public interest but most of them contribute to the increasing cost of health insurance premiums.

The review must be conducted by certified actuaries and other appropriate professionals and shall consist of an assessment of the impact, including, but not limited to, the costs and benefits, of mandated health coverages using guidelines specified in s. 624.215(2), F.S. The review must establish the aggregate cost of proposed mandated health coverages. Health care providers are explicitly excluded from the meaning of the term "mandated health coverages" as that term is used in the bill.

***Indigent Care and Trauma Center Surtax***

The bill revises the requirements of the indigent health surtax to also fund a trauma center and directs the clerk of the court of the county with a population of at least 800,000 residents that has levied the indigent care surtax to annually disburse $6.5 million to fund a hospital in the county's jurisdiction that has a Level I trauma center or to annually disburse $3.5 million to fund a hospital in the county's jurisdiction that has a Level I trauma center if that county enacts a hospital lien law in accordance with ch. 1998-499, L.O.F., (a special law limited to Hillsborough County that authorizes the Hillsborough County Commission to adopt an ordinance for liens in favor of all operators of hospitals in Hillsborough County and in favor of Hillsborough County, when the county pays for medical care, treatment, or maintenance of qualifying residents of the county, upon all causes of action which the injured person or his legal representative may assert, as well as the proceeds of any settlements or judgments arising from the cause of action that required hospitalization and medical treatment).

***Nursing***

This bill transfers the regulatory and rulemaking authority that the Department of Health has over certified nursing assistants (CNAs) to the Board of Nursing within the department. The bill splits chapter 464, F.S., relating to nursing into two parts by creating ch. 464, part I, F.S., for the regulation of the practice of nursing and ch. 464, part II, F.S., for the regulation of CNAs. The bill creates a five-member Council on Certified Nursing Assistants and specifies its duties. The bill adds advanced registered nurse practitioners to the list of professionals who may participate in the credentialing program administered by the Department of Health. Advanced registered nurse practitioners must comply with the requirements of the practitioner profiling program through electronic submission, except for fingerprints, only if otherwise required by law. The bill revises requirements for CNA certification and application procedures. The appropriate regulatory board within the

Department of Health or department itself when there is no board is authorized to grant an exemption from disqualification to an employee or prospective employee who has received a professional license or certification from the Department of Health or a regulatory board within that department and who is subject to criminal background screening as a condition of employment or contract with a nursing home, home health agency, nurse registry, or as a companion or homemaker.

The regulation of professions must be financed solely by fee revenues and deposited into the Medical Quality Assurance Trust Fund. An exception is made to the funding of professional regulation, to require the Board of Nursing to pay for the costs incurred in regulation of certified nursing assistants. To implement the provisions of this act relating to the transfer of certified nursing assistants and the publishing of profiles of advanced registered nurse practitioners, $280,000 is appropriated from the Medical Quality Assurance Trust Fund to the Department of Health.

***Changes to Licensure Regulation of Home Health Agencies and Nurse Registries, Changes to Registration Requirements for Companion Services and Homemaker Services, and Changes to the Regulation of Home Health Aides***

The bill authorizes AHCA, in addition to any other penalties imposed as authorized by law, to assess costs, against a home health agency, nurse registry, companion service provider, or homemaker service provider, related to an investigation that results in a successful prosecution, excluding costs associated with an attorney's time. As pertains to nurse registries, companion service providers, and homemaker service providers, if AHCA imposes such an assessment of costs and the assessment is not paid, and if challenged is not the subject of a pending appeal, prior to the renewal of the license or registration, AHCA is prohibited from issuing the renewal license or renewal registration until the assessment is paid or arrangements for payment of the assessment are made.

The bill requires that services provided by a home health agency be covered by an agreement between the home health agency and the patient or the patient's legal representative and must specify the home health services to be provided, the rates or charges for services paid with private funds, and the method of payment. Current law requiring that the attending physician for a patient who is to receive skilled care must establish treatment orders is modified to impose such a requirement only when required by the nurse practice act; the speech-language pathology and audiology practice act, the occupational therapy practice act, the respiratory therapy practice act; or physical therapy practice act. Home health agencies will be required to arrange for supervisory visits by a registered nurse to the home of a patient receiving home health aide services in accordance with the patient's direction and approval in place of the current requirement that the home health agency establish a service provision plan and maintain a record of the services provided by home health aides.

The Agency for Health Care Administration is required to create, by rule, the home health aide competency test. The agency must adopt rules to allow a home health aide who passes the competency test to substitute such passage for statutorily required training or training required by administrative rule. Additionally, AHCA is required to adopt rules that provide *criteria* for the frequency of onsite licensure surveys. The bill deletes statutory requirements for rules providing for: establishing the qualifications, minimum training requirements and supervision requirements of all home health agency personnel; AHCA to establish guidelines for background screening of prospective employees and contractors of home health agencies; administration of home health agencies; procedures for administering drugs and biologicals; ensuring that home health services are provided in accordance with the treatment orders established for each patient for whom physician orders are required; and standards for contractual arrangements for the provision of home health services by providers not employed by the home health agency to whom the patient has been admitted.

Background screening requirements for home health agency personnel, nurse registry personnel, companions, and homemakers are modified by requiring AHCA to conduct a search for any report of confirmed abuse and, for purposes of compliance with statutory employment screening requirements, AHCA must search for any criminal record from the Department of Law Enforcement. Current law requires that certain identifying information obtained from a prospective administrator or managing employee for a home health agency be submitted to the Department of Children and Family Services abuse hotline for state processing or the central abuse registry and tracking system and the Department of Law Enforcement is required to conduct the criminal record check. The statutory requirement that home health agencies, nurse registries, companion service providers, and homemaker service providers bear the cost of searches of the Department of Children and Family Services central abuse hotline is deleted.

The bill extends immunity from monetary liability and precludes a cause of action for damages against a home health agency's employee for reasonable and good faith communication of his or her honest opinions, if the home health agency is asked about the person, relating to the job performance of a person who was employed by or contracted with the home health agency as a caregiver. The protection provided to such an employee of a home health agency is explicitly made inapplicable to the official immunity of an officer or employee of a public corporation.

***Notice of Medical Malpractice Litigation***

The bill revises requirements for a medical malpractice claimant to file a presuit notice of an intent to file a medical malpractice claim with the Department of Health for its review to determine whether it involved conduct by a licensed health care professional which is potentially subject to disciplinary action. In lieu of filing, with the Department of Health,

a notice of intent to file a medical malpractice claim and other specified information (the name and address of the claimant, the full name and addresses of any prospective defendants who are licensed health care providers, the date and summary of the occurrence giving rise to the claim, and a description of the injury to the claimant), a medical malpractice claimant must provide a copy of the complaint to the Department of Health following the initiation of a suit alleging medical malpractice with a court of competent jurisdiction and service of the complaint upon the defendant.

***Division of Sponsored Research***

The bill amends s. 240.241, F.S., to revise accounting procedures for units within the Division of Sponsored Research at the University of Florida which includes sponsored research programs of the Institute of Food and Agricultural Sciences, the University of Florida Health Science Center, and the engineering and industrial experiment station, to allow indirect cost reimbursements of all grants deposited in the Division of Sponsored Research to be distributed directly to the above units in direct proportion to the amounts earned by each unit.

***Ticket to Work and Work Incentives Act of 1999 Study***

The bill requires the Agency for Health Care Administration to conduct a cost and feasibility study regarding the implementation of the federal “Ticket to Work and Work Incentives Act of “1999" in Florida and to report its findings to the Speaker of the House of Representatives and the President of the Senate by December 1, 2000.

***HIV/AIDS Prepaid Health Plans***

The Agency for Health Care Administration is authorized to contract with specialty prepaid health plans and pay them on a prepaid capitated basis to provide Medicaid benefits to Medicaid-eligible recipients who have HIV/AIDS. The agency must apply for and is authorized to implement federal waivers or other necessary federal authorization to implement the specialty prepaid health plans. The agency must procure the specialty prepaid health plans through a competitive procurement and in awarding a contract to a managed care plan, the agency must consider specified criteria. The agency may bid the HIV/AIDS specialty plans on a county, regional, or statewide basis. Each qualified plan must be licensed under ch. 641, F.S. The agency must monitor and evaluate the implementation of this waiver program if it is approved by the federal government and must report on its status to the President of the Senate and the Speaker of the House of Representatives by February 1, 2001.

If approved by the Governor, these provisions take effect on July 1, 2000, except as otherwise provided.
*Vote: Senate 37-0; House 113-5*

### HB 729 — Board of Dentistry

by Rep. Bense (SB 1014 by Senator Saunders)

This bill (ch. 2000-115, L.O.F.) revises the conditions of appointment to the Board of Dentistry for dentists or persons who are connected with any dental college or community college. The bill deletes a requirement for dentists appointed to the Board of Dentistry to have their principal source of income come from direct patient care and authorizes the appointment of persons to the board who are connected with a dental college or community college, as long as their principal income is not derived from their connection with the college. The bill applies to appointments to the Board of Dentistry made on or after the effective date of this bill.

These provisions were approved by the Governor and take effect July 1, 2000.
*Vote: Senate 34-0; House 115-0*

### CS/CS/SB 1890 — End-of-Life Care

by Judiciary Committee; Health, Aging & Long-Term Care Committee; and Senator Klein

This bill clarifies the scope of a pre-hospital do-not-resuscitate order (DNRO) in the hospital setting and the authority of a physician to issue a DNRO. As relates to DNROs, the bill extends authority to withhold or withdraw cardiopulmonary resuscitation based on a pre-hospital DNRO that was executed for paramedics and emergency medical technicians to honor and extends immunity from liability for hospital personnel who act in conformity with the instructions provided in a pre-hospital DNRO. Current law is clarified with a statement that a physician *is not precluded* from withholding or withdrawing cardiopulmonary resuscitation from a hospitalized patient, nursing home resident, a resident of an assisted living facility, or hospice patient, due to the absence of a pre-hospital DNRO so long as it is done as otherwise permitted by law.

Requirements pertaining to execution of a valid pre-hospital DNRO, which an emergency medical technician or paramedic is authorized to honor, are stated more explicitly. Specifically, the DNRO must be executed on the Department of Health's standard DNRO form which must be signed by the patient's physician and the patient, or the patient's health care surrogate, proxy, or court-appointed guardian, or attorney in fact pursuant to a durable power of attorney. A court-appointed guardian or attorney in fact must have been delegated authority to make health care decisions on behalf of the patient so that such person's signature, in lieu of the patient's, will not invalidate the pre-hospital DNRO.

The bill prescribes requirements relating to pain management or palliative care. It requires specified health care facilities, health care providers, and health care practitioners to comply, when appropriate, with a request for pain management or palliative care by a patient or an incapacitated patient's health care surrogate, proxy, court-appointed guardian, or attorney in fact under a durable power of attorney.

The contents of the statutory suggested form for designation of a health care surrogate are modified to add language to the suggested form stating that authority for a surrogate to make health care decisions does not include the decision to donate organs, unless a separate declaration is executed. This is consistent with the definition for "health care decisions" which includes the decision to make an anatomical gift. The anatomical gift law conditions the authority of a health care surrogate to make an anatomical gift on the existence of some specific declaration by the principal regarding an anatomical gift. This declaration may be indicated in a written agreement, an organ and tissue donor card, a living will, other advance directive, or a driver's license. Also, the bill addresses the procedure for a physician's determination of a principal's incapacity to make health care decisions. It clarifies that the health care facility must notify the designated health care surrogate or attorney in fact with specified authority under the durable power of attorney that a determination of incapacity has been made by a physician. Provisions contained in the suggested statutory form for a living will are also modified to replace the term "mentally and physically incapacitated" with "incapacitated" and the same change is made to provisions of law relating to the procedure to forego treatment in the absence of a living will and the procedure for determining whether a patient has a terminal condition, an end-stage condition, or is in a persistent vegetative state or otherwise has a medical condition or limitation provided in a health care advance directive.

Furthermore, the bill eliminates the provisions relating to the conditions under which a proxy may exercise authority to withhold or withdraw life-prolonging procedures on behalf of a patient. In its place, proxies must comply with the same provisions applicable to health care surrogates when making this particular decision but it must still be based on clear and convincing evidence that the decision would have been one that the patient would have made if the patient had been competent.

Continuing educational requirements are revised to permit health care professionals licensed or certified as physicians, nurses, dentists, midwives, psychologists, or as providers of clinical and psychotherapy services to elect to complete an end-of-life care and palliative health care course in lieu of a domestic violence course for licensure and licensure renewal, provided the health care professional has completed a domestic violence course in the immediately preceding biennium. Additionally, the bill clarifies legislative intent that the procedure for planning for one's own later incapacity may be made either by executing a document or *orally designating* another person to direct the course of his or her medical treatment upon his or her incapacity. It adds legislative

recognition for the need to educate health care professionals about end-of-life care and palliative health care. It also encourages professional regulatory boards to adopt appropriate standards and guidelines regarding end-of-life care and pain management and educational institutions who train health care professionals and allied health professionals to implement curricula on end-of-life care, including pain management and palliative care. The Department of Elderly Affairs, the Agency for Health Care Administration, and the Department of Health are required to conduct a joint campaign on end-of-life care to educate the public. The campaign should include culturally sensitive programs to improve understanding of end-of-life care issues in minority communities.

An 18-member End-of-Life Care Workgroup is created within the Department of Elderly Affairs. The workgroup is required to: (1) Examine reimbursement methodologies for end-of-life care, (2) Identify end-of-life care standards for purposes of developing a health care delivery system for end-of-life care, and (3) Develop recommendations for incentives for appropriate end-of-life care. The workgroup must submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2000. The Department of Elderly Affairs is required to provide staff support to the workgroup within its existing resources. Members of the workgroup must serve without compensation. The workgroup expires on May 1, 2001.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 116-0*

### CS/HB 1991 — Trauma Services

by Governmental Rules and Regulations Committee and Reps. Casey and Fasano (CS/SB 2624 by Health, Aging & Long-Term Care Committee and Senator Myers)

The bill provides for an inclusive statewide trauma system, revises the requirements for trauma transport protocols, and provides for certain uniform protocols.

The bill removes definitions from s. 395.401, F.S., and creates a new s. 395.4001, F.S., of definitions that apply to all of part II, ch. 395, F.S., relating to trauma. New definitions created are for "interfacility trauma transfer" and "trauma transport protocol," which are currently used in substantive language without definition. It revises definitions for "trauma center," "level I trauma center," and "level II trauma center."

This bill requires that state and local level trauma planning address the transportation of trauma victims to improve access to trauma care when this care is not available locally. The bill requires the department to use the state trauma system plan as a basis for implementing an inclusive trauma system.

The bill requires each emergency medical services provider licensed under chapter 401, F.S., to transport victims to hospitals approved as trauma centers, except as provided for in either the trauma transport protocol approved for the provider or the protocol approved for the trauma agency responsible for the geographical area in which the provider operates. The bill allows a trauma agency to develop a uniform trauma transport protocol that is applicable to the licensed emergency medical services provider operating within the agency's geographical area.

Also, the bill provides that the scoring system through which trauma alert victims are identified must include an adult or pediatric assessment as specified in rule. The Department of Health will establish by rule the minimum criteria related to prehospital trauma transport, trauma center or hospital destination determinations, and interfacility transport. Prior to an interfacility transport, the emergency medical services provider's medical director (or his designee) must agree that the staff of the transport vehicle has the skills, equipment and resources to provide the care the patient is anticipated to need, and allows the medical director or designee to require appropriate staffing, equipment and resources to ensure proper patient care and safety during transfer. The bill provides that rules pertaining to air transportation of trauma victims will, at a minimum, be consistent with Federal Aviation Administration guidelines. In the instance in which there is no department-approved trauma agency trauma transport protocol for an area in which an emergency medical services provider applicant operates, the applicant must submit and obtain department approval of a trauma transport protocol prior to the department granting a license.

The bill provides that the medical director of an emergency medical services provider will have medical responsibility and accountability for all trauma victims during an interfacility transfer. It grants authority to the department to adopt and enforce rules necessary to administer the provisions of the act.

The bill establishes an advisory 16 member Emergency Services Task Force to study and make recommendations regarding several issues related to the provision and financing of emergency medical care services.

If approved by the Governor, these provisions take effect October 1, 2000, except for the section creating the Emergency Services Task Force which takes effect July 1, 2000.
*Vote: Senate 40-0; House 112-0*

## HB 1993 — Task Force on the Availability and Affordability of Long-term Care

by Rep. Russell and others (CS/SB 1222 by Fiscal Policy Committee and Senator McKay)

The bill establishes the Task Force on the Availability and Affordability of Long-term Care, to study issues related to the provision of long-term care to the elderly in nursing homes and alternatives to nursing homes and to make recommendations to the Governor and the Legislature. The task force is charged to study long-term care issues in terms of the availability of alternative housing and care settings and community based care arrangements, the role of family members in caring for elderly relatives and ways quality family care can be encouraged, the adequacy of reimbursement arrangements in both nursing home and alternative care arrangements, the availability and affordability of long-term care insurance, the role of the certificate-of-need process in the development of long-term care systems, issues related to the economic stability and quality of long-term care facilities as influenced by market forces, lawsuits against nursing homes, the cost and availability of liability insurance for long-term care providers, the causes for recent bankruptcies in the nursing home industry, the costs to Medicaid, Medicare, and the family when a patient is admitted to a hospital for a preventable condition, other states innovations in alternative and home based care, the difference between the quality of care provided by for-profit and not-for-profit skilled nursing facilities, and an evaluation of the quality of care in Florida long-term care facilities compared to facilities in other states.

The task force is comprised of 19 members, including the Lieutenant Governor, who is the chair; the Secretary of Elderly Affairs; the state Medicaid director; a member of the Florida Bar; one representative each from the Florida Assisted Living Association and the Florida Association of Homes for the Aging; a representative of the insurance industry who has experience in insurance markets affecting long-term care; a member representing private sponsors of housing financed through the U.S. Department of Housing and Urban Development; an investment banker who has experience in long-term-care economics; an academic gerontologist; and a geriatric physician who is experienced in treating people with memory-related disorders, a Florida member of the American Association of Retired persons who has experience in administering a long-term care facility, an individual experienced with periodic review of nursing homes and other long-term care facilities, a representative of the Florida Health Care Association, a local volunteer ombudsman, two consumer representatives, and two members of the Legislature.

The task force is located at the University of South Florida for administrative purposes. The Florida Policy Exchange Center on Aging is to provide staff and support services to the task force.

The members of the task force may not delegate attendance or voting power to designees. Appointments to the task force must be completed within one month after the effective date of the act and the task force must hold its first meeting within 45 days after the effective date of the act. The task force is required to submit a report of its recommendations to the Governor, the President of the Senate and the Speaker of the House of Representatives by January 1, 2001. The task force shall expire on March 1, 2001.

The non-recurring sum of $200,000 is appropriated to the University of South Florida for the purposes of implementing the bill.

If approved by the Governor, the bill takes effect upon becoming a law.
*Vote: Senate 38-0; House 118-0*

### HB 2319 — Rural Hospitals

by Health Care Services Committee and Reps. Peaden and Casey (SB 2422 by Senators Clary, Mitchell, Rossin, Thomas, Childers, Saunders, Latvala, Myers, and Dawson)

This bill implements the recommendations of the Rural Hospital Statutory Redefinition Advisory Group which was created by the 1998 Florida Legislature. The bill revises the definition of "rural hospital" in ss. 395.602 and 408.07, F.S., by: eliminating the requirement that a rural hospital be located in an area defined as rural by the United States census; adding a criterion for a sub-county rural hospital service area based on ZIP codes that account for 75 percent of the hospital's discharges for the most recent 5-year period; and adding a criterion for a hospital designated by the Department of Health as a critical access hospital in accordance with federal regulations and state requirements. The bill revises the applicability of the disproportionate share program and financial assistance program for rural hospitals to permit certain rural hospitals that were funded prior to July 1, 1998, to continue to receive funding without having to seek additional appropriations.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House 118-0*

# FSU COLLEGE OF MEDICINE

## HB 1121 — The Florida State University College of Medicine

by Rep. Peaden and others (SB 1692 by Senators King, McKay, Childers, Clary, Horne, Thomas, Geller, Campbell, Mitchell, Holzendorf, Saunders, Dawson, and Bronson)

This bill creates the Florida State University College of Medicine, a 4-year allopathic medical school within the Florida State University. The medical college must have a principal focus on recruiting and training medical professionals to meet the state's primary health care needs, especially the needs of the state's elderly, rural, minority, and other underserved citizens. The bill provides legislative intent for, specifies the purpose of, and addresses the transition to, organizational structure of, and admissions process of the proposed College of Medicine.

The bill specifies curricula and insurance requirements. The initial preclinical 2-year curriculum is to draw on the Program in Medical Sciences' experience at the Florida State University and national trends in basic science instruction and the use of technology for distributed and distance learning. First-year instruction will include a lecture mode and problem-based learning and the second-year, a small-group, problem-based learning approach will provide more advanced treatment of each academic subject in a patient-centered context. Short-term clinical exposures will be programmed throughout the pre-clinical years, including rural, geriatric, minority health, and contemporary practice patterns in these areas. During the third and fourth years, the curriculum will follow a distributed, community-based model with a special emphasis on rural health. The bill authorizes Florida State University, for and on behalf of the Board of Regents, to negotiate and purchase policies of insurance to indemnify from any liability those individuals or entities providing sponsorship or training to the students of the medical school, professionals employed by the medical school, and students of the medical school.

The proposed College of Medicine must develop a comprehensive program that ensures training in the medical needs of the elderly, rural and underserved populations of the state. The bill specifies the partner organizations for clinical instruction and graduate programs. To provide broad-based clinical instruction in both rural and urban settings, the College of Medicine must seek affiliation agreements with health care systems and organizations, local hospitals, and military health care facilities in the following targeted communities: Pensacola, Tallahassee, Orlando, Sarasota, Jacksonville, and rural areas of the state. Selected hospitals in the target communities are, but are not limited to: Baptist Health Care, Sacred Heart Health System, and West Florida Regional Medical Center in Pensacola, Lee Memorial Health System in Fort Myers, Tallahassee Memorial Healthcare in Tallahassee, Florida Hospital Health System in Orlando, Sarasota Memorial Health Care System in Sarasota, Mayo Clinic in Jacksonville, and rural hospitals in the state. The

bill requires the College of Medicine to increase participation of under represented groups and socially and economically disadvantaged youth in science and medical programs. The bill shall be implemented as provided in the General Appropriations Act.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 38-0; House* 118-1

# Senate Committee on Judiciary

## FAMILY LAW AND CHILDREN

### SB 160 — Partial-Birth Abortion Ban
by Senator Cowin

This bill creates the "Partial-Birth Abortion Ban Act" within the chapter on homicide. It criminalizes, as a second-degree felony, the act of intentionally killing a "partially born living fetus." It excludes suction or sharp curettage abortion procedures. The ban does not preclude the physician from taking measures medically necessary to save the life of the mother when her life is threatened by a physical disorder, physical injury, or physical illness, provided all reasonable precautions are taken to save the fetus' life as well. It exempts women from criminal prosecution for obtaining such procedure.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 30-10; House 84-32*

### CS/HB 1901 — Child Protection/Abandoned Newborns
by Family Law & Children Committee, Rep. Murman and others (CS/SB 2080 by Judiciary Committee and Senator Grant)

This bill creates a process by which a parent may anonymously, and with limited amnesty from criminal prosecution, abandon a newborn infant at a fire station or hospital. It provides a streamlined process for the acceptance, emergency treatment, transfer of custody, termination of parental rights and adoption in cases of unclaimed abandoned newborn infants which bypasses involvement by the Department of Children and Families unless there is evidence of actual or suspected child abuse or neglect. It sets forth the responsibilities and duties for fire stations, hospitals, licensed child-placing agencies, and the Department of Children and Families in the process for handling an abandoned newborn infant. It provides specified time frames in which a parent can reclaim or claim their abandoned newborn infant. It provides finality to judgments that terminate parental rights and grant adoption under ch. 63, F.S., by imposing one- and two-year statutes of repose periods for challenging such judgments based on fraud or other grounds. It directs the Department of Children and Families and the Department of Health to conduct a media campaign to promote safe alternatives for placement of abandoned newborn infants.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 109-2*

### SB 2082 — Child Protection/Public Records Exemption
by Senator Grant

This bill is linked to CS/SB 2080 (passed as CS/HB 1901), relating to abandoned newborn infants. It creates a public records exemption for the identity of a parent who abandons a newborn infant at a hospital or fire station. In accordance with the Open Government Sunset Review Act of 1995, this exemption is subject to legislative review and repeal at the end of 5 years.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 118-0*

## CIVIL LITIGATION

### CS/SB 154 — Vexatious Litigants
by Judiciary Committee and Senators Campbell and Saunders

This bill creates the Florida Vexatious Litigant Law, which is intended to deter repeat filings of frivolous civil lawsuits by litigants who are not represented by attorneys. The act provides that vexatious litigants may not proceed with a civil lawsuit unless security is furnished to cover the defendant's reasonable expenses of litigation, including attorneys' fees and taxable costs. The act also provides that a court may enter a prefiling order prohibiting a vexatious litigant from filing a civil action without first obtaining leave from the administrative judge of that circuit.

According to the act, a vexatious litigant is any person, as defined in s. 1.01(3), F.S., who, in the immediately preceding five year period, has commenced, prosecuted, or maintained, without being represented by an attorney, five or more civil actions in any court in this state, except an action governed by the Florida Small Claims Rules, which actions have been finally and adversely determined against such person. A vexatious litigant also includes any person or entity previously determined to be a vexatious litigant pursuant to this act. The Clerk of the Florida Supreme Court is required to maintain a registry of vexatious litigants, which must be updated by the clerks of the courts.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 39-0; House 115-0*

### HB 135 — Citizen Participation in Government

by Rep. Fasano and others (CS/SB 306 by Judiciary Committee and Senators Lee and Grant)

The bill creates s. 768.29, F.S., the "Citizen Participation in Government Act," to protect persons who exercise their constitutional right to petition the government for redress of grievances, and to guard these persons against costly lawsuits aimed at intimidating or deterring public participation in government. The act prohibits *any governmental entity* from engaging in "Strategic Lawsuits Against Public Participation" (SLAPPS) without merit and solely because a person has exercised his or her constitutional rights to assemble, instruct representatives, or redress grievances.

Any person who is sued in violation of this act may seek to have the suit dismissed or move for summary judgement. The court must conduct a hearing on the motion as soon as possible and may award the party sued by the governmental entity actual damages in accordance with the waiver of sovereign immunity provisions of s. 768.28, F.S. The court must also award the prevailing party attorney's fees and costs.

A governmental entity that is found in violation of the act must report the violation to the Attorney General, who must report the violation to the Cabinet and Legislature.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 40-0; House 112-0*

## EVIDENCE

### SB 794 — Witnesses

by Senator Saunders

This bill amends s. 90.612, F.S., of the Florida Evidence Code, which provides for the mode and order of interrogation and presentation of witnesses. The bill requires the judge to take special care to protect a witness under age 14 from undue harassment or embarrassment. The bill also requires the judge to monitor the form of questions asked of a child to ensure that the questions are posed in a manner which is appropriate to the age and understanding of the child.

The bill also amends s. 90.502, F.S., of the Florida Evidence Code, to add subsection (6), which provides that a discussion or activity that is not a meeting for purposes of s. 286.011, F.S., is not to be construed to waive the attorney-client privilege. Further, the bill provides that this provision does not create a new exemption, or alter an existing

exemption, to either the Public Records Law in s. 119.07, F.S., or to the Government in the Sunshine Law in s. 286.011, F.S.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 36-0; House 115-0*

## REAL PROPERTY

### CS/SB 2190 — Business Entities/Merger/Conversion

by Judiciary Committee and Senator Saunders

This bill eliminates the requirement that title to real property held by certain business entities merging with other business entities be conveyed by recordation of a deed. Accordingly, title to real property owned by the merging entity would, upon filing of articles of merger with the Secretary of State, pass by operation of law to the surviving entity without the requirement of recording a deed and paying the applicable documentary stamp tax required when recording a deed. However, the surviving entity is required to file the articles of merger or conversion in the county where the real property is located. Title to real property owned by a business entity that merged prior to the effective date of the act is vested in the surviving entity.

The bill also amends s. 865.09, F.S., to provide that a fictitious name registered with the Division of Corporations for a corporation, limited liability company, limited liability partnership, or limited partnership is not required to contain the designation of the type of legal entity in which the person or business is organized.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 117-0*

## ESTATE PLANNING

### CS/HB 599 — Perpetuities and Trusts

by Real Property & Probate Committee, Rep. Goodlette and others (CS/SB 830 by Judiciary Committee and Senator Grant)

This bill revises the trust laws in three major ways:

1) It amends Florida's statutory Rule Against Perpetuities by extending the time period within which a property interest in a trust must either vest or terminate from 90 years to 360 years as measured from the date the trust was created.

2) It amends Part IV of ch. 737, F.S., relating to the powers of a trustee, to:
   a) Codify in part the procedure for judicial modification of irrevocable trusts,
   b) Create a procedure for the non-judicial modification of irrevocable trusts after the principal has died,
   c) Require that specified persons have representation in these modification proceedings and
   d) Allow the court to award attorneys' fees, costs and guardian ad litem fees in these modification proceedings.

3) It conforms similar provisions in the trust and estate law to provisions in the Florida Probate Code relating to challenges to the validity of a trust, the duties of a trustee, the prohibition against a killer benefiting from a victim's death in a trust action, and the evidentiary weight to be given to specific evidence of a person's death in trust proceedings.

If approved by the Governor, these provisions take effect December 31, 2000, except that the sections on judicial and non-judicial modification of trusts will not apply to trusts created prior to January 1, 2001, or to trusts created after December 31, 2000, if specific conditions are met.
*Vote: Senate 39-0; House 116-0*

## COURTS

### CS/SB 1212 — Judiciary

by Judiciary Committee and Senator Laurent

This bill implements the provisions of Revision 7 of the State Constitution, adopted in 1998, to revise the method for funding Florida's judicial system by specifying the costs to be paid by the state, the counties, or by specific funding sources. The constitution revision specified that a phase-in schedule had to be provided by general law and that state funding was to begin in FY 2000-2001.

This committee substitute establishes the phase-in schedule to begin implementation this fiscal year and to complete implementation by July 1, 2004. It provides the framework for identifying and defining the essential elements of the state court system, the public

defenders' offices, the state attorneys' offices, court-appointed counsel, and those court-related functions that are the responsibility of the counties for funding purposes.

***Phase-in Schedule***

During FY 2000-2001 the Legislature is to review the state court system to determine what functions should be funded by the state and the most appropriate manner for providing that funding.

By FY 2001-2002 the Legislature is to review the revenue generated by the court system and redirect the appropriate revenue to the state.

By FY 2002-2003 the Legislature is to review the state attorneys' offices and the public defenders' offices as well as the use of civil indigency counsel and conflict counsel to determine what functions should be funded by the state.

By FY 2003-2004 the Legislature is to review the offices of the clerks of the circuit and county courts to define court-related activities performed by the clerks. Where there is appropriate data, the Legislature should also determine the appropriate levels of filing fees, service charges, and court costs to fund the assigned activities.

The bill includes a requirement that until July 1, 2004, each county must continue to fund existing functions of the state court's system, the state attorneys' offices, public defenders' offices, court-appointed counsel, and the offices of the clerks of the circuit and county courts consistent with current law and practice. This provision will not apply where the state assumes the cost of the function prior to July 1, 2004.

The bill also provides funding during FY 2000-2001 for the Small County Contingency Fund and for a three-county pilot program for funding conflict attorneys. The Small County Contingency Fund is created to assist counties with a population of less than 85,000 to fund "extraordinary criminal case-related costs." Attorney fees, costs, and expenses related to conflict counsel are to be funded in three counties specified in the appropriations act. The three counties selected are Dade, Hillsborough and Polk.

The bill specifies that nothing in the act requires the state to fund any court function or court-related activity except as provided in the sections creating the Small County Contingency Fund and the three-county pilot program for conflict counsel.

### *Definitions*

The bill provides definitions of the components of the judicial system to be initially funded in accordance with Revision 7. These definitions will be augmented as additional analysis of judicial functions and funding are completed in accordance with the phase-in schedule.

**State Court System** — The state court system is defined to include: Judges appointed under current law and the essential staff; Expenses and costs as provided by general law; Costs related to juries; Court reporting services necessary to meet constitutional requirements; Accommodations for a person with a disability to access the courts (except for facility related costs born by the county); Facilities for the Supreme Court and the District Courts of Appeal; Foreign language interpreters and translators to meet constitutional requirements; and, Funding for the Judicial Qualifications Commission.

**State Attorneys' Offices and Prosecution Expenses** — The State Attorneys' Offices and prosecution expenses are defined to include: The state attorney; Assistant state attorneys; Essential staff; Court reporting services to meet constitutional requirements; and, A specified list of witnesses.

**Public Defenders and Indigent Defense Costs** — The Public Defenders' Offices and indigent defense costs are defined to include: The public defender; Assistant public defenders; Essential staff; Court reporting services needed to meet constitutional requirements; and, The specified witnesses.

**Court-Appointed Counsel** — Court-appointed counsel is defined to include: Court-appointed counsel in cases where the defendant is indigent and cannot be represented by the public defender; Private counsel appointed to represent indigents or other litigants in civil proceedings in accordance with state and federal constitutional guarantees; Constitutionally required court reporting services; Witnesses as specified; and, The investigation of indigency.

**County Funding of Court-related Functions** — The bill provides definitions for those items listed in Article V, section 14 subsection (c) to be funded by the counties. These include: Facilities; Construction or Lease; Maintenance; Utilities; Security; Communications systems or communications services; Existing radio systems; Existing multi-agency criminal justice information systems; and The reasonable and necessary salaries, costs, and expenses of the state court system to meet local requirements. These definitions are not to be implemented before July 1, 2001.

***Work groups to develop information for implementation of Revision 7***

A Joint Legislative Committee on Article V is created to recommend programs and funding to implement Revision 7. The committee consists of eight members, four of whom are to be appointed by the President of the Senate and four to be appointed by the Speaker of the House of Representatives. The joint committee is to be reviewed in 2004 to determine whether it should be continued.

An Article V financial accountability and efficiency workgroup is created to develop recommendations related to financial accountability systems and standards, alternative structures for budgeting and fiscal management. The workgroup is also to obtain data on revenue sources for the court system, and the efficiency and effectiveness of operating policies and procedures for the court system, the public defenders, and the state attorneys.

The Supreme Court Workload Study Commission is created to develop recommendations for addressing workload issues, including the need for additional justices on the Supreme Court.

The Clerks of the Court are directed to provide specified financial and operational information to the Legislature by September 30, 2000.

***Performance-based Budgeting for the Court System***

The bill provides direction to the court on the submission of its budget pursuant to performance-based budgeting. The requirements are substantially the same as those for a state agency. The programs and measures must be developed in consultation with the Office of Program Policy Analysis and Government Accountability and legislative staff, and measures documented. The Chief Justice may propose revisions to the proposed programs and performance measures but the Legislature will have final approval through the General Appropriations Act or the legislation implementing that act.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 40-0; House 117-0*

# Senate Committee on Natural Resources

## ENVIRONMENTAL PROTECTION

### CS/HB 1425 — Governmental Operations

by Environmental Protection Committee, Rep. Garcia and others (SB 436 by Senator Hargrett)

***Solid Waste Services Competition***

A local government that provides specific solid waste collection services in direct competition with a private company must comply with certain provisions. A private company with which a local government is in competition May bring an action against the local government if certain violations occur. A local government that provides solid waste collection services outside its jurisdiction in direct competition with private companies is subject to the same prohibitions against predatory pricing applicable to private companies. A local government shall provide 3 years' notice to a private company before it engages in the actual provision of the service that displaces the company.

***Annexations***

A party that has a contract that was in effect for at least 6 months prior to the initiation of an annexation to provide solid waste collection services in an unincorporated area May continue to provide such services to an annexed area for 5 years or the remainder of the contract term, whichever is shorter. The provisions of this section do not apply to contracts to provide solid waste collection services to single-family residential properties in those enclaves described in s. 171.046, F.S.

In accordance with s. 10, Art. I of the State Constitution, the plan for merger or incorporation must honor existing solid waste contracts in the affected geographic area subject to merger or incorporation; however, the plan for merger or incorporation May provide that existing contracts for solid waste collection services shall be honored only for 5 years or the remainder of the contract term, whichever is shorter.

Section 171.093, F.S., is created to provide an orderly transition of special district service responsibilities in an annexed area from an independent special district which levies ad valorem taxes to a municipality following the municipality's annexation of property located within the jurisdictional boundaries of an independent special district, if the municipality elects to assume such responsibilities.

***Post Closure Permits***

Currently, the fee for a hazardous waste closure permit May not exceed $32,500. This bill renames that permit as a "postclosure" permit or "clean closure plan approval."

In addition to having to have a permit to construct, modify, operate, or close a hazardous waste disposal, storage, or treatment facility, each person who intends to construct, modify, operate, or close a hazardous waste disposal, storage, or treatment facility must obtain a postclosure permit or a clean closure plan approval from the Department of Environmental Protection.

***Regulation of Recovered Materials***

The registration program costs for recovered materials dealers are limited to those costs associated with the activities specified in s. 403.7046(3)(b), F.S. A local government May not require a certified recovered materials dealer to enter into a nonexclusive franchise agreement in order to enter into a contract with any commercial establishment located within the local government's jurisdiction.

Counties and municipalities are authorized to grant a solid waste fee waiver to nonprofit organizations that are engaged in the collection of donated goods for charitable purposes and that have a recycling or reuse rate of 50 percent or better.

***Community Development Districts***

All actions taken prior to July 1, 2000, by a community development district existing on June 29, 1984, if taken pursuant to the authority contained in ch. 1980-407, L.O.F., or ch. 190, F.S., are deemed to have adequate statutory authority. The validity of any outstanding indebtedness of a community development district established prior to June 29, 1984, is not affected. Those district May continue to comply with all terms and requirements of trust indentures or loan agreements relating to such outstanding indebtedness.

***Air Permits -- Citrus Juice Processing Facilities***

These provisions were contained in SB 1896. These provisions provide an innovative approach to permitting for air emissions for the citrus processing industry. If approved by the EPA, the citrus industry would not need to obtain air operation permits. Instead, the air emission requirements would be provided by statute which would essentially become a statutory permit.

A program for the creation and transfer of emissions allowances is established. Defines "allowance" as a credit equal to emission of 1 ton per year of certain pollutants subject to limitations. Allows a facility operating better than the overall performance standard to sell credits to a lesser performing facility. This would allow a plant to be in compliance by using both control technologies and emissions allowances. Allowances May only be applied on a pollutant-specific basis only. Prohibits cross-pollutant trading.

The Department of Environmental Protection is required to report to the Legislature by March, 2004 concerning implementation of the provisions of this bill and to make recommendations for any improvements.

The Department of Environmental Protection is required to submit this law to the U.S. Environmental Protection Agency (EPA) by October 1, 2000, as a revision of Florida's State Implementation Plan and as a revision of Florida's approved state Title V program. Provides for regulation of facilities in the event that the EPA fails to approve this law within 2 years after submittal.

The Department of Environmental Protection, in undertaking rulemaking to establish best available control technology, lowest achievable emissions rate, or case-by-case maximum available control technology shall not adopt the lowest regulatory cost alternative if such adoption would prevent the agency from implementing federal requirements.

The Department of Environmental Protection May explore alternatives to traditional methods of regulatory permitting if there is no material increase in pollution emissions. Specifies that any pilot projects using alternative methods May operate for no more than 3 years unless the Legislature enacts a law to continue that pilot. Requires the department to submit a report to the President of the Senate and the Speaker of the House of Representatives before implementation of any alternative regulatory permitting.

With regard to air operation permits for major sources of air pollution, an applicant May request the Department of Environmental Protection to issue a separate Acid Rain permit.

***Repealed Sections***

Section 403.7165, F.S., relating to a Demonstration Center for Resource Recovery from Solid Organic Materials, is repealed.

Section 403.7199, F.S., relating to the Florida Packaging Council, is repealed.

If approved by the Governor, these provisions take effect on July 1, 2000.
*Vote: Senate 37-1; House 117-0*

## HB 2403 — Land Acquisition

by Environmental Protection Committee, Rep. Dockery and others (CS/CS/SB 1710 by Fiscal Resources Committee; Natural Resources Committee; and Senator Latvala)

This bill corrects several problems inadvertently created when the 1999 Legislature enacted the Florida Forever Act. The bill clarifies the authority of the Board of Trustees of the Internal Improvement Trust Fund (Trustees) relating to the ownership and management of conservation and recreation lands, provides for payments in lieu of taxes from the Conservation and Recreation Lands and Water Management Lands Trust Funds to counties having a population of 150,000 or less and to local governments within eligible counties, and revises reporting requirements for the Florida Forever Advisory Council (FFAC) to include recommendations for revising the allocation formula for Florida Forever funding based on the agencies' timely expenditures. Any funds that have not been expended or encumbered after 3 fiscal years from the date of deposit shall be distributed by the Legislature at its next regular session for use in the Florida Forever program.

This bill authorizes the Acquisition and Restoration Council (ARC) to use the Trustees' rules, until it has adopted its own, to complete CARL acquisitions and begin the Florida Forever program and provides Florida Forever selection procedures. The bill also provides for the Trustees to hold title to all less than fee simple acquisitions made by the Green Swamp Land Authority, clarifies that the Florida Communities Trust (FCT) must spend at least 30 percent of its funds in urban areas, and allows the small Florida Forever programs to use amounts not exceeding 10 percent of their funding for capital project expenditures. Also, the bill provides $2.5 million in previously-approved FCT funding to the City of Apalachicola for a sprayfield.

In addition, the bill requires water management districts (WMDs) to report to the Trustees their recommendations for goals and performance measures to implement the Florida Forever program, authorizes the South Florida WMD to acquire the Pal-Mar and Southern Corkscrew Regional Ecosystem Watershed Project by eminent domain, and creates the Land Management Uniform Accounting Council within the Department of Environmental Protection to design uniform accounting procedures for land managing agencies to record their costs. The bill closes a loophole that could have allowed the construction of unpermitted hunt camps in the Everglades and revises several dates which required actions to be taken in implementing the Florida Forever Act at unrealistic times. Finally, the bill creates the Miami River Improvement Act, designed to ensure coordination among local and regional agencies working to improve the Miami River and adjacent areas.

If approved by the Governor, these provisions take effect upon becoming law (except for section 2).
*Vote: Senate 39-0; House 119-0*

## MARINE RESOURCE PROTECTION

### CS/SB 186 — Environmental Reorganization
by Natural Resources Committee

This bill makes numerous, mostly technical, changes to conform the statutes with the Legislature's 1999 legislation to create the Fish and Wildlife Conservation Commission. The 1999 legislation, ch. 1999-245, L.O.F., failed to complete the task of renaming and transferring functions due to the reorganization, and this bill provides the final necessary changes.

In addition, the bill provides $2 million annually in documentary stamp tax proceeds to be used for manatee and marine mammal rescue and rehabilitation, for veterinary training in the care, treatment, and rehabilitation of marine mammals, and for program administration.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 38-0; House 119-0*

### CS/CS/SB 386 — Fish and Wildlife Conservation Commission
by Fiscal Resource Committee and Natural Resources Committee

***Boating provisions***

Certain definitions relating to boating and boating safety are revised. The Fish and Wildlife Conservation Commission is required to prepare and, upon request, supply to police department, sheriffs, and other agencies or individuals forms for boating accident reports. Every accident report required to be made in writing must be made on the appropriate form approved by the commission.

Reckless operation of a vessel is defined.

The provisions relating to divers-down flags are revised. Specifies that the flag must be of a certain size and must be red with a diagonal strip that begins at the top staff-side of the flag and extends diagonally to the lower opposite corner. Specifies that the flag must be displayed from a vessel from the highest point of the vessel or such other location which

provides that the visibility of the divers-down flag is not obstructed in any direction. Provides penalties for divers-down flag violations.

Provides that it is unlawful for the owner of any leased, hired, or rented personal watercraft, or any person having charge over or control of a leased, hired, or rented personal watercraft, to authorize or knowingly permit the watercraft to be operated by any person who has not received instruction in the safe handling of personal watercraft.

Requires that any commission-approved boater education or boater safety course, course-equivalency examination developed or approved by the commission, or temporary certificate examination must include a component regarding diving vessels, awareness of divers in the water and divers-down flags.

Waterways in Florida must be marked under the United States Aids to Navigation System, 33 C.F.R. part 62. Provides that until December 31, 2003, certain channel markers and obstruction markers May continue to be used on waters of the state that are not navigable waters of the United States.

The commission is required to adopt rules establishing a uniform system of regulatory marker for waters of the state. Counties and municipalities May apply to the commission for permission to place regulatory markers in certain waters within their jurisdiction.

Subject to reasonable rules adopted by the commission, manufacturers of vessels and vessel motors that operate vessel and vessel motor test facilities May be authorized to test such vessels or motors on the waters of the state to ensure that they meet generally accepted boating safety standards.

The provisions relating to watercraft liveries are revised. A livery May not knowingly lease, hire, or rent a personal watercraft to any person who has not received instruction in the safe handling of personal watercraft. A livery May not lease, hire, or rent any personal watercraft unless the livery first obtains and carries in full force and effect a liability and property damage insurance policy.

Provides penalties for criminal and noncriminal infractions.

The membership of the Boating Advisory Council is increased to add a member who is actively involved and working full-time in the scuba diving industry who has experience in recreational boating.

The collection and distribution of boat registration fees is made more efficient so that the county portion of registration fees remains at the local level without having to be sent to Tallahassee and later returned to the counties.

An amount equal to $1.50 for each vessel registered is to be transferred to the Save the Manatee Trust Fund and shall be used only for the purposes specified in s. 370.12(4), F.S.

For purposes of the lien provisions in s. 713.78, F.S., vessel is redefined to mean every description of watercraft, barge, and air boat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel." "Documented vessels" are registered under federal law.

***Hunting and Fishing Licenses***

The bill provides that a disabled resident May hunt or fish without paying for a license. A license May be issued to a resident without a fee who is certified to be totally and permanently disabled by the U.S. Department of Veterans Affairs or its predecessor, or by any branch of the U.S. Armed Forces, or who holds a valid identification card issued by the Department of Veterans' Affairs. Any license issued under these provisions after January 1, 1997, expires after 5 years. Upon request, the license shall be reissued for a 5-year period and shall be reissued every 5 years thereafter. Any license issued to a resident who is determined to be totally disabled by the U.S. Social Security Administration after October 1, 1999, expires September 30, 2001. Upon proof of certification, the license shall be reissued for a 2-year period and shall be reissued every 2 years thereafter.

A combination license for a resident to take freshwater fish and saltwater fish is provided at a cost of $24, which is the same as if the individual licenses were purchased.

A combination license for a resident to hunt and take freshwater fish and saltwater fish is provided at a cost of $34.

A permanent hunting and freshwater fishing license for a resident 64 years of age or older is $12.

The commission is authorized to establish a fee for electronic license sales.

The commission May designate by rule nor more than 2 consecutive or nonconsecutive days in each year as free saltwater fishing days.

The bill eliminates three under-utilized licenses that are now basically obsolete: Resident Local Fur Dealer; Resident Fur Dealer Agent; Nonresident Fur Dealer Agent.

Provides that it is a third degree felony for a person to make, forge, counterfeit, or reproduce a freshwater fishing, hunting, or saltwater fishing license unless authorized by the commission. It is also unlawful and a third degree felony for a person to knowingly

have in his or her possession a forgery, counterfeit, or imitation license unless possession has been fully authorized by the commission.

Section 258.398, F.S., 1997 edition, relating to the designation of Lake Weir as an aquatic preserve, is repealed.

If approved by the Governor, these provisions take effect July 1, 2000, except where otherwise provided in the act.
*Vote: Senate 36-1; House 119-0*

### SB 668 — Seawalls (RAB)
by Senator Bronson

Section 403.813(I), F.S., provides a permit exemption for the construction of private docks and seawalls in artificially created waterways where such construction will not violate existing water quality standards, impede navigation, or affect flood control. This bill provides that the exemption does not apply to the construction of vertical seawalls in estuaries or lagoons unless the proposed construction is within an existing man-made canal where the shoreline is currently occupied, in whole or in part, by vertical seawalls. In addition, in estuaries and lagoons, the construction of vertical seawalls is limited to the circumstances and purposes stated in s. 373.414(5)(b)1.-4., F.S., which specifies conditions that must be met for permit issuance by a water management district governing board. These changes provide the needed authorization for existing water management district and Department of Environmental Protection rules.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 40-0; House* 114-0

### SB 674 — Aquatic Plants (RAB)
by Senator Bronson

This bill amends s. 369.25, F.S., to authorize the Department of Environmental Protection to adopt rules requiring the revegetation of a site on sovereignty lands where excessive collection of vegetation has occurred.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 114-0*

### CS/CS/HB 1005 — Beach Management

by General Government Appropriations Committee; Environmental Protection Committee; Rep. Jones and others (CS/SB 2506 by Natural Resources Committee and Senator Bronson)

This bill amends ch. 161, F.S., to revise provisions relating to beach management and nourishment. It replaces references to "beach renourishment" with the term "beach nourishment," revises monitoring requirements relating to permits for beach nourishment, and requires that any biological and environmental monitoring conditions included in a permit for beach activities be based upon clearly defined scientific principles. The bill provides a declaration that the Legislature will make provision for inlet management projects that cost-effectively provide beach quality material for adjacent critically eroded beaches. The bill also requires that approved beach restoration and nourishment projects be in an area designated as critically eroded shoreline, or benefit an adjacent critically eroded shoreline; have a clearly identifiable beach management benefit consistent with the state's beach management plan; and be designed to reduce potential upland damage or mitigate adverse impacts caused by improved, modified, or altered inlets, coastal armoring, or existing upland development.

The Department of Environmental Protection is authorized to enter into cooperative agreements with local governments, including counties and special districts, for inlet management activities and to cost-share those components of inlet projects that minimize the erosive effects of the inlet or cost-effectively provide for the placement of beach quality material on adjacent eroded beaches. The bill requires that a project, in order to receive state funds, must provide for adequate public access, protect natural resources, and provide protection for endangered and threatened species and revises the types of projects and services that May be funded.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 40-0; House 103-0*

### HB 2055 — Agency Review/Florida Keys (RAB)

by Water & Resource Management Committee, Rep. Alexander and others (SB 672 by Senator Bronson)

This bill amends s. 380.051, F.S., to authorize state and regional agencies to adopt rules to implement procedures for coordinated agency review for development projects in the Florida Keys Area of Critical State Concern.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 40-0; House 108-0*

# WATER RESOURCE MANAGEMENT

## CS/CS/HB 221 — Everglades Restoration and Funding

by General Government Appropriations Committee; Environmental Protection Committee; Rep. Constantine and others (CS/CS/SB 1694 by Fiscal Resource Committee; Natural Resources Committee; and Senators Saunders, Forman, and Campbell)

This bill makes state funding available to assist the South Florida Water Management District (district) in meeting its financial responsibilities as local sponsor for the Comprehensive Review of the Central and Southern Florida Project for Flood Control and Other Purposes, more commonly known as the "Restudy."

This bill provides the following:

- For FY 2000-2001, $50 million in general revenue funds is appropriated to the Save Our Everglades Trust Fund.
- For FY 2000-2001, $30 million in excess cash generated from interest earnings on Preservation 2000 funds will be redistributed by the Department of Environmental Protection (DEP) to the Save Our Everglades Trust Fund.
- For a nine-year period beginning in FY 2001-2002, $75 million of state funds will be deposited into the Save Our Everglades Trust Fund annually.
- For a 10-year period beginning in FY 2000-2001, $25 million of the District's Florida Forever allocation will be deposited into the Save Our Everglades Trust Fund.

The DEP will distribute funds in the Save Our Everglades Trust Fund to the district in accordance with a legislative appropriation and s. 373.026(8)(b) and (c), F.S., which provides a process for approval of project components. Distribution of funds from the Save Our Everglades Trust Fund must be equally matched by the cumulative contributions from all local sponsors for FY 2009-2010 by providing funding or credits toward project components. The dollar value of in-kind work by local sponsors in furtherance of the comprehensive plan and existing interest in public lands needed for a project component are credits towards the local sponsors' contributions.

This bill confirms the Legislature's intent to establish a full and equal partnership between the state and federal governments for implementation of the comprehensive plan resulting from the Restudy. The bill requires that the comprehensive plan serve as the basis for ensuring that project components achieve purposes such as restoring and preserving the South Florida ecosystem, and the protection of water quality and reduction of fresh water loss in the Everglades.

Finally, the bill requires a detailed annual report of expenditures and progress made.

If approved by the Governor, these provisions take effect June 30, 2000.
*Vote: Senate 39-0; House 120-0*

### CS/CS/HB 991 — Lake Okeechobee

by Environmental Protection Committee; Water & Resource Management Committee; Rep. Pruitt and others (CS/CS/SB 1494 by Agriculture & Consumer Services Committee; Natural Resources Committee; and Senator Laurent)

This bill provides for management of the Lake Okeechobee watershed through the phased implementation of phosphorus load reductions; construction of stormwater treatment areas, reservoir-assisted stormwater treatment areas, and other detention/treatment facilities within priority basins; comprehensive evaluation and monitoring of the water quality in the Lake Okeechobee Watershed; development of "best management practices" (BMPs) for non-point agricultural and non-agricultural sources within the watershed; identification of invasive exotic species and implementation of measures to protect the native flora and fauna; and an internal phosphorus load removal feasibility study and subsequent implementation of measures to reduce the internal phosphorus loads. It also provides for permitting of structures discharging to Lake Okeechobee, as well as for water quality treatment/detention facilities included in the Lake Okeechobee Watershed.

The bill creates an exemption from regulation under ch. 373, part IV, F.S., for environmental restoration or water quality improvement measures on agricultural lands if such measures have minimal or insignificant individual or cumulative adverse impacts on the water resources of the state. The same exemption is created for interim measures or BMPs adopted pursuant to s. 403.067, F.S., that are by rule designated as having minimal individual or cumulative adverse impacts on the water resources of the state.

The bill also clarifies how total maximum daily loads (TMDLs) will be calculated and allocated, extends the deadline for the Department of Environmental Protection's report to the Legislature on TMDL allocations until February 1, 2002 (1-year extension), and makes technical and clarifying changes to the process for implementing TMDL allocations.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 116-0*

## CS/CS/CS/SB 1406 — State Regulation of Lands

by Fiscal Policy Committee; Comprehensive Planning, Local and Military Affairs Committee; Natural Resources Committee; and Senator Latvala

This bill addresses the administrative and economic changes which are needed to enhance the use and success of the brownfields redevelopment program in Florida.

The bill clarifies how the balance in the Water Quality Assurance Trust Fund and Inland Protection Trust Fund are calculated for purposes of triggering any new tier of tax levies.

The Department of Community Affairs is authorized to adopt rules for reporting requirements for certain chemicals used by businesses.

Enterprise Florida, Inc. is required to set aside 30 percent of the amount appropriated annually for the Quick-Response Training Program for businesses located in an enterprise zone or a brownfield area.

The bonus refund provisions for qualified target industry businesses are broadened to include certain businesses in a brownfield area.

Enterprise Florida, Inc. is to develop a comprehensive marketing plan for brownfield areas designated pursuant to s. 376.80.

Several terms are defined - “containment,” “natural attenuation,” and “risk reduction.”

If an institutional control is implemented at any contaminated site in a brownfield area, the property owner must provide information regarding the institutional control to the local government for mapping purposes. The Department of Environmental Protection shall prepare and maintain a registry of all contaminated sites located in brownfield areas which are subject to institutional and engineering controls in order to provide a mechanism for the public and local governments to monitor the status of these controls, monitor the department’s short-term and long-term protection of human health and the environment in relation to these sites, and evaluate economic revitalization efforts in these areas.

The time frames and conditions for certain dry-cleaning facilities to qualify for state-funded site rehabilitation are clarified.

The local government or persons responsible for rehabilitation and redevelopment of a brownfield area are required to establish an advisory committee or use an existing advisory committee that has expressed its intent to address redevelopment of the specific brownfield area.

The Department of Environmental Protection is required to update, revise and adopt a rule on brownfield cleanup criteria that must prescribe a phased risk-based corrective action (RBCA) process. Statutory guidance for rule making is provided.

The department is specifically authorized to use RBCA criteria for cleanups on lands owned by the state university system.

The liability protection provided to persons whose property becomes contaminated from a nearby brownfield area is clarified.

Projects located in a designated brownfield area are eligible for the expedited permitting process.

Community Development Districts are authorized to levy charges for remediation costs of contamination unless the covered costs benefit any person who is a landowner within the district.

Prohibits subsequent property owners from removing certain deed restrictions under the provisions of the Marketable Records Title Act.

Exemptions to local option sales surtaxes in urban infill and redevelopment areas are provided. The Department of Community Affairs is authorized to transfer certain unused balances in the Urban Infill and Redevelopment Assistance Grant Program.

An outdated provision restricting the employment of certain DEP employees in private sector petroleum cleanup program is repealed.

A provision in s. 211.3103, F.S., relating to the severance tax for phosphate is repealed. The repealed provision required that when real property or other property of value is accepted as a donation by a county from a producer, the amount of proceeds returned to such county under this section shall be reduced by the value of such donation.

Contingency provisions are made for FY 2000-2001 for unencumbered funds from the Quick Response Training Program, Brownfield Redevelopment Bonus Refunds and any appropriations in the General Appropriation Act for cleanup of state-owned lands to allow grants for assessment and remediation at brownfield sites.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 35-1; House 119-1*

## CS/CS/SB 1646 — Water Pollution Control

by Fiscal Resource Committee; Natural Resources Committee; and Senator Laurent

This bill expands the kinds of projects that May be funded under the Sewage Treatment Revolving loan fund (SRF), including septic tank replacement or upgrades, projects to address agricultural runoff and other nonpoint sources of pollution, certain restoration activities, and other activities eligible under the federal Clean Water Act. In addition, the bill allows a full range of financing options to take advantage of market conditions and expand the funding capabilities of the SRF.

The SRF is linked to a newly created Florida Water Pollution Control Financing Corporation for the purpose of leveraging the program to expand funding ability. Bonds, certificates, or other obligations of indebtedness would be issued by the Florida Water Pollution Control Financing Corporation instead of the Division of Bond Finance of the State Board of Administration.

The department May provide financial assistance through any program authorized under s. 603 of the Federal Water Pollution Control Act (Clean Water Act), Pub. L. No. 92-500, as amended, including, but not limited to, making grants and loans, providing loan guarantees, purchasing loan insurance or other credit enhancements, and buying or refinancing local debt. This financial assistance must be administered in accordance with s. 403.1835, F.S., and applicable federal authorities. The DEP May administer the resulting portfolio of loans, including funds accrued through the activities of the Florida Water Pollution Control Financing Corporation. More specifically, the department:

- May make or request the corporation to make loans to local government agencies, which agencies may pledge any revenue available to them to repay any funds borrowed.

- May make or request the corporation to make loans, grants, and deposits to other entities eligible to participate in the financial assistance programs authorized in the Federal Water Pollution Control Act, or as a result of other federal action, which entities may pledge any revenue available to them to repay any funds borrowed.

- Shall administer financial assistance so that at least 15 percent of the funding made available each year is reserved for use by small communities during the year it is reserved.

- May make grants to financially disadvantaged small communities.

The requirements that the term of the loans not exceed 30 years and that the combined rate of interest and grant allocations on loans shall be no greater than the interest rate paid

on the last bonds sold pursuant to s. 14, Art. VII of the State Constitution are deleted. Prior to approval of financial assistance, the applicant must submit certain security and financial information.

Eligible projects are to be given priority according to the extent each project removes, mitigates, or prevents adverse effects on surface or ground water quality and public health. The relative costs of achieving environmental and public health benefits must be taken into consideration during the department's assignment of project priorities.

The department shall adopt a priority system by rule. In developing the priority system, the department shall give priority to projects that:

- Eliminate public health hazards;
- Enable compliance with laws requiring the elimination of discharges to specific water bodies;
- Assist in the implementation of total maximum daily loads (TMDLs) adopted under s. 403.067, F.S.;
- Enable compliance with other pollution control requirements, including but not limited to toxic control, wastewater residuals management, and reduction of nutrients and bacteria;
- Assist in the implementation of surface water improvement and management plans and pollutant load reductions goals developed under state water policy;
- Promote reclaimed water reuse;
- Eliminate failing onsite sewage treatment and disposal systems or those that are causing environmental damage; or
- Reduce pollutants to and otherwise promote the restoration of Florida's surface and ground waters.

The department may impose a penalty on delinquent loan payments in an amount not to exceed an interest rate of 18 percent per annum on the amount due in addition to charging the cost to handle and process the debt. If a loan recipient, other than a local government agency, defaults under the terms of a loan, the department may pursue any remedy available to it at law or in equity. The department may impose a penalty in an amount not to exceed an interest rate of 18 percent per annum on any amount due in addition to charging the cost to handle and process the debt.

The department may obligate moneys available in the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund for payment of amounts payable under any service contract entered into by the department with the Florida Water Pollution Control Financing Corporation subject to annual appropriation by the Legislature. Amounts on deposit in the trust fund in each fiscal year shall first be applied or allocated for the payment of amounts payable by the department under this subparagraph and appropriated each year by the Legislature before making or providing for other disbursement from the trust fund.

The State Board of Administration shall invest and reinvest moneys in the trust fund in accordance with ss. 215.44-215.53, F.S. Costs and fees of the State Board of Administration for providing those investment services shall be deducted from the earnings accruing to the trust fund.

Under the provisions of s. 19(f)(3), Art. III of the State Constitution, the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund is exempt from termination provisions of s. 19(f)(2), Art. III of the State Constitution.

Broad language relating the Legislature's revenue shortfalls and the authority for the department to evaluate innovative fund enhancing proposal is deleted.

The department may adopt rules regarding program administration; project eligibilities and priorities, including the development and management of project priority lists; financial assistance application requirements associated with planning, design, construction, and implementation activities, including environmental and engineering requirements; financial assistance agreement conditions, disbursement and repayment provisions; auditing provisions; program exceptions, the procedural relationship between the department and the Florida Water Pollution Control Financing Corporation.

The bill provides that any projects for reclaimed water reuse in Monroe County funded from the Wastewater Treatment and Stormwater Management Revolving Loan Trust Fund must take into account water balances and nutrient balances in order to prevent the runoff of pollutants into surface waters.

The Florida Water Pollution Control Financing Corporation is created. The corporation is a nonprofit public-benefit corporation for the purpose of financing the costs of water pollution control projects and activities described in s. 403.1835, F.S. The activities of the corporation are specifically limited to assisting the department in implementing financing activities to provide funding for the programs authorized in s. 403.1835. All other activities relating to the purposes for which the corporation raises funds are the responsibility of the department, including, but not limited to, development of program criteria, review of applications or financial assistance, decisions relating to the number

and amount of loans or other financial assistance to be provided, and enforcement of the terms of any financial assistance agreements provided through funds raised by the corporation.

The corporation is to be governed by a board of directors consisting of the Governor's Budget Director, the Comptroller or the Comptroller's designee, the Treasurer or the Treasurer's designee, and the Secretary of Environmental Protection or the secretary's designee, until January 7, 2003, at which time the board shall include the Chief Financial Officer or the Chief Financial Officer's designee in place of the Treasurer and Comptroller. The executive director of the State Board of Administration shall be the chief executive officer of the corporation and shall direct and supervise the administrative affairs of the corporation and shall control, direct, and supervise operation of the corporation. The corporation shall have such other officers as may be determined by the board of directors.

The corporation shall have all the powers of a corporate body under the laws of the state to the extent not inconsistent with or restricted by this section, including but not limited to the power to:

- Adopt, amend, and repeal bylaws not inconsistent with this section.
- Sue and be sued.
- Adopt and use a common seal.
- Acquire, purchase, hold, lease, and convey any real and personal property necessary for the corporation.
- Elect or appoint and employ such officers, agents, and employees as the corporation considers advisable to operate and manage the affairs of the corporation.
- Borrow money and issue notes, bonds, certificates of indebtedness, or other obligations or evidences of indebtedness described in s. 403.1835, F.S.
- Operate, as specifically directed by the department, any program to provide financial assistance authorized under s. 403.1835(3), which may be funded from any funds received under a service contract with the department, from the proceeds of the bonds issued by the corporation, or from any other funding sources obtained by the corporation.
- Sell all or any portion of the loans issued under s. 403.1835, F.S., to accomplish the purposes of s. 403.1837, F.S.
- Make and execute any contracts, trust agreements, and other instruments and agreements necessary or convenient to accomplish the purposes of the corporation and s. 403.1837, F.S.
- Select, retain, and employ professionals, contractors, or agents, which may include the Division of Bond Finance of the State Board of Administration, as is necessary or convenient to enable or assist the corporation in carrying out its purposes.

- Do any act or thing necessary or convenient to carry out the purposes of the corporation.

The corporation shall evaluate all financial and market conditions necessary and prudent for the purpose of making sound, financially responsible, and cost-effective decisions in order to secure additional funds to fulfill the purposes of ss. 403.1837 and 403.1835, F.S.

The corporation may enter into one or more service contract with the department under which the corporation shall provide services to the department in connection with financing the function, projects, and activities provided for in s. 403.1835, F.S. The corporation may enter into one or more service contracts with the corporation and provide for payments under those contracts pursuant to s. 403.1835(9), F.S., subject to annual appropriation by the Legislature. The bill makes provisions for the service contracts. In compliance with s. 287.0641, F.S., the obligations of the department under the service contracts do not constitute a general obligation of the state or a pledge of the faith and credit or taxing power of the state, nor may the obligations be construed in any manner as an obligation of the State Board of Administration or entities for which it invests funds, or the department except as provided in s. 403.1837, F.S., as payable solely from amounts available under any service contract between the corporation and the department. The service contract must expressly include the following statement: "The State of Florida's performance and obligation to pay under this contract is contingent upon annual appropriation by the Legislature."

The corporation may issue and incur notes, bonds, certificates of indebtedness, or other obligations or evidences of indebtedness payable from and secured by amounts payable to the corporation by the department under a service contract. The corporation may not issue bonds in excess of an amount authorized by general law or an appropriations act except to refund previously issued bonds. The corporation is authorized to issue bonds not to exceed:

- $50 million in FY 2000-2001
- $75 million in FY 2001-2002
- $100 million in FY 2002-2003

The corporation is exempt from taxation and assessments of any nature whatsoever upon its income and any property, assets, or revenues acquired, received, or used in the furtherance of the its purposes. The obligations of the corporation incurred under these provisions are exempt from all taxation; however the exemption does not apply to any tax imposed by ch. 220, F.S., on the interest, income, or profits on debt obligations owned by corporations.

The corporation shall validate any bonds issued, except refunding bonds which may be validated at the option of the corporation, by proceedings under ch. 75, F.S. The validation complaint must be filed only in the Circuit Court for Leon County. The notice required under s. 75.06, F.S., must be published in Leon County and the complaint and order of the circuit court shall be served only on the State Attorney for the Second Judicial Circuit. The validation of the first bonds may be appealed to the Supreme Court and the appeal shall be handled on an expedited basis.

The corporation and the department shall not take any action that will materially and adversely affect the rights of holders of any obligations issued under this section as long as the obligations are outstanding.

The corporation is not a special district for purposes of ch. 189, F.S., or a unit of local government for purposes of part III of ch. 218, F.S. Generally, the provisions of ch. 120 and ch. 215, F.S., do not apply. The exception is the limitation on interest rates provided by s. 215.84, F.S. Part I of ch. 287, F.S., except ss. 287.0582 and 287.0641, F.S., does not apply to the corporation, the service contracts, or debt obligations issued by the corporation.

The benefits or earnings of the corporation may not inure to the benefit of any private person, except persons receiving the grants and loans.

Upon dissolution of the corporation, title to all property owned by the corporation reverts to the department.

The corporation may contract with the State Board of Administration to serve as trustee with respect to debt obligations issued by the corporation and to hold, administer, and invest proceeds of those debt obligations and other funds of the corporation and perform other services required by the corporation. The State Board of Administration may perform these services and may contract with others to provide all or part of those services and to recover the costs and expenses of providing those services.

The Auditor General may conduct a financial audit of the accounts and records of the corporation.

In FY 2000-2001, the Department of Environmental Protection is appropriated an amount not to exceed $10 million from the Wastewater Treatment and Stormwater Management Revolving Trust Fund for the purposes of transferring funds to the Florida Water Pollution Control Financing Corporation under service contract to carry out the activities authorized in ss. 403.1835 and 403.1837, F.S.

If approved by the Governor, these provisions take effect upon becoming a law.
*Vote: Senate 40-0; House 116-0*

### HB 1957 — Save Our Everglades Trust Fund

by Rep. Constantine and others (SB 1696 by Senators Saunders, Forman, and Campbell)

This bill creates the Save Our Everglades Trust Fund within the Department of Environmental Protection to implement the comprehensive plan contained within the "Final Integrated Feasibility Report and Programmatic Environmental Impact Statement, April 1999." The fund is to serve as the repository for specified state, local, and federal project contributions. The fund is exempted from service charges imposed by s. 215.20(1), F.S. The bill provides that any balance remaining at the end of the fiscal year must remain in the trust fund in order to carry out the purposes of the fund. The fund will be terminated on July 1, 2004, unless terminated sooner, and prior to termination, will be subject to the trust fund review process.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 120-0*

### HB 2071 — Rulemaking Authority of Water Management Districts (RAB)

by Water & Resource Management Committee, Rep. Alexander and others (SB 670 by Senator Bronson)

This bill amends s. 373.118, F.S., to authorize water management district governing boards to delegate, by rule, its powers and duties pertaining to general permits to the executive director. The executive director may execute such delegated authority through designated staff. However, when delegating the authority to take final action on permit applications under part II or part IV of ch. 373, F.S., or petitions for variances or waivers of permitting requirements under part II or part IV, of ch. 373, F.S., the governing board must provide a process for referring any denial of such an application or petition to the governing board, which will take final action.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 38-0; House 107-0*

### CS/HB 2365 — Wetlands Mitigation

by Environmental Protection Committee and Rep. Alexander (CS/SB 2162 by Natural Resources Committee and Senator Forman)

This bill implements the findings and recommendations of the Office of Program Policy Analysis and Governmental Accountability's report regarding wetland mitigation. The bill provides that an environmental creation, preservation, enhancement, or restoration

project, for which money is donated or paid as mitigation, which is sponsored by the Department of Environmental Protection (DEP), a water management district, or a local government and which provides mitigation for five or more applicants for permits under part IV, ch. 373, F.S., or 35 or more acres of adverse impacts, is to be established and operated under a memorandum of agreement (MOA). Provides that the MOA does not have to be adopted by rule. Specifies what the MOA must address. Provides that an MOA may authorize more than one project or categories of projects. These provisions do not apply to contracts between the DEP, the water management districts, or local governments with a private entity to establish a mitigation bank. Provides other options for single-family lots or homeowners.

A mitigation service area may be larger or smaller than the regional watershed under certain conditions. The DEP and the water management districts are to report to the Executive Office of the Governor once a year all cash donations accepted for mitigation during the preceding calendar year. Specifies what the report must contain.

A uniform wetland mitigation assessment method is required to be developed by the DEP and the water management districts no later than October 1, 2001. The DEP is required to adopt the method by rule by January 31, 2002. The method will be binding on the DEP, the water management districts, local governments, and any other governmental agencies and shall be the sole means to determine the mitigation needed to offset adverse impacts and to award and deduct mitigation credits. The application of the uniform wetland mitigation assessment method is not subject to s. 70.001, F.S., the Bert J. Harris, Jr. Private Property Rights Protection Act.

The Office of Program Policy Analysis and Government Accountability is required to conduct a study on cumulative impact consideration and issue a report by July 1, 2001.

Under its Environmental Resource Permit program, the St. Johns River Water Management District shall delineate the Lake Jesup basin as a separate and distinct drainage basin and regional watershed.

The water management districts governing boards may delegate any of the powers, duties, and functions vested in the governing board to the executive director and other district staff. However, if the governing board delegates the authority to take final action on permit applications under part II or part IV of ch. 373, F.S., or petitions for variances or waivers of permitting requirements under part II or part IV of ch. 373, F.S., the governing board shall provide a process for referring any denial of such application or petition to the governing board to take final action.

The South Florida Water Management District is authorized to act in accordance with the Seminole Tribe Water Rights Compact. Pursuant to s. 285.165, F.S., the compact was

ratified and approved by the South Florida Water Management District governing board on May 15, 1987.

The manner in which the Governor is to make appointments to the Environmental Regulation Commission is revised. Currently, each water management district must be represented. This bill provides that the Governor shall provide reasonable representation from all sections of the state.

Any person filing a bid protest regarding a contract administered by a water management district must post an amount equal to 1 percent of the total volume of the contract or $5,000, whichever is less. In lieu of a bond, a cashier's check or money order may be posted. This provision puts the water management districts on a par with other state agencies.

If approved by the Governor, these provisions take effect upon becoming a law.
*Vote: Senate 37-0; House 116-0*

# Senate Committee on Regulated Industries

## HOTELS, RESTAURANTS, ALCOHOLIC BEVERAGES AND TOBACCO

### CS/HB 1941 — Cigarettes

by Governmental Operations Committee, Rep. Albright and others (CS/SB 1526 by Regulated Industries Committee and Senators Dyer and King)

The bill prohibits:

- selling or distributing cigarettes that were imported in violation of federal law or packaged in a way that indicates the manufacturer did not intend for them to be sold in the United States;
- importing such cigarettes;
- possessing such cigarettes for purpose of sale;
- altering packages of such cigarettes; or,
- placing a tax stamp on an unlawful or altered package of cigarettes.

The bill establishes criminal, administrative, and civil remedies and penalties. The bill broadens the definition of "cigarette," for purposes of the new prohibitions, to include "bidis" and similar products. The bill requires the Division of Alcoholic Beverages and Tobacco to design cigarette tax stamps and maintain records in a way that permits identification of the agent or wholesale dealer that affixed the stamp to a particular pack of cigarettes.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 37-0; House 113-2*

### CS/HB 2281 — Department of Business and Professional Regulation

by Regulated Services Committee, Rep. Bitner and others (CS/SB 2542 by Regulated Industries Committee and Senator King)

The bill:

- Requires the Division of Hotels and Restaurants to adopt a rule providing for a food safety training certificate program to be administered by a private nonprofit provider under a contract with the Division of Hotels and Restaurants.
- Defines who may be an applicant for an alcoholic beverage license and revises the requirements as to information provided on applications.

- Increases the liquor license quota population requirement from one license per each 5,000 residents of a county to one license per each 7,500 residents.
- Creates a new special liquor license for caterers and authorizes vendors holding quota licenses to sell alcoholic beverages for on-premises consumption at a catered event.
- Provides that the first $300,000 collected in caterer license fees will be deposited in the Department of Children and Family Services' Operations and Maintenance Trust Fund.
- Provides that if the Department of Business and Professional Regulation issues a notice of intent to deny an alcoholic beverage license for failure of the applicant to disclose information relating to prior convictions, the temporary license expires and is not extended during any proceedings relating to the denial.
- Provides for revocation or suspension of a license upon failure of the licensee to comply with a stipulation, consent order, or final order.
- Allows golf clubs to purchase and sell 50 milliliter or 1.7 ounce containers for consumption on the premises only.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 35-1; House 110-5*

## PROFESSIONS AND OCCUPATIONS

### CS/SB 220 — Regulation of Professions

by Regulated Industries Committee and Senator Forman

The bill:

- Prevents the scheduled repeal of the Florida Engineers Management Corporation Act, preserving the corporation that provides administrative, investigative, and prosecutorial services to the Board of Professional Engineers; adds new duties; requires the corporation to pay specified expenses associated with the regulatory services; requires the corporation to develop performance standards and measurable outcomes; and establishes and phases in staggered terms for the corporation's Board of Directors.
- Requires the Office of Program Policy Analysis and Government Accountability, in consultation with the Legislative Committee on Intergovernmental Relations, to conduct a study of and make recommendations relating to public and private construction retainage methods.
- Requires professional engineers to sign, date, and seal final bid documents that are provided to an owner; defines "layout" for purposes of the fire prevention and control statutes.

- Increases the validity period for a provisional certification for a newly employed or promoted building code official to 3-5 years from the current period of 1-3 years.
- Allows a building code administrator who holds a limited or provisional certificate in any county with a population of less than 75,000 to provide direct supervision of a newly-employed person who has filed a provisional certificate application and is performing the duties of a plans examiner or building code inspector.
- Establishes special procedures for discipline of building code enforcement officials.
- Clarifies laws relating to certification and grandfathering of construction contractors and electrical and alarm system contractors; requires applicants desiring to obtain certification under the grandfather provisions to do so by November 1, 2004.
- Provides that a construction contract may require a party to indemnify another party for damages due to the negligence, recklessness, or intentional wrongful conduct of the indemnifying party only; deletes provision in current law that prohibits indemnity for acts of another party unless there is a monetary limitation on the extent of indemnification or consideration is provided.
- Provides that any proposed rule of the Electrical Contractors Licensing Board or any other non-medical board that is not modified to address an Administrative Procedures Committee objection must be approved by the Department of Business and Professional Regulation prior to filing with the Department of State for adoption. The Department of Business and Professional Regulation may repeal any such rule that takes effect without being modified.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 119-0*

### CS/SB 326 — Real Estate Brokers and Salespersons

by Regulated Industries Committee and Senator Saunders

The bill:

- Allows a real estate broker or salesperson, without having a signed release from the seller and without going through any of the statutory escrow dispute resolution procedures, to refund escrow funds to the purchaser of residential condominiums who validly rescind the purchase contract.
- Creates a requirement of and a form for a no brokerage relationship notice.
- Establishes exceptions for all real estate agency relationship disclosure requirements. These exceptions include situations where a licensee knows the potential seller where a buyer is represented by another licensee, or where an owner is selling new residential units built by the owner and the circumstances or setting should reasonably inform the potential seller or buyer that the owner's employee or single agent is acting on behalf of the owner. The bill also excepts from the disclosure requirements certain bona fide open house or model home showings, as well as responses to general factual questions from a potential buyer or seller.

- Clarifies that appraisal statutes do not apply to a real estate broker or salesperson who performs a comparative market analysis or gives an opinion of the value of real estate.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-0; House 114-0*

### CS/HB 405 — Public Accountancy

by Business Regulation and Consumer Affairs Committee, Rep. J. Miller and others (CS/SB 688 by Regulated Industries Committee and Senator Sullivan)

The bill (Chapter 2000-114, L.O.F.) extends until October 1, 2005, the application deadline for a public accountancy license applicant with the requisite experience in another state or a foreign country to obtain a waiver of educational requirements. It also decreases from two-thirds to fifty-one percent the share of a partnership, corporation, or limited liability company that must be owned by certified public accountants for the business to engage in the practice of public accountancy. The bill prohibits a person who does not hold an active license in Florida from assuming or using any title or designation that tends to indicate that the person holds a license to practice public accounting under Florida law *or the laws of any other state, territory, or foreign jurisdiction.*

These provisions were approved by the Governor and take effect July 1, 2000.
*Vote: Senate 34-0; House 115-0*

### CS/SB 1016 — Regulation of Professions under the Department of Business and Professional Regulation

by Regulated Industries Committee and Senator Sebesta

The bill continues or extends the license of anyone licensed under the medical practice act throughout the time the person is a member of the Legislature and for 60 days after leaving office, without the requirement of filing a notice or application for renewal. The active status license of such person will be renewed upon filing of a renewal application, including a fee of $250 for each year the license was or will be in effect prior to the next biennial renewal date, documentation of 10 hours of continuing medical education credits per year, and certain other information expressly required by law.

The bill provides that whenever the pilotage rate review board orders a change in the pilotage rate and a party challenges the order, the change in the pilotage rate will go into effect upon the order of the rate board, with the difference between the old and new pilotage rate being placed in an escrow account. When administrative and court challenges have concluded, the money, including interest, goes to the prevailing party.

The bill provides that elevators are to be inspected by a third-party inspection service certified as a Qualified Elevator inspector or maintained pursuant to a service contract continuously in force. A statement verifying the maintenance contract must be filed with the division annually. All elevators must be inspected by a certificate-of-competency holder at least once every two years.

The bill authorizes the department to waive the payment of fees for up to two years for professions with sufficiently positive trust fund balances and projected fiscal stability. The bill also allows the Florida State Boxing Commission to borrow money from the Professional Regulation Trust Fund.

The bill creates the "Management Privatization Act," authorizing the Department of Business and Professional Regulation, upon the request of a board, commission, or council, to contract with any business entity to perform support services. The bill establishes minimum content requirements for the contract and requires that the contract be approved by the requesting board, commission, or council before the department enters into it. The bill deems any contracting corporation to be an instrumentality of the state for the purposes of sovereign immunity. The corporation is to be funded by state funds appropriated from the Professional Regulation Trust Fund. If the corporation is no longer approved to operate or the board ceases to exist, all money and property held for the benefit of the board reverts to the department. The bill appropriates $500,000 from the Professional Regulation Trust Fund to the department to pay the start-up costs of any private corporation or business entity to privatize licensing and investigative functions under the new Act.

The bill requires the Department of Business and Professional Regulation to make a recommendation to the Legislature by January 1, 2001, regarding whether persons should continue to be registered as direct disposers after June 30, 2001.

The bill requires engineers to complete 8 hours of professional development or continuing education every 2 years. Four hours must relate to general engineering requirements and 4 must relate to the licensee's area of practice. The Board of Professional Engineers will adopt rules consistent with the guidelines of the National Council of Examiners for Engineering and Surveying for multi jurisdictional licensees.

The bill requires that the pilot or pilots in a port establish a competency-based mentor program, by which minority persons may acquire the skills for meeting the professional preparation and education competency requirements of a licensed pilot or certified deputy pilot. The department will provide an annual report on the number of minority persons participating in these programs.

The bill revises the definition of "body wrapping" to clarify that it is not for the purpose of weight loss.

The bill enhances administrative, criminal, and civil sanctions against athlete agents and others who participate in illegal inducement of student athletes. It makes it a second degree felony offense for a person to illegally induce a student athlete to enter into an athlete agency agreement, for a person who has been previously convicted or who has pled to illegal inducement to employ, use, or collaborate with another person to illegally recruit or solicit student athletes, or for a person to illegally recruit or solicit a student athlete by knowingly assisting someone who has been convicted of or has pled to illegal inducement, recruitment, or solicitation. The bill provides that a college or university that prevails in a civil suit against an athlete agent may recover treble damages, in addition to the currently recoverable actual and punitive damages.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 39-0; House 116-1*

### CS/HB 1083 — Professional Services Contracts

by Judiciary Committee and Rep. Bense (CS/SB 1996 by Regulated Industries Committee and Senator Clary)

The bill provides that a public agency no longer may require design professionals (architects, landscape architects, land surveyors, mappers, and engineers) to indemnify the agency for liabilities, damages, losses, and costs caused by the agency's own negligence, recklessness, or intentional wrongful conduct in a professional services contract. A "professional services contract" is specifically defined in the bill. Under current law, a public agency may require a design professional to indemnify the agency if the contract contains either a monetary limitation on the extent of indemnification or specific consideration for indemnification.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 37-0; House 114-0*

# REAL PROPERTY AND CONDOMINIUMS

## CS/SB 680 — Condominium Unit Unpaid Assessments

by Judiciary Committee and Senator Carlton

Current law provides that a condominium unit owner is jointly and severally liable with the previous owner for all unpaid assessments that came due up to the time of transfer of title, except that the liability of "a first mortgagee or its successor or assignee" who acquires title by foreclosure action is limited (s. 718.116(1), F.S.). The bill clarifies that in this provision, a "successor or assignee" includes only a subsequent holder of the first mortgage.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 38-0; House 116-0*

## CS/CS/HB 593 — Real Property

by General Government Appropriations Committee, Real Property and Probate Committee, Rep. Cantens and others (CS/SB 908 by Regulated Industries and Senator Webster)

The bill contains provisions relating to homeowners' associations, condominiums, and timeshare and vacation plans.

### *Homeowners' Associations*

The bill provides that a homeowners' association may not prohibit display of a United States flag.

### *Condominiums*

The bill establishes specific requirements for multicondominium associations. "Multicondominium" is defined as a real estate development containing two or more condominiums, all of which are operated by the same condominium association. The bill establishes general requirements for multicondominiums and amends current laws to make provision for multicondominiums in the following areas: common expenses of multicondominium associations; developer liability for common expenses; amendments to condominium declarations; provision of financial report or financial statements to unit owners and the method of presentation of multicondominium receipts and expenses; making material alterations or substantial additions to the common elements of a condominium operated by a multicondominium association; and disclosures that must be made in a prospectus or offering circular if a condominium is or may become part of a multicondominium development.

The bill also amends laws pertaining to condominiums generally relating to: provision of financial report or financial statements to unit owners; appurtenances to each condominium unit; and unit owner payments for expenses of a master antenna television service.

***Timeshare***

The bill provides that all owners of timeshare estates in a cooperative unit are jointly and severally liable to the cooperative association for assessments and other charges assessed against the cooperative unit, unless the cooperative documents provide otherwise. It also includes in timeshare common expenses any past due and uncollected ad valorem taxes assessed against the timeshare development. This allows the unpaid taxes of an owner of a timeshare interest to be passed on as a common expense to the other timeshare owners.

The bill redefines the term "developer" in a way that exempts a successor or concurrent developer from liability inuring to a predecessor or concurrent developer of the same timeshare plan, unless the transfer of the developer's interest was a fraudulent transfer. It also exempts from developer liability a person who has acquired or has the right to acquire more than seven timeshare interests from a developer or other interest holder in connection with a loan, securitization, conduit, or similar financing transaction and who subsequently arranges for all or a portion of the timeshare interests to be offered by one or more developers in the ordinary course of business .

The bill provides that if the developer makes changes in the public offering statement that materially alter or modify the offering in a manner adverse to the purchaser, the sales contract may be canceled. It is primarily the developer's responsibility to determine if a change materially alters or modifies a public offering statement in a manner adverse to the purchaser. The bill also allows a developer to include in advertising materials facilities that have not been built, if the advertisement provides either the "estimated date that such facility will be made part of the timeshare plan" or the "date of promised completion," as appropriate. These provisions are substantially similar to provisions in current law.

The bill provides procedures for an escrow agent to release unclaimed escrow funds that have been held for five years. The escrow agent must make at least one attempt to return the funds and is entitled to rely on the last known address. If unsuccessful, the escrow agent must publish a legal notice in the county in which the timeshare property is located. If the purchaser does not claim the funds within 30 days of publication, the escrow agent may deliver such unclaimed funds to the division for deposit in the Division of Florida Land Sales, Condominiums, and Mobile Homes Trust Fund, at which point the purchaser will have no further claim on the funds and the escrow agent is relieved from further liability.

The bill allows a timeshare managing entity in a floating reservation timeshare plan to deny the right to make a reservation of a timeshare period to any purchaser who is delinquent in the payment of assessments, if the managing entity gives notice to the purchaser of denial of use at least 30 days prior to the first day of the purchaser's use period.

The bill eliminates the requirement that a timeshare solicitor obtain a timeshare occupational license and pay a licensing fee, maintains the provision that a timeshare solicitor may be disciplined by the division, and adds a provision that makes a developer liable for actions of a timeshare solicitor under the direction or supervision of the developer. The bill authorizes county and municipal governments to adopt codes of conduct and regulations to govern solicitor conduct on public property, including providing for imposition of fines.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 34-0; House 118-0*

## UTILITIES

### HB 2301 — Telecommunications

by Utilities and Communications Committee and Rep. Rojas (CS/SB 218 by Regulated Industries Committee)

Under current law, a local exchange telecommunications company is required to furnish basic telecommunications service within a reasonable time period to any person within the company's service territory. This is referred to as the company's "carrier-of-last-resort" obligation. This service obligation is set to expire on January 1, 2001. The bill extends the obligation until January 1, 2004. It also extends until January 1, 2004, the interim mechanism, under which the incumbent local phone companies must provide "universal service" to low income customers and customers who live in areas where the cost of providing service is high.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 39-0; House 111-0*

## CLAIM BILLS

During the 2000 session, 19 claim bills were filed in the Senate. There were 16 companion bills filed in the House of Representatives.

Of the 19 bills filed in the Senate, only 10 were approved by the House and Senate: 3 have been approved by the Governor; 2 have passed both houses and are on their way to the Governor; 5 were laid on the table, the House companion bill was substituted, and they, too, are on their way to the Governor. If they all become law, they will authorize or direct payment of $32,220,000, of which $9,750,000 would be state funds and $22,470,000 would be local funds paid by local government.

Four Senate bills were reported unfavorably by the Senate Special Master and died in the next committee of reference; 2 Senate bills died in House Messages; and 3 Senate bills were withdrawn from further consideration by their sponsors.

The following claim bills were approved:

| | | | |
|---|---|---|---|
| S 8 | by Senator Holzendorf | Relief: | William D. & Susan G. Mock/St. Johns County |
| S 10 | by Senator Myers | Relief: | Elizabeth & Frederick Schnell/DHSMV |
| S 12 | by Senator Silver | Relief: | Frank J. & Marlene G. Ruck/Miami-Dade County |
| S 16 *(passed as H 1553)* | by Senator Dawson | Relief: | Elizabeth Menendez/Palm Beach County Sheriff's Department |
| S 20 *(passed as H 1501)* | by Senator Forman | Relief: | Virgilio & Angely Chavez/Broward General Medical Center |
| S 26 *(passed as H 1555)* | by Senator Silver | Relief: | Clarice Holland/South Broward Hospital District |
| S 28 *(passed as H 2277)* | by Senator Geller | Relief: | Earl Spencer/Fort Lauderdale |
| S 32 | by Senator Dawson | Relief: | J. C. Wendehake/City of Port St. Lucie |
| S 38 | by Senator Burt | Relief: | Fred Fedorka/Volusia County |
| S 40 *(passed as H 1557)* | by Senator Mitchell | Relief: | Jason & Donna Crosby/City of Tallahassee |

# Senate Committee on Transportation

## TRANSPORTATION AND ECONOMIC DEVELOPMENT

### CS/CS/SB 862 — Transportation Financing

by Fiscal Policy Committee; Transportation Committee; and Senator Clary

This committee substitute provides for funding of numerous transportation programs to accelerate high priority transportation projects. The committee substitute creates the Transportation Outreach Program, the County Incentive Grant Program, and the Small County Outreach Program.

***Mobility 2000***

The committee substitute recaptures over a 10 year period, approximately $1.8 billion from the General Revenue Fund and returns the funds to the State Transportation Trust Fund to fund the Mobility 2000 Initiative. Any excess revenues will fund the Transportation Outreach Program.

***Transportation Outreach Program***

The committee substitute provides for the Transportation Outreach Program to fund transportation projects (approximately $900 million over 10 years) of a high priority which enhance Florida's economic competitiveness, preserve the existing infrastructure, and improve travel choices to ensure mobility. Projects for this program will be prioritized by an advisory council made up of representatives of private and public interests directly involved in transportation or tourism, and the final project selection will be made by the Legislature.

***The County Incentive Grant Program and the Small County Outreach Program***

The committee substitute transfers $125 million annually, in FY 2000-2001 through FY 2002-2003 from the General Revenue Fund to the State Transportation Trust Fund to fund the County Incentive Grant Program which provides grants to counties for projects on the State Highway System or projects which relieve congestion on the State Highway System. Twenty percent of such funds will be used to fund the Small County Outreach Program which provides matching state funds for county road projects. The programs will be funded from recurring revenue starting in FY 2005-2006.

***The State-funded Infrastructure Bank***

The committee substitute transfers $50 million annually, in FY 2000-2001 through FY 2002-2003 from the General Revenue Fund to the State Transportation Trust Fund to capitalize the State-funded Infrastructure Bank. The State-funded Infrastructure Bank provides loans to help fund transportation projects that otherwise may be delayed or not built. The loans will be repaid from revenues generated by the projects, such as toll roads or other pledged resources. The repayments are then loaned to fund new transportation projects.

***GARVEE Bonds***

The committee substitute authorizes the Florida Department of Transportation (FDOT) to sell up to $325 million in bonds on future federal revenue to be used for projects on the Florida Intrastate Highway System.

If approved by the Governor, these provisions take effect upon becoming law.
*Vote: Senate 36-0; House 117-0*

## TRANSPORTATION ADMINISTRATION AND HIGHWAY SAFETY

### CS/CS/HB 1911 — Operation of Vehicles and Vessels

by Finance & Taxation Committee; Transportation Committee; and Rep. Kyle
(CS/SB 780 by Transportation Committee and Senator Webster)

This committee substitute implements numerous changes to provisions of law relating to the operation of motor vehicles and vessels. Substantive issues included in the committee substitute relate to driving under the influence, motor vehicle equipment, motor vehicle title and registration requirements, driver's license requirements, and motor vehicle licenses.

***Driving Under the Influence***

The committee substitute amends s. 316.193, F.S., to provide an individual convicted of a second or subsequent offense of driving while intoxicated or driving under the influence shall be subject to the impoundment or immobilization of all vehicles owned by the repeat intoxicated driver. The court is authorized to dismiss the order of impoundment or immobilization of one vehicle if the court finds the family of the owner has no other private or public means of transportation. Similarly, the court is authorized to dismiss the order of impoundment for vehicles registered in the owner's name, but used solely for a business and operated by employees. Current Florida law provides for the impoundment

or immobilization of the vehicle that was operated by the individual or any one vehicle registered in the individual's name. This revision brings state law into compliance with federal mandates and avoids the loss of federal highway construction funds.

The committee substitute amends s. 316.1936, F.S., to prohibit the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public roadway or the right-of-way of a public roadway. The committee substitute exempts passengers in certain vehicles (buses and motor homes). Current Florida law provides that it is unlawful to possess an open container of an alcoholic beverage in a motor vehicle while the vehicle is being operated. This provision would extend the prohibition to vehicles that are stopped or parked. This revision would bring state law into compliance with federal mandates and avoid the loss of federal highway construction funds.

***Motor Vehicle Equipment and Operation***

The committee substitute amends s. 316.211, F.S., to provide persons over the age of 21 may operate a motorcycle without protective headgear provided he or she is covered by an insurance policy providing for $10,000 in medical benefits.

The committee substitute amends s. 316.212, F.S., to provide a golf cart may not be operated on a public road by a person under the age of 14. Similarly, s. 316.2125, F.S., is amended to require golf cart operators to adhere to night-time golf cart safety requirements within retirement communities.

The committee substitute amends several sections of law relating to lights on vehicles. Section 316.220, F.S., is amended to provide any object that alters the headlamps light color may not be placed over a headlamp. Similarly, s. 316.221, F.S., is amended to provide any object that alters visibility from 1,000 feet may not placed over a taillamp. The committee substitute also provides any object that alters the stop lamps visibility from 300 feet to the rear in normal sunlight may not be placed over a stop lamp.

Section 316.228, F.S., is amended to provide that certain vehicles transporting logs, long pulpwood, poles, or posts which extend more than four feet from the rear of the vehicle must have an amber strobe-type lamp on the projecting load. The amber strobe lamp must be visible to other drivers from the rear and sides of the vehicle transporting the projecting load.

The committee substitute creates s. 316.29545, F.S., providing for a medical exemption certificate to be issued to any person afflicted with Lupus or a similar medical condition which requires a limited amount of exposure to light. This certificate allows the afflicted person to have sunscreening material on his or her motor vehicle which would normally

be in violation of the statutes relating to sunscreening material requirements. The committee substitute also exempts any law enforcement vehicle used for undercover or canine operations from the statutory sunscreening requirements.

***Titles and Registration***

The committee substitute amends s. 319.001, F.S., to revise the definition of "new motor vehicle" to address instances of "failed sale". This occurs when a motor vehicle is sold subject to a contingency, and the contingency is not met. The committee substitute provides the vehicle may be sold as new provided a written disclosure is made to the purchaser that the vehicle was delivered to a prior customer.

Section 319.27, F.S., is amended to provide a lien on a motor vehicle for child support payment is not enforceable against subsequent purchasers unless certain conditions are met.

The committee substitute amends s. 319.30, F.S., to revise several provisions relating to certificates of destruction. The committee substitute provides that a certificate of destruction is reassignable a maximum of two times before destruction is required.

The committee substitute amends ss. 320.031 and 320.04, F.S., to provide certain mail and service charges associated with motor vehicle registration transactions processed through the Department of Highway Safety and Motor Vehicles are to be deposited into the Highway Safety Operating Trust rather than the general revenue fund.

The committee substitute amends s. 320.0605, F.S., to authorize a temporary receipt printed on self-initiated electronic renewal of a registration via the Internet as sufficient proof of motor vehicle registration. This modification is added in order to process registration renewal transactions via the Internet.

Section 320.27, F.S., is amended to specify those documents which will be recognized as reasonable indicia of ownership for purposes of motor vehicle sales transactions. This same section is amended to provide for temporary supplemental licenses for off-premises sales by motor vehicle dealers at no charge to the dealer.

***Driver's License***

Section 322.051, F.S., is amended to provide for an existing driver's license or identification record to be taken as satisfactory proof of identity to the Department of Highway Safety and Motor Vehicles. This section revises legislative language and provides identification card applicants with established driver license records are not be required to resubmit primary documents for issuance of an identification card.

The committee substitute amends s. 322.08, F.S., to provide for an existing driver's license or identification record to be taken as satisfactory proof of identity to the Department of Highway Safety and Motor Vehicles. This section is further amended to provide driver license applicants with two additional options of making voluntary contributions. The driver license application form is to include an election for a $2 voluntary contribution per applicant for distribution to the Hearing Research Institute, Incorporated, and a $1 voluntary contribution per applicant for distribution to the Juvenile Diabetes Foundation International.

The committee substitute amends s. 322.095, F.S., to provide no governmental entity or court may provide information concerning traffic law and substance abuse courses, other than to direct inquiries to the local telephone directory heading of driving instruction or the driver's license applicant reference guide. The Department of Highway Safety and Motor Vehicles is directed to prepare a driver's license reference guide for distribution.

Section 322.292, F.S., is amended to delete a provision which requires a DUI program to be either a governmental program or a not-for-profit corporation.

***Miscellaneous Provisions***

The committee substitute amends s. 213.053, F.S., to allow the Department of Revenue to share names, addresses, and federal employer identification numbers, or similar identifiers with the Department of Highway Safety and Motor Vehicles for use in the conduct of its official duties.

Section 316.0775, F.S., is amended to provide any person who alters, defaces, injures, knocks down, or removes any official traffic control device or railroad sign is subject to a criminal violation (criminal mischief). Violation of this provision is currently a noncriminal infraction.

The committee substitute requires the Department of Highway Safety and Motor Vehicles to approve and regulate driver improvement courses that use technology (such as video) as the delivery method. In determining whether to approve technology courses, the Department is to only consider those courses which are submitted by a person, business, or entity having statewide delivery capability.

The committee substitute provides for the creation of the Used Motor Vehicle Industry Task Force. The task force is charged with examining and evaluating the used motor vehicle industry, including the licensing of dealers and the enforcement of dealer regulations. The 12 member task force shall be appointed by the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The committee substitute deletes a number of statutory provisions relating to the Department of Highway and Motor Vehicles' retention of certain documents. In addition, the committee substitute authorizes the Department to maintain electronic records.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 35-1; House 113-4*

## CS/SB 772 — Transportation

by Transportation Committee and Senator Webster

This committee substitute implements numerous changes to provisions of law relating to programs administered by the Florida Department of Transportation (FDOT). Substantive issues included in the committee substitute relate to rules authorization, the administration of the FDOT, the transportation planning process, seaports, motor vehicle emissions testing, and other transportation issues.

***Rules Authorization***

This committee substitute provides statutory authorization for existing FDOT and Transportation Disadvantaged Commission rules or portions thereof which FDOT or the Transportation Disadvantaged Commission deems necessary but which currently exceed the FDOT or commission's rulemaking authority.

The committee substitute provides specific legislative authority for the FDOT to promulgate rules: to delegate authority beyond the assistant secretaries; to establish prepaid escrow accounts; to approve aggregate sources; to provide for prompt settlement or legal defense of claims and disqualification for failure to settle claims; to provide for toll facility operations; and to provide for relocation assistance.

The committee substitute authorizes the Transportation Disadvantaged Commission to develop, by rule, standards for community transportation coordinators and any transportation operator or coordination contractor from whom service is purchased or arranged by the community transportation coordinator, including minimum liability insurance requirements for all transportation services purchased.

Further, the committee substitute provides specific legislative authority for the Transportation Disadvantaged Commission to promulgate rules providing an agency which is a member of the Transportation Disadvantaged Commission may not serve as the community transportation coordinator.

***Administration of the Florida Department of Transportation***

The committee substitute authorizes the Transportation Commission to recommend to the Governor and the Legislature organizational improvements to streamline and optimize FDOT efficiency. The committee substitute further makes the Office of Motor Carrier Compliance a division and moves responsibilities of that Office from the Assistant Secretary for District Operations to the Assistant Secretary for Transportation Policy.

The committee substitute authorizes the FDOT to purchase promotional items for use in educating the public and promoting safety awareness. The committee substitute provides that, in determining the number of lanes for any project, FDOT must evaluate all alternatives and seek to achieve the highest degree of efficient mobility for corridor users. The committee substitute further deletes the requirement that FDOT must retain a portion of the amount due a contractor for work the contractor has completed, until completion and final acceptance of the project by FDOT, and authorizes other forms of retainage.

The committee substitute: allows FDOT to incur expenses for paid advertising, marketing and promotion of toll facilities and electronic toll collection products and services; exempts high-occupancy toll lanes and express lanes from the provision that no tolls may be charged for use of an interstate highway where tolls were not charged as of July 1, 1997; provides federal funds may pass through FDOT to Tri-County Rail for bonds; and deletes the 14 consecutive-day notice requirement to clarify when public hearings are required and what information will be presented.

***Prevailing Principles for Transportation Planning***

The committee substitute provides prevailing principles which will guide state and regional transportation planning. The prevailing principles are: (1) preserving the existing transportation infrastructure; (2) enhancing Florida's economic competitiveness; and (3) improving travel choices to ensure mobility.

The committee substitute requires the FDOT to integrate the prevailing principles in their mission, goals, and objectives. The amendment also requires Metropolitan Planning Organizations to consider the prevailing principles in their planning process.

***Seaports***

The committee substitute authorizes small ports, with operating revenues of $5 million or less, to use seaport funding for construction and rehabilitation of their port facilities as defined in s. 315.02, F.S.

The committee substitute clarifies FDOT has final audit authority for Florida Seaport Transportation and Economic Development (FSTED) projects funded under s. 320.20, F.S., and provides project veto authority and a vote for FDOT, the Department of Community Affairs, and the Office of Tourism, Transportation and Economic Development on the FSTED council.

The committee substitute further: limits FSTED bonds to 30 years; limits the use of revenues allocated to FSTED to debt service; requires prior FDOT approval to spend such revenues; provides for competitive bidding for professional services.

***Local and Regional Issues***

The committee substitute increases the board of the Central Florida Regional Transportation Authority (CFRTA) to eleven voting members, by increasing the Governor appointments from two to five. The member appointed by FDOT (FDOT District 5 Secretary) is made a non-voting member. The committee substitute allows CFRTA to expand its service area to include any county that is contiguous to the existing service area, and to allow CFRTA to set the terms and conditions of such a partnership with an adjoining county. Finally, the committee substitute prohibits CFRTA from hiring an executive director until the new appointments to the board are filled.

The committee substitute clarifies the roles of the Metropolitan Planning Organizations (MPO) and local school boards in coordinating transportation planning. The committee substitute further requires MPOs in the Tampa Bay area to continue the Chairmen's Coordinating Committee. The committee has the authority, by a majority vote, to object to a project which effects other MPOs represented on the committee or a project that is not included in an MPO plan. Disputed projects are subject to a dispute resolution process.

The committee substitute provides counties may utilize specified local option gas tax funds to pave existing graded roads only when undertaken in part to relieve or mitigate existing or potential adverse environmental impacts.

***Motor Vehicle Emissions Testing***

The committee substitute eliminates the Motor Vehicle Inspection Program and directs the Department of Environmental Protection to revise the State Implementation Plan to backout the eliminated program's emissions credits by July 1, 2000.

***Other Issues***

The committee substitute provides that diesel fuel purchased in Florida and consumed by a qualified motor coach during idle time for the purpose of running climate control systems and maintaining electrical systems is subject to a refund.

The committee substitute provides the State Fire Marshall has the sole and exclusive authority to promulgate standards, limits, and regulations regarding the use of explosives in conjunction with construction materials mining activities.

If approved by the Governor, these provisions take effect July 1, 2000.
*Vote: Senate 38-1; House 120-0*

## CS/SB 1530 & 1456 — Motor Vehicles

by Transportation Committee and Senators Geller and Klein

This committee substitute, also cited as the "Justin Marksz Teen Safety Driving Act", amends s. 316.614, F.S., to provide it is unlawful to operate a motor vehicle unless each passenger of the vehicle under 18 years of age (currently under 16 years of age) is restrained by a safety belt or by a child restraint device. In addition, the committee substitute provides it is unlawful for any person 18 years of age or older (currently 16 years of age or older) to be a passenger in the front seat unless such person is restrained by a safety belt when the vehicle is in motion.

The committee substitute amends s. 322.05, F.S., to increase the time period a person who is at least 16 years of age but less than 18 years of age, must maintain a learner's license from 6 to 12 months prior to applying for a driver's license, provided the applicant has no traffic convictions during this 12 month time period. However, an applicant who has one traffic conviction, but who has elected to attend a traffic driving school for which adjudication must be withheld under s. 318.14, F.S., would remain eligible for a driver's license.

The Department of Highway Safety and Motor Vehicles is prohibited from issuing a driver's license to an applicant under 18 years of age unless the applicant provides certification that he or she was accompanied by specific individuals for at least 50 hours of behind-the-wheel experience with at least 10 hours of night-time driving. The specified individuals include a licensed parent, guardian or other responsible adult, or another licensed driver 21 years of age or older. The committee substitute provides this certification is inadmissable for any purpose in any civil proceeding.

Finally, the committee substitute contains a grandfather provision which provides a person who is at least 16 years of age, but under 18 years of age who meets the

requirements of s. 322.091, F.S., and has been issued a valid learner's license prior to October 1, 2000, and has held such license for at least 6 months, may be issued a driver's license.

If approved by the Governor, these provisions take effect October 1, 2000.
*Vote: Senate 40-0; House 116-1*

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